

1 GOVERNMENT OF THE DISTRICT OF COLUMBIA

2 Office of Zoning

3 Board of Zoning Adjustment

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9 PUBLIC MEETING OF THE BOARD OF ZONING ADJUSTMENT

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13 9:45 a.m. to 2:24 p.m.

14 Tuesday, April 26, 2016

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18 441 4th Street, N.W.

19 Jerrily R. Kress Memorial Room

20 Second Floor Hearing Room, Suite 220-South

21 Washington, D.C. 20001

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3 ANITA BUTANI-D'SOUZA, Vice Chair

4 FREDERICK HILL, Board Member

5 JEFFREY HINKLE, Board Member

6 MICHAEL TURNBULL, Zoning Commission

7 ANTHONY HOOD, Zoning Commission

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

2 CHAIRPERSON HEATH: The hearing will please
3 come to order. Good morning, ladies and gentlemen.
4 We're located in the Jerrily R. Kress Memorial Hearing
5 Room at 441 4th Street Northwest. Today's date is
6 April 26th, 2016, and we're here for the public
7 meetings and hearings of the Board of Zoning
8 Adjustment of the District of Columbia.

9 My name is Marnique Heath, Chairperson.
10 Joining me today is Anita Butani-D'Souza, Vice
11 Chairperson; Fred Hill, Board Member; Jeffrey Hinkle,
12 Board Member; and Michael Turnbull, initially and then
13 Anthony Hood, both members of the Zoning Commission
14 sitting in as a member of the Board today.

15 Please be advised that this proceeding is
16 being recorded by a court reporter and is also being
17 webcast live. Accordingly, we must ask you to refrain
18 from any disruptive noises or actions while in the
19 hearing room today.

20 The Board's hearing procedures and how we will
21 process applications can be found on the table by the
22 back door. All individuals wishing to testify today
23 are going to need to do two things. The first is,
24 prior to testifying anyone who wants to address the
25 Board will need to complete two witness cards. That's

1 two witness cards and give them to the court reporter
2 seated to my right.

3 The second you'll need to do is now stand and
4 take the oath, which will be administered by Tracey
5 Rose, who is sitting in for Mr. Moore -- Mr. Moy, the
6 Board Secretary.

7 MS. ROSE: Please raise your right hand.

8 [Oath administered to the participants.]

9 CHAIRPERSON HEATH: Good morning, Ms. Rose.

10 MS. ROSE: Good morning.

11 CHAIRPERSON HEATH: Glad to have you with us
12 today.

13 MS. ROSE: Thank you.

14 CHAIRPERSON HEATH: In Mr. Moy's absence. Can
15 you -- do you have any preliminary matters that you
16 want to go through?

17 MS. ROSE: Yes, I do. This morning we have
18 two cases that have been withdrawn. Application No.
19 19253 of Shaed School, located at 200 Douglas Street
20 Northeast, has been withdrawn and will not be heard
21 today. Application 19213 of PVS International, LLC.
22 regarding 3347 M Street Northwest has also been
23 withdrawn and will not be heard.

24 Then we have postponed cases. First is Appeal
25 No. 19242 of ANC 1C. This has been postponed to the

1 hearing of June 14th, 2016 by a consent of the
2 parties. Application 19219 of 2001 2nd Street
3 Northeast, LLC. has been postponed to May 10th, 2016.
4 And Application 19250 of 920 H, LLC. has been
5 postponed to May 17th, 2016.

6 CHAIRPERSON HEATH: Okay. Thank you. Does
7 that conclude all preliminary matters?

8 MS. ROSE: Yes, ma'am.

9 CHAIRPERSON HEATH: Okay. We have a number of
10 -- we have three decision cases on the docket today.
11 One will be postponed. The Board is not ready to
12 deliberate on Application No. 19237 of Wacap, LLC.
13 That was a case that was, as I said, on for decision
14 today. The Board heard this case and requested
15 additional information of the applicant and by the
16 deadline the Board still hadn't received that.
17 Actually, as of yesterday the Board still hadn't
18 received it and so we will postpone that decision
19 until we receive that additional information requested
20 by the Board.

21 MS. ROSE: So is it indefinite or do you want
22 to put it on for a date?

23 CHAIRPERSON HEATH: Can you put it on for --
24 what is --

25 MS. ROSE: May 10th.

1 CHAIRPERSON HEATH: Yeah, May 10th.

2 MS. ROSE: And it's a meeting.

3 CHAIRPERSON HEATH: It is.

4 MS. ROSE: Deferred decision for a meeting.
5 Okay.

6 CHAIRPERSON HEATH: And so the new deadline
7 for this information -- yeah, preferably the Thursday
8 before.

9 MS. ROSE: Right. The Thursday before would
10 be the 5th. May 5th.

11 CHAIRPERSON HEATH: Okay. So that's the new
12 deadline.

13 MS. ROSE: Thank you.

14 CHAIRPERSON HEATH: All right. Thank you. So
15 then if you could call our first decision case, that
16 would be Application No. 19245.

17 MS. ROSE: Yes.

18 CHAIRPERSON HEATH: Application No. 19245 of
19 George Simpson, as amended, pursuant to 11-DCMR-3104.1
20 for a special exception under Section 223, not meeting
21 the lot occupancy requirements under Section 403.2,
22 and the side yard requirements under Section 405.8, to
23 allow the construction of a third-story addition to an
24 existing one-family dwelling in the SSH-1/R-1-B
25 district at premises 1605 Madison Street Northwest,

1 Square 2722 West, W, Lot 1.

2 CHAIRPERSON HEATH: All right. The board
3 members participating in this case would be Ms. Heath,
4 Mr. Hill, Ms. Butani, Mr. Hinkle, and Mr. Turnbull.

5 CHAIRPERSON HEATH: Okay. Is the Board ready
6 to deliberate on this? All right.

7 So this case was heard on April 12th, and at
8 that time the Board asked that the applicant revise
9 their renderings or drawings showing their intention
10 to maintain some amount of brick with possibly only
11 stucco at the top. I think we also asked at that time
12 for additional photographs of the context of the
13 neighborhood so that we can understand how the design
14 as it was proposed or to be modified might fit in with
15 the context of the neighborhood. So we received those
16 photos and new drawings. The applicant actually
17 submitted two options for new drawings. One where
18 they proposed brick on all three stories, including
19 the third story addition.

20 They also included an option where they
21 proposed brick on the first and second floors and then
22 stucco at the third floor, where in that case the
23 stucco was to be painted the same color as the brick.
24 The applicant has also asked for flexibility so that
25 the Board isn't making a decision as to whether or not

1 we move forward with one or two, but essentially the
2 Board is being asked to approve both and allow the
3 applicant to make the decision at a later point as to
4 whether or not they move forward with option 1 or 2.

5 And I find that both of the options presented
6 to the Board are an improvement over the initial
7 proposed solution. And so I would support allowing
8 them the flexibility to move forward with one or two.

9 MR. TURNBULL: Madam Chair, I would concur
10 with you on that. I think when we first saw the first
11 elevation where they actually were removing a whole
12 floor of brick it didn't really make sense in the long
13 run, looking at the overall architecture of the house
14 that was there.

15 I think what we got -- and I think we were --
16 I mean, I was expecting primarily option B, which was
17 the two-story brick with the one-story stucco on top.
18 I think getting the option for three-story brick is
19 obviously a bonus and I think that's a great solution
20 but I'm not opposed to the other one. I think that
21 was the sort of like the minimum that we were hoping
22 we would get. So yeah, I would concur with you. I'm
23 fine with going ahead with this.

24 CHAIRPERSON HEATH: Okay. Any other thoughts?
25 Okay. Then, if there's no other discussion on this

1 one I will make a motion that we approve the request
2 for special exception to allow the construction of a
3 third-story addition to an existing one-family
4 dwelling at 1605 Madison Street for Application No.
5 19245, based on the new design options 1 and 2 as
6 presented with flexibility for the applicant to decide
7 which option they want to move forward with.

8 MS. BUTANI-D'SOUZA: Seconded.

9 CHAIRPERSON HEATH: The motion has been made
10 and seconded. Any further discussion?

11 [Vote taken.]

12 CHAIRPERSON HEATH: The motion carries.

13 MS. ROSE: Staff will record the vote as five
14 to zero to approve the applicant with a motion by Ms.
15 Heath, seconded by Ms. Butani, with Mr. Hill, Mr.
16 Hinkle, and Mr. Turnbull in support of the motion.

17 CHAIRPERSON HEATH: Okay. Summary.

18 MS. ROSE: Thank you.

19 CHAIRPERSON HEATH: And since we have Mr.
20 Turnbull here we're going to move to his last case
21 before we conclude our decision cases for the day. So
22 our next case will actually be Application No. 19141.

23 MS. ROSE: And that's a hearing?

24 CHAIRPERSON HEATH: That is a hearing case.

25 MS. ROSE: This is Application 19141 of Janis

1 C. Gross as amended pursuant to 11-DCMR-3103.2 for
2 variances from the lot occupancy requirements under
3 Section 403.2. and the carport requirements under
4 Section 2300.8 to permit a detached carport structure
5 in the R-2 district at premises 4608 Sergeant Road
6 Northeast, Square 3916, Lot 8.

7 Would all those participating in this case
8 please come to the table?

9 CHAIRPERSON HEATH: All right. Good morning.
10 Would you please introduce yourselves? Make sure your
11 microphone is on.

12 MS. GROSS: Good morning. My name is Janis
13 Gross and I'm the property owner at 4608 Sergeant Road
14 Northeast.

15 CHAIRPERSON HEATH: Okay.

16 MR. JONES: My name is Kim Jones. I am an
17 architect.

18 CHAIRPERSON HEATH: Okay. And so you've
19 obviously been before us previously on this case, and
20 we did hear some testimony during the last hearing on
21 this case. At that time the Board asked for more
22 clarification between you as the applicant and Office
23 of Planning on the relief being requested.

24 MS. GROSS: Yes.

25 CHAIRPERSON HEATH: And we do have a new ZA

1 memo in the file. We thank you for getting that to
2 us. And you also updated your affidavit of posting.

3 MS. GROSS: Yes, I did.

4 CHAIRPERSON HEATH: Okay. And so I don't know
5 if the Board has any questions for the applicant
6 before we ask for questions of Office of Planning or
7 additional comments. But I --

8 MR. HILL: I just had a quick question.

9 CHAIRPERSON HEATH: Go ahead.

10 MR. HILL: Hi, Ms. Gross. There is the
11 opposite -- good morning. The opposition was
12 concerned about like, light and things at, I guess
13 basically at night. I was just curious, would you be
14 willing to put in a motion light just in that, in your
15 car part area there?

16 MS. GROSS: I could do that. I do have a back
17 porch light. My next door neighbor on the other side
18 has a motion light and the neighbor in opposition has
19 a street light right at the base of her driveway which
20 kind of lights up, you know, three or four houses
21 there. But I could do that, that's --

22 MR. HILL: Okay. Thank you.

23 CHAIRPERSON HEATH: Okay. All right.

24 MR. TURNBULL: I, again, just had a -- would
25 that light just illuminate underneath the carport

1 then? Just underneath the carport.

2 MR. HILL: Yeah, just the carport light.

3 MR. TURNBULL: Yeah.

4 MS. GROSS: Yes. That's easy enough.

5 MR. TURNBULL: Okay.

6 CHAIRPERSON HEATH: I guess that would
7 eliminate the neighbor's concern about somebody
8 potentially --

9 MR. TURNBULL: Lurking or -- right.

10 CHAIRPERSON HEATH: -- hiding within -- right.
11 If there's any motion, a light --

12 MR. HILL: Yeah, just a simple motion light
13 there in the carport.

14 CHAIRPERSON HEATH: That makes sense.

15 MS. GROSS: I could do that right away. Yeah,
16 sure.

17 CHAIRPERSON HEATH: Okay. All right. Any
18 other questions from the Board? All right.

19 Then if you're okay with us proceeding on I'd
20 like to see if Office of Planning has any additional
21 comments.

22 MS. GROSS: I think so. That's fine.

23 MR. MORDFIN: Good morning. I'm Stephen
24 Mordfin. The Office of Planning continues to support
25 this application and has no additional comments.

1 Thank you.

2 CHAIRPERSON HEATH: Okay. All right. Thank
3 you. Does the Board have any questions of Office of
4 Planning? All right.

5 We also have a letter of support from the ANC
6 on this application. Is there anybody here from ANC
7 5A on this application? No one here from ANC 5A?
8 Okay.

9 And of course a letter of no objection from
10 Department of Transportation is also in the file.

11 MS. GROSS: Yes.

12 CHAIRPERSON HEATH: Have you had any further
13 conversations with your neighbor, or any conversations
14 at all? I know there's been letters submitted to the
15 record from your neighbor and from you.

16 MS. GROSS: No, we haven't had any
17 conversation.

18 CHAIRPERSON HEATH: Okay. All right. I do
19 think that Mr. Hill's request to add a light, a motion
20 sensing light at your carport could help with some of
21 the issues. But it sounds like there's some
22 longstanding issues between the two of you which are
23 well beyond what this Board should be concerned with.

24 MS. GROSS: Yes.

25 CHAIRPERSON HEATH: So, but we do have that

1 letter of opposition in the file. Is there anybody
2 here wishing to speak in support of this application?

3 Anyone in support? Anyone in opposition to this
4 application? No opposition? All right.

5 Then we would normally turn back to you for
6 any rebuttal or closing, but I think there's
7 definitely nothing to rebut and I don't know if it's
8 necessary for you to make a closing, but anything
9 further that you want to state.

10 MS. GROSS: All right. Just a moment.

11 [Pause.]

12 MS. GROSS: Okay. I'm pretty satisfied.
13 Thank you.

14 CHAIRPERSON HEATH: Okay. Thank you.

15 MS. GROSS: Yes. So much.

16 CHAIRPERSON HEATH: All right. Then we'll
17 conclude this hearing. Is the Board ready to
18 deliberate on this? Okay.

19 I am in support of allowing this carport to
20 remain. I think that the applicant has definitely
21 shown -- they've done what the Board has requested in
22 terms of clarifying relief and I understand the need
23 for the car port, and you've justified the relief
24 being requested. I hope that you can -- you and your
25 neighbor can come to some sort of happy medium on this

1 one, but I would support the carport remaining.

2 Anyone?

3 MR. HILL: I don't have an issue. I also
4 agree with you.

5 CHAIRPERSON HEATH: Okay. All right. Then
6 I'll make a motion that we approve the request for
7 variances from lot occupancy requirements and the
8 carport requirements to permit a detached carport
9 structure at 4608 Sergeant Road Northeast as a part of
10 Application No. 19141 of Janis C. Gross.

11 MR. HILL: Second.

12 CHAIRPERSON HEATH: The motion has been made
13 and seconded. All those in -- or, any further
14 discussion?

15 [Vote taken.]

16 CHAIRPERSON HEATH: So, the motion carries.
17 Thank you.

18 MS. GROSS: Thank you so much.

19 MS. ROSE: Staff will record the vote as four
20 to zero to one with a motion by Ms. Heath, seconded by
21 Mr. Hill. In support of the motion we have Mr. Hinkle
22 and Mr. Turnbull.

23 CHAIRPERSON HEATH: All right. So you can do
24 a summary for that one.

25 MS. ROSE: Summary. Thank you.

1 CHAIRPERSON HEATH: All right. So we're going
2 to go back to our last meeting case now that we're
3 changing commissioners, and so that will be 19124, Eye
4 Street.

5 MS. ROSE: Application 19124 of Eye Street.
6 Excuse me. Eye Street JV, LLC. as amended pursuant to
7 11-DCMR-3103.2 and 3104.1 for a variance from the
8 closed court width and area requirements under Section
9 776, and a special exception from the roof structure
10 setback requirements under Sections 411 and 777.1 to
11 allow the construction of a new mixed use residential
12 building in the DD/C-3-C district at premises located
13 on Square 453 and Lots 40, 50, 815 through 819, 821,
14 835, and a portion of a public alley to be closed.

15 Staff would note that on March 8th the Board
16 granted relief for closed court and for five roof
17 structure setbacks and denied relief for two other
18 setbacks. The applicant has withdrawn the application
19 for the two setbacks that were denied.

20 On March 22nd the Board voted to reopen the
21 record for further examination of the matters which
22 the Board will address today, and the board members
23 participating are Mr. Hill, Mr. Hinkle, and Mr. Hood.

24 MR. HILL: Thank you, Ms. Rose. All right.
25 Well, I guess we're back to deliberating here now. At

1 the last time, Mr. Hinkle, you would like to discuss
2 this a little bit further in terms of the relief
3 requested from the setbacks. And I don't necessarily
4 know where we might end up after further deliberations
5 with you, or with us I should say. But I would like
6 to turn it to you and hear your thoughts, I suppose,
7 concerning the setback relief.

8 MR. HINKLE: Yeah. Thank you, Mr. Hill. I
9 requested the Board to reopen this case. I think the
10 decision that we made still stands, but what I walked
11 away with from that meeting is that I don't think we
12 made the correct decision. And I went back and looked
13 at the new regulations and looked at the intent of at
14 least the amendment to the Height Act, and what that
15 was trying to accomplish, and how that was I guess
16 translated into the Zoning Regulations. And I'm of
17 the belief that with the new regulations I'm glad and
18 I agree with the idea that the Board here can allow
19 special exception relief from setback requirements for
20 penthouses. I think that's a great idea. I think
21 it's valuable in terms of how our city grows.

22 But I believe that the Height Act, and as it
23 gets incorporated into the D.C. Code and then kind of
24 addressed within the Zoning Regulations, I think
25 there's a restriction that goes along with that. And

1 that above the maximum allowed height, within the
2 Height Act, and there's some formulas that get you
3 there, you just simply are not entitled to -- or a
4 special exception for relief for the setback
5 requirements within the Height Act which is simply a
6 one to one setback.

7 No, this doesn't deal with you know, what's an
8 exterior wall, what's not an exterior wall. The
9 Height Act is pretty plain and clear, and so my
10 request to reopen this case and relook at our decision
11 is based on what I feel is we inappropriately allowed
12 relief for setback requirements at the penthouse level
13 where the penthouses would be at a height that is the
14 maximum height under the Height Act.

15 So my recommendation would be to rescind our
16 vote, our previous vote that allowed, I believe it was
17 five areas of relief from those penthouse setback
18 requirements.

19 MR. HILL: Chairman, would you like to say
20 something? Would you like to hear from OP first? We
21 have --

22 MR. HOOD: Actually, I'll say something before
23 OP, and then I'll hear from them second.

24 MR. HILL: Okay.

25 MR. HOOD: I think I've already heard from OP,

1 unless they want to say something different from what
2 they've been saying. But I would tell you, I would
3 agree with Mr. Hinkle.

4 My problem is, I was streaming this and I was
5 trying to move things along and the attorney came to
6 the table at the time and I'm watching this and I
7 wanted to try help move things along because my
8 original vote was to deny all the setback relief. I
9 should have stuck with that.

10 And sometimes when you try to accommodate you
11 put yourself in a bad position. I think that's what
12 happened here, rushing to judgment. So I want to
13 caution the Commission and the Board that when people
14 run up to the table and we try to accommodate, we need
15 to take a step back and think first. That's just my
16 position on this.

17 I would agree with Board Member Hinkle. I
18 would be inclined to rescind the vote, if the votes
19 are here, because I believe that the Zoning Commission
20 put the penthouse regulations in place for a reason.
21 It was a lot of thought, a lot of conversation city-
22 wide, a lot of public input and to turn around two or
23 three weeks later and start making these exceptions.
24 But when I really went back and looked at the original
25 architecture, while I understand the brief that we got

1 from the applicant, that it's just no way we can do
2 it. I believe it is a way when I look at what the
3 need is -- what they want is as opposed to what they
4 can really do, I think it boils down to a design
5 issue.

6 So I would agree with Mr. Hinkle that we need
7 to take this back and rescind it and think this thing
8 through.

9 I will say this, though, Mr. -- you were the
10 Vice Chair then, but Mr. Former Vice Chair, I will say
11 this, is that one place I do think it's possible to
12 relief, is the stairwell. And that's the most I would
13 be agreeing to provide in this type of relief, is the
14 stairwell. The other ones I would be in favor
15 rescinding in. And I can tell you, unless they make a
16 stronger case than even what they say here, I would
17 continue with my original position. Okay. Thank you,
18 Mr. Former Vice Chair.

19 MR. HILL: Thank you, Chairman Hood. Could I
20 hear from the Office of Planning?

21 MR. COCHRAN: Thank you. I think that a lot
22 of the input you may be seeking would perhaps more
23 appropriately come from the Office of the Attorney
24 General and/or the Zoning Administrator. But absent
25 their testimony today, I would only point out that the

1 Zoning Administrator pointed out something very
2 important in his earlier filing, that the Height Act
3 does not define exterior walls.

4 The Height Act does say, you have to have a
5 one-to-one setback from exterior walls of the adjacent
6 roof. Over decades the Zoning Administrator has more
7 often than not interpreted exterior walls to be those
8 walls facing a street. There may have been one case
9 that I can remember where the Zoning Administrator did
10 seem to consider a wall facing an alley to be an
11 exterior wall, but that was, you know, Zoning
12 Administrators change over the years. But that was by
13 far the exception. By and large alley walls have not
14 been considered exterior walls.

15 There were changes to the Height Act. The
16 intention -- excuse me. The initiative for the
17 changes to the Height Act came from Congressman Issa.
18 His intention then was to permit the District of
19 Columbia to make some decisions that might allow more
20 development, possibly higher development.

21 The Zoning Commission did choose to allow some
22 higher development and the penthouse was able to go
23 from 18-6 to 20 feet. A certain amount of habitable
24 space was allowed on there. They reaffirmed the need
25 to set back from exterior walls. They specified

1 certain setbacks from side walls.

2 This is not a formal ZA opinion. This is not
3 a legal opinion. This is just a common sense
4 observation, I think, that to then take the spirit of
5 what Congressman Issa was permitting and without
6 defining exterior walls, somehow have what used to be
7 allowed as a permission to become more restricted,
8 seems to be contrary to the thrust of most of the
9 discussion about changes to the Height Act.

10 When ZRR began I was dealing with height
11 regulations and had many of the early conversations
12 with NCPC about setbacks. I do not recall NCPC
13 insisting that the rear wall of a building was an
14 exterior wall. So I'm rather surprised by the turn in
15 the conversation in the last two months. That's all I
16 have to say.

17 MR. HILL: Okay. And I'm sorry, could you
18 state your name for the record?

19 MR. COCHRAN: I beg your pardon. Steve
20 Cochran, Office of Planning.

21 MR. HILL: Thank you. Would the Office of the
22 Attorney General have anything that -- since they were
23 asked, if there was anything they would like to add?

24 MR. BERGSTEIN: I really have nothing to add
25 other than I stated in the confidential memo to you.

1 I would just hope that as each of you express your
2 position you indicate the source of your opposition or
3 agreement. For example, I think I heard Mr. Hinkle
4 base his view to deny the remaining relief based upon
5 his view that the Height Act does not -- requires that
6 all penthouses be set back from exterior walls on a
7 one-to-one basis, and he believes that exterior walls
8 are implicated here.

9 I heard Mr. Hood basing his opposition based
10 upon the actual standard for denying a special
11 exception as stated in 411.11. So in terms of
12 understanding what the Board is doing it would be
13 helpful if the board members would indicate whether
14 their view is based upon the Height Act, the 411.11
15 standard, or I suppose both. But that would be just
16 helpful to us in crafting any decision that results
17 from the Board's actions.

18 MR. HILL: And could I get your name for the
19 record? Sorry.

20 MR. BERGSTEIN: Oh, certainly. It's Alan
21 Bergstein with the Office of the Attorney General.

22 MR. HILL: Thank you.

23 MR. HOOD: Anthony Hood, Zoning Commission. I
24 want to say -- I do want to say something to Mr.
25 Cochran. One of the things that the Zoning Commission

1 was tasked with was looking at it from Congressman
2 Issa. I mean, from Congressman Issa. And when that
3 whole deal went down about allowing the city to be
4 able to look at it, it didn't necessarily say, and,
5 Mr. Bergstein, you can correct me if I'm incorrect,
6 the record didn't necessarily say that the Zoning
7 Commission had to do actually anything. What the
8 recommendation said was the Zoning Commission look at
9 it and see if they wanted to. That was left up to the
10 District of Columbia. It didn't say you had to do
11 something. It didn't say you had to allow this to
12 happen. It didn't tell us -- it didn't direct us or
13 ask us to do anything. It asked us to look at it and
14 we made the decision in which of course we went for
15 this action.

16 But back to Mr. Bergstein's asking my source.
17 My source is the standard which is in the Zoning
18 Regulations under 411.

19 MR. HILL: Okay. So this is where I am. So
20 I'm going to -- you know, I don't think that you had
21 mentioned that we would rescind the vote. I don't
22 think -- you need three, right? So I'm not going to
23 be to vote to rescind the vote. What I'd like to do
24 is bring in my other colleagues, you know, and take a
25 look at this again because I think that since this is

1 what is starting to set the precedent on this, and
2 since, you know, there has been so much discussion and
3 so many memos from Office of the you know, Attorney
4 General, and Office of Planning, that I'd like
5 everyone else to come on in with me.

6 So if we could do that. I don't know when
7 would be a good time, Ms. Rose, or how we go about
8 doing that, Madam Chair.

9 MR. HINKLE: Mr. Hill.

10 MR. HILL: Yes.

11 MR. HINKLE: Do we need to actually take a
12 vote however, and get to a two to one? Or is that
13 necessary?

14 MR. HILL: You can make a motion I guess,
15 then. Is that -- to vote to rescind?

16 MR. HINKLE: To rescind, right.

17 MR. HILL: Okay.

18 MR. BERGSTEIN: I think that would be good
19 because then you know that basically there is an
20 impediment to moving forward.

21 Though, again, if as I think the understanding
22 has been reached, if there is not three votes to
23 rescind, the vote would stand and then what you'd be
24 asking for is to bring in the other two members to
25 then examine the question about whether or not the

1 vote should continue to stand.

2 So I think having an approval vote would be
3 good idea. A vote would be a good idea.

4 MR. HILL: Okay. Mr. Hinkle, would you like
5 to make a motion for a vote?

6 MR. HOOD: Mr. Bergstein, I do have a
7 question.

8 MR. HILL: Sure, go ahead.

9 MR. HOOD: Mr. Former Vice Chair.

10 MR. HILL: That's all right.

11 MR. HOOD: Okay.

12 MR. HILL: Chairman Hood, please. Anthony
13 Hood.

14 MR. HOOD: Yeah, just Anthony.

15 MR. HILL: I'll say.

16 MR. HOOD: I'm just unclear. If the vote was
17 how I think it's going to go and it comes out maybe
18 two to one, for example, and to bring the other two --
19 the vote still stands, so whatever was approved still
20 stands because we don't have the votes to rescind,
21 correct?

22 MR. BERGSTEIN: That's correct, but I think
23 the Board, since it has moved to revisit the decision,
24 though not rescind decision, I think the Board has the
25 discretion to ask the remaining members to then

1 participate in the question of whether or not the
2 order -- the vote should be rescinded. That's how I
3 see it.

4 MR. HOOD: Okay. Thank you.

5 MR. HILL: And then, Mr. Bergstein, does that
6 mean that we can reopen this again to like hear from
7 the applicant?

8 MR. BERGSTEIN: The rules allow you at any
9 time to reopen the record and have hearings on
10 designated issues, provided notice is given to all the
11 parties as to what those designated issues are.
12 That's a separate consideration. There's two --

13 MR. HILL: Okay. All right. Then we're going
14 to have to reopen it, I think, in order for the other
15 board members to be able to ask questions of the
16 applicant and to at least get to this issue, because
17 as it's been said many times up here like, you know,
18 we want to get it right. You know? And so I think
19 that that's something that we like to do.

20 MR. BERGSTEIN: So, just anticipating where
21 you may be going, you would be -- well, you'd be
22 taking this vote and assuming you don't get three.
23 What you would do is then reopen the record simply for
24 a dialog between the board members and the applicant,
25 or are there specific -- is there anything you would

1 like to hear testimony concerning that would be
2 presented?

3 You also don't have to decide this today.

4 MR. HILL: Sorry. Go on. That's okay. So
5 the question or the discussion here is if we rescind
6 and vote to rescind, then the applicant would just
7 come back again, correct?

8 MR. BERGSTEIN: If you're not able to take a
9 motion to rescind and you decide -- you've got two
10 options. You could say, well, the vote failed, no
11 rescission, things stand, it's approved. Order
12 issues. Walk away.

13 The second is to say, there's no rescission,
14 however there's still an open motion to revisit and
15 we'd like to bring in remaining board members to have
16 part of this discussion to revisit. It could simply
17 be deliberations. But if you wanted to have a hearing
18 before those deliberations, you could do that too, we
19 just need to give notice of the hearing and what the
20 subject matter of the hearing would be.

21 MR. HILL: Can you repeat again what happens
22 if we rescind?

23 MR. BERGSTEIN: Okay. Well, if you do rescind
24 the vote, if there is a vote of three zero to deny the
25 remaining portions of the relief, then we're done and

1 I would draft an order denying the remaining portions
2 of the application.

3 MR. HILL: No, no, no, that's okay. All
4 right. Okay.

5 MR. BERGSTEIN: Okay?

6 MR. HILL: All right. Okay. Okay. Mr.
7 Hinkle, would you like to make a motion to rescind?

8 MR. HINKLE: Yeah, just before that I just
9 wanted to make a comment that you know, I'm reviewing
10 this project in the special exception request for
11 relief under 411.11 which gets to the Zoning
12 Regulations. I'm not looking at the Height Act and
13 how NCPC interprets the Height Act. I'm simply
14 looking at 411.11, and the duties of this board.

15 And from that I went to the determination
16 letter of the Zoning Administrator that talks about
17 how exterior walls are defined under NCPC's review of
18 the Height Act, as well as the Zoning Regulations.
19 And I'm basing my decision today on the fact, or the
20 definition of an exterior wall as stated by the Zoning
21 Administrator under the Zoning Regulations.

22 So, what I still find is, with that -- one of
23 the requirements that we're supposed to do is look at
24 the intent and purpose of this chapter, Chapter 4 of
25 this title, and will be materially impaired by the

1 structure. And I think it will because I believe the
2 intent of the amendment to the Height Act, which was
3 thus codified in 6-601.05, is that you can have
4 habitable space in a penthouse provided, and that's
5 the term used, provided that you meet the setback
6 requirements for exterior walls.

7 So if you were to take the definition from the
8 Zoning Administrator of exterior walls, you still need
9 those setbacks, one to one. I mean, that's what it
10 says. So that's where I'm at right now.

11 MR. HILL: Okay.

12 MR. HINKLE: It's not based on any other
13 definition of exterior walls except for the Zoning
14 Administrator's. So --

15 MR. HILL: Okay.

16 MR. HINKLE: -- just to make that clear.

17 MR. HILL: And I respect your opinion and I
18 think that Mr. Hinkle is -- I'm sorry, Mr. Hood. I'm
19 jumping all around.

20 MR. HINKLE: Right. Right.

21 MR. HILL: Is there with you. But I'd just
22 like to bring in the other members of the Board --

23 MR. HINKLE: Absolutely.

24 MR. HILL: In order to be able to get this
25 right and flush this out and discuss it and so we're

1 back to your motion.

2 MR. HINKLE: So I will make a motion to
3 rescind the approvals that this Board made. Guess
4 we'll do the whole thing for both the closed court as
5 well as the relief requested for penthouse setbacks.

6 MR. HILL: Motion has been made. I'll second.
7 Motion has been made and seconded. Any further
8 discussion?

9 [Vote taken.]

10 MR. HILL: So we don't have the numbers. So
11 now what I would again ask, you know, is for us to
12 take a look at it, have the applicant come up and have
13 this open for discussion with the applicant with the
14 other board members. So, now I can find a date for
15 this. Is that correct?

16 MR. BERGSTEIN: Yes, but I understand, I'd
17 like it to be considered a hearing. So if you're
18 going to have a dialog with the applicant's counsel.

19 MR. HILL: That's great. Yeah.

20 MR. BERGSTEIN: So we could give notice of
21 limited hearing which would consist of the Board
22 having a dialog with the applicant's counsel. And I
23 think in the spirit of the designation rule, probably
24 a 14-day period would suffice.

25 MR. HILL: Okay. That sounds like a good idea

1 to me, limited hearing. Ms. Rose, do you see a date
2 that works for the 14 days as well as isn't maybe as
3 packed?

4 MS. ROSE: I'm thinking June 7th.

5 MR. HILL: June 7th. Okay. Oh yeah, when is
6 the next time Mr. Chairman is here? How much time do
7 you think you need to read in the record?

8 I just think it's just this one area, but --
9 June 7th was what was on the table?

10 MS. ROSE: Yes.

11 MR. HILL: So when is the next time you're
12 here?

13 MS. ROSE: I'm not sure, I have to check on
14 that because we have --

15 MR. HOOD: If it's much after June I will go
16 ahead and do June 7th, but I'd like to try to do it
17 when I'm here.

18 MR. HILL: Okay. How do I find out when
19 you're here?

20 MR. HOOD: I don't want to hold up a whole lot
21 of stuff but I think I'm not here until July. I'm
22 looking at the applicant's counsel to see if they
23 cringed. They didn't cringe.

24 MR. HILL: So I'd say -- let's say --

25 MR. HOOD: They didn't cringe until I said

1 something.

2 MR. HILL: Let's say June 7th. Is that all
3 right? Okay. June 7th.

4 CHAIRPERSON HEATH: Okay. That's plenty of
5 time for us.

6 Are we revisiting just the setbacks? Or --

7 MR. HILL: I'm looking at LAG there.

8 CHAIRPERSON HEATH: -- I know the whole thing
9 was rescinded, but -- so we're looking at the case --

10 MR. BERGSTEIN: You're revisiting what's been
11 approved, not what's been withdrawn. That's the only
12 thing I could say. It was a general motion to
13 basically revisit.

14 CHAIRPERSON HEATH: Well, that was the motion
15 but --

16 MR. HOOD: I'm sorry. I was just trying --
17 okay. I'm sorry. So well, anyway, you know what?

18 CHAIRPERSON HEATH: The motion was to rescind
19 both. All parts. All parts --

20 MR. HILL: So now you have to look at
21 everything.

22 CHAIRPERSON HEATH: -- for approval, so.

23 MR. HOOD: But that motion failed, right?

24 MS. ROSE: But the motion failed.

25 MR. HOOD: The motion failed.

1 CHAIRPERSON HEATH: But --

2 MR. BERGSTEIN: You're back to your last
3 motion, which was to revisit the decision without
4 rescinding it. So that's where you --

5 MR. HILL: So the five setbacks. The five
6 setbacks.

7 MR. BERGSTEIN: The five setbacks.

8 MR. HILL: So you can just --

9 CHAIRPERSON HEATH: So it is just --

10 MR. HILL: So just review the five setbacks.

11 CHAIRPERSON HEATH: Okay.

12 MR. HILL: That's what we're talking about.

13 MR. BERGSTEIN: Can I ask two clarifying
14 questions? Number one, am I correct that no further
15 submissions will be permitted at this point, or do you
16 want to allow the applicant to make a further
17 submission?

18 I'm trying to anticipate what might happen.

19 MR. HILL: Do my colleagues have an opinion?

20 CHAIRPERSON HEATH: If there's anything else
21 we need.

22 MR. HOOD: I think what they submitted, unless
23 they want to add something to the -- they've already
24 spelled out why they couldn't meet it. Well, I don't
25 think they -- if they want to expound on that case and

1 make it stronger because I don't see why they couldn't
2 meet the setbacks. Maybe they can expound on that for
3 me, because I don't see it.

4 MR. HILL: Okay. So we'll leave the record
5 open for why they don't meet those five setbacks.

6 MR. BERGSTEIN: And will you also permit
7 applicant's counsel to make an opening statement
8 before you ask questions, or do you just want to ask
9 questions?

10 MR. HILL: I think opening statement is fine.

11 MR. BERGSTEIN: Okay. That would be great.
12 Thank you very much.

13 MR. HILL: Thank you.

14 CHAIRPERSON HEATH: Do we need to make an
15 official motion to revisit this, or are we --

16 MR. HILL: Do we need to make an official
17 motion?

18 MR. BERGSTEIN: No, I think that's something
19 that you, as chair, can do.

20 CHAIRPERSON HEATH: Okay.

21 MR. HILL: Okay.

22 CHAIRPERSON HEATH: All right.

23 MR. HILL: Well, I look forward to discussing
24 this with my colleagues, and getting this cleared up
25 and straight. So, it's important. So, but thank you

1 very much and I will turn over my microphone to Madam
2 Chair again.

3 CHAIRPERSON HEATH: All right.

4 MR. HILL: Or Mr. Hinkle if you'd like.

5 CHAIRPERSON HEATH: Thank you. Thank you
6 former Vice Chair.

7 All right. All right. So that concludes our
8 meeting cases for the day and we will go back to our
9 hearing cases. And we'll proceed in the order as
10 they're listed on the agenda.

11 So, Ms. Rose, you can call our next case.
12 Yes.

13 MS. ROSE: This is application --

14 CHAIRPERSON HEATH: Your mic is not on.

15 MS. ROSE: This is Application 19252 of Susan
16 Hillberg, pursuant to 11-DCMR-3104.1 for a special
17 exception under Section 223, not meeting the lot
18 occupancy requirements under Section 403.2, and the
19 court requirements under Section 406, to construct a
20 rear addition to an existing one-family dwelling in
21 the R-5-B district at premises 605 G Street Southeast,
22 Square 878, Lot 154.

23 CHAIRPERSON HEATH: All right. Good morning.
24 Would you all please introduce yourselves?

25 MS. HILLBERG: Good morning. My name is Susan

1 Hillberg, I own 605 G Street Southeast, Washington,
2 D.C.

3 MR. JONES: Kim Jones, I'm an architect.

4 CHAIRPERSON HEATH: Okay. Are you aware of
5 OP's comment about the fact that they believe you need
6 to request additional relief from 2001.3?

7 MS. HILLBERG: Yes. I spoke to Allison on the
8 phone and we put it on the form 135, the zoning self-
9 certification and Kim has initialed it, and so we have
10 copies to hand in today.

11 CHAIRPERSON HEATH: Okay. All right. As long
12 as we can get that submitted to the record, we'll be
13 fine.

14 MS. HILLBERG: Okay.

15 CHAIRPERSON HEATH: Can you -- I don't know
16 that the Board necessarily needs to see copies of it,
17 but we definitely want to get it submitted --

18 MS. HILLBERG: Okay.

19 CHAIRPERSON HEATH: -- as an exhibit to the
20 record.

21 MS. HILLBERG: I did also put it in to the --

22 CHAIRPERSON HEATH: Into Isis?

23 MS. HILLBERG: Yes.

24 CHAIRPERSON HEATH: Okay. All right. So we
25 have it now. And maybe we will. It doesn't look like

1 it's gotten into our system yet, but as long as we get
2 that --

3 MS. HILLBERG: Uh-huh.

4 CHAIRPERSON HEATH: -- we'll be fine. Okay.
5 Does the Board have any other questions of this
6 applicant? All right. Any questions?

7 Okay. I believe your application now is
8 complete. And the relief you're requesting is fairly
9 straight forward and so the Board doesn't have any
10 questions of you at this time. We may, as we continue
11 on with the hearing, but if you're okay with us
12 proceeding on --

13 MS. HILLBERG: Uh-huh.

14 CHAIRPERSON HEATH: -- we'll hear from Office
15 of Planning at this time.

16 MS. HILLBERG: Great. Thank you.

17 MS. BROWN-ROBERTS: Good morning, Madam
18 Chairman and members of the Board. The Office of
19 Planning rests on the record for approval of the
20 application. Thank you.

21 CHAIRPERSON HEATH: Okay. Thanks. Board, any
22 questions of Office of Planning? Applicant, any
23 questions of Office of Planning? Okay.

24 We also have a letter of approval from your
25 ANC, ANC 6B. Is there anybody here from ANC 6B?

1 Anyone from ANC 6B? All right.

2 And a letter of no objection from Department
3 of Transportation, as well is in the record. Is there
4 anyone here wishing to speak in support of this
5 application? Anyone in support?

6 Thank you for talking to your neighbors and
7 getting their support. We do have two letters from
8 your neighbors, in the record, supporting this
9 application.

10 Anyone here wishing to speak in opposition?
11 Anyone in opposition?

12 Then if you're okay with us concluding the
13 hearing I think we can probably deliberate on this.
14 All right. Is the Board ready? All right.

15 I'll make a motion that we approve the request
16 for special exception to construct a rear addition to
17 an existing one-family dwelling at 605 G Street
18 Southeast for Application No. 19252.

19 MR. HILL: Second.

20 CHAIRPERSON HEATH: The motion has been made
21 and seconded. Any further discussion? All those
22 in --

23 MS. BUTANI-D'SOUZA: I would just like to say
24 that this does seem like a great change to the
25 property. It seems like it's in keeping with the

1 intent of the code and the neighbors are pleased with
2 it. So I'd like to just echo Madam Chair's comments
3 and thank you for working with everyone to make this
4 happen. I just wanted to state that for the record.

5 CHAIRPERSON HEATH: All right. Thank you.

6 [Vote taken.]

7 CHAIRPERSON HEATH: The motion carries. Thank
8 you.

9 MS. ROSE: Staff will record the vote as five
10 to zero to approve the application with Ms. Heath
11 making the motion, seconded by Mr. Hill, Ms. Butani,
12 Mr. Hinkle, and Mr. Hood in support.

13 CHAIRPERSON HEATH: All right. Summary order.

14 MS. ROSE: Thank you. The next application is
15 19230 of John B. Knotts and Richard B. Hiltner,
16 pursuant to 11-DCMR-3103.2 for variances from the rear
17 yard requirements under Section 774.1, and the parking
18 requirements under Section 2101.2 to permit the
19 construction of a mixed use project in the C-2-A
20 district at premises 4424, Georgia Avenue Northwest,
21 Square 2917, Lot 37.

22 MS. MAZO: Good morning. Good morning, hi.
23 Oh, sure.

24 CHAIRPERSON HEATH: One second. We just got a
25 new document into the record so we were looking at

1 that, which is why I hadn't -- we hadn't addressed you
2 yet. But, all right. Go ahead. Thanks.

3 MS. MAZO: Sure. Good morning. For the
4 record my name is Samantha Mazo. I'm with the law
5 firm of Griffin, Murphy, Moldenhauer, and Wiggins.
6 And we're here on behalf of the applicant who is the
7 contract purchaser for this property at 4424 Georgia
8 Avenue. And then we -- who is authorized by the
9 property owner, John Knotts and Richard Hiltner.

10 One question, you indicated that there was a
11 new letter into the record. We have not seen that
12 letter so I'm not exactly sure --

13 CHAIRPERSON HEATH: Sure. We haven't either.

14 MS. MAZO: -- what that is but I don't know.

15 But yes, so here, we're here on --

16 CHAIRPERSON HEATH: If they could also
17 introduce themselves?

18 MS. MAZO: Oh, yeah. I'm getting to that.
19 I'm here today with Mr. Knotts, the property owner,
20 Stephen DuPont, the project architect, Erwin Andres of
21 Gorove/Slade, he's the traffic engineer, and Ben
22 Wilson who is the broker for the property and he's
23 also here to answer questions.

24 We are happy to make a full presentation. We
25 recognize some of our neighbors from our extensive

1 community outreach who are in the audience, so we're
2 happy to make a full presentation. We're happy to
3 make a shorter presentation if that would be of more
4 interest to the Board.

5 CHAIRPERSON HEATH: I think that given, you
6 know, the newest letter that was submitted, was from
7 neighbor Karen Feinstein, who expressed some of the
8 same concerns as we've seen from other neighbors to
9 this property. And so I think it's probably going to
10 be best that we hear a full presentation on the
11 issues, just so that others who were here have the
12 benefit of hearing what you've done to address some of
13 the comments and concerns to this point, and anything
14 that you might be willing to consider based on what
15 you know are the hot button issues.

16 MS. MAZO: Sure.

17 CHAIRPERSON HEATH: Which are gaining the size
18 of the development.

19 MS. MAZO: Sure. And we are very very happy
20 to go forward. The applicant proposes a multistory
21 mixed use building with seven units and approximately
22 11,000 square feet for retail, both on the ground
23 level and the cellar floors. The property is zoned C-
24 2-A which permits heights of up to 50 feet, lot
25 occupancy of 60 percent, FAR of 2.5, and a 15-foot

1 rear yard. The C-2-A zone also specifically permits
2 mixed use and apartment house in this zone.

3 The proposed project satisfies the zone's
4 height, density, lot occupancy, and density
5 requirements, but we cannot provide the required four
6 parking spaces on site, or the full 15-foot rear yard
7 because the property is landlocked, irregularly
8 shaped, and has a 15 foot building restriction line
9 along Allison Street.

10 Instead we're providing a five-foot rear yard,
11 which was at the request of the property owner to the
12 west at 1104 Georgia Avenue, who I believe is the
13 representative of -- who just submitted that letter.

14 As we discuss in our filings, we have worked
15 closely with the community on the project, including
16 two on-site community meetings, separate meetings with
17 the SMD, and numerous e-mails with Ms. Feinstein and
18 other communication with other neighbors. To that end
19 we are pleased to say that we have ANC support for
20 this project.

21 Finally, before we get into the presentation I
22 want to update the Commission on three items. First,
23 at the request of DDOT we will be locating a secure
24 interior bike room adjacent to the trash area. The
25 bike room will be able to accommodate at least three

1 bikes and will be accessible by the residents.

2 Second, the applicant will agree to offer an
3 annual Car Share membership or an annual Capital Bike
4 Share membership for all new tenants and owners for a
5 period of five years.

6 And third, in our presentation we have
7 provided sun studies that are included in our
8 presentation that demonstrate that the shadows cast by
9 this project will only have very limited impact on the
10 property at 1104 Georgia Avenue, will only impact it
11 from approximately 9:00 to noon in the morning.

12 These limited impacts do not rise to the level
13 of substantial adverse impact.

14 MS. BUTANI-D'SOUZA: Can I ask you to just
15 repeat the conditions that you said you were offering,
16 the additional conditions?

17 MS. MAZO: Sure. The additional conditions,
18 and they are in response to DDOT's request. The first
19 is that we will be providing a bike room for at least
20 three bikes. And that bike room will be interior to
21 the site and will be accessible to the residents. And
22 we were working on it yesterday and we believe the
23 best area for that bike room will be adjacent to the
24 trash room and it will have either a separate entrance
25 or a separate key. We're working through that.

1 And then also we will agree to offer an annual
2 Car Share membership, or an annual Capital Bike Share
3 membership for all new tenants and owners for a period
4 of five years.

5 So those are the conditions. And then also we
6 had prepared sun studies that we'll walk through as
7 part of our presentation that do show that because of
8 the location of the building the sun -- Mr. DuPont can
9 do a better job. But it goes from north to south and
10 so it has a limited impact on the west or the east
11 properties.

12 All of these are in addition to our other TDM
13 measures that we have described -- we have discussed
14 previously in our filings, including making the
15 property ineligible for RPP, and providing a transit
16 screen, and also talking to and working with DDOT to
17 see if there is interest for a Capital Bike Share in
18 this vicinity or along this intersection.

19 And, Mr. Andres will -- further, Mr. Andres
20 will testify that the surrounding street network has
21 capacity to meet the parking demand generated by this
22 project.

23 Finally, the applicant will proffer to stage
24 construction and design and have limited parking
25 impacts during construction.

1 With that, I will start the presentation.
2 And, Mr. Knotts, I will ask you to come forward now
3 and provide your statement.

4 CHAIRPERSON HEATH: It would be helpful,
5 although I know you've said names, it would be helpful
6 if they would introduce themselves just so we know who
7 is who, because you named a lot of people who weren't
8 at the table.

9 MS. MAZO: We'll just go down the line and do
10 that if that's helpful.

11 CHAIRPERSON HEATH: Sure. That would be.

12 MR. DUPONT: Stephen DuPont. I'm the project
13 architect for the project.

14 MR. KNOTTS: Hi. I'm John Knotts. I'm
15 representing my business partner, Richard Hiltner and
16 myself, owners of the property.

17 MR. ANDRES: Good morning, Chairwoman Heath.
18 Irwin Andres, Principal for Gorove/Slade Associates.

19 MS. MAZO: Mr. Knotts has a short statement
20 he'd like to make.

21 MR. KNOTTS: We've owned the building for
22 about 12 years and when we first bought it, it was
23 basically a shell. And I personally worked on the
24 renovation of it and it took us about a year to get it
25 ready.

1 The first time it was a personal friend of
2 mine who had a flower business and he opened a flower
3 shop there. And then the only other tenant in the
4 commercial space has been a personal trainer who is
5 still the current tenant.

6 The building has been harder and harder to
7 justify the expenses and the income coming from it so
8 we decided last year to go ahead and put it on the
9 market, thinking it would have a higher use for the
10 community. I would like to say too, that we have
11 participated in several community events and we've
12 provided a rear yard for a block party several years,
13 and various and some other things that came up.

14 So, we're very pleased with the plans that the
15 buyer has provided. I think they've done an excellent
16 job and we're getting a good balance between the use
17 of the property and adding good high quality family
18 use.

19 So, I think that's about it. I just wanted to
20 say again that we are pleased and we like the design
21 and the function and the high use of the property.
22 Thank you.

23 MS. MAZO: Thank you, Mr. Knotts. Next we're
24 going to have Mr. DuPont walk through the unique --
25 well, first of all, walk through the surrounding

1 property so that everyone gets a feel for what is
2 adjacent to this property, and then walk through the
3 unique aspects of the property itself.

4 And then talk briefly about the project.
5 Thank you.

6 MR. DUPONT: Good morning. This property is
7 on the corner of Georgia Avenue and Allison Street.
8 You'll see in the photograph in the middle of the
9 block there's a two-story domestic type structure.
10 It's set back quite a bit from the sidewalk and
11 infilling that space between the old building and the
12 sidewalk is a newer one-story retail space. This is
13 typical of the block.

14 At this time the entire property is used in a
15 commercial manner. Multi-family projects are
16 occurring up Georgia Avenue. And the second slide
17 shows a number of those properties between New
18 Hampshire Avenue and Allison Street.

19 And the next sheet shows the continuous
20 retail, low retail fronting the sidewalk as you move
21 south on Georgia Avenue. Behind that are the taller
22 two and three-story domestic style structures that
23 must have been there earlier, and I think they are
24 mostly used on a commercial basis.

25 Surrounding properties to the north of this

1 lot on the same side of Georgia is a relatively large
2 three-story apartment building, and directly
3 diagonally across the intersection on the Northeast
4 corner, up on the ridge, which is a fairly high ridge
5 there, is another apartment building. And beyond that
6 is a smaller condo building which is currently under
7 construction.

8 Surrounding properties are quite mixed. As
9 you move further away from Georgia Avenue there are a
10 number -- there are row houses. Nice 19th Century to
11 early 20th Century row houses. As you get closer to
12 Georgia Avenue it's more of a mix. There are a number
13 of apartment buildings, there are some schools, of
14 course, and some religious structures.

15 C-2-A is a community business center district
16 zone. It is a -- it is designed to enable both
17 residential and commercial uses. It permits as a
18 matter of height -- matter of right, a height of 50
19 feet, an FAR of 2.5, 60 percent lot occupancy for
20 residential structures, 15-foot rear yard, side yard
21 in course only if necessary, and apartment houses and
22 retail both are expected in this zone.

23 The property is a corner lot at the corner of
24 Georgia Avenue and Allison Street. It's a long narrow
25 kind of ice cream cone shaped lot with the narrow end

1 toward Georgia Avenue. Allison, being residential in
2 nature, has a building restriction line which runs
3 down along side of the property. The front property
4 line is about 16 and a half feet shorter than the rear
5 property line. The narrow part of the building is
6 toward Georgia Avenue. The more usable part of the
7 building is at the back.

8 There is, as I said, a 15 foot building
9 restriction line along Allison, and it limits the
10 developable footprint to 13-7 at Georgia and about 31
11 and a little less than a half at the rear. Almost 40
12 percent of the lot is not buildable due to the
13 building restriction line.

14 The proposed project offers retail on Georgia
15 Avenue, about just under 600 square feet on the ground
16 floor, and the same at the basement level. There are
17 seven multi-family units. Most are multi-bedrooms.
18 There's one or two that are single bedroom. A number
19 of them are two-story and the idea is to provide units
20 which will be inviting to families.

21 And if you look at the cellar plan you'll see
22 at the narrow end of the site is about 580 square feet
23 of retail space. There's a stairway connecting it to
24 the upper -- to the ground floor. There are also
25 bedrooms for two of the ground floor units, so those

1 are two-story units.

2 Looking at the ground floor plan, on the right
3 you see the commercial space, and there's a separate
4 entrance off Georgia Avenue for the retail space.
5 There's another entrance off of Allison Street which
6 is ADA accessible, and in that first stairwell, away
7 from Georgia Avenue you see the markings for a trash
8 room and we would finagle that space to get the
9 bicycles in.

10 To the left you see another stairwell, and on
11 either side of that are the upper floors of the two-
12 story units that also have the basement space, the
13 cellar space.

14 Looking at the second floor are two flats, two
15 one-story units, apartments. They're served by the
16 stair closest to Georgia Avenue. One has a really
17 dramatic window facing Georgia Avenue with the
18 bedroom, and the other is a two-bedroom apartment.

19 Third floor is the bottom of three more two-
20 story units. And then the fourth floor is the bedroom
21 spaces for those units. And the fifth floor is
22 limited indoor space for storage of garden equipment
23 and that kind of thing and then some outdoor balcony
24 space.

25 The next sheet, page 17, shows the Allison

1 Street elevation. The building has a kind of a rhythm
2 which is reminiscent of domestic type structures.
3 It's broken up by the stairwells and that is also
4 reflected in the layout of the interior spaces. The
5 next sheet shows the elevation facing west. This is
6 where we pulled the building away from the property
7 line at the neighbor's request, and the neighbor also
8 wanted some windows in that wall so it wouldn't be --
9 so it would be a lot more attractive to look at and
10 more interesting. And that actually is a great
11 solution.

12 The next sheet is a section through the
13 building. The road to the right is Allison Street.
14 So you'll see there's quite a lot of open space in
15 front of the building that we can't build in due to
16 the building restriction line.

17 The sun study, I did five times of the day on
18 December 21st, which is when the sun is lowest in the
19 sky, and therefore it produces the longest shadows.
20 South is to the bottom of the page, so the sun --

21 MS. BUTANI-D'SOUZA: Sorry, which exhibit is
22 that, just so we can follow along?

23 MR. DUPONT: Sorry?

24 MS. BUTANI-D'SOUZA: Which exhibit is that?

25 MR. DUPONT: The sun study.

1 MS. BUTANI-D'SOUZA: Has it been submitted?

2 MR. DUPONT: Yes.

3 MS. MAZO: No, the sun study has not been
4 submitted. It's in the PowerPoint.

5 MS. BUTANI-D'SOUZA: Oh, okay.

6 MR. DUPONT: Since the sun -- south is to the
7 bottom of the sheet, the shadows will always be toward
8 the top of the sheet. In the morning, of course, the
9 shadows are to the left, and in the evening the
10 shadows are to the right. 8:00 a.m. doesn't show a
11 very strong shadow because the computer understands
12 that --

13 MS. BUTANI-D'SOUZA: Excuse me. I'm just
14 having a hard time following along. Can you show us
15 what -- where the building is and where the adjacent
16 properties are here?

17 MR. DUPONT: Is it alright if I walk over
18 there and show you?

19 MS. BUTANI-D'SOUZA: That would be helpful.

20 CHAIRPERSON HEATH: We've got a hand mic that
21 we can give you.

22 MR. DUPONT: Thank you. This is the proposed
23 structure.

24 MS. BUTANI-D'SOUZA: Okay.

25 MR. DUPONT: The apartment building across the

1 street --

2 MS. BUTANI-D'SOUZA: Which street is that?

3 MR. DUPONT: This is Allison Street here and
4 Georgia Avenue here.

5 MS. BUTANI-D'SOUZA: Okay.

6 MR. DUPONT: This is the apartment building
7 across the street. It's only a slice of it. And this
8 is the building to the west.

9 MS. BUTANI-D'SOUZA: That's 1104?

10 MR. DUPONT: 1104. There's an alley here.

11 MS. BUTANI-D'SOUZA: And what about the
12 building next to it? Is there --

13 MR. DUPONT: Here?

14 MS. BUTANI-D'SOUZA: Yeah.

15 MR. DUPONT: That's the rank of older
16 buildings that are two and three story behind and then
17 a shorter one and two-story retail in front.

18 MS. BUTANI-D'SOUZA: Do you have another
19 exhibit that shows how the shadow is cast on those
20 buildings?

21 MR. DUPONT: They would not cast any shadow
22 because it would all cast against the wall of this
23 building. Or out into Georgia Avenue.

24 MS. BUTANI-D'SOUZA: Sorry, which way is north
25 on this?

1 MR. DUPONT: North. North is here.

2 MS. BUTANI-D'SOUZA: North is there.

3 MR. DUPONT: So at the morning --

4 MS. BUTANI-D'SOUZA: Okay.

5 MR. DUPONT: -- 8:00 a.m., this building casts
6 a shadow which is very hard to see but it's basically
7 like this. So it casts a shadow into the side yard.

8 MS. BUTANI-D'SOUZA: It would be really
9 helpful if the shadow were a different color from the
10 street, because I really can't see.

11 MR. DUPONT: It's an actual sun calculating
12 piece of software for rendering and I can't do that.
13 I don't know how to do that.

14 MS. BUTANI-D'SOUZA: Could you color it in on
15 your PowerPoint so that we could understand it a
16 little bit better?

17 MR. DUPONT: I could color it in, in
18 another --

19 MS. BUTANI-D'SOUZA: That would be helpful.

20 MR. DUPONT: -- in another exhibit, yes.

21 MS. BUTANI-D'SOUZA: Okay. Yeah, because
22 we're probably going to request that to be submitted
23 for the record so when you submit it if you could
24 clearly show what is the shadow and what is the
25 street?

1 MR. DUPONT: This image is the only one that
2 casts a shadow on that building, and it casts it in
3 the morning in this direction. Other structures that
4 are already here and the ridge to the east, already
5 create that shadow, however.

6 This is later in the morning and the shadow is
7 moving north. At noon you can see the shadow is
8 entirely in Allison Street, and these are the longest
9 shadows of the year. 3:00 p.m. the shadows are going
10 this way, so there is no coverage on that building.
11 And then in the evening obviously they're even more
12 that way.

13 MS. MAZO: Sorry, Mr. DuPont, could you just
14 define which way is this way and that way for the
15 record, please?

16 MR. DUPONT: Shadows are projected to the west
17 in the morning, toward 1104 and to the north of 1104.
18 As you move toward mid-day the shadows move onto
19 Allison Street, which is up the page. And in the
20 afternoon the shadows move to the right on the page,
21 which is toward Georgia Avenue and completely away
22 from the neighbor at 1104.

23 MS. BUTANI-D'SOUZA: So do you have anything
24 that shows what the current shadows are that are cast,
25 because if I understand what you're saying is that at

1 8:00 a.m. there is an existing shadow on the building
2 so your building doesn't add to the shadow. But I
3 don't actually.

4 MR. DUPONT: Well, at 8:00 a.m. the sun is so
5 low in the sky that anything casts a shadow. There's
6 a ridge over here. There's no additional shadow,
7 really.

8 MS. BUTANI-D'SOUZA: It would be helpful to
9 see that in an exhibit because you know, we need to
10 see that demonstrated. I don't see that --

11 MS. MAZO: Vice Chair D'Souza, we'll be sure
12 to supplement the record with that information.

13 MS. BUTANI-D'SOUZA: Thank you.

14 MR. DUPONT: Okay.

15 MS. BUTANI-D'SOUZA: Sorry, can you just go
16 back to that shadow study again. I just want to look
17 at that for a minute. Can you flip back to that for a
18 second?

19 So, at 9:00 a.m. I think I can sort of discern
20 that there is -- I see a slight color difference
21 there. So at 9:00 a.m. you're saying that it casts a
22 shadow on the building across the street?

23 MR. DUPONT: [Speaking off mic.]

24 MS. MAZO: Hold on. Mr. DuPont, let's get the
25 hand mic back, please.

1 MS. BUTANI-D'SOUZA: So, Mr. DuPont, I'm
2 looking at the 9:00 a.m. picture there. So it looks
3 to me like it's casting a shadow on Allison Street and
4 on --

5 MR. DUPONT: The shadow, in the course of the
6 day sweeps like this. It starts aiming in this
7 direction --

8 MS. MAZO: Sorry. To be clear, it looks like
9 it goes from West to East. Is that correct?

10 MR. DUPONT: That's correct. The shadow
11 starts being projected toward the west.

12 MS. BUTANI-D'SOUZA: Okay.

13 MR. DUPONT: As the sun moved toward noon time
14 the shadow was projected toward the north.

15 MS. BUTANI-D'SOUZA: Okay.

16 MR. DUPONT: And in the afternoon the shadow
17 is protected toward Georgia Avenue. So only in the
18 morning is there any shadow projected toward 1104.

19 MS. BUTANI-D'SOUZA: And what about at noon.
20 I see there's a shadow on the building across the
21 street?

22 MR. DUPONT: A little -- no, that's on the
23 yard. The building starts back here. And again, this
24 is --

25 MS. BUTANI-D'SOUZA: Which building is that?

1 MR. DUPONT: It's an apartment building across
2 Allison.

3 MS. BUTANI-D'SOUZA: Okay.

4 MR. DUPONT: And it has a side yard in front
5 between Allison and the sidewalk.

6 MS. BUTANI-D'SOUZA: And are they aware that
7 there is going to be a shadow on their side yard?

8 MR. DUPONT: This is December 21st. This is
9 the longest shadow of the year.

10 MS. BUTANI-D'SOUZA: Okay.

11 MR. DUPONT: And there already is shadowing
12 across the street from the buildings that are there,
13 although not as tall. And in the afternoon, of
14 course, the shadow moves more toward Georgia Avenue.
15 So it's out in the street entirely.

16 MS. BUTANI-D'SOUZA: I think it would be
17 helpful to see what the current condition is as
18 compared to the new condition so that we can
19 understand the difference in the shadow, particularly
20 with regard to 1104, but also the building across --
21 is that Allison Street?

22 Yeah. So when you submit it if I could just
23 request that you make these exhibits really clear for
24 us. So if you could label the streets, Allison,
25 Georgia. If you could indicate what time of the year

1 it is? If you're saying that this is December 21st,
2 which is the longest period and that's why you're not
3 submitting a shadow study for other times of the
4 year --

5 MR. DUPONT: Yeah, that got lost --

6 MS. BUTANI-D'SOUZA: -- if you could make that
7 clear?

8 MR. DUPONT: -- in the PowerPoint.

9 MS. MAZO: And sure, we will do that. But
10 also to be clear we will also be including in that
11 shadow study, a comparison of what a matter of right
12 project would be on this -- sorry, on this particular
13 property, which again is the same height, the same 50-
14 foot height, and the shadows that would be cast from
15 that project.

16 So that sun study will include three separate
17 sheets. The first will include the existing for your
18 information, the second will include the matter of
19 right project that could be built by just going down
20 and pulling a building permit.

21 MS. BUTANI-D'SOUZA: Okay.

22 MS. MAZO: And then the third will include
23 this one that shows our project, that -- the sun study
24 is from -- or the shadow study from the matter of
25 right and from this project will be identical because

1 this project is being built to the matter of right
2 height.

3 MR. HOOD: Madam Chair.

4 MS. BUTANI-D'SOUZA: I'm sure that that would
5 perfectly answer all of our questions on the shadow
6 study.

7 MR. HOOD: Madam Chair, I would agree with the
8 Vice Chair. The Vice Chair.

9 But let me ask a question. Do we have the
10 PowerPoint or am I just missing it? Was it uploaded?
11 Do we have the PowerPoint?

12 CHAIRPERSON HEATH: We don't have the
13 PowerPoint.

14 MR. HOOD: Why would we not have the
15 PowerPoint in front of us?

16 MS. MAZO: I do have extra copies. Generally,
17 at the Board of Zoning Adjustment it's not generally
18 the practice to upload the PowerPoint beforehand.

19 MR. HOOD: I've been here long enough to know
20 what the practice is. For Anthony Hood, then. Okay.
21 If you're going to bring something down here and
22 discuss it, it would be nice to have it in front of
23 me.

24 MS. MAZO: Commissioner Hood, I do have a
25 bunch of extra copies. I'd be happy to hand them out.

1 MR. HOOD: We could have gotten them prior,
2 and I believe other people would have liked that also.
3 So we -- they may be -- well --

4 MS. BUTANI-D'SOUZA: And I would tend to
5 agree, that it would be nice to receive this kind of
6 thing by 3:00 on the Thursday before the hearing so
7 that the Board can be certain to have enough time to
8 review it so that we can be certain that it has been
9 uploaded and it's in everyone's hands.

10 MR. HOOD: So do you see how the practice
11 obviously has changed? I was just asking for it for
12 the day, and the Vice Chair now wants it at 3:00,
13 which I agree with her. Okay. So if we could have
14 those now?

15 MS. MAZO: Sure. Hold on for one second.

16 MR. HOOD: I'm sorry, Madam Chair. You don't
17 mind me getting at --

18 CHAIRPERSON HEATH: Oh, absolutely.

19 MR. HOOD: Because I think she's exactly right
20 about those sun studies.

21 CHAIRPERSON HEATH: I completely agree. But
22 it's also really helpful for us to have copies. One,
23 to follow along so that we can understand what's being
24 presented, but also to have them in advance so we can
25 review them. So I think we're all in agreement there.

1 MS. BUTANI-D'SOUZA: Yeah. And if I can say,
2 it's a waste of everyone's time, not just ours, when
3 the exhibits are not available because then we cannot
4 consider things timely and we have to ask questions
5 that we might have answered on our own.

6 CHAIRPERSON HEATH: Okay. All right.

7 MS. MAZO: I have two hard copies and we will
8 be sure to have it uploaded as soon as we return to
9 the office.

10 [Pause.]

11 MR. HILL: Madam Chair.

12 CHAIRPERSON HEATH: Go ahead.

13 MR. HILL: Just for me, now, we're talking so
14 much about the sun study. If you go back to the sun
15 study slide. So the 8:00 a.m., it's just a wash,
16 right? The whole thing is in shadow. Is that what
17 you're saying?

18 MR. DUPONT: Essentially that is accurate --

19 MR. HILL: Okay.

20 MR. DUPONT: -- due to the existing
21 buildings --

22 MR. HILL: Okay.

23 MR. DUPONT: -- and the buildings up on the
24 ridge --

25 MR. HILL: Okay.

1 MR. DUPONT: -- across Georgia Avenue.

2 MR. HILL: So it's not really until 9:00 that
3 you can start to see the outline of the shadow there
4 in this particular example. Okay. Great. Thank you.

5 MR. DUPONT: And it's moving north at that
6 point.

7 MR. HILL: Okay. Great. Thank you.

8 MS. BUTANI-D'SOUZA: I think just to go back,
9 now that we've got the presentation. On slide 2
10 you're showing multifamily projects on Georgia Avenue.
11 I'm curious about whether these multifamily projects
12 that you're holding up as I guess parallel -- what is
13 the term that we're using, parallel examples. I'm
14 curious about whether these buildings have parking or
15 whether they were given an exception on parking. So
16 when you submit that information it would be -- unless
17 you have it in your hand right now, but it would be
18 helpful to know because you're requesting a special
19 exception on parking, what the parking situation is on
20 these.

21 MS. MAZO: I don't know off the top of my head
22 if they have parking. And just to clarify the record,
23 we're not necessarily showing those as parallel
24 projects, we're just really trying to provide some
25 scene setting so that there's an understanding of the

1 uses surrounding the property. Thank you.

2 MS. BUTANI-D'SOUZA: Thanks for clarifying.
3 But I'm still curious about whether those had parking.

4 MS. MAZO: We'll be happy to supplement the
5 record with that.

6 Mr. DuPont, I'd like you just to very briefly
7 walk through the summary of changes of the plans since
8 we filed.

9 MR. DUPONT: We have met with the neighbors
10 several times and a number of requests were made, and
11 we also made some changes of our own. So looking at
12 the current slide, number one is reduce the footprint
13 with the five-foot rear yard setback by 80 square feet
14 per floor, about 400 square feet total.

15 MS. BUTANI-D'SOUZA: Can you remind us which
16 exhibit this is? I know I've seen it but I just don't
17 have it.

18 MS. MAZO: 33A.

19 MS. BUTANI-D'SOUZA: Okay. Thanks.

20 MS. MAZO: Sorry. To be clear for the record,
21 it's Exhibit 33A.

22 MS. BUTANI-D'SOUZA: Is that reduce footprint
23 by 80 square feet?

24 MR. DUPONT: Per floor.

25 MS. BUTANI-D'SOUZA: Per floor.

1 MR. DUPONT: That's the five-foot setback at
2 the rear. And that was number 2, the five-foot
3 setback. Adding windows at the rear at neighbor's
4 request. Removing -- originally this building, due to
5 the peculiar shape of the lot had exterior stairs to
6 the second story apartments and they've been removed
7 and the interior of the building reconfigured to use
8 only stairs at the ground floor.

9 We've changed the window fenestration from the
10 retail space on Georgia Avenue to -- pulled it closer
11 to the sidewalk which is a better retail situation.
12 Provide ADA compliant access to the retail space.
13 That's the large entrance off the Allison Street side.
14 Some decorative scale devices, lattice patterns on
15 the brick façade at the stairwells. And we've
16 provided some illustrative landscaping for the green
17 area along Allison Street.

18 And that concludes my description of the
19 property.

20 MR. HILL: Thank you, Madam Chair. So all of
21 these changes, they were all through discussions with
22 the neighbors?

23 MS. MAZO: So, to be clear, most of them were
24 through discussion with the neighbors. Some of them,
25 the removal of the exterior staircase from the second

1 story and reducing the projection was through
2 discussions with Office of Planning.

3 MR. HILL: Okay. But all of them were through
4 working with the neighborhood or the ANC or the Office
5 of Planning.

6 MS. MAZO: Correct.

7 MR. HILL: Okay.

8 MS. MAZO: Next, I would like to turn it over
9 to Irwin Andres to talk about the parking study that
10 Gorove/Slade prepared that is in the record at Exhibit
11 33E, as in elephant.

12 MS. BUTANI-D'SOUZA: Hang on. Before we go
13 there, can I ask, so you pulled the rear of the
14 building five feet back from the rear property line at
15 the request of the neighbor. Did she request only
16 five feet or did she request the full 15 feet?

17 MS. MAZO: No, this was -- she requested the
18 five feet. So this request occurred during the March
19 20th community meeting. This was kind of a
20 culmination. I had reached out numerous times to Ms.
21 Feinstein to set up a one-on-one meeting with her and
22 her group, and us and the project team, the
23 development team. And we were told in e-mail that she
24 did not want to meet with us individually. And so,
25 but she did attend the March 20th community meeting.

1 And at that time, during those discussions,
2 she suggested, well, can you pull the rear back five
3 feet? And we said, we'll take it back and we were
4 ultimately able to do it. And we also believed that
5 there are certain benefits that have occurred from
6 that because we are now able to put windows along that
7 wall whereas when it was a -- when it was along the
8 property line we did not have windows there.

9 MS. BUTANI-D'SOUZA: So, sorry. Can you just
10 help me understand? So I see Allison Street is to the
11 north and Georgia Avenue is to the east. So what is
12 directly behind the property where you're talking
13 about this rear setback?

14 MS. MAZO: Sorry, to the west, you mean?

15 MS. BUTANI-D'SOUZA: I'm sorry. Yeah, to the
16 west.

17 MS. MAZO: To the west is the property at 1104
18 Georgia Avenue.

19 MS. BUTANI-D'SOUZA: So where -- is that
20 property -- where exactly is that property in relation
21 to your building?

22 MS. MAZO: Hold on. Let me find you a good
23 picture.

24 MS. BUTANI-D'SOUZA: Because I'm trying to
25 understand. I think there is like a wall back there.

1 MS. MAZO: Oh, I'm sorry. I'm sorry.

2 MS. BUTANI-D'SOUZA: 1104.

3 MS. MAZO: It is. It's 1104 Allison Street.
4 I apologize for that.

5 MR. HILL: It's that house.

6 MS. MAZO: Sure. In this rendering it's the
7 white house that is commercially used by the Georgia
8 Avenue family collaborative.

9 MR. HILL: Right.

10 MS. MAZO: And that property is also zoned C-
11 2-A, like our property is.

12 MS. BUTANI-D'SOUZA: Okay. And does that
13 property sit on the property line, or is it set back
14 from the property line?

15 MS. MAZO: You're talking about in the rear?
16 Oh, so it would be the side yard. So it's set back
17 six feet from the rear yard.

18 MS. BUTANI-D'SOUZA: So the total distance
19 under what you're proposing between 1104 Allison
20 Street and this property is 11 feet.

21 MS. MAZO: Correct.

22 MS. BUTANI-D'SOUZA: Okay. Thank you.

23 MS. MAZO: Yeah. Thank you.

24 CHAIRPERSON HEATH: Before we go on to the
25 parking presentation, can you just explain the

1 thinking behind the lattice on the brick, or the
2 request for that. And can you show us what you're
3 describing? Do you have an elevation or a rendering
4 that shows it? I'm just curious about it.

5 MS. MAZO: Sure. The idea for the lattice on
6 the brick came out of both the February 25th and the
7 March 20th community meeting, that it came from nearby
8 residents who have said actually that they liked the
9 project, they liked the retail, but that they thought
10 that the brick wall looked a little bland. And so
11 they wondered if there was anything that we could do
12 from a pattern perspective to try to jazz it up a
13 little bit and make it look a little bit more
14 interesting.

15 And so we talked to them on the February 25th
16 meeting. We said, maybe we can propose some lattice
17 work there, and then subsequent to that we submitted
18 our updated plans on March 2nd. And then following
19 that we had our -- we went to the ANC, and then
20 following that we had our updated -- our second
21 community meeting on March 2nd -- March 20th, I'm
22 sorry. And at the time that one resident who had
23 asked for the lattice work, he said that he had seen
24 the new plans and that he liked it. So it's purely
25 for decorative purposes.

1 CHAIRPERSON HEATH: So is that the, what looks
2 like a fence or gate at the -- what are you referring
3 to as the lattice work?

4 MS. MAZO: Mr. DuPont will go to the screen to
5 show you.

6 CHAIRPERSON HEATH: Okay.

7 MS. MAZO: It's a lattice pattern. It's not
8 lattice work. I'm sorry if I misspoke. Lattice
9 pattern.

10 MR. DUPONT: It's actually like a brick in-
11 lay.

12 CHAIRPERSON HEATH: Okay.

13 MR. DUPONT: Which you see commonly around
14 D.C.

15 CHAIRPERSON HEATH: Okay. Got it.

16 MR. DUPONT: It adds a little scale --

17 CHAIRPERSON HEATH: So those courses --

18 MR. DUPONT: -- and a little rhythm to the
19 building.

20 CHAIRPERSON HEATH: Okay.

21 MS. MAZO: Sorry for my lack of precision.

22 CHAIRPERSON HEATH: No, it's the band of brick
23 that exists between each story. Now it's clear.
24 Thank you.

25 MS. BUTANI-D'SOUZA: What are those? They

1 look like window infill from here and I would imagine
2 you would never infill windows. Those kind of
3 rectangles that are to the right of the windows.

4 MS. MAZO: That, I believe, is the lattice
5 infill that -- or the brick work that we were talking
6 about.

7 MS. BUTANI-D'SOUZA: Oh, that's the lattice.

8 MS. MAZO: Yeah. That's the brick work.

9 MS. BUTANI-D'SOUZA: Are those windows? Those
10 are windows.

11 MS. MAZO: No. No, that's just a pattern.

12 MS. BUTANI-D'SOUZA: Those are --

13 MS. MAZO: That's just a brick pattern.

14 MS. BUTANI-D'SOUZA: Oh, that's a brick
15 pattern. And then -- okay. I see. So then, and then
16 you also have the horizontal, the bay windows. Oh,
17 no, I was referring to the --

18 CHAIRPERSON HEATH: The brick course.

19 MS. BUTANI-D'SOUZA: The brick course, yeah.

20 CHAIRPERSON HEATH: Where the brick is turned
21 vertically.

22 MS. BUTANI-D'SOUZA: Soldier course. Is that
23 what that's called? There is also a soldier course
24 between the --

25 MR. DUPONT: Exactly.

1 MS. BUTANI-D'SOUZA: Okay.

2 MR. DUPONT: At the floors.

3 MS. MAZO: I'll move on to Mr. Andres.

4 MR. ANDRES: Good morning, Board. Again, my
5 name is Irwin Andres with Gorove/Slade Associates.

6 Good morning. Again, Irwin Andres with
7 Gorove/Slade Associates. We've worked with the
8 applicant to coordinate with DDOT and address DDOT's
9 requirements for this proposed development.

10 The site, as identified, is at the southwest
11 corner of Allison and Georgia. With respect to the
12 proposed site plan, which has been clearly explained
13 by the architect, there is no access on site because
14 of the fact that there is no alley access. The site
15 is landlocked, but does have frontage on both Georgia
16 and Allison. Primary pedestrian entrance into the
17 residential is along Allison with two entrances into
18 the retail component, both at the corner of Allison as
19 well as on Georgia Avenue.

20 With respect to the development, it is seven
21 residential units and 1160 square feet of retail.
22 Given the size of the retail it is considered to be
23 neighborhood serving given that it is relatively
24 small.

25 With respect to the parking requirements, it's

1 been identified that the parking requirement currently
2 is four spaces. With the adoption of the new zoning
3 rewrite regulations the requirement actually drops to
4 one parking space. And that is primarily because of
5 its proximity to WMATA bus corridor, which is along
6 Georgia Avenue.

7 MS. BUTANI-D'SOUZA: Sorry. So under the new
8 regulations you would only need to provide one parking
9 space?

10 MR. ANDRES: Yes, that's correct.

11 MS. BUTANI-D'SOUZA: But you're saying that
12 there's no way to provide it because there's no curb
13 cut?

14 MR. ANDRES: Yes, that's correct.

15 MS. BUTANI-D'SOUZA: Okay.

16 MR. ANDRES: So with respect to the
17 justification for the variance, there are many
18 amenities that are both transportation and non-
19 transportation related. The transportation related
20 elements consist of, as I mentioned before, extensive
21 transit with five major bus routes which includes the
22 79 Metro Extra bus route, which is a high capacity
23 limited service bus.

24 In addition to that it is six tenths of a mile
25 away from the nearest Metro station, which is the

1 Petworth Metro Station, which is to the north, which
2 is approximately in a range of about 20 to 25 minute,
3 closer to a 25-minute walk.

4 With respect to some of the other elements,
5 there are Car Share opportunities, which include Zip
6 Car and Enterprise, and some of the other Car Share
7 rental companies, as well as Car to Go. As you know,
8 Car to Go is parked on the street and is available for
9 anybody to use, especially for those who have decided
10 to give up their car.

11 The bicycle facilities, there are bicycle
12 facilities that are around the site, but not along
13 Georgia Avenue, especially given the cross-section and
14 the heavy commuter traffic up and down Georgia Avenue.

15 With respect to on-street parking, we did a
16 parking study to identify the number of spaces that
17 are within reasonable walking distance. And so our
18 parking study essentially went one block to the north,
19 one block to the south, and one long block to the west
20 and one block to the east. So essentially the border
21 of our parking study consists of what's shown on a
22 graphic. And this is in Exhibit 33E, which is part of
23 our parking study.

24 The northern boundary is Buchanan Street, the
25 southern boundary is Webster. The western boundary is

1 Iowa. And what's important in this graphic is the
2 color coordination of the different elements of this
3 graphic. The green represents the streets that are
4 protected by residential parking permit, and it's RPP
5 with the two-hour exemption for visitors and the like.
6 But if you are -- and are a resident in this zone you
7 are protected by those measures.

8 The blue and the yellow essentially
9 unidentified on non-RPP streets. So they're either
10 restricted -- excuse me, restricted by time or
11 completely unrestricted. So those spaces, as many of
12 you know, because there is no restriction, they tend
13 to be used up quicker and primarily by people who
14 don't live or don't have zone stickers. So you'll see
15 a smattering of nonzone and actually nondistrict
16 vehicles in those areas.

17 But what we did is we coordinated with DDOT,
18 obviously all of our work is vetted through DDOT
19 because they identified the parameters from which we
20 do our study. And they've identified this study area
21 and they required us to study a typical weekday
22 between 6:00 and 9:00 p.m., because that is
23 essentially when many people who do use their car come
24 home and arrive. And in the event that any patrons
25 who are using some of the local Georgia Avenue

1 establishments, they would typically use those spaces
2 in that time frame as well.

3 The results of our study confirm that most --
4 which is shown on the slide. The areas in red are the
5 areas that are most occupied during that time. And if
6 you notice they coincide with the areas that are not
7 restricted. And again, because of the fact there is
8 unrestricted non-RPP spaces, those tend to be filled
9 up the most. And you know, we can speculate that
10 maybe some local residents haven't changed their tags
11 or things of that nature. But because if you look at
12 the RPP streets, the RPP streets are relatively
13 available during that time frame.

14 MS. BUTANI-D'SOUZA: So it seems to me that
15 basically what you're saying is that there's RPP
16 parking available but the non-RPP spaces for which
17 this site, because this site is not -- they're
18 proposing to not have RPP, there would not be any
19 additional parking for the people who are going to be
20 living here because the parking that these people
21 could use is already taken up?

22 MR. ANDRES: No. Well, first of all, with
23 respect to the parking justification there is a
24 confluence of things that we're taking advantage of.
25 One is this site, along with many other sites up and

1 down Georgia Avenue, some of which have been
2 identified in the previous slides, are sites that are
3 geared towards district residents, especially new
4 district residents who want to be in and around the
5 district core, and tend not to have -- not to own a
6 vehicle because of the fact that it is on a heavily
7 traveled bus line. It is near -- the non-
8 transportation amenities of this project is the fact
9 that there is a lot of retail on Georgia Avenue that
10 people can walk to. So those are some of the
11 amenities that as a new resident you would come in
12 because of some of the amenities that you could walk
13 to, which kind of discourages you from not having a
14 car.

15 So in addition to all of this, plus the fact
16 that we are not allowing our residents to have RPP,
17 becomes more attractive to those who don't have a car.

18 MS. BUTANI-D'SOUZA: Sorry, so I'm just trying
19 to understand this in my head. So, what you're saying
20 is that these people should not have resident parking.
21 The only spaces that are open are resident parking
22 spaces. The reason that they want to move here is
23 because there is stuff in walking distance. If they
24 want to get out of this neighborhood they need to get
25 on a very heavily trafficked bus route, which I'm

1 taking to mean a full bus route. Or they need to get
2 into a Car Share, or they need to get on a bike, which
3 we all see that bike ridership goes down during
4 inclement weather, for example.

5 So, or they need to walk 25 minutes to a
6 Metro. Is that correct?

7 MR. ANDRES: Well, you know, the way that the
8 RPP is intended in coordination with DDOT is that
9 you're looking to attract residents who don't want a
10 car. And the reason why they don't want a car
11 primarily is because of the cost of owning a car.
12 Many of them choose to not have a car, and with that
13 savings put it into their housing; put it into a unit
14 that might be a little bit more expensive but you
15 know, that's one less thing for them to worry about
16 and to --

17 MS. BUTANI-D'SOUZA: And how do they know that
18 this building doesn't have RPP because I'm just
19 thinking that somebody coming in off the street to
20 rent over here might see your study and say -- or
21 might just kind of see the streets and say, gosh,
22 there's a ton of parking here. Oh, and it's resident
23 parking. Oh, I'm going to be a resident. Let me
24 lease in this building. And then they lease in the
25 building and then they go to the DMV and they discover

1 that they don't have RPP and now they're kind of in a
2 bit of a bind.

3 MR. ANDRES: Well, two things. The
4 restriction, the RPP restriction is actually not
5 enforced by DMV. It's enforced -- it's self-enforced
6 by the resident. It will be in a lease agreement that
7 says, oh, by the way, well, you know, hopefully
8 this --

9 MS. BUTANI-D'SOUZA: Oh, you're not allowed to
10 apply for RPP but --

11 MR. ANDRES: You're not allowed to --

12 MS. BUTANI-D'SOUZA: -- if they apply for it
13 DMV is not going to stop them from getting it?

14 MR. ANDRES: Well, right now the site, given
15 that it has a Georgia Avenue address, is not on the
16 RPP rolls today.

17 UNIDENTIFIED SPEAKER: Yes, it is.

18 MR. ANDRES: Is it? Okay. So --

19 MS. BUTANI-D'SOUZA: It is on the RPP roll.
20 So if a person were to rent in this building they
21 would basically, you would say -- you would self-
22 enforce the tenants who are paying you money, and tell
23 them no, you cannot have an RPP, no you may not go to
24 DMV. Meanwhile they go and they register their car
25 because they've changed addresses and they're required

1 to register their car to their new address.

2 MR. ANDRES: Uh-huh.

3 MS. BUTANI-D'SOUZA: DMV does absolutely
4 nothing to stop them from getting an RPP. They have
5 an option to pay whatever the fee is for the RPP and
6 check a box and get the RPP. So I just don't
7 understand because it seems to me that what your study
8 is actually advocating for is that the people in this
9 building be allowed to park in RPP because according
10 to your study that's the only parking that's
11 available.

12 MR. ANDRES: Well, again, the RPP restriction,
13 which is not -- this is not the first time that this
14 Board has seen this --

15 MS. BUTANI-D'SOUZA: Oh, I understand that.

16 MR. ANDRES: -- measure.

17 MS. BUTANI-D'SOUZA: I understand that but
18 that doesn't change the fact that I have these
19 questions.

20 MR. ANDRES: No, no, I completely understand
21 it and respect your opinion. But the way that we've
22 sort of looked to address that component is there's a
23 way to self-certify that as landlord I can actually
24 FOIA request DMV for vehicles that are registered with
25 RPP at my building.

1 MS. BUTANI-D'SOUZA: So you're going to
2 FOIA -- so the landlord is going to FOIA request the
3 tenants that they have gotten here, and then tell them
4 you have RPP, you must remove the sticker from your
5 car, you must reregister without RPP. That's the way
6 that this is going to go?

7 MR. ANDRES: Either that, or there are ways to
8 potentially -- at that point they are in breach of the
9 lease contract.

10 MS. BUTANI-D'SOUZA: So the landlord who has
11 spent a lot of money marketing these units to get a
12 tenant that is paying them what I would assume would
13 be a relatively high rent because you're proposing to
14 build a Class A apartment building, so they've, you
15 know, gone through all the hassle of trying to get a
16 tenant, and now they are going to present the tenant
17 as being -- as violating the lease terms, and
18 therefore subject to eviction because they have an
19 RPP, it just doesn't -- I'm just trying to understand
20 because the argument to me, it seems like it's
21 conflicting with itself.

22 So again, I'm not giving my opinion here. I'm
23 just trying to ask some questions to tease out what
24 this data is saying because to me the data does not
25 really support the request that is being made. So I'm

1 just trying to understand it so I can see where you're
2 going here.

3 MS. MAZO: Sorry. Can I just address two of
4 those questions? The first is that we have already
5 reached -- oh, sorry. On behalf of the applicant a
6 representative of the applicant has already reached
7 out to DDOT to begin the discussions to make the
8 project -- or make the property ineligible for RPP.

9 So what I don't believe will happen in the
10 future is a situation where a tenant will be able to
11 go down to the DMV and sign up for RPP. So that's
12 number one.

13 Number two, there will be a legal covenant
14 that's placed on the property to make clear that the
15 property itself is not RPP eligible. And second, you
16 mentioned the marketing to potential residents and the
17 marketing for this project would include the lease
18 terms to make clear that the property is not -- or the
19 tenants who move into the property are not eligible
20 for RPP.

21 MS. BUTANI-D'SOUZA: So at what point would
22 the marketing include -- would the marketing include
23 that information? Because again, I'm sensitive to,
24 and I know he hasn't come up here yet, but I assume he
25 will, Commissioner Ugdah's concerns about creating a

1 class of citizens who essentially come into a space
2 and then only realize later that they can't really
3 park anywhere, or just kind of encouraging people to
4 violate parking rules.

5 So I'm just curious, again, how this is going
6 to walk and talk because you know, I have seen the
7 cases, this whole RPP thing, and I've read the
8 conditions. And I just want to get an understanding
9 of how this is going to walk and talk in a way that is
10 going to be not only fair to the property owners, but
11 also fair to the prospective tenants and fair to the
12 neighbors.

13 MS. MAZO: And I personally appreciate your
14 questions because it gives us the opportunity to think
15 through them and to address them fully. But off the
16 top of my head, one easy way to identify the property
17 for a potential purchaser would be that on the MLIS
18 listing service that it would identify that the
19 property is not eligible for RPP. So that -- and
20 that's --

21 MS. BUTANI-D'SOUZA: That's a great idea.

22 MS. MAZO: And that's for a for-sale product.

23 MS. BUTANI-D'SOUZA: Right.

24 MS. MAZO: And then if the product -- if the
25 project is to be rented, we're not sure right now if

1 it's for-sale product or if it's going to be rented.
2 If it's going to be rented the marketing is even
3 easier because it is 100 percent within the control of
4 the landlord. And so we could make clear that on
5 websites that are advertised, or the marketing
6 websites, that the property is not eligible for RPP so
7 we don't have a situation where as Commission Uqdah
8 does raise, and I see it too and I see it in my own
9 neighborhood as being an issue, where people enter a
10 building and they don't know that they can't park
11 their car.

12 MS. BUTANI-D'SOUZA: Okay. I think that's a
13 great idea and I am going to just go ahead and
14 anticipate that there is going to be some further
15 questions from other members of the Board about the
16 conditions. It would be valuable for you to, when you
17 restate the conditions, add that in there, because
18 again I think it's very important that if we are going
19 to go forward with something that, you know, we make
20 sure that the conditions are such that this can walk
21 and talk.

22 MR. ANDRES: Uh-huh.

23 MS. MAZO: Yeah, and I again, I appreciate
24 that and that will certainly be included.

25 MR. ANDRES: And Board Member D'Souza, when we

1 work with other applicants when it comes to this, the
2 way that it's marketed is almost like an amenity. Or
3 a restriction. For example, some buildings allow
4 pets. And if you're a pet owner then chances are that
5 -- if you have a building that doesn't allow pets,
6 granted yes, I guess you can be stealthy and choose to
7 live in a building, but you would probably want to
8 live in a building that does allow pets. Similar to
9 again, the RPP. If you own a car and the building
10 doesn't have any parking and parking is important to
11 you, then at that point you decide that maybe this
12 isn't a building for me, because there are other
13 buildings that are maybe further away that has parking
14 that is more important to some of the residents.

15 So that's how it's marketed. Or that's how
16 the tenants know that this is not a place where you
17 will be parking your car.

18 MS. BUTANI-D'SOUZA: Okay. But so I --

19 MR. HOOD: Madam Chair --

20 MS. BUTANI-D'SOUZA: Sorry. Go ahead.

21 MR. HOOD: I'm sorry. I'm sorry.

22 MS. BUTANI-D'SOUZA: I was going to say, I
23 haven't seen that in here so I appreciate your comment
24 but it's just not clear.

25 MR. HOOD: Madam Chair, I want to get in on

1 that discussion of RPP. Mr. Andres, you know that's
2 been going on down here for a while.

3 MR. ANDRES: Yes.

4 MR. HOOD: And we have no track record that it
5 even works because DDOT has already informed this
6 Commission, well, this Board also, that they don't
7 keep a data base. So this whole RP -- here's what I
8 don't like, and you probably heard me say this before
9 when it comes to -- and Vice Chair, forgive me, but I
10 appreciate your questioning because some of your
11 questioning is what I've been trying to get out for
12 two or three years now. So maybe you can help me move
13 it along, help this Board and the Commission move it
14 along a lot faster.

15 But one of the things I don't like to do, and
16 you know this, Mr. Andres, put a neighborhood on
17 promised land, because the expectation is that the RPP
18 will not be given out to the occupants. That's what
19 the expectation is. But we've been doing this long
20 enough to know that we should have a track record.
21 And to my knowledge, I have not seen a track record
22 coming from DDOT or the applicants who come down here
23 and tell us that they're not -- they're going to put
24 it on a lease.

25 So have you seen any evidence or heard any

1 evidence recently that I have not heard?

2 MR. ANDRES: Unfortunately, no, Mr. Hood.
3 Because of the fact, you're right, there have been
4 cases that have come before you within the past two
5 years, and either they are still under construction or
6 you know, they're going through leasing. You know,
7 this RPP thing is -- and this RPP restriction is
8 relatively new measure that we've been implementing
9 within the past two or three years. So unfortunately
10 these -- you know, we can take a look at potentially
11 some buildings that have been built and occupied, but
12 I'm not aware of any that are --

13 MR. HOOD: But we also --

14 MR. ANDRES: -- that are going through the
15 construction process right now.

16 MR. HOOD: But we also know that DDOT has told
17 us about how to keep the database. And we also know
18 that there are chances that the people who move into
19 this building will not be able to live up to what the
20 ANC is asking to happen and what the applicant is
21 saying. We all know that, right? So really, we don't
22 know if this works or not.

23 MR. ANDRES: Well, we have in previous cases
24 that actually Samantha's firm has worked on, they've
25 actually submitted, and we can submit this for the

1 record as well, a letter that a potential land owner
2 can submit to DMV, the actual FOIA request, that
3 identifies how many spaces -- how many vehicles are
4 registered at that address, because we've made those
5 commitments before.

6 MS. BUTANI-D'SOUZA: So, can you do that? I
7 mean, can you FOIA this so that we can -- I'm not sure
8 if what is going said here is that there are no
9 buildings that have actually come on line that do not
10 have -- or that have these RPP restrictions. I don't
11 know if they exist or not.

12 But I would love to see, I think to pick up on
13 your point, some data that shows whether there are
14 people that are violating this, or whether this is
15 working or not because I think the point -- it's a
16 valid question to raise.

17 And you keep saying that the landlord can do
18 it.

19 MR. ANDRES: Uh-huh.

20 MS. BUTANI-D'SOUZA: But I don't know if any
21 landlords have done it, and it would be nice if an
22 applicant could do it because really that would be
23 helpful evidence.

24 MR. ANDRES: And --

25 MR. HOOD: But let me just say this though,

1 Vice Chair. I think my issue is exactly along the
2 lines of what you're saying. But also, I've heard
3 DDOT tell us, and we have training coming up. And
4 this has been on our training agenda now, every time
5 we've had training twice a year. And we're going to
6 have training again soon, and I'm going to bring this
7 up. I think they're coming again. This is going to
8 come up again. And I think you'll hear the same
9 thing. And remember this, that they have no way of
10 tracking this, and that's the problem.

11 We can come down here and promise us
12 everything in the world, but when you walk out that
13 door there's no enforcement. And that's been an
14 issue. And it's continuing to be an issue. And, Mr.
15 Andres, you and I, I've been working with you for a
16 long time.

17 MR. ANDRES: Uh-huh.

18 MR. HOOD: You and I can disagree on this one.
19 But I disagree with what I'm hearing today. And all
20 that sounds good but when you walk out the door the
21 reality is what goes on, on Georgia Avenue and Allison
22 Street. That's the reality.

23 MR. ANDRES: Uh-huh.

24 MR. HOOD: And I hear it all the time with a
25 project that the Commission voted on up from Georgia

1 Avenue. I know people in the city too. We just don't
2 just show up and show up up here. We live in the city
3 too.

4 MR. ANDRES: Uh-huh.

5 MR. HOOD: And a lot of those are our
6 neighbors. And believe me, when you go into the new
7 Safeways and stuff, you get beat up on.

8 MR. ANDRES: Uh-huh.

9 MR. HOOD: When there's no parking. When I
10 took some of the reports. And I'm not beating up on
11 you, Mr. Andres. You know how I do traffic.

12 MR. ANDRES: Uh-huh.

13 MR. HOOD: But this RPP I can tell you, I hear
14 it, I hear it, but I haven't seen it. And then when I
15 heard DDOT saying that they have no way to manage the
16 database and you can't get it RPP if it's on Georgia
17 Avenue -- I mean on a commercial street. And then I
18 look on Georgia Avenue, on this side, it's on both
19 sides. So where is the predictability? It's none
20 right now. We need to work on it. These promises. I
21 just don't want to put this community on promise land.
22 I'm through. Thank you, Madam Chair.

23 MS. BUTANI-D'SOUZA: Can I ask because --

24 MS. MAZO: Sorry, can I make two points that
25 may help?

1 MS. BUTANI-D'SOUZA: Let me ask a question
2 first. Mr. Hood, do you know, has DDOT said why they
3 don't -- that they can't track this?

4 MR. HOOD: Because they, and we would have to
5 probably bring this up with them. I don't want to
6 speak for them but I know what I've heard and maybe
7 some of the other board members have heard in the
8 past, they are still trying to I guess get their arms
9 around this.

10 MS. BUTANI-D'SOUZA: Uh-huh.

11 MR. HOOD: This whole concept. So, my whole
12 issue has always been when we come in front of the
13 Commission or the board, let's not put people on
14 promise land. We don't -- you know, we thinking this
15 is going to work and this is going to be a reality,
16 and actually, it's not. You'll start going to the
17 grocery stores and people know that you're on the
18 Board and they'll say, well wait, you all approved
19 this and there ain't nowhere to park here, we can't do
20 this. You'll start getting some of that.

21 MS. BUTANI-D'SOUZA: Madam Chair, can I ask, I
22 actually have some questions for DDOT as well and it
23 would be helpful if we could get some input from them.
24 I don't know if they can submit to the record or come
25 later or something.

1 CHAIRPERSON HEATH: We can -- it's pretty
2 clear that we're not going to decide on this today,
3 and so we can request that DDOT be here for the
4 continued hearing --

5 MS. BUTANI-D'SOUZA: Okay.

6 CHAIRPERSON HEATH: -- on this so we can ask
7 questions. But I do, I agree with Mr. Hood that this
8 has been an issue for a long time, that we as the
9 Board have asked significant amount of questions of
10 DDOT and we haven't really been able to get the
11 answers that we're looking for, to be able to get
12 clarity around this.

13 I would ask that you, Ms. Mazo, because you've
14 had -- you and your firm have had a number of
15 applications where RPP has been a part of the
16 conditions, I would think at this point some of those
17 projects are complete. I'd like to see any
18 information that you can provide us on how that has
19 been followed through, just as a matter of practice so
20 we understand how projects that have gone forward
21 might have successfully enforced RPP through some
22 means. It would be helpful to see that.

23 MS. MAZO: Chair Heath, I think you and I were
24 sharing mind waves just at that point because the
25 first thing I was going to say is that we do have a

1 project on New Jersey Avenue that was no RPP and I
2 believe the construction is complete and I know that
3 the condo documents in that project specifically
4 include the information making clear that the owners
5 are not RPP eligible. But to that end in terms of
6 documentation, we'll be happy to supplement the record
7 with information in regards to at least that project
8 and others that we can think of where there is a
9 documented -- first of all to document where the RPP
10 restriction is included in documents that are recorded
11 with the District government, and then also to do
12 whatever follow up is possible. Again, DDOT and DMV
13 do have separate databases and there is a -- could add
14 to the information for a need for information
15 clarification on that. And I'm not sure, necessarily,
16 what we can do to address that. But we can provide
17 information within our auspices to try to address this
18 question more fully; address the Vice Chair's question
19 more fully, and Commissioner Hood's as well.

20 MS. BUTANI-D'SOUZA: I would also just like to
21 point out that I think there's a real difference
22 between condos and apartments, just because of the
23 general time, like the hold time of a condo versus an
24 apartment. So it would be helpful to see data on
25 apartments as well if this is -- if you're not sure

1 whether this is going to be a condo or an apartment,
2 and if the question is how this is going to walk and
3 talk, and we can say that how it walks and talks for a
4 condo is going to be different from how it walks and
5 talks for an apartment, I think it would be helpful to
6 see both.

7 So while I appreciate that you have a building
8 on New Jersey Avenue that has an RPP restriction
9 that's a condo, you know, for me personally it would
10 be more compelling if we could see a few condo
11 examples or whatever information there is, and
12 apartments, if you're not sure what this is going to
13 be.

14 MS. MAZO: We will do the best to address that
15 is all I can say. I don't know the answer to that
16 question so --

17 MS. BUTANI-D'SOUZA: Okay.

18 MS. MAZO: And then -- yeah.

19 MR. HOOD: Let me just add something and then
20 I'm going to leave this alone because I've been
21 harping on this for years. We've had DMV and DDOT at
22 the table at the same time talking about this issue.
23 This is how deep it is. So I appreciate you going to
24 DDOT and DMV. I understand about the separate
25 databases. We've had the director as well as a person

1 representing DDOT at the table at the same time,
2 having the same discussion. And here we are still
3 having it. And enough said from me on that, Madam
4 Chair. Thank you.

5 MS. BUTANI-D'SOUZA: I have another question
6 for Mr. Andres.

7 MR. ANDRES: Yes.

8 MS. BUTANI-D'SOUZA: So what outreach have you
9 -- or I guess maybe this is more a question for the
10 applicant. But so, I'm just curious because -- I
11 don't know, maybe it's also a question for the
12 architect.

13 So you've taken out some exterior stair cases
14 in order to add interior stair cases. Is that
15 correct?

16 So I guess my question is the space that
17 you're dedicating to stair cases, to me could also be
18 dedicated to the rear yard, in which case you could
19 accommodate at least the one parking space that is
20 going to be required under the new zone. That's my
21 question is, could you have done it that way?

22 MS. BUTANI-D'SOUZA: Okay. To that question I
23 will address that to Mr. DuPont. But first to clarify
24 for the record, our property has no alley access.
25 This is not a question --

1 MS. BUTANI-D'SOUZA: Right. So it would
2 require a curb cut.

3 MS. MAZO: It would require a curb cut. We
4 wouldn't --

5 MS. BUTANI-D'SOUZA: Essentially it would
6 require a driveway, curb cut type thing.

7 MS. MAZO: Mr. Andres can probably address
8 DDOT's inclination for a curb cut in this location.

9 MR. ANDRES: So, DDOT, as part of their
10 driveway design guidelines, you know, they require
11 that any new curb cut or driveway needs to be at least
12 eight feet from the neighboring property line and 60
13 feet -- at 60 feet from the nearest intersection, and
14 32 feet from the nearest driveway or alley.

15 MS. BUTANI-D'SOUZA: How wide does the parking
16 space have to be?

17 MR. ANDRES: Parking space, the District
18 requirement is 9 by 19 feet.

19 MS. BUTANI-D'SOUZA: Okay. So you're saying
20 that if DDOT requires it to be eight feet from the
21 property line that -- and a parking space needs to be
22 nine feet wide, if you were to set back by 15 feet
23 you'd only have seven feet before you come into an
24 issue with DDOT.

25 MR. ANDRES: Well, yes. And the other issue

1 too is the maneuverability. In order for you to pull
2 in, you can pull in. But in order for you to get out
3 you might have to back all the way out to Allison
4 Street, which DDOT does not want any backing in or
5 backing out from a public street. They've made that
6 very clear as part of their driveway design
7 requirements.

8 MS. BUTANI-D'SOUZA: You could reverse park.

9 MR. ANDRES: Well, they'd still be backing in
10 off the street, so --

11 MS. BUTANI-D'SOUZA: Okay.

12 MR. ANDRES: They'll be backing -- either
13 they're coming in or backing coming out.

14 MS. BUTANI-D'SOUZA: Okay.

15 MR. ANDRES: So that's the issue that DDOT
16 has. DDOT, given that their initiatives to reduce
17 parking supply as a TDM measure, obviously I'm not
18 here to speak for DDOT, but that's why they've sort of
19 supported our request for a variance because they'd
20 prefer not to have the curb cut and but implement all
21 the TDM measures that they've recommended.

22 And that, and also putting in a driveway also
23 eliminates a parking space. So it's an off-street
24 parking space by putting in a new driveway. So
25 there's -- even though you might pick one up on site,

1 you lose one off site. So there's a tradeoff there.

2 CHAIRPERSON HEATH: Mr. Andres, I don't know
3 that you had finished your presentation, so if you
4 want to pick up where you left off or if we've
5 exhausted your discussion.

6 MR. ANDRES: Yeah. I think we could just go
7 straight to the TDM measures. As I mentioned the
8 justification for the variance that we've identified
9 and coordinated with District includes a lot of the
10 existing amenities which include transit and Bike
11 Share and Car Share in the neighborhood.

12 In addition to that, what's identified is that
13 62 percent of the rental households in this census
14 track don't own a car. Essentially that's our target
15 market. And as you may have heard and seen all
16 throughout the District, the Millennials are coming to
17 the District and many of them are not owning a car
18 because of the fact that the city has become more
19 bikeable and more walkable, and there's a lot more
20 amenities that people can walk to that discourages
21 them from having a car. That, and the cost of having
22 a car is what I brought up earlier, where they prefer
23 to use that savings for a nicer unit and a unit that's
24 more conducive to locations with all those amenities.

25 And as I mentioned, we are restricting RPP use

1 for the site.

2 With respect to the TDM measures, these are
3 the measures that we presented to DDOT, except for the
4 last measure. The last measure DDOT had recommended.
5 They didn't make it a part of our conditions, but
6 they recommended that we offer up Car Share and Bike
7 Share memberships for five years. We looked at DDOT's
8 recommendation and have included it as part of our TDM
9 package. So --

10 MS. BUTANI-D'SOUZA: So, hang on. So this
11 Bike Share or Car Share thing, so let me understand.
12 So you have a new tenant that joins. They get one
13 year of Bike Share or Car Share, and after that one
14 year they have to pay for it themselves, correct? Or
15 do they get five years?

16 MR. ANDRES: They get it for five years.

17 MS. BUTANI-D'SOUZA: So the landlord pays for
18 five years of the Bike Share or Car Share membership.

19 MR. ANDRES: That's correct.

20 MS. BUTANI-D'SOUZA: And that happens for
21 every new tenant forever, or just for five years?

22 MR. ANDRES: For the first five years.

23 MS. BUTANI-D'SOUZA: For the first five years.

24 MR. ANDRES: Yes.

25 MS. BUTANI-D'SOUZA: And then after the five

1 years?

2 MR. ANDRES: After the five years then at that
3 point the building is a building that people will know
4 that those memberships -- hopefully it creates an
5 environment where people know that it is conducive to
6 Car Share and Bike Share, but it is not part of the
7 conditions for served after that time period.

8 MS. BUTANI-D'SOUZA: And so if this is a condo
9 building is it that every new condo comes with a five-
10 year membership to one of these? How does that work?
11 I'm under the impression that you don't know whether
12 it's going to be a condo or an apartment.

13 MS. MAZO: You're correct. But in discussions
14 with the applicant the idea would be that every new
15 condo for the first five years gets a five-year
16 commitment to one of these two programs. Oh, sorry.
17 As part of their package for moving in would be
18 offered, a five-year membership to one of these
19 programs.

20 MS. BUTANI-D'SOUZA: It would be offered. So
21 they could turn it down?

22 MS. MAZO: Sure, if they wanted to. I mean,
23 there would be no reason to. It's free of charge to
24 them.

25 MS. BUTANI-D'SOUZA: Uh-huh.

1 MS. MAZO: But they wouldn't be forced to take
2 it, I guess.

3 MS. BUTANI-D'SOUZA: Okay. Got it.

4 MS. MAZO: Mr. Andres, can I just ask you one
5 question? And this goes back to the really great
6 questions we had about RPP from this panel. Have you
7 seen in the past that there are opportunities for an
8 ANC to monitor RPP usage, and how has that worked?

9 MR. ANDRES: So in previous cases, as I have
10 mentioned before, we have worked on cases where one of
11 the TDM requirements is this self-requirement for
12 taking you off the RPP restrictions. And again, a lot
13 of your questions are great because they have been
14 brought up before. And some of the ways we've dealt
15 with it is, as I mentioned before, in order to confirm
16 that you have to sort of FOIA the information.

17 So some of the other projects that we worked
18 on is that the applicant has committed to providing
19 results every six months over a period of two to three
20 years to prove that, you know, the residents are not
21 registering their car with RPP.

22 So that's a way and those results are
23 submitted to DDOT and the ANC to prove that you know,
24 that the residents are actually in fact abiding by the
25 terms of their lease.

1 MS. BUTANI-D'SOUZA: And what happens after
2 two to three years? You're saying that -- I'm sorry,
3 are you saying that you are proposing that the
4 landlord or condo association for this building
5 provide the information on who has an RPP to the ANC
6 periodically for two to three years?

7 MS. MAZO: I wasn't actually making that
8 proffer. I was more asking the question of Mr. Andres
9 to try to explain how the ANC can work to monitor RPP.

10 MS. BUTANI-D'SOUZA: Well, I guess we're going
11 to hear from the ANC but I'd be curious about whether
12 that --

13 MR. HOOD: Let me just ask, has the ANC
14 volunteered to do that, because they already don't get
15 paid for what they do.

16 MS. MAZO: No, the ANC has not --

17 MR. HOOD: They do a lot of --

18 MS. MAZO: -- has not volunteered to do that.

19 MR. HOOD: So let's not give them additional
20 work, because they already get -- they do a lot of
21 work and they don't get paid for it. So I'm hearing
22 some work being pushed back on the ANC and I don't
23 think that's the right avenue. Okay? I mean, if they
24 volunteer to do it, it's a different story. Okay?

25 MR. HILL: Madam Chair.

1 MS. MAZO: Oh, sorry. Sorry.

2 MR. HILL: I just want to -- I'm going to
3 now --

4 CHAIRPERSON HEATH: Jump into this?

5 MR. HILL: -- add to the discussion. I mean,
6 I've also heard about RPP now several times. And to
7 my colleagues, I suppose also the only way that this
8 is going to get -- really have any kind of teeth to it
9 is if DDOT or you know, DMV has some way where you
10 can't check the box. You know. Other than that the
11 self-policing and people that are you know, well
12 intentioned, or I was going to say paid, actually, to
13 work up with the proper data, it's just difficult to
14 be able to try to self-police that. And that's what
15 the ANCs have been saying, particularly in this ANC.

16 And so I don't know -- and then just to kind
17 of continue, we're not in any kind of deliberation,
18 but just to kind of continue again, we're talking with
19 the way that the new regulations are being written in
20 terms of this is one spot for this one particular
21 application and the curb cut issue. But I would be --
22 back to you, Chairman Hood again, like you know, what
23 can DDOT or DMV do to really put some kind of teeth
24 into this so we don't have to kind of, you know, just
25 I mean really hope that something is going to happen

1 after someone leaves here. So that's my comment,
2 Madam Chair. Thank you.

3 MS. MAZO: Just with that one final comment,
4 and I'll just note from my own neighborhood, there are
5 many streets that are RPP and many streets that are
6 not RPP. And I have known of people to get parking --
7 to get parking tickets when they're not RPP and
8 they're parking in the RPP area.

9 And I think that's a different question from
10 yours. I think yours is more of an issue of the
11 enforceability of the proffer to have this building be
12 non-eligible for RPP. But then on the back end DDOT
13 and DMV do have a very direct way of ticketing people
14 who park in incorrect spaces.

15 And then with that I believe our presentation
16 -- oh, sorry.

17 MR. ANDRES: And actually, one last point
18 again, I guess I got sidetracked with some of the
19 questions. What we did do is when we talk about the
20 parking availability, there are 320 spaces in that
21 general vicinity and a good number of them are
22 unrestricted. But there are also some spaces that are
23 non-RPP that are also available. There are spaces,
24 for example, on Georgia Avenue that are restricted
25 only between 7:00 a.m. to 6:30 p.m. But after that

1 it's available. So there are other spaces besides the
2 completely unrestricted spaces that are also
3 available. And that's in a range of about 19 spaces.

4 CHAIRPERSON HEATH: And those are metered?

5 MR. ANDRES: No, those are just time
6 restricted. Not metered. And then there are some
7 that are metered, but there are some that are non-
8 metered but time restricted.

9 MS. MAZO: I believe that completes our
10 presentation for now. I do have a closing that I'll
11 save for rebuttal. I know there are people,
12 Commissioner Uqdah, and Commissioner Hayworth is here
13 on behalf of the ANC who wish to speak, as well as
14 residents. And also of course Mr. Mordfin is here
15 from the Office of Planning. So if it pleases the
16 Board I will kind of cede -- limit the rest, or not --
17 I guess push off the rest of my time to rebuttal.

18 CHAIRPERSON HEATH: Okay. Thank you. So,
19 then with that let's take a five minute break because
20 we missed our usual 10:30 break. We'll take a five-
21 minute break and then we'll come back and we'll hear
22 from Office of Planning.

23 [Off the record from 11:51 a.m. to 12:07 p.m.]

24 CHAIRPERSON HEATH: Okay. We'll come back to
25 order.

1 All right. So at this point we're going to
2 hear from Office of Planning.

3 MR. MORDFIN: Good afternoon. I'm Stephen
4 Mordfin with the Office of Planning. And the Office
5 of Planning supports this application for the two area
6 variances. One for rear yard and a second for off-
7 street parking.

8 For rear yard the Office of Planning finds
9 that the exceptional situation is the shape of the
10 property and the impact of the building restriction
11 line resulting in a very narrow property, especially
12 as you go towards the east, towards Georgia Avenue.
13 It does widen out as you go to the west. However,
14 that is the rear yard so the portion of the building
15 that also you would be required to be set back from is
16 also the widest and the most buildable portion of the
17 property. And therefore we find that that is an
18 exceptional situation resulting in a practical
19 difficulty. We didn't find that there would be
20 substantial detriment to the public good, especially
21 since there will be a five-foot setback on that side
22 of the building. It will provide windows; it will
23 provide a yard. And we find that that would be more
24 in keeping with the character of the neighborhood as
25 you go west on Allison Street.

1 And also that it would not present substantial
2 harm to the Zoning Regulations because of those
3 windows and it would also allow for light and air
4 between those buildings.

5 For the second area variance to off-street
6 parking, the exceptional situation is that it is not
7 possible to provide parking on this lot. There is no
8 alley access. You could not get a curb cut from
9 Georgia Avenue because it is too narrow at Georgia and
10 it's right at the intersection. And then also because
11 the property is only 70 feet wide it would be
12 difficult to provide any type of curb cut that would
13 lead to a service parking lot because the property is
14 also not large enough to provide for below grade
15 parking. And if you provide the surface parking lot
16 you eliminate the building.

17 So we find that, you know, it's four parking
18 spaces. We find that there would not be detriment to
19 the public good, especially since the applicant was
20 going to restrict on-street parking, the RPP, to the
21 new residents and also that they would also be
22 providing bicycle facilities and also the nature of
23 the neighborhood with the transit service that is
24 provided. And that there also would not be
25 substantial harm to the Zoning Regulations because we

1 found that if the neighbors -- if their residents,
2 excuse me, would not be permitted to have cars and
3 park them on the neighborhood streets, that it would
4 not overload the on-street parking that the current
5 neighbors currently enjoy.

6 So therefore we also recommend approval of the
7 variance to off-street parking. I would like to make
8 one correction under community comments. The ANC 4
9 meeting was on April 13th and not April 14th as is
10 indicated in the report.

11 CHAIRPERSON HEATH: Okay. All right. Board,
12 any questions of Office of Planning?

13 MS. BUTANI-D'SOUZA: Couple questions. So,
14 and I apologize if you said this, I missed one line
15 when you were -- I was taking some notes. Why did you
16 request that the staircases be moved to the inside of
17 the property?

18 MR. MORDFIN: That was because those have to
19 do with public space regulations which don't permit
20 those stair cases going up two flights of stairs. You
21 can have them going up into the main floor of the
22 building, but you can't have exterior stair cases
23 going up into levels above that. So it's not
24 permitted by the Public Space regulations.

25 MS. BUTANI-D'SOUZA: Okay. And then in your

1 testimony just now did you say that there was a reason
2 why below grade parking was not feasible or was not an
3 option here?

4 MR. MORDFIN: Because of the size of the
5 property you're going to need a property that's like
6 60 by 60 in order to create a circulation pattern
7 where you've also got parking and you've got the aisle
8 widths and the parking space widths, and this property
9 is not large enough to accommodate that.

10 MS. BUTANI-D'SOUZA: Even to achieve what is
11 it, seven? Is it seven that's -- four that's
12 required?

13 CHAIRPERSON HEATH: Four now, one under the
14 new regs. Right.

15 MODIFICATION: Well, you would need the width
16 of the -- 19 feet for the parking space, plus the 20
17 feet for the aisle, which is almost 40 feet in width
18 and the property itself -- oh, the property itself is
19 46 feet, but when you go back from the building
20 restriction line you've got less than that. You've
21 got about 30 feet.

22 MS. BUTANI-D'SOUZA: Okay. Thank you.

23 CHAIRPERSON HEATH: All right. Okay. Does
24 the applicant have any questions Office of Planning?

25 MS. MAZO: Yeah, sure. One quick question.

1 Mr. Mordfin, can you explain why you described the
2 property as being a corner lot with no alley access?

3 MR. MORDFIN: Well, the property is located at
4 an intersection of two streets, Allison Street and
5 Georgia Avenue, and therefore that makes it a corner
6 lot. It has no alley access because of the way the
7 lots were subdivided. The lot behind it blocks access
8 to the alley from this one. So they have no access to
9 the alley from their own property.

10 MS. MAZO: And to be clear, would that also be
11 considered landlocked?

12 MR. MORDFIN: I'm not sure about how that term
13 is used, if it's landlocked. It doesn't have
14 vehicular access, so from that perspective it would be
15 landlocked.

16 MS. MAZO: No more questions. Thank you.

17 CHAIRPERSON HEATH: All right. Thank you, Mr.
18 Mordfin.

19 MS. BUTANI-D'SOUZA: Can I ask -- sorry, one
20 more question. There's going to be a commercial space
21 here so in terms of deliveries to that commercial
22 space, and I don't know if this is a question for the
23 applicant or for the Office of Planning, but is that a
24 consideration here at all?

25 MR. MORDFIN: The space that's proposed is

1 around 1,100 square feet. It's too small to require
2 loading per the Zoning Regulations.

3 MS. BUTANI-D'SOUZA: Okay.

4 CHAIRPERSON HEATH: All right. Okay. I
5 believe we have the ANC Chair here from ANC 4C. If
6 you --

7 MS. MAZO: To be clear, we have both the SMD
8 for the property --

9 CHAIRPERSON HEATH: I understand.

10 MS. MAZO: -- and the ANC chair.

11 CHAIRPERSON HEATH: I understand. Thanks.
12 Yes, so Ms. Rose will swear you in.

13 [Oath administered to Mr. Hayworth.]

14 MS. ROSE: You are now under oath.

15 MR. HAYWORTH: So, Madam Chair, for the record
16 I am John Paul Hayworth. I am the single-member
17 district commissioner for 4C-07. I am the ANC
18 commissioner for the area around 4424 Georgia Avenue,
19 where this property will go.

20 The ANC did vote on April 13th, six to three
21 in favor of both of the variance requests. As the
22 applicant has stated, it's a very odd shaped lot and
23 they don't have access for parking. And that's
24 something that we went over many times with the
25 neighbors and there just simply isn't a way to do it.

1 The request from -- or excuse me, the
2 suggestion from Ms. Feinstein, who is from the Georgia
3 Avenue Family Collaborative, was a suggestion, not a
4 request. And I make that distinction because Ms.
5 Feinstein did not speak for the Board of the
6 organization at that time. So I think that is a
7 clarification that needs to be made.

8 It was a challenging decision for me
9 personally to decide whether or not to support all
10 these -- to support the variances. I do believe that
11 the building as it currently stands is not being
12 utilized well. It needs to be replaced. I am not
13 convinced that this is the best absolute option, but
14 is the option before us. And so I voted in support
15 and offered the motion to support both of these
16 variances on that understanding that there was no
17 ability to have parking, and that this building would
18 supply needed commercial space as well as residences
19 that I believe will fit into the neighborhood.

20 There is significant opposition as well as
21 there is some support as well, as you can see from the
22 record. And I'm sure you'll see, there is a number of
23 members from the community here as well that will
24 speak to that affect.

25 CHAIRPERSON HEATH: Okay. Thank you. Go

1 ahead.

2 MR. HILL: Thank you, Madam Chair. Mr.
3 Commissioner, I mean, your neighborhood is coming up a
4 lot. And it seems as though, I mean, parking is a
5 very big concern, which I understand. And yet over
6 all the ANC seems to be approving these projects. And
7 I keep asking about this and I know Commissioner Ugdah
8 is going to be coming up, but in general I can only
9 assume that the community there wants these projects,
10 that's why the commissioners are voting for them. I
11 mean, that's the only thing that I have to kind of go
12 upon.

13 And I have asked this, I think even the time
14 before, I mean, is it that -- are you finding in your
15 meetings that there's that much controversy that
16 there's strong opinions on either side, and you're
17 having, as you said, just a very difficult -- because
18 I mean, in this one particular case it might have been
19 easier for you to get to your decision because of the
20 size of the lot, because of, you know, the amount of
21 parking that you -- but some of the other projects
22 that are larger projects, that are again going before
23 us and using RPP as a, you know, a justification as to
24 why these things should move forward, I guess my
25 question just is, I just want to feel like the overall

1 sense of your community, is it that torn as far as the
2 parking is concerned?

3 MR. HAYWORTH: Yes, absolutely. And I think
4 that's reflected at least in this case and the last
5 one. I mean, these were not unanimous decisions by
6 any stretch of the imagination. They were -- you
7 know, in the previous case, the 19233, it was a five,
8 four decision, and this was six, three. These
9 decisions are not taken lightly by any of the
10 Commissioners and I think each one is taken in context
11 with other projects in the neighborhood as something
12 that we've discussed before at previous hearings. I
13 think there is a big divide in the Petworth
14 neighborhood right now on exactly how to increase
15 opportunities for commercial development, as well as
16 diversify the residents, and do that in a way that
17 also preserves the spirit of the neighborhood. I
18 don't know.

19 My personal opinion is I support smaller
20 projects. I think this project is appropriate. I
21 think that larger projects, like there is a project at
22 the Georgia Avenue Metro Station, Park Place, I think
23 that is grossly out of scale with the rest of the
24 neighborhood. That's my personal preference and
25 that's what I tend to vote on.

1 Actually, two quick points of clarification if
2 you don't mind. The Metro station is actually only
3 about 15 minutes' walk, not 25. I don't know that
4 that actually matters, but I think it's important for
5 you guys to have the correct information.

6 The second part is, I really want to thank
7 Commissioner Hood for providing that information about
8 RPP. That's not something that I was aware of. I've
9 certainly worked with a number of developers and RPP
10 is one of the things that I talk about almost every
11 time. And I had no idea that DDOT couldn't actually
12 track that information. That's very frustrating.

13 CHAIRPERSON HEATH: Uh-huh.

14 MR. HAYWORTH: And I think the suggestion that
15 the potential that the landowner or condo association
16 could provide the ANC with those reports is now
17 something that I'm going to start asking for because
18 we need to know what that information is in order to
19 make decisions, just like you do.

20 MS. BUTANI-D'SOUZA: Actually, one question on
21 that. So, like Mr. Hood I don't want to give you guys
22 more work because ANCs are -- I mean, this is you
23 know, you guys do a lot of work and you're not paid,
24 and it's a tremendous time commitment and I have a
25 tone of respect for ANCs for many reasons, and that's

1 one of them.

2 But would you be -- would you be interested in
3 reviewing a report that was given to you by a tenant.

4 Or sorry, by a landlord or condo board? I mean, is
5 that something that's going to greatly increase the
6 amount of work that the ANC has, or is that something
7 that you guys could do as long as you're not having to
8 pull the data yourself?

9 MR. HAYWORTH: I think it depends on each ANC
10 and each commissioner. Personally I would review that
11 information because I'm very much like you, I want to
12 know the information ahead of time and I review
13 everything that we have on our agenda. So, I would do
14 that.

15 MS. BUTANI-D'SOUZA: Okay.

16 MR. HAYWORTH: I don't know if everyone would.
17 But at least that information would be available.

18 MS. BUTANI-D'SOUZA: Uh-huh.

19 MR. HAYWORTH: You know, maybe one of the ways
20 to get around that is to have it, you know, have the
21 ANC make it publically available on their website. Or
22 make it, you know, something so that there are
23 additional people reviewing that information, is a
24 potential but, you know --

25 MS. BUTANI-D'SOUZA: So you would be open if

1 that condition were added to say this development,
2 that the landlord of condo board is required to
3 provide the information from the DMV or DDOT regarding
4 who from their building has gotten an RPP, to the ANC?

5 MR. HAYWORTH: I personally would be amenable
6 to adding it to every single BZA case that has RPP in
7 it.

8 MS. BUTANI-D'SOUZA: Okay. And then can I
9 also ask you on the RPP thing, so it's my
10 understanding that the RPP restriction was added as a
11 result of interactions with the ANC. But now that
12 we've looked at the traffic study, which shows that
13 the only parking spots that are available consistently
14 are the RPP spots, does that change your view of
15 whether there should be an RPP restriction here?

16 MR. HAYWORTH: For this building it does not
17 change my view. I believe that this building is
18 better suited to individuals that would accept a
19 restriction on RPP and be more focused on car sharing
20 or bike sharing and those types of things.

21 MS. BUTANI-D'SOUZA: Okay. Thanks.

22 MR. HOOD: Madam Chair, can I ask --

23 CHAIRPERSON HEATH: Sure.

24 MR. HOOD: -- Chairman Haywood? Question, you
25 mentioned a development that was grossly. I'm just

1 curious, which one are you -- you said up there. Is
2 that the Safeway?

3 MR. HAYWORTH: No, it's -- that one also, but
4 the one further north from that.

5 MR. HOOD: I was hoping you wouldn't say that.

6 MR. HAYWORTH: No, I like the new Safeway.
7 It's nice to have meat that isn't rotted.

8 MR. HOOD: Okay. Good. I noticed that you,
9 in your discussions with Board Member Butani, that you
10 were speaking in terms of the additional work. And if
11 DDOT is watching, I'm going to continue to ask this
12 question because at some point in time as the former
13 Vice Chair said, we need to figure this thing out
14 because again, I just don't want ANCs to be on
15 promised land. We put stuff in the order and it's not
16 enforceable. So that's kind of where we are with
17 this.

18 So I wonder if -- and I'm just throwing this
19 out here. I wonder if we work with the ANCs, and I'm
20 trying to think, do we go through Gotlieb Simon
21 (phonetic) and just put that out there and ask. And
22 once we get to that point, and maybe that's an idea,
23 we'll go to the ANC's office and ask that we can see
24 if we can work those things out through all ANCs so we
25 can all get on one core, because right now for me, I'm

1 confused about it. I don't know whether they can do
2 it, whether they can't, who gets RPP, who -- I've
3 heard so many different things that I don't believe we
4 really know -- we don't have our arms around it and
5 make sure that it's working.

6 MR. HAYWORTH: And I think an additional
7 potential for that would be also to speak with Council
8 Member Bonds. She is doing an ANC omnibus bill and
9 maybe it's just something that we need to have that as
10 a requirement.

11 MR. HOOD: Okay. Yeah, I talk to her
12 frequently. So yeah, maybe that would be something
13 good. Thank you for that information. Thank you,
14 Madam Chair.

15 MS. BUTANI-D'SOUZA: I also wonder, just kind
16 of picking up on that point, I also wonder, I mean,
17 let's say you get the information and you see that
18 there are residents of this building that have RPP,
19 what then do you do? How do you change that?

20 MR. HAYWORTH: Sure. I mean, from -- sorry to
21 interrupt.

22 MS. BUTANI-D'SOUZA: No, no, if you have an
23 answer, I'm curious.

24 MR. HAYWORTH: I mean, I think one of the
25 questions that our commission has been discussing for

1 a long time and is whether or not we should set out
2 from the ANC, these are the things that we will be
3 supportive of in further applicants to BZA or to the
4 Zoning Commission. And that way developers would know
5 from the beginning, in this area of the city this is
6 what we expect to see. And if you bring us a project
7 that does not meet these requirements, you will not
8 have ANC support. And so that's a potential way of
9 working with it. And if, for instance, a developer
10 was not meeting their obligations, then the ANC could
11 easily say you know what? No more projects in our
12 area. We will not approve any projects because we do
13 not trust that you will meet the agreement that we had
14 with the ANC.

15 MS. BUTANI-D'SOUZA: I see. So you would
16 basically withhold your support from future projects
17 if you see bad performance, essentially.

18 MR. HAYWORTH: The ANC has very little power
19 and that's one of them.

20 MS. BUTANI-D'SOUZA: Yeah. I don't know if
21 that would make your life easier or harder to come up
22 with those principles and then --

23 MR. HAYWORTH: I guess it depends on how long
24 I'm a commissioner.

25 CHAIRPERSON HEATH: If you knew that they were

1 in violation of RPP and it's an order, or a condition
2 of the order that has been -- that's come through BZA,
3 you would then notify the zoning office, correct?

4 MR. HAYWORTH: Absolutely.

5 CHAIRPERSON HEATH: Okay.

6 MR. HAYWORTH: And we would know that -- my
7 way would probably be, notify the zoning office as
8 well as the OAG.

9 CHAIRPERSON HEATH: Okay.

10 MS. BUTANI-D'SOUZA: And then what happens? I
11 mean, do they get fined? Or what -- I mean --

12 CHAIRPERSON HEATH: That's a question that I
13 can't answer. I'm not sure what happens, but we can
14 from there, we can ask the questions of the Office to
15 find out what happens.

16 MR. HAYWORTH: Madam Chair, maybe we both need
17 some more teeth.

18 CHAIRPERSON HEATH: We do.

19 MR. HOOD: I think, though, that when you say
20 the zoning office, you mean the Zoning Administrator.

21 MR. HAYWORTH: Correct.

22 MR. HOOD: Because -- okay. All right. Some
23 people might have thought you were talking about this
24 office.

25 MS. BUTANI-D'SOUZA: I'm curious about whether

1 the applicant has any suggestions on how this might be
2 enforced if the data were provided to the ANC and it
3 was found that there were some residents in violation.

4 MS. MAZO: Well, I do believe that the Vice
5 Chair D'Souza's suggestion that because this would be,
6 as I understand it, to be a condition in the order,
7 that if indeed there is a situation in which there are
8 residents that are not satisfying this requirement,
9 then there would be an opportunity for the Zoning
10 Administrator to send inspectors out and see if the
11 project complies with the BZA order. That's number
12 one.

13 Then number 2, because the no RPP restriction
14 would be included in any condo documents that are
15 recorded with the project, then if someone were to
16 violate that then they would essentially be in
17 violation of their condo documents making them invalid
18 and causing some, you know, problems for the owner and
19 then ultimately for the lender and the bank that you
20 know, it goes down to the personal responsibility
21 there of the particular owner. But it could create
22 problems for them.

23 MS. BUTANI-D'SOUZA: And if it was a tenanted
24 building, rather than a condo, then it would be a
25 violation of the lease and then you have this --

1 MS. MAZO: Yeah, exactly. I was going to say
2 in that instance it would be the easiest because that
3 could be a very clear lease violation and one in which
4 if the lease is drafted appropriately could you know,
5 potentially be seen as a breach of lease and you know,
6 potentially a rationale to sanction the tenant.
7 Eviction is very difficult in the District --

8 MS. BUTANI-D'SOUZA: I just think that it's --

9 MS. MAZO: -- so I wouldn't say that, but --

10 MS. BUTANI-D'SOUZA: I just think that that's
11 -- I think that what we have teased out here is that
12 it's very unrealistic to expect a landlord to enforce
13 something like that against his tenant if he has
14 nothing that is going to -- I mean, essentially it's
15 up to the landlord and I can envision countless
16 scenarios where it's not in the landlord's interest to
17 enforce an action against their tenant unless they
18 themselves are --

19 CHAIRPERSON HEATH: Penalized in some way.

20 MS. BUTANI-D'SOUZA: -- penalized as well.
21 So --

22 MS. MAZO: I think I disagree with that
23 clarification that it would be essentially in the
24 landlord's -- not in the landlord's best interest.
25 But my understanding of your question, which is what

1 would the potential processes be, and that's what I
2 was outlining. I wasn't necessarily trying to assign
3 a value judgment as to whether or not a landlord could
4 actually -- I mean, whether or not that could
5 ultimately occur.

6 MS. BUTANI-D'SOUZA: I mean, you may disagree
7 with me that it's not in the landlord's best interest,
8 but I would love to hear your argument why. It
9 doesn't sound like you have one because there are many
10 scenarios where it would not be in the landlord's
11 interest to enforce something against their tenant if
12 they're not themselves being penalized. I think that
13 that's a very fair statement to make.

14 But regardless, I think that this issue of
15 enforcement is an important one to consider. I'll
16 stop. I'm good now, thanks.

17 MR. HILL: Thank you, Madam Chair. Just to
18 Commissioner Hayworth, I appreciate both you and
19 Commissioner Uqdah coming down. And again, for your
20 participation, I mean, you have jobs I assume. And so
21 at least I hope you have a job. Otherwise --

22 MS. BUTANI-D'SOUZA: Independently wealthy.

23 MR. HILL: Right. Independently wealthy.
24 That would be an interesting commissioner right there.

25 But I say that because you know, particularly

1 this parking issue that comes up within your area.
2 And I was in your area last night for dinner and you
3 know, I understand what all the changes that are going
4 on there. And I actually took the subway. I did take
5 the subway.

6 However, I say that like, you know, these
7 split decisions that are coming down, basically, six-
8 three, five-four, whatever it is, you know, that's the
9 only way that I can kind of understand what the
10 community is saying and the fact that you've been
11 elected by the community.

12 And so I say this because you know, the great
13 weight that we give the ANC, and if it comes back the
14 other way where again it was a split decision five-
15 four against, you know, the project due to parking, I
16 just want to let you know that I'm making note of what
17 we're doing here. And so, that's all. Thank you.

18 MR. HAYWORTH: We appreciate that. Thank you.

19 MS. BUTANI-D'SOUZA: I have one more question,
20 actually. So the traffic study was Monday through
21 Friday from 6:00 p.m. to 9:00 p.m. I'm just curious
22 about whether -- it sounds like what the applicant
23 said was that that's what DDOT believed the parking
24 issue to be, and I just want to pick up on Mr. Hill's
25 point that he went to Petworth for dinner. Many

1 people go to Petworth on the weekends, I would
2 imagine.

3 And I'm just curious about whether the parking
4 issue in your neighborhood is really Monday through
5 Friday from 6:00 to 9:00, or if it's more of a weekend
6 issue. Or if it's both.

7 MR. HAYWORTH: That's a really interesting
8 question. This particular area actually is busy
9 regularly because that is a commercial block. Well, a
10 number of blocks around there are commercial on
11 Georgia Avenue. And so, especially for some of the
12 tenants that are already on Georgia Avenue, parking
13 during the day is already complicated.

14 So this particular block doesn't have a whole
15 lot of area around it that people can go one block
16 over and park, or two blocks over and park because
17 there are, you know, there's McFarland Jr. High School
18 is right there at Iowa, two blocks away. And Georgia
19 Avenue is right there. So there's significant
20 barriers between where people can park. So I think
21 that -- I would be very interested in seeing an
22 expanded parking study that does, during the week and
23 on the weekends. If that answers your question.

24 MS. BUTANI-D'SOUZA: It does. Thanks.

25 CHAIRPERSON HEATH: Okay. Any other questions

1 of the ANC? Did you have any --

2 MS. MAZO: Sure, just two. First,
3 Commissioner Hayworth, does the ANC make its decisions
4 on a project by project basis?

5 MR. HAYWORTH: That's a really good question.
6 I don't think there is any way for a commissioner or
7 a commission to make an only project based. In this
8 instance I did my best to say -- to look at this
9 project and what it was proposing, and make my
10 decision based on that.

11 MS. MAZO: And second, Commissioner Hayworth,
12 you attended both of the onsite community meetings and
13 what kind of feedback do you think that the applicant
14 got from those meetings and was that feedback followed
15 in the plans that were submitted?

16 MR. HAYWORTH: Thank you. So, I did actually
17 mean to mention this earlier, that I really actually
18 did appreciate very much, the applicant having two
19 community meetings to get information from the
20 community. One of my fellow commissioners was very
21 adamant about making sure that people were notified
22 significantly beyond the 200 feet requirement. And
23 the applicant really listened for a number of hours to
24 every single comment that was there, and I really
25 appreciated that.

1 They took every -- there was significant
2 discussion of course on the parking, there was
3 significant discussion on the rear yard requirement,
4 and I think the applicant really did take all the
5 community comments and do their best to, if not
6 respond directly and change the project, but in a way
7 that was beneficial to the project in general.

8 MS. MAZO: No more questions. Thanks.

9 CHAIRPERSON HEATH: Okay. All right. Thank
10 you. So, I don't believe we have anybody here from
11 Department of Transportation, but that is one thing
12 that we're going to request as a part of a continued
13 hearing, that we have someone from DDOT here because
14 we clearly have a lot of questions around the issues
15 related to parking and RPP.

16 And so we will make that request when we come
17 back on this case. But we do have a letter of no
18 objection from them. We just want to hear more and be
19 able to ask them questions.

20 Is there anyone here wishing to speak in
21 support of this application? Anyone in support?

22 Anyone wishing to speak in opposition to this
23 application?

24 Why don't you all come forward now because
25 we've got enough seats here. Hi. And Okay. All

1 right. So, we typically allow three minutes for
2 witnesses but, Mr. Uqdah as a single-member district
3 commissioner, we'll give you more time.

4 MR. UQDAH: Thank you.

5 CHAIRPERSON HEATH: Sure. And so you all can
6 speak in any order you choose. We could start to my
7 right. Just state your name and then we'll give you
8 three minutes to make your presentation.

9 MR. BETTERS: Yes. My name is Doyle Betters.
10 I am a homeowner and resident at 4417 Iowa Avenue
11 Northwest. I am in opposition of the application,
12 basically for the following reasons. There are two
13 violations of the Zoning Regulations and I believe
14 that the Zoning Regulations are in for a purpose. And
15 what I've heard so far is that they do not wish to --
16 they're not going to harm either one of the
17 violations, but the violations are as follows. The
18 rear yard will not be provided where a 15-foot rear
19 yard is required. And that presents a problem with no
20 alley access, where you would have trash receptacles
21 for the tenants.

22 And the other regulation is no on-site parking
23 spaces will be provided, where four off-street parking
24 spaces are required. One space for every two
25 residential tenants.

1 I think that the applicant is citing that RPP
2 is their -- a way to alleviate, or a tool to have no
3 on-site parking. And I believe that that is one of
4 the things that they're calling no harm to the
5 tenants. They propose a five-story building that
6 would house four tenants, and I believe that with all
7 the restrictions, and I just found out about the
8 restrictions today in reference to the RPP. So I
9 don't really see how they would be able to fulfill
10 even one -- or get one tenant in that building out of
11 four with all these different restrictions.

12 The building is five stories high. No matter
13 where the sun is, in any time of the day during those
14 12 hours, is there not going to be shade on any one of
15 those spots. It's impossible. It goes against the
16 laws of physics.

17 There are four documented arguments in
18 opposition to this, including DDOT in opposition of
19 the project. And if I might state the reasons for
20 DDOT's summary of review, the proposed site does not
21 have any alley access, no curb cuts are proposed to
22 accommodate off-street parking, the surrounding street
23 network has the capacity to meet parking demands
24 generated from requested parking variance. I guess
25 that's a negative.

1 The applicant is proposing to restrict
2 residential parking permit, RPP, eligibility, and the
3 applicant's proposal, transportation demand management
4 plan is not robust.

5 In addition to that there is another
6 opposition written by the ANC Commissioner, SMD 4C-01,
7 Mr. Taalib Din-Uqdah. And in his --

8 CHAIRPERSON HEATH: He's going to make his own
9 statement.

10 MR. BETTERS: Oh, okay. Then I'll leave that
11 -- I'll leave that out.

12 CHAIRPERSON HEATH: And your time is up, so
13 right.

14 MR. BETTERS: Okay. Thank you.

15 CHAIRPERSON HEATH: Thank you. Mr. Uqdah,
16 would you like to make your presentation now?

17 MR. UQDAH: No.

18 CHAIRPERSON HEATH: Okay.

19 MR. UQDAH: I'll allow -- I didn't know I was
20 going to get support today.

21 CHAIRPERSON HEATH: Okay. All right. Make
22 sure your mic is on. It's still not. One second.

23 MS. ABEBAU: Okay.

24 CHAIRPERSON HEATH: There you go.

25 MS. ABEBAU: My name is Sengit Abebau. I'm

1 the owner of 4422, the adjacent building to 4424. And
2 I was running a business in that building the last
3 eight years. Right now for the last four or five
4 months I closed the business because of health issues.

5 And the building is -- it's one building, it's
6 connected. So I have a concern, this project will
7 affect our property 4422.

8 In the back of the alley there is an entrance
9 in the alley for us and there is a parking space in
10 there. And if the construction is going to be -- if
11 they're planning to do any kind of construction in
12 there, that's where we park, that's where all -- for
13 the restaurant, all the trash cans are in the back.

14 So my main concern is this project will affect
15 the property. It's just really, I am not sure how it
16 works, but it's just like, it's one building. The
17 wall is one wall between us; one brick wall. Those
18 are the two concerns I have.

19 And I'm planning to reopen the business.
20 Right now the property is on market but I will see how
21 it goes. If not, I will go ahead and reopen the
22 business. This will affect my business too.

23 CHAIRPERSON HEATH: So you're immediately next
24 door on Georgia Avenue?

25 MS. ABEBAU: Yes, that's, that's right. It's

1 just --

2 CHAIRPERSON HEATH: To the side.

3 MS. ABEBAU: We have one wall.

4 CHAIRPERSON HEATH: Right.

5 MS. ABEBAU: We actually have one wall.

6 CHAIRPERSON HEATH: Okay. And are you --
7 you're concerned about construction issues, correct?

8 MS. ABEBAU: Yes.

9 CHAIRPERSON HEATH: But are you -- would you
10 be against any new project that's located here?

11 MS. ABEBAU: No. No. No. No, but --

12 CHAIRPERSON HEATH: Because with any new
13 project there would likely be construction or
14 something built next to you. I'm just wondering
15 what --

16 MS. ABEBAU: No, I'm not against it but it's
17 just, it's just a concern for my own building.

18 CHAIRPERSON HEATH: Okay. All right.

19 MS. ABEBAU: Yes.

20 CHAIRPERSON HEATH: Any other questions? Ms.
21 Mazo, did you want to ask any questions or respond to
22 anything that the two witnesses have stated so far
23 before we hear from the single-member district
24 commissioner?

25 MS. MAZO: I think the only --

1 CHAIRPERSON HEATH: Save it for --

2 MS. MAZO: Well, just one point, just on a
3 point of clarification. As the Board is aware, DDOT's
4 letter is of no objection to the project.

5 And then I'm sorry, and I didn't catch your
6 name.

7 MS. ABEBAU: Sengit.

8 MS. MAZO: Sengit?

9 MS. ABEBAU: Yes.

10 MS. MAZO: Oh, beautiful. In terms of
11 construction are you aware that any construction that
12 would have to go forward because there's a party wall,
13 if underpinning were required that you would be
14 noticed of any commencement prior to the issuance of a
15 building permit and then kind of throughout the
16 building permit process as the adjacent neighbor?

17 MS. ABEBAU: For right -- I mean, what I'm
18 requiring is, if there is anything that's even
19 underpinning or any kind of restriction, I just want
20 that written in a statement in a paper.

21 MS. MAZO: Okay. And then also, in terms of
22 construction and construction staging, are you aware
23 that this was a question that was raised by some of
24 the residents who attended, in particular, the March
25 20th meeting. And in response the applicant has said

1 that we will work with DDOT and we will limit
2 construction staging in such a way so that it has
3 limited impact on the surrounding neighbors as
4 possible. And that's a commitment that we have
5 proffered in writing to the Board.

6 MS. ABEBAU: No, I'm not -- excuse me. I was
7 not on the meeting because of the health issue
8 actually closed my business, I had stated before. I
9 was not aware. But I just want to make sure, you
10 know, we are covered.

11 CHAIRPERSON HEATH: Okay.

12 MS. ABEBAU: And actually one more thing, the
13 parking -- I mean, the trash space in the back where
14 we keep our trash I think -- I'm not sure. If I am
15 not mistaken, is that where you said you're going to
16 have the bike --

17 MS. MAZO: No, ma'am.

18 MS. ABEBAU: Okay. That's all.

19 MS. MAZO: No, ma'am.

20 MS. ABEBAU: That's all. Thank you.

21 MS. MAZO: Thank you.

22 CHAIRPERSON HEATH: Just to clarify, you have
23 a trash room and you're using part of that trash room
24 for bike storage.

25 MS. MAZO: Correct. The proposed location for

1 the trash room would be on Allison Street, or access
2 from Allison Street.

3 CHAIRPERSON HEATH: Okay. All right.

4 MR. UQDAH: Good afternoon, Madam Chair and
5 members of the BZA. I am going to, as per usual, I'm
6 going to stand on my opposition testimony that I
7 submitted to this Board earlier. I would, however,
8 going back over my own opposition I do want to point
9 out what I consider to be a critical error on my part,
10 on the last page of my opposition submission I
11 misstated the actual vote. I said it was five-four.
12 It was actually six-three. And I, you know, I'll make
13 that correction for the record later. But I didn't
14 want you all to be under the impression that it was
15 that close.

16 CHAIRPERSON HEATH: Sure.

17 MR. UQDAH: But it was close. Secondly, I
18 want you all to know how well trained I am because
19 I've actually prepared some supplemental testimony
20 that I was afraid to upload because I thought you
21 all --

22 CHAIRPERSON HEATH: Of getting your hand
23 slapped.

24 MR. UQDAH: But the supplemental testimony is
25 in response to what I've read from OP and DDOT. So if

1 you would, I would like to -- I have copies of it so
2 that you'll be able to follow along. I also have one
3 for the attorney representative.

4 CHAIRPERSON HEATH: Okay.

5 MR. UQDAH: Thank you. Madam Chair and
6 Members of the Board, I really appreciate this
7 opportunity because I believe that there may be
8 several questions that I will be able to answer by
9 using the information that is already in front of you.

10 First, I would like to start by addressing the
11 RPP issue. If you look at OP's -- let me make sure
12 I'm giving you the right one. Yeah. If you look at
13 DDOT's report on page 4, paragraph 2, they -- and I'll
14 read you exactly what it says.

15 "DDOT observes the applicant is proposing an
16 RPP eligibility restriction which is not a strictly
17 enforceable condition by the District, and therefore
18 the restriction may not realize its intended outcome."
19 Those are their words.

20 Now, the way that I read this, I can't even
21 change the language. It's strictly unenforceable. I
22 don't know how they would -- I don't know why people
23 keep coming up with this idea, somehow that if you
24 make a building of new residents who are just moving
25 in to the District, you're creating a second-class

1 citizen. Everybody else on the block can have it, but
2 you can't. I don't even know if it's enforceable.
3 And I wish I had listened to my parents and gone to
4 law school, because I would sue. I would sue any
5 building that would tell me that I'm restricted from
6 RPP when everybody else around me can have it, just
7 because the city can't figure out what to do in a
8 situation where they are purposely creating fewer
9 cars. We've got higher taxes on cars than anybody
10 else in the region, when you go to buy it. In fact
11 it's so high it's actually on a scale.

12 And now they want to restrict RPP. And this
13 is the very city whose mantra is, taxation without
14 representation. It just doesn't make sense.

15 I also took the time to take a look at the
16 parking restrictions as was mentioned. One of the
17 things that they don't mention when they talk about
18 this 6:00 to 9:00 p.m. study that they did, did they
19 tell you anything about the street cleaning, that
20 people have to move their cars by 5:00 in the morning
21 in these unrestricted spaces? That's not even
22 mentioned. And it alternates on different days of the
23 week, I think.

24 And you'll find it in my original opposition.
25 I think one day it's on Thursday, the next day it's

1 on Friday. Yeah, Thursday, five -- no, I'm sorry.
2 10:00 p.m. Thursday to 5:00 a.m. Friday. So what's
3 the point of a study from 6:00 to 9:00? It's not
4 accurate. It's a study that doesn't take all of the
5 things into consideration.

6 There's been testimony given here about
7 commercial uses. My day job is an entrepreneur. I've
8 been self-employed 42 years. There's not very much
9 that you can do with 500 and some-odd square feet of
10 retail space on one level, and then a cellar with an
11 additional 500 and some-odd square feet, for roughly a
12 total of 1,000 square feet.

13 The part that I'm not clear on, I thought I
14 heard them say that the cellar would also be used for
15 other purposes for the residents of the building. If
16 that's true, and perhaps I misunderstood, if that's
17 true then now your 1,000 square feet of retail space
18 has been reduced because it's going to be shared by
19 some of the residents in the building.

20 If I'm wrong, then I stand to be corrected.
21 But I thought I heard that being proffered.

22 I also have a concern about -- and I
23 understand why it was done, but because they've now
24 set back five feet as opposed to the full 15, they've
25 done this by reducing the size of the units. And I

1 keep hearing discussion about family. These are units
2 for families. And I hear these discussions and words
3 used like, Millennials. As if these young people are
4 not going to get older and all of a sudden find
5 themselves wanting an automobile, because the bike is
6 just not getting it. These single-family -- these
7 single individuals discovering each other, getting
8 married and deciding that they want to start families.

9 I'm not sure that you can start a family in a unit
10 that's less than what, 900 square feet? Or the
11 maximum I think is what, 900 square feet per unit in
12 order for it to be approved?

13 I mean, you know, how do you raise a family in
14 900 square feet, unless -- and this is part, perhaps,
15 I'm listening, and I'll admit to this. I think what
16 has happened is we've redefined what a family is. I'm
17 thinking mother, father, children, you know, 1.3
18 children. You know, 1.6 cars. You know, maybe a dog,
19 a cat, and a gold fish. But that's changed. And so
20 now we're developing areas for a specific group of
21 people who are not always going to be there to enjoy
22 it and everybody else is going to be stuck with it.

23 And we can't keep riding this gravy train
24 forever. It's going to slow down at some point.

25 I want to respect this board and I don't want

1 to take up a lot of your time. I've provided you with
2 what I believe is quite detailed information because I
3 actually went to these properties. The long and short
4 of it is, within one block of where this proposed
5 mixed use development is going to take place, there
6 are at least 100 units. A hundred.

7 There was one other point I wanted to make
8 sure that I made --

9 CHAIRPERSON HEATH: I'm going to ask you to
10 make that one. We've let you go way over your time.

11 MR. UQDAH: Yes, and I'm sorry. And you know
12 what? I'll stop.

13 CHAIRPERSON HEATH: Okay.

14 MR. UQDAH: Because I mean I really --

15 CHAIRPERSON HEATH: You can --

16 MR. UQDAH: I really do respect you all's
17 time, and it's written and --

18 CHAIRPERSON HEATH: Okay.

19 MR. UQDAH: -- I know you're going to read it
20 at some point. That's fine.

21 CHAIRPERSON HEATH: We will.

22 MR. UQDAH: Thank you.

23 CHAIRPERSON HEATH: Okay. Thank you. And
24 thank you for this supplemental information that we
25 will read prior to the continued hearing.

1 MR. UQDAH: And I will upload it but I --

2 CHAIRPERSON HEATH: Thank you. I know you
3 will. Thank you. All right.

4 Ms. Mazo, can you respond to some of the
5 questions that Commissioner Uqdah has asked as a part
6 of his statement?

7 MS. MAZO: Sure. I'm happy to. The first is
8 I'm going to have Mr. Andres up here and he is going
9 to respond to the question about the street sweeping,
10 and how that played into the parking study. Or if it
11 did.

12 MR. ANDRES: Again, for the record, Irwin
13 Andres with Gorove/Slade Associations. In response to
14 the Commissioner's questions, we did take into account
15 the street sweeping when we did our study.

16 As identified in Exhibit 33E, which is our
17 transportation submittal, on page 11, dated April
18 11th, 2016, we had performed the on-street parking
19 occupancy and the occupancy is typically done between
20 Tuesday and Thursday. So we did it Tuesday evening,
21 April 7th, 2016.

22 The street sweeping restrictions in the area
23 consist of Mondays and Tuesdays between 12:30 and
24 2:30. And our study was done from 6:00 to 9:00. So
25 essentially the street sweeping is mid-day. On

1 Georgia Avenue there is a restriction that is an
2 overnight restriction from 10:00 p.m. -- excuse me.
3 Yeah, 10:00 p.m. Thursday night through 5:00 a.m.
4 Friday morning. So that Tuesday evening parking
5 occupancy is outside of those time frames. So if
6 anybody was going to move their car it would have been
7 the evening before or the morning before. And so our
8 time frame represents when people are coming home and
9 coming back, and that represents the 6:00 to 9:00.

10 And again, as I mentioned before, there are
11 still spaces available based on this occupancy. Thank
12 you.

13 MS. MAZO: Oh, sorry. In terms of that
14 particular 6:00 to 9:00 p.m. period, I believe you
15 stated it again, but -- stated it earlier, but was
16 that the time period that you were requested to study
17 by DDOT?

18 MR. ANDRES: Yes, that's correct, as part of
19 our initial scoping for the project.

20 MS. MAZO: I would also like to call forward
21 Mr. Ben Wilson, who is a real estate broker in the
22 area and is actually the broker for the property. And
23 Mr. Wilson has submitted into the record a letter
24 detailing potential retail options for this space.
25 But I did want Mr. Wilson to elaborate on some of

1 those potential retail opportunities because this is
2 his job and he goes out and he helps retailers find
3 space along the Georgia Avenue corridor and he's been
4 doing it for, I believe since 2007. And so is
5 familiar with that and is familiar with the needs of
6 current retailers.

7 So to that, and, Mr. Wilson, can you please
8 elaborate as to the types of retailers that you
9 believe would be interested in that type of space with
10 the understanding that there would be a split level
11 with a cellar and a ground floor level of
12 approximately the same size, of approximately 500,
13 7,500, 80 square feet? I'm sorry. For a total of
14 approximately 11,000 square feet.

15 MR. WILSON: Sure, that would be fine. So for
16 the record, Ben Wilson with Marcus and Millichap. I'm
17 a commercial real estate agent. So I think maybe some
18 context. So what's currently there and what is pretty
19 common on Georgia Avenue in a lot of these older
20 buildings, it's not much larger than what we would be
21 talking about total, about 11,000 square feet. A lot
22 of the existing retail space is either that or less.
23 Very often on split levels because we have a situation
24 with a residential home in the rear and then
25 additional retail space on the front that was added at

1 a later date.

2 You have some pretty -- very inefficient space
3 flow and just inefficient uses in general, so it makes
4 it very hard to get quality retail in a lot of these
5 spaces to begin with.

6 The new space would allow for it, although it
7 would be on two separate levels. There's still, I
8 mean, a wide range of uses that would be appropriate
9 there. I just kind of put a quick list together so
10 right now a small personal trainer occupies the space.

11 I mean, he'd be a great candidate to stay. So he
12 would do his personal training on the ground floor.

13 Lower level would be office and storage space.

14 Anything that has kind of a front customer space and
15 then a need for storage without really a commercial
16 kitchen, I think would be a good candidate. So cell
17 phone repair. A small coffee shop and deli.

18 Certainly all manner of professional offices,
19 attorneys, architects, accountants. There's a lot of
20 those kinds of tenants in the area already. A bike
21 repair would be kind of interesting. I know there's a
22 lot of emphasis on bike an alternative mobility and
23 things like that. So a bike repair would be a
24 fantastic option. You could do customer service in
25 the top floor and then storage and repair work on the

1 lower level.

2 The 500 square feet for customer service and
3 then another 500 or so on a lower level is not unusual
4 or a restrictive space in my opinion.

5 MS. MAZO: And, Mr. Wilson, you attended the
6 February 25th meeting, I believe. From your
7 recollection were there many residents who attended
8 that meeting who were very interested in successful
9 and sustainable commercial space at this location?

10 MR. WILSON: Oh, yes. Very much so. I think
11 that was one point that came up a couple of times. It
12 was, well, what kind of new retail could go here. And
13 I think the community -- and this is something we deal
14 with a lot up and down Georgia and a lot of the other
15 corridors where you have historically old, perhaps
16 even obsolete retail space that needs to be turned
17 over, you know, finding good quality tenants that are
18 a good alignment with the surrounding community. So.

19 MS. MAZO: I don't have any more questions for
20 Mr. Wilson, but one maybe more witness just in
21 response to a comment made by Commissioner Uqdah is
22 that -- if I can take leave of the Board for that?

23 CHAIRPERSON HEATH: Sure.

24 MS. MAZO: Sure.

25 MR. DUPONT: Stephen DuPont.

1 MS. MAZO: Sure. Mr. DuPont, you are the
2 project architect. And in the case and chief
3 presentation you walked through the floorplans of this
4 building. And in those floorplans did you not show
5 that many of the units, the majority of the units are
6 proposed to be two-story units with a living area on
7 one story and sleeping area on another?

8 MR. DUPONT: Other than the second floor, they
9 all are.

10 MS. MAZO: And in your experience are those
11 the type of units that would be more amenable to
12 families than potentially units that are all on one
13 level?

14 MR. DUPONT: I suppose so. They certainly
15 seem more domestic in nature than a small apartment,
16 and they offer a lot more glass area. The upper three
17 units also have rooftop gardens.

18 MS. MAZO: Also can you, if you know off the
19 top of your head, the average size of the units, and
20 how much square footage would be split on both levels
21 for those units that have two stories?

22 MR. DUPONT: I don't have those precise
23 numbers, no. Sorry. But the upper units tend to be
24 at least the size of the commercial space, except the
25 ones that are over the commercial space where it gets

1 very narrow. And that's on two floors.

2 MS. MAZO: I have no more questions.

3 CHAIRPERSON HEATH: Okay. All right. Thanks.

4 MR. UQDAH: Madam Chair, if I may?

5 CHAIRPERSON HEATH: Sure.

6 MR. UQDAH: My presumption that I made
7 relative to that, I have to admit, I was misled by
8 OP's report because if you look at their report on the
9 table, where they have the table listed, I think if
10 memory serves me, it's on page 2. They talk about --
11 they talk about the five story building, and they say
12 50 feet is allowed by right. But then it says the
13 project is only 40 feet, eight inches in height.

14 CHAIRPERSON HEATH: Uh-huh.

15 MR. UQDAH: So I'm trying to figure, you know,
16 40 feet eight inches in height, five stories. I mean,
17 how does that math work? That tells me that there's
18 only eight foot ceilings. Or roughly. You know,
19 eight foot ceilings and a fraction of an inch. So, I
20 have to apologize for using someone else's data --

21 CHAIRPERSON HEATH: Sure.

22 MR. UQDAH: -- in order to make, you know,
23 make the presumptions that I did make. So, you know,
24 maybe I'll start doing my homework and not depending
25 on them.

1 MS. BUTANI-D'SOUZA: That is actually a really
2 good question. I'd like to understand that and I'd
3 also like to understand whether the cellar is
4 technically a story as well. I know there's a -- what
5 is it? If it's four feet above grade it's considered
6 to be a story.

7 MS. MAZO: Sure. First of all, on the height
8 issue, and I would direct the Board and anyone
9 watching at home, to Exhibit 33D, which is the revised
10 self-certification form. And it does identify on that
11 that the height as calculated from Georgia Avenue is
12 the 40 feet, four inches. But as calculated from
13 Allison Street, is the 49 feet, 10 inches. So, that
14 does clarify that issue and both of those heights,
15 irrespective of whichever one that OP wants to take as
16 the height, are under the 50-foot height requirement
17 of the zone.

18 And then as to the question about the cellar,
19 in the C-2-A zone there's not a cap on the number of
20 stories. But where the cellar question comes into
21 effect is in terms of calculating the density because
22 cellar area that exceeds the four-foot height would be
23 included in our overall FAR calculation. And in this
24 instance our cellar will be under the four foot --
25 under three feet, 11. The ceiling of the cellar will

1 be less than three foot, 11 from the adjacent grade
2 and so therefore will not satisfy -- therefore will
3 not trigger an FAR calculation for the cellar.

4 MS. BUTANI-D'SOUZA: So to answer --

5 MR. UQDAH: So that's unusable space?

6 MS. BUTANI-D'SOUZA: To answer Commissioner
7 Uqdah's question basically what you're saying is that
8 the ceilings are going to be eight feet in the front
9 of the unit and then -- or some of them are going to
10 be eight feet, but then on the back they're going to
11 be bigger than that? Because I mean, there has to be
12 some space for ceiling assembly as well, right, like
13 the drywall, the floor, subbase. Subbase.

14 MS. MAZO: Subfloor.

15 MS. BUTANI-D'SOUZA: Subfloor. That's the
16 word I'm looking for.

17 MS. MAZO: Sorry, to answer that question I
18 would direct the Commission to Exhibit 30, which does
19 show the different -- shows the elevations. And it
20 shows that the floor to ceiling height for the stories
21 in the rear are going to be nine feet, four inches.
22 And where the difference is in the height from Georgia
23 Avenue to Allison is that the fifth story is being set
24 back, is being pulled back from the front of the
25 building, although not required to be so, but we are

1 doing so. And accordingly the number -- the four
2 stories along Georgia Avenue, so one, two, three,
3 four, along Georgia Avenue, and it's in the rear where
4 the building is widest, where we step up to the fifth
5 story.

6 [Discussion off the record.]

7 CHAIRPERSON HEATH: Okay. I think we're good
8 at this point then. So, we are going to continue this
9 as we've already said.

10 MS. BUTANI-D'SOUZA: Can I ask one other
11 question?

12 CHAIRPERSON HEATH: Sure.

13 MS. BUTANI-D'SOUZA: My last question. The
14 beginning of the hearing you mentioned that you were
15 going to show in your shadow study what was doable by
16 right. So I just want to understand because by right
17 you would need to have parking. So are planning on
18 showing that, or are you planning on showing a
19 commercial building? I don't know if the requirement
20 -- if there's a requirement for parking in the
21 commercial that you just did purely commercial rather
22 than residential. But I'm just trying to understand,
23 when you say that you're going to show what's
24 allowable by right, I'd like to understand what that
25 would be.

1 MS. MAZO: By right I did mean the building
2 height and the building footprint.

3 CHAIRPERSON HEATH: So, with a 15-foot
4 setback?

5 MS. MAZO: With the 15-foot setback. It's a
6 landlocked lot I think that has been documented.
7 There's really no way to put parking on here.

8 MS. BUTANI-D'SOUZA: So, sorry. Does the
9 commercial -- would they be required to have parking
10 spaces with a commercial use?

11 MS. MAZO: Yes, they would, for more than
12 3,000 square feet.

13 MS. BUTANI-D'SOUZA: So by right you really
14 can't do anything other than a 50-foot high one-unit
15 or one unit building, I guess. Right?

16 So they wouldn't have to have parking under a
17 commercial -- in a commercial scenario.

18 CHAIRPERSON HEATH: Not if it's 3,000 square
19 feet.

20 MS. MAZO: Well, if it's less, but for a
21 property --

22 MS. BUTANI-D'SOUZA: Okay. I see. So, that's
23 what you're going to show is essentially a commercial
24 building that's 50 feet in height, setback from the
25 rear yard of 15 feet?

1 MS. MAZO: We will address that question as
2 best as we can to the Board's discretion.

3 MS. BUTANI-D'SOUZA: Okay. All right.

4 MR. HILL: Madam Chair.

5 CHAIRPERSON HEATH: Did you have one? Go
6 ahead.

7 MR. HILL: Yeah, I'll just -- because I was
8 curious about this and it was a question for the
9 architect also. Although, if we're going to, you
10 know, come back I would like to see what the by-right
11 is in terms of you know, what the community would get
12 if there weren't any -- you know, what you're able to
13 do by-right. I mean, whatever the lot is, if it's
14 ridiculous then it's ridiculous. I'd just be curious
15 to see what the massing is and so I get an idea as to,
16 you know, again, how this is meeting the standard.
17 And part of it would be that, you know, you're not
18 able to do anything. It's again, a taking of what
19 you'd be able to do.

20 So that's something that I'd like to see. And
21 as you're doing that you can do that with the shadow
22 study as well, I suppose. So, but yeah. So there you
23 go. Thank you.

24 MS. MAZO: Thank you.

25 CHAIRPERSON HEATH: All right. So, we've

1 asked for a number of things. I'm going to just go
2 through them just to clarify. Certainly a copy of
3 your PowerPoint presentation uploaded to the file.
4 You talked about the shadow studies, additional shadow
5 studies showing clear depictions of where the shadows
6 occur. However, you can graphically represent that so
7 that there's no question as to where shadows are being
8 cast. But for the proposed existing and matter of
9 right solution.

10 We'll need you to clarify your condition
11 around RPP based on the discussion you've had so far.
12 Any way that you can tighten it up, if you could take
13 a first pass at it we may still make that a part of --
14 it will likely be a part of our discussion going
15 forward, depending on how we proceed. So anything
16 that you could propose to tighten that condition up to
17 make it walk and talk would be good.

18 And then we're going to request that DDOT be
19 present so we can have a more -- well, a discussion
20 with them. Right. We didn't have any discussion with
21 them, so can't say more. But -- and then if we could
22 also request a more expanded traffic study? And we've
23 heard from the commissioners, although DDOT requested
24 a certain time period. We've heard from those in the
25 neighborhood, ANC commissioners, that there are

1 concerns at other times. So if there's any way that
2 you can provide us an expanded traffic study that
3 takes into consideration concerns at night or on
4 weekends, that would also be helpful.

5 MR. ANDRES: We can do that. With respect to
6 the expanded, I believe there was mention about
7 expanding the study area. We can do that but I think
8 it only benefits us because more streets means that
9 there are more empty -- there are potentially more
10 available spaces. The reason why we kept it as sort
11 of contained as it was, was because we wanted to keep
12 it as a reasonable distance from the building itself
13 because if we -- you know, if we expanded it, for
14 example, five blocks in each direction I'm not sure we
15 would reasonably expect our residents to walk five
16 blocks to a parking space.

17 So that's why we've contained it in the study
18 area that we have. But I can understand if you want
19 us to extend it to different days and different times.
20 So that I can understand.

21 CHAIRPERSON HEATH: Yeah, that's what I was
22 referring to by expanded. So --

23 MR. ANDRES: Okay.

24 CHAIRPERSON HEATH: -- extending the time.

25 MR. ANDRES: Okay.

1 CHAIRPERSON HEATH: And the number -- and the
2 days.

3 MR. ANDRES: Okay.

4 CHAIRPERSON HEATH: When you do it.

5 MR. UQDAH: I would also like to point out
6 that if they do submit that I has to be with the
7 understanding that it's subject to change at any time.

8 CHAIRPERSON HEATH: Absolutely. Right. This
9 is --

10 MR. UQDAH: You know, because the neighbors
11 could decide, well you know, look, they're starting to
12 park on my street. Let us get together and get RPP.
13 And that -- so whatever is available right now may not
14 be available two, three months from now.

15 CHAIRPERSON HEATH: All right. Is there
16 anything else that the Board wants to request? Okay.

17 MS. MAZO: Sorry. I would just request that
18 the scope on the continuation of the hearing be
19 limited to questions to DDOT information -- questions
20 about the new information that's being submitted into
21 the record that the Board has requested that Chair
22 Heath has identified and closing and rebuttal.

23 CHAIRPERSON HEATH: Sure, I would support
24 that. So the information we've requested DDOT and any
25 questions regarding that additional information you'll

1 certainly be able to raise. So --

2 MS. MAZO: I would --

3 CHAIRPERSON HEATH: We're going to need dates
4 for this information. A new date.

5 MR. UQDAH: That wouldn't allow me to -- that
6 doesn't disallow me to upload the supplement that I
7 just --

8 CHAIRPERSON HEATH: It doesn't. No.

9 MR. UQDAH: Okay.

10 CHAIRPERSON HEATH: Actually, good point. We
11 also want your supplement --

12 MR. UQDAH: Okay.

13 CHAIRPERSON HEATH: -- uploaded to the record.

14 MR. UQDAH: All right. Thank you.

15 CHAIRPERSON HEATH: Yes. Sure.

16 MR. HILL: Commissioner Uqdah.

17 MR. UQDAH: Yes, sir.

18 MR. HILL: If I might just ask a question
19 again, I wish that Commissioner Hayworth were here.
20 Like, again, what he had mentioned was that he didn't
21 think it was necessarily the greatest thing for that
22 site. And since you've been here again a variety of
23 times and I understand your position for the
24 neighborhood, what is it that you would like to see on
25 that site?

1 MR. UQDAH: I think that that site could be
2 improved as a mixed use property with -- you know,
3 without this massive five-story building.

4 MR. HILL: But there would still be variances
5 required.

6 MR. UQDAH: It would still be variances
7 required and I'm glad that the owner of the restaurant
8 is here, because the one thing that -- you know,
9 because I am a volunteer I don't have opportunity to
10 do the --

11 MR. HILL: Sure.

12 MR. UQDAH: -- PowerPoints, but in reality
13 there is alley access. It's right beside the house
14 that sits behind the subject property. She parks
15 there.

16 Now admittedly, they can cross over into that
17 but there's nothing that they can do with it. So
18 there is an alley back there. In fact, one of the
19 things I'm going to do because you all asked the
20 question, I'm going to go down that alley and look at
21 the number of units that are back there that have
22 parking in the rear, because there are units along the
23 4400 block of Georgia Avenue on the west side of the
24 street that do have parking in the rear.

25 So, but for me, I mean, I've always seen these

1 properties where they're trying to maximize, you know,
2 what is allowable. But I think that there's other
3 things that they can do because there is a building
4 that's there. It's been there. I mean, albeit, the
5 retail portion of it is small, but that could be
6 expanded.

7 MR. HILL: Okay. Okay.

8 MR. UQDAH: Yes.

9 MR. HILL: All right. Thank you, sir. Thank
10 you very much.

11 MR. UQDAH: You're welcome.

12 CHAIRPERSON HEATH: Okay. So dates.

13 MS. ROSE: May the 24th, Mr. Hood will be
14 here.

15 CHAIRPERSON HEATH: Okay.

16 MS. ROSE: It depends on if you want responses
17 to the submissions. Then we'd have to have additional
18 time.

19 CHAIRPERSON HEATH: I think -- how long --

20 MS. MAZO: May the 24th absolutely works for
21 us.

22 CHAIRPERSON HEATH: Okay.

23 MS. MAZO: We can submit our submissions by
24 May 6th, which would then be more than two weeks
25 before May the 24th date.

1 CHAIRPERSON HEATH: Sure. And that would
2 allow time for any comments or responses.

3 All right. So you've given a date of May 6th
4 for your submissions, so we'll accept that. And
5 any --

6 MS. ROSE: And any responses would be due by
7 the 13th or the 12th?

8 CHAIRPERSON HEATH: Sure, that's plenty of
9 time.

10 MS. MAZO: Can I ask the Chair to clarify who
11 any responses would be by, because there's no party in
12 opposition to this case?

13 CHAIRPERSON HEATH: Well, I think we do -- and
14 I expect that Mr. Uqdah is going to be reviewing the
15 information that's submitted to the record.

16 MR. UQDAH: Yes.

17 CHAIRPERSON HEATH: So you're really the
18 person that I'm -- either DDOT or you would be the
19 parties that -- and even though you're not a party to
20 this case --

21 MR. UQDAH: I understand.

22 CHAIRPERSON HEATH: -- you would be who I'm
23 expecting to respond because --

24 MR. UQDAH: Yes, ma'am.

25 MR. HOOD: Madam Chair, can I just say that's

1 perfectly correct? We can get Mr. Ugdah, Commissioner
2 Ugdah, and also who was the other one, DDOT?

3 CHAIRPERSON HEATH: Yeah, DDOT.

4 MR. HOOD: We can ask for those responses
5 party or not. That's our prerogative.

6 CHAIRPERSON HEATH: Okay. All right.

7 MR. HOOD: Okay?

8 MR. UQDAH: Thank you.

9 CHAIRPERSON HEATH: Okay. All right. So, see
10 I mean, I'd even say by the 19th.

11 MS. ROSE: Okay.

12 CHAIRPERSON HEATH: That's sufficient for the
13 Board.

14 MS. ROSE: So the applicant's documents would
15 be due on the 6th of May, and the responses will be
16 due by the 19th of May.

17 CHAIRPERSON HEATH: If there are any.

18 MS. ROSE: If there are any. Okay.

19 CHAIRPERSON HEATH: And that would be any
20 additional submissions or responses from DDOT. And if
21 Office of Planning has anything additional that you
22 want to add, we would be open to a submission from you
23 as well by the 19th. All right.

24 MS. MAZO: Thank you.

25 CHAIRPERSON HEATH: Okay. Thank you all.

1 We're going to take a short break and --

2 [Discussion off the record.]

3 CHAIRPERSON HEATH: So we're going to need a
4 little bit more time as you heard. They're still
5 dealing with a previous case, so we'll be back
6 shortly.

7 [Off the record from 1:20 p.m. to 1:37 p.m.]

8 CHAIRPERSON HEATH: All right. So, we're
9 going to come back to order. We have two cases left
10 on our docket for today and so, Ms. Rose, if you could
11 call our next case.

12 MR. HILL: Madam Chair, may I go ahead and
13 mention --

14 CHAIRPERSON HEATH: Oh, yeah. Yeah. I'm
15 sorry.

16 MR. HILL: That's all right. Madam Chair, if
17 I might mention I was thinking -- I'd like to call
18 back up Case 19124 insofar as move up the date where
19 we were together. I had asked for the Board to all
20 take a look at it so that all of us could vote. And
21 what I'd like to propose is move that date from the
22 June 7th to May 24th. Would that be alright with
23 Madam Chair?

24 CHAIRPERSON HEATH: That is -- that will work
25 for me and for the Board.

1 MS. ROSE: Yes, we'll move it.

2 MR. HILL: Thank you. And could you notify
3 the parties as well?

4 MS. ROSE: Yes, we will.

5 MR. HILL: Thank you. Thank you, Madam Chair.

6 CHAIRPERSON HEATH: Sure.

7 MS. ROSE: We're back on for the hearing. The
8 next application is 19212, application of 410
9 GoodBuddy, LLC. pursuant to 11-DCMR-3103.2 for a
10 variance from the off-street parking requirements
11 under Section 2101.1 to allow the construction of a
12 flat in the R-4 district at premises 1000 Lamont
13 Street Northwest, Square 2845, Lot 129.

14 CHAIRPERSON HEATH: All right. Good
15 afternoon. Would you all please introduce yourselves?
16 Make sure your mic is on.

17 MR. DORMAN: I'm Kennell Dorman. I am one of
18 the members of the LLC, and also the architect.

19 MS. ROY: I'm J. T. Roy. I'm also a member of
20 the LLC.

21 CHAIRPERSON HEATH: Okay. All right. Thank
22 you.

23 So the last time you were here I believe was
24 March 15th, and at that time there was some question
25 as to what kind of -- how extensive the relief was

1 that you needed to be requesting. And so, at that
2 time OP believed that you needed relief from 400
3 height, 411.5 penthouse, and 411.18 penthouse setback.

4 Based on the information that we've received since
5 that hearing you've modified your drawings such that
6 none of that additional relief that was in question is
7 necessary.

8 So is the only relief that's now being asked
9 just 2101 for off-street parking?

10 MR. DORMAN: Yes.

11 CHAIRPERSON HEATH: Okay. All right. And
12 that is just a requirement of one space where you're
13 not providing any. So, okay. So based on that
14 clarification I'm fine to move forward. We heard the
15 merits of the case previously but I'd like to just --
16 oh, we didn't. I'm sorry. Right. And so we did not
17 hear the merits of the case previously, but I do want
18 to hear from Office of Planning next unless the Board
19 has any questions of the applicant.

20 All right. So Office of Planning.

21 MR. JESICK: Thank you, Madam Chair, Members
22 of the Board. Matt Jesick with the Office of
23 Planning.

24 The Office of Planning supports the requested
25 parking variance, but other than that I'd be happy to

1 rest on the record. Thank you.

2 CHAIRPERSON HEATH: Okay. All right. Board,
3 any questions of Office of Planning? All right.

4 We also have a letter from ANC 1A in support
5 of this application. Is anyone here from ANC 1A? And
6 then a letter of no objection from Department of
7 Transportation as well. And I know there's no one
8 here from Department of Transportation.

9 Is there anyone here wishing to speak in
10 support of this application? Anyone in support?

11 Anyone wishing to speak in opposition? It
12 appears there's no opposition.

13 So, we would normally turn back to you for
14 rebuttal or closing, but that probably isn't
15 necessary.

16 MS. BUTANI-D'SOUZA: I have a couple
17 questions. If that's okay?

18 CHAIRPERSON HEATH: That's fine.

19 MS. BUTANI-D'SOUZA: I just want to make sure
20 that I'm understanding this correctly. And actually
21 maybe this is also a question for OP. There was a
22 note in your report regarding the cellar. I believe
23 it was -- I have to go back to your report to see, but
24 I think there was a note about whether the cellar met
25 the guidelines.

1 CHAIRPERSON HEATH: Did you have a question
2 about that still, Office of Planning?

3 MR. JESICK: No. I didn't think we raised a
4 question about it in our report but --

5 MS. BUTANI-D'SOUZA: No?

6 MR. JESICK: -- I could be mistaken.

7 MS. BUTANI-D'SOUZA: Maybe I -- maybe I read
8 the wrong notes.

9 Okay. My other question was if I'm
10 understanding this correctly there are windows on the
11 abutting property at the party wall, or it looks like
12 a party wall. I'm just curious. Is your building --

13 MR. DORMAN: There is not a party wall. We're
14 actually two feet some inches away from the adjacent
15 building. We are on the property. We're face on
16 line. But the adjacent building is -- they have a 2.3
17 or four inch wall. Excuse me, yard.

18 MS. BUTANI-D'SOUZA: Okay.

19 MR. DORMAN: At that point.

20 MS. BUTANI-D'SOUZA: And did you talk to them
21 at all about --

22 MR. DORMAN: I did.

23 MS. BUTANI-D'SOUZA: -- are they aware that --

24 MR. DORMAN: I had done certified letters to
25 both of the neighbors, and then Maria Torres is the

1 woman who lives at 1002 Lamont Street. Her daughter
2 had called me and voiced some concern. The concern
3 was basically, and this was just a verbal conversation
4 I had with her, was that we just want to make sure
5 that, you know, our house doesn't fall down when you
6 build on your property.

7 So it wasn't any sort of an objection to what
8 we were doing.

9 MS. BUTANI-D'SOUZA: Okay. Thank you.

10 CHAIRPERSON HEATH: All right.

11 MR. DORMAN: And I will say, we also talked to
12 the gentleman to the south, Michael Chang is his name,
13 a long time ago when we were just kind of out there,
14 and he was hoping that we would put something on the
15 property.

16 CHAIRPERSON HEATH: Uh-huh.

17 MR. DORMAN: And that was all. So, and he did
18 not --I don't think that we got a notification that he
19 actually picked up the letter, but he was notified by
20 letter.

21 MS. BUTANI-D'SOUZA: Okay. Thank you.

22 CHAIRPERSON HEATH: All right. So, then if
23 you're okay with us concluding the hearing I think the
24 Board is probably ready to move on to deliberate on
25 this.

1 MR. DORMAN: Sure.

2 CHAIRPERSON HEATH: Okay. Given that this
3 application has gotten much simpler through the
4 revisions that the applicant has made, I will make a
5 motion that we approve the variance request for off-
6 street parking under 2101.1 at 1000 Lamont Street
7 Northwest for Application No. 19212.

8 MR. HILL: I second.

9 CHAIRPERSON HEATH: The motion has been made
10 and seconded. Any further discussion?

11 [Vote taken.]

12 CHAIRPERSON HEATH: So the motion carries.
13 Thank you. Thank you all for hanging in there.

14 MS. ROY: No, thank you. I am -- have a
15 greater respect for what you guys do.

16 [Discussion off the record.]

17 MS. ROSE: Staff will record the vote as four
18 to zero to one with Ms. Heath making the motion, Mr.
19 Hill seconding, with Ms. Butani and Mr. Hinkle in
20 support, no Zoning Commission member participating.

21 CHAIRPERSON HEATH: Yes, a summary please.

22 MS. ROSE: Thank you.

23 CHAIRPERSON HEATH: Thank you.

24 MS. ROSE: The last application is 19206 of
25 1302 Pennsylvania Avenue Southeast, LLC., pursuant to

1 11-DCMR-3103.2 for variances from the FAR requirements
2 under Section 771.2, the lot occupancy requirements
3 under Section 772.1, the rear yard requirements under
4 Section 774.1, the nonconforming structure
5 requirements under Section 2001.3, and the off-street
6 parking requirements under Section 2101.1 to permit a
7 third-floor addition to an existing two-story mixed
8 use building in the R-2-A district at premises 1300
9 Pennsylvania Avenue Southeast, located in Square 1043,
10 Lot 122.

11 CHAIRPERSON HEATH: All right. Good
12 afternoon.

13 MR. WILMARTH: Good afternoon.

14 MR. BELLO: Good afternoon.

15 CHAIRPERSON HEATH: Would you all please
16 introduce yourselves?

17 MR. BELLO: Madam Chair, Board members, Toye
18 Bello representing the applicant.

19 MR. WILMARTH: Bruce Wilmarth.

20 CHAIRPERSON HEATH: Okay.

21 MR. RAGIMOV: My name is Todd. Todd Ragimov.
22 I am one of the members of LLC that owns the
23 property.

24 CHAIRPERSON HEATH: Okay. So, is the all new
25 information?

1 MR. BELLO: Well, yes. These are all uploads
2 that will be Exhibits 37 through 42.

3 CHAIRPERSON HEATH: Okay. All right. So when
4 you were here before we asked that you do some more
5 work with Office of Planning. I assume you did that
6 but it still seems that you haven't come to any
7 consensus on this with Office of Planning.

8 MR. BELLO: That's correct, Madam Chair.

9 CHAIRPERSON HEATH: Okay.

10 MR. BELLO: But I do have one preliminary
11 matter that I wanted to take care of. We have Mr.
12 Wilmarth here. We submitted his bio onto the record.
13 We wish to qualify him as an expert in real estate
14 and construction finance.

15 CHAIRPERSON HEATH: Okay. Has he -- he's not
16 presented to the Board before?

17 MR. WILMARTH: No.

18 CHAIRPERSON HEATH: Okay. All right. I'm
19 just looking at this again.

20 MR. BELLO: And that will be Exhibit 40.

21 CHAIRPERSON HEATH: I see it. Okay. Does the
22 Board have any issue with accepting Mr. Wilmarth as an
23 expert witness in real estate finance?

24 No? Okay. Then we'll accept him.

25 MR. BELLO: Thank you.

1 CHAIRPERSON HEATH: Based on his resume.

2 MR. BELLO: Thank you.

3 CHAIRPERSON HEATH: Okay. So we're going to
4 need you to talk about the areas of relief related to
5 FAR, lot occupancy, and rear yard and where you stand
6 on that now.

7 MR. BELLO: Okay.

8 CHAIRPERSON HEATH: And, you know, we'll see
9 if there's any change from OP's perspective during the
10 course of this discussion.

11 MR. BELLO: Very well. With respect to lot
12 occupancy the applicant notes that the existing lot
13 occupancy of the property is 100 percent. And that
14 there will be no net change to that percentage by the
15 construction of the third floor. So, in fact what
16 we're asking for here is that even if the applicant
17 restricted its application to constructing what
18 ostensibly would be the matter of right FAR that they
19 could capture will still be before you for the relief
20 that we're asking for.

21 So the relief we're asking for doesn't
22 increase upon the existing nonconformity of lot
23 occupancy in our view.

24 With respect to what we've done, I think it's
25 important to perhaps walk you through the new

1 submissions that we have. Exhibit 37 would be the .5
2 FAR possible. If the applicant were asking for only
3 rear yard setback relief.

4 And the location of the --

5 MR. HILL: Excuse me, Mr. Bello, I'm sorry,
6 can you point that out where you --

7 MR. BELLO: Exhibit 37 would be --

8 MR. HILL: Is that 37, page 2, or --

9 CHAIRPERSON HEATH: What's the --

10 MR. BELLO: That will be the replacement of
11 the Exhibit 35 that I did. We didn't have the second
12 page to in the last hearing.

13 CHAIRPERSON HEATH: Okay.

14 MR. BELLO: So now you have two pages to it.

15 CHAIRPERSON HEATH: This shows the plan of the
16 third floor.

17 MR. BELLO: Exactly.

18 CHAIRPERSON HEATH: Just being on that one
19 edge.

20 MR. BELLO: Exactly. And the elevation.

21 CHAIRPERSON HEATH: Right.

22 MR. BELLO: I think you have printed that.

23 MR. HILL: And just to clarify, this is what
24 you'd be able to do without the FAR approval?

25 MR. BELLO: This is what you'd be able to do

1 without the FAR approval, but you need still the lot
2 occupancy and you still need rear yard.

3 MR. HILL: Thank you.

4 MR. BELLO: Thank you. So the location of
5 this .5 FAR obviously is driven by the need to retain
6 the building core where it is. So if the applicant
7 were to ask to do this they would still need the lot
8 occupancy relief and also the rear yard relief.

9 And for purposes of illustrating the practical
10 difficulty with exercising the other two options
11 available to the applicant, then I want to refer first
12 the Board to Exhibit -- that will be Exhibit 39, will
13 be the floorplan.

14 UNIDENTIFIED SPEAKER: The four units?

15 MR. BELLO: The four units. Uh-huh. Okay.
16 So, this is Exhibit 39 is what the applicant is asking
17 for in the four-unit scheme. And this would require
18 the FAR relief, rear yard relief, and also percentage
19 of lot occupancy relief.

20 And again, this is driven by the need to keep
21 the building core where it is, which is the building
22 stair core.

23 MR. HINKLE: Mr. Bello, I didn't quite follow
24 you on that. I thought the other one, the building
25 core was the previous one you just showed us had the

1 building core where it's at. And --

2 MR. BELLO: Yeah.

3 MR. HINKLE: -- seems to be in a different
4 spot.

5 MR. BELLO: The two have building core where
6 they are. One would be for the .5 FAR, the other
7 would be for the relief to do 1.0 additional FAR.

8 MR. HINKLE: But the building core that you're
9 referring to, is that the staircase?

10 MR. BELLO: The stair; the stair core. That's
11 correct.

12 MR. HINKLE: Doesn't that move? In the plans
13 I'm looking at?

14 MR. BELLO: No, that does not move in the two
15 schemes. The .5 FAR scheme, which is Exhibit 37, the
16 core is following where the existing core of the
17 building is now from the --

18 CHAIRPERSON HEATH: So you just have another
19 stair that goes from the first floor down to the
20 cellar.

21 MR. BELLO: Exactly. Exactly.

22 CHAIRPERSON HEATH: That's offset from the
23 remaining stair core.

24 MR. BELLO: Yes.

25 CHAIRPERSON HEATH: Okay.

1 MR. BELLO: All right? And what we tried to
2 do is to show other options for the .5 FAR wherein
3 each either meets the required rear yard opposite 13th
4 Street or opposite Pennsylvania Avenue. Those two
5 options would actually require that the core of the
6 building move from where it is, from the first floor
7 up. And it would actually render the existing
8 commercial space inefficient because it moves the
9 stair core to the middle of the floor space. So, our
10 attempt was just to illustrate the practical
11 difficulty related to doing the .5 FAR on any scheme
12 that you want to look at it at, except the four-unit
13 scheme and except where you're doing the .5 FAR but
14 needing rear yard relief. Okay?

15 In Exhibit 43 I've actually provided you a
16 supplemental statement that argues that the property
17 demonstrates both practical difficulties and also
18 financial. The part that I've been speaking about
19 will be the practical difficulties. Mr. Wilmarth
20 would be speaking to the debt service profile of the
21 project. And he will let you know what his conclusion
22 with respect to the three-unit scheme versus the four-
23 unit scheme.

24 So I'll turn it over to you. If you can just
25 walk through?

1 MR. WILMARTH: Thank you very much. The
2 financial model that was formulated to assess the
3 viability of the potential development options for the
4 property located at 1302 Pennsylvania Avenue
5 Northeast, showed that the development option that
6 would allow for four residential units to be located
7 on the proposed third and fourth floors of the subject
8 building is more feasible than a development plan that
9 would only allow for three residential units to be
10 built.

11 The additional cost to build out the fourth
12 unit during construction does seem to be more than
13 offset by the potential rents that could be received
14 upon its completion. And according to the developer,
15 Todd Ragimov, the marginal cost of adding the
16 additional residential unit to the development plans
17 at this phase of the development planning would be
18 relatively minimal.

19 As you can see from the enclosed models, we
20 have one debt service coverage ratio for the option
21 with only three residential units, and renovation of
22 the ground floor retail and if you kind of -- if you
23 just refer to the very bottom of that chart you'll see
24 the debt service coverage ratio which is abbreviated
25 to DSCR, shows less than a one times coverage in the

1 three-unit model.

2 Does everyone see that or --

3 CHAIRPERSON HEATH: Uh-huh.

4 MR. WILMARTH: Okay. Whereas the debt service
5 coverage ratio for the option with four residential
6 units and renovation of ground floor retail would
7 range from 1.01 times to 1.12 times, which implies
8 positive cash flow to the owner. Modest cash flow.

9 Both of these ranges are established based on
10 the range of potential rents that could be received
11 from the ground floor rental units. So this is a
12 speculative view at what would possibly happen with
13 this property. And we did do a high and low
14 calculation on that.

15 So, there are a number of indirect costs that
16 were not included in the financial model, but we think
17 those indirect costs could add up to over \$100,000.

18 CHAIRPERSON HEATH: What would some of those
19 indirect costs be? Are you talking about soft costs
20 or what are those?

21 MR. WILMARTH: Soft costs, yes. Unforeseen
22 hard costs as you take apart a renovation.

23 CHAIRPERSON HEATH: All right.

24 MR. WILMARTH: Yeah, loss of rental income is
25 another.

1 CHAIRPERSON HEATH: Okay. Any questions on
2 this? Go ahead.

3 MR. HILL: Thank you, Madam Chair. Mr. Bello,
4 it's somewhere, I can't remember where I read it, I
5 was a little confused about that the ANC says that the
6 by-right FAR would not be in keeping with the
7 neighborhood. Could you speak a little bit to that?
8 Are you speaking about how the design of the building
9 would look if they didn't fill out that third floor?
10 Is that what the ANC was speaking of?

11 MR. BELLO: That's correct. And we have
12 renderings to illustrate that. Yeah.

13 MR. HILL: Yeah, I think they were -- it's in
14 your supplemental --

15 MR. BELLO: That's correct.

16 MR. HILL: -- here that you gave. So can you
17 tell me -- I mean, you went to the ANC meeting. Can
18 you tell me a little bit more about what they said
19 concerning that? Like, they'd like to see it filled
20 out the whole way is what your statement is.

21 MR. BELLO: That's correct.

22 MR. HILL: Okay. And since this rendering is
23 up there, that the building next to it, there's no
24 windows along that party wall?

25 MR. BELLO: There are no windows.

1 MR. HILL: Okay. And so there aren't going to
2 be any windows blocked by the filling out this third
3 floor?

4 MR. BELLO: Absolutely not.

5 MR. HILL: Okay. And now again, please, tell
6 me how the -- what the ANC's thoughts were. Can you
7 just elaborate a little bit more about their thought
8 about filling out that third floor as opposed to
9 leaving it with one of these two options?

10 MR. BELLO: Well, and the applicant engaged in
11 an extensive community outreach. So there isn't
12 actually an opposition. In fact, there is great
13 support for this application. And the ANC was very
14 specific because we showed them the options.

15 MR. HILL: The by-right.

16 MR. BELLO: Exactly. And they were very
17 emphatic about not wanting half a floor. In fact,
18 they made a statement which I quoted in my
19 supplemental submission, and I'm glad to read it again
20 into the record. It specifically says, quote, "ANC 6B
21 supports the scope and design of the project, noting
22 that the by-right FAR for a third story addition would
23 not be in keeping with the visual fabric of the
24 neighborhood, not supporting city wide goals of
25 providing additional housing." Quote and unquote.

1 So this is their specific preferences for a
2 fourth floor rather than a half a floor.

3 MR. HILL: And you're getting an additional
4 unit on that third floor? Is that what's happening?

5 MR. BELLO: Well, we're getting an additional
6 unit and in briefing the matter a little bit further,
7 clearly the applicant cannot make or have an
8 expectation of reasonable return on investment with
9 three units without the fourth unit. And that's a
10 basis for establishing hardship upon which area
11 variance can be granted.

12 MR. HILL: Thank you.

13 CHAIRPERSON HEATH: All right. Any other
14 questions from the Board? All right. Then I'd like
15 to hear where OP stands on this and if you're still
16 recommending denial.

17 MR. MORDFIN: Good afternoon, Stephen Mordfin,
18 and OP still recommends denial of this application.
19 However, the rear yard, which we had previously
20 recommended denial of, because of the location of
21 where the stairwell is, that that -- we find that that
22 would be a hardship to have to relocate the stairwell,
23 which is no matter how you built on to the third
24 floor, is in the rear yard, that we would recommend
25 approval for that because that is a unique situation

1 that results in a practical difficulty.

2 For the FAR and the lot occupancy we still
3 recommend denial. The FAR, although in what the
4 applicant submitted it's 0.5 increase and it's --
5 although it's referred to as de minimis, it's actually
6 20 percent increase over what is permitted as a matter
7 of right, which we do not find is de minimis.

8 And I know the applicant has submitted
9 additional drawings showing how you could build at the
10 third floor. I don't know that those are all the
11 options that are available that you could build it out
12 to look differently. So we still recommend denial of
13 the lot occupancy and the FAR, but I would like to
14 change the recommendation for the rear yard to
15 recommend approval of that.

16 CHAIRPERSON HEATH: Okay. So I guess your
17 position on the FAR is more based on the percentage of
18 increase, that it's 20 percent. Not so much on how --
19 well, obviously they showed a solution that looks
20 pretty objectionable because that's in their best
21 interest.

22 But you know, even in a scenario where -- and
23 I'm just looking at how much additional space they
24 were able to have by having that one little sliver
25 where the building core is, I have a hard time

1 imagining that you could reposition that small amount
2 of far in any other way that doesn't require them to
3 have to change the existing stair location. So have
4 you given that any more thought? I mean, there's not
5 too much more you can do. I mean, and I'm not asking
6 you for a solution, I'm just wondering -- I guess I am
7 sort of wondering if you've thought through how they
8 might get around this. I mean, I don't see any other
9 way other than to increase the FAR. Even if they were
10 to build out just one of the units on the third floor,
11 and keep the stair where it is, get rid of the fourth
12 unit. That still increases their FAR such that they
13 need to request relief.

14 So I'm just wondering --

15 MR. MORDFIN: Okay.

16 CHAIRPERSON HEATH: -- if there's any -- if
17 you had any thoughts. And I don't know whether you
18 all had any discussions about this after the hearing,
19 but were there any solutions that you all talked about
20 that you could get on board with?

21 MR. MORDFIN: Well, we didn't discuss this,
22 what other potential solutions there are. I mean, the
23 only ideas that I could think of and I am not an
24 architect --

25 CHAIRPERSON HEATH: Sure.

1 MR. MORDFIN: -- so I could not draw it out.
2 I mean, you leave the stairwell where it is in the
3 back, and that's why you need the rear yard variance.
4 But maybe you set back evenly, or equal distance from
5 both 13th Street and Pennsylvania Avenue and your top
6 floor, instead of, you know, looking like it was
7 sliced off with a knife, instead is set back from the
8 front and maybe you have an area in the front there
9 that's just set back there. You have some open space
10 up there that's not part of the unit.

11 CHAIRPERSON HEATH: Uh-huh.

12 MR. MORDFIN: That was -- how well that would
13 work, I don't know. I can't design it myself.

14 CHAIRPERSON HEATH: Sure. Sure. That makes
15 sense. Did you all look at any solutions similar to
16 that?

17 MR. BELLO: Well, I mean, the suggested
18 solution would be completely impractical. Not to talk
19 about the limited square footage that would derive
20 from such a design. But we're making two arguments
21 here. One of practical difficulty which is physically
22 related to relocating the stair. But the more
23 poignant one is an expectation, a reasonable return on
24 investment that the applicant has a right to. And I
25 think there's BZA history and case law that speaks to

1 that issue.

2 So we did -- I did have a discussion with OP.

3 OP's position is that, you know, if such concept is
4 not in the Zoning Regulations, is not recognizable to
5 them, but this is case law and BZA history.

6 CHAIRPERSON HEATH: Yeah, I know. I'm aware.
7 I'm aware. Okay. Any other questions of Office of
8 Planning?

9 [Discussion off the record.]

10 CHAIRPERSON HEATH: Okay. No questions.

11 MR. HINKLE: Just real quick. What's kind of
12 the standard in this area in terms of the lot
13 occupancy and so the commercial on this property is
14 100 percent. Second floor is 100 percent. Doesn't
15 meet the requirement of 68 percent. Is that typical
16 up and down the street, do you know? Or is this a
17 unique situation or --

18 MR. MORDFIN: Well, this property is a little
19 bit different. I guess maybe you would call it
20 landlocked. It doesn't have alley access. It has no
21 rear yard. It's blocked in by the building on
22 Pennsylvania and by the property that's to the north
23 on 13th Street.

24 So that makes this one a little bit different.
25 Those other buildings that you see going up and down

1 Pennsylvania, typically they have a rear yard. You
2 can't tell that from Pennsylvania Avenue and you also
3 can't tell that this one does not have a rear yard
4 from Pennsylvania Avenue or from 13th Street. So
5 that's what makes this property different.

6 So I don't know what the lot occupancy is of
7 the other properties, but I'm pretty sure they don't
8 take up 100 percent, that there is some -- there are
9 alleys back there and that --

10 MR. HINKLE: And yards and --

11 MR. MORDFIN: -- in that -- yeah.

12 MR. HINKLE: Okay. Okay. Thank you.

13 CHAIRPERSON HEATH: All right. Does the
14 applicant have any questions of Office of Planning?

15 MR. BELLO: No, Madam Chair.

16 CHAIRPERSON HEATH: Okay. All right. Go
17 ahead.

18 MR. HILL: Thank you, Madam Chair. Did you
19 guys think about, so on the third floor, making a two-
20 bedroom, and what that did to the numbers? And to
21 keep asking questions, are they apartments or condos?
22 I forgot?

23 MR. RAGIMOV: They're not going to be condos.

24 MR. HILL: They're not going to be condos. So
25 they'll be apartments?

1 MR. RAGIMOV: Yeah, apartments.

2 MR. HILL: And so did you think about doing a
3 two-bedroom apartment? I mean, I'm just thinking
4 about like you know, again we've been talking about
5 families and things such as that. I mean, they're
6 four one-bedroom apartments.

7 MR. RAGIMOV: Yeah. I mean, we discuss that
8 with the architects.

9 MR. HILL: Uh-huh.

10 MR. RAGIMOV: And even the idea just putting
11 it on the back, it just didn't work in his view.

12 MR. HILL: Okay. And so financially, from the
13 broker here, they would make more money off the four
14 one-bedrooms than two one-bedrooms and one two-
15 bedroom.

16 MR. WILMARTH: Right. The property would
17 carry itself.

18 MR. HILL: Thank you.

19 CHAIRPERSON HEATH: And just another quick
20 question for Mr. Wilmarth.

21 MR. WILMARTH: Yes.

22 CHAIRPERSON HEATH: You're saying that the --
23 or just can you repeat, the percentage profit that is
24 made on the three-unit building is what, versus the
25 four?

1 MR. WILMARTH: It revolves around cash flow
2 and your rental income covering the proposed debt
3 service and the cost of construction, renovation, and
4 acquisition. And so, but we calculated with the
5 market rents for just the three units, made that the
6 property would be less than a one-to-one debt service
7 coverage ratio, meaning Mr. Ragimov would have to take
8 money out of his pocket every month to cover the cash
9 flow, versus a fourth unit which would give him a
10 modest 1.5 over one coverage.

11 CHAIRPERSON HEATH: Okay. All right. All
12 right. Any other questions? Okay. All right.

13 All right. We have, well as we said, a letter
14 of approval from the ANC, and it's clear that they did
15 see the proposed solution and the matter of right
16 because as my colleague pointed out they made it clear
17 that they did not like the matter of right solution as
18 it was drawn by you showing just that one swath of
19 building.

20 And I assume there's nobody here from ANC 6B,
21 but we have that letter of approval. We also have the
22 letter of no objection from Department of
23 Transportation on this. And I don't believe we have
24 any letters of support or opposition on this, but is
25 there anyone here wishing to speak in support? Anyone

1 wishing --

2 MR. RAGIMOV: Before even going to ANC I had a
3 meeting with the neighbors in the neighborhood so we
4 distributed the flyers. And we invited -- we send
5 invitation to more than 100 neighbors. So, maybe like
6 I want to say certain neighbors show up.

7 CHAIRPERSON HEATH: Okay.

8 MR. RAGIMOV: And all of them, and I have
9 actually a signed list that I can provide, all of
10 them, they like the project.

11 CHAIRPERSON HEATH: Okay.

12 MR. RAGIMOV: Because they are not happy with
13 what is going on with that corner, with the commercial
14 unit. So I do have a huge neighborhood support.

15 And what I'm showing you right now, it's a
16 support letter from immediate neighbor on the left as
17 well.

18 CHAIRPERSON HEATH: Okay. All right. Okay.
19 Thank you for making that effort. It's important to
20 communicate with your neighbors and try to get their
21 support based on what you're proposing. All right.
22 So no one here in support or opposition. No one here
23 in opposition? All right.

24 Then I would like to request of Office of
25 Planning, if we could get a revised report from you

1 just indicating the change in your support, still
2 supporting part and denying part. But that change
3 would be great to have in the record. All right.

4 Do you have any closing you'd like to make
5 prior to concluding the hearing?

6 MR. BELLO: Just a short one, Madam Chair.

7 CHAIRPERSON HEATH: Okay.

8 MR. BELLO: I think there's probably consensus
9 even with the Office of Planning, that there's a
10 unique aspect of this property in light of their
11 support of at least the rear yard setback requirement.
12 I think that we've submitted enough evidence that the
13 property suffers from an extraordinary situation or
14 condition of property.

15 I think I also want to reemphasize that in the
16 C-2-A zone, a percentage of lot occupancy is not
17 calculated on a horizontal plane. So since the
18 residential use exists on the second floor the
19 building is already 100 percent lot occupancy and that
20 there will be no change to that.

21 We've also submitted that the applicant or the
22 owner of the property would suffer a hardship because
23 with the three unit scheme their cash flow would be
24 negative. They really wouldn't be able to debt
25 service the property. That itself constitutes a

1 hardship upon which a variance can be granted.

2 The support of the community and of the design
3 also attests to the fact that the design is in keeping
4 with the fabric of the neighborhood. So for all those
5 reasons we respectfully request the Board to grant the
6 relief requested. Thank you.

7 CHAIRPERSON HEATH: Thank you. Is the Board
8 ready to deliberate on this?

9 All right. Anybody want to start?

10 MR. HILL: I'll start. Thank you, Madam
11 Chair.

12 I don't like going against Office of Planning
13 and appreciate and understand how they got to where
14 they are. I think that, you know, I could be in
15 support of this again based upon just really kind of
16 the confluence of factors. One of those being the
17 really just kind of the ANC and what they are looking
18 for. I mean, I think that, you know, the applicant
19 obviously as you had mentioned before, presents the
20 situation in the best light. And so, you know, they
21 make the design look as though it's really something
22 that no one would necessarily have in their
23 neighborhood. Or at least it would be odd.

24 And I do think that they might have been able
25 to change that design. However, you know, tagging on

1 to what you said about the core being in the back of
2 the building and that that -- the hardship that that
3 created, which is also how I guess you know, Office of
4 Planning was coming up with allowing what they were
5 willing to allow. I do think that again, I could get
6 behind it because of just like kind of the financials,
7 the confluence of factors, and the ANC as to how you
8 know, I'm kind of gang to my yes decision and that how
9 I believe the standard has been met.

10 CHAIRPERSON HEATH: I tend to agree. I also
11 don't like to go against Office of Planning and I
12 appreciate the slight change in position from
13 opportunity. And I understand their concerns. I'm
14 not sure -- you know, I also have -- I know how the
15 Board has ruled in the past on financials and
16 accepting those as a part of the argument towards
17 granting a variance. I just have a hard time
18 reviewing those as they are just like somebody's --
19 somebody's assumptions based on a moment in time. And
20 numbers that are somewhat hypothetical. I mean, this
21 is still a pretty conceptual drawing and in any case,
22 when we have financials coming before the Board I
23 struggle with using those as a basis to justify
24 whether or not one solution is going to be profitable
25 several years from now when the building is

1 constructed.

2 So, I just want to state that for the record
3 because I think that, you know, going forward this
4 Board is going to tend to scrutinize those a little
5 bit more, or question the validity of those numbers
6 going forward. So, but in this case I do understand
7 the hardship argument that's been made.

8 I also, that aside, I still can't see as
9 you've shown any matter of right solution that is --
10 that really works or that is appealing. And as we've
11 heard from the ANC, they are in support of this. I
12 think the design as it's presented looks -- it's in
13 keeping with the character of the neighborhood. It
14 looks like there's some variety there but it looks
15 like it fits. It appears to fit well given the
16 context and I understand the ANC's position about how
17 the matter of right solution didn't.

18 Again, that was one solution, but I understand
19 how that didn't work. But at any rate I could approve
20 this based on the four units. So I'm with Mr. Hill on
21 this.

22 MR. HINKLE: And thank you, Madam Chair. I
23 tend to agree with you in terms of the financials.
24 You know, it's people's assumptions based on other
25 assumptions and you know, and we start to see these a

1 lot and we're starting to scrutinize them a bit more.

2 But I tend to agree with both of you in terms
3 of the merits of the case. You know, I'm struggling
4 with if they were to meet the requirements of the rear
5 yard and the lot occupancy, you just, you're looking
6 at a blank wall back there and I don't know how that
7 benefits anybody. So I'm struggling with that and I
8 think what's being proposed is quite appropriate for
9 the conditions of the site. So I certainly support it
10 as well.

11 CHAIRPERSON HEATH: Okay.

12 MR. HINKLE: The project.

13 CHAIRPERSON HEATH: All right.

14 MR. HILL: And I'd make a motion to approve
15 Application 19206 of 1302 Pennsylvania Avenue
16 Southeast, LLC., for variances from FAR requirements
17 under 771.2, the lot occupancy requirement under
18 772.1, the rear yard requirements under 774.1, the
19 nonconforming structure requirements under 2001.3, and
20 the off-street parking requirements under 2101.1 to
21 permit a third-floor addition to an existing two-story
22 mixed use building in the C-2-A district at premises
23 again, 1300 Pennsylvania Avenue Southeast.

24 CHAIRPERSON HEATH: Second. The motion has
25 been made and seconded. Any further discussion?

1 [Vote taken.]

2 CHAIRPERSON HEATH: The motion carries.

3 MR. WILMARTH: Thank you.

4 CHAIRPERSON HEATH: Thank you.

5 MR. BELLO: Thank you.

6 MR. RAGIMOV: Thank you so much.

7 MS. ROSE: Staff would record the vote as
8 three to zero to two with a motion by Mr. Hill,
9 seconded by Ms. Heath, with Mr. Hinkle in support of
10 the motion. Ms. Butani and Mr. Hood not
11 participating.

12 CHAIRPERSON HEATH: All right. Do we need to
13 -- can we do a summary?

14 MS. ROSE: We don't have a party -- do we have
15 a party in opposition? Yes.

16 CHAIRPERSON HEATH: Okay. All right. Thank
17 you.

18 I have -- we do have one more thing we need to
19 do. All right, so --

20 MS. ROSE: Closed meeting announcements?

21 CHAIRPERSON HEATH: Yes. So before we adjourn
22 we want to just go through one last piece, information
23 for the Board on our closed meetings coming up for the
24 month of May.

25 In accordance with Section 405C of the Open

1 Meetings Act D.C. Official Code Section 2-575C, I move
2 that the Board of Zoning Adjustment hold closed
3 meetings on the following dates: Monday, May 2nd;
4 Monday, May 9th; Monday, May 16th; and Monday, May
5 23rd. These meetings start at 4:00 p.m. and are held
6 for the purpose of obtaining legal advice from our
7 counsel and deliberating upon but not voting on cases
8 scheduled to be publically heard or decided by the
9 Board on the day after each closed meeting.

10 Those cases are identified on the Board's
11 public hearing agendas for -- and actually, I'm going
12 to change this because we don't have a meeting or
13 hearing on May 3rd. But May 10th, May 17th, and May
14 24th, a closed meeting for these purposes is permitted
15 by Sections 405(b)(4) and (b)(13) of the Act.

16 And I further move that the Board hold a
17 closed meeting on Tuesday, May 3rd, 2016, from 9:00
18 a.m. to 12:30 p.m. for the purpose of conducting
19 internal training as permitted by Section 405(b)(12)
20 of the Act.

21 Is there a second?

22 MR. HILL: I second.

23 CHAIRPERSON HEATH: The motion has been made
24 and seconded. Will the secretary please take a roll
25 call?

1 MS. ROSE: When I call your name, please
2 respond with a yes or a no.

3 [Roll call vote taken.]

4 MS. ROSE: Ms. Heath?

5 CHAIRPERSON HEATH: Yes.

6 MS. ROSE: Mr. Hill.

7 MR. HILL: Yes.

8 MS. ROSE: Mr. Hinkle.

9 MR. HINKLE: What if I say no?

10 CHAIRPERSON HEATH: Then we don't have to have
11 training, and we don't have to have closed meetings.

12 MR. HINKLE: We don't have to have any of
13 that. Sorry. I'll say yes.

14 MS. ROSE: All right.

15 MR. HINKLE: You can record me as yes. Yes.

16 MS. ROSE: The motion carries on a vote of
17 three to zero to hold the closed meetings.

18 CHAIRPERSON HEATH: All right. I request that
19 the Office of Zoning provide notice of these closed
20 meetings in accordance with the Act. Thank you.

21 Any more matters?

22 MS. ROSE: Thank you. No more.

23 CHAIRPERSON HEATH: All right. Then we're
24 adjourned.

25 MS. ROSE: Thank you.

1 CHAIRPERSON HEATH: Thank you.

2 MR. HILL: Thank you.

3 [Whereupon, at 2:42 p.m., the Board Hearing
4 was adjourned.]

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