

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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REGULAR PUBLIC HEARING

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WEDNESDAY

JULY 22, 2020

+ + + + +

The Regular Public Hearing of the District of Columbia Board of Zoning Adjustment convened via Video/Teleconference, pursuant to notice at 10:38 a.m. EDT, Frederick L. Hill, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

FREDERICK L. HILL, Chairperson
CARLTON HART, Vice Chair (NCPC)
LORNA JOHN, Board Member

ZONING COMMISSION MEMBER PRESENT:

MICHAEL TURNBULL Commissioner

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY, Secretary
PAUL YOUNG, Zoning Data Specialist

OFFICE OF PLANNING STAFF PRESENT:

KAREN THOMAS
STEPHEN COCHRAN
MATT JESICK

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

DANIEL BASSET, ESQ.

The transcript constitutes the minutes from the
Regular Public Meeting held on July 22, 2020.

C-O-N-T-E-N-T-S

Application No. 20053	
District Properties.com Inc.	6
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NCRC Erie Street LLC	82
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Federal Realty	97

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

10:38 a.m.

CHAIRPERSON HILL: All right, Mr. Moy, whenever you're ready for our first hearing case.

MR. MOY: Thank you, Mr. Chairman.

The Board is -- the hearing is back in session, and the time is at or about 10:30 a.m. And the first case application in its hearing session is application number 20053 of -- I believe now it's named as or titled as Mohammed Sikder. It's originally titled District Properties.com.

And this application is as amended for area variances from the side-yard requirements of Subtitle D, Section 206.2, and from the lot dimension requirements of Subtitle D, Section 302.1, to construct a new detached principal dwelling unit in a R-1B zone at premises 2433 Girard, G-I-R-A-R-D, Place Northeast, Parcel 155/7.

Other than that, Mr. Chairman, there is a filing that was made this morning. When I rechecked my emails from this morning, it was filed at 9:02. As the Board is aware, we have protocol where any filing made electronically after 9:00 a.m. is not exhibited in case record. So there you go. I have my own opinion, but I'll leave that to counsel.

So -- but I do note that the filing that was

1 made by a Theresa Westover -- she has signed up to
2 testify. So, other than that, this is before you.

3 CHAIRPERSON HILL: Okay. Where do you see the
4 -- which was the -- oh, you did not put the filing in the
5 record.

6 MR. MOY: That's correct.

7 CHAIRPERSON HILL: Okay, because it came in
8 after your time.

9 MR. MOY: After 9:00 a.m.

10 CHAIRPERSON HILL: Okay. Okay.

11 MR. MOY: But this person did sign up to
12 testify, so --

13 (Simultaneous speaking.)

14 CHAIRPERSON HILL: And I know -- I know how
15 we've handled these when we were in person. But I guess
16 I'm trying to also now -- I don't know. I mean, you know,
17 we just had this whole thing where somebody filed
18 something after -- after the fact, and we let it in. And
19 so now it almost seems like -- anyway, something came to
20 mind.

21 So all right. Mr. Seck, could you please
22 introduce yourself for the record?

23 You're on mute, Mr. Seck.

24 MR. SECK: Thank you. Good morning, Chairman
25 Hill. Good morning, Vice Chair Hart, Mr. John -- Ms.

1 John, I'm sorry -- everybody on the Board.

2 My name is Oumar Seck, representing District
3 Properties and Mohammad Sikder for this case.

4 CHAIRPERSON HILL: All right. Thank you, Mr.
5 Seck.

6 Is there a Commissioner for 50C -- Mr. Seck,
7 could you mute your line for me? Thank you.

8 Is there a Commissioner here from 5 -- from 5C-
9 07?

10 MR. MONTAGUE: Commissioner Montague is here.

11 CHAIRPERSON HILL: Oh, hi, Commissioner. Are
12 you using your camera today, Commissioner, or no?

13 MR. MONTAGUE: Actually, I'm watching you on my
14 laptop, but I'm talking to you through the phone. So I
15 got dual duty going on.

16 CHAIRPERSON HILL: It's not necessary. I just
17 wanted to make sure that you weren't trying to be -- I
18 just wanted to make sure you weren't having a technical
19 issue.

20 MR. MONTAGUE: Wait a minute. Wait a minute.
21 Camera. That's what you're looking for.

22 CHAIRPERSON HILL: Yes. Oh. Well, good
23 morning, Commissioner. Oh my gosh. I'm going to wear a
24 tie next -- I'm going to wear a tie. And I haven't worn
25 a tie in four months. I thought about that. I literally

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1 thought about that this morning. I was like, it's been
2 five months now.

3 Okay. Well, nice to see you, Commissioner.

4 Mr. Seck, could you please let us know what
5 happened since the last time you were with us?

6 MR. SECK: Yes. Good morning again, Chairman
7 Hill. Thanks for the opportunity.

8 Last time when we began to present the case,
9 there were some issues brought in with the revision of the
10 self-certification, which we did and uploaded it. Also,
11 we needed to revise our application report to add the lot
12 variance and lot and width variance to the application,
13 which we did, and uploaded all that along with some
14 exhibits, more explanation regarding the deed versus
15 parcel, which been a key element of this case. And all
16 that's been uploaded in the system.

17 CHAIRPERSON HILL: Okay.

18 MR. SECK: And I would like to add, Chairman
19 Hill, if I may --

20 CHAIRPERSON HILL: Sure. Please.

21 MR. SECK: -- yeah, that the affidavit of
22 maintenance, all of that stuff is up to date as seen on
23 the exhibit. Thank you.

24 CHAIRPERSON HILL: Okay. Great. Thank you.

25 Does the Board have questions for the

1 Applicant? If so, does anyone raise their hand?

2 Mr. Hart, do you have any questions for the
3 Applicant?

4 VICE CHAIR HART: Yeah. I -- I wanted to just
5 make -- make sure I understood. We do have -- did we ask
6 for revised drawings, and did we get them?

7 MR. SECK: Vice Chair Hart, the revised
8 drawings were posted. It's Exhibit -- let me tell you
9 which exhibit number it is. Exhibit 37. That was a while
10 back, was in response to Office of Planning to show the --
11 more conformity with the neighborhood and have a wider
12 porch and also the siding. All that was addressed, and
13 also, it reflects in the Office of Planning report as
14 well.

15 However, to add to that, I have a couple
16 exhibits. I don't know if I'm going to do a full
17 presentation yet, but I'm just answering your question.
18 But I have exhibit for rendering to show, also, during the
19 presentation.

20 VICE CHAIR HART: Yeah. That's helpful and
21 appreciated. And do you have a -- I would like to focus
22 on the variance, actually the first prong in the variance,
23 the exceptional conditions that we're talking about, to
24 end the exceptional conditions in a neighborhood that it
25 seems as though there are a number of -- one, a number of

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1 parcels, and a number of parcels that seem to be, you
2 know, either not as wide as they would need to be, but how
3 does this particular parcel -- how is that exceptional in
4 the neighborhood in which it sits?

5 I think if we could focus on that during the
6 presentation, I'd be appreciative. Thank you.

7 CHAIRPERSON HILL: Okay. I'm sorry. I got a
8 little bit ahead of myself also.

9 So is there any clarifying issues or questions
10 that the Board has prior to Mr. Seck giving his
11 presentation? If you have it, raise your hand.

12 Okay. Mr. Seck, why don't you go ahead and
13 walk us through your presentation? I thought we kind of
14 did a lot the last time. That's why I guess I'm a little
15 bit out of order here. But go ahead, Mr. Seck, and give
16 us your presentation. All right? I'm going to mute my
17 line because it seems as though if someone is unmuted, Mr.
18 Seck, when you're speaking, there seems to be some
19 feedback. So I'm going to go ahead, Mr. Seck, and allow
20 you to speak. Thank you.

21 MR. SECK: Thank you, Chairman Hill.

22 Good morning again. This is Case 20053. It's
23 reference to property address 2433 Girard Place Northeast.
24 We're seeking basically -- this proposed property is on a
25 vacant lot that is 26.6 feet by 150 feet of reserve. And

1 this is an R-1B zoning district.

2 We propose to build a single-family dwelling,
3 detached, and because the lot does not meet the criteria
4 of zoning regulation, we're seeking here three reliefs.
5 One is the side-yard variance and lot width and lot area.
6 And I can refer to the table where the lot requires -- a
7 requirement here in this area is 5,000 square feet. And
8 we are proposing 3,975 square feet. The lot width
9 requirement is 50. We only have 26.6. Lot occupancy, we
10 are meeting the criteria there in conformity. The front
11 yard, we also meet that. The rear yard as well. But the
12 side yard requirement is eight feet, and we're requesting
13 a variance to have three feet, nine inches.

14 This project basically is a basement plus two
15 level. It consists of four bedrooms, three and a half
16 bathrooms, a kitchen and separate dining room and living
17 room with a breakfast nook. This will provide a good-size
18 living space for a family in the neighborhood. And as
19 requested by the Office of Planning, the design was
20 updated to incorporate outer siding and front porch and
21 the center front gable to better match the homes in the
22 neighborhood.

23 The single-family home will have a lot
24 occupancy of 19.8 percent, which is well below the
25 requirement by zone. And the single-family home will also

1 have a large rear yard because the lot depth is 150 feet.
2 The area where we're proposing to build this is located in
3 the Langdon neighborhood in front on Girard Place
4 Northeast between Mills Avenue and 25th Place.

5 The lot is basically located at the end of
6 Girard Place beside an existing dwelling, 2431, which
7 recently got renovated and put on the market. In this R-
8 1B zone, because of the dimensions I just gave and the
9 relief we're seeking, I would like to go through the
10 analysis here for our relief request. And before that, I
11 would like to make sure that one point that was always
12 brought up during the conversation of previous meetings
13 we've had, this being a parcel versus a record lot.

14 It is a record lot. Again, I would like to ask
15 Mr. Young if it is possible to bring the deed up on the
16 screen just to clarify that point and where it is
17 mentioned that this is lot 38. However, out of caution,
18 we are seeking the relief anyway for the lot width, lot
19 area, and side-yard bearings.

20 So, Mr. Young, if it is possible to bring that
21 deed, which is Exhibit Number 80, and it's page 10 of 11,
22 if possible -- now I'll continue on this.

23 The property is unique by reason of its
24 exceptional narrowness, shallowness, and other
25 extraordinary and exceptional situational conditions. The

1 subject property is unique in it's in an exceptional
2 situation because it is a parcel for tax purposes that
3 potentially has an underlying record lot.

4 However, the adjacent property to the west is
5 already developed and in a separate ownership. Therefore,
6 there's no opportunity to combine both lots to create a
7 conforming lot. In September 2018, the estate of Ethel M.
8 Taylor sold three lots to Girard, Girard 2018 LLC,
9 including the subject property parcel 0155, lot 0007. In
10 November 2018, Girard 2018 LLC separately conveyed the
11 subject property, parcel 0155007 and 01550009, to
12 applicants' properties.

13 We were not aware of the building in the
14 middle, and we went ahead and purchased these two lots,
15 one of which was a previous case last year in front of the
16 Board. We have no way to increase the lot size or the lot
17 width. Therefore, a relief is needed to be granted by the
18 Board of Zoning in order to be able to build on this
19 property.

20 The side-yard variance -- in this block, you
21 will see on Exhibit 37 where we show some site plans.
22 There's a few lots in that area that resemble the same lot
23 that we're proposing to build with, actually, less side
24 yard than what we're proposing, some of which have 2.9
25 feet of side yard.

1 And if -- I think I requested. Mr. Young, I
2 don't know if it's on.

3 CHAIRPERSON HILL: Mr. Seck, which exhibit is
4 Mr. Young bringing up?

5 MR. SECK: This is Exhibit 80, and at the
6 bottom, this is page 10 of 11. That was to show the deed
7 where it clearly showed that this is a record lot.

8 CHAIRPERSON HILL: Yeah. Mr. Young, I don't
9 think we need to bring it up.

10 Mr. Seck, we can look, we can --

11 (Simultaneous speaking.)

12 MR. SECK: You see it? Okay.

13 CHAIRPERSON HILL: Yeah.

14 MR. SECK: Good. So what I would like, then,
15 instead is to show the rendering of Exhibits 74 and 75.

16 CHAIRPERSON HILL: Mr. Young, could you put up
17 Exhibit 74, please?

18 Mr. Seck, could you please mute your microphone
19 for a second, please? Thank you. Okay. There we go.

20 I think 74 was -- there we go. All right. Mr.
21 Seck, I'm going to mute my microphone. You can unmute
22 yours.

23 MR. SECK: Okay. As you see on top of the
24 page, property address 2433, this is what we're proposing
25 to build on this lot. And it is a corner. There's no

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1 side yard or lot available to the side to increase this
2 property. The one house to the right is the one 2431 that
3 recently got renovated and sold. So there is no way that
4 we can increase the lot here.

5 And, also, building this house would not cause
6 any substantial detriment to the public good. The lot
7 being vacant will actually replicate building character of
8 the rest of the block, including houses that also are a
9 parcel. This will allow a family to move in and enjoy the
10 rest of public amenities in the area.

11 Also, presuming we believe that it's not any
12 harm for zoning to the zoning regulation as some houses in
13 that neighborhood and the block, as shown in Exhibit 74,
14 will be almost in conformity with the one we're proposing.
15 We do have the support of the Office of Planning, as well
16 as DDOT and also the neighbor, one neighbor that posted a
17 support, which is Exhibit -- if you just give me one
18 second, I'll tell you what exhibit number that is.
19 Exhibit 43.

20 We don't even know who this neighbor is. We
21 just found it posted on the address, and clearly shows
22 what we're trying to do here will be beneficial to the
23 community. The ANC, I do know, do not support the
24 project. We went back and forth with Commissioner
25 Montague, whom I say hello, by the way. We tried and

1 answered their question when they had a concern, and all
2 of that is posted to the Board members to view.

3 And I will rest the case there and wait for
4 questions, if any. Thank you.

5 CHAIRPERSON HILL: All right. Thank you, Mr.
6 Seck.

7 Does the Board have any questions of Mr. Seck,
8 and if so -- may I start with you, Mr. Hart? I'll just go
9 around the table.

10 VICE CHAIR HART: Yeah, that's fine. Thank you
11 very much, Mr. Chairman.

12 Mr. Seck, I just have a question with regard to
13 the properties themselves. So you said that District
14 Properties purchased these back in November 2018 and that
15 there was -- you just bought the two outside properties,
16 but the middle property was still somewhat owned by
17 someone else.

18 I thought that there was a period of time that
19 you owned all three of those, that the company that you
20 worked for owned all three of these.

21 MR. SECK: No, Vice Chair Hart. We actually
22 have never owned the property in the middle, and we were
23 approached by the company to buy these two lots. But the
24 one in the middle was already, I guess, in transaction
25 with someone. We were not aware of it. We saw the

1 opportunity for those two separate lots, one of which is
2 2429, which we heard last year. But we have no connection
3 with the lot in the middle.

4 VICE CHAIR HART: And the property that is to
5 the -- I guess east of you, which is the little triangle
6 piece -- is that just public space? What is that?

7 MR. SECK: Yeah, Vice Chair Hart. This is
8 actually -- if I can read it properly, it's the lot 0022.
9 It belongs to -- there is an existing house there at the
10 corner, which -- 25th Street is kind of a dead end. That
11 part is all part of that lot 0022, if I read it correctly.
12 The numbers are small. But that's what I believe it is
13 according to the site map we have.

14 VICE CHAIR HART: Okay. I think I understand
15 that. And so when you're looking at the -- you're saying
16 that your parcel is -- is your parcel smaller than the
17 parcels in the immediate area? I understand what zoning
18 is requiring, but you're saying as part of your rationale
19 for -- and your exceptional condition rationale is that
20 because this parcel is smaller than what is allowed under
21 zoning, that that should be part of the reason for us to
22 grant this variance?

23 But you've looked at other parcels in the --
24 typically, we look at either parcels in the square or
25 parcels in the immediate vicinity to understand what the

1 parcel size is for that particular area.

2 MR. SECK: Yes, Vice Chair Hart. On our
3 Exhibit 37, if we look at the front page, you see there's
4 a lot number. I believe it's to the west side of our
5 property. Those lots are almost a similar width of our
6 lot, and by the way, you can see -- I mean, that's the
7 side-yard part of it, how narrow the side yard is compared
8 to what we're proposing. Some of them are 2.9.

9 But the lot size, I believe the width for the
10 other parcels adjacent to it are about 25, 26 feet, in
11 that area. Yes.

12 VICE CHAIR HART: So I guess that gets to the
13 question, when we look at exceptional condition, we look
14 at a -- this is an exceptional -- and I don't want to say
15 unique, but this is an exceptional case or exceptional
16 property in this area, as in it is narrower than all the
17 other parcels in the immediate vicinity or in the
18 neighborhood. It is exceptional in that. This seems like
19 it's kind of similar to the ones that are already there.

20 I understand the point that you're making in
21 terms of it being smaller than what's allowed under the
22 zoning in this particular zoning district. But what I'm
23 trying to get to is this is -- it seems in this image that
24 you've pointed to, it seems to be very similar to what the
25 other parcels are that are adjacent to it.

1 And if I go back to the Office of Planning
2 report, there seems to be other lots that are of a similar
3 size than this one. And so it gets to the -- that
4 particular portion of the argument that you're making
5 doesn't seem to kind of hold water. It's not compelling
6 to me because it seems as though this is one of a lot of
7 different parcels that are about the same size, same width
8 and same size, same area.

9 So I'm trying to get to the, this is
10 exceptional, and that's why we should be granting that.
11 So I'm just trying to understand that particular aspect of
12 it. And I'll finish my questions and let the other Board
13 members ask their questions. Thank you.

14 MR. SECK: Thank you, Chairman Hill -- I mean -
15 - I'm sorry, Vice Chair Hart. This lot, basically, it's a
16 combination of undeveloped lot and the narrowness of the
17 lot. And basically, other properties are developed there,
18 like on Mills and Belair Place, that are larger.

19 Now, we do not have an opportunity to increase
20 on either side of this lot. And that's what makes it
21 exceptional to bring it to the zoning reg of 50 feet in
22 this case. I do understand the explanation and the
23 question you gave, but this is an existing lot that is
24 undeveloped and is narrow.

25 And what we're proposing to build as far as 19-

1 foot-wide house is definitely a sizable house that can
2 accommodate a decent family size in this neighborhood
3 without harming anything in the community.

4 CHAIRPERSON HILL: Vice Chair Hart, did that
5 answer your question? Do you need further clarification?

6 VICE CHAIR HART: I don't need any other -- I
7 mean, I've asked the question a number of times. So we
8 can move on.

9 CHAIRPERSON HILL: Okay.

10 Ms. John, do you have any questions?

11 MEMBER JOHN: Just a question regarding the
12 house that was renovated. Could you show me on this
13 Exhibit 37 which house that was? You said your company
14 renovated one house and sold it last year. Is that lot
15 0008? I'm looking at Exhibit 37.

16 MR. SECK: Thank you, Ms. John. The house that
17 was renovated and sold was not done by us.

18 MEMBER JOHN: Oh.

19 MR. SECK: Yes. It's the one to the right side
20 of what we're proposing that has the address on top says
21 2433. So on the right side of 2433, it's owned,
22 developed, and renovated by someone else with no
23 connection to us.

24 The other lot that we owned in the past -- I
25 mean we still own -- is the one beside that one to the

1 right side.

2 MEMBER JOHN: Can you use the lot numbers from
3 Exhibit 37 just to clarify?

4 MR. SECK: Yes. Okay. Lot number 7 and 9 are
5 the ones that we own. Lot 8 is in the middle. That's the
6 house that was renovated by somebody else.

7 MEMBER JOHN: Okay. Thank you.

8 CHAIRPERSON HILL: Commissioner Turnbull, do
9 you have any questions?

10 COMMISSIONER TURNBULL: No, Mr. Chair. I was
11 just looking at the schedule, and I thought by what's
12 written down here that Commissioner Miller was supposed to
13 be on this case. So I'm really -- if that's not to be the
14 case, I am listening and going back to the record now
15 trying to analyze it.

16 CHAIRPERSON HILL: All right.

17 Commissioner Montague, do you have any
18 questions for the Applicant?

19 MR. MONTAGUE: One of the questions that we had
20 revolved around the change of ownership. But the
21 Applicant did provide to the record and I was able to go
22 through that substantially yesterday about how the
23 property's changed hands and how the Applicant sometimes
24 excluded from parcel 8, which is where 2431 Girard is.

25 So I still am a little dumbfounded that the

1 District Properties or Mohammad Sikder, being supposedly
2 one and the same, were unaware of the transactions that
3 occurred that caused them not to take ownership of the
4 middle property.

5 So, in short, if Mr. Sikder can explain, how
6 did you not know? You entered into a purchase, and now
7 you claim you didn't know the parameters of the purchase.
8 That's not clear to me.

9 CHAIRPERSON HILL: Mr. Seck, do you understand
10 the question?

11 MR. SECK: Yes, Chairman Hill. I do understand
12 the question, and if you give me a moment, I will go
13 through some ideas on that. I believe we've provided some
14 explanation to that, and I'm going to pull up what exhibit
15 that is and get right back to you on that.

16 CHAIRPERSON HILL: Okay. Mr. Seck, while you
17 are looking, go ahead and mute your microphone.

18 And then, Commissioner Montague, do you want to
19 give a presentation?

20 MR. MONTAGUE: I have one more question for the
21 Applicant.

22 CHAIRPERSON HILL: Okay.

23 MR. MONTAGUE: They submitted Exhibit 86, which
24 is a plat, and I guess it's revised or updated.

25 (Simultaneous speaking.)

1 MR. MONTAGUE: I see it's signed supposedly by
2 the surveyor. I don't see the seal of the surveyor, so --
3 and there was three questions in the description that
4 says, I have or have not -- actually, there's only two of
5 them. But none of them were circled or whatever.

6 So, just out of curiosity, I'm questioning the
7 validity of that. It may be perfectly fine, but I'm just
8 not sure. So --

9 CHAIRPERSON HILL: So, Commissioner, your
10 question for Mr. Seck is, is this plat legitimate? Is
11 that what your question is?

12 MR. MONTAGUE: Yes.

13 CHAIRPERSON HILL: Okay.

14 So, Mr. Seck, can you answer that question?

15 MR. SECK: Yes, Chairman Hill.

16 The plat is legitimate. What we do, we order a
17 blank plat from the Office of Surveyor, who provide this,
18 and there's -- on Exhibit 86, you can see there's a
19 signature from the Surveyor's Office. That is not our
20 signature. Mohammad's signature is to the right.

21 That blank plat, what we do, we put the
22 footprint of the building onto the plat. And then when we
23 go to apply for permitting and stuff, we submit this along
24 with it, and it goes to the Surveyor's Office as well as
25 to the Office of Zoning, who validates this. And when we

1 get it approved, it becomes a supporting approved
2 document.

3 But it is -- the blank sheet that delimits the
4 property is from the Surveyor's Office, not ours. Thank
5 you.

6 CHAIRPERSON HILL: Commissioner, did that
7 answer your question? You're -- go ahead.

8 MR. MONTAGUE: Chairman Hill, yes. I want to
9 make a few comments, and then we did some presentation.
10 But I want to make a few comments about, before I start,
11 or as -- you can include it in my time -- about the lack
12 of uniqueness of the lot or the parcels along that part of
13 the street and in that piece of the neighborhood, and --
14 because they basically go back to 1900, 1905, when the
15 first houses were built.

16 When what was called East Langdon was
17 subdivided, it was specifically subdivided with small lots
18 with the intention of a homeowner purchasing one and using
19 an additional adjacent to create what was called a side
20 yard. So to the average person that's coming through the
21 neighborhood, they would say, oh, how nice, it's got a
22 side yard. No. That is actually a separate parcel which
23 that first adjacent owner is paying taxes on.

24 So in the case of this application that we're
25 talking about, Ms. Taylor, actually, who had the house in

1 the center, 2433, she paid taxes on two adjacent parcels,
2 07 and 09. It wasn't until when her estate sold them as
3 three separate parcels. But it did not change the
4 uniformity of the 26-foot -- essentially 25-, 26-foot --
5 nature of the parcels that ran along that side of Girard
6 Place going all the way back to 1900.

7 CHAIRPERSON HILL: Commissioner, can I ask you
8 a question? Was there something you wanted Mr. Young to
9 pull up?

10 MR. MONTAGUE: If he could pull up Exhibit 73,
11 if he has it.

12 CHAIRPERSON HILL: Okay. I got it up as well.

13 All right. Commissioner, I'm going to mute my
14 line, so you can go ahead and begin whenever you like.

15 MR. MONTAGUE: All right. This is just a
16 discussion from -- provided by ANC-5C regarding the
17 Applicant's application to build a house at 2433 Girard
18 Place, which is also known as parcel 155-007.

19 Next slide, please, or next page. I think you
20 skipped one, but -- I'm trying to watch and figure out
21 which screen -- yeah.

22 So this basically -- this is looking at the
23 view from the proposed property across the street to --
24 across Girard -- to show the two houses that sit on the
25 west side of that red line, which is the subdivision

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1 between East Langdon and West Woodbridge. So the property
2 that they are proposing, the parcel they are proposing to
3 build, is on the west side, which is in East Langdon.

4 Next slide.

5 This is simply a view looking from west to east
6 along Girard, and giving the character of the existing
7 adjacent residences that exist, and just for pure
8 discussion of light, air, drainage, runoff, and whatever.
9 And there is a substantial -- from just above the
10 intersection of 25th and Girard, there's a substantial
11 drop-off in the elevation going westward.

12 Next slide.

13 This shows from the intersection of Girard and
14 25th Street without the proposed property being built. So
15 that's the view sans residences that are further down the
16 street. I only focused on the two that were nearest by so
17 that I could establish relative elevation of those before
18 this new proposed property would be built.

19 Next, please.

20 This is 2431, which was the house that was
21 renovated next door to the Applicant's property. And so
22 we can go to the next.

23 This basically lays out the parameters of the
24 lot that's being applied for the 26 and a half foot wide
25 by 150. To the right side answers Vice Chair Hart's

1 question about that land. That land between 25th Street
2 and that property, that red line is actually public space
3 which was carved out of the property of 2909 across the --
4 or 2905 across the street when they attached Girard to
5 25th Street back in 1914, 1915. So that's basically
6 District of Columbia public space.

7 Next slide, please.

8 This basically lays out the relative widths and
9 parameters around the proposed development and
10 relationship to the existing houses.

11 Next slide, please.

12 This slide proposes to show the Applicant's
13 proposed building at 2433 in relationship to 2431, which
14 is the existing building and the one that's 24 -- it's not
15 2429. It's whatever is on the west side of that, but just
16 to give my perception of this house in relation to -- to
17 show relative elevations, and these were drawn from the
18 Applicant's submissions to the record.

19 Next slide, please.

20 This proposes to show in elevation given the
21 character of the neighborhood and the drop-off that occurs
22 at Girard and 25th and the proposed structure given the
23 information that was provided from the Applicant to the
24 record in relationship to 2431, which is on its west side,
25 and 2801, which is on its east side across 25th Street.

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1 In this particular case, you can actually see
2 that the new building proposed is raised above the
3 existing structure, 2431, and its profile, even though it
4 has a step back on the lot, it is still higher and it
5 actually will be closer and cast a shadow on the 2431. So
6 if the owner of 2431 chose to put solar panels on, they
7 would not be able to because the proposed building would
8 prevent that from happening. They would not be efficient
9 if they were put on there.

10 Next slide, please.

11 This is simply -- I know I've heard in other
12 cases when you buy a house, you don't buy a view. But I
13 just want to show -- at the top of the slide, it shows the
14 view as it would exist from my re-creation of the proposed
15 structure, and then at the bottom, it shows what those two
16 windows in 2431 will see if this house is allowed to be
17 built.

18 Next slide, please.

19 This proposes to show the proposed structure in
20 relationship to the two houses that I mentioned earlier on
21 25th and on Girard and relative to the elevations of the
22 street and the property. So you can actually see that
23 their buildings will be higher in profile than the
24 existing -- and again, this was using the Applicant's
25 drawings to create it.

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1 Next slide, please.

2 This is just a view from 25th Street towards
3 the proposed construction.

4 Next slide, please.

5 This is a combination slide to show at the top
6 what the occupant of 2801 and 2803 would see on their
7 front porches looking across 25th to 2433 without, and
8 then the bottom part of the slide shows what that house
9 would look like from the front porch of 2801, which
10 actually sits further down at the end of the stub of 25th
11 Street.

12 The last slide that we're going to talk about
13 is just a view of what you see from those two houses along
14 25th Street looking across public space and the existing
15 structure versus what you will see at the bottom, which is
16 from those front porches looking west on Girard across
17 25th and the proposed structure showing its step back and
18 its profile and relationship and elevation to the other
19 structures.

20 And so I've already made a comment about the
21 lack of uniqueness of the lots themselves, okay? So along
22 that side of the street, the parcels are 25 to 26 feet
23 wide, plus or minus several inches. One of the things --
24 that's because this has taken a long time to get to this
25 point. One of the things to consider is the effect of

1 building this house on light and air and privacy,
2 particularly in relationship to 2433, which will be to its
3 west. Okay? Because that's the house most affected by
4 it.

5 So there will be -- on 2433, when they rebuilt
6 the house, they moved two of the windows to the upper
7 level and to the rear. So this house is going to block
8 any semblance of having light go in there. The airflow
9 would not be uncharacteristic of the rest of the street
10 where the two properties share a short distance across
11 property lines.

12 But the privacy is going to be altered in that
13 not only when they add a deck on the back of it, which is
14 above and extends backwards -- I learned two days ago that
15 the building permit has been approved and it's been
16 inspected today at 2433 where they're going to add a deck
17 on the back of that. So this house will now oversee,
18 overshadow that new deck that's been approved by DCRA, or
19 in the process of being approved by DCRA.

20 There was some comment made that there was no
21 adverse effect on fire and safety. Neighbors, one of
22 which who is a -- works for the DC Fire Department, has
23 said or indicated a concern that less than eight feet
24 compromises the ability of fire and protection equipment
25 to adequately respond to a fire situation should it occur.

1 Yes, the Applicant did revise the drawings of
2 the house to make it look similar to the others and even
3 went to the step of stepping it back. But unless the
4 Applicant moved the house 40 feet back, it would not stop
5 the shadow-cast and the light blockage and the airflow on
6 the house adjacent to it, and it still would have the
7 privacy issue.

8 So those things are basically characteristics
9 of this piece of that neighborhood because this piece of
10 the neighborhood actually goes back to the 1840s, but the
11 development wasn't until 1905. And the houses really,
12 until recently, haven't changed that much. Most people --
13 and their original intent was you buy one of the parcels,
14 and the adjacent one is used as your side yard because,
15 with one exception where I think they combined two parcels
16 into one to build a substantially larger structure, all of
17 them fall in that 25-foot width.

18 So for the ANC, one of the big concerns is that
19 as we discussed in case 19967 about a year ago, the owner
20 bought this. You walked in this with eyes wide open.
21 Okay? So you moved that -- you're just -- I'm going to
22 say, maybe not rightly, but you entered into this
23 situation knowing full well you may not be able to build
24 on it because you cannot get the relief that you're asking
25 for.

1 So that is the crux of my presentation. Thank
2 you.

3 CHAIRPERSON HILL: All right. Thank you,
4 Commissioner.

5 I'm going to go around the table for the Board
6 members, starting with you, Mr. Hart. Do you have any
7 questions for the Commissioner?

8 VICE CHAIR HART: No questions, but Mr.
9 Montague -- excuse me. Commissioner Montague, did you do
10 that, the renderings and things that we saw in the image
11 --

12 MR. MONTAGUE: Over a period of two and a half
13 weeks.

14 VICE CHAIR HART: Knowing -- and I know
15 Commissioner Turnbull knows how difficult it is to do
16 renderings like that and to take your time to do that.
17 I'm very much impressed. It was very helpful to see that.
18 Spatially, I think that it was very interesting to see all
19 of the relationships between the buildings, and I commend
20 you for providing that to us.

21 Yeah. I don't think I have any questions on
22 this. I am still kind of searching for the -- I
23 understand what the Applicant is talking about in terms of
24 their exceptional condition, but it seems like there are a
25 lot of units -- there are a lot of parcels that have a

1 similar -- or lot, I guess, that have a similar dimension
2 and size. And it doesn't seem like a unique thing or an
3 exceptional thing in this particular neighborhood.

4 And I think that the images that you showed
5 helped to provide -- and some of the background
6 information in terms of -- I know that you're steeped in
7 history for the neighborhood, and I think that that is
8 helpful in understanding how some of this development
9 occurred back in the '40s or whenever this started.

10 And sometimes the intentions back then are --
11 they are followed through, and we see that what happens
12 now -- and other times, things change and we have what we
13 have now, which is a development proposal for a parcel
14 that may have been really for a side yard for the house
15 next to it. And it's helpful to understand it.

16 But I don't have any questions. Thank you.

17 CHAIRPERSON HILL: Ms. John, do you have any
18 questions for the Commissioner?

19 MEMBER JOHN: Just one question.

20 So, Commissioner, if the Board denied this
21 variance, what would you think should happen to this lot?

22 MR. MONTAGUE: Thank you, Ms. John. My
23 understanding -- and, in fact, Chairman Hill asked this
24 question when we dealt with this side yard in the year
25 before. The lot is basically -- unless you put a Japanese

1 tiny house on it, basically you can't build on it. The
2 lot would be sold to somebody who would carry out the
3 original intentions and just leave it vacant, use the --
4 and upkeep to keep it as a green space or a side yard.

5 I know that that may seem unfair to the
6 Applicant, but again, the Applicant walked into this
7 knowing that they may not be able to build on it. And if
8 they didn't understand that, they should have understood
9 it. Even when the estimation with the deeds and this,
10 that, and the other, and the parcel which is on the east
11 side -- and we went through this about the distancing
12 between the adjacent dwellings.

13 The fact that there is no adjacent dwelling
14 immediate to the public space on the east side is not
15 justification to say that we should slam a residential
16 property on top of this. So the developer would have to
17 bite the bullet, so to say. And this is not unique to
18 Langdon or West Woodbridge. There have been other cases
19 across the city where a developer thought that they could
20 come in and basically roll over and do what they wanted,
21 and the Board of Zoning Adjustment has basically said, no,
22 you cannot do that.

23 MEMBER JOHN: Okay. Thank --

24 MR. MONTAGUE: Does that answer the question?

25 MEMBER JOHN: Yeah. Thank you.

1 MR. MONTAGUE: Okay.

2 CHAIRPERSON HILL: Commissioner Turnbull?

3 COMMISSIONER TURNBULL: Thank you, Mr. Chair.

4 Thank you, Commissioner Montague, for your
5 presentation. And as the Vice Chair said, I do know what
6 it takes to put together those drawings. And as someone
7 who is not that computer literate at doing CAD drawings
8 but who grew up on boards drawing by hand, I know what's
9 involved.

10 I'm looking at a site plan provided by the
11 Applicant, and it does show that most of the lots in that
12 area are pretty much the same size on that side of the
13 street. But you mentioned that unless the Applicant moved
14 the house back about 30 feet or moved it back further that
15 it wouldn't be acceptable, unless he did something like
16 that.

17 So if he had a large front yard and a small
18 back yard, you'd be okay with that?

19 MR. MONTAGUE: Not necessarily be okay, and the
20 community would object to it. I'm just simply saying
21 because my job requires me to be even-tempered in analysis
22 of what would happen -- so in the past, when Chairman Hill
23 would ask, what do you expect them to do, my response
24 would be, okay, I considered that maybe if you moved it
25 back 40 feet, it would still fall within. But the side-

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1 yard issue doesn't go away because you moved the house
2 back 40 feet. The only thing that you solved is maybe the
3 light and air issue, but you didn't solve the privacy
4 issue because next door, they're building a deck, and your
5 house is going to oversee that deck.

6 So what the community and the Commission favor
7 is whatever solution will basically keep it the way it is.

8 COMMISSIONER TURNBULL: Well, I'm -- well,
9 thank you. Thank you for that. I appreciate your answer.
10 I'm looking at this one site plan provided by the
11 Applicant which shows some of these homes that look like
12 some of the houses next door have small side yards also.
13 And I'm just wondering how that plays into this.

14 MR. MONTAGUE: If you look at it, those side
15 yards, those are individual parcels. And the two houses
16 probably on the site map, there's -- if I'm -- correct me
17 if I'm wrong, there are two houses which do have a very
18 short side yard. But those houses were built in 1905, all
19 right?

20 COMMISSIONER TURNBULL: Okay.

21 MR. MONTAGUE: And so the zoning regulations
22 pre-1946 allowed it.

23 COMMISSIONER TURNBULL: Allowed it. Right.
24 Okay. All right. Thank you very much.

25 That's it for me, Mr. Chair.

1 CHAIRPERSON HILL: Thank you, Commissioner.

2 Mr. Seck, do you have any questions for the
3 Commissioner?

4 MR. SECK: Yes, Chairman Hill.

5 Basically, the Commissioner -- and I'll start
6 at the bottom. The Commissioner basically mentioned that
7 we knew when we walked into this that we may not be able
8 to build. I don't think that's a fair call. This is a
9 record lot, and it is a buildable lot. When I say
10 buildable, it's that house that can be used by family.

11 And it does look similar to the existing. As I
12 heard Commissioner Turnbull mention as far as side yard,
13 this one provides at least slightly larger side yard. And
14 it is up to the Board of Zoning, and that's why I believe
15 the Board of Zoning is formed to make a decision on these
16 cases.

17 And there's deficiency in housing market, and
18 this house would not have any detriment, even -- I mean,
19 this presentation, yes, it's elaborate. But the existing
20 houses there, this one added to it would not make any harm
21 to it. The unit is also of the street -- where 25th
22 Street meets Girard Place is unique of itself to come on
23 that angle. And that public space, which -- on my site
24 plan, it shows that it is part of that lot, the bigger
25 house on the corner.

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1 But, however, even if this public space -- we
2 cannot purchase a public space to make this lot any wider.
3 And this is an undeveloped lot, and we're seeking relief
4 to develop it. I'll leave it at that for now. Thank you.

5 CHAIRPERSON HILL: Okay. Thank you.

6 Let's go ahead and turn it to the Office of
7 Planning, please.

8 Mr. Jesick, are you there? You're on mute if
9 you're trying to speak. I can't see you either. Still
10 can't hear you or see you.

11 Can you guys hear me? Okay. Thank you.

12 Mr. Jesick?

13 I don't know if we're having some technical
14 issues with Mr. Jesick.

15 Mr. Moy, are you able to contact Mr. Jesick, or
16 you don't know?

17 MR. MOY: Yeah. I can see if I can give him a
18 call, Mr. Chairman.

19 CHAIRPERSON HILL: Okay.

20 You guys, I'm just going to mute myself for a
21 minute while we try to see what's going on with Mr.
22 Jesick. Okay. Let's do this. Let me -- Mr. Moy, I guess
23 you called Mr. Jesick. Is that correct? You can just nod
24 your head.

25 Okay. So he's trying to call in. So, Mr.

1 Young, can you hear me?

2 MR. YOUNG: Yes, I can.

3 CHAIRPERSON HILL: Were there people wishing to
4 speak or testify?

5 MR. YOUNG: Yeah, I have two people.

6 CHAIRPERSON HILL: Okay. Why don't you bring
7 them in?

8 Okay. Ms. Wilson, can you hear me?

9 MS. WILSON: Yes, I can.

10 CHAIRPERSON HILL: Okay. Could you please
11 identify yourself for the record?

12 MS. WILSON My name is Allyson Wilson, and I am
13 the homeowner of 2801 25th Street, Northeast.

14 CHAIRPERSON HILL: 2801. I'm just trying to
15 look at one of the exhibits. Where is that in relation to
16 the property?

17 MS. WILSON It's directly across from the
18 property. I'm actually going to turn my computer, and if
19 you see the fence right there, that fence is where the
20 proposed house -- right on the other side of that fence is
21 where District Properties --

22 CHAIRPERSON HILL: Ms. Wilson? Ms. Wilson?

23 MS. WILSON Yes.

24 CHAIRPERSON HILL: I actually cannot see your
25 video. You haven't turned your video on.

1 MS. WILSON Oh. Okay. That's --

2 (Simultaneous speaking.)

3 CHAIRPERSON HILL: And before you speak -- I
4 mean, I was just trying to -- you can go ahead and provide
5 that during your testimony.

6 MS. WILSON Okay.

7 CHAIRPERSON HILL: But I'm still waiting for
8 you to get your monitor going.

9 MS. WILSON Yeah, that's odd. Let me see here
10 because I use WebEx for work. So everything should be --

11 CHAIRPERSON HILL: Sure. If you hover over
12 the --

13 VICE CHAIR HART: Mr. Chairman?

14 CHAIRPERSON HILL: Yes?

15 VICE CHAIR HART: Video?

16 CHAIRPERSON HILL: Yes. Oh, I don't know. I
17 mean, we haven't -- we still haven't figured out what that
18 is, right?

19 VICE CHAIR HART: Well, I'm just trying to
20 figure out how we -- I thought -- I can't remember the
21 procedure that we're going through, and I think I know
22 part of it. Do we have to ask what it is that we are
23 going to see and whether or not that is kind of
24 duplicative and all of that?

25 And I just -- and if we're going to do that,

1 then I think we also have to kind of note when the video
2 starts and when it ends, and it just -- there seems to be,
3 from what I recall, some discussion that I think we were
4 supposed to do. But --

5 CHAIRPERSON HILL: I don't think we ever got
6 anything resolved, Mr. Hart. I believe -- and Mr. Moy --
7 and I guess, Mr. Bassett, you're there also. But first,
8 let's do one step at a time. But I agree.

9 So, Ms. Wilson, actually, could you mute your
10 microphone for a moment? Okay. Great. Thank you.

11 So, Mr. Bassett, do you recall -- and/or Mr.
12 Moy -- do you recall where we left the discussion
13 concerning video testimony?

14 MR. BASSETT: I can get it in front of me, what
15 we had recommended. I think there's a lot of judgment for
16 the Board to accept or not accept video testimony. But I
17 will get back to you in a second.

18 CHAIRPERSON HILL: Okay.

19 MR. MOY: While he's doing that, Mr. Chairman,
20 my memory tells me that what we had, I guess, decided how
21 we were going to move forward is that I would note for the
22 transcript when the, I'm going to call it, recorded views
23 would start and when it would end. We would have that in
24 the record.

25 And I think the Applicant was also to provide

1 some pictures to put into the record so that would show
2 what the person was showing. But I'll wait for Mr.
3 Bassett to come back online.

4 CHAIRPERSON HILL: Yeah. I don't think -- this
5 is -- so I get to share this news, then, now that I
6 realize this.

7 So, Commissioner Montague, are you going to be
8 with us for the next couple of hearings, or is this your
9 last hearing until the end of the --

10 MR. MONTAGUE: This is my last for the day, but
11 I can stay here as long as I need to be.

12 CHAIRPERSON HILL: No, no, no, no. I was
13 asking you if you're going to be on another hearing
14 between now and the time we break for summer.

15 MR. MONTAGUE: Oh, yes. One is in August about
16 Fort Lincoln.

17 CHAIRPERSON HILL: Okay. That's right. I had
18 a comment about something, but we don't have anything in
19 August. August 5th, August 5th. You're correct. Never
20 mind.

21 (Simultaneous speaking.)

22 CHAIRPERSON HILL: -- sidetracked because I'm
23 listening to what Mr. Hart had brought up again.

24 So, Mr. Moy, I think we need to kind of figure
25 this out later. I still don't understand, like, I mean --

1 and what Mr. Bassett is saying is that the Board can kind
2 of figure it out. Right? So --

3 MR. BASSETT: So, this is -- I have our
4 guidance for you, which we had sent out earlier, in front
5 of me. I think we wanted to give you a more clear answer,
6 which we haven't provided yet. But the first step is to
7 figure out whether the video testimony is unduly
8 repetitious, immaterial, or irrelevant. So if the video
9 testimony were simply to show where she is in relation to
10 the subject property, the Board could choose to use other
11 means to figure out that information.

12 CHAIRPERSON HILL: Okay. So that -- I don't
13 know if that necessarily clarifies things, but thank you,
14 Mr. Bassett.

15 So let's do this first. I was just trying to
16 find -- Ms. Wilson, before you -- your camera, by the way,
17 is now on. So it is working. I was just trying to see
18 from the exhibit -- I know that there's in Exhibit 37 -- I
19 think it was 37, or where was it that had the different
20 locations? I'm pulling it up. Give me one moment.

21 Yeah. Ms. Wilson, do you know your lot number,
22 by any chance? No? That's all right. So you're directly
23 across the street from the proposed property. Is that
24 correct?

25 MS. WILSON: I am. Yeah. I'm --- yeah.

1 CHAIRPERSON HILL: Okay. You're directly
2 across the street. Okay. So, Ms. Wilson, why don't you -
3 -- pardon me?

4 MS. WILSON: I'm east of it, and I'm lot 22.

5 CHAIRPERSON HILL: Oh, okay. All right. I got
6 you. Right. So you're -- it's directly in front of where
7 you -- okay. I got you. I know which one you are now.

8 MS. WILSON: Right.

9 CHAIRPERSON HILL: All right, Ms. Wilson. So,
10 as a member of the public, you'll have three minutes to
11 give your testimony. And so you can begin whenever you
12 like.

13 MS. WILSON: Okay. Thanks. So, Chairman Hill
14 and Commissioners Hart and John, Commissioner Moy, thank
15 you all for taking the time for this today. This has been
16 a really long and stressful process for all of us.

17 The project that's been proposed -- and
18 particularly District Properties' entire project -- has
19 been really stressful because, as Mr. Seck pointed out, it
20 was in 2018 when they closed on a project -- on property
21 from an LLC that set itself up basically to purchase the
22 property of Mrs. Ethel Taylor.

23 So, at the time, Ethel Taylor did own three
24 lots. She owned the lot to the west of her house, the lot
25 to the east of her house. The lot to the west was her

1 side yard. The lot to the east -- which is the lot right
2 across from my property -- was her parking pad. And so
3 2018 Girard LLC set itself up, and District Properties
4 closed on the lots to the west and the east of the house
5 the day after someone else closed on the property that is
6 the house.

7 So it's disingenuous for District Properties to
8 say that they were unaware that the house was in play and
9 all of these things because we believe that they were
10 working in conjunction to create a practical difficulty.
11 They didn't want the house in the center because then they
12 couldn't make the additional money of trying to build two
13 new houses on the lot to the west and the east.

14 The problem that we have with this entire
15 project is that it will significantly impact our view from
16 our house -- as it will tower over us -- and it will
17 change the character of the neighborhood. We moved to the
18 Langdon Woodbridge area because we wanted big yards. We
19 wanted sizable houses, and that's what this neighborhood
20 is known for.

21 My husband and I and our three kids have lived
22 here for going on 11 years, and we've watched over a
23 decade as residents who have come and fallen in love with
24 our neighborhood who have decamped from Capitol Hill after
25 growing their families loved the size of the yards and the

1 feeling of community in this neighborhood.

2 And that is fundamentally why we oppose this
3 project. And what I was trying to show you -- I know
4 there was some debate. I did have to log off and get back
5 in in order to turn my camera on. First of all, let me
6 thank Commissioner Montague for the renderings that he
7 did. One thing I did want to flag about the renderings is
8 that they did not accurately show just how narrow the
9 streets are around here.

10 As you are coming south on 25th Street -- and
11 our house is the dead end of 25th Street -- our street
12 narrows to nine feet wide to enter our driveway. And so
13 when you are actually looking out of our window -- that's
14 my car in the driveway, and the fence that you see just
15 beyond my car is where District Properties proposes
16 putting this house.

17 And so, right now, we see our neighborhood. We
18 see cars coming up the street getting ready to turn the
19 corner. They want to stick a 19-foot-wide house onto that
20 lot right there, and it just -- thinking about that,
21 thinking about them changing the character of the
22 neighborhood to have a house right there, it creates a lot
23 of anxiety. That is not what we purchased our house for.

24 And then in addition to that, with the nine-
25 foot-wide street, where are they going to put all their

1 building materials? How are they going to get this house
2 built without impacting the quality of life for myself and
3 my neighbors?

4 And so the third and final point that I want to
5 make is that I asked District Properties several times to
6 prove that they do not have their fence on the land that I
7 own. Eleven years ago when we moved here, we had a
8 surveyor come out and stake the land, and they said they
9 had to do a lot of research and discovered that we
10 actually own part of the then-driveway of Ethel Taylor
11 when we built a fence around our property. And we were
12 just like, oh, that's interesting.

13 Clearly, at that time, there was no big need to
14 go tell Ethel Taylor, we own some of your driveway. We
15 just thought it was an interesting, fun fact. So we asked
16 District Properties to please come out and do a full
17 survey with stakes to prove that they are not on our
18 property with the fence that they have now put up, and
19 they have ignored those requests.

20 And I'll leave my testimony there. Thank you.
21 I'm sorry. I couldn't hear you.

22 CHAIRPERSON HILL: No, no. Thank you. I'm
23 sorry.

24 Does the Board have any questions for the
25 witness? Mr. Hart?

1 VICE CHAIR HART: No, I don't have any
2 questions. I appreciate the information that Ms. Wilson
3 provided to us, and I kind of understand where her
4 property is with respect to the parcel that is before us.
5 And so it looks fairly close to me. But there are no
6 questions. Thank you.

7 CHAIRPERSON HILL: Ms. John -- or does anyone
8 have any questions? If you do, just raise your hand.

9 Oh, Ms. John, you seem like you're trying to
10 say something. Okay.

11 MEMBER JOHN: I was going to say I have no
12 questions. Ms. Wilson's testimony was helpful in
13 identifying the location of her property, and I guess it's
14 fair to say that she shares a property line with the
15 project. So this was very helpful. Thank you.

16 CHAIRPERSON HILL: Mr. Turnbull?

17 COMMISSIONER TURNBULL: Thank you, Mr. Chair.

18 Ms. Wilson, do you have your old survey?

19 MS. WILSON: I do have the old survey. What I
20 no longer have are the orange paint marks and the stakes
21 that were put in 11 years ago.

22 COMMISSIONER TURNBULL: Okay. The metal stakes
23 at the corners though should still be -- they should still
24 be there. Somebody -- usually, when a surveyor comes out
25 again, they usually have a metal detector. They should be

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1 able to pick those up. So Mr. Sikder should be able to
2 identify those fairly quickly with someone and confirm
3 that, indeed, your -- where your property line is.

4 So I think that's not an impossible task for
5 Mr. Sikder to do. Thank you.

6 CHAIRPERSON HILL: Okay. Well, I will -- since
7 Ms. Wilson is on the line, I mean, I -- so, Mr. Jesick, it
8 seems like we have you now?

9 MR. JESICK: Can you hear me, Mr. Chairman?

10 CHAIRPERSON HILL: Yes.

11 MR. JESICK: Okay. I'll try to do it this way.
12 If that fails, I'm also on the phone call.

13 CHAIRPERSON HILL: That's okay. Mr. Jesick, I
14 just have a quick question because I forget how this works
15 right now. In terms of permitting and property lines and
16 things like that, that comes through the permitting
17 process, correct?

18 MR. JESICK: Well, I'm not sure exactly what
19 you mean.

20 CHAIRPERSON HILL: My question is, Ms. Wilson is
21 concerned that the project would cross into her property
22 in some capacity, and I'm trying to remember where one is
23 protected from that during the permitting process.

24 MR. JESICK: Well, I think -- yes. You're
25 correct. In the BZA process, we're assuming that these

1 drawings are correct. They would need to submit a survey
2 as part of their building permit. I believe DCRA would
3 check that.

4 CHAIRPERSON HILL: Right. So that's where --
5 if someone were to build something on somebody else's
6 property, that's where it would be found.

7 MR. JESICK: I believe so. I know they come
8 out to do wall checks to get the exact placement for where
9 a structure is being built and that sort of thing. I'm
10 not sure of their exact process, but I believe that DCRA
11 would check those throughout the building permit and
12 construction phases.

13 CHAIRPERSON HILL: Mr. Seck, do you have
14 something that you can show Ms. Wilson in terms of where
15 the property lines are?

16 MR. SECK: Yes.

17 CHAIRPERSON HILL: Not right now, not right
18 now. I'm just asking, do you have something?

19 MR. SECK: Yes, Chairman Hill, our site plan
20 and also the surveyor plat that we have.

21 CHAIRPERSON HILL: That's what you're saying is
22 --

23 MR. SECK: I'm sorry. I couldn't hear you.

24 CHAIRPERSON HILL: You're saying that's in the
25 record? Is that what you're saying?

1 MR. SECK: Yes.

2 CHAIRPERSON HILL: And which exhibit are you
3 pointing to, please?

4 COMMISSIONER TURNBULL: It looks like it's 86.

5 CHAIRPERSON HILL: Eighty-six?

6 MR. SECK: Yes. Confirm that.

7 CHAIRPERSON HILL: Okay.

8 So, Ms. Wilson, just so -- if you look into the
9 record at Exhibit 86, that's where the survey is. So just
10 to let you know -- I'm just trying to --

11 MS. WILSON: Okay, okay.

12 CHAIRPERSON HILL: -- pointing that out to you,
13 right? So that's one thing. All right. So, Ms. Wilson,
14 I'll leave you there for a minute.

15 Ms. Westover, can you hear me?

16 MS. WESTOVER: Yes, I can. Can you hear me?

17 CHAIRPERSON HILL: Yes, I can. Could you
18 please introduce yourself for the record?

19 MS. WESTOVER: Yes. My name is Theresa
20 Westover, and I own the house at 2803 25th Street
21 Northeast. So I am lot 001 on Exhibit 37. So I am
22 directly across 25th Street to the proposed project.

23 CHAIRPERSON HILL: Got it. You and Ms. Wilson
24 are neighbors.

25 MS. WESTOVER: Yes.

1 CHAIRPERSON HILL: Okay. All right. Okay. So
2 I'm going to go ahead and give three minutes for you
3 there, and the clock is actually on the screen in front of
4 you to the left -- top left -- or somewhere on your screen
5 it should be. Do you see the three minutes?

6 MS. WESTOVER: I don't, but that's okay. I
7 don't think I'll be a full three minutes.

8 CHAIRPERSON HILL: Really? No, I'm just
9 curious now as to why you're not seeing it. Oh, because I
10 don't know how you have it set up. Okay. Never mind. So
11 go ahead and start whenever you like.

12 MS. WESTOVER: Okay. The first thing, thank
13 you for giving us the opportunity to talk about why we
14 oppose this project. The second thing that I wanted to
15 mention is I was the person who tried to file something at
16 9:02 this morning. I took a walk down Girard Place
17 Northeast and took a video of it that I wanted to upload
18 to the case file so that the Board could get a better feel
19 for what this street and this community looks like.

20 But the file was too big for me to email, so I
21 had to figure out how to put it onto a YouTube link, and
22 that's what I tried to file late this morning. I know
23 there was some discussion about it earlier. So I have the
24 YouTube link if the Board wants it and if it would be
25 helpful in kind of seeing in real life, as of this

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1 morning, what this street looked like.

2 CHAIRPERSON HILL: Did it actually get
3 uploaded? It didn't get accepted.

4 MS. WESTOVER: Correct.

5 CHAIRPERSON HILL: Okay. So you have the --
6 okay. We can discuss that one in a minute. Go ahead and
7 give your testimony, if you would, please.

8 MS. WESTOVER: Sure. So a lot of the points
9 that I'm going to make have already been made by
10 Commissioner Montague and by Ms. Wilson, but I just wanted
11 to make four points today. They are that District
12 Properties has the burden of proof here to show that
13 there's an extraordinary or exceptional circumstance and
14 that there would be an undue hardship. And I don't think
15 that they have proven any of those things.

16 District Properties knew exactly what it was
17 getting when it purchased this property. Our
18 understanding from speaking with the developer of the
19 house in the middle is that they had declined to purchase
20 the house in the middle, and it's our opinion that they
21 then created this undue hardship for themselves.

22 Another reason that this is not an undue
23 hardship is I was looking at previous cases where the
24 Board looked at side-yard variances, and in application
25 17737 -- which was another District Properties case -- the

1 Board found it significant that District Properties didn't
2 offer their lot that was a subject of the application to
3 any of the adjacent neighbors. And that's the case here
4 as well.

5 District Properties has never offered this to
6 Ms. Wilson for her to purchase. I have specifically asked
7 District Properties when they came out here about
8 purchasing it just to keep it as a green space. They said
9 it was not for sale. And the owner of the house in the
10 middle has never been offered this side yard to purchase
11 to become part of their property.

12 The proposed home is going to result in a
13 substantial detriment to the public good. I think Ms.
14 Wilson talked about why people move to this neighborhood.
15 It's exactly why my husband and our two kids moved here.
16 We moved here from Capitol Hill because there are huge
17 yards, there's a ton of privacy, the houses are
18 substantial, and there's a sense of community. And
19 cramming a house right across the street from our porch is
20 going to absolutely ruin any sense of privacy we have in
21 the front of our house or on our porch.

22 Also, just to talk to one of the points that
23 Mr. Seck made in his most recent filing, he said that the
24 owner of 2431 Girard Place has not objected to the
25 proposal. Well, the owner of that is a developer. That

1 house has been on the market, as of today, 161 days. It
2 has decreased in price several times. And when I talk to
3 people who come out of the house after viewing it, they
4 say they're not going to buy it because the possibility of
5 this house being built makes it an unattractive house to
6 purchase.

7 The number of days on the market and the
8 decrease in the value just goes to show that that's true.
9 I can only imagine what's going to happen when they
10 actually do -- if they're allowed to -- build this house.
11 It's negatively affecting our home values if this price
12 continues to decrease when we look to comps to sell, and
13 clearly, there is no deficiency in housing for the type of
14 house that Mr. Seck wants to build. Otherwise, this house
15 would have been snatched up 160 days ago.

16 CHAIRPERSON HILL: Thank you, Ms. Westover.

17 Does the Board have any questions for Ms.
18 Westover?

19 I don't see anyone raising their hand. Okay.

20 All right.

21 Well, Ms. Wilson and Ms. Westover, thank you
22 for your testimony. We'll go ahead and put you back in --
23 before you go, I just want to mention again, thank you for
24 your testimony. Again, when we're -- you'll be watching,
25 obviously, and so you may see us. But again, what we're

1 charged with is trying to figure out whether or not
2 they're meeting the criteria for this to be granted, just
3 to kind of let you know. So okay. Thank you all very
4 much. Bye-bye.

5 Mr. Turnbull?

6 COMMISSIONER TURNBULL: Just one question, Mr.
7 Chair. Are we going to accept the video that Ms. Westover
8 was going to provide, or --

9 CHAIRPERSON HILL: Right. Well, now she's left
10 us. To be quite honest, I don't think I need the video
11 because there's just so much stuff that has been shown.

12 COMMISSIONER TURNBULL: Yeah --

13 CHAIRPERSON HILL: I wouldn't necessarily have
14 minded seeing the video if it had made it into the record
15 on time, but that's up to the Board. And again -- and I'm
16 sorry Ms. Westover is now gone, but I know that she is
17 listening. There's all the diagrams that everybody has
18 put into the record. There's a lot of things that very
19 clearly shows kind of the neighborhood, I believe.

20 But does anyone want the information?

21 MEMBER JOHN: I'm fine with the record as it
22 is.

23 COMMISSIONER TURNBULL: I was just checking.

24 CHAIRPERSON HILL: Okay. No, I appreciate
25 that, Commissioner.

1 All right. So now we're back to Mr. Jesick.

2 Mr. Jesick, if you could please give the Office
3 of Planning's report.

4 MR. JESICK: Thank you, Mr. Chairman, Members
5 of the Board. My name is Matt Jesick. Can you hear me
6 okay? Great.

7 I'll simply reiterate my verbal testimony from
8 the previous hearing, as well as our written report. The
9 Office of Planning is recommending approval of the
10 requested variances. We feel that the property is based
11 within exceptional conditions in that it is a parcel, not
12 a record lot. So if any owner wished to make a use of the
13 property, they would need to convert the property to a
14 record lot, which in this case would require lot width and
15 lot area relief.

16 So we did feel that the application met the
17 variance criteria. We did have some comments on the
18 design, as the Applicant mentioned at the beginning, and
19 we are satisfied with those design revisions that they
20 made. We felt that in terms of the architectural
21 character, the building would fit in with the streetscape.

22 I'd be happy to take any questions. Thank you.

23 CHAIRPERSON HILL: All right. Mr. Jesick, if
24 you could again just kind of go over a little bit the
25 design issues that you had asked the Applicant to do. And

1 then, since there are people watching and everything and
2 it is helpful to me, could you please kind of walk us
3 through your analysis? Like how did they get past the
4 variance test for you?

5 MR. JESICK: Sure. Maybe on the variance test
6 first, what is the exceptional situation resulting in a
7 practical difficulty? Again, this is -- it's a parcel.
8 In the District, to obtain a building permit, you need a
9 record lot. Without that record lot, you can't obtain a
10 building permit. So we view that as an exceptional
11 situation in and of itself, which would result in a
12 practical difficulty to any owner of this property.

13 CHAIRPERSON HILL: May I interrupt you, Mr.
14 Jesick? Because I'm curious. I mean, aren't there a lot
15 of lots out there that aren't record lots? So would that
16 mean that all record lots automatically are meeting that
17 first exceptional criteria? I mean -- sorry. All lots
18 that aren't record lots are meeting that first prong?

19 MR. JESICK: Well, we would have to take a look
20 at each individual case, but I think that's a strong
21 indicator that a property may meet that first part of the
22 variance test.

23 CHAIRPERSON HILL: Okay.

24 Mr. Hart?

25 VICE CHAIR HART: Yeah. Mr. Jesick -- and I

1 know the Chairman asked you about the variance test
2 explanation. But the Applicant told us earlier in his
3 testimony -- in his presentation that this is already a
4 record lot.

5 MR. JESICK: We --

6 VICE CHAIR HART: So you're saying that your --
7 you don't agree with that?

8 MR. JESICK: The information that we have based
9 on our GIS system is that this is a parcel, and that was
10 the relief that was requested. So that's what we
11 analyzed. If it is in fact a record lot, then the
12 Applicant could, I guess theoretically -- I'm not making
13 decisions for them, but they could theoretically withdraw
14 those areas of relief. If they need some other form of
15 relief -- such as the side yard -- they could apply for
16 that alone and then simply proceed forward with their
17 building permit, if it is a record lot.

18 They would not need -- because it is an
19 existing record lot, they would not need lot area or lot
20 width relief if that were the case.

21 CHAIRPERSON HILL: Why? Because it already is
22 a record lot? Why?

23 MR. JESICK: That's right. There's a provision
24 in the regulations that says existing record lots do not
25 need relief for lot area or lot width.

1 CHAIRPERSON HILL: Okay. And so the Applicant
2 is just, out of an abundance of caution, asking for this
3 relief even though they think they don't need it.

4 MR. JESICK: That's -- yeah. That was Mr.
5 Seck's testimony.

6 CHAIRPERSON HILL: Okay. So please continue
7 with your analysis, Mr. Jesick.

8 MR. JESICK: Sure. Well, in regard to the side
9 yard, we did feel that the narrow width of the lot created
10 an exceptional condition. If you're going to build a home
11 on the property, the home would need to be a usable width.
12 At 26 feet -- approximately 26 feet wide, if you have two
13 eight-foot side yards, you're looking at a ten-foot-wide
14 house on the exterior walls.

15 So, as in past cases that the Board has seen
16 over the years, we recommended approval of a lot -- or,
17 excuse me, a side-yard relief to provide side yards which
18 are similar -- and in fact I think a little larger -- than
19 some other side yards in the vicinity.

20 With regard to the second prong of the test,
21 the substantial detriment to the public good, we felt that
22 the home would fit in with the streetscape along Girard
23 with the design changes that we had proposed. I believe
24 the Applicant originally came in, if memory serves, with a
25 brick structure. I think most of the homes along the

1 south side of Girard, at least, have siding. So we
2 thought siding would be more appropriate.

3 Also, I believe most of the homes on the south
4 side have front porches, so we requested the Applicant add
5 a front porch and also a front gable to match the pattern
6 of houses along the street. Those are the design changes
7 that we asked the Applicant to make.

8 With regard to the final prong of the test, no
9 substantial harm to the zoning regulations, the zoning
10 regulations do provide a typical size for a new lot in
11 low-density residential zones, but they did not intend to
12 prevent appropriate infill development, particularly on
13 existing lots -- or in this case, a parcel, could be a
14 lot.

15 I think also getting to that point, the Office
16 of the Attorney General informed me that they had done
17 some research -- and I guess getting back to what
18 Commissioner Montague had said that these were tax laws
19 dating back to 1905, so that's just another data point for
20 you to consider. But the regulations also generally
21 intend to provide --

22 CHAIRPERSON HILL: How is that another data
23 point in your mind to consider, Mr. Jesick?

24 MR. JESICK: In our discussions with OAG, I let
25 them know that I don't think that would change our

1 analysis, necessarily. We're looking at the property as
2 it is today. But I think in OAG's mind, it was extra
3 weight just bearing on the exceptional conditions of this
4 property.

5 MR. BASSETT: This is the OAG -- Dan Bassett,
6 OAG. I would say that the tax law in existence is not
7 relevant to the first prong in the variance test, just
8 from our understanding.

9 CHAIRPERSON HILL: Okay.

10 Is that it, Mr. Jesick?

11 MR. JESICK: Yeah. I'm happy to answer any
12 questions. Thank you.

13 CHAIRPERSON HILL: Okay. I'm going to go
14 around with the Board.

15 Mr. Hart, your microphone is already unmuted.
16 I assume you have a question.

17 VICE CHAIR HART: Yes. Thank you very much,
18 Mr. Chairman.

19 So, Mr. Jesick, I appreciate you going through
20 this, your analysis for this case. One of the things that
21 I remember from this case and actually remember from the
22 house that was a couple doors down, there was kind of a
23 discussion about there being kind of a gap in the
24 development. You know, there was kind of that parcel that
25 was just undeveloped, and it seemed to be the Office of

1 Planning thinking that that -- I don't want to say
2 justification, but that was helpful in understanding how
3 this might be a better -- having the development in that
4 parcel or the parcel that's before us now was a better
5 development than leaving it vacant.

6 But you've heard from Commissioner Montague
7 that this was actually somewhat of a design in terms of
8 having a parcel and an open space next to it. And if you
9 could talk a little bit about that in terms of maybe your
10 experience in other parts of the city -- or even in this
11 neighborhood -- if you will take that into consideration,
12 a development -- as a development pattern. Sometimes the
13 development pattern isn't house, house, house, house,
14 house. It may be that it's house, open space, house, open
15 space, something like that. And does that weigh in on
16 your analysis?

17 MR. JESICK: I think you're right that our
18 initial impression was that these were gaps in the urban
19 fabric along Girard Street. I understand the
20 Commissioner's testimony. I think for us, it's hard to
21 assess what was the original developer's original intent.
22 And if it was his intent to have side yards, why was it
23 not just a single lot with a house built to one side?

24 So that's -- we were looking at the lot
25 configuration as it exists and apparently has existed for

1 well over 100 years and thinking that these were
2 developable lots from the beginning. They could have been
3 developed. So, for whatever reason they were not, but
4 this current owner is now seeking to build on them, and
5 they have sought these variances.

6 VICE CHAIR HART: Thank you. And you've also
7 noted that this was -- part of the exceptional condition
8 was that under the zoning regs, the lot area is larger
9 than what is allowed or what is the size of this
10 particular lot. But in the OP report, there is, I guess,
11 an image that shows -- I guess you're looking at parcels,
12 but you're highlighting that there are a number of parcels
13 in this community. I guess it's page -- I don't know if
14 this is -- 4 of the report you all did last year.

15 And it just shows where the parcels are and
16 then where this parcel is in particular. But what struck
17 me was that there are a lot of parcels that are of
18 comparable size in this particular area, width -- I'm
19 talking about the narrowness of the property, and maybe
20 the depth of the property as well, which kind of gets me
21 to the exceptional condition aspect of it.

22 It seems as though it may not be exceptional in
23 this area. It may be exceptional in other parts of the
24 city, but in this particular area, this does not seem --
25 one, there seems to be a variety of different types of

1 housing that's here, and two, the parcels themselves seem
2 to be of a narrower size than -- or a comparable size to
3 what's here. And I'm trying to get to parse out the
4 exceptional condition part of that, of the zoning, of the
5 analysis that you all performed on the case.

6 And so it's me trying to understand this a
7 little further so that I -- well, so that I understand it.
8 And I don't have any other questions after that.

9 MR. JESICK: Sure. And I apologize if my
10 explanation wasn't clear. Our rationale for an
11 exceptional property was not based on its size or even its
12 size in relation to other parcels in the neighborhood.

13 Our exceptional condition -- as stated in the
14 written report -- is simply the fact that it is a parcel
15 and not a record lot, and again, therefore it would result
16 in a practical difficulty to any owner if they could not
17 obtain a building permit for their property which they
18 own.

19 VICE CHAIR HART: Maybe I do have a follow-up.
20 So it seems as though the -- and I understand that there
21 is a need to have a development in some cases. I'm
22 struck, however, that in this case it seems as though
23 there is a -- I mean, the next-door neighbor could
24 purchase this, or several next-door neighbors could
25 purchase this property and become part of their property.

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1 And having another building here is -- it
2 doesn't seem like it's following the development pattern
3 of the neighborhood, and that's something that we've used
4 in the past in terms of just understanding the rationale.
5 And also, using the types of development or the size of
6 parcels in the immediate vicinity is also something that
7 we have used in the past to understand the exceptional
8 condition aspect of it. Because this one, this case, is
9 similar to a parcel size that is in the immediate
10 vicinity, then we can be either supportive or not
11 supportive of it.

12 But it does seem like at some point we've
13 actually used that -- the BZA has used that -- in the past
14 as a rationale for granting or denying variances. And I'm
15 not really sure that's necessarily a question. It's more
16 of a statement.

17 I finished my questions. Thank you.

18 CHAIRPERSON HILL: Ms. John, do you have any
19 questions for the Office of Planning?

20 MEMBER JOHN: Just briefly.

21 So can you clarify the difference between a
22 parcel and a tax lot? They seem to -- the terms are used
23 interchangeably. And can you discuss that briefly?

24 MR. JESICK: To be honest, I could not give you
25 a legal definition of the difference between them. They

1 have different origins. A tax lot is a creation of the
2 Office of Tax and Revenue. The parcels were -- it was a
3 system used to denote land outside -- my understanding is
4 it was outside of the original federal city in those areas
5 that were not yet incorporated into the District of
6 Columbia.

7 So I think the history of parcels is probably
8 even older than the history of tax lots. But I don't know
9 if that answers your question or gives you some sort of
10 distinction between them.

11 MEMBER JOHN: Sure. Sure. In your analysis,
12 then, your view is that this is not a record lot. So if
13 it's a tax lot or a parcel, it really wouldn't make any
14 difference. It's not a record lot based on your research.

15 MR. JESICK: I think your statement is
16 accurate. If it happened to be a tax lot, we probably
17 would have reached the same conclusions. But our
18 understanding is not a record lot, but if the Applicant
19 wants to pursue that avenue, they certainly could.

20 MEMBER JOHN: And could you -- I don't know if
21 you talked about the --- but could you talk about that in
22 reference to Ms. Wilson, I believe it was? She's the
23 neighbor whose property line width --

24 MR. JESICK: Sure. As in any urban
25 neighborhood, we expect houses to be near us. I think in

1 this case, there is a vacant lot. It could be anticipated
2 that a home could be built on a vacant lot in the
3 District. In this case, the vacant lot happens to meet
4 certain areas of relief, so that's why we're here today.
5 But if the lot were wider and larger, a home could be
6 built as a matter of right.

7 So we obviously know that the view from the
8 adjacent properties will change. However -- I don't have
9 the language right in front of me, but when we look at the
10 impact to the public good, we typically look at what is
11 the -- would it be an undue impact to nearby neighbors to
12 have this degree of change? And would that be grounds for
13 recommending denial of any particular case?

14 MEMBER JOHN: Okay. Thank you.

15 CHAIRPERSON HILL: All right. Let's see.

16 Mr. Jesick, what about the discussion that's
17 happened, again, about that middle property? Like, I'm
18 just kind of curious --- I'm a little confused -- well,
19 not confused. If they had owned the middle property,
20 would that have changed anything? I'm trying to remember
21 what the Office of Planning -- in terms of how you would
22 have been able to get land from an adjacent property,
23 there was part of that at different times we've had
24 discussions about that.

25 If they owned the middle property, would that

1 have changed this dynamic?

2 MR. JESICK: To be honest, Mr. Chairman, I
3 think that's a hypothetical question that I really don't
4 want to get into.

5 CHAIRPERSON HILL: Okay. Okay.

6 MR. JESICK: We're evaluating the lot as it is.

7 CHAIRPERSON HILL: No, I understand. I'm just
8 trying to see how that would have necessarily -- if they
9 owned the middle property, then -- and so --- and as of
10 now, there's nothing -- and this goes back to, kind of,
11 the discussion. There's nothing they can do with that
12 matter of right in the Office of Planning's determination.

13 MR. JESICK: With the subject property?

14 CHAIRPERSON HILL: Yes.

15 MR. JESICK: They could not obtain a building
16 permit without converting to a record lot. So they would
17 need this certainly to convert it to a record lot.

18 CHAIRPERSON HILL: Right. Okay.

19 All right. Mr. Hart?

20 VICE CHAIR HART: Yeah. Just one quick follow-
21 up on that. If they --- are they able to build to the lot
22 line? If they built a semi-detached house -- they built
23 on the lot line, so they moved the house to the east, I
24 guess, and then had a side yard on the west -- an eight-
25 foot side yard on the west. It may be a smaller and

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1 narrower house, but there's still -- I don't know.

2 I don't know if any of these are --- if there
3 is another option for them. But you're saying that there
4 isn't?

5 MR. JESICK: Well, they would need relief to
6 build on the property line. This is the R-1B zone, so
7 it's -- you know, it requires two side yards. So --

8 VICE CHAIR HART: Never mind. I -- thank you
9 very much. Sorry about that.

10 CHAIRPERSON HILL: Okay.

11 Mr. Turnbull? Yes. Of course, Commissioner.

12 COMMISSIONER TURNBULL: Thank you, Mr. Chair.

13 Mr. Jesick, thank you for your analysis. I
14 believe Exhibit 83 does refer to the lots not only as
15 parcel but as a tax lot. It seems like -- I'm not sure
16 what the clarification is, but I believe that 83 does
17 refer to them as a tax lot.

18 But even if it was a record lot, would they
19 still have to come before the BZA to get relief for the
20 side yards?

21 MR. JESICK: Yes, that's correct. They would
22 still need side-yard relief based on the current design.

23 COMMISSIONER TURNBULL: And the side yards are
24 required to be eight feet?

25 MR. JESICK: Correct.

1 COMMISSIONER TURNBULL: So -- okay. I guess my
2 only question is you saw that there was an exceptionable
3 condition, and your report seemed to indicate that there's
4 no detriment to the public good. But you've already heard
5 from neighbors that they really feel that this is a
6 detriment to the public good.

7 So, I mean, there's a perception as to what's
8 the public good and what isn't. So I'm just concerned
9 that we've got a situation where we've got a piece of
10 property that wants to have a house, and everybody wants
11 new housing in the District of Columbia, but at the same
12 time, there's got to be some -- a combination for where
13 it's built and how it's built, especially with
14 relationship to the neighbors.

15 Although these homes may have been built 50 or
16 more years ago so close and so narrow, that's really not
17 the practice today. People are looking for a little bit
18 more air and light in their homes. So I guess the
19 question is, looking at the standards of homes that were
20 built quite a while ago -- 75 years -- where people
21 accepted smaller spaces between their homes and there's a
22 lot of homes like that -- but I think nowadays people are
23 expecting a little bit more out of that.

24 So I don't know if you want to respond. I
25 mean, I'm just making a comment that there's a question as

1 to what's acceptable and what's not acceptable and what
2 fits in and what's the common good.

3 MR. JESICK: Well, I'll simply say, certainly,
4 no one knows their neighborhood better than the folks who
5 live there. We've provided our analysis based on our best
6 interpretation of the criteria. The Board can weigh our
7 input and the neighbors' input.

8 The Board has seen a number of cases over the
9 years with these smaller side yards just because that's
10 the way the District's lots in many neighborhoods are.
11 There are these vacant lots suitable in many respects for
12 infill development, except they happen to be narrow. So
13 we have often supported side-yard relief, and to the best
14 of my knowledge, the Board has often approved it as well.

15 COMMISSIONER TURNBULL: Well, I appreciate your
16 comments, and thank you again for your report.

17 CHAIRPERSON HILL: Commissioner Montague, do
18 you have any questions for the Office of Planning?

19 MR. MONTAGUE: A question or a
20 comment/question. I'm not sure.

21 So, Mr. Jesick, you're kind of looking towards
22 the letter of the law on the regulation as it stands. But
23 I was sitting and thinking about the distinction between
24 lot, because I'm always counseling my constituents to be
25 aware of the difference between lots, parcels, and the

1 such. So what may be allowed in one may not be allowed in
2 the other.

3 But I will note that given the history of how
4 these parcels came to be, and in one of the exhibits it
5 shows -- I think it's an OP report -- the various numbers
6 that are in that unique area, which goes back to 1901, the
7 two witnesses, Ms. Westover and Ms. Wilson -- and I could
8 be wrong, but I thought I wrote it down. Ms. Westover's
9 house is in square 4287 on lot 008, whereas Ms. Wilson's
10 house is on parcel 155-0022.

11 At some point in the evolution of the
12 neighborhood, they did allow without the conversion of --
13 to a record lot the building on a parcel, but given that
14 Ms. Wilson's parcel is a substantial area, you know,
15 almost -- I'm not sure, but almost to the 5,000-square-
16 foot limit. My --- I appreciate the work that you did.

17 I think that sometimes OP doesn't always get
18 the full flavor of why a neighborhood came to be. And to
19 simply say, well, this is characteristic of that street or
20 this is characteristic of that area -- you can't always
21 apply a uniform judgment on what meets the substantial
22 burden.

23 I think I'm done.

24 CHAIRPERSON HILL: Commissioner Montague, can
25 you hear me? You can hear me? I'm sorry. I just

1 wondered if there was a question or you're just kind of
2 making a statement.

3 MR. MONTAGUE: I was taking to task the depths
4 of -- not challenging completely -- the OP report. I'm
5 just saying that there was a depth in this particular
6 neighborhood which constitutes a substantial detriment to
7 the community that kind of got -- didn't get entered into
8 the report.

9 So Mr. Jesick's reasoning and rationale on why
10 they said they didn't see a problem -- so I know what my
11 question -- so, Mr. Jesick, given what we have discussed
12 in this last two hours, has your opinion -- I'm not saying
13 change your report. Has your opinion of your analysis
14 changed any?

15 MR. JESICK: Thank you for the question,
16 Commissioner. No, our opinion has not changed. Thank
17 you.

18 CHAIRPERSON HILL: Okay. All right.

19 Mr. Seck, do you have any questions for the
20 Office of Planning?

21 MR. SECK: Yes, Chairman Hill. I do. Thank
22 you.

23 Thank you, Mr. Jesick, for your analysis. I do
24 have a question regarding to one of the -- the first
25 witness, Ms. Wilson. Do you happen to have considered or

1 know how far her property sits from this proposed lot,
2 this proposed building?

3 MR. JESICK: Well, the property is adjacent to
4 the subject property. Did you mean the house?

5 MR. SECK: Yes. Yes. According to what we
6 calculated roughly, it's like 49 feet, maybe 40 feet. So
7 it's got a pretty good distance between our proposed
8 building and her property.

9 MR. JESICK: I'll have to take your word for it
10 on the distance. I did not measure that distance myself.

11 MR. SECK: I see. And also, the -- that's for
12 the second person, but I will ask you -- I took some notes
13 here. Yeah. Basically, with the Office of Planning, is
14 40 feet of distance between houses -- is that sufficient
15 for privacy protection in the case of Ms. Wilson?

16 MR. JESICK: In this particular case, we came
17 to the conclusion that there would be no undue impacts to
18 privacy for any adjacent neighbor.

19 MR. SECK: Okay. Thank you. I think you
20 answered all of them. Thank you very much for your report
21 and your support as well.

22 Thank you, Chairman Hill.

23 CHAIRPERSON HILL: Okay. So let's see --

24 MR. SECK: Chairman Hill?

25 CHAIRPERSON HILL: Yes? Oh, sorry.

1 MR. SECK: I'm sorry. I was saying something,
2 but I muted myself accidentally. The second witness, I
3 would like to respond to some of the testimony that she
4 made that is not actually correct. And I would like to
5 respond to that. I don't know if this is the time or --

6 CHAIRPERSON HILL: Sure.

7 MR. SECK: Yeah. This is for Ms. Westover, who
8 said that we were offered to purchase the middle property,
9 which is 2431, the existing house. And that is not
10 correct. We were not offered that. We were offered the
11 two lots, and also, she mentioned that we did not offer to
12 sell the lot, that it was denied, which is on 2429. We
13 had it listed in MRIS, and it just expired last December,
14 December 30th of 2019, with no offer. We had it listed,
15 and there was no offer to that. Thank you.

16 CHAIRPERSON HILL: All right. Thank you, Mr.
17 Seck.

18 Okay. All right. I guess we're done. Do we
19 need anything from anybody? Okay.

20 MR. SECK: Chairman Hill, if I can add a little
21 bit for Chairman Hart -- I mean Vice Chair Hart.

22 CHAIRPERSON HILL: Sure.

23 MR. SECK: Yes. Thank you. Basically, Vice
24 Chair Hart insisted on the fact that this particular lot
25 is not unique. And actually, I would like to say that on

1 this block here in this area, this is the only --
2 basically, our two lots are the ones that are undeveloped,
3 and this particular one happened to be at the corner there
4 against a public space or Ms. Wilson's property.

5 It is now -- there is no way to increase it in
6 width or size. And I just would like if Chairman Hart can
7 take a second look at that and reconsider. I would
8 appreciate it. Thank you very much.

9 CHAIRPERSON HILL: Okay, Mr. Seck. I don't
10 think -- we haven't started deliberating or anything. I
11 just think Mr. Hart was kind of making some commentary.

12 But, Mr. Hart, do you have anything to respond,
13 or do you need to talk about anything?

14 Oh, he's shaking his head no. All right.
15 Yeah, I guess I don't know. I mean, Commissioner
16 Montague, you mentioned a few times to me -- and since I
17 think we're going to close up here, I don't know -- again,
18 what always confuses me also is you said many times, is
19 it's unclear to me what somebody's supposed to do with the
20 property and what is supposed to happen.

21 From your community's standpoint, you would
22 like them to be -- well, you don't think they're meeting
23 the criteria, and then I guess, then, they would be forced
24 to sell it to somebody who is an adjacent property owner
25 is what you would like to see happen. Okay. Just wanted

1 to make sure I was clear as to what you thought should
2 happen. Okay.

3 All right. And two thumbs up, I will indicate,
4 means he's agreeing with my analysis.

5 All right. Does the Board need anything at
6 all?

7 Okay. Then I guess we can go ahead.

8 Ms. John, do you need anything at all?

9 All right. Mr. Seck, you're good, correct?

10 MR. SECK: Yes, Chairman.

11 CHAIRPERSON HILL: Okay. All right. Then I
12 guess we can deliberate on this next week. Right? Is
13 that good with everybody?

14 Okay. So, Mr. Moy, Commissioner Montague,
15 thank you so much.

16 I guess we're actually going to take, maybe,
17 lunch. I had no idea this was going to go as long as it
18 did, and I don't know why we always seem to eat up all the
19 time we have no matter how many cases we have.

20 But okay, Commissioner. Bye-bye, Mr. Seck.
21 Bye-bye.

22 If I could just have my fellow Board members
23 for a minute. So I guess it is 12:40. I mean,
24 realistically, we want to say what, 1:15? 1:20? I mean,
25 I have to go get something to eat, so, you know.

1 Ms. John?

2 MEMBER JOHN: 1:20.

3 CHAIRPERSON HILL: 1:20. All right. Let's go
4 with 1:20. Okay. We'll be back at 1:20.

5 And, Mr. Moy, this is up for decision for next
6 week. Mr. Moy, you got something to say?

7 MR. MOY: Yeah, just very quickly for the
8 record, Mr. Chairman. Is the record closed?

9 CHAIRPERSON HILL: Yeah, I'm sorry. Thank you
10 so much.

11 The record is officially closed for this case.
12 We didn't require anything else, and we're --

13 (Simultaneous speaking.)

14 CHAIRPERSON HILL: We're going to put this on
15 for rotation for next week, which is the 29th. Okay.
16 Great. All right. Thank you. We'll see you guys at
17 1:20.

18 (Whereupon, the above-entitled matter went off
19 the record at 12:40 p.m. and resumed at 1:27 p.m.)

20 MR. MOY: The Board's hearing is back in
21 session after its lunch recess, and the time is at or
22 about 1:27, which sounds pretty exact.

23 I do want to announce for the record that one
24 of the cases that was originally scheduled for today, July
25 22nd, is Appeal Number 20182 of Nancy Stanley, and this

1 Board will recall there was a consent motion to postpone
2 and reschedule. And that rescheduled public hearing date
3 is September 30th.

4 So, yes, Mr. Chairman, there originally was an
5 appeal for this day.

6 CHAIRPERSON HILL: Okay. That's what it was.
7 Got it. I'm glad we -- wow. It would have been a longer
8 day.

9 MR. MOY: Okay. We're good. Go ahead.

10 CHAIRPERSON HILL: All right. The hearing will
11 please come to order. We're convening and broadcasting
12 this public hearing by video conference. This is the July
13 22, 2020, public hearing of the Board of Zoning
14 Adjustment.

15 My name is Frederick Hill, Chairperson.
16 Joining me today is Carlton Hart, Vice Chair, and Lorna
17 John, Board member, and representing the Zoning Commission
18 is Michael Turnbull. Today's hearing agenda is available
19 to you on the Office of Zoning website. Please be
20 advised, this proceeding is being recorded by a court
21 reporter and is also webcast live via Webex and YouTube
22 Live. The video will be available on the Office of
23 Zoning's website after the hearing. Accordingly, everyone
24 who is listening on WebEx or by telephone will be muted
25 during the hearing, and only persons who have signed up to

1 participate or testify will be unmuted at the appropriate
2 time.

3 Please state your name and home address before
4 giving oral testimony or your presentation. Oral
5 presentations should be limited to a summary of your most
6 important points. When you're finished speaking, please
7 mute your audio so that your microphone is not picking up
8 sound or background noise.

9 If you have an issue, call the hotline. I'll
10 repeat the number, 202-727-5471. Once again, 202-727-
11 5471. All persons planning to testify either in favor or
12 opposition must sign up in advance and will be called by
13 name. At the time of sign-up, all participants complete
14 the oath by affirmation, required in Subtitle Y, 408.7.

15 If you wish to follow your testimony with
16 additional supporting documents at the time of your
17 hearing, please be prepared to provide the description --
18 to describe and discuss it at the time of your testimony.
19 The order and procedures for special exceptions and
20 variances are in Subtitle Y, Section 409. The order of
21 appeals is Subtitle Y, 507.

22 As in each case, an individual who is unable to
23 testify because of technical issues may file a request for
24 leave to file a written version of the claimed testimony
25 to the record within 24 hours. If additional written

1 testimony is accepted, then parties will be allowed a
2 reasonable time to respond. The Board will then make its
3 decision at its next meeting, but no earlier than 48 hours
4 after the hearing.

5 So, according to this, Mr. Moy, again, as I'm
6 reading it, it seems as though it says we are going to
7 provide a reasonable amount of time after receiving the
8 information.

9 Moreover, the Board may request additional
10 specific information to complete the record. The Board
11 and staff will specify at the end of the hearing exactly
12 what is expected, and the date when persons must submit
13 the evidence to the Office of Zoning. No other
14 information shall be accepted by the Board.

15 The District of Columbia Administrative
16 Procedures Act required that the public hearing on each
17 case be held in the open before the public pursuant to
18 Section 405(b) and 406 of the Act. The Board may,
19 consistent with these rules of procedures and the Act,
20 enter into a closed meeting on a case for purposes of
21 seeking legal counsel on a case pursuant to D.C. Official
22 Code Section 2-575(b)(4) and/or deliberating on a case
23 pursuant to D.C. Official Code Section 2-575 (b)(13), but
24 only after providing the necessary public notice, and in
25 the case of an emergency closed meeting, after taking the

1 roll call vote.

2 Mr. Secretary, do we have any preliminary
3 matters? I know we've kind of gone through those, but do
4 you have any more?

5 MR. MOY: Only when I call the case.

6 CHAIRPERSON HILL: Okay. Then why don't you go
7 ahead and call our next case, Mr. Moy?

8 MR. MOY: Thank you, Mr. Chairman.

9 So that would be Case Application Number 20257
10 of NCRC Erie Street LLC, captioned and advertised for a
11 special exception under the voluntary Inclusionary Zoning
12 modifications of Subtitle C, Section 1001.2(b)(3), and
13 Subtitle D, 5206.2, to subdivide the vacant property into
14 eight lots and construct eight single-family row homes in
15 the R-3 district at premises 1500 block of Erie Street
16 Southeast, Square 5828, Lots 20 through 24.

17 As to preliminary matters, Mr. Chairman, there
18 is, as you're aware, the record requests expert status of
19 the Harold Smith under Exhibit 36 through 36A. And I
20 would ask the Applicant whether or not he had filed the
21 affidavit of posting and maintenance in the record.

22 CHAIRPERSON HILL: Okay. Great. Thank you,
23 Mr. Moy.

24 Ms. Moldenhauer, can we start with you? Could
25 you introduce yourself for the record?

1 MS. MOLDENHAUER: Good afternoon, Chairman
2 Hill, members of the Board. My name is Meridith
3 Moldenhauer from the law firm of Cozen O'Connor here on
4 behalf of the Applicant.

5 CHAIRPERSON HILL: And, Ms. Moldenhauer, who is
6 here with you today?

7 MS. MOLDENHAUER: I have a great team. I'll
8 just kind of ask if everybody can unmute themselves and
9 introduce themselves one at a time.

10 CHAIRPERSON HILL: Okay. I can go around. I
11 just need to know if you all --

12 (Simultaneous speaking.)

13 CHAIRPERSON HILL: It's okay. No. Mr. --

14 MS. MERIDITH MOLDENHAUER: We have them listed
15 in our PowerPoint, but --

16 CHAIRPERSON HILL: I understand.

17 MS. MOLDENHAUER: Sorry. Thank you.

18 CHAIRPERSON HILL: Mr. Burke, could you go
19 first, because you just unmuted your line?

20 MR. BRIAN BURKE: Sure. My name is Brian
21 Burke. I'm the Executive Vice President of Development
22 for the Menkiti Group. We are the developer of the
23 project working with NCRC.

24 CHAIRPERSON HILL: Okay. Mr. Burke, are you
25 choosing not to use your camera?

1 MR. BRIAN BURKE: I'll turn on my -- there you
2 go.

3 CHAIRPERSON HILL: Okay. Great. All right,
4 Mr. Burke, if you wouldn't mind muting your line, and Ms.
5 Moldenhauer, also you as well. Thank you.

6 Ms. Mosley, could you introduce yourself for
7 the record, please?

8 MS. MOSLEY: My name is Natasha Mosley, and I
9 am the Director of Single-Family Home Development for the
10 Menkiti Group. And we are the developer of the project,
11 along with NCRC.

12 CHAIRPERSON HILL: Okay. Great. Thank you,
13 and if you could mute your line. Thank you so much.

14 And I'm having a difficult time, I think,
15 pronouncing your last name. Onyemezikeya? I don't know
16 if I did a good job, but if you could unmute yourself and
17 introduce yourself, please.

18 You are unmuted, you can go ahead.

19 Can you hear me?

20 Ms. Moldenhauer, is that person with your team?

21 MR. BURKE: It looks like -- I'm sorry. It
22 looks like Chinedum is having a hard time connecting. But
23 Chinedum is our general contractor for the project.

24 CHAIRPERSON HILL: Okay. Great. And is that a
25 man or a woman?

1 MR. BURKE: It's a man.

2 CHAIRPERSON HILL: Okay.

3 MS. MOLDENHAUER: And he's with C2 Contracting
4 Company.

5 CHAIRPERSON HILL: Mr. Burke, do you know how
6 to pronounce his name?

7 MR. BURKE: I have struggled to pronounce his
8 last name for a long time, so --

9 CHAIRPERSON HILL: All right. So we're going
10 to go with Mr. Chinedum, then. Okay.

11 So, Mr. Chinedum, if you do get online -- and
12 we'll see what happens in terms of the presentation, Ms.
13 Moldenhauer, I assume you're going to be presenting to us.

14 MS. MOLDENHAUER: Yes. We also have Mr. Smith,
15 who is our project architect, who Mr. Moy referenced
16 earlier. We had asked to qualify him as an expert.

17 Do you want to introduce yourself?

18 MR. SMITH: Hi. Good afternoon. How are you
19 doing? Harold Smith here. We are the project architect
20 of Contexture Design Studios.

21 CHAIRPERSON HILL: Okay. All right. Well, let
22 me get through a couple of things, I guess.

23 First of all -- sorry -- Mr. Smith, are you
24 choosing not to use your camera? I don't mind. I just
25 want to understand whether or not you are using it.

1 MR. SMITH: I did. I did. I don't know if
2 it's taking too long or --

3 COMMISSIONER TURNBULL: Mr. Smith, are you a
4 licensed architect?

5 MR. SMITH: Yeah. I think Ross, who's on our
6 team, he's our licensed architect. He's not here right
7 now, unfortunately. He's back in West Virginia.

8 COMMISSIONER TURNBULL: Well, I can't -- Mr.
9 Chair, I cannot accept him as an expert because he himself
10 is not a licensed architect. If Mr. Ross had been here,
11 that would have been fine. I would have approved him as
12 an expert.

13 MR. SMITH: Okay. Understood.

14 CHAIRPERSON HILL: All right. Mr. Smith, just
15 hang out there for a second. We won't take your testimony
16 as an expert at this time, but we'll see what happens with
17 the presentation and whether or not Commissioner Turnbull
18 has more specific questions for you.

19 Let's see. So the affidavit of maintenance and
20 the affidavit of posting, Ms. Moldenhauer, did that get
21 put into the record yet?

22 MS. MOLDENHAUER: Good afternoon. Yes. Both
23 of them were filed on Exhibit 40 and Exhibit 41, the
24 affidavit of posting and the affidavit of maintenance.

25 CHAIRPERSON HILL: Okay. I'm just looking at

1 the exhibits. And then I did see that the notice went out
2 to 200 printers in Exhibit 37 and then notice to the
3 parties at Exhibit 39.

4 So, as far as notice goes, I don't have any
5 issues with the project, unless any of my Board members
6 do. And if you do, please raise your hand. I don't see
7 anyone's indicating they do.

8 All right. So, Ms. Moldenhauer, let me go
9 ahead and let you give your presentation. I'm going to
10 put 15 minutes on the clock there so I know where we are,
11 and you can begin whenever you like.

12 MS. MOLDENHAUER: Okay. We have a -- I can
13 walk through it fairly quickly.

14 Mr. Young, we have a PowerPoint that we
15 uploaded at Exhibit 42. Thank you for pulling that up.
16 So, next slide.

17 This is a combination development as identified
18 between growth by NCRC and Menkiti Development as well as,
19 obviously, our team members, that we've already introduced
20 today, our contractor, and our architectural team.

21 If you go to the next image, the property is a
22 large property that fronts on both Erie Street and Elvans
23 Street. It is a large, undeveloped parcel that is mostly
24 wooded.

25 And if you go to the next slide, the current

1 configurations of the lot, you can see here the front on
2 Erie Street. The proposal that we're requesting here, if
3 you go to the next slide, is to reconfigure the lots so
4 that they are fronting on Elvans Street. And we are
5 proposing eight lots here, A through H, as you can see
6 identified, as part of our special exception relief to opt
7 into the IZ requirements for lot width and lot area.

8 If you go to the next slide, the proposed
9 project will have a consistent design of town houses that
10 will be four-bedroom town houses with these general floor
11 plans.

12 Next slide.

13 CHAIRPERSON HILL: Can I interrupt you one
14 second, Ms. Moldenhauer?

15 Mr. Chinedum, your microphone is unmuted, and I
16 think so is yours, Commissioner Turnbull, just so you
17 know.

18 Okay. Go ahead, Ms. Moldenhauer.

19 MS. MOLDENHAUER: The project consists of eight
20 lots that would be developed into town houses with two
21 floors plus a basement, four bedrooms, as I already
22 referenced, three-and-a-half baths. The proposed total
23 square foot per lot and per individual town home, square
24 footage would be 2,298.

25 We have -- next slide -- gone through extensive

1 community outreach and are happy to report to the Board
2 that we come to you today with Office of Planning support,
3 which is in your record as Exhibit 33, as well as no
4 objection from DDOT at Exhibit 34, and also ANC support at
5 Exhibit 35.

6 Next slide.

7 We're here asking for two areas of relief.
8 This is the requirement to apply for special exception
9 relief to opt into the voluntary Inclusionary Zoning
10 requirements that is pursuant to Subtitle C 1001.2(b)(3),
11 and also then to apply the Inclusionary Zoning lot width
12 and minimum lot area requirements for the R-3 Zone.

13 Next slide.

14 What that means specifically here is that the
15 minimum lot area requirement for a by right development in
16 the zone would be 1800 square feet by right, 1600 pursuant
17 to this permitted special exception. We are proposing
18 1,789 for each of the proposed lots.

19 For the minimum lot width, the by right
20 scenario would be 20 feet by right, 16 feet permitted by
21 special exception, and our proposal has each of the lots
22 coming in at around 17 feet and 8 inches.

23 We believe that we satisfy the special
24 exception relief, which requires that the proposal is in
25 harmony with the proposed Zoning Regulations and Zoning

1 Map. The need for development on an unimproved lot is
2 obviously a benefit. The ANC and Office of Planning agree
3 as well. And we do not believe the proposal will have any
4 -- or, will not tend to adversely affect any of the
5 neighboring use or property owners.

6 With that being said, I will conclude our
7 presentation and answer any questions of the Board. Thank
8 you.

9 CHAIRPERSON HILL: Okay. Great. Thank you,
10 Ms. Moldenhauer.

11 Oh, there's Mr. Chinedum there. Chinedum?
12 Chinedum? Okay.

13 All right. Does the Board have any questions
14 for the Applicant? Mr. Hart, I see your mic.

15 VICE CHAIR HART: Yeah, just a quick question,
16 Ms. Moldenhauer. So you said you are rotating the lots so
17 that they are fronting onto Erie? Did I hear that -- no.
18 Yeah -- no.

19 MS. MOLDENHAUER: No, the other way. They are
20 currently fronted on Erie.

21 VICE CHAIR HART: Got you. You're going to do
22 it onto Elvans.

23 MS. MOLDENHAUER: Elvans, yes.

24 VICE CHAIR HART: And, again, what is the --
25 I'm trying to think of what that -- I guess it's a school

1 that's there that's in close -- actually, two schools are
2 in close proximity to this site?

3 MS. MOLDENHAUER: Yes. Correct.

4 VICE CHAIR HART: Okay. I don't have any
5 further questions. Thanks.

6 CHAIRPERSON HILL: Okay. Ms. John?

7 MEMBER JOHN: No questions, Mr. Chairman.

8 CHAIRPERSON HILL: Okay. Thank you.

9 Commissioner Turnbull? Your mic is muted, Mr.
10 Turnbull.

11 COMMISSIONER TURNBULL: Mr. Chair, you're
12 always on me about being muted and unmuted, you know.
13 You're just so picky.

14 I got a question on sheet 4 of the PowerPoint -
15 - I mean sheet 6, which shows the layout of the new lots.
16 They're all the same size, right?

17 MS. MOLDENHAUER: Yes.

18 COMMISSIONER TURNBULL: The lots are the same
19 size? Okay. I'm looking at this, and I saw -- it's just
20 that the yellow hasn't colored the whole thing. I get it.
21 I'm fine. Thank you.

22 MS. MOLDENHAUER: Yeah. I think you're
23 correct. The yellow on the far right on the H, lot H,
24 just doesn't cover everything. Thank you for that.

25 CHAIRPERSON HILL: Okay. I'm going to turn it

1 to the Office of Planning.

2 MR. COCHRAN: Thank you, Mr. Chair. I'm Steve
3 Cochran. I'm representing the Office of Planning on Case
4 20257. And we succinctly are happy to stand on the record
5 in support of the two special exceptions.

6 CHAIRPERSON HILL: Okay. Great. Does anyone
7 have any questions for the Office of Planning?

8 Ms. Moldenhauer, do you have any questions for
9 the Office of Planning?

10 MS. MOLDENHAUER: No questions for the Office
11 of Planning. Thank you.

12 CHAIRPERSON HILL: Okay. Let's see. What was
13 I going to do? Oh. Mr. Young, are there people here
14 wishing to testify?

15 MR. YOUNG: I have no one signed up.

16 CHAIRPERSON HILL: Okay. I am curious of one
17 thing. Ms. Mosley, if you want to unmute yourself, who do
18 you work with, again?

19 MS. MOSLEY: I'm the Director of Single-Family
20 Home Development for the Menkiti Group.

21 CHAIRPERSON HILL: Okay. Okay. So you're with
22 Menkiti, as is Mr. Burke. Everybody's with Menkiti.

23 MS. MOSLEY: Yes.

24 CHAIRPERSON HILL: Okay. All right. I was
25 just curious.

1 Okay. All right. Does the Board have any
2 final questions for anyone? I don't see anybody raising
3 their hand.

4 Ms. Moldenhauer, do you have anything you'd
5 like to add in conclusion?

6 MS. MOLDENHAUER: No. Thank you all so much
7 for your time.

8 CHAIRPERSON HILL: Okay. All right. Then I
9 guess we can go ahead -- we've heard the testimony and
10 taken all the information. Nobody has any questions, and
11 I guess we can put this on for decision, Mr. Moy, for next
12 week.

13 Mr. Hart, you seem like you were about to say
14 something.

15 VICE CHAIR HART: Always. So you do not want
16 to start deliberation, or do you want to wait till next
17 week?

18 CHAIRPERSON HILL: You all can -- I don't know.
19 I mean, I tried to do that the last time today, and we
20 started to deliberate again --

21 VICE CHAIR HART: Well, but that case was
22 different. We could --

23 CHAIRPERSON HILL: Okay. All right. So --

24 VICE CHAIR HART: I'm giving you this choice,
25 Mr. Chairman.

1 CHAIRPERSON HILL: I understand. I understand.

2 VICE CHAIR HART: The few times I have --

3 CHAIRPERSON HILL: Let's not argue in front of
4 the children. So, okay. Mr. Young, I guess we're going
5 to go ahead and stop the -- I'm sorry. I'm going to close
6 the record, close the hearing. We don't need any more
7 information.

8 Everyone, you all are excused. Thank you so
9 much.

10 Okay. Now back to this. So now I don't know.
11 I mean, I don't know whether this saves us any time or
12 not. I mean, you know, because -- but yes. Okay. Let's
13 go ahead and deliberate.

14 So, Mr. Hart, please go ahead and start us off.

15 (Laughter.)

16 COMMISSIONER TURNBULL: Your arguing's getting
17 deeper in trouble here.

18 VICE CHAIR HART: I mean, it's just a few --
19 you got a few more instances of me being able to do this.
20 So, you know, I got to do this at some point, right?

21 CHAIRPERSON HILL: I'm going to be sick next
22 week.

23 (Laughter.)

24 VICE CHAIR HART: I might be sick next week, or
25 maybe the next two weeks. Who knows? So yeah. I --

1 COMMISSIONER TURNBULL: Lorna will be in
2 charge.

3 VICE CHAIR HART: I'm sorry?

4 COMMISSIONER TURNBULL: Lorna will be in
5 charge, then.

6 MEMBER JOHN: Actually, I'm going to be sick
7 next week.

8 (Laughter.)

9 VICE CHAIR HART: Well, I guess we're all sick.
10 Is that kind of the consensus?

11 So after reviewing the project, the full
12 record, and understanding and reviewing the Office of
13 Planning report and the ANC report, I would be leaning
14 towards supporting the application. I felt that the
15 Applicant is meeting the criteria for a special exception
16 in being able to subdivide this property into eight lots
17 and then have these eight single-family row houses, row
18 homes, to be able to be developed at this location.

19 I thought it was a fairly straightforward
20 application. I didn't really have much else to add to
21 that, but thought we might just have kind of a little
22 conversation now and conclude that next week if we don't
23 get -- depending on what we get, I guess, between now and
24 then. That's it.

25 CHAIRPERSON HILL: Okay. Great.

1 Ms. John?

2 MEMBER JOHN: So I agree with Vice Chair Hart,
3 I thought this was a very straightforward application.
4 The Office of Planning did a very thorough analysis. And
5 I would note that even with the IZ -- opting into IZ, the
6 lot widths would be close to 18 feet wide and 1,789 square
7 feet. So I thought that this is something I can support.

8 The ANC submitted a revised letter that meets
9 the standard in that they noted how many persons were
10 present and what the quorum was. So I have no issue with
11 this application, and I would be able to support it.

12 CHAIRPERSON HILL: Commissioner Turnbull?

13 COMMISSIONER TURNBULL: Thank you, Mr. Chair.
14 I would concur with the Vice Chair and Ms. John. I'm
15 always a little bit troubled about getting narrow
16 townhouses. I'd love always to get like 20 feet. I think
17 I've been in some town houses up on Capitol Hill area that
18 really get to be narrow, and it's hard to put furniture in
19 and move around.

20 But I guess I can live with 18 feet. It's not
21 as bad as going to 15. But they're close to 18, so I'll
22 be okay with that.

23 CHAIRPERSON HILL: Okay. I thought that the
24 Applicant met the criteria within Subtitle C, 1001.2(b)(3)
25 as well as Subtitle D, 5206.2, as well as the general

1 criteria in X, 901.2. I also agree with the Office of
2 Planning's analysis, as well as that of the ANC. And so I
3 don't have anything additional to add.

4 So, Mr. Moy, we'll go ahead and put this on for
5 deliberation next week.

6 MR. MOY: All right. Done.

7 CHAIRPERSON HILL: Which is, once again, so I
8 know --

9 MR. MOY: July 29th, sir.

10 CHAIRPERSON HILL: Thank you. And once again,
11 the record is closed, Mr. Moy.

12 MR. MOY: Thank you, sir.

13 CHAIRPERSON HILL: Okay. Great. All right.
14 Then we have one more to go, and you can call it whenever
15 you like.

16 MR. MOY: All right. That would be case
17 Application Number 20259 of Federal Realty. And this is
18 captioned and advertised for special exception under
19 Subtitle H, Section 1200, from the designated use
20 requirements of Subtitle H, Section 1101.3(a). This is to
21 permit excess GFA for a financial services use in the NC-3
22 Zone at premises 3501 through 3527 Connecticut Avenue
23 Northwest, Square 2222, Lot 15.

24 And here, Mr. Chair, is also a request for
25 expert status, I believe, in architecture. And it's under

1 Exhibit 13.

2 CHAIRPERSON HILL: Okay. Great. Thank you,
3 Mr. Moy.

4 Ms. Shiker, could you introduce yourself,
5 please, for the record? You're muted there.

6 MS. SHIKER: Yes. Good afternoon, Chairman,
7 members of the Board. I'm Christine Shiker with the law
8 firm of Holland & Knight, and I am representing the
9 Applicant today.

10 CHAIRPERSON HILL: Is there anyone here with
11 you, Ms. Shiker?

12 MS. SHIKER: Yes. So I have Jessica
13 Bloomfield, also from Holland & Knight. I have James
14 Emerson from JPMorgan Chase representing the Applicant,
15 the proposed tenant. We have --

16 CHAIRPERSON HILL: Ms. Shiker, let me get --
17 because Mr. Young is going to let them in.

18 MS. SHIKER: Oh.

19 CHAIRPERSON HILL: So Ms. Bloomfield, you said,
20 and then what was the next name?

21 MS. SHIKER: James Emerson --

22 CHAIRPERSON HILL: Okay. Just wait. Let him
23 find both of those people first.

24 MS. SHIKER: Sure.

25 CHAIRPERSON HILL: Okay. I see James Emerson.

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1 I see Bloomfield. Okay. Who else?

2 MS. SHIKER: Connor Burke from Federal Realty.
3 He's representing the owner.

4 CHAIRPERSON HILL: One moment. Okay. And then
5 there's someone else?

6 MS. SHIKER: We have Kevin Sneed from OTJ
7 Architects.

8 CHAIRPERSON HILL: Got it. Okay. Is that it?

9 MS. SHIKER: That's our group.

10 CHAIRPERSON HILL: Okay. Let's see, then.
11 Let's go ahead -- Mr. Emerson, are you there?

12 MR. EMERSON: Yes.

13 CHAIRPERSON HILL: Could you introduce yourself
14 for the record, please?

15 MR. EMERSON: Yes. Hello, everyone. My name
16 is James Emerson. I'm the Market Director of Real Estate
17 for the D.C. market.

18 CHAIRPERSON HILL: With whom? I'm sorry.

19 MR. EMERSON: I'm with JPMorgan Chase.

20 CHAIRPERSON HILL: Okay. Mr. Emerson, are you
21 choosing not to use your camera? It's fine. I just want
22 to know.

23 MR. EMERSON: No. I apologize. I've been
24 trying to use it, but it's saying my camera's not being
25 allowed to join.

1 CHAIRPERSON HILL: That's fine. So if you
2 could just mute yourself, then, if you wouldn't mind,
3 until we get to you, or if we need to get to you.

4 Mr. Burke, you're next in my little cube here.
5 You want to introduce yourself?

6 MR. BURKE: Yes. I'm Connor Burke. I'm
7 Associate Asset Manager with Federal Realty.

8 CHAIRPERSON HILL: Okay. Mr. Burke, are you
9 also choosing not to use your camera?

10 MR. BURKE: Yes. That's correct.

11 CHAIRPERSON HILL: Okay.

12 Mr. Sneed, are you there?

13 MR. SNEED: Yes.

14 CHAIRPERSON HILL: Could you please introduce
15 yourself for the record?

16 MR. SNEED: I'm Kevin Sneed with OTJ
17 Architects, one of the partners, as well as the architect
18 for the project.

19 CHAIRPERSON HILL: Okay. Great. Thank you.

20 MR. SNEED: Can you see me?

21 CHAIRPERSON HILL: I can. Thank you very much.

22 Ms. Bloomfield, are you there?

23 MS. BLOOMFIELD: Yes, I'm here. I'm Jessica
24 Bloomfield, for the record, from Holland & Knight.

25 CHAIRPERSON HILL: Okay. Ms. Bloomfield, are

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1 you choosing not to use your camera? I just want to know
2 so I don't have to --

3 MS. BLOOMFIELD: I'm happy to turn it on. I
4 don't know if it's necessary at this point. I don't know
5 if I'll have any testimony or any presentation, but I'll
6 turn it on.

7 CHAIRPERSON HILL: Okay. It's up to you. I
8 just wanted to make sure I understood who was trying.

9 Let's see. Okay. Ms. Shiker -- well, first of
10 all, welcome. We haven't seen you yet, right, in the
11 virtual world?

12 MS. SHIKER: Yes. Welcome. It's a new world,
13 right?

14 CHAIRPERSON HILL: Yeah. I mean, at least in
15 the hearing. I don't think it'll be -- well, I hope it's
16 as exciting for you as it's been for all of us.

17 MS. SHIKER: Very exciting.

18 CHAIRPERSON HILL: So why don't you go ahead
19 and walk us through your presentation? And there's 15
20 minutes on the clock there in the top corner, and you can
21 begin whenever you like.

22 MS. SHIKER: Mr. Young, we submitted a
23 PowerPoint presentation, if you could please bring it up.

24 VICE CHAIR HART: Mr. Chairman?

25 CHAIRPERSON HILL: Yes.

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1 VICE CHAIR HART: We do need to go through the
2 expert witness.

3 CHAIRPERSON HILL: Okay.

4 Ms. Shiker, who is it that you are proposing as
5 an expert witness?

6 MS. SHIKER: We have proffered Kevin Sneed as
7 an expert witness from OTJ Architects. I do not know if
8 he will need to testify, given the nature of the case. So
9 he is licensed in the District of Columbia. We also
10 submitted his résumé for your review. So if you want to
11 go ahead and proffer him as an expert or consider our
12 request for that proffering of an expert, you can do that,
13 or we can wait to see if he actually needs to testify.

14 CHAIRPERSON HILL: I'm just going to do this
15 now.

16 Mr. Sneed, can you tell us a little bit about
17 yourself and what you're an expert in?

18 MR. SNEED: Yes. I am a licensed architect in
19 Washington, D.C., partner of OTJ Architects. I specialize
20 in commercial interior projects. The -- JPMorgan Chase is
21 one of our clients on the project. And basically, that's
22 it.

23 CHAIRPERSON HILL: Okay. I don't have any
24 issues with accepting Mr. Sneed as an expert witness.
25 Does anyone on the Board? And if so, please say

1 something, because I can't see everybody at the same time
2 now that the presentation is up.

3 COMMISSIONER TURNBULL: Mr. Chair?

4 CHAIRPERSON HILL: Yes.

5 COMMISSIONER TURNBULL: I would just say that
6 Mr. Sneed is a fellow of the AIA. He's very acceptable.

7 CHAIRPERSON HILL: All right. That's great. I
8 want to be a fellow of the AIA, then, so I can be
9 acceptable also.

10 All right. Let's see --

11 COMMISSIONER TURNBULL: You don't want to have
12 to put together the binder to get accepted.

13 MR. SNEED: That's a long process.

14 CHAIRPERSON HILL: All right. Okay.

15 Ms. Shiker, do you want to go ahead and start
16 us off?

17 MS. SHIKER: Yes. Thank you.

18 Mr. Young, could you go to the second page of
19 the PowerPoint? All right. Thank you.

20 The property at issue is identified on this
21 map. It is zoned NC-3. There is a provision for the NC-3
22 Zone that limits financial services to no more than 20
23 percent of the ground-level area.

24 Next slide, please.

25 As you can see, the shopping center -- this is

1 the Shop and Park up on Connecticut Avenue -- has demising
2 walls. And you can see on the far left side, that's the
3 northern part of the shopping center where the JPMorgan
4 Chase Bank is proposed to go.

5 In this shopping center, there is currently a
6 Capital One Bank that comprises approximately 2,200 square
7 feet, which is 11 percent of the ground floor. With
8 adding the JPMorgan Chase Bank, that would have 3,287
9 square feet. You get that to a little over -- a little
10 close to 5,500 square feet, which represents 27.5 percent
11 of the ground-level area. Therefore, we are requesting a
12 special exception to allow more than 20 percent of the
13 ground-floor area for financial institution.

14 Next slide, please.

15 So you can see this is the area that JPMorgan
16 Chase would take. It is quite a long retail space and
17 quite thin, making it a difficult space to break up. And
18 we'll talk about that in a minute.

19 So next slide, please.

20 So the compliance to the special exception
21 standards. We have both the general standard as well as
22 the specific standard in Subtitle H. You can see the
23 general standard there. The application is consistent
24 with the standard because it is in fact -- it's a
25 permitted use. It's consistent with the commercial uses.

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1 And, in fact, it is the preferred use in the neighborhood
2 commercial area.

3 There are no changes to the exterior building.
4 There won't be any impacts to parking, loading, or noise,
5 and it will fill a vacant retail space. This retail space
6 has been vacant since 2014, despite best efforts from the
7 owner to try to lease it. And so it will fill that space.

8 Next slide, please.

9 These are the standards for the specific
10 special exception standard that you find in Subtitle H,
11 Section 1200.1.

12 The first is that the relief will advance the
13 purposes of the NC zones and not have an adverse impact.
14 This is a new commercial use in a neighborhood-serving
15 retail center. It advances the commercial corridor. It
16 provides for a mix of employment and service uses.

17 There is no change to the vehicular ingress or
18 egress, so there won't be any adverse impact to that. And
19 it will maintain normal bank hours, so there won't be any
20 impact to noise or light, other than just a traditional
21 retail use.

22 The next category is whether there are any
23 architectural changes. There are no exterior changes
24 proposed to this building other than signage.

25 Next slide, please.

1 The next criteria is that there's an
2 exceptional circumstance that causes you not to be able to
3 comply. In this case, it's a very narrow space, as you
4 saw in the floor plan, and it's also very deep. So it's
5 very difficult to separate spaces in those existing
6 demising walls.

7 Also, for the bank to operate, it needs an
8 overall amount of space, and this is the appropriate
9 amount of space to satisfy all of the different uses that
10 will be in that neighborhood-serving bank. The owner has
11 made, as I noted, a good-faith effort to lease the space
12 and has not been able to since 2014. So it will be good
13 to have the vacant space filled. Again, there's no
14 changes to vehicular or pedestrian access in this existing
15 strip center.

16 Next slide, please.

17 The financial service use parking is the same
18 as a general retail use, plus this is a contributing
19 building to the historic district. So there wouldn't be
20 any parking required even if it was different.

21 The existing surface parking can accommodate
22 the proposed use, and in fact, it is anticipated that the
23 people coming to this new bank will be either shopping in
24 the center already or coming through walking or biking,
25 just using the commercial corridor that's there.

1 There won't be any additional noise created
2 from this bank other than what's already existing in the
3 retail center. And we do not believe that any other
4 requirements are warranted, too, for design, appearance,
5 et cetera, since there is no changes to the exterior of
6 the building.

7 Next slide.

8 We have a report of support from the Office of
9 Planning in the record at Exhibit 32. The Office of
10 Planning did not recommend any conditions. Similarly, we
11 have a supportive report from DDOT in the record, and both
12 the owner and the tenant have worked closely with ANC 3C,
13 from the time before we filed the application through
14 presenting to the full ANC in April. The ANC filed a
15 unanimous resolution to support the relief with no
16 conditions. And we also have a specific letter from the
17 single-member district representative supporting the use.

18 And with that, I would open it up for any
19 questions that you may have.

20 CHAIRPERSON HILL: Thank you. Thank you, Ms.
21 Shiker.

22 Does the Board have any questions for the
23 Applicant?

24 MEMBER JOHN: Mr. Chairman, just one.

25 What efforts were made to lease the property

1 since 2014?

2 MS. SHIKER: Is Mr. Burke available to be put
3 on? He represents the owner, and I think he can talk
4 about everything that they've done.

5 MR. BURKE: Sure. Absolutely. So we have
6 engaged in numerous conversations with tenants over the
7 last approximately six years since Pellana, the prior
8 tenant, had left the space. There were some separate
9 reasons -- one way or another, deals never ended up coming
10 to fruition at this location. Some of them were
11 relocations from elsewhere in the neighborhood that just
12 -- the deals did not end up making.

13 But there were countless deals. We even
14 brought in a third party. Our company generally leases
15 these properties directly, Federal Realty, throughout the
16 region. But we even brought in a third-party group to
17 help assist, but until this Chase deal, none of the other
18 restaurant or other deals that were in negotiations or
19 marketing stages ever ended up coming to fruition.

20 MEMBER JOHN: Thank you.

21 VICE CHAIR HART: Mr. Chairman?

22 CHAIRPERSON HILL: Yes, Mr. Hart?

23 VICE CHAIR HART: Mr. Burke, if you could just
24 talk a little bit about the possibility of maybe -- did
25 you think about subdividing or making this a smaller space

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1 to be able to lease out, or were you understanding that
2 the size of the space was -- you were just looking at that
3 one space, you were not looking to subdivide it?

4 MR. BURKE: There were a couple different
5 configurations that -- we tried to be as flexible as
6 possible in marketing the space.

7 As noted earlier in the presentation, just due
8 to the width of the space, it does pose some just
9 feasibility challenges with whether you're short-sheeting
10 it and not going all the way to the full extent of the
11 space.

12 And even with any of the creative marketing
13 solutions of trying to get a tenant for the space, just
14 none of those opportunities came to fruition either.

15 VICE CHAIR HART: Thank you. That's very
16 helpful. Because you are seeking to get a special
17 exception that is greater than the amount of banking space
18 on that level, the question kind of came up to my mind,
19 well, maybe if it was a smaller space, it would kind of
20 fit within the special exception. But you've explained it
21 so that I understand that. So thank you very much. No
22 other questions.

23 CHAIRPERSON HILL: Okay. Ms. Shiker -- sure,
24 Mr. Turnbull.

25 COMMISSIONER TURNBULL: I just had one

1 question. How many employees are you seeking to have in
2 this facility?

3 MS. SHIKER: Mr. Emerson, could you answer that
4 question?

5 Oh, did Mr. Emerson go away?

6 CHAIRPERSON HILL: It looks as though we did
7 lose Mr. Emerson.

8 MS. SHIKER: It is -- I thought that we had
9 this in our statement. It is a relatively small number.
10 I'm trying to see if I can get him back on.

11 Okay. So he has texted me. He's having a hard
12 time getting -- he needs to be let back in, he says. But
13 he says approximately 10 employees would be what they
14 would expect to operate the bank.

15 COMMISSIONER TURNBULL: Is that under normal
16 conditions, notwithstanding the situation we have now?

17 MS. SHIKER: Yeah. I think that is what they
18 anticipate on operation for non-pandemic time frames. In
19 terms of, if they receive approval for the special
20 exception, they still have to go in and do the tenant fit-
21 out. So they're expecting that would be, hopefully, once
22 the pandemic has passed and they've opened up the doors.

23 COMMISSIONER TURNBULL: They will set that up
24 for ten employees, then?

25 MR. EMERSON: Hello, everyone. I'm here. I

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1 was let back in. So --

2 MS. SHIKER: Oh, great.

3 MR. EMERSON: Very nice to meet you all.

4 Yes. So that number is correct.

5 COMMISSIONER TURNBULL: Okay. That's my only
6 question. Thank you.

7 VICE CHAIR HART: Can I ask another question?
8 And I'm not exactly sure who's to answer this. I
9 understand that there are certain changes in the way in
10 which banks -- I don't want to say operate, but people
11 interface with banks now, and I'm kind of focusing on the
12 Capital One -- they've done that a couple of places where
13 it's kind of like a café.

14 It looks as though, from the floor plan, this
15 is a fairly traditional type of use, or type of layout,
16 and if you could just talk about that a little bit. I'm
17 more interested in it than having to pertain, necessarily,
18 to the Zoning Regulations. More of a -- I don't know,
19 just a question.

20 MR. EMERSON: Sure. And this is a location
21 that we want to put a full-service branch in. We want to
22 offer our full slate of banking options. So part of that
23 is, one, the unique dimensions in which we're working
24 with. I mean, we'd actually prefer even a larger space to
25 do some of those sort of open concepts.

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1 We love this market, and we're really building
2 to the space that we have. You will notice, though, that
3 the teller windows are probably a little bit smaller than
4 in the traditional bank platform. You can see on page 4
5 of the presentation, we really are just using the two
6 teller windows.

7 So we're really not as transactional as we have
8 been in the past. You know, we have the ATMs set up in
9 the lobby as well as a 24-hour vestibule to take care of a
10 lot of the activities that would normally have been done
11 at the teller window.

12 Sort of, the way we're looking at this and the
13 Capital One cafés, that's really not something that we're
14 really bringing into our traditional branches. We'd like
15 to do them some, like one off here or there where we do a
16 unique partnership. But we're still in the business of
17 offering a full range of services, so that's why you see
18 the sort of traditional layout with the offices.

19 But, again, if we had done this ten years ago,
20 we probably would have had four or five teller windows.
21 So you can see, really, the teller part of it is really
22 set back, and we're really more engaged with doing
23 business in the branch.

24 VICE CHAIR HART: I appreciate that. Thank
25 you. No other questions.

1 CHAIRPERSON HILL: Thank you.

2 Ms. John, I can't remember. Did I ask you for
3 questions? I think I did, correct?

4 MEMBER JOHN: I already asked my question.

5 CHAIRPERSON HILL: Okay. Mr. Turnbull, you're
6 good. Mr. Hart -- Mr. Burke, I can't remember. What was
7 the restaurant that used to be there? Or, Ms. Shiker
8 knows?

9 MS. SHIKER: It was Helena.

10 CHAIRPERSON HILL: Yeah. It's too bad that
11 went away. Well, sometimes, I mean, people need money,
12 you know.

13 MEMBER JOHN: Wasn't there a Greenwood or
14 something like that, as well, at some point?

15 CHAIRPERSON HILL: Mr. Burke?

16 MR. BURKE: It's not ringing a bell to me.
17 Helena was most recently in the space in 2014.

18 MEMBER JOHN: Okay.

19 CHAIRPERSON HILL: Why did they leave?

20 MR. BURKE: Their lease had expired. They had
21 expanded into that space at one point, and they just -- I
22 think they had a 10 or 14-year run, and they just closed
23 operations.

24 CHAIRPERSON HILL: Yeah. Okay. All right.

25 Okay. Could I turn it to the Office of Planning, please?

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1 MS. THOMAS: Yes. Hi. Good afternoon, --

2 CHAIRPERSON HILL: Ms. Thomas, you were there,
3 and now you're not.

4 MS. THOMAS: Are you there? Can you not hear
5 me?

6 CHAIRPERSON HILL: I can hear you now.

7 MS. THOMAS: Okay. I'm sorry. Karen Thomas
8 for the Office of Planning and for Case Number 20259. And
9 we are in support of this application on the record of our
10 report. Thank you.

11 CHAIRPERSON HILL: Thank you.

12 Does anybody have any questions for the Office
13 of Planning? Mr. Hart?

14 VICE CHAIR HART: Yes.

15 Ms. Thomas, so the zoning has limited the
16 amount of, I guess, banking at the site at 20 percent. So
17 can you talk a little bit about that restriction, or if
18 you're aware of kind of why that restriction is there? So
19 I'll leave it at that.

20 MS. THOMAS: Well, the Applicant would have to
21 limit banking on the whole -- (telephonic interference) --
22 commercial centers so that -- (telephonic interference) --
23 a lot of the retail space -- (telephonic interference) --
24 and so forth, so in an effort to regulate or to --
25 (telephonic interference) -- the original intent, or the

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1 intent, was to allow retail rather than for banks, which
2 was taking up a lot of the commercial ground-floor space.
3 So we had that limitation set on early regulations for
4 neighborhood commercial centers.

5 Did you hear that?

6 COMMISSIONER TURNBULL: Yes, I did. I'm sorry.
7 I just had -- of course, I have to unmute before I talk.
8 No, that's fine. I was just curious about it. Thank you.
9 I appreciate it. No other questions.

10 MS. THOMAS: Thank you.

11 CHAIRPERSON HILL: Okay. Thank you, Ms. Thomas
12 and Mr. Hart.

13 Ms. Shiker, do you have any questions for the
14 Office of Planning?

15 MS. SHIKER: I do not. Thank you.

16 CHAIRPERSON HILL: Mr. Young, are there people
17 here that wish to testify?

18 MR. YOUNG: No, I don't have anyone.

19 CHAIRPERSON HILL: Okay. Does the Board have
20 any final questions for anyone? If so, just raise your
21 hand.

22 Okay. Ms. Shiker, do you have anything you'd
23 like to add at the end?

24 MS. CHRISTINE SHIKER: No, we don't. Thank
25 you.

1 CHAIRPERSON HILL: All right. Well, then, I'm
2 going to go ahead and close the hearing, close the record.

3 And, Mr. Young, if you can please excuse all of
4 the people, thank you. Thank you all very much.

5 And I guess we can go ahead and start
6 deliberating, and I can start. I mean, I thought that --
7 I would agree with the analysis of the Office of Planning.

8 Can you guys hear me? Okay.

9 I would agree with the analysis that the Office
10 of Planning has provided. I will also agree with the
11 Applicant in terms of why they're meeting the standard for
12 the special exception.

13 I have had kind of the same question, Mr. Hart.
14 I was like, why does that even kind of exist? And then it
15 was like, oh, it's government dictating the market, and so
16 -- which is what you got to do, I guess.

17 So I would agree with the Applicant, and I
18 would be voting to -- well, I'm leaning towards approval.
19 But I'll let Mr. Hart go next, since he's unmuted.

20 VICE CHAIR HART: Oh. Yeah. Okay. I did that
21 by accident, but I'll take that opportunity. I would
22 agree with you. I thought this was a fairly
23 straightforward case.

24 I was asking about the 20 percent just to
25 understand, kind of, the rationale for that. I thought I

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1 probably understood why, but Ms. Thomas gave me the
2 justification and that made sense to me.

3 They are trying to fill a particular property.
4 The owners had a hard time trying to rent the property, or
5 lease the property. I know that's not necessarily one of
6 the things that would be -- that's very relevant, but it
7 is something that is part of the history of the lot, of
8 the property itself, and that they also tried to have
9 different configurations in terms of subleasing or having
10 a smaller space.

11 I don't have a particular issue with supporting
12 the application. Those are the only comments that I have.

13 CHAIRPERSON HILL: Ms. John?

14 MEMBER JOHN: So I had questions about why the
15 property could not have been leased during that time. And
16 I also had a concern, like Mr. Hart, about why the
17 property could not be subdivided. So I am basically going
18 on the Office of Planning's analysis and the Applicant's
19 presentation. I think this is fairly straightforward.
20 And so I would be able to support the application.

21 CHAIRPERSON HILL: Commissioner Turnbull?

22 COMMISSIONER TURNBULL: Thank you, Mr. Chair.
23 I would agree with the comments of the Vice Chair and Ms.
24 John. Financial services are allowed as a matter of right
25 in this zone, and I think the special exception for 27.5

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1 percent, I believe, which is like 7.5 percent over the
2 limit of 20, I think is a reasonable request.

3 And I think -- I'm not involved in retail
4 marketing or selling of property in any way, but I know
5 that a lot of these things can be very difficult to do and
6 that trying to get clients in or applicants in to buy --
7 to rent, these spaces is often difficult.

8 Again, we're at a time I'm just surprised that
9 the financial services are going. I mean, I often regret
10 the closing of drive-in banking. It used to be you could
11 go up, go to a teller, handle it. You can't do that
12 anymore. At least, it's hard to find a bank that's got --
13 especially during COVID-19. I mean, it's incredible, and
14 it would make sense to be able to do that.

15 But I have no issues with this. I think it
16 meets all the requirements, and I will be in support of
17 the application.

18 CHAIRPERSON HILL: Okay. All right. Okay.
19 So, then, I guess that's it.

20 Mr. Moy, I did want to just quickly ask my
21 colleagues. So we just did 20259, and we briefly spoke a
22 little bit about it. And then the one before that was
23 20257, and we did speak a little bit about that. Correct?

24 And so the 202 -- oh, sorry, 20053, which took
25 a long time today, we did not speak about. And so we'll

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1 talk about that next time. And then the 20258 was the one
2 that there was something that was new in the record, and
3 we also didn't deliberate.

4 So I just want to make sure --

5 VICE CHAIR HART: What was the last -- oh,
6 20258. Yes.

7 CHAIRPERSON HILL: 20258, right? So we did not
8 deliberate.

9 VICE CHAIR HART: That's what I have.

10 CHAIRPERSON HILL: Right. Okay, because the
11 person -- we have something new in the record, and so they
12 needed to have an opportunity to respond.

13 Okay. All right.

14 Mr. Moy, do you need anything else from the
15 Board today?

16 MR. MOY: No, sir. Do you need anything from
17 the staff?

18 CHAIRPERSON HILL: No, but that's a loaded
19 question.

20 All right. You all have a lovely day, okay?
21 See you next time.

22 MR. MOY: All right. Thank you, all.

23 CHAIRPERSON HILL: Bye-bye.

24 (Whereupon, the above-entitled matter went off
25 the record at 2:22 p.m.)

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In the matter of: Public Hearing

Before: DC BZA

Date: 07-22-20

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