

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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PUBLIC HEARING

+ + + + +

TUESDAY

JUNE 3, 2014

+ + + + +

The Regular Public Hearing convened in the Jerrily R. Kress Memorial Hearing Room, Room 220 South, 441 4th Street, N.W., Washington, D.C., 20001, pursuant to notice at 9:30 a.m., Lloyd J. Jordan, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

LLOYD JORDAN, Chairperson
MARNIQUE HEATH, Board Member
JEFF HINKLE, Board Member (NCPC)

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ZONING COMMISSION MEMBER PRESENT:

MICHAEL TURNBULL, Commissioner

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY, Secretary
JOHN NYARKU, Zoning Specialist
STEPHEN VARGA, Zoning Specialist

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

ALLISON MYERS, ESQ.

OFFICE OF PLANNING STAFF PRESENT:

STEPHEN GYOR
STEPHEN MORDFIN
ARTHUR JACKSON
ELISE VITALE

The transcript constitutes the minutes from the Public Hearing held on June 3, 2014.

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

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

9:36 a.m.

CHAIRPERSON JORDAN: Good morning.

If we could please come to order.

This is a meeting and hearing into the Board of Zoning Adjustment. And we're located at the Jerrily R. Kress Memorial Conference Hearing Room, at 441 4th Street, Northwest. Today's date is June 3rd, 2014.

My name is Lloyd Jordan, chairperson; to the left of me is Marnique Heath, member of the Board; to her left Michael Turnbull, member of the Zoning Commission sitting in as a member of the Board of Zoning Adjustment today.

Please be advised that these proceedings are being recorded by a court reporter who is to my right, and also being webcast live. So therefore, I'm going to ask you to refrain from any disruptive noises here in the hearing room today. It would be a great time for you to silence telephones and

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computers, and all the stuff now that we have that rings and buzzes and you name it. Even watches now are doing it. So if we silence those things, it would be great.

The Board=s hearing procedures are contained in a pamphlet or document to the back door to my left. If you=re not familiar with how we operate here at the Board of Zoning Adjustment, feel free to go get that and acquaint yourself on ow we operate.

If you want to provide testimony and/or a statement to the Board today for any of our cases, I=m going to ask you to do two things for me. The first of which is to complete two witness cards per person. That=s complete two witness cards per person. And prior to your testimony, giving that witness cards to the court reporter who is seated to my right. The second thing I=m going to need you to do is if you would now stand and take the oath, which will be given by Mr. Moy, the secretary to the Board.

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MR. MOY: Good morning.

(Whereupon, the oath was administered to all participants.)

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

CHAIRPERSON JORDAN: Very good. Mr. MoY, do we have any announcements to make today?

MR. MOY: Yes, very quickly, Mr. Chairman. For the record, two cases, case number one, which is application of 18764 of Hillel at George Washington University, that application has been withdrawn by the applicant. The second case, application number 18765, of Fulton Land Trust, has been rescheduled to June the 24th, 2014. That concludes the staff=s briefing, Mr. Chairman.

CHAIRPERSON JORDAN: Very good. Then let=s call 18762, please.

MR. MOY: Okay. Application 18762. This is the application of William Seven Street LLC. This is a request by the

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applicant for relief from multiple variances and special exception for rooftop structures. The property is at 1547 7th Street, Northwest.

CHAIRPERSON JORDAN: Thank you. Would you please introduce yourself?

MR. FREEMAN: Good morning, Mr. Chairman. My name is Kyrus Freeman. I'm a partner at the law firm of Holland & Knight, and here on the behalf of the applicant.

CHAIRPERSON JORDAN: Very good. Mr. Freeman, as a person who's been here 99,000 times, you understand how we process and proceed. I don't have any issues with this case. In fact, I think this is one which the application, in my opinion, completely hits all squares with the requirements. You have support of the ANC; you have letters in support from adjacent neighbors; and Office of Planning is in support.

I don't know if the Board needs to hear anything from you in this case. Are you okay with this one?

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COMMISSIONER TURNBULL: Yes, I think so. I was just -- I think they were seeking relief from the roof from a setback, but maybe I'm remembering another case.

CHAIRPERSON JORDAN: I think that's another one.

COMMISSIONER TURNBULL: That's another case? I'm sorry Ms. Bloomfield is not here this morning; I thought she was going to be.

MR. FREEMAN: She's probably in the security line.

CHAIRPERSON JORDAN: That's long down there. That's what it is.

So Mr. Freeman, you certainly have the opportunity to present to this Board anything you think is necessary for it to hear, but you also understand that when we're at this point -- hey, Jeffrey, how are you -- you also understand, at this point, you can waive any additional testimony or take the risk of saying something wrong and getting yourself in

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trouble.

MR. FREEMAN: I don=t have anything. So I do just want to point out that we are asking for a setback relief from a small portion of the interior --

CHAIRPERSON JORDAN: That=s not going -- it has the issue --

MR. FREEMAN: No. No, sir.

CHAIRPERSON JORDAN: Okay. So with that then, I would turn to Mr. Gyor and see if there=s anything that Office of Planning, additional, that they have.

MR. GYOR: Good morning, Mr. Chairman and members of the Board. Stephen Gyor with the Office of Planning. And we support the application and rest on the record. Thank you.

CHAIRPERSON JORDAN: Board, any questions for the Office of Planning?

(No audible response.)

Is there anyone here from the Department of Transportation for this case?

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(No audible response.)

We do have a letter of no objection from Department of Transportation. Is there anyone here from ANC 6E? Anyone here from ANC 6E?

(No audible response.)

I don=t have a letter in my file from ANC 6E, but I believe in the OP report it indicated that OP had -- excuse me -- ANC 6E had voted in support.

Mr. Freeman, can you provide us --

MR. FREEMAN: That is correct. We met with the ANC about a month ago and they voted to support -- I=m not sure what the status of their letter is -- but they voted unanimously to support the application.

CHAIRPERSON JORDAN: Okay. Very good. And we take your representation of that.

We also have letters in the file -- well, let me ask, anyone here wishing to testify in support of this application?

Anyone in support?

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(No audible response.)

We do have letters in the file from adjacent neighbors who support the project.

Anyone wishing to speak in opposition? Anyone in opposition?

(No audible response.)

We would normally turn back to the applicant for rebuttal and closing, but I'm sure there's nothing to rebut, and I'm sure you don't want to close.

MR. MR. FREEMAN: No, sir.

CHAIRPERSON JORDAN: So we'll close the record in this matter based upon what's already been submitted to the Board. Based upon, I guess I read and it said that the file certainly supports the relief requested. He has support from all the entities that are important to this, and individuals important to this. So I would move that the Board grant the relief requested in 18762.

MS. HEATH: I'll second.

CHAIRPERSON JORDAN: Motion made

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and second.

Any discussion?

(No audible response.)

All those in favor of the motion signify by saying aye.

(Chorus of ayes.)

Those opposed, nay.

(No audible response.)

The motion carries. Mr. Moy.

MR. MOY: Staff will record the vote as 4-0; the zoning motion of Chairman Jordan to approve the application for the relief requested. Seconding the motion Ms. Heath; also in support Mr. Turnbull and Mr. Hinkle. And we have a Board member not present with us. The motion carries on the vote 4-0.

CHAIRPERSON JORDAN: Thank you.

And summary write up, please.

MS. HEATH: Thank you, sir.

CHAIRPERSON JORDAN: Thank you.

Good luck at the Court of Appeals. As long as he=s not trying to reverse us but -- let=s go

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to the top of the batting order, for baseball season. Get it? No, anyway.

Oh my goodness, I missed a memo between Mr. Moy, Mr. Turnbull, and Mr. Hinkle.

(Off mic comments.)

No, yes, I missed a memo. Okay.

PARTICIPANT: Three is a quorum, Mr. Chairman. Okay.

MS. MOY: Okay. And that would be applications 18763 of Charles Cononi and Janelle J. Jones. This is a request, Mr. Chairman, for a variance relief of lot occupancy and court requirements at 1512 P Street, Northwest.

CHAIRPERSON JORDAN: Thank you. Welcome. Please introduce yourselves. Just make sure your microphone is on.

MS. JONES: Okay. My name is Janelle Jones and to the left is my husband, Chuck Cononi.

We live, as Mr. Moy just said at 1512 P Street, Northwest, which is about two blocks

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west of Logan Circle. And we=ve lived there since November of 1989.

CHAIRPERSON JORDAN: Okay. Let me first ask, did you give your witness cards to the court reporter?

MS. JONES: We did.

CHAIRPERSON JORDAN: Very good. The only other question I have with this one because -- was it posted -- do we have the posting affidavit? Okay. We do have posting. So at the time I reviewed the case, it was not in.

So another matter which I think meets the requirements based upon what you=ve already filed with the Board. I didn=t have any particular questions unless someone else --

COMMISSIONER TURNBULL: I mean, isn=t this basically a refurbishment of an existing structure?

MS. JONES: Yes, it is.

COMMISSIONER TURNBULL: And it=s really de minimis, I mean, it=s existing.

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MS. JONES: Right. And we won't change, the size, the shape, the design, the materials. We just want to replace damaged latticework and damaged boards.

COMMISSIONER TURNBULL: I was wondering why a case like this even comes this before us when it's existing and it should be just a matter of right to be able to go ahead and replace the damaged --

CHAIRPERSON JORDAN: That's kind of what I was speaking about this morning about some other things which --

COMMISSIONER TURNBULL: Right.

CHAIRPERSON JORDAN: -- are administrative, that the, you know, when we do the rewrite --

COMMISSIONER TURNBULL: Yes. I mean, something like this is very self-evident, it's an excuse to see you this morning.

CHAIRPERSON JORDAN: Thank you for coming.

Anyone else on the Board, questions

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from the applicant?

(No audible response.)

Well you may have heard in the previous case, it=s the -- the applicant has the opportunity to present information to the Board or they can waive it if the Board believes that we=ve got enough to grant the relief. And typically, people accept that advice to let us move on. Sometimes, people open their mouths and step in and say the wrong thing and we say, AOh, we didn=t know that.@ And then you get problems. So I assume that your head shaking, we can proceed on.

MS. JONES: Absolutely.

CHAIRPERSON JORDAN: Okay. Then let=s turn to Office of Planning and see if there=s anything additional that they need to add.

MS. VITALE: Good morning, Mr. Chairman, members of the Board. Elisa Vitale, with the Office of Planning. The Office of Planning supports the requested relief and will

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rest on the record.

I can answer any questions. Thank you.

CHAIRPERSON JORDAN: Board, questions for Office of Planning?

(No audible response.)

Is anyone here from the Department of Transportation?

(No audible response.)

We do have a letter from Department of Transportation of no objection to the requested relief.

Is anyone here from ANC 2B?

(No audible response.)

We do have a letter from ANC 2B who=s voted unanimously 7-0 in support of your application, which we would give great weight to.

And also, Mr. Hinkle, they have four letters from neighbors.

MR. HINKLE: Absolutely.

CHAIRPERSON JORDAN: Which is very

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important to us to support this application.

Is anyone here wishing to speak in support of the application? Anyone wishing to speak in support?

(No audible response.)

Anyone wishing to speak in opposition? I dare you -- no. Anyone wishing to speak in opposition? No.

So we would normally turn back for rebuttal and closing. But we can close this case based upon the record. As discussed, it=s de minimis, it=s just replacing some existing work to your deck. Although it was nonconforming, but it=s been this way at least since 1989. The deck has been there. There=s no real encroachment.

So I would move that we grant the relief requested in 18762.

COMMISSIONER TURNBULL: Second.

CHAIRPERSON JORDAN: Excuse me.
18763. I=m sorry.

COMMISSIONER TURNBULL: I=11

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second that too.

CHAIRPERSON JORDAN: Yes. All right. Motion made, seconded. Any further weigh ins for discussion?

(No audible response.)

All those in favor signify by saying aye.

(Chorus of ayes.)

Those opposed, nay.

(No audible response.)

The motion carries. Mr. Moy.

MR. MOY: The staff will record the vote as 4-0, this motion of Chairman Jordan to approve the application for the relief requested. Seconding the motion, Mr. Turnbull; also in support Ms. Heath and Mr. Hinkle. We have no other members present. The motion carries, unanimous, Mr. Chairman.

CHAIRPERSON JORDAN: Thank you. A summary order, please.

MR. MOY: Thank you, sir.

CHAIRPERSON JORDAN: Thank you,

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have a good day.

MS. JONES: Thank you.

CHAIRPERSON JORDAN: Sorry we're so hard on you. We just got a bad reputation we have to keep up with.

(Off mic comments.)

All right. Thank you.

So we skipped -- is that skipping to the next two? They're both -- 18764 and 18765 are gone, correct?

MR. MOY: Yes, sir.

CHAIRPERSON JORDAN: Okay.
18766, please.

MR. MOY: Application of 18766, this is the application of the New Southern Rock Baptist Church. The applicant is requesting relief from a special exception from Section 216 and a variance from Subsection 216.3, to allow a church outside ministry at 4510 8th Street, Northwest.

MR. BELLO: Good morning.

CHAIRPERSON JORDAN: Mr. Bello, do

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you want to start the introductions?

MR. BELLO: Certainly. Good morning, Mr. Chair, members. Toye Bello, representing the applicant in this case.

MR. YOUNG: Good morning. Trustee Walter Young, from New Southern Rock Baptist Church.

MR. BOYLE: Trustee Boyle, chairman of the Board of Trustees at New Southern Rock Baptist Church.

MR. RANDALL: Good morning. Chairman of the Deacon Board, Deacon Leo Randall, New Southern Rock Baptist Church.

MR. WILCOX: Good morning. Deacon Robert Wilcox on the Board of the New Southern Rock Baptist Church, head of the E Street Outreach.

CHAIRPERSON JORDAN: Okay. Thank you. Thank you for coming. I don=t know. This is a matter which we=ve had this kind of similar matter, and I guess I need to hear from Office of Planning, but I don=t see where

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there=s relief necessary. In my opinion, that this clearly fits within the regulation, that the regulation doesn=t require that the building is adjacent to the property or that the program arises out of the same building. And I think it=s -- and I saw that in your pleading that you said you were filing this in the interest of caution. I think also, that Mr. Jackson kind of referred to that but I know OP was opposed to the relief. I just want to get to that.

But if the Board has any other thought about that matter, this is one I don=t know if relief is requested, I think we would find simply that it fits within 216. Anybody have an issue with that?

(No audible response.)

Okay. So Mr. Jackson, can you weigh in, please? If that=s okay with you, can we do that?

MR. BELLO: Absolutely.

MR. JACKSON: Thank you, Mr.

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Chairman. Arthur Jackson, DC Office of Planning.

CHAIRPERSON JORDAN: All right. Thank you.

MR. JACKSON: We did contact the applicant and I and the applicant's representative did prompt the zoning administrator to try to get an opinion in that regard. And I think what we got -- we also contacted the office of Attorney General. And I think the office of Attorney General came back with basis -- with a recommendation that the applicant move forward with the same -- move forward to defend the case as they had requested it. But they also said that they were -- well, they weren't clear whether they thought, they had the same feeling that they thought that was in the same vein. Of course, the final arbitrator of that is the Board. So if that's the Board's finding, that's fine. We basically, we just -- we ran across this case and thought that it seemed it has some of the

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similar characteristics and we wanted to get some clarification.

CHAIRPERSON JORDAN: And I agree with that. Sitting on the previous case, and I think Mr. Hinkle also sat on the case, and I don't know which members of the Zoning Commission, but it was some other property which was next door. And I think 216 clearly says existing church buildings, it doesn't require the same building, and it does not require it to be on adjacent to, or fixed to, or what have you. And I think, for purposes of this, that we would interpret that it's within a reasonable location to the main body of the church. And I think that's comfortable.

A lot of churches use -- and especially this one, it can't move left or right. So you bought property across the street.

So Board, are we okay with that? And we would -- what's our proper -- do we dismiss it or -- Mr. Moy, how did we handle that

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before? Yes.

(Off mic comments.)

Okay. All right. All right. So let=s do this then. We need to -- we will still give you 216 relief as a special exception; is that the requirement? I thought it was -- okay. All right. Timeout. Well, I=ll take that. It=s certainly not worth a debatable issue -- but then, I=m informed that we still need to do that 216 relief. That=s your understanding, for a special exception?

MR. BELLO: Well, we have no choice at this point I guess.

CHAIRPERSON JORDAN: Right. All right. So I don=t think there=s anything we need here from the applicant unless the Board had some questions. But I=m just saying -- no? Okay. And I=m sure you will be waiving, well you are --

MR. BELLO: Absolutely, sir. Yes.

CHAIRPERSON JORDAN: That=s the exact same thing I asked --

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MR. JACKSON: Well, Mr. Chairman, because the applicant indicated that they would remove the existing sign on the front of the building --

CHAIRPERSON JORDAN: That you --

MR. JACKSON: -- 216 and meet all the conditions as indicated in the regulations.

CHAIRPERSON JORDAN: Yes. The reg says no sign.

MR. BOYLE: It will be moved.

CHAIRPERSON JORDAN: Any additional questions for OP, Board? Then let=s -- no un-favor from DDOT. We have a letter of no objection.

Do we have anything from the ANC on this?

MR. BELLO: Well, we did present before the ANC. Unfortunately we didn=t get their resolution. But there was a vote unanimously to support the application.

CHAIRPERSON JORDAN: Okay. Thank you. Is there anyone here in the audience

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wishing to speak in support of this application? Anyone in support?

(No audible response.)

Anyone in opposition? Anyone in opposition?

(No audible response.)

Then we will turn back to the applicant for rebuttal and closing, but there=s nothing to rebut and close.

MR. BELLO: No, sir.

CHAIRPERSON JORDAN: Based upon the discussion we=ve already had, I would move that, well two things, I would move that we grant the relief in -- what=s this case -- 18766 for the special exception. And that we certainly do a summary order, but we should note the Board=s discussion about the church building, if we can do that in the summary order. Just so we don=t revisit it over and over again, if that=s okay. Is that okay with the Board?

(No audible response.)

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Can we get a second? Is there a second?

MS. HEATH: Second.

CHAIRPERSON JORDAN: Motion made and second.

Any further discussion?

(No audible response.)

All those in favor of the motion signify by saying aye.

(Chorus of ayes.)

Those opposed, nay.

(No audible response.)

The motion carries. Mr. Moy.

MR. MOY: Staff will record the vote as 4 to 0, as motioned by Chairman Jordan to approve the request for a special exception of relief on the 216. Seconding the motion Ms. Heath, also in support Mr. Turnbull and Mr. Hinkle, and a board member not present. And of course, as the Chair indicated, the order will provide discussion of the, the Board=s discussion on the relief.

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CHAIRPERSON JORDAN: Yes. The summary will --

MR. MOY: Yes.

CHAIRPERSON JORDAN: -- it=s just like a sentence or two, so that we don=t have to visit it again. Thank you.

Very serious to deal with us today.

PARTICIPANT: Every Board at the church, thank you. Appreciate it.

CHAIRPERSON JORDAN: Thank you. I think 18757, is that where we are?

MR. MOY: Yes, sir. Sorry, I thought you were still debating there. Okay. Next up is application of 18757. This is the application of Tahmina, I=m going to spell this, P-R-O-U-L-Z. And this is a request for special exception relief for a fast food pizza establishment which I believe was amended for a restaurant for use under Section 733. And this is at 1400 Pennsylvania Avenue, Southeast.

CHAIRPERSON JORDAN: Will the parties for this case please come to the witness

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table? Anyone for 18756 -- 757 -- 18757.
Going once, going twice, 18757. Then it=s
gone.

Let=s issue a show cause on this,
please. When can we put it on the docket for
the show cause? Show cause for failure to
appear and why it should not be dismissed.

MR. MOY: Yes, sir. Yes, that=s
the -- there is on the Board=s schedule, Mr.
Chairman --

CHAIRPERSON JORDAN: It=s better
to not be earlier --

MR. MOY: Okay.

CHAIRPERSON JORDAN: Are you
comfortable --

MR. MOY: I am comfortable the
report will be July 29.

CHAIRPERSON JORDAN: Okay. Thank
you. So then let=s do that. Let=s call 751,
please.

MR. MOY: Application 18751 of
have Compass Coffee. This is a request, Mr.

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Chairman, for a special exception to the permit of prepared food, coffee shop under Section 712 and 721.3(t).

CHAIRPERSON JORDAN: Okay.

Please identify yourself.

MR. SUAREZ: Good morning. My name is Harrison Suarez. Thank you for having me again.

CHAIRPERSON JORDAN: And this is one where we would have taken care of the first time but you hadn=t posted, and all that=s done --

MR. SUAREZ: I=m learning.

CHAIRPERSON JORDAN: I=m sorry?

MR. SUAREZ: I=m learning the process.

CHAIRPERSON JORDAN: I know, I know. Because everybody is very supportive of this, I don=t know if we need to hear anything additional. Board? Anybody?

(No audible response.)

Because you=re just kind of

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replacing a place and doing some other stuff that was already there. So if it's okay with you then we'll just proceed on to Office of Planning.

COMMISSIONER TURNBULL: Mr. Chair, I just want to ask --

CHAIRPERSON JORDAN: Sure.

COMMISSIONER TURNBULL: -- for the roasting room --

MR. SUAREZ: We do, sir. We are a roastery, in addition to being a café. So the idea is that people who come in, can kind of be part of the process; they can see it as we import the green coffee, what happens next.

COMMISSIONER TURNBULL: And you have a tasting room so --

MR. SUAREZ: We do.

COMMISSIONER TURNBULL: -- interactive coffee --

MR. SUAREZ: It is. And one of the responsibilities of a roastery is supporting other local cafés. So whereas, one of the, you

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know, large chains would have a roasting plant, you know, located outside of the city --

COMMISSIONER TURNBULL: Yes.

MR. SUAREZ: -- upscale, we're more focused on this is what we do in-house, and we bring in other independent café owners and, you know, provide training and support, all that they need to run their business.

COMMISSIONER TURNBULL: It sounds like a very exciting place.

CHAIRPERSON JORDAN: Sort of like a mammoth spit, right? Is that what you did?

MR. SUAREZ: Exactly, yes.

CHAIRPERSON JORDAN: I saw the sign and I was like oh. COMMISSIONER TURNBULL: Thank you.

CHAIRPERSON JORDAN: Board, any other question? Yes, it sounds interesting. Board, any other questions?

(No audible response.)

OP, is there anything additionally you want to add? We've already --

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MR. GYOR: Stephen Gyor with the Office of Planning. We rest on the record. Thank you.

CHAIRPERSON JORDAN: Board, any questions for OP?

(No audible response.)

Applicant any questions for OP?

(No audible response.)

MR. SUAREZ: Just a question on procedure, sir. I would like to ask for a bench decision.

CHAIRPERSON JORDAN: You=re getting ahead of yourself.

MR. SUAREZ: Okay. Sorry.

CHAIRPERSON JORDAN: All right. Anyone here from DDOT?

(No audible response.)

We do have a letter of no objection submitted by Department of Transportation.

Anyone here from ANC 6E?

MR. PADRO: Yes.

CHAIRPERSON JORDAN: Please.

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MR. PADRO: Good morning, Mr. Chairman, members of the Board. I'm Alexander M. Padro. I'm the chair of the Advisory Neighborhood Commission 6E.

CHAIRPERSON JORDAN: Which changed from 2.

MR. PADRO: Until about a year and a half ago, but we still serve much of the same jurisdiction. Happy to be here before you this morning.

And you have our letter of support on this application. I just wanted to add that the need for the additional seating is particularly notable because a number of comparable establishments that don't have a roasting complement in it but are just cafés in the neighborhood, really do get overloaded because they don't have enough seating.

I can personally attest to the fact that on any number of mornings and lunch times that I've gone to some of the other cafés, I've had to go elsewhere because there hasn't been

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a seat available.

So the need for the seating is particularly appropriate here because they, number one, have the space, you know, to be able to accommodate additional patrons. And number two, the community is very eager to see this use on this particular block that is rapidly revitalizing.

So I, of course, I'd be happy to answer any questions you might have on the ANC=s letter or my statements this morning.

CHAIRPERSON JORDAN: No. We appreciate you coming down. The letter is sufficient but we definitely appreciate you coming down.

You know, when you said about how the overcrowding these coffee shops are getting, I will tell you the dumbest thing I ever did in my career -- and I won't give you the real year, but back in there between '89/'90 -- I had a client who came in, she was an older older woman who had a little piece of property

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somewhere in Mississippi. And she said, AThe water at this place is fabulous. I=m going to do two things: I=m going to open up a coffee shop where we make the coffee with my special water and sell the water and coffee.@ I=m like, AAre you crazy? People are not going to buy water, especially water, and they=re not going to go to a coffee shop; they can do that at home.@ Is that dumb? That was many many years ago. Who would have thought, who would have thought.

But again, we appreciate it.

She passed some years later, so she didn=t realize how dumb I was at the time. So.

PARTICIPANT: But now we all know.

CHAIRPERSON JORDAN: But now we all know. I admit it because I think about all the time.

Any questions for ANC?

(No audible response.)

We really appreciate you coming down.

MR. PADRO: Sure.

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CHAIRPERSON JORDAN: Is anyone wishing to speak in support of this application? Anyone wishing to speak in support?

(No audible response.)

Anyone in opposition? Anyone in opposition?

(No audible response.)

Normally, we turn back for any rebuttal and closing, but there is none necessary.

You did have an additional question that you wanted to ask.

MR. SUAREZ: Yes, sir. I was asking for a bench decision.

CHAIRPERSON JORDAN: Yes, we got you.

MR. SUAREZ: I understand. Thank you, sir.

CHAIRPERSON JORDAN: Board, if there's nothing else then based upon the information submitted in the record and deduced

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here at this hearing, I would move that we grant the relief requested in 18751. MR.

HINKLE: Second.

CHAIRPERSON JORDAN: Motion made and second.

Any further discussion?

(No audible response.)

All those in favor signify by saying aye.

(Chorus of ayes.)

Those opposed, nay.

(No audible response.)

The motion carries. Mr. Moy.

MR. MOY: Staff will record the votes as 4-0, based on a motion of Chairman Jordan. This is to approve the application for the relief requested. Seconding the motion is Mr. Hinkle. Also in support Ms. Heath and Mr. Turnbull, and no other members present. The motion carries, Mr. Chairman.

CHAIRPERSON JORDAN: Thank you. May we have a summary order?

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MR. MOY: Yes, sir.

CHAIRPERSON JORDAN: We got it for you.

MR. SUAREZ: Thank you.

CHAIRPERSON JORDAN: Thank you. Thank you both for coming down. Appreciate it.

MR. PADRO: Absolutely. Thank you for your service to the District of Columbia.

CHAIRPERSON JORDAN: Thank you. Okay. For our remaining case which I think we're going to be with for a little bit.

MR. MOY: Well that=s good, Mr. Chairman, because I called the building management to readjust the temperature controls here.

CHAIRPERSON JORDAN: Okay.

MR. MOY: That it=s comfortable for you.

CHAIRPERSON JORDAN: We have this ongoing battle but this Board about temperatures, especially in the winter time. But, yes, I appreciate it, Mr. Moy.

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738, please.

MR. MOY: Yes. The next case before the Board is application of 18738. This is the application of Kashani. This is a special exception request to construct five unit apartment house under Section 353, as advertised.

CHAIRPERSON JORDAN: Will all parties -- do we have party status in this case? If I remember correctly, there was, right? We did grant party status to Mr. Bemis.

MR. BEMIS: Yes.

MR. MOY: Yes, we did, sir.

CHAIRPERSON JORDAN: Mr. Bemis, are you here? Please, come forward and take your honored spot. As a party, you have a right to sit at the big table.

MR. BEMIS: Sorry.

MR. HINKLE: Mr. Chair, real quick, I was not here when this case originally came before the Board but I have looked at the record

--

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CHAIRPERSON JORDAN: Okay.

MR. HINKLE: -- to participate..

CHAIRPERSON JORDAN: Thank you.

Thank you for sharing.

Please identify yourselves,
starting with Mr. Sullivan, if you please.

MR. BEMIS: I=m sorry, we --

CHAIRPERSON JORDAN: Well, why
don=t you identify yourself, first of all.

MR. BEMIS: Yes. I=m Gerald
Bemis. And I=m owner of the property adjacent
to the proposed construction.

CHAIRPERSON JORDAN: Yes.

MR. BEMIS: We were delayed in
unbelievable problems outside in traffic and
the garage was full. So I apologize. And we
didn=t hear the -- we had applied for
application, I=m not good on the terminology,
for me to have a representative speak for me.

CHAIRPERSON JORDAN: Oh, yes, that
can happen. I think what you did -- I
understand. You have party status but they

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just wanted to substitute authorization for a representative.

MR. BEMIS: Yes.

CHAIRPERSON JORDAN: Which I don=t think requires that we need to do a waiver. We will accept your representative.

MR. BEMIS: So others can speak for me as well?

CHAIRPERSON JORDAN: Not others, your authorized representative.

MR. BEMIS: Representative.

CHAIRPERSON JORDAN: Right.

MR. BEMIS: Okay. And should I bring him forward?

CHAIRPERSON JORDAN: Yes, whoever it is.

MR. BEMIS: Mr. Staroba.

CHAIRPERSON JORDAN: But remember now, that=s still just your party status and they=re not speaking as individuals. So your representative will handle the case for you.

MR. BEMIS: So that --

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CHAIRPERSON JORDAN: Your representative will handle the case for you, meaning they'll do the cross-examination, offer any discussion for you, they can then bring in the witnesses, the representative will bring in witnesses and ask them, you know, the questions etcetera. Because -- all right?

MR. BEMIS: So I speak --

CHAIRPERSON JORDAN: You can speak as a witness.

MR. BEMIS: As a witness, yes.

CHAIRPERSON JORDAN: Okay. You can speak as a witness but you're not speaking as the leader of the opposition because you now have designated someone to take your spot in that regard. Okay.

MR. BEMIS: Thank you. It makes sense.

CHAIRPERSON JORDAN: Right. Once we understand. All right. And so introduce yourself Mr. Staroba.

MR. STAROBA: I'm a Frank Staroba,

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yes. I=m from 4503 MacArthur, Northwest.

CHAIRPERSON JORDAN: Okay. Then I=m going to turn back to my left here and ask Mr. Sullivan for your --

MR. SULLIVAN: Yes, thank you, Mr. Chairman. Good morning Mr. Chairman, members of the Board.

My name is Marty Sullivan with the law firm of Sullivan & Barros, here on behalf of the applicant.

MR. AJALLI: My name is Ali at Ajalli. And I=m in are the architect of the project. I=m with Ajalli Architects.

CHAIRPERSON JORDAN: Now let me go back to Mr. Bemis and anyone who may have come in late. Did you have a chance to get sworn in?

MR. BEMIS: No, we did not.

CHAIRPERSON JORDAN: Okay. I need you to do that. And also make sure you=ve completed two witness cards per person and hand them to the court reporter.

MR. BEMIS: That we have.

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CHAIRPERSON JORDAN: Okay. So I need to -- those who are going to testify in regard to this case, to please, if you did not get sworn earlier, to stand and get sworn at this point.

MR. MOY: Good morning.

(Whereupon, additional witnesses were sworn.)

MR. MOY: Consider yourselves under oath.

CHAIRPERSON JORDAN: Okay. Thank you. Now this is a continuation from a previous hearing, but we really didn't get started, we kind of stopped initially early on and offered that the applicant should meet with the neighbors and have a discussion, etcetera. And I take it by the fact that we still have opposition that that didn't go very well. Would that be correct?

MR. SULLIVAN: Well, I don't know that I'd characterize it that way. But it's not -- we haven't --

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CHAIRPERSON JORDAN: You have issues?

MR. SULLIVAN: Yes. They still have concerns and they're not satisfied with the changes that we've made.

CHAIRPERSON JORDAN: All right. That's what we're here for. Okay. Mr. Sullivan, would you want to begin?

Is there anything the Board particularly wants to hear that we can box them in or do we just need to hear the whole presentation?

(Off mic comment.)

CHAIRPERSON JORDAN: Yes. It's on you.

MR. SULLIVAN: Thank you, Mr. Chairman and members of the Board. Again, for the record, my name is Marty Sullivan with the law firm of Sullivan & Barros.

I would like to just briefly introduce the case before we move on to Mr. Ajalli and he can present the project. The

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applicant is requesting special exception and approval pursuant to Section 353, which is required for all new residential developments in this R5A zone.

We believe this is an exceptional project and we think it represents an excellent example of what Section 353 envisions and encourages. And I think the strong Office of Planning report is evidence of that assertion as well.

It's a well thought out, high-quality design that provides superior landscaping and site planning. And the proposed building, in the end, will have an FAR that is a little bit less than the maximum of 0.9. It will have 8 foot side yards which is wider than what's currently there. And the building will have a height of just under 30 feet, more than 10 feet under the maximum. In addition to that, the lot occupancy is 36 percent so we're well under the maximum of 40 percent there.

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In a sense, this is the footprint and density of what could be a single-family house in the R1 zone.

Some additional aspects of the project which I think make it exceptional, the architect has already done a successful GAR calculation with appropriate surface parking lot and planting of about 30 trees on the property. In addition, to the planning of the trees on the property, the applicant is working with public space to provide landscaping in the front of the -- a significant area in the front of the property between the sidewalk on MacArthur and the front line of the property.

This location, as you know -- this block has some single-family homes. And across the street, a lot of larger multifamily apartment buildings. The house just to the west received a 353 approval about a year ago, it's a four unit building. So, and there's a single-family dwelling, Mr. Bemis on the east.

What the architect has done is

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oriented the entrances to the units so they would be facing the apartment building to the west rather than a single-family dwelling to the east.

In addition to that, in response, and he can go into this, in response to some neighbor concerns, a habitable space on the third floor was removed and so the third floor is all attic space. So the windows that face the single-family dwelling, the third floor is attic space; the second floor the windows are just a hallway and a bathroom for each of two units; and then on the first space it=s dining room space but there will be a fence won=t quite get all the way up to the level of the windows but then there=s a row of trees planted there that will eventually provide more privacy there.

And I think whether it=s five units or one unit, it has the same amount of privacy impact on neighbors. But it=s been designed and oriented to protect the privacy of the

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single-family dwelling and shift the activity on the side where there=s a multifamily building.

So that=s all I have and I=d like the architect, Mr. Ajalli, to show you his plans.

MR. AJALLI: Good morning. I did distribute one of these brochures, which is the same as you see.

Basically, this is the location, the vicinity map showing exactly the location of the lot, to the street, to the surrounding neighbors. That=s a larger image of the same thing, vicinity map. This is the existing house right now. The one on the left.

Left of this property it was developed also and its upcoming four unit apartment building. This will be the next one, five unit apartment building.

CHAIRPERSON JORDAN: Let me ask you, sir, there=s nothing to the left of that house?

MR. AJALLI: It=s new developed.

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There=s a house, an existing house right now which is converted to four units.

CHAIRPERSON JORDAN: And that house is going to be removed?

MR. AJALLI: Yes.

CHAIRPERSON JORDAN: Yes. I=m sorry.

(Off mic comments.)

Okay.

MR. AJALLI: Existing house. This is the front entrance. It shows the entrance from MacArthur Street. Same entrance, MacArthur Street.

This entrance facing the adjacent neighbor on the site on the right side, the single-family house.

CHAIRPERSON JORDAN: On the -- okay.

MR. AJALLI: This is the other side, the same side of the neighbors.

CHAIRPERSON JORDAN: So there=s going to be an 8 feet setback and then -- between

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those two neighbors is that what you're saying?

MR. AJALLI: Yes. And as you see --

CHAIRPERSON JORDAN: How close is that neighbor's house now to, let's say, the property line?

MR. AJALLI: Six feet. This is the area that for the privacy reason we are building 6 foot wall to separate the neighbor's house from the new development for privacy purposes.

COMMISSIONER TURNBULL: Oh, you mean the wall that we see, the low wall is the property line?

MR. AJALLI: No, it's part of it in the property line, part of it on our side, part of it on the neighbors side.

COMMISSIONER TURNBULL: Oh, it's --

MR. AJALLI: Yes. If you look -- if you go back to the -- maybe if I show the site plan. Okay. You see this line? The dark line there.

COMMISSIONER TURNBULL: Right.

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MR. AJALLI: That=s the property line. And you see part of it coming into the neighbor=s lot and you see that=s also into the neighbors. So all these are removed, will be removed.

CHAIRPERSON JORDAN: Just make sure you=re on the microphone. Kind of pull the mic towards you.

MR. AJALLI: Oh, you see the hash line, that=s the property line.

COMMISSIONER TURNBULL: Yes.

MR. AJALLI: You see the bump here? It=s into the neighbor=s lot and that bump into the neighbor=s lot.

COMMISSIONER TURNBULL: And just getting back to what you said previously. On the left-hand side, this is a four unit --

MR. AJALLI: Yes. This is developed just a couple of months ago, maybe six or seven months to four units --

COMMISSIONER TURNBULL: It was converted?

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MR. AJALLI: Yes.

COMMISSIONER TURNBULL: Existing building but converted?

MR. AJALLI: It=s new.

COMMISSIONER TURNBULL: It=s new?

MR. AJALLI: Yes.

COMMISSIONER TURNBULL: Okay.

Thank you.

MR. AJALLI: Now, at the side, yes, this is the side entrance, existing side entrance. This is the back entrance, existing back entrance. This is the back side of the house. The alley, existing alley.

Now, this is the existing condition, the existing site. We have a single family house, existing single family house. And the frame show, the one that you just saw, at the -- this is structure.

This is what we are proposing to build a five unit condo. Three are a basement first, second, and an attic. One entrance as a parking to the five parking spaces. And

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front of the building at MacArthur Street to improve that and work with DDOT to have a step down landscaping instead of having one big retaining wall.

As you see here, we have three entrances, three entrances, basically. One, two, three facing this neighbor, the one that=s developed. And then we have one entrance at the back, and one entrance at the front.

The two entrances --

CHAIRPERSON JORDAN: Tell me those entrances again. Those entrances --

MR. AJALLI: Three entrance, one, two, three. And four, this is five.

So we don=t have the existing entrance that was facing lot 351, is removed.

The only window opening that we have is the dining room. This is the dining room facing the neighbor.

The other living space, the more active, TV, noise, it=s on the other side facing lot 954.

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CHAIRPERSON JORDAN: And what=s going on on lot 954?

MR. AJALLI: This is a new development that=s, there=s a four units.

CHAIRPERSON JORDAN: That=s already there?

MR. AJALLI: No, not yet. He=s working on it.

CHAIRPERSON JORDAN: Okay.

MR. AJALLI: Do you want to --

MR. SULLIVAN: It was approved about a year or so ago, 353.

MR. AJALLI: This is the first plan showing the basement level, basically, the two entrance: one at the front and one at the rear. This is the front entrance to this two bedroom unit. And one at the rear entrance to this two bedroom unit. And these are window well for -- these are just for the bedrooms. Wherever you see those floors.

Then we go to the first level, this is the three entrances, one, two, three.

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Living, kitchen, dining room. And then stairs for each level leading to the upper floor.

As you see, on this level, we have only these three windows, which are the dining room, or dining area window facing the neighbor on the right side.

This is the upper floor. Once you come up, these two windows, facing the neighbor on the right side, the bedrooms are facing the left side. Same thing with all the units. So all the bedrooms are on the left side. Only the two windows, one of them the hallway; and the other one a bathroom facing the neighbor.

The attic, no unit up there. We had one previously but we removed it after talking to the neighbors.

This is the front elevation. And this part, the one that I'm talking about, we are working with -- we will be working with DDOT to improve those into this type of step down landscaping.

This will be rear elevation of the

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building.

This is the three entrances. One, two, three facing the left side neighbor. And these are the attic -- up there.

This is the side where it's facing the right side neighbor. And these are the windows for the dining room. And this is the bathroom.

And then, as you see here, between the dormers we created kind of niche, one, two, three. We will locate the air -- the compressors up here for the three units. And this will have also -- because this was one of their concern about the noise of the compressor to the right side neighbor. But for the other two units, which we have on the basement compressor, one of them will be at this corner, the other one will be at this corner.

This is the perspective from the rear of the building, basically. And the previous design, we had stairs going up to this unit, which had an attic also. I mean, it was

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two story; the third level was also livable. But right now, we removed that stair and we have only a door, takes you down to the half of this level; and the other door in the front.

This side, facing the right side elevation or the right side neighbor.

This will be MacArthur elevation. This is the part that I'm talking where we work with DDOT to create some sort of interesting landscaping other than just plain retaining wall.

And as you see, these are the three entrances.

And these are, the trees that you see here between them, the trash -- this was another concern that the neighbors had -- will have between these two trash cans for each unit on this side, for these three unit. For the other two units, it will be on the other side, basically.

CHAIRPERSON JORDAN: Can you show me the rendering of the other side?

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MR. AJALLI: This?

CHAIRPERSON JORDAN: No, the other side that --

MR. AJALLI: Facing the neighbor?

CHAIRPERSON JORDAN: -- to the other neighbor.

MR. AJALLI: This is what facing the neighbor. This is the three ledge that we have for the air conditioning. The compressor. We will have --

CHAIRPERSON JORDAN: The compressor is sitting where?

MR. AJALLI: Right there. Between the two dormers.

CHAIRPERSON JORDAN: What kind of compressor is that --

MR. AJALLI: Split system.

CHAIRPERSON JORDAN: What=s the noise level?

MR. AJALLI: I=m sorry?

CHAIRPERSON JORDAN: What=s the noise level?

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MR. AJALLI: It=s similar to any small unit. The noise level, I mean, I don=t know. Basically, it=s --

CHAIRPERSON JORDAN: You don=t know?

MR. AJALLI: No, noise level, I don=t know.

COMMISSIONER TURNBULL: Is there a wall in front of the compressors?

MR. AJALLI: Two sides. Two sides you have wall. And open to the sky. And open to this side. So basically, it=s a flat roof here, between the two dormers.

COMMISSIONER TURNBULL: There=s no way you can put some protection or insulation in front of that?

MR. AJALLI: Yes, we can. And let the noise go up.

COMMISSIONER TURNBULL: Right.

MR. AJALLI: Yes, we can do that.

COMMISSIONER TURNBULL: Okay.

MR. AJALLI: And again, we don=t

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know, we may even look for the geothermal heating and cooling system. If we go that route, then we don=t need any compressor outside the building. And this is the trend right now.

CHAIRPERSON JORDAN: But wait, wait, wait. Let=s not leave this yet. Do you have another shot of that? Because I=m still -- I=d like to see its perspective in regards to this, to the adjacent neighbor. I see how you -- do you have another shot? I want to see in relation to the wall, as it compares to the adjacent neighbor=s home.

MR. AJALLI: This is the -- again, these are just schematic. It=s not the --

CHAIRPERSON JORDAN: I=m not talking about that one, the other side. Back where we were.

MR. AJALLI: It=s not this line here. No. Basically, you go back maybe existing another maybe 20 feet away.

CHAIRPERSON JORDAN: There=s a

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wall. But what=s that wall? Is there a wall?
What is that?

MS. HEATH: The 6 foot wall.

MR. AJALLI: This is a 6 foot wall,
yes.

CHAIRPERSON JORDAN: And so the
neighbor=s house is the other --

MR. AJALLI: This is the neighbor=s
house.

CHAIRPERSON JORDAN: Okay.

MR. AJALLI: But this is not the
correct image. I mean, it=s further back from
here.

CHAIRPERSON JORDAN: The
neighbor=s house is further back?

MR. AJALLI: Yes. The existing.

CHAIRPERSON JORDAN: Halfway in
the middle of what you=re proposed development
is, a quarter of the way, where is it?

MR. AJALLI: Maybe another -- I
mean, we can look at the -- this is it basically.
You see, this is the existing -- this is the

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neighbor=s lot. This is the neighbor=s building. So it=s about another 15-20 feet.

CHAIRPERSON JORDAN: Okay.

PARTICIPANT: It=s not. It will be 5 feet from my house to that current wall.

MR. AJALLI: Any questions?

COMMISSIONER TURNBULL: So that=s a new wall?

MR. AJALLI: Yes. This is a new wall --

COMMISSIONER TURNBULL: Yes. It=s going in 6 feet?

MR. AJALLI: Six feet high. And we did talk to the adjacent neighbor, and he=s happy about that wall because one of the -- I mean, some people were skeptical, but he insists, no, let=s leave it there because it will help his privacy and it helps also to maintain the privacy on this new development.

COMMISSIONER TURNBULL: And that=s a stone wall?

MR. AJALLI: Yes. Again, the

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material here, it=s stone wall to match the existing front landscaping that we have. Will have the same, it will blend into the building, built that --

COMMISSIONER TURNBULL: It=s that type stone?

MR. AJALLI: Right. Similar to what we have right now, the existing.

And then, as you see lower part of the building, it=s the same stone. And then the upper part, it=s all brick, four side brick.

COMMISSIONER TURNBULL: Okay.

MR. AJALLI: The same stone here, we carry to that wall, to the base of the building. And then, all brick four sides.

And if DDOT allows us, we would like to add these lights outside. Ambient lights, it=s not strong light, just to enhance the landscaping at the front.

COMMISSIONER TURNBULL: Like the big white round things?

MR. AJALLI: The white one, yes.

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COMMISSIONER TURNBULL: Couldn't you plan something a little bit more sensitive with just some down lighting instead of a big white globe?

MR. AJALLI: Yes. We can do that. Definitely, that's a good idea.

COMMISSIONER TURNBULL: Okay. Thank you.

MR. AJALLI: Again, this is if DDOT approves this because that's a public --

COMMISSIONER TURNBULL: Or if the -- they're not architecture designers, so we need to step back and look at that a little bit more sensitively.

CHAIRPERSON JORDAN: Mr. Ajalli, can you talk about some of the comments -- your interaction with the neighbors, the different meetings that you have had, and some of the comments you've heard, and the response to those comments?

MR. AJALLI: We had a couple of meetings with the neighbors and ANC. And we

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narrowed down all the differences. And basically, there were like seven points. And we tried to tackle all the points, which we did on six of them, except one. And that was the number of units. They requested to use the five units, we left is as is. But we work with the other concerns that they had. They had with the building before -- I mean, the allowed was 40 feet, the previous design reduced it to 38 feet. But the third design reduced it to 35 feet. And when I say 35 feet, I mean 35 feet to the ridge. Because for the public to understand the height of the building, they don't know how we measure the height, I give them exact there's the top point of the ridge is. Although, as in D.C., when we measure, we just go to the medium point which is about 29 feet. So for them, it's 35 feet to the ridge.

CHAIRPERSON JORDAN: So you are saying that the height measured under the zoning regulation's definition is less than 30 feet?

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MR. AJALLI: Correct.

CHAIRPERSON JORDAN: But you're represented it, in all the meetings, that it's 35 feet because that's the actual top of the building?

MR. AJALLI: Top of the building, to the ridge.

COMMISSIONER TURNBULL: The upper floors, they can still be occupied.

MR. AJALLI: As a storage area or maybe as a study area, yes. It could be occupied as that but it's not part of the bedroom or bathrooms or anything like that.

CHAIRPERSON JORDAN: So the neighborhood or the ANC's concern about the height, you're saying by making it storage as opposed to livable space, it's okay; is that what you're saying? Is that what they asked you to do? I thought the ANC had a concern about that level height.

MR. AJALLI: Yes, we did reduce it from 38 feet to 35.3. Again, when I say the

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35.3, I'm talking about -- you see the height, when we measure the height, we normally go to the midpoint between the eaves and the ridge. That=s is the eaves, that=s the ridge. So you take the midpoint here, and you go to the grade level. If I measure from the midpoint, that=s about 29 something. But for the public, when I present this project, I don=t tell them it=s 29 feet; I tell them 35 feet to this point. So the previous design that was 38, up to the 3 feet, so we stop the height to 35 feet.

MR. HINKLE: Could you tell me how tall the existing house is; do you know that number?

MR. AJALLI: I believe it=s in the range of -- again, if you go to the ridge, it=s about 29 feet.

MR. HINKLE: Okay.

MR. AJALLI: It=s about 29 feet.

MS. HEATH: And 29 to the ridge?

MR. AJALLI: 29 to the ridge, yes.

MR. HINKLE: Thank you.

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CHAIRPERSON JORDAN: Is there anything else?

MR. SULLIVAN: No, that=s all we have, Mr. Chairman. Thank you.

COMMISSIONER TURNBULL: What is the headroom height in that attic space; do you know?

MR. AJALLI: Yes. The unit part here, about 7 foot 4 inches, the mid-section. But if you go to the side, this will go down maybe to 4 feet, something like that.

COMMISSIONER TURNBULL: 7 foot 4 to the --

MR. AJALLI: Right. To the center here.

COMMISSIONER TURNBULL: And to make it a habitable space, you have to have the minimum of 7.6 or 8 feet?

MR. AJALLI: Well, I think 7.6 or something --

COMMISSIONER TURNBULL: 7.6.

MR. AJALLI: Yes. I=m not sure.

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MR. SULLIVAN: I believe it=s, well, I shouldn=t say, but it=s an average too, whatever it is, rather than just the high point.

COMMISSIONER TURNBULL: I=m just concerned, maybe some -- about whether this is going to become a habitable room up there.

MR. SULLIVAN: Yes.

COMMISSIONER TURNBULL: So I just think from my -- it=s not only a zoning issue but --

MR. SULLIVAN: Right.

COMMISSIONER TURNBULL: -- I think we=d feel more comfortable from the building code that you can=t really occupy it as a habitable room.

MR. AJALLI: By the way, I did include this area into the FAR. So when I -- the allowed FAR is .9. The previous design changed it to .89. The new design changed it to .84 FAR. That includes counting the areas where it has high ceiling. When I say high ceiling, like the second floor. Because at

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this end here, you may not -- even get on the 6 foot 6. I don=t know.

COMMISSIONER TURNBULL: Okay.

MR. AJALLI: The efforts of this to be used for either storage --

COMMISSIONER TURNBULL: Storage.

MR. AJALLI: -- or access to maintain this. Because in other words, the unit is here. And we have -- we provided an access door right there to --

COMMISSIONER TURNBULL: Okay.

MR. AJALLI: -- service that unit. Something there. So someone has to go up and maintain that unit, and also to be used as a storage. And we had two options. Either we can provide a pull down stairs or a comfortable stair leading up to this attic. For safety reason, we went with this comfortable stair that leads you to the attic. It=s not 3 feet wide; it=s 2 feet wide. But it=s still, you can go up there to the attic, and store stuff, books, and get down. So --

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COMMISSIONER TURNBULL: Okay.

MR. AJALLI: -- this is the only storage area that they have in the unit.

COMMISSIONER TURNBULL: Okay.

Thank you.

CHAIRPERSON JORDAN: Anything --

MR. SULLIVAN: No, we have nothing further.

CHAIRPERSON JORDAN: Let me take a five minute break then. We're going to come back for any additional Board questions and begin any cross-examination that the opponents wish to make. Five minutes, please.

(Whereupon, the above-entitled matter went off the record at 10:36 a.m. and resumed at 10:42 a.m.)

CHAIRPERSON JORDAN: Are there any additional questions which we would like to ask the applicant regarding this project?

COMMISSIONER TURNBULL: I just have -- when you were designing the height of

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it, did you look at any other options regarding height?

CHAIRPERSON JORDAN: Yes.

MR. AJALLI: On that --

COMMISSIONER TURNBULL: You know, in the attic, making that dormer part smaller, a little shorter. Did you look at any options on that?

MR. AJALLI: We did reduce it from the previous one. And it was --

COMMISSIONER TURNBULL: Well, you said it was like 3 feet or --

MR. AJALLI: 3 feet less now.

COMMISSIONER TURNBULL: Okay.

MR. AJALLI: 3 feet less than what it was before.

And if you look at the surroundings, I mean, there are apartment buildings on 7th Street with lower than 40 feet height.

And the height again, it's 40 feet -- the allowable, we are like 5 feet below that. More than 5 feet, we are --

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COMMISSIONER TURNBULL: Yes. I'm just looking at the context of where you are on your side of the street, and trying to be a good neighbor --

MR. AJALLI: I'm sure we can drop maybe a couple of, maybe 1 or 2 feet additional couple of feet, you know.

COMMISSIONER TURNBULL: Okay.

MR. AJALLI: That=s doable.

COMMISSIONER TURNBULL: Okay.

MR. AJALLI: And manage. We can change the pitch of that roof to drop it further.

COMMISSIONER TURNBULL: Okay.

MR. AJALLI: We can do that.

COMMISSIONER TURNBULL: Thank you.

MS. HEATH: Now, one more question. How does the height of -- the height as it exists in the newest drawings compare to the apartment building that=s being built next door? Do you know?

MR. AJALLI: I don=t know.

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MS. HEATH: Okay.

MR. AJALLI: Yes.

PARTICIPANT: Okay. Thank you.

I was going to ask that.

CHAIRPERSON JORDAN: Now, do you have a picture again of the dormers on the side by the adjacent house? I wanted to see the actual --

MR. AJALLI: Oh, the actual.

CHAIRPERSON JORDAN: -- the rendering, yes.

MS. HEATH: The rendering you showed us previously.

MR. AJALLI: The front?

MS. HEATH: No, the other side. That one.

MR. AJALLI: This one. Okay.

CHAIRPERSON JORDAN: Yes, that one. I don=t know if that helps or hurt.

Those dormers on that side are not necessary, are they? They=re not --

MR. AJALLI: No, we can shift it to

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the other side. That=s doable also. Take it away to the other side.

CHAIRPERSON JORDAN: Is that patio space? Is that patio space? No, no, coming down. Come down where your site -- coming down. Come back. Come right in between the fence, between the building and the fence.

MR. AJALLI: This will be wind around for means of egress. Because we have the bedroom down there.

CHAIRPERSON JORDAN: Oh, so that goes to down to like --

MR. AJALLI: Right. For a means of egress.

CHAIRPERSON JORDAN: So it=s not usable space?

MR. AJALLI: No, no. It=s not usable. Just for safety.

CHAIRPERSON JORDAN: Got you. Board, any additional questions?

COMMISSIONER TURNBULL: I didn=t understand your comment about removing the

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dormers.

MR. AJALLI: No, no. Not removing them. The --

COMMISSIONER TURNBULL: The units up there on the other side.

MR. AJALLI: Yes.

COMMISSIONER TURNBULL: Okay. Okay. I was just curious. I thought I heard you say dormer --

MR. AJALLI: No, no. I'm sorry.

COMMISSIONER TURNBULL: Okay.

CHAIRPERSON JORDAN: But in doing so, if you move the, come closer to the other side, the dormers are not necessary; is that right?

MR. AJALLI: I mean, just aesthetically. I'm sure, I mean, as a design, you want to have some sort of balance between the left and right side. I mean --

CHAIRPERSON JORDAN: Okay. Mr. Staroba.

MR. STAROBA: Yes.

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CHAIRPERSON JORDAN: Yes. Do you have any questions you would like to ask the applicant?

MR. STAROBA: Yes, I do.

CHAIRPERSON JORDAN: Sure. Go ahead.

MR. STAROBA: The first for Mr. Sullivan.

Mr. Sullivan is the only --

CHAIRPERSON JORDAN: Yes. Well, see that=s the, yes, see that=s the problem with -- you need to ask the -- the problem that I=m having ongoing when we have attorneys and not having the actual applicants here, and questions about these projects. Because the attorneys aren=t necessarily sworn in, they=re not fact witnesses to these cases. But there=s no applicant representative here other than, I guess -- you have a letter of authorization, correct?

MR. SULLIVAN: Yes. I have a letter of authorization. The applicant=s

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nephew -- the owner=s nephew is here. And then the architect knows everything about this project. And --

CHAIRPERSON JORDAN: By the --

MR. SULLIVAN: -- the -- yes.

CHAIRPERSON JORDAN: You know, from sworn testimony, because I want to make sure we have somebody that we can grab that can speak as a fact witness, as opposed to something else. So why don=t you just ask the question to the applicant in general?

MR. STAROBA: Fine. I will do that.

The question is, is the owner of the property present?

CHAIRPERSON JORDAN: Okay.

MR. AJALLI: No.

MR. STAROBA: Then can I ask, is his primary residence in D.C., Maryland, or Virginia?

CHAIRPERSON JORDAN: I=m going to ask, what=s the relevance of that question?

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MR. STAROBA: Well, on the application, the owner is listed as living at 4527. And the curious part of that is it is currently rented out to someone else. So we're curious to know how it was he was listed, that his primary residence was there on the application.

CHAIRPERSON JORDAN: The primary residence on the application for this lot --

MR. STAROBA: That's correct. And it says that the owner lives in that house that you seen pictures of.

CHAIRPERSON JORDAN: Got you.

MR. STAROBA: Is that true?

MR. SULLIVAN: Mr. Chairman, I can explain. Well, actually, I can explain. I came on after the application was filed, and he put that down as his address; he probably didn't understand the process.

MR. STAROBA: So we can get a clarification of that.

MR. SULLIVAN: Absolutely.

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MR. STAROBA: And Mr. Chairman, you asked me what the relevance of this was.

CHAIRPERSON JORDAN: No, I'm good. You already took care of that. You know.

MR. STAROBA: All right. Then another question for Mr. Sullivan, have you informed your client that the ANC 3D rejected both the original and the revised proposals?

MR. SULLIVAN: The client=s -- I haven=t personally -- the client=s representatives, Mr. Ajalli and Mr. Shirazi have.

MR. STAROBA: And their responses were what?

MR. AJALLI: I just called the Planning Department and explained to them exactly what was going on. Because he did ask me to call him back after the meetings. And explain to him that they even did not approve the five units.

MR. STAROBA: Did you suggest to him that he might reduce the number of units?

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MR. AJALLI: I told him you approved four units. Yes.

MR. STAROBA: And his response was?

MR. AJALLI: He asked me about the owner, and I said the owner, he want to stay with five units because his numbers works with five units --

MR. STAROBA: Let me go back a second. When you said, you told him that you approved four units, who are you speaking of?

MR. AJALLI: No, no. That the neighbors, the neighbors recommended four units.

MR. STAROBA: The neighbors, okay.

MR. AJALLI: Right. The neighbors recommended four units. But the owner did not agree with the four units because his numbers did not work with four units.

MR. STAROBA: That=s the point of my questions. If the numbers don=t work --

CHAIRPERSON JORDAN: You=re asking a question now. You have to ask questions at

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this point of our hearing.

MR. STAROBA: Thank you. Of course.

CHAIRPERSON JORDAN: You can --

MR. STAROBA: Of course.

CHAIRPERSON JORDAN: -- present the affirmative or whatever your position is -- okay.

MR. STAROBA: Given that the BZA=s instructions were to find common ground, and what the ANC=s position is to be given great weight, do those responses seriously invest what you=re recommending today?

CHAIRPERSON JORDAN: You might need to rephrase that question.

MR. SULLIVAN: Yes, if you rephrase that please, because he lost me.

MR. STAROBA: Yes. I=m curious to know to what degree the respect and taking into account the opinions that was expressed to the ANC and through the meetings with the neighbors, and what the opinions of the ANC --

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CHAIRPERSON JORDAN: Let=s kind of break it -- that=s part of the problem, is probably going to --

MR. STAROBA: Too complicated.

CHAIRPERSON JORDAN: -- and make it a compounded -- so let=s take it -- let=s break it in half.

MR. SULLIVAN: Okay. So the first question is, have you taken into consideration what the neighbors said, is that --

MR. STAROBA: That=s essentially --

MR. SULLIVAN: -- concerns.

MR. AJALLI: We had multiple meetings with the neighbors and ANC. And we narrow down all the differences. And I wanted to via e-mail exchange, so we can go back to that e-mail. So we list the seven items. And I can read them to you. AReduce number of units,@ we did not change that. AReduce building height,@ we did that. AHVAC location,@ we moved it from down to the upper third floor;

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just kept two for the smaller units.

CHAIRPERSON JORDAN: We kept two, what do you mean?

MR. AJALLI: Two, because we have five units in the building, three compressors will go up to the roof --

CHAIRPERSON JORDAN: Three on the roof and two down.

MR. AJALLI: -- two down at the -- for the basement level.

The FAR and the GAR calculation also adjust it. The front setback, we're at 0. -- we pushed it back at average like for right now, from one end it's like over 3 feet; at the other end is about 12 inch. So the average about 2 feet setback. This is at the front. The construction management schedule, we argued that this would come afterwards. And then the new position of the new staircase, which as you see, we don't have any staircase at the rear of this building. It's been removed from the previous design.

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CHAIRPERSON JORDAN: The second part of your question, if you may.

MR. STAROBA: I'm satisfied with that. Let me move on to another question for Mr. Ajalli. Is it possible to move all the exterior equipment for the AC to the west side of the building, away from the Bemis property, all five units?

MR. AJALLI: The three units, yes, we can move it to the other side. The two units, because of the entrances are on the other side, it will not work. Because we have trash cans there, it will -- we won't have enough room to add those two units on the left side also. So the -- again, I don't want to commit to the geothermal, but the client is seriously looking in to going with the geothermal system for this building. If he does that, you won't see any equipment outside. They will have air handling unit inside the units. No noise, nothing. And that's the trend that a lot of developers are doing it,

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nowadays.

MR. STAROBA: I'm satisfied with my questions.

CHAIRPERSON JORDAN: When will the owner, if this, when would the owner make that decision?

MR. AJALLI: Again, it's the number of things, I call it. It depends. I know, for a fact, it will cost maybe an additional 30 to \$40,000, if he want to go that route.

CHAIRPERSON JORDAN: What kind of return is the owner getting on this project?

MR. AJALLI: I don't have the numbers with me. I mean, he just tells me his numbers doesn't work or works, whatever.

CHAIRPERSON JORDAN: This Board, we need to know what we need to ask, we ask the questions.

MR. AJALLI: Yes.

CHAIRPERSON JORDAN: And so, you know, I need to know --

MR. SULLIVAN: We can provide

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information. I don=t know what aspect of the regulations that it applies to, but we can --

CHAIRPERSON JORDAN: Because, Mr. Sullivan, I asked the question. And I take that in consideration, what, if anything is necessary can be used to mitigate what I might find to be an impact upon a neighborhood. That=s the relevance of the question.

MR. SULLIVAN: No, I=m not disputing it.

CHAIRPERSON JORDAN: Well, it sounds like you was to me, Mr. Sullivan. I=m just trying to say -- because you said, I don=t see, basically, where it=s required.

MR. SULLIVAN: In the context to --

CHAIRPERSON JORDAN: The question was asked and the simple answer is I can get back and get back -- it didn=t require an editorial about if whether or not you thought the question was legitimate or not.

MR. SULLIVAN: Understood.

CHAIRPERSON JORDAN: Okay. Thank

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you.

MR. SULLIVAN: Thank you.

COMMISSIONER TURNBULL: Do you think the owner would consider a four unit building?

MR. AJALLI: I know he said no to the four units because his number did not work with the four units.

COMMISSIONER TURNBULL: Again, I think this is what the Chair is getting at. I think we need to --

MR. AJALLI: As an architect, regardless of the owner or the public, as an architect, I look at this development as enhancement to that neighborhood. I look at this development in a way that actually improves the surroundings and prevents the water from this lot going, the ground water from this lot going to another site. So if you look at the images, they=re all images, it=s the --

COMMISSIONER TURNBULL: I think, and I=m not sure how my colleagues feel, I think

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architecturally, you're on the right track. Now, and I think, architecturally, the building has got some attributes to it which I think are significantly well done. I'd like to see the height a little lower, myself.

And I think some of the neighbors are really looking at the density of it. And I think if you could meet that four units, I think you're home free. But that's just this Commissioner's point of view.

But architecturally, I don't think I have an issue with what you're trying to do with this building, architecturally. I think it's got some attributes to it. I think the brick, and some of those other things, I think they do add some features that would appear, picking up some of the attributes of the neighborhood.

I just think what we're all going to hear is density and the impact on the neighbors.

CHAIRPERSON JORDAN: Okay.

Board, any additional questions they would like

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to ask the, would like to ask the applicant?

(No audible response.)

Okay. Then let=s turn on to the Office of Planning.

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

The Office of Planning supports the applicant=s request and it rests on the record. Thank you.

CHAIRPERSON JORDAN: Board, any questions of Office of Planning?

MR. SULLIVAN: I have some questions, Mr. Chairman.

CHAIRPERSON JORDAN: Who said that?

MR. SULLIVAN: I did.

CHAIRPERSON JORDAN: No, I asked the Board.

MR. SULLIVAN: Oh, the Board. I=m sorry. Aren=t I on the Board?

CHAIRPERSON JORDAN: Not today.

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Just not today.

COMMISSIONER TURNBULL: Mr. Chair,
I just have one more question.

You actually had in Exhibit 37, I believe it was United Trust. Ms. Gates was questioning your assessment, the way you're analyzing with that itself. Have you read the comments in there?

MR. GYOR: I did read the comments. I think that this stretch on MacArthur is really a mix of building types. And I think that's the important point, that there are single family structures that are rowhouses that are multifamily buildings. It's really a mix. It's in the R5 zone, so you're committed to have multifamily buildings.

COMMISSIONER TURNBULL: Right. Okay. I just you would just -- I guess she was talking about, it seemed like you were confused as some of the directions on which you are, how you were analyzing what part of the block is which, and what part is not. MR.

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GYOR: It=s not a north/south east/west kind of thing.

COMMISSIONER TURNBULL: Yes.

MR. GYOR: It=s more of a --

COMMISSIONER TURNBULL: North --

MR. GYOR: So it=s --

COMMISSIONER TURNBULL: Okay.

MR. GYOR: -- to my description of the directions.

COMMISSIONER TURNBULL: Okay.

All right. Thank you.

CHAIRPERSON JORDAN: How many multifamily units are on the block?

MR. GYOR: Well, I know that there is one directly across MacArthur. I don=t know how many units that building has. I believe it=s about three and a half stories or so. There=s a multifamily building across Q Street, to the northwest.

CHAIRPERSON JORDAN: Are there single family homes that are within a relatively short distance to this multifamily?

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MR. GYOR: Yes. There -- well, in addition to the two directly adjacent to this property, there are some to the southeast. I think there=s -- I=d have to look at how many.

CHAIRPERSON JORDAN: Is there any type of buffer other than the large side yard, regarding the other single family homes and the multi-families?

MR. GYOR: Between the subject property or --

CHAIRPERSON JORDAN: No, the other multi-families that are near single families.

MR. GYOR: Well, the ones on -- appear to have significant side yards, if that=s what you=re asking about. Larger than 8 feet.

CHAIRPERSON JORDAN: Okay.

MR. GYOR: Yes.

CHAIRPERSON JORDAN: And if I=m on -- you know, flipping back to the subject property, if I=m in the attic space, would I be able to look out those windows, out the dormer

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windows into the yard or to the house, the adjacent house?

MR. GYOR: To the house to the southeast, directly to the southeast?

CHAIRPERSON JORDAN: The closest, the neighbor house, not the --

MR. GYOR: Yes. I think that the proposed structure on the subject property does extend further back than the house on lot 851. For example, so if you were in the attic, you would be able to look into that lot. I think there is, there=s a separation there, as the applicant mentioned, they didn=t meet the required 8 foot side yard, and I think that the directly adjacent property at 851 has a side yard, I think it=s 6 feet. So there is a separation there of about 14 feet.

COMMISSIONER TURNBULL: Those windows on that side could have blackout material on the inside though to prevent that.

MR. GYOR: Correct.

COMMISSIONER TURNBULL: And if you

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lower than that feet, it's really going to be just storage.

MR. GYOR: Correct. And we support that direction.

CHAIRPERSON JORDAN: Okay. Board, any additional questions of Office of Planning?

(No audible response.)

Does the applicant have any questions of Office of Planning?

MR. SULLIVAN: No, Mr. Chairman. Thank you.

CHAIRPERSON JORDAN: And does the party in opposition have questions of Office of Planning?

MR. STAROBA: Yes, Mr. Chairman.

CHAIRPERSON JORDAN: Sure.

MR. STAROBA: Mr. Gyor -- I had the pleasure of speaking with Mr. Gyor on the phone the other day, so we know each other to some degree -- has the Office of Planning reviewed the revised plan which eliminates the exterior

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stair and that solution to trash receptacle storage?

MR. GYOR: The near stair that=s -- yes. That current plan, yes.

MR. STAROBA: And is it part of the regular policy to review the revised plans?

MR. GYOR: We do review revised plans. Yes.

MR. STAROBA: But that doesn=t, that=s not expressed in your statement.

MR. GYOR: Yes, I could be more -- I guess, to my statement -- I have reviewed the revised plans, yes.

MR. STAROBA: Given the precedent of approving the change of use for 4929, that=s right on the corner, would you agree that approving the same 4527, which would pressure on Mr. Bemis to sell or risk plunging his property into less value?

MR. GYOR: I think that would be speculative for me to say. I=m not really able to comment on that.

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MR. STAROBA: I see. Giving the siting of the new structure, with ground level front doors on the side of the building, would that side be considered to be the front of the building?

MR. GYOR: I don=t believe so. I think that the applicant is, for zoning purposes, considering the front to be the MacArthur Boulevard side.

MR. STAROBA: With a single door to the basement apartment?

MR. GYOR: Yes. And as we discussed on the phone, I conveyed to Mr. Ajalli we would support a different entrance arrangement if possible, that the new entrance to the building would be at the front on MacArthur, on that side of MacArthur. And that wouldn=t be the units on the side, adjacent to lot 954. But in talking to Mr. Ajalli, I don=t want to -- well, I could -- I=ll say this, that, you know, he mentioned that there were -- that presented problems for interior circulation

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spaces, if you were to have a single entrance with one hallway. But we would support that direction.

MR. STAROBA: Would you say that that circulation problem was the function of having to have five units in the building?

MR. GYOR: I need to look at those plans, actually, to -- you know, he'd have to provide those plans more for me to fully assess that. From what I understand, given the width of the lot, it presents some issues for circulation.

MR. STAROBA: Thank you. Does Office of Planning consider the increase from one to five units an increase in intensity of use?

MR. GYOR: It is an increase in intensity of use, yes.

MR. STAROBA: Does that increase contribute to changing the character of the neighborhood?

MR. GYOR: Well, we look at the

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increase of intensity of use, typically, as a factor in changing the character of a neighborhood, yes.

MR. STAROBA: And how do you evaluate the significance of that --

CHAIRPERSON JORDAN: Wait, wait, wait. Can we go back a second?

MR. GYOR: Yes.

CHAIRPERSON JORDAN: I heard you and I didn't hear you, and then I heard you. I think the question was, does this change from one to five units change the complexity and intensity of the use of the neighborhood. And that was -- and you gave us the theory of what you do but -- the answer is either a yes or a no on this one.

MR. GYOR: Yes. The intensity of use is a factor in the character of the neighborhood, and we do consider that. And I think that this is increasing the intensity of use, and does have an impact on the character. However, we are, I will mention, we are in the

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R5 zone. So multifamily buildings are permitted, and this is a, you know, as I mentioned, there are several multifamily structures on this section of MacArthur. So.

CHAIRPERSON JORDAN: Thank you.

MR. STAROBA: And the degree of increasing intensity is not significant in your view?

MR. GYOR: We did evaluate it, and as I mentioned, we do support the proposal from an increase of one -- from one unit to five units. Yes.

MR. STAROBA: And is that evaluation the function of your professional judgment rather than data?

MR. GYOR: Well, I do use data in my professional judgment, if that=s what you mean. I=m not exactly sure of your question.

MR. STAROBA: How did you determine if it=s significant?

MR. GYOR: Well, we look at the surrounding neighborhood character with the

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number of units proposed; look at the zoning requirements.

MR. STAROBA: That concludes my questions on 4519.

CHAIRPERSON JORDAN: Any additional questions, Board?

(No audible response.)

Okay. Then let=s move to Department of -- well, there=s several departments weighing in on this matter. Department of Transportation, anyone here for the Department of Transportation?

(No audible response.)

We do have a letter of no objection from the Department of Transportation.

And the Office of Planning has already spoken.

What about, DHCD has to weigh in. Do we -- did we get some -- we didn=t get anything from DHCD; would that be correct? Is that -- you didn=t see anything from DHCD, did we?

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PARTICIPANT: I did not, no.

CHAIRPERSON JORDAN: Because in 353, aren't they required to weigh in on 353s? And the Department of -- Board of Education. No? Okay.

Then let's move to --

MR. STAROBA: Mr. Chairman, could I ask a procedural question?

CHAIRPERSON JORDAN: Yes.

MR. STAROBA: Given that there's no representative from DDOT here, how can I register my questions of their evaluation?

CHAIRPERSON JORDAN: How can you?

MR. STAROBA: Yes.

CHAIRPERSON JORDAN: I guess that's going to be very difficult because they're not here. We accept their letter, and there was -- the letter has been submitted in the record for some time. You could have met with them, have a conversation with them. But it's not unusual for them not to be here.

MR. STAROBA: I did meet with them

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on the phone. And I did have a conversation with them.

CHAIRPERSON JORDAN: Okay.

MR. STAROBA: I=ve got results and some questions on my part.

CHAIRPERSON JORDAN: Yes. And then you could have actually asked them, but we would have to -- if there was something that you wanted to make an argument, you can make that argument to us, to the Board. But at this point, you have no ability to cross-examine or to ask those questions to the Department of Transportation because they=re just simply not here.

MR. STAROBA: Thank you, Mr. Chair.

CHAIRPERSON JORDAN: And it=s not unusual, but it=s just kind of what happens here.

I guess we need to accept the -- ANC in this matter is actually an opponent. So is there a representative of the NAC here?

MS. TROTTER: Yes.

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CHAIRPERSON JORDAN: Please.
Actually, the ANC could have taken a seat and
asked questions. If you like --

MS. TROTTER: I was following the
directions to --

CHAIRPERSON JORDAN: No, no. any
party or any ANC is automatically a party. So
okay. Sure. Please introduce --

MS. TROTTER: My name is Gayle
Trotter. I am the Chairman of ANC 3D. And I'm
also the representative of the single member
district that this application falls in.

CHAIRPERSON JORDAN: Thank you.
Welcome.

MS. TROTTER: Thank you. Good
morning, Chairman Jordan, Commissioner Hinkle,
Commissioner Heath, and Commissioner Turnbull.

I'd like to just start out by saying
Mr. Sullivan, whom I greatly respect and
admire, repeatedly called this an exceptional
project. And we agree. This project is
exceptional. This project is exceptional in

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its negative impact on this fragile and cherished neighborhood.

I'd like you to please note these important facts about this project. The building that's proposed for this lot is oversized for this lot in comparison with the ratios that have already been discussed this morning, and as were outline in our first letter, when this came before this Board, and in our second letter as well.

And another fact that you should take into account is the orientation of this building. It is a side orientation instead of a front orientation. And it's really an attempt to try and get around some of the zoning rules.

Another important effect that you should know about this application is that the building will have a tremendous effect on parking in this neighborhood. And I've been an ANC commissioner since 2013, so I represent not just this stretch of MacArthur but the

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surrounding neighborhoods, and it is an ongoing issue of where the neighbors in this region about parking. And it spills over into Clark Place. I had a doctor who came before the ANC who would arrive late after healing people at the hospital, and he would not be able to find a parking space near his home. And it=s something that impacts not juts MacArthur Boulevard and Q Street, but also pushes over into the single family neighborhoods that are all single family homes adjoining this property.

I also want to draw your attention on the parking issue to the fact that in the latest application revised plans that we have, it shows that there are 10 bedrooms in this project. And when you think about usage in this neighborhood, we have a lot of young people who rent apartments in this area. So that they can work downtown, or work in the hospital, or go to graduate school. So with 10 bedrooms,

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you could potentially have up to 20 people who are living on this property. And as the application is submitted to this Board right now, it shows that there are five parking spaces. And I would submit to you that five parking spaces are too many and too few. How, might you ask? Well, the problem is with only five parking spaces, when you have 20 people, potentially 20 people living in this building, five parking spaces is not going to accommodate them and the cars that this building will generate. Now, the other problem with this is that it=s too many parking spaces. Because if you look at the side that showed the parking lot, we don=t need to do it right now, but if you=ll go back and look at it, it takes up a tremendous amount of the neighborhood. So they=re really adding a parking lot to a residential lot. And it=s taking up a lot of the space, and it really changes the character of the lot, and the character of the neighborhood, reducing the green space of the

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property that is there right now.

I=d also like to tell you in my experience as an ANC commissioner, that we have a lot of issues with -- I don=t know if you know this stretch of MacArthur Boulevard very well, but Georgetown did roller schools right there. And we have a lot of parking issues and traffic issues. So MacArthur Boulevard is a very popular way for people who live in Maryland and to reach their jobs either in Rosslyn or downtown. And it carries a lot of the traffic of the morning commute for people who are working in these areas. And we also have the stress of GDS, Georgetown Day School, loading their students. And GDS has a great relationship with the neighborhood, but that=s something that puts stress on this particular corner, because the entrance to GDS is right at this corner, Q and MacArthur Boulevard. And that=s something that has not been addressed in the testimony you=ve heard this morning.

I=d also like for you to note that

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there=s going to be a lot of trash that=s generated from 10 to 20 people who are living in this neighborhood. And trash is a big issue for the single member district. Now, we don=t like to talk about the rat issue in these neighborhoods, but because we are right near the park and the canal, Glover Archbold Park, we have a lot of rat/raccoon issues. And to think about having 10 to 20 people=s trash not adequately taken care of on this lot, will impact not only this lot but all of the surrounding neighbors.

And I want to point your attention to this other point too. If you look again at the map, the lot and the parking lot will dump onto the alley that goes behind the lot, behind the proposed development. And I don=t know if you are familiar with the alley behind it, but it backs up to Hardy Playground, which is a very important part of our community. Lots of young families use this playground. And young children are running on that playground, and we

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want them to be able to have the freedom. It=s very difficult living in a city to let your children have the freedom, and having a playground is one of the places where our children can be free, and not feel like they=re just city slickers.

So the idea of putting all of these cars into this alley, when this Board has already approved one of the single family houses to roll over to a four unit house, that in itself, which has already been approved, is going to add a lot of traffic onto this alley. And now they=re talking about 10 to 20 more cars. So it would be using this alley to access the house. I think, you know, I=m a mother. And I worry about endangering children, not just my children, but the children of the neighborhood.

And the final thing that I=d like to point your attention to is the intensity of use. And this is something Chairman Jordan mentioned earlier. It=s not that the neighbors oppose

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change or that they don't value the property rights of the owner; that's something that we all care very deeply about. It's a question of the intensity of use. And when you look at these outlines, the details that I've outlined for you, this is really going to have a vast change on the intensity of use of this spot.

And you instructed, Chairman Jordan instructed the applicant to work with neighbors when you came before you, the last time that this was heard. And the neighbors have spent, and I have spent a lot of time with them trying to work out something that has the best interest of everyone at heart, understanding that we are all bound by law. And the zoning law protects all of us.

And so I urge you, Commissioners, to reject this application because the project is not in harmony with the zoning regulations and it adversely effects the neighbors, not just the ones you see before you today, but also the neighbors that I represent in the larger

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surrounding area. And most importantly, we have heard a lot of things from the architect, who I've spent a lot of time talking with, and he is here offering possible promises of talking with the owner about making some of the changes that you've suggested. But this application is not ready for prime time because he is not able to tell you that he can commit to these things that would relieve the problems for the neighbors who are here today, and also the greater community.

Thank you very much.

CHAIRPERSON JORDAN: Thank you. We appreciate you taking the time and coming down.

Now, let me ask you about the parking lot and the adjacent playground. The playground is right across the alley?

MS. TROTTER: Yes. There's tennis courts, and there's grass, and right beyond the tennis courts and the grass is the playground equipment. But for people in D.C. who don't

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have a lot of green space, the grass space is an integral part of the playground.

CHAIRPERSON JORDAN: So safety-wise, you can come out the -- if this building was to occur -- you could come out of the proposed parking area and you can roll right across the alley; is that what I'm understanding you said?

MS. TROTTER: I'm not suggesting that the cars would roll --

CHAIRPERSON JORDAN: I mean, whichever way, but it's not protected from that --

MS. TROTTER: That's correct.

CHAIRPERSON JORDAN: -- now.

MS. TROTTER: Yes.

CHAIRPERSON JORDAN: It would not be protected?

MS. TROTTER: Part of the playground is fenced in, but that's up on the hill, which is away from the alley area.

And I -- actually, that reminded me

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of one other thing. I think the printout on the maps -- you all noticed this earlier -- that the pictures of the proposed project don't show the buildings that are there now, and do not show the proposed four unit apartment building that will go to the left of this proposal. And I'm sure this is not intentional at all, because they're just trying to focus on what their proposal is. But I think without seeing Mr. Bemis's house, and without seeing the scope of the building that's going to replace the single family house that's there right now, you can't really understand the effect that putting this project on this lot will have. Not only to those adjacent neighbors but also to the community and the stretch of road generally.

And as Mr. Gyor said, this neighborhood is mixed use. But if we continue to knock down these single family homes and make them all apartment buildings, it will not be mixed use anymore.

CHAIRPERSON JORDAN: Any

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additional questions from --

COMMISSIONER TURNBULL: Yes, thank you Mr. Chair.

The neighbors, from my understanding, would not object to a four unit building.

MS. TROTTER: That=s my understanding. I mean, I can=t speak for them. But my understanding is that they proposed between two and four units with they=d prefer it to stay a single family home, but we understand that that=s not really reasonable. But --

COMMISSIONER TURNBULL: What is the ANC=s position on a four unit building?

MS. TROTTER: We have 10 commissioners on our ANC, but they have very much cooperated in hoping that the neighbors working together on this unit, so I can=t speak what their vote would be. We didn=t address that issue. But I feel confident that if they came back to us, which I encourage Mr. Sullivan

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and Mr. Ajalli to do, to work with the neighbors and come back to us and present again and put this off until this project was ready to be fully vetted, I think that the commissioners would follow my lead on that, if it were four units.

COMMISSIONER TURNBULL: Okay.
All right. Thank you.

CHAIRPERSON JORDAN: Now, let me ask a question. Is there across the street, on three of the corners, if I'm not mistaken, aren't there are more two family units on three of those corners at that intersection?

MS. TROTTER: Yes. And it's very helpful that you raise that point. I think you have a letter in your file from one of the representatives of one of those buildings on the corner, who as a business owner is very concerned and opposes this development. Because of the impact on parking and traffic.

CHAIRPERSON JORDAN: And I guess maybe two doors down, are there -- there's like

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three buildings that are kind of like --

MS. TROTTER: There are some -- I'm probably not going to use the correct architectural term but they are kind of townhouses that are connected. But they are, like I'm saying, they're oriented to the street.

CHAIRPERSON JORDAN: Got it.

MS. TROTTER: And the size of the building is not overwhelming for the lot.

CHAIRPERSON JORDAN: Okay. Any additional questions, Board, for Commissioner Trotter?

(No audible response.)

Does the applicant have questions that they would like to ask the Commissioner?

MR. SULLIVAN: Just one, Mr. Chairman.

Commissioner Trotter, you mentioned there's a playground. I'm looking at an aerial. Is there a fence between the alley and the field?

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MS. TROTTER: Not that I'm aware of.

MR. SULLIVAN: Okay. And closest to the alley is a tennis court, and that has a fence around it, correct?

MS. TROTTER: Absolutely, yes.

MR. SULLIVAN: And then how far away is the playground?

MS. TROTTER: As I said, the playground includes the grassy area. So when a parent thinks of a playground, you don't think of just the playground equipment. My children got very bored of the equipment quickly. And they enjoyed just running around and tossing a frisbee or playing soccer. So it's not really far from the alley. But if you're talking about the fenced in area that has the playground equipment, that's up the hill.

MR. SULLIVAN: You said right up against that playground or field there's a parking lot with 50 or 60 spaces, correct? Parking spaces.

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MS. TROTTER: I=d have to see the picture, but my point to the Board is that we don=t want to increase the number of cars that use that alley.

MR. SULLIVAN: Okay. Thank you. I have no further questions.

CHAIRPERSON JORDAN: Okay. Mr. Staroba, is it?

MR. STAROBA: Yes. Staroba, correct.

CHAIRPERSON JORDAN: Yes, please. Any questions you would like to ask Commissioner Trotter?

MR. STAROBA: No, thank you.

CHAIRPERSON JORDAN: Okay. And thank you, really appreciate you participating.

Is there anyone here wishing to speak in support of this application? Did I say that already? Anyone wishing to speak in support?

(No audible response.)

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Now, let=s turn to the party in opposition for the case.

MR. SULLIVAN: Thank you, Mr. Chair.

CHAIRPERSON JORDAN: And I think you have a half hour for presentation if you -- is that right, Mr. Moy?

MR. MOY: Approximate.

CHAIRPERSON JORDAN: Yes. Okay.

MR. SULLIVAN: We=ll try to be efficient.

CHAIRPERSON JORDAN: Thank you. Yes. Okay.

MR. SULLIVAN: In representing Mr. Bemis, who is one of my neighbors, I take great pleasure in being here. And am tanking the Board for their careful attention to the intricate problems of this consideration. Because we are a mixed neighborhood, and that mix is crucial to the quality of life in our neighborhood.

And our main position in opposition

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to this is that we think it will change the balance of that mix in the direction of multifamily units. And once that balance begins to change, if you would add it to the balance change already approved with the corner lot, 4529, we are fearful and we think we have reason to be. That we are at the beginning of the domino effect, it will spread down the street and eventually annihilate all the single family houses.

And that, in effect, is going to destroy the historical character of our neighborhood.

In this presentation, I would like to alert you to three pieces. First I would like Mr. Bemis to comment on the impact the proposal will have on his immediate adjacent property. I would like to call on -- after Mr. Bemis -- on Arden Staroba who happens to live at 4503, the same house I occupy. Because she has a clear view about the historical nature of the neighborhood and how that influences the

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quality of our life. And then after that, I will conclude with a few comments.

So let me ask Mr. Bemis, please.

MR. BEMIS: I'm Gerald Bemis, the owner of the adjacent property.

Gosh, I have been so upset about this. And it is my understanding the Board of Zoning Adjustment can grant special exceptions if it does not tend to adversely effect neighboring property.

Well, I am the effected neighboring property. And initially, what -- the biggest problem for me is just the mere size of this structure. As you can see, it's really quite large. So they knock down the height of the roof 2 feet. Oh, it's still huge.

My house, which I purchased in December of 2011, with the idea that I living in a neighborhood of houses here, you know. I don't like living next door to apartment buildings or I never would have purchased this house in the first place. Who would?

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My house is a mere 1527 square feet. Yes, it has two stories. But the -- oh, and I have in my testimonial document photographs of my house there, and you can see it in the photographs on the screen. My second floor is comprised of dormers. So even though it may have the height of 28 feet or whatever it is, the appearance certainly isn't anywhere near the immense appearance of the proposed building. Because I don't even have a full second story.

So my house -- and this house too, it was not in very good condition when I purchased it. I've put a lot of work in to it. I take a lot of pride in my home. I want it to be a house that people notice. This is what I also do for my work. This is what I -- my interest in life, all my life. And finally I've got a house I can do it to. And the house is becoming really quite attractive, so I'm told.

CHAIRPERSON JORDAN: Photo 2 is

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your house or photo 1?

MR. BEMIS: I=m sorry.

CHAIRPERSON JORDAN: In your photos, photo 1 or photo 2 is your house?

MR. BEMIS: Well, 1 and 2 is before and after.

CHAIRPERSON JORDAN: Oh, yes, yes, I see, I see. Okay.

MS. HEATH: This is before.

CHAIRPERSON JORDAN: Got it, got it.

MR. BEMIS: Without the columns and with the columns.

CHAIRPERSON JORDAN: Got it. Thank you. Thank you.

MR. BEMIS: This sort of thing. And I merely show that to show --

CHAIRPERSON JORDAN: The time, interest, and money in trying to make this --

MR. BEMIS: Yes. And part of this, there=s a practical side of this for me. The value of my property. I was very fortunate to

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buy my property price or I never would have been able to afford a house on MacArthur Boulevard. It was owned by friends of mine; it was a long story.

But -- and you know, and I didn't purchase as an investment. I purchased the house as my home. And I have no intentions of leaving unless I need to sell the house for financial reasons. And I'm not a person of great financial resources, unlike the developer. It's my security blanket. Something goes wrong, I flip that house.

Building an apartment building next to my house is going to devalue my house no matter what. They say, no. Of course, it's going to. Who wants to live next to an apartment building?

I wonder if the owner would like to live to an apartment building?

This house extends approximately -- the proposed building extends approximately 7 and a half feet in front of my house. And

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approximately 18 feet beyond the back of my house.

The back of my house, I have done a lot of work there as well. I have taken an asphalt and turned it into a bark, a mulched forest with beautiful greens and everything. Last night, I was standing out on my porch, in the backyard, and it just bought the point, this right to point, it is so tranquil back there. There=s limited lighting; I have landscape lighting. It=s quiet. And I have total privacy. And I=m standing on my porch last night, and I=m thinking I may lose all of this, part of the wonderful parts of my property is how serene it is, you know. So then I=m going to have an apartment, potentially a --

CHAIRPERSON JORDAN: Let me ask you a question. How long have those townhouses been there --

MR. BEMIS: Sorry?

CHAIRPERSON JORDAN: How long have those townhouses been there?

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MR. BEMIS: To the other side of me?

CHAIRPERSON JORDAN: Yes.

MR. BEMIS: Oh, I think that was about -- actually, I'm friends with the owner of those townhouses. Oh, I figured that out once. Well, about 45 years ago.

CHAIRPERSON JORDAN: Okay.

MR. BEMIS: Something. But there's a big differentiation -- and they are townhouses. Actually, they're configured as apartments inside. But the important point is they --

CHAIRPERSON JORDAN: What do you mean configured as -- so they are apartment units?

MR. BEMIS: They're actually two different apartments in each townhouse.

CHAIRPERSON JORDAN: In each one.

MR. BEMIS: But what we're trying to preserve here are single family homes. And part of that is just the appearance of single family homes. You know, for the character of

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the neighborhood.

So those appear as single family homes. Because nobody knows the difference one way or the other.

Also, those houses are -- the ground to that side of the my house suddenly goes down to street level. The three properties we're talking about here are all raised up quite a bit from the -- like 3 feet or plus, whatever, above street level.

The townhouses sit much lower. They're right on street level.

So the size of whatever doesn't distract whatsoever from my house, nor, you know, I don't have any problems with that situation at all.

MS. HEATH: One other question for you while we're talking about the townhouses. Do they extend pretty far back beyond the back of your house?

MR. BEMIS: Not at all.

MS. HEATH: Okay.

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MR. BEMIS: Quite the contrary.

MS. HEATH: Okay. That was one thing that I wanted to --

MR. BEMIS: I hadn=t thought about --

MS. HEATH: -- just to get clarity.

MR. BEMIS: On my back porch, I=m looking back, the -- oh gosh, at least 6 feet, maybe 8 feet back. They come out more forward, in the front. That=s where they get the depth of the thing. But I think those houses are about 30 feet long or something like that, front to back.

But because they=re on the ground, and the landscaping whatever, you know, you don=t notice it, you know. It doesn=t have any significant impact on the appearance of my property.

MS. HEATH: Okay.

MR. BEMIS: And this is part of what this deal is here. It=s -- part of this thing is what it is doing to the appearance of my

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property, that I put so much work in to. And it=s property value.

But it also has to do with privacy. I don=t care about -- you know, I heard the description about the windows. There are going to be five apartments in there. And there=s going to be windows overlooking -- there=s windows overlooking my back yard, which is -- and the back of that house, the proposed building is about 18 feet past the back of my house. There goes my privacy. There=s going to be lights in those windows. There goes my serenity. And the lighting in the back at night. There goes the noise; people are going to have music. There are going to be cars coming and going. There=s going to be people, you know. This is an apartment building. And it just changes everything, you know. I put just as much work in the back of the house; I=ve redone the asphalt; I=ve redone the garage; I mean, it=s just unbelievable.

All of my, you know, all of my work

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and love is in to this house. And it=s just going to be turned into this -- it=s going to look like a little box there, stuck between the townhouses -- now, with the townhouses not being a problem -- but stuck between the townhouses and this big apartment building. And it is big.

I agree with what someone said. The architecture of that building, the architecture of the proposed building is very nice. But not next to my house because it=s huge.

And you know, and also for a long time previous to this, I had rented my house. And the house, it would be torn down, owned by the Chevaliers, yes, it looks terrible. We know that. Everybody knows that. And I=m thinking, well, some day somebody=s going to buy that house. I wish it was me. And fix it up. You know, you know, this talk about -- there=s talk about, you know, we need negotiation with the representatives of the

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developer, trying to get it down from five apartments. You know, we would accept four. But we -- that=s not what we want. We=re just told that we have to, you know, we have to work with them. Just like they=re supposed to be working with us. They=ve done very little significant work with us.

But we=ve been so far as to say four. That=s still an apartment building, which we don=t want. What we really want is a single family home. So I don=t -- I want to make that point clear. That we gave in just so something less than horrible, less horrible would happen. But I don=t know.

CHAIRPERSON JORDAN: I just want to remind you of the time.

MR. BEMIS: Yes.

CHAIRPERSON JORDAN: You have some other witnesses.

MR. BEMIS: I can stop but we don=t

--

CHAIRPERSON JORDAN: But we truly

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get the emotion, we surely get your gist of what you're saying. And we see where you are. I just -- and you can certainly continue to speak -- I just want to make sure that you're aware of the time; that you have 18 something. That=s all.

MR. BEMIS: Okay. We discussed the air conditioners. They said there might be some change. I was way concerned about that. There=s a brick wall -- there=s a stone wall that is proposed between the two properties. And yes, I do like that stone wall. That=s the only thing I like about this whole proposed property.

The air conditioners will be on the ground on my side of the house. On my side of the house is my office and my bedroom. Those two air conditioning unit condensers on the ground level, yes, the wall is there, but the sound is going to reverberate between their brick structure and that stone wall.

The ones on the roof were not as

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loud. Currently, proposed to be three units there.

You know, light is going to -- you know, I'm not going to -- light on my property --

CHAIRPERSON JORDAN: That=s something I was concerned about. I have not heard any testimony from anyone about any light issues. So I was going to ask. Is there any light shadow issues? Because I was assuming there weren=t, but I was looking at my notes, I said, well, no, there=s nothing here. So I=m taking it that there isn=t. Or there is --

MR. BEMIS: There --

CHAIRPERSON JORDAN: I have not seen anybody=s discussion shadow issues. So I=m taking it there isn=t. I=m just now hearing that you=re saying --

MR. BEMIS: I am going to issue it.
Yes.

CHAIRPERSON JORDAN: You are?

MR. BEMIS: That is an issue.

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CHAIRPERSON JORDAN: Okay.

MR. BEMIS: Yes. You can see there is like, you know, between the two houses there, well imagine that the old house, you know, the proposed property, imagine that being so much higher and that much longer. Well, it=s going to cut the sunlight out of that side of -- there=s not that much now. It=s going to get worse.

Air quality being reduced. We got five cars coming and going. And noise, you know, the noise of the cars. All these windows. I can go on and on and on and on.

But you know, part of the bottom line of all this, and all the support we have of the neighbors, is we wanted to maintain the character of the neighborhood as it is now. From the house on the corner to, I don=t know how long, there are 15 houses now. 15 all lined up. Yes, there are apartment buildings across the street. They=re old. But we don=t need more apartment buildings. We=re trying to

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maintain that balance. And the house on the corner was approved, I think, you know, I couldn't believe it was, but it was. And then comes one more, as Ms. Trotter said. You know, it's got to stop.

CHAIRPERSON JORDAN: And the house between the multi-families and then the townhouses, and so anything that looks like a single family would be gone.

MR. BEMIS: You say --

CHAIRPERSON JORDAN: Anything that would like a single family on that side, from that corner to the townhouses --

MR. BEMIS: Someone might perceive it that way. Yes. Yes. And I'm just stuck there.

CHAIRPERSON JORDAN: I got you.

MR. BEMIS: Thank you.

CHAIRPERSON JORDAN: No, thank you. We appreciate -- and Mr. Staroba.

MR. STAROBA: I call on Ms. Staroba now.

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MS. STAROBA: Chairman Jordan and members of the Board. Chairman Jordan and members of the Board, can you hear me now?

CHAIRPERSON JORDAN: Yes. We can, please.

MS. STAROBA: Okay. My name is Arden Staroba.

My husband and I live at 4503 MacArthur, a few doors down from Gerald Bemis=house. Our house was built by a family names Sarin in 1898.

At the time, Hardy Park was the Sarin=s farm and our house was their farmhouse.

CHAIRPERSON JORDAN: Hardy Park is the park that you were speaking about, Ms. Trotter?

MS. TROTTER: Yes.

CHAIRPERSON JORDAN: Okay.

MS. STAROBA: The Sarin family built four houses around us for their children. We bought our house in 1968, and have lived there for 46 years. In that time, we=ve

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completely remodeled. New rugs, floors, windows, kitchen, added bathrooms, and a new year round garden room, which looks out over a back yard with flowers, a fish pond, and a waterfall. And across a narrow alley, a view of Hardy Park.

We can sit in our garden and watch the kids play soccer.

The other four houses around us, encouraged by our work, have done complete remodeling jobs. The latest is at 4509 MacArthur. The family has a new baby, and even dug out the basement to give it enough height so they could house their nanny.

Ours has been a group of five single family homes for over 100 years. We have Hardy Park for our kids to play in. Our daughter went to Georgetown Day School, right across the street from our house. We were the neighborhood house for the kids to play in.

But now, developers are coming in. They don't give a hoot about our neighborhood;

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they just want to make money. They are creating a domino effect; starting with 4529 MacArthur, at the corner of MacArthur and Q. BZA approved over development of 4529 MacArthur, tearing down the single family house and building a four flat apartment building.

The BZA approved in spite of the fact that we had a petition signed by 120 neighbors, who were against the developer's plans.

Now Mr. Kashani, the developer of 4527, wants to tear down the house next to 4529, and make a five flat apartment building on a one house lot.

If this domino effect continues, it's going to ruin our neighborhood, and negate our history.

If you allow Mr. Kashani his five flat apartment building, Mr. Bemis' house will look like a rowboat next to a battleship.

Thank you.

CHAIRPERSON JORDAN: Board, any

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questions that you may have?

(No audible response.)

Does the applicant have any questions?

MR. SULLIVAN: No, Mr. Chairman.

CHAIRPERSON JORDAN: Any additional -- well, you're not going to question your own witness. Okay. Interesting.

An additional witness?

MR. STAROBA: Yes. We're ready to proceed if you are, Mr. Chairman.

CHAIRPERSON JORDAN: Certainly.

MR. STAROBA: Okay. I will make a closing statement here. As I said, I'm Frank Staroba at 4503 MacArthur and I'm representing Mr. Bemis.

We strongly oppose this proposed change in land use for four major reasons. And I will close with a possible compromise.

The first of these is to demonstrate the bad faith of the developer. This is a --

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there is a history of seven actions by Mr. Kashani or his representatives that demonstrate how he has misrepresented his intentions. Among them, two stand out.

First is his betrayal of the oral agreement with Mr. Chevalier, the previous owner, to keep 4527 a single family home. An agreement that led Mr. Chevalier to accept his offer which was \$75,000 lower than a competing bid from a developer who admitted he would raze the building. We realize this has no legal standing in the issue of property ownership. But it exposes where the developer is really coming from or how he maybe misrepresented by the people who speak for him. And it=s profit at the expense of the neighborhood=s character.

Second, is his rejection of the compromise we offered two or four units instead of five. He rejected it immediately as financially unfeasible, as Mr. Ajalli has said. Ignoring the suggestions of professional architect Ronald Steinhart, AIA, who happens to

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be a neighbor. In fact, Mr. Ajalli, jokingly threatened to leave the house untouched and turn it into a student boarding house with multiple cars, presumably parked on the street. These actions demonstrate no real concern for the good of the neighborhood.

This shows Mr. Kashani as interested only in profit. His thinking appears to be that if the BZA has approved four units at 4529, why not push for five right next door?

Next, the severe negative effect on the adjoining property. I won't repeat what Mr. Bemis has already told you so passionately. And I'm sure it has registered with you.

A third major objection, and this is really the core of it. The architectural design is totally out of character with the block face of MacArthur Boulevard. This is what puts the proposal totally at odds with the comprehensive plan for the city, which aims to preserve the character of neighborhoods like

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ours.

The first block of MacArthur between Foxhill and Q is a neighborhood in itself, dominated by buildings that look like individual residences from the street. A total of 59 residences, single family homes, semi-detached houses, townhouses, all face the street on both sides of MacArthur, 58 such residences. Mixed with them are single commercial zone, and grand-fathered apartments. This mix strikes a balance that characterizes our neighborhood. It is welcoming, it has a historical ambience, it makes it very appealing to see seniors, to young families, graduate students, and other renters.

The proposed apartment would look like no other building on the block because it would reorient three front entrances to the side of the lot. The design squeezes three townhouses and two basement apartments on to a lot too narrow to make the front of the building

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face the boulevard.

I congratulate Mr. Ajalli on the ingenuity of how he has addressed this problem. And I will point out that it is driven by the owner insisting on five units. So, if you accept the design as it stands, the three front entrances must be on the side of the building with a setback of only 8 feet from the property line, creating what will be a kind of gangway to the entrances. It is further noted, by the front steps and plantings along the lot line and the positioning of 10 trash receptacles between the entrance doors.

Moreover, the facade facing MacArthur has a single entrance to a basement apartment by way of a tunnel excavated in the hillside.

This design is totally foreign to the neighborhood and the result of the owner insisting on five units.

Fourth point. Neglect of competency of plan by the Office of Planning and

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the Department of Transportation. Both these agencies have approached this application as a minor concern. Both have ignored the cumulative impact on the first block of MacArthur. I stress here the cumulative impact.

Mr. Sam Zimbabwe of DDOT said to me that the minimum standard to measure the traffic impact of a development is an additional 25 trips per peak hour. As a result, a development as small as 2527 routinely receives an approval based on quote "No adverse impact". A finding that ignores the cumulative effect of two developments side by side.

There is no money in this year's budget for a proper traffic study that would give us a clearer picture of the traffic impact. Hence, the rush to judgment in favor of the developer.

On street parking, as has already been noted, is another important concern.

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Here is a quote from Mr. Gary Nordheimer, principle of the Nordheimer Company and manager of the apartments at 4540.

Quote AMy company is very concerned about the impact of proposal 18738 for on street parking in our neighborhood. We have 37 parking spaces for 62 apartments. That means that at least half of our residents need to park on the street. Spaces are already hard to find. Apparently unaware of this reality, DDOT produced an automatic approval. The Office of Planning also seems to have ignored the intent of the comprehensive plan, which they have not mentioned, to protect the character of single family neighborhoods and mixed neighborhoods. In the OP=s analysis, there is a section called location and site description, sites the BZA approval of four units at 4529 as if it were a positive precedent.

Neither agency is paying attention to the citywide impact of developers pushing to

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change R5A zones to higher density. The two cases proceeding ours on today=s agenda reflect that push in another neighborhood. Similar cases have arisen before at Ward 5. We see this trend as the beginning of a domino effect that will wipe out small loaded with character and homogenize the city.@

I=ll close in point. A possible compromise. An option we proposed before and are willing to consider again is a new design of two to four units. Although our preference as has already been stated would be for single family.

With the proviso that all front entrances facing MacArthur, do face MacArthur and that there be adequate planning both for parking and handling of trash.

So we are willing to consider a new design of less density. Otherwise, if the developer refuses to consider this option, and if he continues in this recalcitrance to engage substantively with us, we will reject his

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proposal as it stands, and would urge the Board to do the same.

Respectfully submitted, Frank Staroba. That concludes our presentation.

CHAIRPERSON JORDAN: I thank you. Board, any questions?

Mr. Turnbull.

COMMISSIONER TURNBULL: Thank you Mr. Chair.

So Mr. Staroba, thank you for your presentation.

You said to two to four.

MR. STAROBA: Yes.

COMMISSIONER TURNBULL: If it was three, you would be really happy probably.

MR. STAROBA: Well, two would be ideal. Three would be --

COMMISSIONER TURNBULL: You would be jumping for joy. Okay. Obviously, make it shorter too. Probably, the impact of changing the size.

MR. STAROBA: The footprint would

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necessarily be smaller.

COMMISSIONER TURNBULL: There would be two more. Okay. But we're going to have to -- I thank you for your testimony.

CHAIRPERSON JORDAN: I think one of the things we have to consider, I think we have other documents that we're necessarily going to need.

COMMISSIONER TURNBULL: Right. Right. Right.

CHAIRPERSON JORDAN: And I know that you cited, the applicant cited the other project on the corner, but we said then and we continue to say now, that one property stands -- each property has to stand on its own merit. And applicants constantly raise another issue that something was granted somewhere and each one stands on its own merit.

And that particular project, if I remember correctly, and also going back through the -- there is some differences there. Because you had some other things, there was a

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corner lot; you had some other things going. And blah, blah, blah, blah, blah. And there was some different side yard depth and width. And it matched the other three corners and some other stuff. But that doesn't have anything about -- to the left and to the right, and an interior property. So there was a lot of other things going.

Do you have any shadow studies or light shade studies that -- because I hears that being raised and I'd like to -- I just didn't know if you had that with you and hadn't presented it.

MR. STAROBA: We don't have any studies except our experience living in the neighborhood. And I could --

CHAIRPERSON JORDAN: No, that's all. I just need to know if you had it.

Board, any additional questions you'd like to ask the opponent? And I think we already asked if there was any cross-examination from the applicant.

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MR. SULLIVAN: No, Mr. Chairman.
Thanks.

CHAIRPERSON JORDAN: Then we would
move back for any rebuttal to the -- I'm sorry
-- any other person want to speak in opposition?
Yes. Please, come forward. Thank you. You
will have three minutes to speak.

MS. GATES: Three minutes?

CHAIRPERSON JORDAN: Yes.

MS. GATES: I represent an
organization --

CHAIRPERSON JORDAN: What
organization? Okay. I didn't know that. So
you have five minutes then. And the
organization is?

MS. GATES: Neighbors United Trust.

CHAIRPERSON JORDAN: Okay. I need
to know the organization. Okay.

MS. GATES: Good morning Chairman
Jordan and members of the Board. I am alma
Gates from ANC 3D, a member of the ZRR task
force, testifying in opposition to the

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application of Siamak Kashani to convert a single family home to a five unit apartment house at 4527 MacArthur.

When the applicant appeared before the Board in April, the Chair asked that a greater effort be made to work our differences with the neighbors. This amounted to going through the motions when on May 7th Mr. Ajalli presented slightly altered plans to neighbors. One unit only.

What has changed. A zoning attorney has been retained. Three of five air conditioning units have been moved to the roof. An exterior staircase has been removed. Roof height has been reduced by 2.9 feet. And the front of the building has been moved behind the building restriction line.

What has not changed. The number of housing units remain at five. The orientation of overall bulk of the apartment house. Setbacks are oriented to the existing house, not the proposed structure. And the

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proposed increase in density and intensity of use on a single 5000 square foot lot.

Of paramount concern to the immediate neighbors is and always has been the number of units. When asked the rationale for keeping five units, it=s been because the numbers don=t work otherwise, for the owner.

The comprehensive plan and future land use map specifies this area as designated moderate density. The generalized policy map designates the entire lower Foxhill area as a neighborhood conservation area and notes there are primarily residential in character, maintenance of existing land uses and community character is anticipated over the next 20 years.

Comprehensive planning guidance is meant to protect neighborhoods from predatory practices by outsiders who are oblivious to community character, density, and livability.

The subject lot is only 41 feet wide which explains why the front of the proposed

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apartment house cannot face the street. Its height and bulk are out of scale and context with surrounding properties.

More importantly, its proposed new construction on an interior lot would not meet the standards and requirements of 353.1 with regard to setbacks. The setbacks remain oriented to the existing house and would place an 8 foot rear yard adjacent to the side yard of the Bemis property.

Does the BZA really intend to set precedent by approving an application for a new structure that cannot meet setback requirements due to its orientation on the lot?

When the BZA approved application number 18553 in 2013 to convert a single family home to a four unit condo next door to 4527, the dominos began to fall. That zoning approval also appears in conflict with the comprehensive plan and land use policies in the Rock Creek West area element.

Predictably, the Board now finds

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itself considering a larger conversion at 4527 from single family to a five unit apartment house.

In conclusion, the BZA should deny application 18738 for the following reasons: the applicant has not addressed the neighbor=s primary, number of units. The structure is incompatible with its immediate surroundings in terms of siting in lot and bulk. The setback requirements cannot be met. Maximization in terms of lot occupancy, height, and FAR. And a fivefold increase in intensity of use on the lot. And zoning is not meant to change neighborhood character.

Thank you.

CHAIRPERSON JORDAN: Thank you.

Board, any questions?

(No audible response.)

Thank you. I really appreciate it.

Applicant, any questions?

MR. SULLIVAN: No, thank you, Mr.

Chairman.

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CHAIRPERSON JORDAN: Any questions?

COMMISSIONER TURNBULL: No.

CHAIRPERSON JORDAN: Then let's turn back to the applicant for any rebuttal.

MR. SULLIVAN: Thank you, Mr. Chairman.

Mr. Ajalli, can you describe for me the area behind the alley, behind the subject property? Is there a fence between the alley and the field?

MR. AJALLI: Yes. There is a fence between the alley and the --

CHAIRPERSON JORDAN: There's a fence between the alley and the beginning of that play --

MR. AJALLI: Not in beginning.

CHAIRPERSON JORDAN: Oh, you mean further back.

MR. AJALLI: Further.

CHAIRPERSON JORDAN: Let's be clear about our questions now.

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MR. SULLIVAN: Right.

MR. AJALLI: Not the beginning.

MR. SULLIVAN: But it=s between the alley and the field back here.

Okay. And there=s a fence around the tennis courts?

MR. AJALLI: Right.

MR. SULLIVAN: Is there a -- so it=s an open field.

Behind the rowhouses, is there a parking lot with tandem parking about 30 spaces?

MR. AJALLI: Yes. I don=t know the exact number, but yes, there are parking spaces there.

MR. SULLIVAN: Okay. Right up against the field area.

And then a few doors down, where the single family houses are, there=s a large parking lot with about 40 or 50 parking spaces up against --

CHAIRPERSON JORDAN: This is

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rebuttal. This is rebuttal.

MR. SULLIVAN: Yes.

CHAIRPERSON JORDAN: And direct examination under rebuttal. You are leading him.

MR. SULLIVAN: Okay. Are there two parking lots in the back alley? Or two large parking lots in the back alley?

MR. AJALLI: Yes.

MS. STAROBA: No.

CHAIRPERSON JORDAN: No. No. See, I'm not going to have that type of hearing. We really are not. I understand your frustration. And I think the Board is able to kind of discern, and as you can see, understand what -- where we are in these questions.

So please proceed.

MR. SULLIVAN: Mr. Ajalli, did you perform a shadow study?

MR. AJALLI: We did not because the building that -- the right side never shadow cast on us. We don't cast shadow to the right

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side house.

MR. SULLIVAN: Thank you. Did you have --

CHAIRPERSON JORDAN: So the answer to that is no, you don=t have one?

MR. AJALLI: No, we don=t have one. We didn=t -- never requested that because again, the south is --

CHAIRPERSON JORDAN: Okay.

MR. AJALLI: Yes.

MR. SULLIVAN: I have no further questions, although I would like a closing statement.

CHAIRPERSON JORDAN: I=m going to allow your opponent to have cross-examination on the rebuttal.

Do you have any questions you want to ask about anything that was just said?

MR. STAROBA: A clarification.

CHAIRPERSON JORDAN: Well, you=re going to ask him for clarification. Is that what you=re asking?

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MR. STAROBA: Yes. Could you clarify the position of the fence around play areas in Hardy Park?

CHAIRPERSON JORDAN: I think it=s a little bit direct. Because that=s --

MR. AJALLI: There is a fence there, a tennis court with a fence.

MR. STAROBA: Could you estimate the distance between the fence and the alley?

MR. AJALLI: I don=t have that. I don=t know, maybe 30 feet, 40 feet. I don=t know.

CHAIRPERSON JORDAN: And there is green space from the alley to where you get to that tennis court?

MR. AJALLI: It=s a hill goes up, and then it goes to the tennis --

CHAIRPERSON JORDAN: So the question, and I understand what Mr. Sullivan was trying to ask, and understand what the opponent was trying to ask, so is that space usable where children might be able to play in?

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MR. AJALLI: It=s hilly but there=s a flat side on the other side.

CHAIRPERSON JORDAN: Is it -- would children have the ability to play there?

MR. AJALLI: I don=t know. It=s hilly.

CHAIRPERSON JORDAN: Is it possible that children could play there?

MR. AJALLI: If I have a -- I won=t let them play there.

CHAIRPERSON JORDAN: Okay.

MR. AJALLI: Because it=s hilly.

CHAIRPERSON JORDAN: All right. I got you.

MR. SULLIVAN: Is it true that there is a flat area of approximately 30 feet at the level of the alley, before you get to the hill that rises?

MR. AJALLI: Right behind the property?

MR. SULLIVAN: Adjacent to the alley.

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MR. AJALLI: On the other side, the back side?

CHAIRPERSON JORDAN: He means is there a flat area which may appear to be about 10 feet or 15 feet before it rises up, is what he=s asking. He=s saying it=s not going straight up in the hill from the point from the alley, up to that fence. Is that correct what your question is?

MR. STAROBA: Yes.

MR. AJALLI: I have to go there and actually measure to give you the answer. I don=t have that answer.

CHAIRPERSON JORDAN: Okay. Any other questions?

MR. STAROBA: Yes. Does the sun travel across the sky in the daytime? The point of that question is does it cast shadows at any time after morning or after noon from your house to the Bemis property?

MR. AJALLI: The position of the house, it=s on the north side of Mr. Bemis=

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house. So if your house at the north -- I don't have the exact direction -- if the house at the north, and Mr. Bemis' house at the south, his shadow cast on the subject property. I don't have the exact direction, because the sun comes from the east, goes to the south, and then goes to the west. So from the south, his house -- his shadow cast on the subject property.

MR. STAROBA: In the morning, would the morning sun shine directly into Mr. Bemis' back yard?

MR. AJALLI: In the morning, again, I don't have the exact direction of the north. But in the morning, I don't see any cast from this building to Mr. Bemis house.

CHAIRPERSON JORDAN: I think we will resolve that. I understand your point. We will resolve that.

And I think what he's trying to say, you made some affirmative statements, and he's just trying to get to see if there was any changes to it. But I believe the Board is going

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to want to see the study, a real study done. And so, we will get to that. If that helps you, I mean, that=s what the Board needs for it to make its decision. So I didn=t mean to cut off your question in that regard, but we need to see the data, the real data on the study to get to that point. Which I know I need to see, and I would request it, and I=m seeing the Board members shaking their heads, to get there. Okay.

Is there any additional questions you would like to ask regarding the rebuttal testimony? Any additional questions?

MR. STAROBA: No. Thank you.

CHAIRPERSON JORDAN: Sure. You can do a closing but there=s certainly going to be some other things that=s going to be requested. So why don=t you take two minutes to close.

MR. SULLIVAN: Thank you, Mr. Chairman, members of the Board.

I would just like to point out that

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the applicant has been to a neighbor=s house twice to try to work on issues. And we have been to two ANC meetings. And you obviously hear a lot of emotion and fear about the proposed change and you know it=s genuine. Although I do take issue with the personal attacks on my client because I think they=re baseless and irrelevant.

But some context here on the zoning. You heard Ms. Gates mention that it=s moderate density. Moderate density supports R4 zoning and up. If this was R4 we could have five units as a matter of right with one parking space. In an R5A zone, if we wanted to do an addition, rather than tear down the house and do this exceptional project, we could put an addition on at 40 percent, go to 40 feet in height, and have six units, and have five parking spaces with one parking space credit. It=s not a threat; it=s just a context. Because what I think, all these arguments we=re hearing, and I get them and I understand their concerns,

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could be arguments in a re-zoning application. And this is zoned R5A right now. And the R5A zone supports this type of project, subject to 353.

When you decide to not bring an addition, a makeshift addition, which a lot of people are doing in R5A zones, you have the opportunity to come before the Board and get the review of the Office of Planning, get the review of the Board, get the comments of the neighbors and the ANC. And I think it's made -- all those comments have this project even better. I think it started out as a high quality project; they've made it better.

CHAIRPERSON JORDAN: Let me ask you a question.

MR. SULLIVAN: Sure.

CHAIRPERSON JORDAN: And I know it's your closing. But you just said as matter of right, they could do what?

MR. SULLIVAN: In the --

CHAIRPERSON JORDAN: On this lot.

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MR. SULLIVAN: On this lot, if we did an addition and didn't tear down the house, we could add as many units as we want, up to .9 FAR, subject to a parking requirement. We'd have a parking credit of one, so with five parking spaces, we could have six units as a matter of right.

CHAIRPERSON JORDAN: Okay.

MR. SULLIVAN: If it was a zone lower, an R4, it's 4500 square feet, we could have five units also. But we'd only need to provide one parking space in that case.

That's my only -- my general response. We're happy to provide any other information and look at any other issues. I don't know that reducing units -- from the testimony you hear and then you hear that reducing one unit changes everything and it's supported, I don't get that. I don't think the difference between four and five is great for the impact of this. And this is a little smaller than it could be, in a matter of right

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zoning it=s less than 40 percent, it=s lower than 40 feet in height. And we=re happy to provide any more information and to answer any questions.

Thank you.

CHAIRPERSON JORDAN: Mr. Staroba, any closing you would like to do? Two minutes to close. Make a close statement if you feel -- wish; you don=t have to.

MR. STAROBA: Thank you. Thank you, Mr. Chairman. Yes.

I would like to return to our main point.

CHAIRPERSON JORDAN: You have tow minutes then.

MR. STAROBA: Which is that on one hand I congratulate Mr. Ajalli as an ingenious architect who has certainly addressed with a professional savvy and good taste, the demands of his client. If you look at the demands of the client, to retain five units, it creates extraordinary problems that are going to be

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negative to the neighborhood. And although the stripped interpretation of R5A does not appear to take into account cumulative effect, it just seems very clear to us that the cumulative impact of successive decisions to change single family homes to multifamily structures along the first block of MacArthur Boulevard is really detrimental to the livability, the historical significance, and in plain words, human yumminess of the neighbor we=ve got.

Thank you.

CHAIRPERSON JORDAN: That=s a term of art, right? A technical term, yumminess. We understand.

All right. So we=re going to close the record on this case as regards to testimony so far. But there=s going to be some additional information I believe that I would like to see, and I know the Board members may want to see additional information. For instance, I would like to see the noise rating

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and a sound study of some sort that=s going to give me an indication of how much noise is going to be generated by the H3AC unit. I=d like to see the financials for the economic impact on if this project is reduced from two units to four units. Give me a second. I=d like to see a better view of this project from its rendering showing the, as we discussed, when you were trying to present it, you didn=t have that picture of this project on the adjacent, on Mr. Bemis= property. One from the ground level and one from the back level showing both sides of that project. I would like to see a shadow/light shade study. And that=s all on my wish list.

Board?

COMMISSIONER TURNBULL: Thank you, Mr. Chair.

I agree with all your comments. I don=t think Mr. Kashani wants to keep the original building and do an add-on. I think he wants to do a structure that he=s going to be

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proud of it and be there soon. I think he's on the way there. But I think he has to -- well, we will be giving great weight to the ANC on this. This is a significant issue on the neighbors. I really think he has to look at two to four units. And I think he needs to go back and revisit that. I think he can make a very successful project in that range.

I'm concerned about the trash; I want to see a better trash solution. As I mentioned earlier, the lights out in front don't make sense. I think there -- they need to be more subdued, down lighting, typical of landscape lighting that would light up the front of the yard. I agree that a shadow study needs, need to see the shadow study.

I think we talked about earlier, about the architect being lowered even more, another 3 feet with the roof. So I think we -- and that may change depending upon it may work well with lesser units.

But I think the applicant is still,

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well, I'm just quoting Commissioner Trotter, this might not be quite ready for prime time. I think there=s some more massaging that needs to be done on this, for us anyways.

CHAIRPERSON JORDAN: I would agree with that.

Anything else? Ms. Heath, did you get everything that you need?

MS. HEATH: Yes.

CHAIRPERSON JORDAN: Anything? Then let=s have another date please, Mr. Moy, for the submission of the documents. And I guess we could -- I don=t think there=s a shadow study. We might have some questions about the shadow study. I was going to try to just put it on the decision docket. But what do you think? Decision? All right. We=ll just put under decision then. If that=s okay, Mr. Turnbull, for a decision docket. Yes.

COMMISSIONER TURNBULL: Okay. We have a lot of talking to do, I=m sure.

CHAIRPERSON JORDAN: Yes. Yes.

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Yes. Yes.

COMMISSIONER TURNBULL: Okay.

CHAIRPERSON JORDAN: Well, we don't need to continue the date about it, and we can both get some -- okay.

Yes. Go ahead.

MS. HEATH: One other thing that it lacks a bit more clarification on, you said that you could potentially do more studies about how you're going to treat the building, whether the -- the units, whether it's going to be the split system or geothermal.

MR. SULLIVAN: Right.

MS. HEATH: If you could come back with more definitive information about that, that would be helpful as well.

MR. SULLIVAN: Sure.

COMMISSIONER TURNBULL: I guess one of the other aspects was -- part of the solution is try to make the building work even more like it's a front facing street. As I said before, I think you're on the right track, but

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then maybe refine this toward the architecture of the front, make it look more forward. If you could make more of -- again, this might change with this two to four unit change. So, but just keeping in the context with what the neighbors have said about it being a front facing building.

CHAIRPERSON JORDAN: Okay. Mr. Moy, a date please.

MR. MOY: Given the size of the docket for all this research, Mr. Chairman, I would suggest, and I'm assuming you're going to ask for responses --

CHAIRPERSON JORDAN: Yes, please.

MR. MOY: -- a decision date of July 29th, which would actually be the last hearing date before the Board goes into recess in August. If I work backwards from there, on the decision of the 29th of July, then possibly --

CHAIRPERSON JORDAN: So 14 days, July 15th. Right? And then give the opposition a week to make response, right?

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MR. MOY: Yes.

CHAIRPERSON JORDAN: Okay.

COMMISSIONER TURNBULL: That makes sense.

CHAIRPERSON JORDAN: Does it make sense? Okay.

COMMISSIONER TURNBULL: Makes sense to me.

CHAIRPERSON JORDAN: So we would need to see all that information by -- yes.

MS. TROTTER: Sorry. Our ANC meeting is probably going to be the second week of July. So if you would like us to weigh in on any revised proposal, we wouldn't have time between --

CHAIRPERSON JORDAN: Got you.

MS. TROTTER: -- July 15th and July 29th to meet and review the revised proposal.

CHAIRPERSON JORDAN: Yes.

MS. TROTTER: Because of the July 4th holiday, luckily, I think we are meeting the second Wednesday in July.

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CHAIRPERSON JORDAN: Okay. Mr. Sullivan.

MR. SULLIVAN: If I could suggest maybe we=ll agree to get all the revisions to the ANC in time for the meeting or as soon as possible. And then if we need the 15th date that allows us time to make adjustments.

CHAIRPERSON JORDAN: Okay.

MR. SULLIVAN: Based on that meeting. So if we can keep the 15th date, we=ll commit to giving the ANC the plans, at least, you said a week before the ANC meeting. If we can. I assume we can all that done in a month; I don=t want to shorten our time too much. But --

CHAIRPERSON JORDAN: See I=m also thinking maybe we move this to --

PARTICIPANT: September.

CHAIRPERSON JORDAN: -- yes, a September date.

MR. SULLIVAN: But I think that -- because this point in time though --

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MS. TROTTER: Well, I would be happy to have it one week before the ANC meeting so that we have the time to do it. But I fear leaving the record open would be problematic because we won=t meet again. So if any significant changes are put into effect, I can represent as a single member district, but I couldn=t speak on behalf of the Commission.

CHAIRPERSON JORDAN: Got it. And that would be the risk that they take.

MS. TROTTER: Okay.

CHAIRPERSON JORDAN: So we will require the documents to the ANC a week prior to their meeting as --

COMMISSIONER TURNBULL: That would be July 9th.

CHAIRPERSON JORDAN: -- that was by concern of the applicant. And no, no, no. When is the ANC meeting?

MS. TROTTER: I have to double check but I=m pretty sure it=s the second Wednesday in July.

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COMMISSIONER TURNBULL: Okay.

That would be the 9th then. That would be July 9th.

CHAIRPERSON JORDAN: Whenever that meeting is, I'm not going to -- whenever that meeting is, so applicant is going to have to be in touch with the ANC to verify that time. So, and then we want to have filed to the Board the documents that have been requested of the applicant by the 15th. And the applicant would also submit that to the party in opposition on the 15th. And then the party in opposition would have the opportunity by the 22nd to provide any contrary documents or comments, etcetera. You may want to have conversation about doing your own shadow study and shade and shadow studies because if you're going to have enough time to react to what you get, you can also ask for one in the interim yourself and still file. Okay.

So with that, then we are -- we will conclude this hearing. And there=s room for

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decision for July 29th with the parameters which we defined and documents that has to be submitted.

We thank you all for taking the time and coming down. I mean, everything everybody said was really impactful and the Board is considering -- I mean, I was going, oh, yes, that=s right, oh, yes, that=s right. And to understand the real standpoint of what=s going on. Okay. Thank you.

PARTICIPANT: Thank you.

CHAIRPERSON JORDAN: Mr. Moy, do we have some other business?

MR. MOY: Yes. I have one house cleaning, Mr. Chairman.

CHAIRPERSON JORDAN: I=m not doing house cleaning. It=s going to take 16 hours to review these files.

(Off mic comments.)

MR. MOY: This one is good. This one is good. This is to an application that the Board closed and voted on which is the 7th

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Street case, 18762. And we just -- I was hearing it by the staff by the ANC 6 letter, which the Board took on the testimony.

CHAIRPERSON JORDAN: Okay. So we'll open the record slightly to allow the ANC letter.

MR. MOY: Yes.

CHAIRPERSON JORDAN: Okay.

MR. MOY: Thank you, sir.

CHAIRPERSON JORDAN: Thank you. Anything else coming before the Board today?

(No audible response.)

Thank you everyone for your hard work. Appreciate it. Thank you.

And we're adjourned.

(Whereupon, the above-entitled matter went off the record at 12:20 p.m.)

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