

GOVERNMENT  
OF  
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

+ + + + +

REGULAR PUBLIC HEARING

+ + + + +

WEDNESDAY

OCTOBER 7, 2020

+ + + + +

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

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

FREDERICK L. HILL, Chairperson  
LORNA JOHN, Vice Chair  
CHRISHAUN SMITH, Board Member

ZONING COMMISSION MEMBER PRESENT:

PETER MAY, Commissioner

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY, Secretary  
PAUL YOUNG, Zoning Data Specialist

OFFICE OF PLANNING STAFF PRESENT:

ANNE FOTHERGILL  
JONATHAN KIRSCHENBAUM  
KAREN THOMAS  
MAXINE BROWN-ROBERTS

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

DANIEL BASSETT, ESQ.  
MARY NAGELHOUT, ESQ.

The transcript constitutes the minutes from  
the Regular Public Hearing held on October 7, 2020.

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

2 (9:47 a.m.)

3 CHAIRPERSON HILL: All right. The hearing will  
4 please come to order.

5 Good morning, ladies and gentlemen. We are  
6 convened and broadcasting this public hearing by  
7 videoconference. This is the October 7th, 2020, public  
8 hearing of the Board of Zoning Adjustment of the District of  
9 Columbia. My name is Fred Hill, Chairperson. Joining me  
10 today is Lorna John, Vice Chair; Chrishaun Smith, Board  
11 Member; and representing the Zoning Commission is Peter May.

12 Today's hearing agenda is available to you on the  
13 Office of Zoning's website. Please be advised that this  
14 proceeding is being recorded by a court reporter, and is also  
15 webcast live via Webex and YouTube Live.

16 The webcast video will be available on the Office  
17 of Zoning's website after today's hearing. Accordingly,  
18 everyone who is listening on Webex or by telephone will be  
19 muted during the hearing, and only persons who have been  
20 signed up to participate and testify will be unmuted at the  
21 appropriate time.

22 Please state your name and home address when  
23 providing oral testimony on your presentation. Oral  
24 presentations should be limited to a summary of your most  
25 important points. When you are finished speaking, please

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1 mute your audio so that your microphone is no longer picking  
2 up sound and background noise.

3           If you are experiencing difficulty accessing Webex  
4 or your telephone call-in or if you have forgotten to sign  
5 up 24 hours prior to this hearing, then please call our OZ  
6 hotline -- and I'm going to repeat the number -- at 202-727-  
7 5471, once again, 202-727-5471, and it's also on the screen  
8 -- to sign up to testify and to receive Webex login or call-  
9 in instructions.

10           All persons planning to testify either in favor  
11 or in opposition should have signed up in advance. You will  
12 be called by name to testify. By signing up to testify, all  
13 participants completed the oath or affirmation, as required  
14 by Subtitle Y 408.7.

15           Requests to enter evidence at the time of an  
16 online virtual hearing, such as written testimony or  
17 additional supporting documents other than live video, which  
18 may not be presented as part of the testimony, may be allowed  
19 pursuant to subtitle Y 103.13, provided that the person  
20 making the request to enter an exhibit explains how the  
21 postponed exhibit is relevant, the good cause that justifies  
22 allowing the exhibit into the record, including the  
23 explanation why the requester did not file the exhibit prior  
24 to today pursuant to subtitle Y 206, and how the proposed  
25 exhibit would not unreasonably prejudice any party.

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1           The order of procedures for special exceptions and  
2 variances are pursuant to Y 409. The order of appeals -- I'm  
3 sorry, the order of an appeal is Subtitle Y 507.

4           At the conclusion of each case, an individual who  
5 is unable to testify because of technical issues may file a  
6 request for leave to file a written version of the planned  
7 testimony for the record within 24 hours following the  
8 conclusion of public testimony, public testimony in the  
9 hearing.

10           If additional written testimony is acceptable, the  
11 parties will be allowed a reasonable time to respond, as  
12 determined by the Board. The Board will then make its  
13 decision at its next meeting, but no earlier than 48 hours  
14 after the hearing.

15           Moreover, the Board may request additional  
16 specific information to complete the record. The Board and  
17 the staff will specify at the end of the hearing exactly what  
18 is expected, and the date when persons must submit the  
19 evidence to the Office of Zoning. No other information shall  
20 be accepted by the Board.

21           The Board's agenda may include previous cases set  
22 for decision. After the Board adjourns the hearing, the  
23 Office of Zoning, in consultation with myself, will determine  
24 whether a full or summary order may be issued. A full order  
25 is required when the decision it contains is adverse to a

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1 party, including an affected ANC. A full order may also be  
2 made if the Board's decision differs from the Office of  
3 Planning's recommendation.

4           Although the Board favors the use of summary  
5 orders whenever possible, an applicant may not request the  
6 Board to issue such an order.

7           The District of Columbia Procedures Act requires  
8 that the public hearing on each case be held in the open  
9 before the public. However, pursuant to 405(b) and 406 of  
10 the Act, the Board may, consistent with its Rules of  
11 Procedures and the Act, enter into a closed meeting on a case  
12 for purposes of seeking legal counsel on a case, pursuant to  
13 D.C. Official Code Section 2-575(B)(4), and/or deliberating  
14 on a case pursuant to D.C. Official Code 2-575(B)(13), but  
15 only after filing the necessary public notice and, in the  
16 case of an emergency closed meeting, after taking a roll call  
17 vote.

18           Preliminary matters are those which relate to  
19 whether a case will or should be heard today, such as a  
20 request for a postponement, continuance, or withdrawal, or  
21 whether proper and adequate notice of the hearing has been  
22 given. If you are not prepared to go forward with the case  
23 today, or if you believe that the Board should not proceed,  
24 now is the time to raise such a matter.

25           Mr. Secretary, do we have any preliminary matters?

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1 MR. MOY: Thank you, Mr. Chairman. We do. But  
2 I think it's more efficient for the Board if I call those  
3 preliminary matters case by case.

4 Other than that, Mr. Chairman, for the record, for  
5 the transcript I would like to announce that there were two  
6 cases originally scheduled for today's docket, but they have  
7 been postponed and rescheduled.

8 The first is Application No. 20282 of Spectrum  
9 Builders Group LLC, rescheduled to October 28th, 2020; and  
10 also Case Application No. 20280 of VBS Community Builders  
11 LLC, also rescheduled to October 28th.

12 CHAIRPERSON HILL: Okay. All right, thank you,  
13 Mr. Moy.

14 You can go ahead and call our first case.

15 And, Paul, you can allow all the parties in,  
16 please.

17 (Pause.)

18 MR. MOY: All right. So, the first case for the  
19 Board in its hearing session is Case Application No. 20182  
20 of Elisabeth Hando, as amended.

21 CHAIRPERSON HILL: Mr. Moy, I'm sorry to interrupt  
22 you. Was that 20186?

23 MR. MOY: Yes.

24 CHAIRPERSON HILL: Okay. You said 20182.

25 MR. MOY: Oh. Sorry. Haven't had my second cup

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1 of coffee yet.

2 But anyways, Case Application No. 20186 of  
3 Elisabeth Hando, as amended for special exceptions under R-  
4 Use group requirements, Subtitle U, Section 203.1(h), and  
5 under Subtitle C, Section 703.2 from the minimum parking  
6 requirements of Subtitle C, Section 701.5. This would  
7 convert an existing expanded child development home to a new  
8 child development center with 20 children, R-1-B Zone at  
9 premises 240 Quackenbos Street, Northeast, Square 3719, Lot  
10 24.

11 This was last heard at the Board's public hearing  
12 on August the 5th.

13 CHAIRPERSON HILL: Okay. One moment, Mr. Moy.  
14 (Pause.)

15 CHAIRPERSON HILL: Okay. Let's see. Could  
16 everyone please introduce themselves for the record? Ms.  
17 Brooks, can I start with you?

18 It will take you a minute. It's all right. You  
19 just kind of move the cursor.

20 MS. BROOKS: Sorry. It took me too long to get  
21 off of mute. Good morning. I haven't had my second cup of  
22 coffee either.

23 (Laughter.)

24 MS. BROOKS: My name is Alison Brooks. I'm the  
25 ANC Commissioner for 4B-08.

1 CHAIRPERSON HILL: Okay, great.

2 And I'm just kind of going around my screen here.  
3 Mr. Dorsey, can you please introduce yourself?

4 MR. DORSEY: -- this meeting. Hopefully, this  
5 will be our last one. I have enjoyed the last three that  
6 we've had.

7 My name is Thomas Dorsey. I'm with MWB  
8 Architects, and the project manager for this particular  
9 project.

10 CHAIRPERSON HILL: Okay, thank you.

11 Ms. Banks, are you there?

12 MR. BANKS: Yes. This is Andrei Banks.

13 CHAIRPERSON HILL: Oh, okay.

14 MR. BANKS: And, yeah, I'm Andrei Banks. I'm the  
15 architect for this project.

16 CHAIRPERSON HILL: Okay. Are you choosing not to  
17 use your camera? It's fine. I just want to know whether  
18 you're having a technical issue.

19 MR. BANKS: I'm not sure how to -- oh, I see, down  
20 here. Let me. It is not -- oh, wait, there we go.

21 CHAIRPERSON HILL: There you go. Okay.

22 Mr. Banks, are you going to be presenting to us  
23 then? Who is going to be leading the presentation?

24 MR. BANKS: I thought the owner was going to be  
25 on. But, if not, probably, probably Tom Dorsey will do it.

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1 CHAIRPERSON HILL: Okay. Is the owner there? I  
2 mean, like, I -- Mr. Dorsey, are you, is there something in  
3 the record that allows you to speak on behalf of the  
4 applicant?

5 MR. DORSEY: Yes, I have --

6 CHAIRPERSON HILL: Mr. Dorsey, you're on mute.

7 MR. DORSEY: Yes. I will be speaking on behalf  
8 of the applicant. And she should be online. I don't see her  
9 there.

10 CHAIRPERSON HILL: Could you call her?

11 MR. DORSEY: Yes. I will give her a call.

12 Ms. Elisabeth, you're not on the call.

13 CHAIRPERSON HILL: Mr. Dorsey, you might want to  
14 mute your line.

15 MR. DORSEY: Okay.

16 CHAIRPERSON HILL: She what? I'm sorry, you were  
17 going to tell me something?

18 MR. DORSEY: She says that she's on the call and  
19 she's not showing being connected, and she's having problems.

20 MR. YOUNG: Is it, is it Elisabeth Ngatchou?

21 MR. DORSEY: Yes.

22 MR. YOUNG: Okay. I see her.

23 CHAIRPERSON HILL: Ms. Ngatchou, can you hear me?

24 MS. NGATCHOU: Yes.

25 CHAIRPERSON HILL: Okay. Are you choosing not to

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1 use, are you choosing not to --

2 MS. NGATCHOU: Yes. Yes. So, I'm telling Mr.  
3 Davis.

4 CHAIRPERSON HILL: I'm sorry, could you introduce  
5 yourself?

6 MS. NGATCHOU: My name is Elisabeth Hando  
7 Ngatchou. I'm here with Mr. Davis. I am the applicant.

8 CHAIRPERSON HILL: Okay, great. All right. So,  
9 okay. Well, welcome.

10 Let's see. So, now this is a continued hearing.  
11 You guys have had two previous hearings. So, this is the  
12 third one. And, you know, for the record, I've read into the  
13 hearing and am fully up-to-date on everything that has  
14 happened over the past.

15 Mr. Smith, are you also, did you also read into  
16 the record?

17 MEMBER SMITH: Yes. I've read into the record.

18 CHAIRPERSON HILL: Okay. So, this is a hearing  
19 continued hearing, Ms. Ngatchou. Ngatchou?

20 MS. NGATCHOU: Yes.

21 CHAIRPERSON HILL: Okay. Ms. Ngatchou. And  
22 really what we had asked for, I guess, was to go back to the  
23 ANC to see if there was any kind of supplemental report that  
24 the ANC had wanted to do, as well as an update on the  
25 construction management plan.

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1 Did you provide the updated construction  
2 management plan?

3 MS. NGATCHOU: Yes, I did provide the updated  
4 construction management plan to the ANC and to my neighbor.

5 CHAIRPERSON HILL: Great. That's the Exhibit 189,  
6 I think.

7 MS. NGATCHOU: Yes.

8 CHAIRPERSON HILL: Okay. Okay. All right. So,  
9 can you tell us, I guess, a little bit about those few issues  
10 that we're speaking to? Like, what has happened since the  
11 last hearing?

12 MS. NGATCHOU: Since the last hearing, we're  
13 supposed to meet with the neighbor. And we did schedule the  
14 meeting. And my request was to talk about the parking and  
15 the construction plan.

16 So, when started the hearing, or the meeting, and  
17 I print out everything, and all the construction plan and the  
18 parking for the meeting. But when we get to the meeting,  
19 they did not want to talk about the parking and construction  
20 plan, they wanted to bring another, another issue. They  
21 wanted to keep the home day care in there. They were saying  
22 that they don't want business in the neighborhood -- some of  
23 them, not everybody.

24 Because at the meeting we were about, for the,  
25 within the 250 we were about nine people. So, and then five

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1 was, of course, continued to oppose to the business because  
2 they say that we are trying to transform the neighborhood for  
3 the business. But we -- and I was explaining to them that  
4 the day care or school in the residential section, so it  
5 won't change anything in the neighborhood. It won't bring  
6 any violence or anything. So that's what we wanted to talk  
7 about.

8           They said they don't want to hear that. They just  
9 wanted to compromise on removing, changing my application to  
10 home day care. But I already have my application for a  
11 center. I did not want to compromise for that.

12           CHAIRPERSON HILL: Okay.

13           MS. NGATCHOU: Because my, my objective is to  
14 shore up the case, to support the case, and provide a service  
15 to the family in needs. And in D.C. at this moment there's  
16 a huge needs of child care in the District. So, that was the  
17 purpose.

18           CHAIRPERSON HILL: Okay. And so --

19           MS. BROOKS: Commissioner, that's not exactly the  
20 way the meeting went.

21           CHAIRPERSON HILL: Commissioner. Commissioner,  
22 I'll get to you in one second.

23           MS. BROOKS: Okay.

24           CHAIRPERSON HILL: Ms. Ngatchou, all right, so  
25 then you didn't have an -- you did not find out from the ANC

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1 commissioners a result. You didn't get a chance to talk  
2 about the construction management plan; is that what you're  
3 saying?

4 MS. NGATCHOU: Not at all.

5 CHAIRPERSON HILL: Okay. All right. Can I put  
6 you on -- can you put yourself on mute, Ms. Ngatchou, for a  
7 second?

8 MS. NGATCHOU: Okay.

9 CHAIRPERSON HILL: Thank you. Commissioner  
10 Brooks?

11 MS. BROOKS: Yes.

12 CHAIRPERSON HILL: Do you want to go ahead and  
13 provide your testimony?

14 MS. BROOKS: Yes.

15 So, my take-away from the last hearing or meeting  
16 was that the request was for Ms. Hando and for the residents  
17 that were in opposition to try to fit, to come up -- to try  
18 to get on the same page, to try to compromise, which I  
19 believe was Mr. May's request before we met again today.

20 So, Ms. Hando did provide the information that  
21 she's saying. And the request was -- I reached out to her  
22 a day or two, I guess, after the last hearing. We scheduled  
23 the meeting at her convenience. We attempted to have a  
24 socially distant meeting where people could be present. We  
25 thought that would be a little bit better.

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1 But, unfortunately, Ms. Ngatchou was not able to  
2 meet in person. She needed to self-quarantine, which is  
3 completely understandable.

4 We had, I think, about I'd say nine people on  
5 Webex but we had far more people in person than that. And  
6 what we wanted to do -- and everyone did see, had already  
7 seen from the last hearing the construction management plan  
8 and the parking plan. They weren't any different than what  
9 had been previously presented.

10 What we were trying to do was get to a starting  
11 point where we could agree on something as a community, and  
12 then work towards a compromise. And Ms. Hando indicated she  
13 wasn't interested in compromise, that she wanted to move  
14 forward with the plan as it existed today, and just wanted  
15 to have everyone explain -- just wanted the opportunity to  
16 explain the construction plan and the parking plan again.

17 Residents indicated that they were aware of that  
18 plan and weren't interested in hearing it again if nothing  
19 had changed.

20 So, we spoke for over an hour. She, as I  
21 indicated, repeated that she wasn't interested in  
22 compromising or making any changes to the existing plan, and  
23 just wanted to move forward as it was. Residents felt that  
24 in that case they could not continue, they weren't going to  
25 be able to support the project because nothing was changing.

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1 Crime was never really a large part of the  
2 conversation that particular day. And I offered to give her  
3 a few days to think about it and be in touch with her again.

4 Because it was September 5th, we had the  
5 opportunity to meet more than once prior to our deadline on  
6 the 23rd. She wasn't interested in doing that, and told me  
7 it wasn't worth following up with her in a few days because  
8 she wasn't going to change her position.

9 CHAIRPERSON HILL: Okay. All right. So, let's  
10 see, Commissioner. All right, I'm going to go around the  
11 horn here a little bit with everybody and then I'm going to  
12 turn to the Office of Planning. And then we'll take any kind  
13 of testimony that we have from other people.

14 Mr. May, do you have any questions?

15 COMMISSIONER MAY: I do not have any questions.  
16 I'm just a little disappointed that there wasn't any sort of  
17 progress whatsoever. But, sometimes that happens.

18 CHAIRPERSON HILL: Okay. Mr. Smith, do you have  
19 any questions?

20 (No audible response.)

21 CHAIRPERSON HILL: Commissioner Brooks, you might  
22 want to mute your microphone also.

23 And, Mr. Smith, you're on mute. There you go.

24 MEMBER SMITH: I don't have any questions.

25 CHAIRPERSON HILL: Okay. Ms. John?

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1 VICE CHAIR JOHN: Just one question for  
2 Commissioner Brooks.

3 So, did the ANC have any comments on the pick-up  
4 and drop-off plan that the applicant had submitted? I  
5 believe you said that the ANC had seen the plan before. I  
6 just wanted to confirm that.

7 MS. BROOKS: It was among the information that was  
8 submitted to me by Ms. Hando. The commission as a whole did  
9 not have any objection to the plan, more specifically because  
10 it's my SMD, as other residents, neighbors have testified.  
11 Since that isn't how the traffic flow is, you know, going  
12 today we're not convinced that that's what's going to happen  
13 going forward.

14 As a parent of three, I've never been in an  
15 environment when there wasn't COVID related (audio  
16 interference) remove COVID from the scenario, where I just  
17 (audio interference) out the door, never came inside, never  
18 spent time communicating with the day care provider. I don't  
19 think that's realistic.

20 VICE CHAIR JOHN: Okay. Thank you.

21 CHAIRPERSON HILL: Okay. May I turn to the Office  
22 of Planning?

23 MS. BROWN-ROBERTS: Yes, Mr. Chairman. This is  
24 Maxine Brown-Roberts from the Office of Planning.

25 We did not do any supplemental to our original

1 report. We continued to recommend approval of the project.  
2 And that's where we stand.

3 CHAIRPERSON HILL: Okay. Can you do me a favor,  
4 since I wasn't there for the first two, and I have read your  
5 report, but can you again kind of walk me through how the  
6 Office of Planning went through the standard of the criteria  
7 that they think that this is something that should be  
8 approved?

9 MS. BROWN-ROBERTS: The regulation talks about,  
10 you know, how many students can be accommodated, about the  
11 drop-off, that there is no impact. And DDOT looked at the,  
12 at the total number of children and the drop-offs that she  
13 had.

14 We have seen similar things in other, in other  
15 centers, and so we, we were supportive of what she had  
16 proposed.

17 We also, regarding the BZA comments on the  
18 construction management plan, we think that that was, again,  
19 that we've seen in other, in other centers, and in other  
20 projects, too, and think that was sufficient.

21 OSSC reviewed it and said that they, they should  
22 be able to accommodate 20 children. And so we stand in  
23 support. We think that the requirements regarding the play  
24 area, which is on the other side from the adjacent house,  
25 again, the impacts of that will be lessened because of where

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1 the play area is located.

2 And so, based on those things, we recommended  
3 approval.

4 CHAIRPERSON HILL: Okay. Does anyone have any  
5 questions for the Office of Planning? Mr. May?

6 COMMISSIONER MAY: No.

7 CHAIRPERSON HILL: Mr. Smith?

8 MEMBER SMITH: No.

9 CHAIRPERSON HILL: Vice Chair John?

10 VICE CHAIR JOHN: No questions. No questions.

11 CHAIRPERSON HILL: Okay. Commissioner Brooks, do  
12 you have any questions for the Office of Planning?

13 MS. BROOKS: I do not.

14 CHAIRPERSON HILL: Ms. Ngatchou, do you have any  
15 questions for the Office of Planning?

16 MS. NGATCHOU: No.

17 CHAIRPERSON HILL: Okay. All right. Ms.  
18 Ngatchou, just a couple of things. I mean, so you're in  
19 agreement with the -- and we're going to have to talk about  
20 this with the Board. I don't know where we're going to get  
21 with the application. But, the conditions that DDOT has in  
22 Exhibit 110 in terms of your traffic management plan, you are  
23 in agreement with all those conditions?

24 MS. NGATCHOU: Yes.

25 CHAIRPERSON HILL: Okay. And then the

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1 construction management plan itself is in Exhibit 189. And  
2 you're obviously in agreement to your own construction  
3 management plan; correct?

4 MS. NGATCHOU: Yes.

5 CHAIRPERSON HILL: Okay. Commissioner Brooks, I  
6 had a question about, like, like signage and things like  
7 that. You know, the community, I mean, I understand from the  
8 testimony that was taken before, and all of the items in the  
9 record in terms of, you know, how they are going from nine  
10 to 20 children, and the concerns that that has brought  
11 forward was the community, was signage -- because I wasn't  
12 clear -- was signage something that came up or was of  
13 concern?

14 MS. BROOKS: Indirectly. No one specifically  
15 brought up signage. But in my opinion it was brought up in  
16 terms of the way they were discussing the fact that this will  
17 now be a business, and the lighting will change for the area,  
18 and that kind of thing. I think that was their intention  
19 that they were getting at. But I don't think it was ever  
20 outright expressed.

21 CHAIRPERSON HILL: Ms. Ngatchou, do you have any,  
22 -- what are your plans in terms of signage and lighting, such  
23 like that, and how that will affect the area?

24 MS. NGATCHOU: I don't, because I will defer to  
25 DCRA because they are the one giving the -- they are the ones

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1 who provide the option and the limits on the signage. So,  
2 DCRA is the one. But the community did raise that as a  
3 concern.

4 CHAIRPERSON HILL: Okay. All right.

5 All right, Mr. Young, I think there are people  
6 wishing to speak. Correct?

7 MR. YOUNG: Yeah, that's correct.

8 CHAIRPERSON HILL: Why don't we bring in -- are  
9 there parties, there's parties in support and opposition.  
10 Are they all there?

11 MR. YOUNG: There's one in support who I don't see  
12 on here yet. I was told that she's on her way home and is  
13 going to try and call in.

14 CHAIRPERSON HILL: Okay.

15 MR. YOUNG: We have two that are in opposition.

16 CHAIRPERSON HILL: Okay. You want to bring them  
17 in, please?

18 MR. YOUNG: Yes.

19 (Pause.)

20 CHAIRPERSON HILL: Mr. Richardson, I think I --  
21 or Ms. Richardson, I think I see you. Are you there?

22 MS. RICHARDSON: Yes, I'm here.

23 CHAIRPERSON HILL: Okay. And then also, I guess,  
24 there's supposed to be a Greenwood.

25 MS. GREENWOOD: Yes, I'm here as well.

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1 CHAIRPERSON HILL: Oh, you're both together?

2 MS. GREENWOOD: Yeah. It's my mom.

3 CHAIRPERSON HILL: Oh, okay. Do you want to use  
4 your camera or you're choosing not to? It's fine, I just  
5 want to know.

6 MS. RICHARDSON: I can use my camera. It's not  
7 a problem.

8 CHAIRPERSON HILL: Okay. That's okay.

9 MS. RICHARDSON: I just prefer not to.

10 CHAIRPERSON HILL: That's all right. You can turn  
11 it off.

12 MS. RICHARDSON: Okay.

13 CHAIRPERSON HILL: Who are the -- but if you could  
14 just, again, please introduce yourself for the record.

15 MS. RICHARDSON: I am Patrice Richardson, the next  
16 door neighbor to 240 Quackenbos Street, Northeast.

17 CHAIRPERSON HILL: Okay. And then your mother,  
18 could she introduce herself?

19 MS. GREENWOOD: That is my mother. That is the  
20 mother. I am the daughter, Bria Greenwood, of the same  
21 location.

22 CHAIRPERSON HILL: Okay, great. So, who's going  
23 to go first?

24 MS. RICHARDSON: I will. Oh, as in Patrice  
25 Richardson.

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1 CHAIRPERSON HILL: Okay, great. Because I can't  
2 see you, so.

3 MS. RICHARDSON: Right. Right, right, right,  
4 right. That's fine.

5 CHAIRPERSON HILL: Okay. So, you all have three  
6 minutes. And it's on a clock there on the screen.

7 MS. RICHARDSON: Okay.

8 CHAIRPERSON HILL: And just before you begin, I  
9 mean, I'm not going to hold you to any particular testimony,  
10 I suppose, but this is a continued hearing, meaning that  
11 we're supposed to be just kind of talking about the things  
12 that have come up since the last hearing. But go ahead and  
13 use your three minutes as you see fit, and you can say  
14 whatever you like.

15 MS. RICHARDSON: Okay, thank you. Good morning.  
16 And thank you for the opportunity to speak on behalf of  
17 being the next door neighbor, as well as a member of the  
18 civic association all of my life. I would like the  
19 Commission to review this case and not approve the zone  
20 change that will approve this residence change to a day care  
21 business.

22 With the approval of the zone exemptions, it is  
23 the foundation to have a non-residential business next door  
24 to our residence. We did not purchase a home next to a  
25 business that will require a separate trash collection,

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1 reduction of our property values, property tax surges, and  
2 transportation and parking concerns.

3           The property at 240 Quackenbos Street has a cut-  
4 out driveway in the backyard. The city recently installed  
5 sidewalks on the north side of 3rd Street, Northeast, which  
6 is the opposite side of the applicant's plan to transport  
7 kids in and out of the home.

8           After reviewing the exhibits in this application,  
9 the government is not doing the charged due diligence to  
10 protect the health, safety, and economic interests and  
11 quality of life of citizens and residents of the District,  
12 especially this neighborhood.

13           For example, all of the government support letters  
14 are templated documents with rubber stamps of support. Not  
15 one of the letters show any research for the site study or  
16 the consideration of how this support will change the fabric  
17 of our seniors, neighborhoods, or environmental safety and  
18 health issues for the surrounding structures.

19           The zones are in place to protect the property  
20 owners from converting the residential quiet neighborhood  
21 into pop-up businesses, future blighted property, and the  
22 citizens that cannot protect themselves. Your support for  
23 this residential change will affect the 50-plus years  
24 residents that band together to keep this civic association  
25 neighborhood bonded as a quiet residential neighborhood.

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1 I ask that you not let outside influencers that  
2 do not live in this neighborhood convince you to support this  
3 application zone change. I ask that you recognize that this  
4 plan will close other -- wait a minute. I ask that you  
5 recognize that this plan will close or -- close to other  
6 child care facilities in this city that this applicant  
7 already operates.

8 It is in the contention of this applicant to close  
9 the other sites throughout the city and merge all 40 or more  
10 kids into this site. We, the neighbors, have been  
11 compromising from the beginning with the neighbors at 240  
12 Quackenbos Street, but the applicant is not willing to  
13 compromise with the neighbors.

14 From a small, in-home residential business and an  
15 assisted care nursing business to now a full-blown day care  
16 center, we cannot allow baby steps to false intentions by  
17 this applicant to change the fabric of this neighborhood.  
18 As the next door neighbor, I do not want a vacant building  
19 structure to be developed next door. Place a day care in the  
20 appropriate zone or at other sites currently operated by the  
21 applicant. After all, we have over 70 day care properties  
22 in this area.

23 In closing, we, the neighbors, attempted with the  
24 commissioners to dialogue and compromise on September 5th.  
25 Unfortunately, no definitive answer or compromise was willing

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1 by the applicant. But definitely got a response that this  
2 applicant is not willing to compromise on anything with the  
3 neighbors except to have their business on us.

4 Thank you.

5 CHAIRPERSON HILL: Thank you.

6 Let me take the testimony also, now, of Ms.  
7 Greenwood. Can you hear me?

8 MS. GREENWOOD: Yes.

9 CHAIRPERSON HILL: Okay. So, also the same for  
10 you, there will be three minutes on the clock. And you can  
11 see it on your screen. You can begin whenever you like.

12 MS. GREENWOOD: Okay. The lack of transparency  
13 is affecting the good neighbor policy. And it is  
14 disappointing to hear that the Board did not take this into  
15 consideration at the last meeting.

16 The majority of the neighborhood are elderly, and  
17 the few families that do have children do not actually attend  
18 this day care. So, where are the children coming from?

19 The application stated that they do not have a  
20 driveway and parking unit. But they do have a driveway in  
21 the back and a pathway from that driveway to the back of the  
22 house where the children can actually go into. If a person  
23 is using these blatant lies on the application, the  
24 application itself is to be terminated. So, I'm not sure why  
25 this wouldn't be considered for that.

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1 DDOT also stated that they did not need to do a  
2 traffic pattern. However, after the last meeting they did  
3 come to conduct the traffic study. They already started the  
4 renovation. And the little renovation that they did do  
5 messed up our wall, and my mother actually had to get it  
6 renovated and fixed.

7 So that, I bring that as a problem because earlier  
8 stated, you guys said that the people that do the drawings  
9 do not have to currently be licensed through D.C. And that  
10 is a problem for two reasons.

11 One, how do they know the history or the future  
12 issues of the environment or architectural hazards that will  
13 happen for the construction process that has already shown?

14 And number two, any business in the District of  
15 Columbia has to be licensed. And before actually attaching  
16 this with the application, that transaction was an actual  
17 business transaction, so I'm not sure why they weren't  
18 required to be licensed by the D.C. Architect Board from OPLA  
19 at DCRA.

20 They stated that they weren't able to live in the  
21 home, which I find a little bit confusing because right now  
22 they are approved for nine. They are pending the application  
23 for 20. And when they were active with nine children, their  
24 daughter was living in the house. Now the facility is not  
25 in operation at all, and they're pending an application of

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1 approval for this situation. So, I'm a little confused on  
2 why they are not able to live in a house when they are not  
3 in any type of active status.

4 Many of the witnesses and attendees are of African  
5 descent. And the only problem with this big issue here is  
6 that the majority of people in this actual neighborhood are  
7 of African-American descent. And there is actually no  
8 marketing or advertising for this day care facility, so where  
9 exactly are the children really coming from? It is really  
10 good and safe to assume that possibly it's coming from  
11 friends or close relatives that live in Maryland and work in  
12 D.C., and they drop their children off on their way to work  
13 in D.C. And that has been shown with the many Maryland tags  
14 that do come in this area.

15 They have made it very clear that they are not  
16 willing to compromise. And, in addition, you guys asked them  
17 to call my mother specifically to talk about the  
18 environmental hazards that it will bring on the property, and  
19 they have yet to actually do that. My mother already stated  
20 that they want to shut down many of their locations to bring  
21 them here because of cost efficiency.

22 So, I'm really trying to figure out if this is  
23 really true fair to award this type of behavior where they're  
24 showing their lack of compromise with their neighbors. They  
25 have lied constantly verbally and on the application. And

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1 to bring a day care in a community that is overpopulated with  
2 a high population of elderly, in a ward that has already over  
3 70 standing day care facilities, as opposed to bringing this  
4 type of service where it's actually needed on the east of  
5 river where they would not probably only want this service,  
6 but is definitely needed.

7 CHAIRPERSON HILL: Okay. All right, thank you,  
8 Ms. Greenwood.

9 Does the Board -- may I ask, does the Board have  
10 any questions for either witness? I'll start with you, Mr.  
11 May.

12 COMMISSIONER MAY: I do not have any questions.  
13 Thank you.

14 CHAIRPERSON HILL: Mr. Smith?

15 MEMBER SMITH: I do not have any questions.

16 CHAIRPERSON HILL: Ms. John?

17 VICE CHAIR JOHN: No questions.

18 CHAIRPERSON HILL: Okay. Ms. Richardson, could  
19 you just mute your microphone for one second? Thank you.

20 Ms. Ngatchou, can you hear me? I just, I just --  
21 Can you hear me? Yeah, there you go. Okay.

22 MS. NGATCHOU: Yes.

23 CHAIRPERSON HILL: So, in terms of your outreach  
24 to Ms. Richardson, what kind of -- and I'm going, now just  
25 everybody will get a chance to speak, so just give me a

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1 second -- what kind of outreach have you done to Ms.  
2 Richardson?

3 MS. NGATCHOU: With Ms. Richardson we talked last  
4 time when we talked and she said she was advised not to have,  
5 not to have more children. And when I sent the email last  
6 time I sent the email about the construction plan, but she  
7 did not reply on anything.

8 When she sent email about what has happened in the  
9 future about the backyard, I really, I really do not -- I  
10 really will move my children from playing to the playground  
11 next to her to the site when she said that her dad was coming  
12 back to home. And then she wasn't willing to -- she doesn't  
13 want any noise, any things like that. I have to move my  
14 playground to the side yard.

15 So that's what --

16 CHAIRPERSON HILL: So you have, you both each have  
17 contact information?

18 MS. NGATCHOU: Yes.

19 CHAIRPERSON HILL: Okay. All right. Ms.  
20 Richardson, do you have anything else? I mean, the reason  
21 why I'm asking is I just want to make sure that you guys  
22 actually were in contact with each other.

23 Ms. Ngatchou, could you mute your microphone,  
24 please?

25 MS. NGATCHOU: And also --

1 CHAIRPERSON HILL: Ms. Ngatchou, could you mute  
2 your microphone? Thank you.

3 Ms. Richardson, you do have the contact  
4 information of Ms. Ngatchou?

5 MS. RICHARDSON: I do not. And I would like to  
6 also, I don't understand why we're sending via email when we  
7 live next door.

8 I didn't receive an email. And the flood of  
9 emails that I receive, I probably would not have noticed it  
10 because she and I have never emailed back and forth. We went  
11 through the Commission, everybody on the email. But  
12 directly, we have never emailed ever since she's moved in.

13 So I don't, I'm not understanding the email  
14 concept when, clearly, we can talk in front of the house, six  
15 feet, 12 feet, whatever, apart.

16 CHAIRPERSON HILL: Okay. Well, let's -- I don't  
17 know what in terms -- I just want to make sure there's some  
18 kind of contact between you two, and that you guys have --  
19 Ms. Ngatchou, give me one second -- and that there is an  
20 email address.

21 And I suppose, Ms. Richardson, if you want to  
22 reach out to the Office of Zoning and they can make sure that  
23 you get Ms. Ngatchou's email. And Ms. Ngatchou, you have the  
24 correct email address for Ms. Richardson.

25 Mr. Moy, is that something that we can facilitate?

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1 MR. MOY: Yes, sir. Staff will take care of that.

2 CHAIRPERSON HILL: Okay. All right.

3 MR. MOY: Thank you.

4 CHAIRPERSON HILL: All right. Does the Board have  
5 any final questions for Ms. Richardson or, again, Ms.  
6 Greenwood? And I know I went around the horn already, but  
7 I'm going to excuse them from the room, so that's why I want  
8 to know.

9 And, also, absolutely do this, Ms. Brooks, do you  
10 have any questions?

11 MS. BROOKS: So, at some point in the last month  
12 or two I believe Ms. Richardson reached out to me with regard  
13 to a concern about the garden on the side of the house. And  
14 I believe that she texted Ms. Ngatchou about that. And I  
15 don't think that that issue was resolved.

16 There's a garden. And the squirrels, and the  
17 rodents, and all of that are bringing the corn out of the  
18 garden over into Ms. Richardson's yard, into her front porch,  
19 actually. So, Ms. Ngatchou does have Ms. Richardson's phone  
20 number. I don't know that she has her email. But they could  
21 have arranged, she could have arranged to speak with Ms.  
22 Richardson.

23 And as far as cleaning up the garden, there was  
24 a request made to do that. And I don't think that that has  
25 happened. Ms. Richardson can correct me if I'm incorrect,

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1 but I do think they have each other's contact information as  
2 far as a phone number is concerned, not an email.

3 But I also think that's sort of evidence of the  
4 fact that the two of them are not on the same page and that  
5 there is no response in terms of, you know, certain requests.

6 Lastly, I believe the issue surrounding Ms.  
7 Richardson's father returning to the home, who had been ill,  
8 was prior to this. It had nothing to -- my understanding was  
9 when he was ill and he would return to the home was outside  
10 of the timeline that we're discussing currently.

11 CHAIRPERSON HILL: Okay. So, what I'm trying to  
12 understand, so, Ms. Ngatchou, have you known about this  
13 garden issue? Or have you had any conversations about that?

14 MS. NGATCHOU: Yes, I do have a conversation about  
15 that. I text her back that I'm going to take care of that.  
16 Because she said I have to move all my corn in the garden  
17 because the way the things is bringing something in her, in  
18 her yard.

19 And I said, yes, I will do that. So, we texted  
20 each other.

21 And the day of my -- sometimes we talk outside.  
22 So, when we have things outside we talk in the day. Before  
23 she talk about her father, we were outside the day of my  
24 daughter's graduation, she said, oh, you know my dad's coming  
25 back home? It was in June. She, she -- it wasn't far --

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1 CHAIRPERSON HILL: Ms. Ngatchou. Ms. Ngatchou.

2 MS. NGATCHOU: Yes?

3 CHAIRPERSON HILL: When is the garden going to be  
4 taken care of?

5 MS. NGATCHOU: It's already, it's drying already.  
6 So, I'm cutting the, I'm cutting the corn, the corn. So,  
7 it's already dry. So --

8 CHAIRPERSON HILL: You're removing the garden?

9 MS. NGATCHOU: Yes.

10 CHAIRPERSON HILL: Okay. Ms. Richardson, I guess  
11 they're going to remove the garden. And I think you do have  
12 a phone number of Ms. Ngatchou. Is that correct?

13 MS. RICHARDSON: Right. I have her cell number.

14 CHAIRPERSON HILL: Okay. All right. Well, again  
15 then, Ms. Ngatchou, again, like, you know, to use the term  
16 of Anthony Hood, the Chairman of the Zoning Commission, the  
17 good neighbor policy, he likes to keep mentioning that.

18 And now I can't believe I'm going to quote him,  
19 but I'm going to quote him which is that, again, the good  
20 neighbor policy, if this were to be employed -- and I don't  
21 know where we are right now -- you have somebody next door  
22 to you that is trying to get some things done. And I don't  
23 know what happened or what communication has gone on, but  
24 this person is here now at this hearing. And I understand  
25 it doesn't matter whose fault it is, let's just really try

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1 to get together and talk to one another.

2           And if you did, you know, move the playground  
3 because of the family members, we all have aging parents --  
4 or some of us do -- and it's not an easy thing to get  
5 through. And so, you know, try to help accommodate your  
6 neighbor as this project -- if it were to move forward.

7 Okay?

8           MS. NGATCHOU: Yes. Thank you.

9           CHAIRPERSON HILL: Okay. All right. Ms.  
10 Richardson, so they have your phone number. But, again, if  
11 you were to reach out to the Office of Zoning, Mr. Moy can  
12 help facilitate getting an email address to Ms. Ngatchou as  
13 well. Okay?

14           MS. RICHARDSON: Okay. But I just want you to  
15 understand that since we have been on opposite ends of this  
16 project, the communication has not been the same. Slim to  
17 none.

18           CHAIRPERSON HILL: Okay. Well, please reach out  
19 and get the email address from the Office of Zoning. And,  
20 hopefully, there the communication will get better. I mean,  
21 it sounds like you both are not on the same page, obviously,  
22 in terms of what you would like to see happen. But perhaps  
23 -- I don't know if this is going to move forward or not. I'm  
24 saying if it does move forward, then you guys will at least,  
25 hopefully, be able to work together so that your voices will

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1 be heard.

2           Okay, Mr. Young, I guess you can excuse the  
3 witnesses.

4           MR. YOUNG: I do have one more that's calling in  
5 in opposition. And I also have the one person in support.  
6 Both are calling in on the phone.

7           CHAIRPERSON HILL: Okay. Let's hear the  
8 opposition again first.

9           Hello, can you hear me? Hello?

10          MR. YOUNG: That would be Ms. Purvis. And she is  
11 unmuted and should be able to speak.

12          MS. PURVIS: Yes. Hi.

13          CHAIRPERSON HILL: Hello. Hi, good morning.  
14 Could you please introduce yourself for the record.

15          MS. PURVIS: Yes. My name is Anita Purvis. I'm  
16 at 6113 3rd Street, Northeast, which is directly across the  
17 street from the day care center.

18          CHAIRPERSON HILL: Okay. Ms. Purvis, can you see  
19 the screen?

20          MS. PURVIS: No. I'm actually on the phone this  
21 morning.

22          CHAIRPERSON HILL: Okay.

23          MS. PURVIS: I do apologize.

24          CHAIRPERSON HILL: Okay. No, that's all right.  
25 So, you'll have three minutes to speak. And you can begin

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1 whenever you like. And I'll let you know when your three  
2 minutes are up.

3 MS. PURVIS: Thank you very much. Excuse me.

4 Yes, I have been opposing this day care center  
5 from the very beginning of hearing of this project. The  
6 current day care that sits there, that's not operating now,  
7 there is no type of traffic or any sign of anybody being  
8 there except the family. But, when it was running, operating  
9 before, it was a major issue with traffic, drop-off and pick-  
10 up. It was a major issue.

11 So, I don't know who's doing the research on the  
12 traffic here to say that it's not going to affect the  
13 community. It has before, and I'm sure it's going to get  
14 much worse.

15 I don't understand when you have an entire  
16 community that lives within 200 feet of this project who says  
17 no, no, no to this project. You have every civic leader, you  
18 have every ANC that's involved in this community who says no  
19 to this project. You guys speak about compromise in the  
20 meeting just a week ago. There's no compromise in this day  
21 care.

22 She has no intention. She started the whole  
23 conversation with no, no matter what the community was trying  
24 to say. When you speak of communicating to her next door  
25 neighbor, Mrs. Richardson, I can certainly understand. I

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1 live across the street. There is no communication. You can  
2 reach out to the day care owner and let her know some of the  
3 concerns; she will not respond.

4           When it comes to that garden, it is awful over  
5 there. There is a huge garden. Now we have a family of  
6 deers that come up late in the evening. And as I'm getting  
7 out my car to try to get into my home in the evening that  
8 deer comes out. But they're running from that garden. You  
9 can literally see them eating, and tearing apart the gate of  
10 that garden. It is huge over there. And it's just, it's  
11 been ignored. There's nobody attending this garden. It's  
12 growing wild. So, you've got other rodents.

13           And I don't understand. I mean, I wouldn't dare  
14 say yes to this day care because, just because the integrity,  
15 you know. She introduced a form to you guys, a document with  
16 our signatures on it that was clearly fraudulent. She  
17 brought our name onto a document that we had no knowledge of.

18           So, there's a lot of reasons we're saying no. We  
19 have dealt with this center when there was just nine  
20 children, and it was, it was chaos, you know, from the  
21 visitors, from the parents, from the drop-off.

22           We live here. It's our community. We should be  
23 able to still come in peace and dignity in the evenings after  
24 getting off a hard day of work without having to be in an  
25 argument situation with the visitors or the parents who's

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1 trying to drop off.

2           We're not knocking her center totally, but what  
3 we're saying is we don't want to see the expansion. I live  
4 next door to a nightmare that started a project similar to  
5 what she's starting now. It had to be stopped from the city  
6 because a number of reasons. And we don't want to see that  
7 happen again. This is totally residential community. Again,  
8 over 70 percent of senior citizens. There's no children.  
9 Within 200 feet I can honestly tell you that the people here,  
10 as myself, have grandchildren who come and go, who visit.  
11 We don't have any children in this community that attend this  
12 day care.

13           So, who are you really serving? You're not  
14 serving this community, not the children here, not the  
15 community. I mean, why should everybody have to live  
16 uncomfortable and to know that something like that is trying  
17 to come in the community? It is a commercial, it's clearly  
18 commercial. We are residential.

19           CHAIRPERSON HILL: Okay.

20           MS. PURVIS: There's so many reasons. Thanks a  
21 lot for my testimony. I hope Zoning is really paying  
22 attention here when we have an outpour and an outcry from so  
23 many in the community that's saying no. I think this should  
24 be a lesson. I've seen it around the city, this should be  
25 a real big lesson here.

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1 CHAIRPERSON HILL: Okay. All right, Ms. Purvis.  
2 I mean, just to let you know, I mean, those things that we  
3 look at we're supposed to look at the standards in which we  
4 grant or deny something. And that's what we're charged with  
5 doing. And I know that all my fellow board members take that  
6 very seriously.

7 So, you know, if you do go into the record you can  
8 see also, like, the Office of Planning's report. I don't  
9 know if this is going to get passed or not. I'm just saying  
10 that the Office of Planning, their report kind of points out  
11 a little bit more to the standard with regards to the  
12 regulations. And so, I'm just kind of pointing to that one  
13 situation.

14 Mr. May, do you have any questions for the  
15 witness?

16 COMMISSIONER MAY: No, thank you.

17 CHAIRPERSON HILL: Mr. Smith, do you have any  
18 questions for the Witness?

19 MEMBER SMITH: No, I don't.

20 CHAIRPERSON HILL: Ms. John?

21 VICE CHAIR JOHN: No, I don't.

22 CHAIRPERSON HILL: Okay. Ms. Ngatchou, do you  
23 also have Ms. Purvis' email address?

24 MS. NGATCHOU: Yes, I do have her email address.

25 And I communicate with her, I communicate ---

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1 CHAIRPERSON HILL: Yes. I was talking about, Ms.  
2 Ngatchou ---

3 MS. NGATCHOU: I did have her phone number ---

4 CHAIRPERSON HILL: Ms. Ngatchou ---

5 MS. NGATCHOU: Yes?

6 (Simultaneous speaking.)

7 CHAIRPERSON HILL: I just want to make sure I have  
8 her contact information.

9 MS. NGATCHOU: Yes, I do.

10 CHAIRPERSON HILL: And, Ms. Purvis, if you need  
11 to reach out to the Office of Zoning, we can also make sure  
12 that you have Ms. Ngatchou's email address, okay?

13 MS. PURVIS: I do have that information. But  
14 since she has put in for this request of the project, all  
15 communication has been cut off. She's not communicating.  
16 I'm going to continue to email, and I'll continue to send a  
17 check over to her when there's issues occurring over from the  
18 day care, like it has been from day one. It's always been  
19 a problem over there. I've always contacted them in them in  
20 the past, and I'll continue to reach out in the future. I  
21 just don't get any response from her. But I'll continue.

22 CHAIRPERSON HILL: Okay. Well, we'll see how it  
23 goes, Ms. Purvis. Like I said, I don't know if it's going  
24 to get approved or not. But it's good that you have the  
25 contact information. Thank you very much for your testimony.

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1 MS. PURVIS: Thank you.

2 CHAIRPERSON HILL: Mr. Young, you said there's  
3 someone here wishing to speak in support? Oh, Ms. Purvis,  
4 are you still there?

5 MS. PURVIS: I'm here.

6 CHAIRPERSON HILL: Ms. Purvis? Okay.  
7 Commissioner Brooks, do you have any questions for the  
8 Witness?

9 MS. BROOKS: No, I don't.

10 CHAIRPERSON HILL: Okay, great. Thank you. All  
11 right, Ms. Purvis, thank you so much.

12 MS. PURVIS: Thank you.

13 CHAIRPERSON HILL: Bye-bye.

14 All right, Mr. Young, do you want to bring in the  
15 person in support? Hello?

16 MS. DAVIS: Hello?

17 CHAIRPERSON HILL: Yes, can you hear me?

18 MS. DAVIS: Yes, I can.

19 CHAIRPERSON HILL: Could you please introduce  
20 yourself for the record?

21 MS. DAVIS: My name is Cynthia Davis, the  
22 president of the DC Family Childcare Association.

23 CHAIRPERSON HILL: Okay. And, Ms. Davis, I'm  
24 going to go ahead and give you three minutes to speak. And  
25 you can begin whenever you like.

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1 MS. DAVIS: Oh, okay. Thank you. I'm in support  
2 of Ms. Hando. We, as family childcare providers, are  
3 embedded in the community. And we do a lot of wonderful  
4 projects with the community, with seniors, and with children.

5 It saddens me a little bit that this is going on  
6 with Ms. Hando and her neighbors. I was really hoping to try  
7 to be a piece of the puzzle to try to help mitigate some  
8 understanding and some way that we can reduce the conflict.

9 I wrote a letter also, I'm not sure if you  
10 received it, prior to me testifying today, of someone looking  
11 up, I don't know if they looked at the ANC or if they looked  
12 up my information, called me and harassed me about me in  
13 support, about my support for Ms. Hando's project.

14 And I was very troubled by that. And I was, like,  
15 no one should have the right to call to try to intimidate me.  
16 So I don't know if that's a practice that they are using and  
17 from their community and neighborhood to call people up and  
18 try to change their minds to be in opposition of Ms. Hando's  
19 project.

20 Yes, I could be on the outside looking in, and  
21 realizing that the Mayor has a call for 1,000 slots for us  
22 to meet, for families and the District of Columbia.  
23 Communities are built from seniors, and young people, and  
24 people, you know, of all ages.

25 Hopefully we can work something out with the

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1 neighbors where they can appreciate her having a center there  
2 and see how much she will contribute to her community by it  
3 being an assets and not more so troubling to the community.

4 I just was a little troubled by how, I'm not sure  
5 if the ANC gave my information to anybody, or it may be  
6 public record that somebody got my information, and called  
7 me, and harassed me with calls about not supporting her and  
8 angry about my support with her.

9 But I do hopefully that we can come to some type  
10 of agreement too so that she continue to have the expansion  
11 that she needs and still help out the community just as well.

12 CHAIRPERSON HILL: Okay. Well, I'm sorry you had  
13 that experience. I know that the ANC doesn't give out  
14 information to anybody that's trying to harass you, so I  
15 doubt that's the case.

16 Mr. May, do you have any questions? No, I see you  
17 shaking your head. Mr. Smith, do you have any questions?  
18 No, I see you shaking your head. Ms. John, do you have any  
19 questions? No, I see you shaking your head. All right.

20 Commissioner, do you have any questions?

21 MS. BROOKS: No, I don't.

22 CHAIRPERSON HILL: Ms. Ngatchou, do you have any  
23 questions?

24 MS. NGATCHOU: I don't have questions.

25 CHAIRPERSON HILL: Okay. And thank you so much

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1 for your testimony.

2 MS. DAVIS: You're welcome, thank you so much.

3 CHAIRPERSON HILL: Okay. All right. So let's  
4 see, Ms. Brooks, Commissioner, can you hear me?

5 MS. BROOKS: Yes, I can.

6 CHAIRPERSON HILL: Okay. So, Commissioner, I  
7 mean, I again, did you come to the first two hearings?

8 MS. BROOKS: I did.

9 CHAIRPERSON HILL: Okay. So I watched them. And  
10 I could see that they were, you know, there was a lot of  
11 emotion about the testimony. And I just kind of, I just  
12 wanted to let you know in terms of, again, I've already  
13 repeated, we, the Board, are charged with looking at the  
14 regulations and the standard as to whether or not we think  
15 that this is meeting the criteria for this to be approved or  
16 denied. So that's kind of a separate comment I'm making.

17 Because then the next comment I was curious of is,  
18 you know, I know that there was supposed compromise that was  
19 at least discussed. And I was curious, what did you think  
20 compromise meant?

21 MS. BROOKS: The compromise was, the request was  
22 to reduce it from 20 but increase the overall number so that  
23 it didn't become a stand-alone business inside the community.

24 CHAIRPERSON HILL: And what was that number?

25 MS. BROOKS: Elizabeth might be able to correct

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1 me, but I believe it's either 12 or 15. At that number,  
2 she'd still be able to live in the home.

3 CHAIRPERSON HILL: Right, it's the housing, it's  
4 somebody living in the house.

5 MS. BROOKS: Yes.

6 CHAIRPERSON HILL: Right. Ms. Brown-Roberts, I'm  
7 just curious. Can you tell me what that number is again?  
8 I forgot.

9 MS. BROWN-ROBERTS: I'm trying to get the picture  
10 up. I think it's 12, up to 12, where it would be a child  
11 development home. So this is not what they're applying for.  
12 They're applying for a center. Anything over 12 children is  
13 considered a center. Below 12 it's a home, and then the  
14 provider is required to live onsite. For the centers, that  
15 is not a requirement.

16 CHAIRPERSON HILL: Right. And I'm just asking  
17 something, because I'm a little confused. If it is a center,  
18 someone is not allowed to live onsite, correct?

19 MS. BROWN-ROBERTS: No. It doesn't say it's not  
20 allowed, but it's a requirement. So if they have, they can  
21 live there. Under the zoning, I don't know what is the  
22 standard for OSSE if they, you know, if they say no. I'm not  
23 sure of what OSSE requires. But under the zoning, there's  
24 nothing there, nothing in the regulations that says that the  
25 provider has to live on the site.

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1 CHAIRPERSON HILL: Okay. All right. Does anybody  
2 have anything else they'd like to add? I'm going to go  
3 around the table first with my colleagues, last shout and end  
4 with my colleagues.

5 Commissioner, is there anything you'd like to add  
6 at the end?

7 MS. BROOKS: No, I don't have any questions.

8 CHAIRPERSON HILL: Okay. Ms. Ngatchou, is there  
9 anything you'd like to add at the end?

10 MR. DAVIS: She wants to say that if the DCRA is  
11 correct that she could live on the center with 20 kids, she  
12 would stay on the top floor of the building if she's allowed  
13 to do that.

14 CHAIRPERSON HILL: Okay.

15 MS. NGATCHOU: Actually, it was one of the -- my  
16 initial application I thought that I could. But OSSE was  
17 stating that I cannot live in the house. But that was my  
18 first ---

19 MR. DAVIS: The first plan.

20 MS. NGATCHOU: -- the first plan to live in the  
21 house. But I think OSSE doesn't allow me to live there.

22 CHAIRPERSON HILL: Okay. Well, that's beyond us  
23 anyway. So I don't know, okay. All right, Mr. May, do you  
24 have anything to add at the end?

25 COMMISSIONER MAY: No, thank you.

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1 CHAIRPERSON HILL: Mr. Smith?

2 MEMBER SMITH: No, I don't have anything to add.

3 CHAIRPERSON HILL: Ms. John, do you have anything  
4 to add at the end?

5 VICE CHAIR JOHN: Question for Ms. Ngatchou, so  
6 when the renovations are completed, will there be a new fence  
7 around the property?

8 MS. NGATCHOU: Yes. That's the plan.

9 VICE CHAIR JOHN: Can you describe what the fence  
10 would look like, and where it, will it enter all of 3rd  
11 Street and the section next to the neighbor?

12 MS. NGATCHOU: Yes. Because the fence that I have  
13 so far is very short. I'm going to have the six-foot fence  
14 from the neighbor to the end of, to 3rd Street. So that's  
15 the plan to ---

16 (Audio interference.)

17 MR. DAVIS: Instead of the four foot, it would be  
18 six.

19 MS. NGATCHOU: Yes. It's going to be from four-  
20 foot to the six-foot.

21 VICE CHAIR JOHN: So the six-foot section would  
22 be between you and Ms. Richardson?

23 MS. NGATCHOU: Yes.

24 VICE CHAIR JOHN: And what about the 3rd Street?

25 MS. NGATCHOU: And the 3rd Street we already have.

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1 There's an existing fence already on the 3rd Street.

2 VICE CHAIR JOHN: Is that the white fence or the

3 ---

4 MS. NGATCHOU: It's both. But I'm going to have  
5 the white fence down to the end. But we have an existing  
6 fence that we got the house with six feet.

7 CHAIRPERSON HILL: Okay. All right.

8 MEMBER SMITH: Mr. Chairman?

9 CHAIRPERSON HILL: Yes, go ahead, Mr. Smith.

10 MEMBER SMITH: I do have a question for Ms.  
11 Ngatchou. You do have an existing curb cut to the rear of  
12 your property that's enclosed with a chain link fence. Was  
13 there, you know, hearing the concerns of the neighbor, was  
14 there any decision or consideration, I would say, for you to  
15 reinstate that driveway as some type of, as property or  
16 pickup and drop-off point?

17 MS. NGATCHOU: Actually, on the 3rd Street we have  
18 the stairs. We have the stairs next to the fence, a little  
19 bit up to 3rd Street. But the existing curb cut is listed  
20 in the system as illegal. So when I bought the house, it was  
21 already there. But when we reach out to DCRA, they wasn't,  
22 DDOT, they wasn't willing to open that now.

23 MEMBER SMITH: Thank you.

24 CHAIRPERSON HILL: Okay. Is that it? Can we  
25 press --

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1 MS. GREENWOOD: Are we able to comment on that,  
2 what she just said?

3 CHAIRPERSON HILL: Where are you, who's speaking?

4 MS. GREENWOOD: This is Bria Greenwood, the  
5 neighbor.

6 CHAIRPERSON HILL: Ha, ha, ha, ha. Hi, Ms.  
7 Greenwood, I didn't know you were there.

8 MS. GREENWOOD: What's that?

9 CHAIRPERSON HILL: I didn't know you were there  
10 ---

11 MS. GREENWOOD: Yes, I'm here. What she just said  
12 is that that driveway has been grand-fathered in. Because  
13 it's been there for so long. So they are actually able to  
14 use that driveway as a part of the traffic pattern.

15 CHAIRPERSON HILL: Ms. Greenwood? I don't know  
16 if you can see the ---

17 MS. GREENWOOD: And they have used their cars  
18 several times to use that driveway.

19 CHAIRPERSON HILL: I don't know if you can see the  
20 screen, but the Office of Planning is shaking their head.  
21 They're not allowed to use that driveway. So that's just  
22 wrong.

23 Let me see no, okay. Mr. Young, who is in this  
24 room? Is there anybody in this room that I can't see on the  
25 screen?

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1 MR. YOUNG: No.

2 CHAIRPERSON HILL: Okay. All right. And, Ms.  
3 Greenwood, just because I know you're watching, we just take  
4 public testimony. You guys aren't part of the hearing at  
5 this point. But we did listen to you, and hopefully again  
6 Ms. Ngatchou and you guys are actually going to be in  
7 communication.

8 I don't know what the Board wants to do now. I'm  
9 actually interested in deliberating, I think. Because I  
10 think that a lot of the things that we might end up talking  
11 about would perhaps be conditions to mitigate any kind of  
12 adverse impact.

13 So I think what I'd like to do, well, I mean,  
14 well, first of all, we can either do that or we can  
15 deliberate next week. So do you all want to deliberate now,  
16 or you want to deliberate next week? And I'll go around with  
17 you. I'm going to start with Vice Chair John. I want to  
18 know what Vice Chair John has to say.

19 VICE CHAIR JOHN: I fine with deliberating now.

20 CHAIRPERSON HILL: Okay. Mr. Smith?

21 MEMBER SMITH: Same, I'm fine with deliberating.

22 CHAIRPERSON HILL: Well, Commissioner, I guess we  
23 get to deliberate?

24 (Simultaneous speaking.)

25 CHAIRPERSON HILL: Okay.

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1 COMMISSIONER MAY: I'm fine.

2 CHAIRPERSON HILL: Okay. All right. Then Ms.  
3 Ngatchou and Commissioner Brooks, I mean, Ms. Ngatchou, I can  
4 see you. So you can just nod. I know you can hear me. Will  
5 you stay around? Because I'm going to let you leave the room  
6 while we deliberate. And if we need to, we'll bring you back  
7 in. So will you stay around, Ms. Ngatchou? You can just nod  
8 your head, right.

9 MS. NGATCHOU: Yes.

10 CHAIRPERSON HILL: Commissioner Brooks, did you  
11 hear me?

12 MS. BROOKS: Yes.

13 CHAIRPERSON HILL: Well, you'll stay around, okay,  
14 you'll stick around?

15 MS. BROOKS: Absolutely.

16 CHAIRPERSON HILL: Okay. So Mr. Young, if you  
17 could please remove them from the room. Okay.

18 I'm talking a lot. I'm going to let somebody else  
19 start, okay? Who would like to start? You can raise your  
20 hand. Nobody? Oh, Ms. John, I'll go with you first since  
21 you raised your hand.

22 VICE CHAIR JOHN: I will start. I might not  
23 finish, but I'll just throw out a few thoughts. So what I  
24 wanted to say is that this is a special exception. And it's  
25 not a variance which is the higher standard. And as you

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1 explained earlier, Mr. Chairman, we have to look at the  
2 regulations. As long as the applicant meets the criteria of  
3 the regulation, we have to ordinarily we have to address the  
4 application.

5           Now, even though there is strong opposition to the  
6 project, I can support it, even though I think there are some  
7 potential adverse impacts. And DDOT looked at the traffic  
8 and the parking issues and did not have an objection. I  
9 think the issue is not so much that this is a potentially  
10 commercial activity but that it is a child development center  
11 that is allowed by the regulations in that zone.

12           So what we have to do is to look at the criteria  
13 and to see if the application meets that criteria. The only  
14 potential issue I see is the traffic and the parking. And  
15 so I'm going to give credit to DDOT's report and OP's  
16 analysis in terms of how the application meets the  
17 requirement.

18           I believe that they have met the requirement for  
19 parking relief, because there is no curb cut, there is no  
20 access to the alley. I believe that's what we learned during  
21 this very long process.

22           And so I'm in support of the application. And  
23 I've given great weight to the ANC's issues and concerns.  
24 But I don't agree that the applicant should reduce the number  
25 of students to 12. That's not before the Board. What she's

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1 asking for is 20 students. And so do we feel that, by having  
2 20 students, the application complies with the regulation?  
3 And I will also give great weight to OP's analysis.

4 And in the interest of time, I won't go through  
5 everything. I'll just wait to hear what my colleagues say.

6 CHAIRPERSON HILL: Okay, Mr. Smith?

7 MEMBER SMITH: This one is tough. I will echo Ms.  
8 John. This isn't a variance request. This is a special  
9 exception request. So we have to make a determination on  
10 whether it meets the standards for a special exception to  
11 waive the parking requirement to require three parking spaces  
12 and whether it meets the general criteria for a special  
13 exception.

14 And I'm struggling with the adverse impact portion  
15 of this, of the criteria. I think, based on the testimony  
16 of the surrounding property owners, the parking was a  
17 concern. And I can see it being a concern, because the  
18 property doesn't have an existing curb cut where people are  
19 visiting the facility to drop off their children can  
20 effectively pull out of the street and drop their children  
21 off. So that's number one.

22 So I understand OP's staff report, and I have  
23 given great weight. And I understand DDOT's letter stating  
24 that it wouldn't measurably impact the amount of traffic.  
25 But I do have some, and my thought on this is that DDOT is

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1 looking at this in a macro level, not at a micro level of how  
2 this may directly impact the neighborhood.

3           And I do believe that having a child development  
4 center embedded within a residential neighborhood would  
5 create an adverse impact if the parking is not controlled in  
6 a sufficient way.

7           So I would entertain a condition where the  
8 applicant must adhere to a drop-off and pickup plan for the  
9 facility generally consistent with the procedures outlined  
10 within Exhibit 110 in accordance with zoning regulations.  
11 And this plan shall be reviewed and approved by DCRA prior  
12 to the issuance of a certificate of occupancy by the zoning  
13 administrator.

14           That way, there is some measurement of enforcement  
15 going forward where we can measure the impacts of parking,  
16 the parking concerns of the property. And if there aren't  
17 one of our concerns, then the zoning administrator can  
18 sufficiently address this.

19           Subject to that, I'm really struggling with the  
20 special exception criteria, whether it truly meets that. But  
21 that's all I have to say for now. I would love to hear what  
22 my other colleagues, how my other colleagues feel on this one  
23 and about the condition.

24           CHAIRPERSON HILL: To clarify your condition  
25 again, Mr. Smith, can you say that again? I was a little

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1 confused. You're saying what?

2 MEMBER SMITH: I would love to get some feedback  
3 from the OAG's office on this. My recommendation is to  
4 condition the parking or to condition a pickup and drop-off  
5 plan.

6 What I've drafted is that, the way it's phrased,  
7 The applicant shall be required to maintain an adequate drop-  
8 off and pickup plan for the facility generally consistent  
9 with the procedures outlined within Exhibit 110 of the report  
10 in accordance with zoning requirements. This plan shall be  
11 reviewed and approved by DCRA prior to the issuance of a  
12 certificate of occupancy by the zoning administrator.

13 CHAIRPERSON HILL: All right. I'm going to take  
14 a minute and talk to the Office of, the OAG. I've never  
15 flipped this over to DCRA or the zoning administrator in  
16 terms of our conditions.

17 Ms. Nagelhout, do you have an input?

18 MR. NAGELHOUT: Yes. I think your concern is well  
19 placed. The condition sounds fine except for that last part  
20 about leaving the final approval of up to ZA. The Board  
21 needs to make a decision, and you can condition it on  
22 compliance with a drop-off and pickup plan. But the Board  
23 needs to make the determination now if you're going to  
24 approve this. You need to make a determination now that  
25 there will not be adverse impact subject to that condition.

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1 CHAIRPERSON HILL: Right, okay. So, Mr. Smith,  
2 you can chew on that for a minute, okay. Because, I mean,  
3 what I'm trying to look at is I'm looking at Exhibit 110 and  
4 trying to figure out what are things within this that we  
5 might want to implement as a condition.

6 Because as you may or may not know, any condition  
7 that we implement is then enforceable by the zoning  
8 administrator. And they would have their certificate of  
9 occupancy pulled, right?

10 And so the thing that I had an issue with before  
11 I even get to Commissioner May in terms of those conditions,  
12 is that any guardian who violates the center's pickup and  
13 drop-off policy will be sanctioned by the applicant.

14 There was something else that I, there was  
15 somewhere else I thought that said that that they would be  
16 kicked out of the program. And I thought that, that was  
17 something that wasn't going to be enforceable. I mean, I  
18 don't know what sanctioned by the applicant means. I mean,  
19 they'll get a ticket of some kind, you know? So I'm back to  
20 going through that when we talk about it.

21 MEMBER SMITH: Well, I would remove that last  
22 sentence, and remove the reference to Exhibit 110, and just  
23 require the applicant to submit a drop-off and pickup plan  
24 or abide by one.

25 CHAIRPERSON HILL: Right. But that's where I

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1 think we're in disagreement, at least I'm a little bit in  
2 disagreement, is that we have to see the pickup and drop off  
3 plan. And we have to approve it. And then, you know, and  
4 then that's something that gets put into the record. So  
5 that's currently what is here. This is the pickup and drop-  
6 off, you know, yes. So anyway, so we'll come back, Mr.  
7 Smith, to you.

8 Mr. May, Commissioner May?

9 COMMISSIONER MAY: Thank you very much. So I  
10 agree, this is hard, right, this is a difficult situation.  
11 We don't like to approve uses of properties or changes to  
12 properties that, you know, when there's substantial concern  
13 raised by immediate neighbors and the ANC.

14 There are a few things I would say generally about  
15 this. I mean, I know that it's often said that special  
16 exceptions are not as high up or don't, sorry, variances are  
17 a higher standard to meet than special exceptions. And  
18 that's true in general terms but not absolutely, right.

19 The thing about special exception language is that  
20 it allows for us to consider or requires us to consider the  
21 impacts of that, of allowing this use. And it may be a  
22 little bit less clear what those, you know, potential impacts  
23 would be and what we would consider. But I don't always  
24 consider it to be a lesser standard.

25 That being said, what's also important to keep in

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1 mind about special exceptions is that the zoning regulations  
2 essentially are saying that the use that is allowable by  
3 special exception is already deemed to be appropriate in this  
4 zone. It is already okay to have a child development center  
5 within a residential zone. That's what the special exception  
6 meets.

7           In this circumstance, I mean, I think there have  
8 been folks who are very concerned about having essentially  
9 a commercial operation within a residential neighborhood.  
10 And the zoning regulations don't consider it a commercial  
11 operation, in effect. Because it is something that's  
12 allowed, and it's allowed under certain conditions and with  
13 whatever conditions the Board would want to impose.

14           So, it's something that is allowable. I think  
15 what becomes problematic about this is that the use is tied  
16 to a very significant enlargement of the building. That  
17 enlargement of the building is something that is allowable  
18 as a matter of right if it were just a residential use. And  
19 the special exception criteria for child development centers  
20 say nothing about, you know, what the size and form of the  
21 building would be.

22           So, I mean, these things are connected, but  
23 there's not enough of a connection, I think, for us to say,  
24 well, you know, it's inappropriate to have 20 children on  
25 this site, because the building is too big, and the neighbors

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1 object to it.

2           So, I mean, I have been on the fence, and I was  
3 hoping that there would be some progress in the conversation  
4 with the neighbors, and the applicant, and the ANC. And as  
5 I said before, it's disappointing that there hasn't been.  
6 But I also feel like neither group entered the discussion  
7 with, you know, with a sufficiently open mind to be able to  
8 make any progress. So it's not that surprising.

9           The ANC was insisting on a reduction of the  
10 number, and the applicant was insistent on not reducing that  
11 number. So, you know, there wasn't going to be any progress.  
12 But I do appreciate the fact that at least there was some  
13 discussion, and some effort, and some continued dialogue  
14 about this.

15           So coming down to what the key issues are with  
16 being able to approve it, whether we, you know, we feel like  
17 this is something that can be approved with conditions that  
18 the Board would impose, I have now come to the conclusion  
19 that it is something that can be approved with conditions.

20           The applicant, the proposed pickup and drop-off  
21 procedures that the applicant proposed and that DDOT has  
22 agreed with make sense to me. I understand that people are  
23 concerned about the traffic that would be generated, and the  
24 people, you know, that there would be a jam up of cars at  
25 certain times of the day.

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1           However, this is a very low density neighborhood.  
2 And it is hard for me to believe that it's going to be a  
3 cause of major delays or even safety conditions if the  
4 conditions are adhered to. And I do think it is important  
5 that the conditions be adhered to.

6           And, you know, the one thing that we haven't  
7 talked about yet is whether this would be a time-limited  
8 approval, which I think that we have done in the past and we  
9 could do. You know, we could put a time limit on it and  
10 require that the applicant come back and demonstrate that  
11 things have been going according to plan.

12           So I would be interested in imposing that kind of  
13 a condition. I know it makes it a little but difficult for  
14 the applicant, because they're basically gambling on whether  
15 they'll be able to continue the use past the approval period.  
16 However, I think it is, you know, if the applicant (audio  
17 interference) they can, for drop-off and pickup that they  
18 themselves propose then, you know, then there really is no  
19 risk to them. They should just, you know, do what they say  
20 they will do, and they can continue to operate into the  
21 future. So those are my thoughts on it. I don't think, I  
22 think that's about it. Thank you.

23           CHAIRPERSON HILL: Okay, thank you, Richard. Yes,  
24 I have thought about, I submit, this is going to be a longer  
25 discussion, I think, in a variety of ways now. So I had also

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1 thought about that time limit issue. And I'm a little  
2 conflicted with the time limit issue.

3           Because it is kind of a small business, and  
4 they're investing a lot of money and time into the facility.  
5 And as you mentioned, Commissioner, the facility's size is,  
6 the building size is a matter of right. So the massing of  
7 that, that has nothing -- well, they're tied, as you  
8 mentioned, but still that massing is a matter of right  
9 massing.

10           And so the time limit thing, I don't know, I mean,  
11 I couldn't get behind anything that is at least five years  
12 or more. And so I don't know, you know, because like, and  
13 then also I'd have to kind of, like, talk, or we can talk  
14 about it, Mr. Moy, or see how this works.

15           The only thing that would be back before the Board  
16 again would be the traffic, right, would be the traffic  
17 management plan. Like, they couldn't then throw the  
18 applicant into a situation where the whole cookie jar is  
19 opened again. And everything is being discussed.

20           I don't know whether it could be just tied to the  
21 traffic study, because I do think that that's something that  
22 is at least something that seems to be a bit of a sticking  
23 point.

24           I will agree with everything everyone said. I  
25 guess I was also thinking that, you know, they're going from

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1 9 to 20. I understand it's doubling the capacity, but I  
2 thought that, as you mentioned, it's a low density  
3 residential neighborhood, that there's not a lot of cars  
4 necessarily there anyway.

5 But I didn't see that number as being that big.  
6 I didn't see how, if you go from 9 to 12 and stay in the  
7 home, that didn't seem to, I think, make the situation work.  
8 And then if in fact the community was concerned with somebody  
9 being there, if that would actually somehow alleviate some  
10 of their concerns, you know, OSSE, I guess, is going to  
11 determine whether, or DCRA determines whether or not somebody  
12 can live in that property with 20 children.

13 My question about the adverse impact and  
14 alleviating any concerns with the immediate neighbors, and  
15 it seems as though there wasn't a lot, I mean, there was a  
16 lot of, you know, support and opposition on either side. The  
17 support, again, I don't know how you weigh whether the  
18 support is form letters or all that and, you know, where the  
19 form letters are, where the letters of support are coming  
20 from or the immediate neighbors are providing kind of the  
21 opposition.

22 It is disappointing, as you mentioned,  
23 Commissioner, that they couldn't get to any kind of  
24 compromise. However, I also don't know what compromise they  
25 would have necessarily gotten to. You know, I mean, 18

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1 students, with somebody living there.

2           The things that, I guess, I find disappointing is  
3 that there was a garden, I guess, now. You know, the  
4 neighbor was concerned about that that's going get taken out.  
5 There's this fence issue. For me, I was thinking that sounds  
6 like a condition that we might want to put in there. You  
7 know, it's a six-foot fence. It has to be white so it's then  
8 residential, you know, or continues to be residential  
9 looking.

10           I mean, Mr. Smith, to your comments about the  
11 traffic, all I have is kind of what's before me in Exhibit  
12 36 and Exhibit 110. And that is very similar to other things  
13 that we've approved before with those conditions.

14           To Commissioner May's comments about the special  
15 exception, when we take this job they just drill it into us  
16 about the variance as a high bar and, you know, it's just  
17 that's it. And also the way that, and I compare it, I can  
18 see you're going to say something in a second, but that the  
19 special exception, they also kind of continue to train us  
20 that the special exception, if all the criteria is met we  
21 must approve the special exception. That's kind of how it's  
22 been couched to us.

23           But please, Commissioner, you have a comment.

24           COMMISSIONER MAY: No, I agree. I mean, I've been  
25 through all the trainings, and I've been doing this for a

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1 very long time. But I also, you know, remember from the  
2 beginning that there are aspects of the special exception  
3 when it comes to the potential impact of it that, you know,  
4 they still have to be met.

5           And it's not nothing, right. I mean, you know,  
6 we don't want to give anybody the impression that a special  
7 exception is necessarily an easy thing to do. And that's the  
8 only point that I'm trying to make, that it's, you know, it's  
9 the fact that a variance is a, quote, fair standard, you  
10 know, special exceptions don't have standards.

11           It still has requirements, it still has aspects  
12 of it that we have to take into consideration. And in some  
13 cases, they go beyond what you would consider in a variance  
14 case. So that's my only point. I'd agree, you know, if it  
15 meets, if the conditions are met, then yes, we have to  
16 approve it.

17           CHAIRPERSON HILL: Commissioner, I'm going to vote  
18 against one, one day and just quote you.

19           (Laughter.)

20           COMMISSIONER MAY: I've voted against him in the  
21 past, you know.

22           CHAIRPERSON HILL: Yes, yes, I've voted against  
23 him in the past too. But I'm just going to quote you from  
24 now on.

25           Let's see, so I don't know what conditions, I

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1 mean, there's the transportation issue, right. So all I've  
2 got right now is Exhibit 36 and Exhibit 110, and I'm going  
3 to read them. But in Exhibit 110, we'd strike the guardian  
4 violation thing, because I just don't know how that's  
5 enforceable. And so that's one issue that's on the table.

6 The other is I don't know if you guys have any  
7 thoughts on this fence thing, you know, the six-foot high  
8 fence and where you would put it, right.

9 Then there was something of signage that got kind  
10 of brought up. I brought it up, right, in terms of, I guess,  
11 DCRA. I don't know what, and I'm just now thinking about  
12 residential, what the look is of a residential, you know, how  
13 signage works or doesn't work in a residential community and  
14 whether that, it doesn't seem like the ANC brought that up,  
15 necessarily. But, you know, I don't know if that has  
16 anything to do with how the Board feels. And then there's  
17 the construction management plan.

18 So on the table again is Exhibit 36, Exhibit 110,  
19 Exhibit 189, any comment anybody has on a fence, and I'll  
20 come to you, Ms. John, an comment anybody has on a fence and  
21 any comment anybody has on signage. And then I'm going to  
22 turn to Ms. John, if you're ready or if you want to take a  
23 minute, you seem to be writing something. I'll go to Mr.  
24 Smith.

25 MEMBER SMITH: I just have a question about the

1 fence. And I'm wondering if Ms. Brown-Roberts is still on  
2 the phone? What are the maximum heights for a solid fence  
3 in a secondary front, what are the regulations for that?  
4 Because I'm wondering if you can have a six-foot solid fence  
5 along a secondary front property line or it has to be set  
6 back a measurable distance being that this is a corner lot,  
7 just in weighing my conditions.

8 CHAIRPERSON HILL: Okay. Ms. Brown-Roberts, if  
9 you're there, you can chew on that one second. Because I'm  
10 going to get to hear from everybody first. Ms. John?

11 VICE CHAIR JOHN: So I would also include Exhibit  
12 190 which is the drop-off and pickup diagram that sort of  
13 explains the thinking.

14 CHAIRPERSON HILL: I'm just looking it up. Ms.  
15 Brown-Roberts, have you got an answer for Mr. Smith?

16 MS. BROWN-ROBERTS: Can you repeat the question?  
17 I don't think I caught the whole thing.

18 MEMBER SMITH: My question is what are the fence  
19 regulations for a six-foot solid fence in a secondary front?

20 MS. BROWN-ROBERTS: Right now, it's six-feet, and  
21 I think it can go up to eight feet if the adjacent neighbor  
22 agrees to that. But generally, it's six feet. And it's --

23 (Simultaneous speaking.)

24 MEMBER SMITH: And, it can be on the property line

25 --

1 MS. BROWN-ROBERTS: -- usually a solid fence.

2 MEMBER SMITH: Seven feet setback?

3 MS. BROWN-ROBERTS: Pardon me?

4 MEMBER SMITH: I'm sorry, and it can be along the  
5 property line, it doesn't have to be set back a number of  
6 feet?

7 MS. BROWN-ROBERTS: No. There's no setback  
8 required. No. So it's along the property line. Yes.

9 Then regarding the signage, that is not something  
10 that is regulated by the zoning regulations. But from  
11 experience on another child development center, the  
12 regulations have for fencing within residential zone, and  
13 they're pretty small signs. Usually they just allow one  
14 sign, and it's usually pretty small, something like about the  
15 size of what you see on a for sale sign on a home. It's  
16 around that size.

17 CHAIRPERSON HILL: Okay, that's helpful to me, Ms.  
18 Brown-Roberts.

19 MS. BROWN-ROBERTS: Okay.

20 CHAIRPERSON HILL: All right, so ---

21 MR. NAGELHOUT: Mr. Chair?

22 CHAIRPERSON HILL: Yes, sure, Ms. Nagelhout?

23 MR. NAGELHOUT: I would just point out on the  
24 issue of the signs, the current operation as a whole  
25 occupation is subject to a limit on signs that might be

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1 appropriate for the Board to consider for the child  
2 development center use as well.

3 And that would be in, it's Subtitle U251.4. That  
4 limits you to one sign. It can't be more than 144 square  
5 inches. It must be flush mounted, cannot be illuminated.  
6 So that might be an appropriate limit for you to consider for  
7 the child development center.

8 CHAIRPERSON HILL: Okay. Thank you. That is  
9 03.13, treatment for design screening of buildings, planting,  
10 parking, area signs, or other requirements as it deems  
11 necessary, meaning the BZA can comment upon these things.

12 All right. Okay. So, Ms. John, I think Exhibit  
13 90 repeats everything in Exhibit 110.

14 VICE CHAIR JOHN: It's 190, which has the diagram.

15 CHAIRPERSON HILL: Oh, it has a diagram. Okay.  
16 Oh, I got you. Okay. So we would condition, so if I, yes,  
17 if we cite Exhibit 190 and strike Condition Number 6, then  
18 also include the diagram, that will then be in there as a  
19 condition. Is that what you are most comfortable with?

20 VICE CHAIR JOHN: Yes, I think so. And we could  
21 really fold it into Condition 1. Because I believe Exhibit  
22 190 explains how the pickup and drop-off will take place.

23 CHAIRPERSON HILL: Okay. I got it. Okay, so  
24 that's that. So I got Exhibit, I got the conditions in  
25 Exhibit 190. And I have the conditions in Exhibit 110. But

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1 I think I'll just go with, I mean, 190 has everything without  
2 using 110. And then Exhibit 189 is the construction  
3 management plan.

4 I would agree with the limit on signage from  
5 U251.4 so that it remains signage as though it were  
6 residential. It's not illuminated. And so they adhere to  
7 U251.4. That would be my vote. And then now the discussion  
8 about the fence, does anybody have any thoughts on the fence?

9 VICE CHAIR JOHN: I think the fence should  
10 enclose, should be flush with the front, now I'm getting into  
11 design which is just terrible, should be flush with the front  
12 of the building and go around 3rd Street all the way to the  
13 back so that the activities of the children are not visible  
14 from the street, and it maintains the look of a residential.

15 CHAIRPERSON HILL: Okay. And I might be getting,  
16 and I can see Commissioner May, I can't read his expression  
17 exactly yet, but this is a very weird virtual world, I've got  
18 to say. I actually can look straight at somebody as opposed  
19 to just the side face and being, like, oh, something's going  
20 on over there.

21 VICE CHAIR JOHN: I'll try to explain again.

22 CHAIRPERSON HILL: No, no. You explained this  
23 before. Because I was confused on one thing. And this may  
24 be design also, like, I don't know what's in the front. I'm  
25 just talking about the, and this is where I have to pull up

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1 something, somebody's going to have to show me an exhibit as  
2 to where this fence would be. Like, I'm just talking about  
3 between the Richardsons, you know, property and then on 3rd  
4 Street, right.

5 But I don't, before Mr. May goes next, does  
6 somebody have an exhibit that they know I can pull up that  
7 can show me where I will know this fence may or may not go  
8 if we get there? And I don't even know if we're necessarily  
9 going to get there.

10 VICE CHAIR JOHN: So since I proposed this, so  
11 there are some color photographs early on, let's see, and I'd  
12 be interested in hearing what Mr. May (audio interference).  
13 So that's the front.

14 CHAIRPERSON HILL: Which exhibit, Ms. John? I'm  
15 sorry.

16 VICE CHAIR JOHN: Eight. So I believe that's  
17 what's there now, Exhibit 8. So there's a fence in the front  
18 that's relatively flush with the front of the building. So  
19 if it was --

20 CHAIRPERSON HILL: Okay.

21 VICE CHAIR JOHN: -- seen like that, then it would  
22 just look like any other, you know, house on the street. And  
23 so the fence would separate Ms. Richardson, which might be  
24 that house to the left, because 3rd Street should be to the  
25 right. Well, it should be a street to the right since it's

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1 a corner lot.

2           So in the past, we have really asked for diagrams  
3 that show the location of the fence. I don't know if we need  
4 to do that.

5           CHAIRPERSON HILL: Okay. No, I don't if we're  
6 going to get that. I don't know what the, I see the color  
7 photographs. I'm just going to look at whatever the new  
8 design is. So, Mr. May?

9           VICE CHAIR JOHN: I didn't see the fence on the  
10 new design, but maybe Mr. May can help us find it.

11           COMMISSIONER MAY: So I'm not looking at that at  
12 the moment, but I certainly can. You know, I think given  
13 what we've heard today specifically, I think it's a good idea  
14 to require that there be a six-foot fence, a solid fence, we  
15 don't have to specify color or anything like that, just as  
16 long as it's solid and not just chain link.

17           Because right now there's a four-foot chain link,  
18 a solid, six-foot solid fence extending from the front of the  
19 house to the rear property line between the applicant's  
20 property and Ms. Richardson's property, and however we have  
21 to word that, but that's the key one.

22           The extent to which the rest of the property is  
23 enclosed by a fence, I think, is not really out concern. And  
24 it doesn't really do anything to mitigate any of the  
25 potentially negative impacts of the property.

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1           It may be something that the applicant wants to  
2 do. They're certainly entitled to have a fence on their  
3 property line all the way around that's six feet tall. You  
4 know, if they do they'll have to get a permit to put it up.  
5 And that's a separate process the doesn't require zoning.

6           But I think that we can require that solid fence  
7 in between the Richardson property and the applicant's  
8 property. And I'd be in favor of that.

9           CHAIRPERSON HILL: So when you say that, just so  
10 I'm clear, six-foot solid fence from the front of the house  
11 to the rear property of the Richardson property?

12           COMMISSIONER MAY: Yes.

13           CHAIRPERSON HILL: And so what does that, that  
14 means, when you say the front of the house, what does that  
15 mean, the front of the house?

16           COMMISSIONER MAY: The front property line. And  
17 I'm only suggesting that because, you know, I don't expect  
18 that there's significant activity in that small side yard on  
19 that side. But it's just easier to define if it goes from  
20 front property line to rear property line and it's on the  
21 entire length of that sign.

22           CHAIRPERSON HILL: Ms. John?

23           VICE CHAIR JOHN: So I'm not in favor of that  
24 idea, because I thought that the fence would help to mitigate  
25 some of the concerns of the neighbors, I believe it's the

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1 neighbors on 3rd Street, about the commercial nature, quote,  
2 unquote, of the activity.

3           So if everything was enclosed behind a six-foot  
4 fence, I don't think that the activity of the children and  
5 what's happening would be such a problem. And that's the  
6 beauty of a six-foot fence. Everything's, you know, done  
7 behind it.

8           CHAIRPERSON HILL: Yes.

9           VICE CHAIR JOHN: I'm not so concerned about the  
10 front, because when you approach the house, it would look  
11 just like any other house on the street.

12           COMMISSIONER MAY: Well, right. I don't think  
13 they can put a fence in the fence in the front of the house,  
14 a six-foot fence in the front of the house anyway. Because  
15 I think it would be beyond their property line.

16           CHAIRPERSON HILL: Okay. I think, before I get  
17 to you, Mr. Smith, so if you go to Exhibit 2, Ms. John --

18           VICE CHAIR JOHN: Okay.

19           CHAIRPERSON HILL: -- I think those, and this is  
20 where I, we might want to see something as to what this fence  
21 looks like. Because, again, we're trying to mitigate. I  
22 understand the adverse impact we're thinking of mitigating  
23 with the six-foot fence.

24           And the last slide on SK-05, if I have the right  
25 exhibit, it doesn't show where, it's unclear to me where this

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1 fence would be in your mind. I understand it could be, you  
2 know, to the left. You're saying flush with the home, right?

3 VICE CHAIR JOHN: Well, just as it is, I'm sorry  
4 to interrupt, just as it is in the last slide, I don't know  
5 if this is an accurate slide with the removal of the ramp.  
6 I don't know where the ramp is. So I agree, we should see  
7 something with the fence.

8 But what my idea is that as you approach the  
9 house, it would look like a regular house. And you would see  
10 the fence just as it is in Exhibit 8. That would run all the  
11 way along the property line to the rear with an opening  
12 somewhere, I believe, on 3rd Street.

13 That way, all of the activities of the center  
14 would be behind the six-foot fence and should help to  
15 mitigate some of the neighbors' concerns about it appearing  
16 to be a commercial activity. That would be something I would  
17 support.

18 CHAIRPERSON HILL: Okay. And if we get to this,  
19 and I see, Mr. Smith, you're about to say something, if we  
20 get to this, Ms. John, what I think you're saying is you're  
21 saying flush all the way around the property, right? Not at  
22 the front yard, but just like, you know, flush with the house  
23 in the front and then goes around the back yard. And it's  
24 a six-foot high fence. I would also be fine with that, you  
25 know, because I think that would keep all of the activity in

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1 the back yard, right, and the side yards, right.

2 VICE CHAIR JOHN: Yes.

3 CHAIRPERSON HILL: Right. If that's something  
4 that, and we can bring the applicant back in here, because  
5 they're going to have to create a diagram for us to look at,  
6 right. Or we can actually just maybe explain this. I'm not  
7 terribly sure.

8 Mr. Smith, you look like you're about to say  
9 something?

10 MEMBER SMITH: I can agree with Ms. John, but I've  
11 attempted to explain this and, forgive me, it's me putting  
12 my former zoning planner hat on to try to explain this one.  
13 So I've attempted to draft a condition that explains this a  
14 little bit more, applicant shall erect and maintain a six-  
15 foot solid fence to be located along the secondary front  
16 yard.

17 And I'm assuming, if you look at the Google images  
18 of this property, the wood fence, and the six-foot chain link  
19 fence stop at the secondary front yard, the property line  
20 there. Because everything beyond that is city right of way.  
21 So it will run along the secondary front yard between the  
22 front building wall, which is what Ms. John was alluding to,  
23 to the shared rear property line.

24 VICE CHAIR JOHN: So I would go for a diagram.  
25 And see, this is a common type of fence that people put up

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1 all the time, you know. It starts at the front wall, the  
2 building face, goes along the two sides and at the back for  
3 the, you know, wherever the gate is.

4 CHAIRPERSON HILL: All right. I'm fine with that.  
5 Let me just, Mr. Smith, if we were in the room I could look  
6 at what you're drawing. When you say secondary property line  
7 that's, you know, I'm going pull up a book.

8 VICE CHAIR JOHN: A glossary.

9 CHAIRPERSON HILL: Right. Is that a --  
10 (Simultaneous speaking.)

11 MEMBER SMITH: The secondary front is along 3rd  
12 Street.

13 CHAIRPERSON HILL: Right.

14 COMMISSIONER MAY: That's not really a zoning  
15 term, the secondary front. It would be, technically it would  
16 be side yard, but it would be along the property line that  
17 runs along the 3rd Street. And there's a way to word it, but  
18 I think that Ms. John is right. We're better off just  
19 getting a diagram that shows the fence.

20 And I think we've communicated, I mean, I don't  
21 think the fence along 3rd Street is necessary. But I'm not  
22 going to disagree on that. So if it's the sense of the Board  
23 that we should just have basically, you know, the area where  
24 the children are going to be, be fenced off with a six-foot  
25 solid fence, then, you know, let's ask the applicant just to

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1 provide a diagram of that, and then we can approve it.

2 CHAIRPERSON HILL: Okay. So, Ms. John, are you  
3 following that? I'm going to bring the applicant back in,  
4 in a second, not just yet, Mr. Young. I don't want to lose  
5 all these. And this is maybe something that OAG or somebody,  
6 I don't know, if OAG or Mr. Moy, if you can just help me get  
7 all of our conditions together.

8 Because what I understand now is we are going to,  
9 the transportation issues are in Exhibit 190. So we would  
10 cite the issues in Exhibit 190 with all of those conditions,  
11 except for Number 6, and including that the pickup and drop-  
12 off will take place curbside on Quackenbos Street NE and 3rd  
13 Street NE, as per the diagram provided in Exhibit 90. So  
14 that's one condition, right.

15 The second condition will be that the signage will  
16 be limited to U251.4, okay, that's the second condition.

17 And then the third condition now is we're going  
18 to see whatever this diagram is from the property owner that  
19 we're now going to discuss with the property owner.

20 And then lastly, we haven't finalized whether or  
21 not we are interested in a time limit. So before I bring in  
22 the property owner again with their architect about the fence  
23 diagram that we want to see, Mr. May, do you have any changes  
24 to your mind concerning the time limit? And if so, what time  
25 limit are you proposing?

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1           COMMISSIONER MAY: Okay. Well, first of all, I  
2 want to go back to the conditions that you just named.  
3 Because I'm not in sync on all of them. First of all is the  
4 traffic conditions, the six conditions for the pickup and  
5 drop-off plan. I don't see a reason to drop Number 6.

6           Because I think there are simple ways in which,  
7 you know, a customer who's bringing their children there can  
8 be sanctioned by the operator, right. They can give them  
9 warnings. And then if they don't heed the warnings, then  
10 they can drop the child out of the program.

11           CHAIRPERSON HILL: Okay.

12           COMMISSIONER MAY: And, you know, whether the  
13 zoning administrator's going to be able to sort of monitor  
14 that in any substantive way, we don't really know. I mean,  
15 that's really what's driving the time limit condition is,  
16 like, how does that actually perform in real life? But I do  
17 think that leaving that condition in place is important as  
18 a required enforcement mechanism that we expect the applicant  
19 to live up to. So I would keep six in there.

20           CHAIRPERSON HILL: Okay.

21           COMMISSIONER MAY: The second thing is that I  
22 agree that referencing Exhibit 190 makes sense. The one  
23 problem I have with 190 is that the diagram that they  
24 provided with the red lines showing the routes that people  
25 come in, and then the yellow for the drop-off, when I first

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1 read this I thought they were only dropping off on 3rd Street  
2 because of the way the yellow dot is drawn.

3 So I think that if we're going to ask the  
4 applicant to submit a fence diagram we should ask them to  
5 update this to make clear exactly what the drop-off area  
6 would be. And I would even suggest that the property would  
7 use one of their plans, you know, the survey or something  
8 like that, to indicate where that drop-off zone would be.  
9 Because I find this to be very unclear.

10 CHAIRPERSON HILL: Okay.

11 COMMISSIONER MAY: And then going to the time  
12 limit, I do think a time limit is an important way for us to  
13 make sure that the objectionable conditions that could  
14 develop from this operation are, you know, that we have a way  
15 of checking on that at some point in the future.

16 So, I mean, I would have been, I would be in favor  
17 of as little as three years simply because it won't take that  
18 long to get it up and running and see how it's going. And  
19 then if it's going well then, you know, then we lift the  
20 condition, and it deals with it faster. If you want to go  
21 longer than that, I mean, I could go as long as five years.  
22 I wouldn't go any longer than five.

23 CHAIRPERSON HILL: So is there a way, and this is  
24 something that I can ask OAG, because I don't know if we've  
25 done it this particular way, again to clarify that the issue

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1 that the Board had is about the transportation management  
2 plan, right. And that's the issue that the Board had.

3 So I wouldn't want, and I don't know how, and I  
4 guess, Ms. Nagelhout can tell us in a minute, like, that is  
5 my concern about a time limit, is that this is then opening  
6 up all of these other issues again when really all the Board  
7 was concerned about was the traffic management plan and that  
8 being of adverse impact.

9 Ms. Nagelhout, is there a way just to specify that  
10 on the next hearing if it were in three to five years?

11 MS. NAGELHOUT: I don't think so. I think if you  
12 put a term on the special exception it applies to the entire  
13 use and the current Board can't bind a future Board. So I  
14 mean the order can make clear what your concerns are, but I  
15 think a term is a term. It would be a new special exception  
16 application in whatever term period you pick.

17 CHAIRPERSON HILL: Okay. So we're still  
18 discussing this.

19 So then, Ms. John, your mic's off. Do you have  
20 anything about any of the stuff that Commissioner May said?

21 VICE CHAIR JOHN: I would not be in favor of a  
22 term only because this is an experienced operator. She's  
23 been operating, you know, for some time. And the only, as  
24 you said, the only concern we have is the traffic issue.

25 And in the past, we had asked for some sort of a

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1 liaison or some sort of community group to continue to work  
2 together on these, you know, neighborhood issues. And I  
3 would prefer to go that route in terms of the traffic  
4 operation.

5           And I don't know if -- I really have reservations  
6 about the term in terms of, you know, the ability to attract,  
7 appearance and so on. And so I'm not a big fan of terms  
8 unless there's really some major impact that we're trying to  
9 mitigate.

10           CHAIRPERSON HILL: Okay.

11           Mr. Smith?

12           MEMBER SMITH: I would be in favor of a term. I  
13 have seen in situations with daycares, daycare centers,  
14 daycare homes, in other jurisdictions that I was -- that I've  
15 worked in, where we have imposed five-year terms on daycare  
16 homes and daycare centers in order to, for the zoning  
17 administrator to evaluate their impacts.

18           And getting back to there was some concern about  
19 good neighbor policy, a five-year term would, I think, bind  
20 the applicant and the ANC to ensure that they are having open  
21 dialogue, open communication to mitigate some of these  
22 impacts. So I would be in favor of a five-year term.

23           As far as the conditions, the six conditions, I  
24 actually disagree with Commissioner May on number 6, and I  
25 disagree as a former zoning administrator. That condition

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1 is hard to enforce. There's no measurable way that a zoning  
2 administrator can enforce whether any guardian who violates  
3 the center's pick-up and drop-off policy will be sanctioned.  
4 We don't have the -- we don't have, we wouldn't have the  
5 books, we can't verify who that guardian is who violated it.

6 So to me it's a paper line and I'm not in favor  
7 of creating conditions that are paper lines that a zoning  
8 administrator can't measurably enforce. So I would remove  
9 number 6.

10 CHAIRPERSON HILL: Ms. John, where are you? I'm  
11 fine with number 6. Ms. John, where are you with number 6?

12 VICE CHAIR JOHN: I agree with the former zoning  
13 administrator on that one.

14 CHAIRPERSON HILL: All right. Okay, all right.  
15 Mr. May, then I'm going to vote with them, okay.

16 VICE CHAIR JOHN: Well, you know --

17 CHAIRPERSON HILL: Okay.

18 VICE CHAIR JOHN: -- we've particularly not tried  
19 to do that in the past. I mean we've said, you know, put in  
20 sort of measly language that says that, you know, they'll  
21 make an effort to, something like that.

22 CHAIRPERSON HILL: Okay. I mean I've got to say  
23 I actually am with Mr. May, but I'm not going to hang up on  
24 this one. You know, like, I mean it just says you're going  
25 to be sanctioned, right? And what you're saying, Mr. Smith,

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1 former zoning administrator, you're --

2 In fact, you know, right, and I guess is that the  
3 first we're going to hear of that one now for the next  
4 virtual whatever? I mean I can't even like look at --

5 CHAIRPERSON HILL: Right, exactly. This virtual  
6 world, you know, right.

7 VICE CHAIR JOHN: Calm yourself, Mr. Smith.

8 CHAIRPERSON HILL: Right. Right. Is that -- so,  
9 anyway, Mr. May, do you want to rebut on number 6?

10 COMMISSIONER MAY: Well, so as many of you know,  
11 this would not be the first time that I disagree with a  
12 zoning administrator.

13 CHAIRPERSON HILL: Okay.

14 COMMISSIONER MAY: I often do. And I mean I,  
15 certainly I understand the difficulties in enforcing it and  
16 that it would not be, it would be a real challenge for the  
17 zoning administrator to try to step in and say to the  
18 operator, hey, you're not enforcing it. I mean I look at it  
19 more as a reminder to the applicant that they need to take  
20 this very seriously and they need to consider, you know, the  
21 actions that they would take against repeat offenders who are  
22 double parking or doing other things that are causing  
23 problems for the neighborhood.

24 So yeah, I mean, you know, we've had a lot of  
25 discussion of this, you know, whatever the order is we can,

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1 you know, make clear that we are concerned and that the  
2 applicant take this seriously and take enforcement actions  
3 even though we are not including condition number 6. So I'm  
4 not going to fall on my sword over condition 6. I would fall  
5 on my sword over the time limit.

6 CHAIRPERSON HILL: Okay. So anyway, I was on  
7 board with Commissioner May for number 6 and I thought that  
8 it was fine. But, Ms. John, you haven't been swayed,  
9 correct?

10 VICE CHAIR JOHN: On what?

11 CHAIRPERSON HILL: On condition number 6. You  
12 still want it out?

13 VICE CHAIR JOHN: Well, yeah. It's not  
14 enforceable. If we put it in, I can just see the neighbors,  
15 I can just see the neighbors complaining to the ZA, why  
16 aren't you doing something about this, and then there's a big  
17 issue. So I'm not in favor of putting in something like  
18 that.

19 However, I agree with Commissioner May that it  
20 should be something in the order that recognizes that this  
21 is a problem that the operator needs to pay attention to.

22 CHAIRPERSON HILL: All right, Ms. Nagelhout. I  
23 guess if in the order there could be something that  
24 emphasizes pick-up and drop-off policy and whether they  
25 sanction anyone that it is of a serious nature but we won't

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1 put it in as a condition. Does that sound okay?

2 MS. NAGELHOUT: Yes.

3 CHAIRPERSON HILL: Okay, great. At least I got  
4 a yes there, got it. Okay. So all right. Okay, so we're  
5 back to -- oh, the time limit. Anyway, so we're back to 190.

6 Okay, 190, I'm going to bring the applicant in and  
7 we'll have them zoom it and show the drop-off because, right,  
8 I don't even know whether in the -- it says Quackenbos Street  
9 as well as 3rd Street, so I guess are there two drop-off  
10 locations? Is that what is happening?

11 You know, is that what your question was, Mr. May?  
12 Like, you know.

13 COMMISSIONER MAY: No, it's clear. I mean the  
14 words say Quackenbos and 3rd, that they would both be there.  
15 The diagram doesn't really show that and the yellow area  
16 really only seems to be showing 3rd, not Quackenbos.

17 CHAIRPERSON HILL: So that means then people would  
18 be able to come up Quackenbos Street as well is what you're  
19 saying?

20 COMMISSIONER MAY: No, I meant, again, well, it's  
21 a little bit unclear. Again, this is, the diagram is in  
22 conflict with the words of the conditions which say that  
23 people will be dropping off on Quackenbos and on 3rd. And  
24 this diagram seems to show people approaching from north and  
25 south, and the only indicated drop-off area is on 3rd.

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1           So I don't know, you know, something has to be  
2 fixed with this diagram.

3           CHAIRPERSON HILL:    Okay.

4           COMMISSIONER MAY:   To make it sync with the words.

5           CHAIRPERSON HILL:    Okay.    Okay.    So that's  
6 something I can ask the applicant.  And I'm also going to ask  
7 the applicant about the diagram for the fence, okay.

8           So then, now we're back to the time limit.  I  
9 guess my -- and again, I don't know whether I'm any, if  
10 there's any sword falling going to go on with me, right, and  
11 I don't think there necessarily is, but I don't mind the time  
12 limit necessarily.  My concern again with the time limit is  
13 that this -- and I don't know how the order is written and  
14 maybe the OAG can help me feel more comfortable with the time  
15 limit, is that the next Board or whoever is looking at this  
16 again five years from now, because I would only be voting for  
17 the five-year, is that there's an under -- in the order it  
18 clearly states that the Board, you know, we've mitigated all  
19 the other concerns, right, the fence, the signage, you know,  
20 the only thing that we're now concerned about is the  
21 transportation management plan and how people are getting  
22 picked up and dropped off.

23           Is that a correct assumption, Mr. May?

24           COMMISSIONER MAY:   Well, at the moment that's the  
25 most pressing concern and the one that's I think goes to the

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1 real zoning issues here, because I think a lot of the other  
2 concerns such as running a commercial operation, you know,  
3 I mean that's, it's not a commercial operation. It is an  
4 allowed use under certain conditions.

5           So, you know, I do think that's the thing that  
6 requires the greatest attention. But, you know, if there are  
7 -- and I think that's really what we want to know, right.  
8 In five years, is everything going according to plan? It  
9 could be within five years that other issues develop or some  
10 of the things that we didn't think were an issue today are  
11 a problem.

12           But the point of having a hearing in five years  
13 is not, hey, do we continue this operation at all? It's what  
14 additional mitigations might be necessary in order to  
15 continue the operation. Because again, you know, it's still  
16 a special exception use. It's a matter of, you know, can the  
17 applicant take the steps that are necessary to mitigate any  
18 potential negative impacts.

19           And if we find that there are, either we didn't  
20 take sufficient steps this time around or something else is  
21 developed, then it'll be up to a future Board to impose  
22 additional conditions to make sure that the impacts are  
23 mitigated. If not, then, I mean if there aren't, if there  
24 are no problems, then the, you know, the future Board can  
25 lift the time limit.

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1           CHAIRPERSON HILL: Ms. Nagelhout, before I move  
2 on to my fellow Board members for their comments, is there  
3 a way that the order can be written that it kind of shows  
4 what the Board was concerned about at the time?

5           MS. NAGELHOUT: Yes.

6           CHAIRPERSON HILL: Okay. All right.

7           MS. NAGELHOUT: I don't disagree with anything Mr.  
8 May just said, but, you know, five years from now they'll  
9 have several years of actual experience to, I mean the  
10 applicant will have the burden of proof to show you that the  
11 special exception should be renewed, but they will have  
12 actual experience to base it on and, yeah, the order will  
13 focus on the transportation aspect now.

14           CHAIRPERSON HILL: Okay. I mean I don't, I mean  
15 we haven't had a time limit. We used to have time limits  
16 more often and it's just been a little while since a time  
17 limit has been imposed. And again, mine is more, my  
18 hesitancy again is like, you know, this is a small business.  
19 It's a small operation. It's not like, you know, a large  
20 business or anything.

21           And so, you know, the fact that you'd have to come  
22 back in five years and go through this process all again,  
23 right, and is just what I'm kind of stuck with. And I don't  
24 know whether -- Ms. John, I think, is -- so you all think  
25 about the time limit for a minute, okay, and I'm going to try

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1 to get our other -- because we might not, we might still be  
2 stuck on the time limit and we just might wait for another  
3 board member, you know, I mean I don't know, right.

4           So yeah, any final words on the time limit, Ms.  
5 John? You're on mute, Ms. John.

6           VICE CHAIR JOHN: I was gathering my thoughts.  
7 I don't know how as you say as a small business you get  
8 financing and run a business, you know, and I don't know how  
9 that works, so I am hesitant about the time limit. I would  
10 rather see something done through the ANC as the liaison in  
11 the community and direct the applicant to work with the ANC  
12 to mitigate any impacts with respect to the traffic patterns.  
13 And then if OAG wants to help us here, if, I think we've done  
14 that before. So.

15           CHAIRPERSON HILL: Is there -- Mr. May, what about  
16 this? How about we'll see the exhibits, okay, and that  
17 traffic pattern, okay, I'm sorry, and the traffic pattern and  
18 see if that gives you more comfort, and also we can  
19 deliberate all this again in terms of the time limit. Like  
20 we, I don't know where we are with the time limit. I'll be  
21 honest.

22           So we can maybe think about the time limit, take  
23 a look at the exhibits and come back for our deliberations  
24 with those exhibits and talk about the time limit. Does that  
25 sound fair?

1 VICE CHAIR JOHN: Yeah.

2 COMMISSIONER MAY: I don't mind deferring a  
3 decision about the time limit. I mean, and I appreciate the  
4 concerns that you and Ms. John have with regard to, you know,  
5 imposing a time limit on a small business. But it is  
6 something that this Board has done on a regular basis in the  
7 past and they've done it when there were significant  
8 community concerns about the operation.

9 And I think we have significant community concerns  
10 about the operation and we already have a demonstrated  
11 difficulty in the relationship between this applicant and the  
12 ANC. So I think relying on that without having some, you  
13 know, something that forces a relationship, you know, for  
14 lack of a better way of phrasing it, I think is very  
15 important.

16 So I mean I would just leave it at that, but I'm  
17 happy to, you know, continue that debate when we come back  
18 and look at the new exhibits.

19 CHAIRPERSON HILL: Okay, Ms. John?

20 VICE CHAIR JOHN: I'm fine with deferring the  
21 decision on the time limit. I just want us to be mindful  
22 that the community's main concern as expressed through  
23 testimony and exhibits is just having this business, this  
24 center there in the first place.

25 So I don't know if having the operator come back

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1 in five years is going to change that and that would just be  
2 my two cents. We're imposing another financial burden on the  
3 operator on a business like this to come back in five years  
4 over something that's not related to the operation of the  
5 business itself, just the traffic patterns which can be  
6 mitigated.

7 So those would be my two cents, but it would be  
8 good to think about it some more and I might change Mr. May,  
9 you know.

10 CHAIRPERSON HILL: Okay, this is actually, this  
11 is turning, this is actually turning interesting so let's see  
12 what happens. I mean even, I mean my thing, Mr. May, and,  
13 you know, again, I know we've done this before, is that  
14 kicking this to a future Board, and not even kicking it to  
15 a future Board, I mean it's a future Board five years from  
16 now, like, you know, I ain't going to be here, right, okay.

17 And like, you know, I know Ms. John ain't going  
18 to be here, right? I mean Mr. May you might be here, right,  
19 you know, but like, you know, and so that's my concern,  
20 right, or that's the thing now that, you know, but -- so  
21 okay. So I'm going to bring back in the applicant and I'm  
22 actually going to bring back in the ANC, but first let me  
23 bring in the applicant, Mr. Young, just the applicant.

24 Hello?

25 MS. NGATCHOU: Hello.

1 CHAIRPERSON HILL: Hi. Can you hear me?

2 MS. NGATCHOU: Yes, I can.

3 CHAIRPERSON HILL: Ms. John, you might want to  
4 mute your microphone and I'll get around to everybody.

5 Is your architect still around?

6 MS. NGATCHOU: Yes. I think he's --

7 CHAIRPERSON HILL: What's his name again?

8 MR. BANKS: Yes, I'm still here. I am. Yeah, I'm  
9 still here.

10 CHAIRPERSON HILL: I don't see you. Okay.

11 MR. BANKS: Okay, let's see.

12 CHAIRPERSON HILL: Mr. Banks?

13 MR. BANKS: Yes, I'm here.

14 CHAIRPERSON HILL: Okay. Turn on the camera, Mr.  
15 Banks, so I can see you.

16 MR. BANKS: All right, let's see if I can find out  
17 how to do that. I'm sorry. Just a second. I'll have to,  
18 oh, here we go. Okay. I'm not sure why it's not coming on.

19 CHAIRPERSON HILL: That's all right. That's all  
20 right. That's all right.

21 MR. BANKS: Okay.

22 CHAIRPERSON HILL: I just need you to understand  
23 what I'm saying.

24 MR. BANKS: Okay.

25 CHAIRPERSON HILL: So, Ms. Ngatchou, can you hear

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1 me?

2 MS. NGATCHOU: Yes, I can.

3 CHAIRPERSON HILL: Do you got a pen and a piece  
4 of paper?

5 MS. NGATCHOU: Yes.

6 CHAIRPERSON HILL: So I'm just letting you know  
7 what some of these conditions are going to be at this point  
8 in time, right. So your signage is going to get limited to  
9 U-251.4, okay.

10 MS. NGATCHOU: Yeah.

11 CHAIRPERSON HILL: And then your exhibit in 190,  
12 right, in Your Transportation Management Plan.

13 MS. NGATCHOU: Yes.

14 CHAIRPERSON HILL: Okay. Yeah. And then you're  
15 going to have conditions 1 through 5, okay.

16 MS. NGATCHOU: Uh-huh.

17 CHAIRPERSON HILL: We want to see a better diagram  
18 of how the cars are going to come and drop off and where  
19 those drop-off points are because it's not clear.

20 And, Mr. May, would you like to clarify what  
21 you're looking for?

22 COMMISSIONER MAY: Sure. When you look at the  
23 diagram it's not very clear exactly where the drop-off areas  
24 are. The yellow-colored area seems to indicate only 3rd  
25 Street when your words describe it as 3rd and Quackenbos.

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1 So if you can, you know, just zoom in on that area a little  
2 bit and show, you know, basically where you expect the pick-  
3 up and drop-off to occur on the site.

4           And then, secondly, you know, the red lines, I  
5 mean the one coming in from the north makes sense because  
6 then you can pull up along 3rd Street. But when you're  
7 coming up from the south it's not clear whether you're  
8 expecting people to make a left onto Quackenbos so that they  
9 can drop off in front of the house or whether you're  
10 expecting people to make a U-turn somewhere and then come up  
11 on 3rd Street with everybody else.

12           So just if you could clarify those things and show  
13 exactly how people would approach all the way through the  
14 property and then show the drop-off in an enlarged version  
15 at the property.

16           MS. NGATCHOU: Okay.

17           COMMISSIONER MAY: Okay.

18           MS. NGATCHOU: Okay. Actually, the fact that we  
19 said Quackenbos and 3rd Street because on Quackenbos we have  
20 a little curb for people who are on the reach of, for people  
21 with disability that that was -- that's why.

22           COMMISSIONER MAY: Okay, so it doesn't matter to  
23 me --

24           MS. NGATCHOU: Okay, okay.

25           COMMISSIONER MAY: -- where it is.

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1 MS. NGATCHOU: Okay.

2 COMMISSIONER MAY: It just, it has to be shown  
3 clearly in the drawing.

4 MS. NGATCHOU: Oh, okay.

5 MR. BANKS: Okay.

6 MS. NGATCHOU: Thank you.

7 CHAIRPERSON HILL: And then, Ms. Ngatchou, go  
8 ahead and change the wording to number 1 so it reflects what  
9 you're actually proposing.

10 MS. NGATCHOU: Okay.

11 COMMISSIONER MAY: If need be.

12 CHAIRPERSON HILL: If need be, right. If it's  
13 accurately stated in number 1, then leave it. But let me say  
14 this again. I want you to submit something to the record  
15 that has all of these conditions, 1 through 5, okay,  
16 including a new diagram.

17 MR. BANKS: A new diagram.

18 MS. NGATCHOU: Okay.

19 CHAIRPERSON HILL: Okay. All right.

20 MS. NGATCHOU: Okay.

21 CHAIRPERSON HILL: Okay, so that's number 1. And  
22 then, and, Ms. Nagelhout, I don't know if I throw this on you  
23 or whomever, but if somebody can help me keep track like  
24 again of what we've asked people for. Like so again, what's  
25 going to be in there is the Exhibit 189 for the Construction

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1 Management Plan.

2           What we've now asked for from the applicant as  
3 well as U-251.4, and now we're also going to ask for a  
4 diagram from the architect on this six-foot fence. And as  
5 I understand, Mr. Banks and Ms. Ngatchou, so this is another  
6 exhibit we would require from you showing us how this fence  
7 would look against the new building, right. And as I  
8 understand it, the fence would be flush with the front of the  
9 house and enclose the entire backyard.

10           MR. BANKS: Okay.

11           CHAIRPERSON HILL: So that's what we want to see,  
12 a six-foot solid fence.

13           MR. BANKS: All right.

14           And may I insert at this point, currently the  
15 existing fence encompasses public space on the 3rd Street  
16 side. Is there a way that the new fence can take that same  
17 alignment or would we have to adhere to the property line for  
18 the new fence?

19           CHAIRPERSON HILL: You would have to adhere to the  
20 property line for the new fence. I don't know what, I don't  
21 know. If you're -- I don't want to see a diagram of  
22 something in public space.

23           MR. BANKS: Okay.

24           CHAIRPERSON HILL: What is it that you're  
25 proposing for the six-foot solid fence --

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1 MR. BANKS: Okay.

2 CHAIRPERSON HILL: -- and what we were trying to  
3 understand again is that we're trying to fix any adverse  
4 impact that we think might be affected by the children in the  
5 backyard, right.

6 MR. BANKS: Okay.

7 CHAIRPERSON HILL: So go ahead and show us a six-  
8 foot high fence, solid fence, enclosing the backyard and side  
9 yards.

10 MR. BANKS: Okay, very good.

11 CHAIRPERSON HILL: Okay, all right. So.

12 COMMISSIONER MAY: If I could interrupt for a  
13 second.

14 Mr. Banks, I'm confused by that because I thought  
15 we had a diagram in here that indicated that the actual, the  
16 fence was not enclosing public space. You're saying it  
17 actually is enclosing some of the public space there?

18 MR. BANKS: Yeah. I think on the 3rd Street side,  
19 I think the fence is behind the sidewalk. But the sidewalk  
20 may be ten or twelve feet beyond the property line of the  
21 house.

22 COMMISSIONER MAY: Yeah, okay. All right. Yeah,  
23 I mean it definitely has to be, if it's going to be a six-  
24 foot fence it has to be within the property.

25 MR. BANKS: Sure.

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1 COMMISSIONER MAY: It can't be on public space.

2 MR. BANKS: Okay. All right, I just wanted to  
3 verify.

4 COMMISSIONER MAY: Yeah, okay.

5 CHAIRPERSON HILL: Okay, so you understand the two  
6 exhibits we want from you, understand, Ms. Ngatchou?

7 MS. NGATCHOU: Yes.

8 CHAIRPERSON HILL: Okay, all right.

9 Okay, now if you wouldn't mind muting your  
10 microphone, Ms. Ngatchou, and you also, Mr. Banks.

11 MR. BANKS: Okay.

12 CHAIRPERSON HILL: And, Mr. Young, if you could  
13 bring the ANC Commissioner, please.

14 MS. BROOKS: Hi, how are you?

15 CHAIRPERSON HILL: Good, Commissioner. Can you  
16 hear me?

17 MS. BROOKS: I can. Can you hear me?

18 CHAIRPERSON HILL: Yeah, yeah. I assume you've  
19 been watching everything. You had wanted to say something?

20 MS. BROOKS: Yes. With regard to the  
21 Transportation Management Plan, I want to reiterate something  
22 that was brought up in the last meeting. 3rd Street is one  
23 way during rush hour, so you cannot turn from New Hampshire  
24 Avenue left onto 3rd Street. Therefore, no one can come on  
25 the side of her property without coming from the opposite

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1 direction which means everyone's going to have to make a U-  
2 turn at some point on 3rd Street to be on her side of the  
3 street, one.

4 Two, the other streets, the other like, and I'm  
5 terrible with north, south, east and west, so I'm just going  
6 to say that now. Don't ask. But the other side streets are  
7 also one way to prevent Maryland traffic from cutting through  
8 all these side streets.

9 So as you were discussing the Transportation Plan,  
10 I had concerns because you can't drop off, currently, on the  
11 side of her house without making that U-turn that I'm  
12 speaking of. Now you could come to the intersection and turn  
13 left onto Quackenbos and you can push all the traffic down  
14 Quackenbos, but you're going to have more on Quackenbos than  
15 you are on 3rd.

16 Also there is no sidewalk, and this is not Ms.  
17 Hando's issue, this is the city's issue. There are no  
18 sidewalks over there. We just very recently after three  
19 years of requesting sidewalks from the city, got sidewalks  
20 on the opposite side of the street with no intention of  
21 putting them on Ms. Hando's side of the street.

22 So then also we're concerned because if people are  
23 walking and, you know, I want to believe that one day we will  
24 get through COVID and traffic will resume to normal. We  
25 won't all be telecommuting and regular rush hour traffic will

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1 continue. So if that is the case, 3rd Street is very active  
2 during rush hour.

3 So if you have residents that are, i.e., catching  
4 the bus, you know, from, and coming up New Hampshire, they  
5 can't walk on that side of the street because there's no  
6 sidewalk. So they're either, and this is what happens  
7 currently, people either walk in the intersection, I'm sorry,  
8 in the public street or they go a different route.

9 So I just want to make sure that part was clear.  
10 And as I said, this was brought up as an issue before because  
11 what was submitted isn't aligning with how the street, how  
12 traffic flows on that street. Also we mentioned before that  
13 the fence was on public space, so that was brought up in a  
14 prior meeting as well.

15 So I just wanted to make the transportation issue  
16 clear because the plan as it exists today, for me, doesn't  
17 make sense. And so if people are dropping on 3rd, they're  
18 walking around the corner. If a fence exists, they're  
19 walking around the corner with no sidewalk on that side until  
20 they get to the front of the house. Thanks.

21 CHAIRPERSON HILL: Okay.

22 Then, Ms. Ngatchou, can you, I guess, maybe have  
23 two diagrams? What you think is going to happen during  
24 normal hours and what you think is going to happen during  
25 rush hour?

1 MS. NGATCHOU: Yes.

2 CHAIRPERSON HILL: And so -- okay, Mr. May?

3 COMMISSIONER MAY: Yeah, Mr. Chairman. I just  
4 want to ask a quick question of Commissioner Brooks.

5 I was a little confused by what you were  
6 describing in terms of the rush hour configuration. 3rd  
7 Street becomes one way south, I mean northbound during rush  
8 hour? Is that what you're saying?

9 MS. BROOKS: Yes.

10 COMMISSIONER MAY: Is it the afternoon rush?

11 MS. BROOKS: In the morning rush.

12 COMMISSIONER MAY: The morning rush.

13 MS. BROOKS: It's one way northbound, so you can  
14 go from 3rd Street towards Riggs Road or 2nd Street, but you  
15 can't go from New Hampshire Avenue up 3rd.

16 COMMISSIONER MAY: Okay.

17 MS. BROOKS: -- is frustrating.

18 COMMISSIONER MAY: Is that a restriction from the  
19 -- is it a restriction on the entry into 3rd --

20 MS. BROOKS: Yes.

21 COMMISSIONER MAY: -- from New Hampshire?

22 MS. BROOKS: Yes.

23 COMMISSIONER MAY: Or is it an actual reverse, you  
24 know, a change in lane direction?

25 MS. BROOKS: No, it's not a change in lane

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1 direction. It's a do not enter from 7 a.m. to 9 a.m.

2 COMMISSIONER MAY: Got it, got it, got it.

3 So the diagram that we have indicates that if  
4 people are coming and are going to drop off on 3rd, they  
5 would, well, I guess they could come, I think the diagram  
6 says it's coming on the street that's just north of there,  
7 so they can't enter at that intersection either.

8 MS. NGATCHOU: I can explain that.

9 COMMISSIONER MAY: So I mean could they  
10 theoretically though enter on Quintana Place off of Eastern  
11 Avenue and then comes out, comes south there?

12 MS. BROOKS: No. No. Quintana -- I have to think  
13 about that. Let me not say no. If I remember correctly,  
14 Quintana's a one-way street.

15 COMMISSIONER MAY: Oh, yeah.

16 MS. BROOKS: If I remember correctly, but I'm not  
17 a hundred percent sure of that. I don't want to --

18 COMMISSIONER MAY: I think you're right. I think  
19 it is.

20 CHAIRPERSON HILL: Ms. Ngatchou is shaking her  
21 head. I don't know.

22 COMMISSIONER MAY: Yeah. Well, I --

23 MS. BROOKS: I believe it to be a one-way street  
24 all the time. I believe Quintana Place is one way.

25 MS. NGATCHOU: Actually, it's one way, but I was

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1 thinking about Rittenhouse. The street after Quintana is  
2 Rittenhouse, so it's not one way.

3 MS. BROOKS: Yeah, Rittenhouse is --

4 COMMISSIONER MAY: No, but you can't enter --

5 MS. BROOKS: Let me finish one second, if you  
6 don't mind, before we continue. So Quintana is one way going  
7 down to Eastern Avenue and that's all the time. Rittenhouse  
8 is not one way, but you cannot enter it off of New Hampshire  
9 Avenue, right.

10 So people with -- that means that every person  
11 that's coming from that direction would have to ride Eastern  
12 Avenue, make a left onto Rittenhouse and a left onto 3rd  
13 Street at that time. But that would be if. That's a lot of  
14 if.

15 And I think more than likely -- people are going  
16 to U-turn.

17 COMMISSIONER MAY: Right.

18 MS. BROOKS: They're not going to go all the way  
19 around in the rush hour traffic on the streets that are  
20 heavily trafficked when they can make an illegal U.

21 COMMISSIONER MAY: So I don't want to end the  
22 conversation too much. I think that the, you know, getting  
23 a diagram about how it would work during the rush hour  
24 condition and during the non-rush hour condition will help  
25 address this.

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1 I think one of the key questions is that on the  
2 diagram that we have right now it does show people coming off  
3 of Eastern Avenue, making a left onto Rittenhouse and then  
4 making a left onto 3rd.

5 MS. BROOKS: I just got a text message from a  
6 resident there. She's watching.

7 COMMISSIONER MAY: May I finish my statement?

8 MS. BROOKS: Yes, you can. I'm sorry.

9 COMMISSIONER MAY: So if you make a left off of,  
10 I mean I think we'd have to know, Ms. Ngatchou, if you're  
11 saying that that's how people are going to make that, you  
12 know, get to 3rd Street, I think we'd need to know that  
13 that's a legal maneuver and that it's not, you know, that 3rd  
14 Street is not closed at that intersection entirely but is  
15 just closed to traffic off of New Hampshire.

16 So if you could clarify that in the diagram that  
17 would be appreciated.

18 MS. BROOKS: Okay, can I add one more thing? I  
19 was just going to say that I just got a text from a resident  
20 that's watching this that Rittenhouse is also do not enter  
21 at that time of day. So you cannot turn from New Hampshire  
22 on, I'm sorry, from Eastern onto Rittenhouse.

23 COMMISSIONER MAY: Okay, so we'll again --

24 MS. BROOKS: I mean onto 3rd. Excuse me.

25 COMMISSIONER MAY: The diagram we're asking for

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1 is asking, you know, we're only looking for legal maneuvers,  
2 not for anything that's not going to work. So it's up to the  
3 applicant to provide that diagram.

4 MS. BROOKS: Okay.

5 CHAIRPERSON HILL: Okay. So, Ms. Ngatchou, you  
6 understand, right, a diagram at normal time and a diagram  
7 during rush hour?

8 MS. NGATCHOU: Right.

9 CHAIRPERSON HILL: Okay. And then any wording  
10 that you need to add explaining your pick-up and drop-off  
11 criteria.

12 MS. NGATCHOU: Okay.

13 CHAIRPERSON HILL: Okay.

14 Ms. Brooks, since we got you on the phone and I  
15 know you're just, you're the SMD there so you can just, but  
16 you're just kind of giving your opinion. What do you think  
17 of the six-foot tall fence?

18 MS. BROOKS: I think it depends on what it looks  
19 like. If it's, you know, a reasonably nice fence, I don't  
20 think that would be an issue. I think that's an interesting  
21 compromise. I think for the people that live on 3rd Street  
22 though it's not the most pleasant view from their front  
23 porch.

24 I know on a previous call someone talked about how  
25 would the addition of the house and the addition of, you

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1 know, anything else impact their ability to receive their  
2 cable service, you know, because now they're sort of  
3 blocking, you know, from the front of their house. So,  
4 personally, I'm not sure that it's an issue, but I don't know  
5 how that particular resident would feel about it.

6 CHAIRPERSON HILL: All right. Yeah, I don't think  
7 cable, I don't think that's affected by a fence. But anyway,  
8 okay.

9 All right, well, thank you, Commissioner.

10 And, Ms. Ngatchou, you know when you're going to  
11 get us stuff. When can you get us stuff? You're on mute.

12 MS. NGATCHOU: About in about ten days it should  
13 be ready.

14 CHAIRPERSON HILL: Okay.

15 So, Mr. Moy, and I don't know what my fellow Board  
16 members thought -- Ms. Brooks, did you have your hand up?

17 MS. BROOKS: I did. I'm sorry. I just have one  
18 final comment which I can either hold until later or I can  
19 make now if we're about --

20 CHAIRPERSON HILL: You can go ahead and make it  
21 now.

22 MS. BROOKS: Okay. At one point I believe Mr. Moy  
23 said that, I'm sorry, Mr. May said that the relationship was  
24 difficult between myself and Ms. Hando, and I just wanted to  
25 reiterate that I have no difficulty at all. I think that

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1 it's difficult because I represent all of these people and  
2 they don't all have the same opinion.

3           But I'm happy to work with Ms. Hando to reach any  
4 resolution to the issue because I think that's what best for  
5 the neighborhood and that's what I've been trying to do thus  
6 far.    So I didn't want anyone to walk away with the  
7 impression that she would have difficulty working with me or  
8 any other member of the commission.

9           COMMISSIONER MAY: I apologize. I did not mean  
10 to imply that you were not willing to work with her. I was  
11 just reporting what we saw, which was that there was, you  
12 know, the attempts to come to some sort of compromise didn't  
13 go anywhere.

14           MS. BROOKS: Right. Okay. I appreciate that.

15           And, lastly, just to add to that. It wasn't my  
16 position. I have tried, actually, not to take a position.  
17 I represented what the larger group wanted to submit as the  
18 compromise, so I just wanted to put that on the record as  
19 well.

20           CHAIRPERSON HILL: Okay. Thank you, Commissioner.

21           And, Mr. Moy, for the record, I have reopened the  
22 hearing, okay. I reopened the hearing when I brought in  
23 Commissioner Brooks and the applicant and the applicant's  
24 architect. So I'm just putting that on the record as well.

25           All right. So, Ms. Ngatchou, you know what you

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1 need to get us.

2 Oh, this is what I was going to ask for the Board.  
3 Do we want any supplemental from DDOT based on what we get  
4 from Ms. Ngatchou?

5 Ms. John?

6 VICE CHAIR JOHN: I don't think it would hurt.  
7 So what I'm hoping is that the applicant will share with Ms.  
8 Brooks what she's proposing in terms of the traffic pattern,  
9 because it seems to me that she proposes something and the  
10 neighbors don't think it will work. So even if it's not  
11 shared beforehand, do you, Mr. Chairman, want the response  
12 from the ANC after she submits the new traffic pattern?

13 CHAIRPERSON HILL: Yeah. I mean I'm just trying  
14 to work through this, I guess. So let's just say, I mean I  
15 don't know. Let's just say ten days from now, right, Ms.  
16 Ngatchou, if you can share with Commissioner Brooks your  
17 Transportation Management Plan, right, okay. And if you can  
18 see -- I don't -- whatever you think is that's going to work  
19 and if you can get to some understanding with the  
20 commissioner of the ANC that's great, right.

21 But I do need something, regardless, even if you  
22 don't come to an understanding with the commissioner. I  
23 mean, sorry, with the ANC. I do need something, right.  
24 Okay. And then we're going to ask for a supplemental report  
25 from DDOT based upon what you submit.

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1           And, Commissioner Brooks, I do have a question for  
2 you in a minute. I know you got a couple things going on  
3 there. But yeah, so you submit us something. You work with  
4 the commissioner. Commissioner, do you think you can get  
5 together and just at least kind of email back and forth over  
6 the next ten days with Ms. Ngatchou?

7           MS. BROOKS: Yes.

8           CHAIRPERSON HILL: Okay, great. And when,  
9 Commissioner, does your ANC meeting again?

10          MS. BROOKS: We meet the fourth Monday of each  
11 month.

12          CHAIRPERSON HILL: Okay.

13          MS. BROOKS: Which I think the 26th of October.  
14 I'm not looking at a calendar. Hold on one second.

15          CHAIRPERSON HILL: Okay. So I don't know. Ten  
16 days puts you to like the 16th.

17                 So, Ms. Ngatchou, this is also kind of up to you.  
18 I think, I don't know, if you wanted to see if you submitted  
19 this information to the ANC concerning the transportation,  
20 this new Transportation Management as well as the diagrams  
21 about the fence, right, if you want to present to them again  
22 or not that's up to you.

23                 You don't have to tell me right now. I'm just  
24 letting you know that if you did present it, if for some  
25 reason you thought there might be a different vote and you

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1 wanted to present to them on the 19th, then we could ask for  
2 a postponement, right. Because what I think is going to  
3 happen now is we're looking at maybe the 21st, is that when  
4 you have all this stuff, you know, we're going to look in  
5 terms of a decision, right.

6 And again, and I don't know. I'm just kind of  
7 sharing this. If for some reason by talking to the  
8 commissioner and this hearing has already taken place and we  
9 all kind of know where we are, you get a difference of  
10 opinion by the 19th, then you might be able to get, and  
11 somehow you thought you might get a approval that might get  
12 you to a summary order versus a full order.

13 So that will change how fast you get your order  
14 from us one way or the other, which then means how fast you  
15 get your permits, okay, so that's up to you. I'm just giving  
16 you some, throwing out some stuff, okay, right. So,  
17 Commissioner, I think we're going to get, you and Ms.  
18 Ngatchou are going to at least share some information, okay.

19 And then, Mr. Moy, how do we get back here for the  
20 21st with a decision and get a supplemental from DDOT? Mr.  
21 May is not here on the 21st.

22 COMMISSIONER MAY: I cannot be here on the 21st.  
23 I am not available.

24 CHAIRPERSON HILL: So then the next time you're  
25 available is the 4th?

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1 MR. MOY: The 18th.

2 COMMISSIONER MAY: It doesn't have to do with, I  
3 mean I could come on the 28th, if need be.

4 CHAIRPERSON HILL: Oh, so you can't, yeah. It was  
5 just on the video. I'm saying just for the deliberation.

6 COMMISSIONER MAY: I understand. I'm not talking  
7 about my regularly scheduled day. I'm saying that I am  
8 simply not available on the 21st. I have a conflict. I am  
9 available on the 28th.

10 CHAIRPERSON HILL: Okay. So the 28th, so we'll  
11 come back on the 28th, okay. So, Ms. Ngatchou, that might  
12 work into your calculus about the ANC. I don't know, right.

13 So, Mr. Moy, if we come back for a decision on the  
14 28th, how do I need to get information and want to get  
15 something back from DDOT?

16 MR. MOY: Okay, Mr. Chairman, I've been changing  
17 my dates. I have dates, but I'm listening to the  
18 conversation. So I believe before I do that, to give you the  
19 basic timeline dates I believe Ms. Brooks, Commissioner  
20 Brooks said that the ANC would meet the 4th Monday of the  
21 month which would put you at October the 26th. Is that  
22 correct?

23 MS. BROOKS: Correct.

24 CHAIRPERSON HILL: I'm sorry. I thought you said,  
25 Ms. Brooks, you meet on the 19th.

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1 MS. BROOKS: No, no. The fourth Monday, which I  
2 believe is the 26th.

3 CHAIRPERSON HILL: Oh, okay. All right, so I mean  
4 we're not, Mr. Moy, we're not insisting the applicant go back  
5 to the ANC. We're just putting that out as an option. And  
6 what I'm saying is if the applicant and the ANC think that  
7 they're going to be able to somehow work together, then the  
8 applicant and it's up to the commissioner and the ANC whether  
9 or not they also want to hear from this applicant again or  
10 not. However, if they did and they were able to meet on the  
11 26th and something were fruitful, then Ms. Ngatchou could ask  
12 for a postponement for our 28th hearing and to get some  
13 information from the ANC, okay. But as of now, we'll go  
14 ahead and put it on the calendar for a decision on the 28th.

15 MR. MOY: Okay. That would be kind of tight  
16 because I was, based on the timeline that you're giving me  
17 I was changing it to November the 4th, but let me just lay  
18 this out then go make the adjustment.

19 So the applicant should make their filing with the  
20 Board's request for additional information by Monday, October  
21 the 19th, okay. Monday, October the 19th, all the parties,  
22 in this case it would be the ANC and it appears that you're  
23 also providing the opportunity for the ANC and Office of  
24 Planning and DDOT to respond to the applicant's filing, that  
25 would be October --

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1 CHAIRPERSON HILL: Let me interrupt you, Mr. Moy.  
2 Let me interrupt you. What I was trying to do is that, and  
3 this is where you can tell me in terms of the time because  
4 I don't remember how much time parties need to respond. Like  
5 if they gave us what they needed by the 14th, which is a week  
6 from now, right, and then DDOT and the parties -- well, hold  
7 on.

8 If they gave us what we needed by the 16th, which  
9 is on Friday, and then DDOT and all parties could reply to  
10 anything that they supply by the 23rd, then we could be on  
11 for the 28th, correct?

12 MR. MOY: Yes.

13 CHAIRPERSON HILL: Okay, so let's do that. Have  
14 the applicant give what we want by the 16th, then all parties  
15 will be able to respond, including DDOT, by the 23rd, and  
16 then we'll be set for a decision on the 28th.

17 MR. MOY: Yes.

18 CHAIRPERSON HILL: Okay.

19 Commissioner Brooks, do you hear that timeline?

20 Might have lost her a second, I don't know.

21 Ms. Ngatchou, did you hear that timeline?

22 MS. NGATCHOU: Yes, I do.

23 CHAIRPERSON HILL: Okay.

24 Commissioner Brooks, did you hear what I was  
25 trying to just in terms of how things, the timeline?

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1 MS. BROOKS: Yes, I'm sorry. I heard it.

2 CHAIRPERSON HILL: Okay, great.

3 All right, okay. Well, then I'm going to go back  
4 and close the hearing unless any of my fellow Board members  
5 have anything to add. Are we good?

6 Okay, all right. Then we'll set for a decision  
7 on the 28th and we'll see what happens.

8 MS. NGATCHOU: Thank you.

9 MS. BROOKS: Thank you.

10 CHAIRPERSON HILL: Okay. Thank you, Ms. Ngatchou.  
11 Thanks, Commissioner. Can I see my Board members for a  
12 minute?

13 Okay. All right, well, that went way longer than  
14 I thought it was going to go, and so it is now 12:30. I  
15 definitely think we should take a break. So let's take a  
16 quick break, if this is all right with you guys. And then  
17 maybe we'll take lunch around 1:10, okay, and then we'll come  
18 back after lunch. Does that sound appropriate?

19 PARTICIPANT: Yep.

20 CHAIRPERSON HILL: Okay, so we'll come back and  
21 maybe do a case. We'll see what happens if we can get  
22 through whatever before lunch. So we'll come back in like  
23 ten minutes.

24 (Whereupon, the above-entitled matter went off the  
25 record at 12:25 p.m. and resumed at 12:40 p.m.)

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1 CHAIRPERSON HILL: Welcome back, everybody. Mr.  
2 Moy, if you want to call us and then announce the next case,  
3 please.

4 MR. MOY: Thank you, Mr. Chairman. For the  
5 record, for the transcript, after a quick break, the Board  
6 is back in hearing session, and the time is at or about 12:40  
7 p.m. The next case we are hearing, Mr. Chairman, is  
8 Application No. 20277 of Gary and Lauren Hudson. It was  
9 amended for special exception under Subtitle D § 5201 from  
10 the lot occupancy requirements of Subtitle D § 1004.1.

11 This would construct a two-story rear addition to  
12 a semi-detached principal dwelling unit in the R-17 Zone.  
13 This is at premises 2506 I Street NW, Square 17, Lot 45. As  
14 you are aware, the affidavit of posting under Exhibit 32 is  
15 untimely and not notarized, as well.

16 CHAIRPERSON HILL: Thank you, Mr. Moy. Mr. Ross,  
17 can you hear me?

18 MR. ROSS: I can. Can you hear me?

19 CHAIRPERSON HILL: Yes. Are you choosing not to  
20 use your camera, Mr. Ross?

21 MR. ROSS: I'm trying to activate it now.

22 CHAIRPERSON HILL: At the bottom of the screen --  
23 there you go.

24 MR. ROSS: Perfect.

25 CHAIRPERSON HILL: Okay, great.

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1 MR. ROSS: Sorry about that.

2 CHAIRPERSON HILL: That's all right. Could you  
3 please introduce yourself for the record?

4 MR. ROSS: My name is Harry Ross. I live at 18  
5 Chestnut Avenue, Pelham, New York now, 10803. I am the  
6 registered agent for Lauren and Gary Hudson for this project  
7 and submission.

8 CHAIRPERSON HILL: I can't remember, Mr. Ross.  
9 Is there something in the record that states that you're the  
10 appropriate person to be speaking to?

11 MR. ROSS: Yes.

12 CHAIRPERSON HILL: Mr. Ross, I guess you were late  
13 with your affidavit of posting and maintenance. I see them  
14 in the record. Can you explain why you were late?

15 MR. ROSS: I did attempt to post, and I thought  
16 that it had posted to IZIS the affidavit of posting in mid-  
17 September. It was brought to my attention Monday that that  
18 was not completed, and then I did post our affidavit of  
19 maintenance with a memo also on Monday, noting that it was  
20 not notarized and we had issues with getting a notary  
21 electronically.

22 CHAIRPERSON HILL: You had posted in a timely  
23 manner, however, correct?

24 MR. ROSS: Yes. We posted when we received the  
25 poster from the Zoning Office.

1           CHAIRPERSON HILL:     Unless the Board has any  
2 issues, I'm going to waive the posting requirement, because  
3 I think that the ANC, it seems as though they've reached out  
4 to everyone and everyone's been notified. So I don't have  
5 an issue with the posting, and the applicant has stated that  
6 they have posted in the appropriate time. I'm going to go  
7 ahead and waive that requirement unless the Board has any  
8 issues, and if so, please raise your hand. I don't see  
9 anyone raising their hand, so then we're going to go ahead  
10 and move forward.

11           Mr. Ross, if you want to go ahead, I'm going to  
12 put 15 minutes on the clock there. If you want to tell us  
13 about your application and why you believe that you're  
14 meeting the criteria for us to grant the relief requested,  
15 and you can begin whenever you like.

16           MR. ROSS:     Lauren and Gary Hudson purchased a  
17 three-bedroom home at this specified location, 2506 I Street,  
18 in April 2016. The original existing conditions of the  
19 property were a three-bed, one-bath home, with a mechanical  
20 unit in the cellar. They had gone through some preliminary  
21 design exploration with another architect, and we picked up  
22 the design exercise and the project to serve as the local  
23 architect for them.

24           I recommended and we engaged the neighbors, the  
25 ANC, extensively throughout the process, trying to determine

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1 what the massing of the project would be. We were very  
2 willing to work with HPO, as well, acknowledging that it's  
3 a contributing resource. So we did an extensive amount of  
4 preliminary design work to explore the options on the  
5 property. Relating directly to the relief from the  
6 development standards, we're asking for a special exception  
7 for the lot occupancy only. Since it is a semi-detached row  
8 house, which is kind of unique in the zone, we believe that  
9 a modest accommodation is appropriate given that you have the  
10 opportunity to go to 60 percent if we were in an attached  
11 condition.

12           Additionally, it doesn't share a party wall, so  
13 we did some exploration with the Office of Zoning  
14 Administrator to determine if there was a by-right path for  
15 this project, which there was not. We reengaged through the  
16 ANC, and the ANC did a lot of facilitation to work with both  
17 confronting neighbors, adjoining neighbors, to figure out  
18 what the appropriate setback for the rear two-story addition  
19 should be. We eliminated the third-floor addition and have  
20 continued to keep historic preservation apprised of the  
21 design developments.

22           We are proposing an approximately six-foot first-  
23 floor rear addition with a step-back to further minimize  
24 impact on the adjacent properties. We have submitted plans  
25 and elevations that illustrate that proposed accommodation.

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1 Looking at the rest of the buildings in the square and in the  
2 zone, we didn't find any others that were in this semi-  
3 detached row condition, so we weren't asking to exceed what  
4 would be applicable to the typical row house conditions for  
5 lot occupancy, which is 60 percent.

6 CHAIRPERSON HILL: Does anybody have any questions  
7 for the applicant at this time? If so, please raise your  
8 hand. I am going to turn over to the Office of Planning?

9 MS. FOTHERGILL: Good afternoon. I'm Anne  
10 Fothergill for the Office of Planning for BZA Case 20277.  
11 We rest on the record in support of the application and find  
12 that it meets the special exception criteria. I'm happy to  
13 take any questions.

14 CHAIRPERSON HILL: Does the Board have any  
15 questions for the Office of Planning? Does the applicant  
16 have any questions for the Office of Planning? Mr. Ross, do  
17 you have any questions for the Office of Planning?

18 MR. ROSS: Oh, sorry, no I don't.

19 CHAIRPERSON HILL: Let's see. Mr. Young, is there  
20 anyone here to speak on this case?

21 MR. YOUNG: We have no one signed on.

22 CHAIRPERSON HILL: I'm going to go ahead then, Mr.  
23 Ross, do you have anything you'd like to add at the end?

24 MR. ROSS: No, but I do appreciate you, Chairman,  
25 and the Board, for their time today. Thank you to the staff

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1 at OP and Office of Zoning.

2 CHAIRPERSON HILL: I'm going to close the hearing.  
3 Let's see. Mr. Young, if you could please remove the  
4 applicant and the Office of Planning from the hearing. Is  
5 the Board ready to deliberate? I can start. I actually  
6 didn't have any issues with the application. I thought that  
7 they met the criteria in order for us to grant the relief  
8 requested. I also note that the ANC was in support 7-0-0 and  
9 DDOT had no objection. I would agree with the analysis that  
10 the Office of Planning has provided and vote in favor of the  
11 application. Mr. May, would you like to add anything?

12 COMMISSIONER MAY: No, nothing to add.

13 CHAIRPERSON HILL: Mr. Smith, do you have anything  
14 to add?

15 MEMBER SMITH: No, I don't have anything to add.  
16 I'm in support.

17 CHAIRPERSON HILL: Vice-Chair John?

18 VICE CHAIR JOHN: Nothing to add, Mr. Chairman.

19 CHAIRPERSON HILL: I'm going to make a motion to  
20 approve Application 20277 as captioned and read by the  
21 Secretary and ask for a second, Ms. John?

22 VICE CHAIR JOHN: Second.

23 CHAIRPERSON HILL: The motion has been made and  
24 seconded. Mr. Moy, could you please take a roll call vote?

25 MR. MOY: Thank you, Mr. Chairman. When I call

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1 your name, if you would please reply with a yes, no or  
2 abstain from the motion made by Chairman Hill to approve the  
3 application. Seconding the motion is Vice-Chair Hart.

4 CHAIRPERSON HILL: Vice-Chair John seconded the  
5 motion, Mr. Moy.

6 MR. MOY: What did I say?

7 CHAIRPERSON HILL: Hart.

8 MR. MOY: Oh, I'm having lunch spasm. Let's start  
9 over. The motion made by Chairman Hill, seconded by Vice-  
10 Chair John. On the roll call vote, Zoning Commissioner Peter  
11 May?

12 COMMISSIONER MAY: Yes.

13 MR. MOY: Mr. Smith?

14 MEMBER SMITH: Yes.

15 MR. MOY: Vice-Chair John?

16 VICE CHAIR JOHN: Yes.

17 MR. MOY: Chairman Hill?

18 CHAIRPERSON HILL: Yes to approve.

19 MR. MOY: Staff would record vote as 4-0-1, and  
20 this is on the motion made by Chairman Hill to approve,  
21 seconded by Vice-Chair John. Also in support, Mr. Smith and  
22 Zoning Commissioner Peter May. We have a Board seat vacant,  
23 but the motion carries.

24 CHAIRPERSON HILL: Thank you, Mr. Moy. You can  
25 go ahead and call our next case when you get a chance.

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1 MR. MOY: Thank you, Mr. Chairman. So this would  
2 be case Application No. 20278 of Dylan Hanson. Captioned and  
3 advertised for special exception under Subtitle D § 5201 from  
4 the side yard requirements of Subtitle D § 206.7. This would  
5 construct a two-story rear addition to an existing detached  
6 principal dwelling unit in the R-1-B zone at premises 3015  
7 25th Street NE, Square 4288, Lot 820.

8 CHAIRPERSON HILL: Mr. Hanson, could you please  
9 introduce yourself for the record?

10 MR. HANSON: Sure. My name is Dylan Hanson. I'm  
11 the owner at 3015 25th Street NE.

12 CHAIRPERSON HILL: Commissioner Montague, could  
13 you please introduce yourself for the record? You're on  
14 mute, Commissioner.

15 MR. MONTAGUE: Commissioner Jeremiah Montague,  
16 Junior, Vice-Chair ANC 5C.

17 CHAIRPERSON HILL: Welcome, Commissioner.

18 MR. MONTAGUE: Thank you.

19 CHAIRPERSON HILL: Mr. Hanson, if you could go  
20 ahead and walk us through your proposal and why you're  
21 meeting the standards of relief being requested. You have  
22 15 minutes on the clock there and you can begin whenever you  
23 like.

24 MR. HANSON: Sure. Thank you, Chairman. Thank  
25 you, Commissioner and Board for being here. Currently my

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1 home is within a foot of the side yard variance, and we're  
2 looking to extend and match the existing home as it is. We  
3 meet the other side yard and setback conditions, but we're  
4 clearly trying to extend out the basement area to make a  
5 usable garage, the middle floor to create a usable kitchen,  
6 and then the top floor to have a master bathroom. If there  
7 are any other questions about the project, I'd be happy to  
8 answer those.

9 CHAIRPERSON HILL: Does the Board have any  
10 questions for Mr. Hanson? If so, please raise your hand.  
11 Commissioner Montague, do you have any questions for Mr.  
12 Hanson?

13 MR. MONTAGUE: One quick question about the -- he  
14 mentioned a garage?

15 CHAIRPERSON HILL: What's your question,  
16 Commissioner?

17 MR. MONTAGUE: It's just something that just got  
18 past me. I'm good, I'm good.

19 CHAIRPERSON HILL: Okay, I'm going to turn to the  
20 Office of Planning?

21 MS. THOMAS: Good afternoon, Mr. Chair and members  
22 of the Board. Karen Thomas with the Office of Planning. The  
23 Office of Planning would like to recommend approval of our  
24 report and I'll be happy to take any questions. Thank you.

25 CHAIRPERSON HILL: Does the Board have any

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1 questions for the Office of Planning? I don't see anyone  
2 raising their hand. Commissioner Montague, do you have any  
3 questions for the Office of Planning?

4 MR. MONTAGUE: No.

5 CHAIRPERSON HILL: Mr. Hanson, do you have any  
6 questions for the Office of Planning?

7 MR. HANSON: I do not.

8 CHAIRPERSON HILL: Commissioner, I have a question  
9 for you since I got a couple minutes here. Do you guys get  
10 the Office of Planning's report before you all deliberate?  
11 Or sometimes you get it and sometimes you don't?

12 MR. MONTAGUE: Usually when it's posted to the  
13 record I will see it and circulate it to the commissioners.  
14 We usually have reasonable time to review it.

15 CHAIRPERSON HILL: So you do always get it,  
16 though, before your ANC meeting?

17 MR. MONTAGUE: Because it's posted to the record,  
18 that's where we pull it from. It's not sent to the ANC email  
19 address. The only thing that we get is a notice from BZA of  
20 the meeting, and then it's basically left on us to go through  
21 and see who posts what where.

22 CHAIRPERSON HILL: Okay. Mr. Hanson, I've got to  
23 ask. Are you at work?

24 MR. HANSON: I am, yeah. I work in construction  
25 here in Reston. I apologize for the attire. I'm in my

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1 office.

2 CHAIRPERSON HILL: That's all right. I just had  
3 to understand. It looks interesting.

4 MR. HANSON: Thank you.

5 CHAIRPERSON HILL: Let's see, if no one has any  
6 questions, I'm going to close the hearing. All right, I'm  
7 going to close the hearing. Commissioner Montague, nice to  
8 see you today. Take care. Mr. Hanson, good luck.

9 MR. HANSON: Thank you very much.

10 CHAIRPERSON HILL: I'm not even going to start  
11 deliberations. Can somebody else talk? Commissioner May,  
12 will you start talking first?

13 MR. YOUNG: Chairman Hill, I just wanted to say  
14 for the record that we didn't have anyone signed up. I  
15 didn't hear you ask, so --

16 CHAIRPERSON HILL: Thank you, Mr. Young. I'm  
17 sorry. I couldn't see anybody signed up on the witness list,  
18 but thank you, as to the Commissioner. But thank you for  
19 stating that for the record. Commissioner May?

20 COMMISSIONER MAY: Let me pull up my notes. This  
21 is a pretty straightforward case. It's the sort of thing  
22 that the zoning regulations allow for a special exception  
23 because there are these properties that are already  
24 noncompliant, and forcing compliance with an addition doesn't  
25 really make a whole lot of sense. With the ANC's support and

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1 OP's support, I don't see any issues, so I'm prepared to vote  
2 in favor of it.

3 CHAIRPERSON HILL: Mr. Smith?

4 MEMBER SMITH: I don't see any issues with this  
5 one. I feel like this one is a straightforward application  
6 for a special exception, and I would support it.

7 CHAIRPERSON HILL: Vice-Chair John?

8 VICE CHAIR JOHN: I support the application. It's  
9 very straightforward, so I have no concerns.

10 CHAIRPERSON HILL: Thank you. I agree with my  
11 colleagues, as well as the analysis provided by the ANC and  
12 the Office of Planning in terms of this application. I'm  
13 going to make a motion to approve Application No. 20278 as  
14 captioned and read by the Secretary and ask for a second, Ms.  
15 John?

16 VICE CHAIR JOHN: I second.

17 CHAIRPERSON HILL: The motion has been made and  
18 seconded. Mr. Moy, if you could take a roll call vote,  
19 please.

20 MR. MOY: Yes, thank you, Mr. Chairman. When I  
21 call your name, if you would please respond with a yes, no  
22 or abstain to the motion made by Chairman Hill to approve the  
23 application for the relief requested, seconded by Vice-Chair  
24 John. Zoning Commissioner Peter May?

25 COMMISSIONER MAY: Yes.

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1 MR. MOY: Mr. Smith?

2 MEMBER SMITH: Yes.

3 MR. MOY: Vice-Chair John?

4 VICE CHAIR JOHN: Yes.

5 MR. MOY: Chairman Hill?

6 CHAIRPERSON HILL: Yes to approve.

7 MR. MOY: Staff would record the vote as 4-0-1.

8 Again, this is on the motion made by Chairman Hill to approve  
9 the application for the relief requested, seconded by Vice-  
10 Chair John. Also in support Mr. Smith and Zoning  
11 Commissioner Peter May, we have a Board seat vacant. Motion  
12 carries 4-0-1.

13 CHAIRPERSON HILL: Thank you, Mr. Moy. Thank you,  
14 gentleman. Mr. Young, if you could just leave the Board here  
15 for a moment? Great, thank you. Do you guys want to take  
16 lunch? It's 1:00. There was something that I was trying to  
17 also get done. If everybody's schedule is kind of okay, then  
18 we'll come back at 2:00?

19 MEMBER SMITH: I'm okay with that, Mr. Chairman.

20 VICE CHAIR JOHN: Okay.

21 CHAIRPERSON HILL: Okay. I can't hear you, Mr.  
22 May, but just nod. Okay, great. Everyone, we'll see you  
23 back at 2:00.

24 VICE CHAIR JOHN: Thank you.

25 CHAIRPERSON HILL: Thank you.

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1 (Whereupon, the above-entitled matter went off the  
2 record at 1:01 p.m. and resumed at 2:03 p.m.)

3 CHAIRPERSON HILL: Mr. Moy, you can call us back  
4 in whenever you like.

5 MR. MOY: Thank you, Mr. Chairman. For the  
6 record, the Board is back in session, and the time is at or  
7 about 2:00 p.m. The next case for public hearing of the  
8 Board is Application No. 20283 of Keena Trapps. Captioned  
9 and advertised for a special exception under Subtitle D §  
10 306.4 and 5201 from the rear addition requirements of  
11 Subtitle D § 306.3. This would construct a one-story rear  
12 addition to an existing attached principal dwelling unit in  
13 the R-3 zone at premises 717 Emerson Street NW, Square 3147,  
14 Lot 57.

15 Mr. Chairman, I believe, or as you know, the new  
16 procedure is that nothing is entered into the record 24 hours  
17 prior to a hearing, and there is an updated ZA memo. I would  
18 suggest we need to address that with the applicant.

19 CHAIRPERSON HILL: Thank you, Mr. Moy. Ms.  
20 Campbell, can you introduce yourself, please? You're not on  
21 mute. You should be able to go. Ms. Campbell, can you hear  
22 me? We can't hear you. We can't hear you. No. Can you  
23 hear me? I can't hear you. Is it Ms. Trapps or Tarps? Is  
24 it Trapps? Ms. Trapps, is that you?

25 MS. CAMPBELL: Yes.

1 CHAIRPERSON HILL: Could you introduce yourself  
2 for the record, please?

3 MS. CAMPBELL: I'm not sure why you can't hear me.

4 CHAIRPERSON HILL: Oh now I can hear you. I heard  
5 you there for a second. Now I can't hear you. Okay, now I  
6 can hear you.

7 MS. CAMPBELL: Okay.

8 CHAIRPERSON HILL: I can hear you now.

9 MS. CAMPBELL: Now you can hear me?

10 CHAIRPERSON HILL: Yes.

11 MS. CAMPBELL: You can hear me now? Okay, let me  
12 turn up the volume with this.

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

15 MS. CAMPBELL: All right, for the record, so I'm  
16 Jennifer Campbell from Campbell Architects DC. Keena (audio  
17 interference) architect in regards to the BZA memo, we had  
18 sent an email out to Zoning.

19 CHAIRPERSON HILL: Ms. Trapp, can you hear me?  
20 You have to unmute your microphone. There you go maybe I can  
21 hear you now.

22 MS. CAMPBELL: I'm not sure what's happening. I'm  
23 not muted on my side.

24 CHAIRPERSON HILL: Is it Campbell?

25 MS. CAMPBELL: Can I begin now? Can you all hear

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1 me?

2 CHAIRPERSON HILL: How do you pronounce your last  
3 name?

4 MS. CAMPBELL: Oh boy.

5 CHAIRPERSON HILL: I can hear you.

6 MS. CAMPBELL: Campbell.

7 CHAIRPERSON HILL: Campbell, okay. Just give me  
8 one second. Ms. Trapps, can you hear me? You're unmuted,  
9 Ms. Trapps. I don't know if I'm pronouncing your name  
10 correctly, sorry. Can you hear me? I can't hear you. Ms.  
11 Campbell, are you presenting for the applicant?

12 MS. CAMPBELL: The applicant (audio interference)  
13 can present, but I can present for her if needed. That's  
14 fine.

15 CHAIRPERSON HILL: Ms. Campbell, your internet,  
16 I think, is lagging, so you might want to --

17 MS. CAMPBELL: It is.

18 CHAIRPERSON HILL: You might want to speak kind  
19 of --

20 MS. CAMPBELL: Yeah, okay.

21 CHAIRPERSON HILL: You might want to speak slowly.

22 MS. CAMPBELL: Okay, okay.

23 CHAIRPERSON HILL: And then Ms. Trapp? How do you  
24 pronounce your client's name?

25 MS. CAMPBELL: I'm going to move to a different

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1 location.

2 CHAIRPERSON HILL: Ms. Trapps, can you hear me?  
3 It may be better, Ms. Campbell. Let's just hang on a second.  
4 I still can't get in touch with your client. How do you  
5 pronounce your client's name?

6 MS. CAMPBELL: Keena Trapps.

7 CHAIRPERSON HILL: Trapps.

8 MS. CAMPBELL: Trapps, yes.

9 CHAIRPERSON HILL: Ms. Trapps, can you hear me?  
10 Ms. Trapps, can you hear me? Okay, is there something -- Ms.  
11 John is trying to chime in. Is there something in the  
12 record, Mr. Bassett, that has Ms. Campbell registered as an  
13 agent?

14 MR. BASSETT: Give me a second. I can make sure.

15 CHAIRPERSON HILL: Ms. Campbell, do you know if  
16 you have authorization in the record as an agent? Ms. John,  
17 did you have something you wanted to say?

18 VICE CHAIR JOHN: I was just going to ask if she  
19 was muted. Her mic is off.

20 CHAIRPERSON HILL: It wasn't off for a minute  
21 there also, and then -- so Ms. Trapps if you want to try and  
22 move the cursor over your screen, it should say mute or  
23 unmute at the bottom of your screen. If you can hear me.  
24 Also there's a button that says stop video or start video.  
25 Ms. Campbell, I'm going to go back to you. Is there

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1 something in the record that has you listed as an authorized  
2 agent?

3 MR. BASSETT: There it is.

4 MS. CAMPBELL: Yes, there should -- yes.

5 CHAIRPERSON HILL: So Ms. Campbell we'll go ahead  
6 and try and see what happens here. If you want to go ahead  
7 and speak to why you are meeting the standard for us to grant  
8 the relief requested. So you need to speak to the special  
9 exception standard. And then also there was a discrepancy  
10 about how far back the addition was going. It seems to be  
11 settled that it's now 13 feet, but if you could again clarify  
12 that and point to where in the record the drawings show the  
13 13 feet, that would be helpful. You can begin whenever you  
14 like.

15 MS. CAMPBELL: So what you were saying, because  
16 the internet is lagging on my end -- I'll go ahead and get  
17 started. So basically the applicant is looking to receive  
18 special exception relief pursuant to Subsection D 5201 to  
19 allow a one-story rear addition to an existing row house in  
20 Zone R-3. Basically, like you (audio interference) is that  
21 she can extend further than 10 feet beyond the furthest rear  
22 wall of any adjoining residential building. The applicant  
23 is requesting that she's allowed to extend (audio  
24 interference) 13 feet beyond the furthest rear wall to match  
25 her neighbor's rear addition.

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1           The applicant proposes to demolish the existing  
2 deck and to construct the one-story addition to accommodate  
3 a family room and a new deck with an exterior access  
4 staircase leading to the rear yard. The building footprint  
5 of 13 feet past the furthest rear wall on the adjoining home  
6 on the west, and would be in line with the house on the east,  
7 which is 715 Emerson Street.

8           CHAIRPERSON HILL:     Ms. Campbell, the Zoning  
9 Administrator's memo, when did you get it?

10           MS. CAMPBELL: Can you repeat that one more time,  
11 please? I'm sorry. It's lagging on my side.

12           CHAIRPERSON HILL: The Zoning Administrator's memo  
13 is late filed reply and what does it say?

14           MS. CAMPBELL: You said the zoning -- I'm so  
15 sorry.

16           CHAIRPERSON HILL:     That's all right. Ms.  
17 Campbell, why don't you --

18           MS. CAMPBELL: It's like your -- I can't  
19 understand everything you're saying.

20           CHAIRPERSON HILL: Ms. Campbell, why don't you  
21 call on the phone? Okay?

22           MS. CAMPBELL: Okay.

23           CHAIRPERSON HILL: Call on the phone. Call that  
24 number. Paul, is that the number to call in?

25           MS. CAMPBELL: I'll do that. I'll call on the

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1 phone. Yes. Give me a moment.

2 MR. YOUNG: Yeah, I talked to Robert Reed in our  
3 office and he is going to reach out to her and have her --  
4 he's going to give her instructions on how to call in.

5 CHAIRPERSON HILL: Okay. If Mr. Reed wants to  
6 also reach out to the applicant then --

7 MR. BASSETT: While we have some downtime, I just  
8 wanted to point out a preliminary matter. The documents that  
9 were submitted, the updated documents were submitted less  
10 than 21 days before the hearing. It would be up to the Board  
11 to waive that 21-day deadline to accept those documents in.

12 CHAIRPERSON HILL: Are those in the record now?

13 MR. BASSETT: Yes. But under Subtitle Y 300.15,  
14 information from the applicant, including briefs and any  
15 supplemental information, has to be received 21 days before  
16 the hearing, and it was not received 21 days before the  
17 hearing. The Board could waive that requirement if the Board  
18 wanted to.

19 CHAIRPERSON HILL: Where is the -- but the ZA memo  
20 is not in the record, right? Like, I can't even look at it  
21 right now.

22 MR. BASSETT: No, because if it's received less  
23 than 24 hours before the hearing, Rosie doesn't post that  
24 information to the record.

25 CHAIRPERSON HILL: Do you guys know what the memo

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1 says?

2 MR. BASSETT: Yes, I will pull it up right now.

3 CHAIRPERSON HILL: I know Commissioner May and Ms.  
4 John, Mr. Smith I don't know, but I think Commissioner May  
5 and Ms. John are a little bit Type A. So I can just see them  
6 chomping at the bit to try to like, give -- it's not a bad  
7 thing. It's not a bad thing at all. They're chomping at the  
8 bit to like, help me get through this technical issue.

9 COMMISSIONER MAY: No, I'm very happy to have you  
10 handle that. I know you can.

11 MS. CAMPBELL: Okay, I'm on the call.

12 CHAIRPERSON HILL: Ms. Campbell, can you hear me?  
13 Ms. Campbell, can you hear me? Speak yes into the phone.

14 MS. CAMPBELL: Yes.

15 CHAIRPERSON HILL: I think I can hear Ms. Campbell  
16 on the phone.

17 MR. BASSETT: I have the ZA memo in front of me.

18 CHAIRPERSON HILL: Okay. Before I jump around  
19 here, Miss ---

20 (Simultaneous speaking.)

21 MS. TRAPPS: Please don't go over me. I've been  
22 on this call since 9:30.

23 CHAIRPERSON HILL: Who is this?

24 MS. TRAPPS: Okay. I think they can, too, but  
25 they're not saying anything back to me.

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1 CHAIRPERSON HILL: Whoever just spoke, I can hear  
2 you. I don't know who you are, but whoever you are --

3 MS. TRAPPS: My name is Keena Trapps.

4 CHAIRPERSON HILL: All right, Ms. Trapps, well,  
5 that's good. We at least got one person.

6 MS. TRAPPS: Okay, can I go ahead and talk?

7 CHAIRPERSON HILL: Just wait a minute. One  
8 second, Ms. Trapps. I'm waiting for your architect.

9 MS. TRAPPS: No, I she is on the call. Okay, can  
10 you hear me?

11 CHAIRPERSON HILL: I can hear Ms. Trapps.

12 MS. TRAPPS: I'm going to hang up, Mr. Reed.  
13 I'm sorry. I don't know what the problem is. The computer  
14 was not on mute.

15 CHAIRPERSON HILL: That's all right, Ms. Trapps.

16 MS. TRAPPS: So can I go ahead and talk?

17 CHAIRPERSON HILL: Give me one moment, Ms. Trapps.

18 MS. TRAPPS: Okay.

19 CHAIRPERSON HILL: Ms. Campbell, are you there?

20 MS. CAMPBELL: Yes, yes.

21 CHAIRPERSON HILL: Great, I can hear you. Okay,  
22 great. Ms. John, did you have a comment on my Type A  
23 situation?

24 VICE CHAIR JOHN: I was just wondering if there's  
25 a Type Z.

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1 CHAIRPERSON HILL: I don't know. That's another  
2 question. Ms. Trapps, you can hear me, correct?

3 MS. TRAPPS: Yes.

4 CHAIRPERSON HILL: I believe Ms. Campbell was  
5 already going through the reasoning for why she believes you  
6 meet the criteria for us to grant the relief requested.  
7 Before we get to anything else, I'm trying to understand the  
8 Zoning Administrator's memo was posted 24 hours before the  
9 hearing. So Ms. Campbell, did you give us the ZA memo?

10 MS. CAMPBELL: Yes, I did give you guys the memo.  
11 I actually submitted it a few months ago. What happened was  
12 there was discrepancy between like, the size of the addition.  
13 The addition said that it was -- on the memo, the addition  
14 size was listed as 18.67 feet. We had received a email from  
15 someone from Zoning saying that we needed to revise that to  
16 13 feet. I reached out to one of the Zoning Administrators  
17 last Monday and asked them to fix the discrepancy so that we  
18 could put it on the record.

19 Then I followed up with him again on Monday. When  
20 I followed up with him on Monday, he was not in the office.  
21 But I had reached out to Zoning last week to ask them to fix  
22 that issue so that we can put the corrected document on the  
23 record. At no time did --

24 (Simultaneous speaking.)

25 CHAIRPERSON HILL: Give me a second. So it's 13

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1 feet, correct?

2 MS. CAMPBELL: Yes, mm-hmm.

3 CHAIRPERSON HILL: And when you presented to the  
4 ANC, it was 13 feet, correct?

5 MS. CAMPBELL: Yes.

6 CHAIRPERSON HILL: And the new zoning memo says  
7 13 feet, correct?

8 MS. CAMPBELL: Yes.

9 CHAIRPERSON HILL: Mr. Moy, unless the Board has  
10 any opposition, I say we go ahead and add the zoning memo to  
11 the record. Is that all right with the Board? Everyone's  
12 nodding in consensus. Mr. Moy, you can go ahead and add that  
13 into the record.

14 MR. MOY: Yes, sir, it will be done.

15 CHAIRPERSON HILL: Great. Ms. Campbell, I pretty  
16 much heard most of your presentation. Ms. Trapps, I think?  
17 Trapps?

18 MS. TRAPPS: Trapps, yes.

19 CHAIRPERSON HILL: Trapps, thank you. Let me just  
20 see if the Board has any questions for your architect or you.  
21 One moment, please.

22 MS. TRAPPS: Okay.

23 CHAIRPERSON HILL: Does the Board have any  
24 questions for the applicant?

25 VICE CHAIR JOHN: Just a comment, Mr. Chairman.

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1 Exhibit 32 has a revised DC surveyor's plat, which has a 13-  
2 foot addition. Let's see.

3 CHAIRPERSON HILL: Okay, great, I see that. Thank  
4 you, Vice-Chair John. Does anyone have any questions for the  
5 applicant? I'm going to turn to the Office of Planning.

6 MS. BROWN-ROBERTS: Good afternoon, Mr. Chairman  
7 and members of the BZA. Maxine Brown-Roberts for Case No.  
8 20283. The proposal is to have a rear wall that extends 13  
9 feet beyond the property to the west. The Office of  
10 Planning, in our analysis of Section 5201 in the report  
11 concludes that they would meet all the sections and that the  
12 extended 13 feet would not substantially impact the light and  
13 air to the adjacent properties. Therefore, we rest on the  
14 record and I'm available for questions.

15 CHAIRPERSON HILL: Ms. Brown-Roberts, the reason  
16 why also that is (audio interference) massing side of the  
17 wall to the adjacent property? In terms of the light and  
18 air, why are you not concerned?

19 MS. BROWN-ROBERTS: For one thing, the adjacent  
20 property says it's no problem. And as I said, there may be  
21 some impact, but I don't think it's going to be something  
22 that substantial.

23 CHAIRPERSON HILL: Does the Board have any  
24 questions for the Office of Planning? Okay, Ms. Campbell,  
25 do you have any questions for the Office of Planning?

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1 MS. CAMPBELL: No.

2 CHAIRPERSON HILL: Ms. Trapps, do you have any  
3 questions for the Office of Planning?

4 MS. TRAPPS: No.

5 CHAIRPERSON HILL: Mr. Young, is there anyone here  
6 wishing to testify?

7 MR. YOUNG: We do not have anyone.

8 CHAIRPERSON HILL: Unless the Board has anything  
9 else they'd like to add, I'm going to close the hearing. All  
10 right, I'm going to go ahead and close the hearing. Ms.  
11 Campbell, Ms. Trapps, you're excused.

12 MS. TRAPPS: Okay.

13 CHAIRPERSON HILL: Thank you.

14 MS. CAMPBELL: Thank you.

15 CHAIRPERSON HILL: Is the Board ready to  
16 deliberate? Mr. May, would you please start us through our  
17 deliberations?

18 COMMISSIONER MAY: I'd be happy to. This is  
19 another, I think, very straightforward case. I don't see any  
20 real complications with it. I think it's very helpful that  
21 the abutting neighbors have no objections. Really what we're  
22 talking about is a difference of three feet between the 10  
23 that's allowed and the 13 that's proposed. With the Office  
24 of Planning's support and ANC's support, I don't see any  
25 issues with it and I'm prepared to vote in favor.

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1 CHAIRPERSON HILL: Mr. Smith?

2 MEMBER SMITH: I concur with everything that  
3 Commissioner May said. I give great weight to the OP report  
4 and I would support this request.

5 CHAIRPERSON HILL: Vice-Chair John? You're on  
6 mute, Vice-Chair John.

7 VICE CHAIR JOHN: Sorry for that. So I'm in  
8 support of the application. I have nothing more to add.

9 CHAIRPERSON HILL: Thank you. I also don't have  
10 anything to add and will concur with the comments made by my  
11 colleagues. I'm going to make a motion to approve  
12 Application No. 20283 as captioned and read by the Secretary  
13 and ask for a second, Ms. John?

14 VICE CHAIR JOHN: Second.

15 CHAIRPERSON HILL: The motion is made and  
16 seconded. Mr. Moy, could you please take a roll call vote?

17 MR. MOY: Thank you, Mr. Chairman. When I call  
18 your name, if you would please respond with a yes, no or  
19 abstain to the motion made by Chairman Hill to approve the  
20 application for the relief requested and seconded by Vice-  
21 Chair John. Zoning Commissioner Peter May?

22 COMMISSIONER MAY: Yes.

23 MR. MOY: Mr. Smith?

24 MEMBER SMITH: Yes to approve.

25 MR. MOY: Vice-Chair John?

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1 VICE CHAIR JOHN: Yes.

2 MR. MOY: Chairman Hill?

3 CHAIRPERSON HILL: Yes to approve.

4 MR. MOY: The staff would record the vote as 4-0-1  
5 on this motion made by Chairman Hill to approve, seconded by  
6 Vice-Chair John. Also in support Mr. Smith and Zoning  
7 Commissioner Peter May. We have a Board seat vacant. Motion  
8 carries 4-0-1.

9 CHAIRPERSON HILL: Great, thank you, Mr. Moy.  
10 Vice-Chair John, I think Type Z probably is just off the  
11 radar completely. Like whenever that is, that person is on  
12 Pluto or just like --

13 VICE CHAIR JOHN: That's fair.

14 CHAIRPERSON HILL: Mr. Moy, you can call our last  
15 case whenever you like.

16 MR. MOY: That would be Case Application No. 20291  
17 of 2100 M Street Property Owner LLC. Caption advertised for  
18 a special exception under Subtitle C § 1504.1 from the  
19 penthouse setback requirements for Subtitle C § 1502.1, and  
20 pursuant to Subtitle X, Chapter 10 for variances from the  
21 setback requirement of Subtitle I § 201.6, from the closed  
22 court area requirements of Subtitle I § 207.1, and from the  
23 loading berths requirements of Subtitle C § 905.2.

24 This would renovate and expand an existing 11-  
25 story office and retail building in the D-5 Zone at premises

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1 2100 M Street NW, Square 72, Lot 75. I believe in the  
2 record, Mr. Chairman, the applicant is proffering expert  
3 witnesses, one of which has not been listed in our witness  
4 book, which is Mr. CJ Anderson.

5 CHAIRPERSON HILL: Who is going to be presenting?  
6 Raise your hand. Okay, Mr. Utz?

7 MR. UTZ: Yeah.

8 CHAIRPERSON HILL: All right. So Mr. Utz, could  
9 you please introduce yourself for the record?

10 MR. UTZ: Sure. I'm Jeff Utz of Goulston &  
11 Storrs, layman's counsel on behalf of the applicant.

12 CHAIRPERSON HILL: Do you want to introduce your  
13 team for me?

14 MR. UTZ: Sure. So we will have presenting Sam  
15 Hollman of the applicant.

16 MR. HOLLMAN: Hi everyone.

17 MR. UTZ: Wil McBeath from GMA. Actually CJ  
18 Anderson won't be joining us today. So Wil will be speaking  
19 as the project architect's expert witness, although we would  
20 like to confirm Will as an expert witness, as well. He has  
21 appeared before the BZA, but we wanted to confirm that he can  
22 be admitted as an expert witness. We also have Dan VanPelt  
23 for traffic issues that might come up also appearing, along  
24 with others. Lawrence Ferris from Goulston is on, as well.  
25 And then we have others, I think, in the crowd today should

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1 questions come up to be addressed.

2 CHAIRPERSON HILL: Who needs to be admitted as an  
3 expert? They've already spoken before the BZA before?

4 MR. UTZ: Will McBeath.

5 CHAIRPERSON HILL: Mr. Utz, did you guys submit  
6 anything about him being an expert?

7 MR. UTZ: We did, yes. So his resume is in the  
8 record, and it's found in Exhibit 14, along with his witness  
9 testimony.

10 CHAIRPERSON HILL: And what is he going to be  
11 speaking as an expert on?

12 MR. UTZ: In architecture, project design and the  
13 specific layout and design challenges of this particular  
14 location.

15 CHAIRPERSON HILL: Okay. I'm looking through the  
16 exhibit here. I don't have any issues with him being  
17 presented as an expert witness. Do any of my fellow Board  
18 members? If so, please raise your hand. Okay, then we'll  
19 go ahead and submit him as an expert. Mr. Utz, if you can  
20 go ahead and walk us through your presentation.

21 I suppose a couple of things that I'd just like  
22 to mention is that to speak to whether or not the building  
23 appears to extend beyond where it already currently is,  
24 right, and that kind of like arguing the first prong of the  
25 variance test and how it's tying into the second prong, just

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1 kind of focusing a little bit more on that. And you can  
2 begin whenever you like.

3 MR. UTZ: Great. Thank you, Chairman Hill. I  
4 will just give a quick overview, and then I'll hand it over  
5 to Sam Hollman, and then he'll hand it over to Will. Can we  
6 pull up the presentation that was uploaded into the record,  
7 please?

8 CHAIRPERSON HILL: Do you know which exhibit that  
9 is?

10 MR. UTZ: It is Exhibit 43. It looks like that's  
11 it. Yeah, perfect. Thank you. That's it.

12 CHAIRPERSON HILL: I'm looking here as well. Is  
13 it a bunch of different parts?

14 MR. UTZ: Well, it is because of the 8 MB limit  
15 on the elements to upload.

16 CHAIRPERSON HILL: We'll be able to walk through  
17 it together, okay. Go ahead.

18 MR. UTZ: Yeah, and if you would want, I could or  
19 the architects could share their screen to walk through it  
20 all at once rather than going into each individual component.

21 CHAIRPERSON HILL: I actually don't know if they  
22 can do that. Mr. Young, can you do that? But wait a minute,  
23 that's -- yeah, okay.

24 MR. YOUNG: We can, but they also gave me the  
25 second part of their PowerPoint if they needed me to pull it

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1 up.

2 CHAIRPERSON HILL: Mr. Utz, let Mr. Young go ahead  
3 and lead it. This is Mister from OAG, and I'm curious about  
4 something and we can talk about it later. Again, how things  
5 are introduced into the record during a hearing, meaning that  
6 like, if people share their screen, how that would be  
7 different than if somebody was in the hearing and they were  
8 just presenting information, if you can help me get some  
9 clarity around that. So Mr. Utz, go ahead and begin, please.

10 MR. UTZ: Great, thank you. My name is Jeff Utz.  
11 I'm here on behalf of the applicant, which is 211 M Street  
12 Property Owner LLC. Obviously the address of the property  
13 is 2100 M Street. The site is zoned D-5 and it's got a  
14 prominent location in the West End neighborhood of downtown,  
15 at a three-way intersection where 21st Street, M Street and  
16 New Hampshire Avenue all converge. The property is currently  
17 improved with an eight-story office building that was  
18 constructed in the 1960s, and it requires significant  
19 updating. Our team will discuss this in more detail, but the  
20 site is a highly atypical one.

21 It comes with a host of design challenges that  
22 result largely from the property's irregular shape, and the  
23 existing building's shape and configuration is based on that  
24 irregular lot shape, including the building's structural  
25 support systems that the addition and the renovation

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1 inherits. The property received approval from the Board in  
2 2007 in BZA Case 17696 for relief in a project that is really  
3 highly similar to what is being proposed today. Several  
4 developers attempted to bring that project forward but  
5 ultimately were not successful, and that approval lapsed a  
6 few years ago.

7           The applicant has now taken up the project and is  
8 excited to finally deliver this to the site. So what it is,  
9 the project will renovate and expand the building to create  
10 an 11-story office building with a habitable roof structure.  
11 It will total approximately 379,000 square feet, which is an  
12 FAR of a bit over 9.2. The project will revitalize the site  
13 with a new facade and a three-story addition, and will, in  
14 particular, focus on renovating the public realm and the  
15 street frontage, as I was mentioning, around the project, in-  
16 filling an arcade and really making an active/interactive  
17 streetscape.

18           The application requests four areas of relief.  
19 The first one is the special exception from the one to one  
20 setback for penthouses under Subtitle C § 1504.1. This is  
21 for the mechanical equipment and adjacent screen wall on the  
22 11th floor in the mechanical court towards the 1143 New  
23 Hampshire Avenue side of the property, but then also for a  
24 small portion of the elevator core that is on the true roof  
25 of the project.

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1           There are also three variances. The first is the  
2 variance relief from the 45-degree setback from the adjacent  
3 MU-10 zone property at 1143 New Hampshire, which is a  
4 requirement under Subtitle I § 201.6. The second area of  
5 variance relief is the minimum court with an area  
6 requirements of Subtitle I § 207.1. The project includes a  
7 series of open and closed courts that there's a unique kind  
8 of terraced design approach that utilizes a system of courts.  
9 The result is that two of those courts need relief. It's  
10 closed court three, which is a triangular court located on  
11 the western property line, beginning on the ninth level and  
12 then an open court on the northwest end of the building  
13 facing New Hampshire Avenue, beginning on the third level.

14           The last area of relief, the third variance  
15 component, is for the 14-foot minimum clearance for the  
16 loading berths themselves. They require a 14-foot minimum  
17 clearance and they have a 12 foot 5 clearance here because  
18 of the existing transfer beam and the overhead slab that is  
19 inherited by the existing improvements on-site. As I noted,  
20 these elements of relief are very similar to the relief that  
21 the Board granted in 2007, which also included special  
22 exception relief for roof structure setbacks and the variance  
23 from the 45-degree setback from our neighboring property, as  
24 well.

25           Before we dive in, I also wanted to note that

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1 there is an Office of Planning report that recommends  
2 approval, Exhibit 37 in the record, and a DDOT report of no  
3 objection in the record that's Exhibit 38. The DDOT report  
4 has conditions to implement the traffic demand management  
5 plan and the loading management plan from the transportation  
6 statement that we submitted dated August 21st. That's  
7 Exhibit 33. And also to install a low-clearance bar at the  
8 garage entry noting the height of the ceiling clearance for  
9 those loading berths. All of those conditions are acceptable  
10 to the applicant, and you'll see that we've implemented the  
11 physical representation of the clearance bar itself.

12           We also presented the project to ANC 2A last  
13 month, and they voted to support the project and the  
14 requested relief. Their report is Exhibit 40 in the record.  
15 The applicant has also discussed the project and the relief  
16 with the neighboring property owners, and so far all of those  
17 discussions have been good, positive, to the point that there  
18 is a letter of support from the immediate adjacent neighbor  
19 that owns 1143 in the record. That is Exhibit 44. They're  
20 the folks that are closest to the setback components of the  
21 relief, both for the roof structure and the MU-10 setback  
22 component of the variance relief request.

23           With that, I'll hand it over to Sam Hollman of the  
24 applicant to give a little more background about the property  
25 and the project itself.

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1 MR. HOLLMAN: Thanks, Jeff. Hi everyone. Thanks  
2 so much for having us. My name is Sam Hollman and I'm a  
3 principal with Network Realty Partners, and I'll also be the  
4 project manager for 2100 M Street. Our team purchased the  
5 property in September of 2019, and the building had up to  
6 that point seen a number of unsuccessful redevelopment  
7 efforts from prior owners. To help mitigate what Jeff  
8 mentioned is an unusual lot geometry and resulting existing  
9 building layout, the Board had previously granted zoning  
10 relief for the property in 2007 under BZA Order 17696.

11 That relief pertained to the rooftop structure and  
12 setback requirements and the 45-degree MU-10 setback, as  
13 well. Though that order was approved for what is a very  
14 similar plan to what we're presenting here, development never  
15 began at the site, and we at Network are excited to be the  
16 ones who are going to finally get things going here on the  
17 site and rejuvenate what we feel is one of the most important  
18 corners in Washington, DC. When we initially identified the  
19 site, our team saw it as an important cornerstone for four  
20 prominent DC neighborhoods.

21 That would be Dupont Circle, the Central Business  
22 District, West End and Georgetown/Foggy Bottom. The site was  
23 previously home to the SSA, which didn't do much for  
24 pedestrian activity. We're confident that our plan will  
25 revitalize this corner and add to the already burgeoning

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1 activity in the West End with our neighbors at the Yours  
2 Truly Hotel and the site across the street, and it will  
3 achieve our primary goal of activating the streetscape and  
4 the public space surrounding our building.

5 To accommodate our development plan, we're asking  
6 for two areas of setback relief, and the first one being the  
7 rooftop structure setback. Both our mechanical penthouse and  
8 elevator cores will be extended upwards from where they  
9 currently sit on the site.

10 CHAIRPERSON HILL: Mr. Hollman?

11 MR. HOLLMAN: Yep?

12 CHAIRPERSON HILL: I've been flipping through your  
13 whole slide deck and everything. Is there anything that Paul  
14 can pull up that Mr. Hollman can kind of walk us through?

15 MR. HOLLMAN: I think Wil McBeath is probably  
16 going to do that following me. I'm just presenting an  
17 overview of the site. We can look at those slides shortly  
18 if you'd like. If you want to go to the next page, you can  
19 see the unusual lot geometry.

20 MR. McBEATH: Sam, do you want me to jump in?

21 MR. HOLLMAN: Yeah, I mean, I'd just like to  
22 mention --

23 CHAIRPERSON HILL: Just stop for one second. We  
24 can go with what you guys have planned on doing. Mr.  
25 Hollman, go ahead and give the overview, and then Mr.

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1 McBeath, if you're going to drill down, because you guys are  
2 talking about a lot of stuff. I'm looking through your slide  
3 deck, and it would be easier if you could talk to the  
4 specific relief that you're asking for when you're talking  
5 about it. But go ahead, Mr. Hollman, finish your review, and  
6 then Mr. McBeath can possibly drill down on particular  
7 slides.

8 MR. HOLLMAN: Thank you, Mr. Hill, appreciate it.  
9 Absolutely.

10 CHAIRPERSON HILL: Sure.

11 MR. HOLLMAN: I'll just run through the elements  
12 real quick that we're talking about and then I'll let Wil  
13 elaborate on them in greater depth and show you where they  
14 exist in the plan. But the rooftop structure setback and the  
15 MU-10 setback for floors nine through 11 are a big part of  
16 the reason why we're here. We're also (audio interference)  
17 greater depth as we move through the project. But overall,  
18 we've received very positive feedback from the community and  
19 DC government officials.

20 Over the past couple months, we've reached out to  
21 DDOT, OP and ANC to get their comments and incorporate them  
22 in our plans, and overall, I think, produce a better design  
23 plan with their help. We appreciate all the time those  
24 agencies have spent with us and we're excited to be moving  
25 forward with their support. With that, I will go ahead and

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1 turn it over to Wil McBeath, who can identify the specific  
2 areas of relief that we're requesting and move forward with  
3 the presentation. Thanks everyone, I appreciate it.

4 MR. McBEATH: Thank you. This is Wil McBeath,  
5 MGMA architect of record for the project. If you could jump  
6 to Slide 6 -- if this is Slide 2, I'll jump to Slide 6.  
7 Perfect, right there. I was going to talk a little bit more  
8 about the project, but I think Jeff and Sam have obviously  
9 hit a lot of the highlights of the project. So I'll try to  
10 make it kind of quickly. I think what we've done here is  
11 we've tried to create a very elegant, contemporary design  
12 that, as Sam talked about, really activates one of the unused  
13 corners of this area of town.

14 I think it's very important, one of the things  
15 we've done is the current building as you know it has an  
16 arcade. It's recessed in. It steps back from the street.  
17 We've really pulled ourselves out to the street, particularly  
18 on the M Street side, and really tried to do away with the  
19 arcade and activate the street. An important part of that  
20 design, too, is that on the 21st Street, the massing of the  
21 building kind of stays with the 21st Street large-scale  
22 massing. But what we really did is we started, as we came  
23 around M Street, as you can see in that lower right corner,  
24 started stepping down the massing.

25 I think that what that helps us do is activate the

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1 terraces, but it also gives gesture conceptualized to the  
2 west, which is Georgetown and smaller buildings. We really  
3 tried to be very sensitive as we situated this building on  
4 site, both to activate it for public use, but also be  
5 sensitive to the architecture and the scale around it. Very  
6 important, and we'll come back to that maybe, but it's not  
7 part of our really today too much is the two-story facade on  
8 the front that's the public very porous in and out, and we  
9 hope to really activate that pedestrian retail experience.

10           But the project itself created a lot of design  
11 challenges. Any renovation, a typical renovation, has shared  
12 lot lines, you have existing column grids, existing  
13 elevators. But as we'll see on the next slide, the  
14 irregular-shaped property line and the uniquely-shaped  
15 footprint really created a whole bunch of unique challenges  
16 to this site, which really caused us to be here today asking  
17 for this special exception on the one to one setback and the  
18 multiple variances that we're going to be talking about today  
19 here in the next -- I promise I won't be longer than 10  
20 minutes and I'll go back more thoroughly, if you'd like.  
21 But I'll try to keep it big picture.

22           As you've seen, those diagrams, I think, do a very  
23 good job of explaining what we want. I'll just spend 30  
24 minutes to go around the site real quick. If you start there  
25 at about two o'clock, that's the main entrance to the market

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1 center, the retail area. It's very important to us on M  
2 Street to also have the ability to have multiple entrance  
3 points, multiple ability to open up the facade and have the  
4 indoor/outdoor space very active. As part of our  
5 negotiations with DDOT and Public Space and the ANC, there  
6 are a couple of things we've done that may be of interest.

7           This sidewalk that's there about three o'clock is  
8 not the current sidewalk, or crosswalk, excuse me. The other  
9 crosswalk is very long and tries to make it all the way to  
10 the corner of our property. It's a very dangerous, long  
11 crosswalk, so we've been happy to move that crosswalk and  
12 create a new entrance there at the midpoint of our building.  
13 We've added a couple of trees to the site. As you might  
14 notice, some of them are identified. As you come around the  
15 corner on M Street to 21st Street, there are very  
16 unattractive grates that are intakes for our garage. We've  
17 put those within planters to make it a much more friendly  
18 space.

19           Then as you come to the main building entrance,  
20 which is on 21st Street for the office building, again  
21 working with agencies and Public Space and DDOT, we've added  
22 several benches, both on the sidewalk toward the curb, but  
23 also at the building to really activate that space and make  
24 it public-friendly. Maybe if you go back one more slide, I  
25 apologize, you can see that quickly. There on Slide 2, the

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1 lower left, you can see that's a bench right there. There's  
2 an ADA sidewalk now, which currently does not have an ADA  
3 sidewalk into the building there.

4           So we've really tried to create this public  
5 amenity of our first few floors and activate the space. That  
6 said, it has created the difficulties we have. If you want  
7 to go to Slide 8, two forward, two ahead, I won't spend a lot  
8 of time. The first couple are relevant because I think  
9 they'll help you understand why we're in the predicament  
10 we're in. We have a 265 two-level parking garage that we're  
11 leaving largely intact. We only have two ADA spaces there  
12 on the garage level one. We're now adding six. But this  
13 starts giving an idea of what we're trying to do.

14           Most of the retailers that we're looking at --  
15 level one, by the way, is below grade, but you can see we  
16 have retail there. We're very excited about most of the  
17 retailers that we're working with plan to have multi-story  
18 retail. That's really going to help us not only activate  
19 that ground-floor level, but the basement level. Then we're  
20 also planning a very large amenity, fitness center, bike  
21 storage room, as well as mail room.

22           As we move up to level one, you get the part for  
23 the building itself at the street level. The entire north  
24 or plan east there on level one is going to be retail.  
25 There's the main entrance as we talked about at one-thirty

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1 or two o'clock. There's another entrance down at about five  
2 o'clock, but this whole north half of the building is planned  
3 to be all public space, all driven by either retail or public  
4 amenity. The southern half, or plan west, will be the  
5 building. It'll be the main lobby, conferencing, amenity  
6 area, but it will still be very open and very visible, so  
7 it's going to be a very dynamic space. Next slide?

8           These slides really just show you -- upper left  
9 is level two. It shows you that that's going to be a two-  
10 story, very dynamic retail space. The lower left is level  
11 three, and that's where we start to see the importance of  
12 stepping back the building, both as I talked about from a  
13 massing perspective to respect the scale of the projects as  
14 we move to the west or plan north, but also to help activate  
15 those areas and really add a lot of energy to the project.  
16 We can go to the next slide.

17           Once again here on the sixth floor and the eighth  
18 floor, as well as the ninth floor, you can see us starting  
19 to step this back and molding back into the original  
20 footprint of the building. Here's the first slide that's  
21 going to be important to start illustrating the variances and  
22 the special exceptions we're looking for. The gray on the  
23 ninth floor, which is the plan on the lower left, you can  
24 begin to see the existing mechanical penthouse.

25           That is where the existing mechanical equipment

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1 is. It's also important to note that a large portion of that  
2 is actually the PEPCO vault serving our building. We've had  
3 to do a lot of work with PEPCO to allow us to have that  
4 vault. Well, actually they wanted it to stay there, so we've  
5 had to leave it there. That real estate is fixed. The  
6 access to that real estate is fixed. The open air to the top  
7 is fixed. We really were very limited as we raise this  
8 footprint up to attack that gray area. The gray area really  
9 we had to treat and remain. We can go to the next slide.

10           These slides start beginning to show you two  
11 things. One, how we had to keep that mechanical room intact,  
12 and two, the blue hatched area begins to start going back to  
13 what Mr. Hill was talking about, let's you see where we start  
14 moving into two different zones. The blue is the MU zone,  
15 45-degree setback, and the tan, which is very hard to see  
16 because it's very small on this diagram, is where we enter  
17 the one to one setback, which we're asking for the special  
18 exception on. But again, that's level 10, then lower left  
19 is level 11.

20           We move up to the roof structure on the upper  
21 right, and then the roof plan there on the bottom right. We  
22 can then move into the Slide 10, or 12, next slide, sorry.  
23 I'll stop for a minute here. I know that Jeff already  
24 introduced them, but these next three slides will talk about  
25 the special exceptions for the penthouse, which is the

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1 Subtitle C 1502.1 and the variance for the 45-degree MU zone,  
2 which is the Subtitle I 201.6.

3           The first two slides really show you that we've  
4 done what we can where we could to fit into the existing  
5 zoning. So this elevation on the top is 21st Street, showing  
6 that we have abided by the one to one setbacks for those  
7 parapets. The elevation on the bottom is the north elevation  
8 toward M Street, once again showing from 21st Street on the  
9 left-hand side and from New Hampshire on the right-hand side,  
10 we have kept our penthouses and other equipment inside the  
11 parapet. You can go to the next slide.

12           Again, this slide is showing our conformance, our  
13 stepping back on the bottom. That's 21st Street now on your  
14 right, and we're showing that we stepped back the penthouse  
15 on 21st Street. The elevation on the top, what's now is the  
16 back of the building, but it really shows you the setback  
17 from the adjoining property on 21st Street and respecting  
18 both the M and the Rhode Island setback one to one. If we  
19 go to the next slide.

20           Now this diagram, we hope is the diagram that  
21 explains and shows you the dilemma and some of the problems  
22 we're in. The next two slides really do. Once again I'll  
23 talk about the colors. The blue is our incursion into the  
24 MU zone, and the tan is our incursion into the one to one.  
25 As you remember that site plan, our property line juts in and

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1 out. It doesn't jut in and out perfectly with our footprint.  
2 It was a very complex situation we were dealing with on this  
3 setback, but that blue lets you know where we are in the MU  
4 and the tan where we are into the one to one.

5           The challenge that we had is as you pull that up,  
6 and if you remember the mechanical yard is pretty much set  
7 where it is. We've got the PEPCO vault, which PEPCO is not  
8 moving for us. We really had to take the volume up and we  
9 had very little square footage to work efficient space as we  
10 added the ninth, 10th and 11th floor. So we started looking  
11 at how we could do that, and if you see how uniquely these  
12 odd shapes it would make for us, then to make it work,  
13 structurally we would have to cut the structure. We really  
14 started making the ninth, 10th and 11th floor unusable.

15           They become very inefficient. They were either  
16 terribly awkward spaces or we'd lose so much to go back to  
17 the existing grid that we're bringing up, became very, very  
18 difficult. And that's what's really caused us to come back  
19 to you today to show you this. Again the tan, the issue for  
20 the one to one setback, at the top on the right, View No. 3,  
21 that top little bar, the smallest tan bar, that is the  
22 elevator shaft. We obviously bring the elevator shaft up.  
23 It would be extremely problematic for us to move the elevator  
24 shafts, so that's the one to one being interfered by the  
25 elevator shafts coming up.

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1           Then the longer tan bar on View No. 3, that  
2 represents the mechanical screen. We have left the ninth  
3 floor mechanical yard intact, which you'll see on the next  
4 slide, and we've added mechanical equipment to support the  
5 additional square footage on the 11th floor roof, and thereby  
6 causing the need to want us to screen that equipment. If you  
7 go to the next slide, this really shows you that, first, the  
8 existing mechanical yard and equipment already is in the MU  
9 zone setback. But it also illustrates here how much we're  
10 entering the MU zone in the blue there. You can see the new  
11 equipment on the roof and you can see the new elevator shaft,  
12 and then you can see that the smaller triangle on the very  
13 small sliver of the elevator shaft is now going into the one  
14 to one setback.

15           Again, we tried our best to stay out as much as  
16 we could, but as the existing structure was there, as the  
17 existing irregularity of the footprint came up, we really  
18 tried to minimize it as much as possible, but it really  
19 became almost impossible to stay out of those two zones in  
20 that back quadrant of the building. I will go to the next  
21 slide. The next slide introduces the next two variances, and  
22 this is the open court number one, which is the top right of  
23 that picture, and the closed court number three.

24           The closed court number three again really comes  
25 to the difficulty that we had with the existing structure of

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1 the building, the existing location of the mechanical yard,  
2 and the existing location of the Wink Hotel, which you'll see  
3 in a blow-up here on the next slide. First I'll show you the  
4 OC No. 1, I think this orientates you a little bit better  
5 where they are than the next slide, the open court number one  
6 currently exists in that same proportion, that same  
7 dimension, on New Hampshire Avenue. So the only difference  
8 between the existing condition and today's condition is  
9 instead of being on the ground plane, it is now on the second  
10 floor where we moved it up to.

11 I think if you go to the next slide, on the left  
12 you will see closed court number three. On the right is open  
13 court number one. Again, closed court number three really  
14 exists in this shape right now. It just is not a closed  
15 court because we don't have the ninth, 10th and 11th floor  
16 built out. The mechanical screen on the bottom, it's  
17 parallel to the bottom of the page, that exists today. The  
18 heavy dark line is the Wink Hotel, that exists today. Where  
19 we have created a closed court is by simply raising the  
20 building up in the same footprint, and that's what you can  
21 see in that tan area in the axisymmetric. That's the closed  
22 court we have created on the back side.

23 On the right-hand side of the page is open court  
24 number one. Again, that court now exists in that same  
25 dimension on the ground plane, but what we have done is

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1 raised that as we created that two-story porous entryway into  
2 the market, which is right at that far corner. It's meant  
3 that we moved that open court up to the second floor and  
4 we've continued it. We didn't want to pull the building out.  
5 We think it would dominate, and it didn't respect the Wink  
6 Hotel. As we move to the west, we thought it was much more  
7 of a strong architectural move to keep it where it is. Then  
8 also importantly, the existing structural grid of the  
9 building is on that inside line of that open court diagram,  
10 and therefore, without demolishing the entire structure of  
11 that line, we really had an unusable, unleaseable space to lay  
12 out if we had extended that building out.

13           So it became a financial impact, as well, but it  
14 was also, we think, a very important move to the neighborhood  
15 and the scale and sizing of the building. I think we can go  
16 to the next one. This is the final variance we're looking  
17 for. Again, like the open and the closed court, this is  
18 existing configuration that we inherited with the building.  
19 This is where we are asking -- this is the Subtitle C 905.2.  
20 A 14-foot vertical clearance is what's required. Existing  
21 vertical clearance is 12/5, and that's what we're able to  
22 get.

23           The reason that it's stuck at 12/5 is that this  
24 is already an extremely long transfer beam that's very deep  
25 in order to create the opening for the garage and the loading

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1 dock. So it's an existing structural element. As the grids  
2 come down, they transfer over to the sides, and it really  
3 created an almost impossible condition to address. We think  
4 we've greatly improved it from the perspective of DDOT and  
5 the use of the building, because as you can see on the left,  
6 currently there's only two berths that can fit, and the  
7 loading dock is very steep. Which really means you don't  
8 really have 12 foot 5 clearance, because if a truck's axle  
9 is inside the bed, you can imagine the top of that truck is  
10 actually taller.

11           What we've done is actually leveled the dock out  
12 to make it much more usable for more trucks to fit under that  
13 12/5. We've also widened it. The berth of the garage is  
14 very wide, so we're able to move that out and get a third  
15 berth. We think this will allow us to get a lot more trucks  
16 off the street than be on the street. Though we were not  
17 able to address the 12/5, we do think we've created a much  
18 better loading dock situation for the city. I think we can  
19 go to the next slide. I think once we've hit all those  
20 variances and the single special exception, we think what we  
21 would create is really just a very dynamic, exciting addition  
22 to this neighborhood, to this block, that we hope is seen as  
23 an amenity by many folks. I will end it there and open up  
24 to questions.

25           VICE CHAIR JOHN: I'm still struggling with the

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1 variance for the 90-degree setback. Can we go back to the  
2 slide that explains that?

3 MR. McBEATH: Sure.

4 VICE CHAIR JOHN: And if you go slowly.

5 MR. McBEATH: I'll be happy to, be happy to. If  
6 you go one more slide maybe. Let's go to the axisymmetric.  
7 I think that's better. Two more slides back. There's a  
8 variance for a 45-degree setback from the MU zone, which is  
9 the blue. Then there's a special exception we're asking for  
10 on the penthouse, which is a one to one setback. So the  
11 challenge and the difficulty with the 45-degree setback is  
12 really due to the really unusual shape of the building, so  
13 that as we rise the building up, we really get further into  
14 the MU zone.

15 We're already into the MU zone, as I showed you  
16 on that next slide, where the existing ninth floor mechanical  
17 yard is in there. So as we pull the building up, we just  
18 increase the percentage of space into the MU zone. I think  
19 what's important to note is the Wink Hotel, which is right  
20 here, has already supported and is on file supporting this  
21 addition. The screening we believe is very important, which  
22 is where we go into the one to one zone, because that would  
23 then, if we didn't have it, expose quite a bit of the rooftop  
24 equipment on the 11th floor to the neighbors, which I don't  
25 think that the neighbors would appreciate.

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1           That's really something that we're doing more for  
2 others than for us just in terms of that screen right there.  
3 I'm sorry, you can't see my arrow, I apologize. The longer  
4 screen on view 3, I apologize, that long tan bar, that  
5 represents the roof screen to hide the mechanical equipment  
6 on the 11th floor. Then that smaller bar, Ms. John, I  
7 apologize, is where the penthouse would go inside the one to  
8 one for the elevator core.

9           VICE CHAIR JOHN: Do you have a slide showing what  
10 would have been possible without the variance?

11           MR. McBEATH: We don't have this in the  
12 presentation, but basically what we would have done is make  
13 the penthouse and the 10th and 11th floor almost unusable  
14 from a functioning, efficient floor plan. Again, if you go  
15 back two more slides, I think, maybe one more slide --

16           MR. HOLLMAN: I'd like to add that there are also  
17 structural difficulties with the existing building.

18           MR. McBEATH: Yeah. If you go back one more  
19 slide. I'm sorry, one more slide. Maybe I can show you some  
20 of that. So again, if you look at the 10th floor, the entire  
21 grey area is really kind of something that we were given.  
22 A large portion of that is the PEPCO vault, which is  
23 immoveable for -- from us. PEPCO did not want to move it.  
24 We began the project that way.

25           So having the 11th floor in a flat footprint or

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1 move that somewhere else was not an option for us as a team,  
2 so that was kind of a given inheritance.

3           We then needed more room for that mechanical  
4 equipment, so it had to go up. So that vault, PEPCO vault,  
5 is two stories. So the next available plane would be on the  
6 11th floor, so that's where we put the mechanical equipment  
7 that's going to support the new addition to the building.

8           So that's really -- and what, then the answer to  
9 the next question is the footprints, the column grids, as you  
10 can see, don't really fall where these blue lines are.

11           So the stepback to the column grid, we would  
12 really have reduced almost the whole back third of this  
13 project on the upper levels and made it very, very difficult  
14 to have leasable or usable or feasible square feet from the  
15 cost to raise the floor. So really, that's what's driving  
16 some of that.

17           And if you go forward again, I apologize, one  
18 slide I think. Two slides, I apologize. Again -- I'm sorry,  
19 if you hold there, the first two slides really show you from  
20 the city's kind of view in the public in the public sector,  
21 we are adhering to the one-to-one setbacks off 21st Street,  
22 off M Street, off New Hampshire.

23           And then if you go to the next slide, where we're  
24 really not being able to follow the one-to-one setback, which  
25 is the tan or the MU setback, which is the blue, I think

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1 that, you know, the argument would be that who could that  
2 affect. It could affect the Wink Hotel, and they are on  
3 record as in support of our project.

4 So both for physical, structural reasons of the  
5 building, for feasibility of planning reasons, and just the  
6 fact of what we inherited as a building, it kind of became  
7 very important from a feasibility standpoint to kind of  
8 interject ourselves into that blue zone.

9 MR. HOLLMAN: There is some sculpting that, sorry,  
10 there is some sculpting that went along with that. MGMA did  
11 look at kind of setting back along that shared property line  
12 to a degree. So it's a balance, you know. It's what would  
13 be feasibly constructed along with what can kind of pay  
14 homage to the setback. So the floors aren't actually built  
15 all the way out to that property line.

16 MR. McBEATH: Correct.

17 MR. HOLLMAN: I mean, there is some sculpting  
18 along that property line to try to find exactly what that  
19 balance can be, rather than just kind of grab it all.

20 VICE CHAIR JOHN: Thank you.

21 COMMISSIONER MAY: Can I ask a couple questions?

22 MR. McBEATH: Sure.

23 COMMISSIONER MAY: So I don't fully understand  
24 what that 90-degree setback is in MU10. I mean is that just  
25 -- everything above 90 feet that's within the zone has to be

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1 set back from New Hampshire Avenue?

2 MR. McBEATH: From the property line, 45 --

3 COMMISSIONER MAY: From the property line, when  
4 it's within that zone. But that doesn't apply on the north  
5 side of that building, or on the -- sorry, on the opposite  
6 side of this building.

7 MR. UTZ: Right. This is an unusual kind of split  
8 zone square situation, where 1143 is different than the  
9 zoning for 2100 M and 2101 L. So 2101 L, this situation  
10 doesn't apply. But that 90-foot, so the requirement sets off  
11 the top, the maximum height allowable on the adjacent zone  
12 of MU10 and then sets off the 45 degrees from it.

13 So that red line is intended to note where that  
14 concept hits the property line, when that's really the origin  
15 of the setback. The blue line sets back from that red line.

16 COMMISSIONER MAY: Is there something in your  
17 plans that shows what the split zone is? Because I was  
18 looking for that and I couldn't find it. Maybe I missed it  
19 first pass, but is there a drawing that shows the split  
20 zoning?

21 MR. HARRIS: Commissioner May, it follows the  
22 property line that runs between 2100 and our property and  
23 1143. So it, the zone line is coterminous with the property  
24 line, if that's helpful.

25 COMMISSIONER MAY: Okay, that's helpful, but do

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1 you have a plan? Do you have the map in there?

2 MR. UTZ: So we have site plans that show it. I  
3 don't think we have a kind of context plan that shows that  
4 particular element, although we do have a context plan. But  
5 we don't have --

6 COMMISSIONER MAY: I'll look back at this drawing  
7 submissions then. So but in front I just, you know,  
8 understand from this is the purpose of having that setback.  
9 And it has to be set back from the property line, but only  
10 on certain portions of the?

11 I mean, it just seems very odd that we're having,  
12 we're, you know, you have to jump through these hoops to set  
13 back on the rear of the building. Except for the fact that  
14 it's on New Hampshire Avenue and New Hampshire was, I don't  
15 know, was it originally in an SP zone or something like that,  
16 is that what it was, one of those transitional zones?

17 MR. UTZ: So this, it was originally an R-5 -- G,  
18 I think? So this property itself was subject to a map  
19 amendment relatively recently. And it took a 10, MU10. But  
20 the max under the residential zone was 90 as well. So that's  
21 why that's kind of synonymous for us.

22 But yeah, I think we agree that it's a hard, it's  
23 kind of an unusual situation that frankly we haven't run into  
24 anywhere else. And the zone map is included in a kind of  
25 very rough format as Exhibit 12 of the record, just for the

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1 application materials.

2 COMMISSIONER MAY: All right, I'll look for that.

3 MR. UTZ: That's the one that shows it the best.  
4 The others are kind of buried.

5 COMMISSIONER MAY: So, the statement Mr. McBeath  
6 made about who would be impacted by the lack of setback there  
7 referred only to the property at 1143 New Hampshire. But  
8 that's not really the purpose of setbacks, it's not for the  
9 protection of the abutting properties, it's for the public.

10 And so, and what I don't see in your submissions  
11 at all is much in the way of kind of views of the property  
12 from those areas that could conceivably be affected. So I  
13 don't see any views from across New Hampshire Avenue or down  
14 M Street or anything like that where there, you know, it  
15 might be visible. Do you have anything like that?

16 MR. McBEATH: We do not have a current rendering.  
17 I think the best image we have is probably that kind of, that  
18 starting, the image on page one, which kind of shows how we  
19 kind of were, part of our whole design was to step this down,  
20 as I said, toward Georgetown and to the west, which we point  
21 out.

22 But we do not have a rendering -- again, the M  
23 Street, you really would not have a view of this as you drove  
24 up M Street because you would see -- as you know, M Street  
25 turns right there. What you'll see coming up M Street if you

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1 were walking -- obviously car traffic drives the other way.  
2 If you're walking up M Street, you would only see the stepped  
3 terraces and the existing kind of massing.

4           You would not be able to see, unless you were --  
5 I don't know how you would see what's in blue, Mr. May, is  
6 what I'm trying to say. We'd have to do some kind of --  
7 you'd have to do a rendering if you were, you know, above the  
8 Wink Hotel. Obviously, the grade drops down to Georgetown.

9           So the angle of the road you would -- I don't  
10 believe, and we can certainly go take photographs, you would  
11 ever see this from anywhere on M Street.

12           COMMISSIONER MAY: Yeah, I don't believe that.  
13 I mean, if you look at your map, the long view down M Street  
14 has a view right toward the building, doesn't it?

15           MR. McBEATH: What sticks out does. If you look  
16 at the aerial, and I'm going to, because when we did a lot  
17 of Google Maps images of this when we started this project.

18           VICE CHAIR JOHN: If you could talk to a slide or  
19 so, it --

20           MR. McBEATH: Yeah, I apologize. We don't have  
21 a slide that shows any further down M Street. The closest  
22 thing we have is the rendering that is on slide No. 1.  
23 That's the closest rendering we have to what you're talking  
24 about.

25           COMMISSIONER MAY: That's really not from M

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1 Street, right?

2 MR. McBEATH: Right, there. That's standing on  
3 the curb, intersection of M Street and New Hampshire is where  
4 that's standing.

5 COMMISSIONER MAY: Yeah, across the street, and  
6 it's more on New Hampshire than on M Street.

7 MR. McBEATH: Right, and I just, again, I don't,  
8 I'm not trying to argue, but I think if you walk to the right  
9 of this and you walked across the street, I think, again,  
10 from the angle you would stand from the street, I think the  
11 Wink Hotel would probably blocking what, your ability to see  
12 it. But we, again, I'm happy to try to do what we can to --

13 COMMISSIONER MAY: No, no, and you know, long  
14 views down streets that capture something like this, I mean,  
15 that's an anomalous thing. You usually don't have long views  
16 that allow you to see something from a block away, which is  
17 when you can really see the rooftop stuff.

18 MR. McBEATH: Right.

19 COMMISSIONER MAY: The more important view, and  
20 it could be done with a view or it could have been with a  
21 section would have been a section that cuts through the hotel  
22 on New Hampshire Avenue into, you know, all the way through  
23 to your building. So more of a site section than just a  
24 building section so that we could understand that well.

25 I mean, the hotel on New Hampshire Avenue is only,

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1 what nine stories, and 90 feet. You're going up to 130 plus  
2 20, right. So it's plus 20 for the rooftop structure, or  
3 plus something for the rooftop structure.

4           And what I would want to know is whether it really  
5 was visible from across the street, given how tall it was.  
6 It probably isn't, but I don't know that from what's in the  
7 record. And that's what I would be mostly concerned about  
8 is the view from the public space that would be affected by  
9 not honoring that setback condition.

10           The one thing that you haven't said that I think  
11 actually bolsters your case for relief from the penthouse  
12 setbacks has to do with, and to some extent the, you know,  
13 the MU zone setbacks, has to do with the fact that your  
14 matter of right height here is 130 feet. And when you look  
15 at your sections, let me see where that was.

16           MR. McBEATH: The section's going to be slide 15,  
17 if you want to go to it.

18           COMMISSIONER MAY: You talking about the drawing?

19           MR. McBEATH: Well, I -- well, that's, the one we  
20 had as part of the PowerPoint.

21           COMMISSIONER MAY: Yeah, that one, okay, yeah.  
22 So yeah, when you look at the right and it says the overall  
23 building height at 130 feet. If you extend that all the way  
24 across, it's actually at the height of that screen wall.

25           And so if you were, if you could actually have

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1 that 130-foot overall height and you weren't restricted to  
2 the 90, or to the, you know, having that one-to-one setback,  
3 you know, your penthouse setbacks wouldn't exist.

4 MR. McBEATH: Right.

5 COMMISSIONER MAY: Setback relief wouldn't even  
6 be needed.

7 MR. UTZ: Yes, that's right. This is a -- that's  
8 a conservative element of our request. We wanted to make  
9 sure that we were asking --

10 COMMISSIONER MAY: Oh, no, no, I agree you need  
11 to request it. Because, you know, the way, and you know, a  
12 strict reading of the penthouse setbacks rule has to be, has  
13 to do with the setback from at the height you're going to  
14 raise the roof, right.

15 MR. UTZ: Yup.

16 COMMISSIONER MAY: And so you have to request it.  
17 But it argues in your favor that you had this screen wall,  
18 which is no taller than the allowable height.

19 MR. UTZ: Right, yeah.

20 COMMISSIONER MAY: And you don't have the ability  
21 to move things around to be able to capture that as, you  
22 know, building space, so anyway.

23 MR. UTZ: Right, thank you.

24 COMMISSIONER MAY: I can appreciate the  
25 complications there. Yeah, it would be good if we had site

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1 sections that could show this better all the way across to  
2 New Hampshire Avenue.

3 I think the view from New Hampshire Avenue across  
4 the street is probably the one that I would be most concerned  
5 about, as opposed to long views down M Street. Although that  
6 would have been interesting to see as well because you know,  
7 I think you can, you could see quite a bit of this building  
8 and this addition.

9 MR. UTZ: And this -- okay.

10 COMMISSIONER MAY: Right, thank you.

11 MR. HOLLMAN: If I can pull up a Google Maps  
12 image, I think, you know, that might be helpful from a view  
13 from New Hampshire Avenue. I don't know if that's, if that  
14 would be helpful at all, but you'd really have to crane your  
15 neck in order to see the top of this building. And now we're  
16 now pulling up on screen, that's fine, but.

17 COMMISSIONER MAY: Yeah, let's, I mean, we don't  
18 -- we'll see how this goes. We may want to see some  
19 additional rendered views.

20 That's it for my questions.

21 CHAIRPERSON HILL: Okay, Mr. Smith.

22 MEMBER SMITH: I don't have any questions.

23 CHAIRPERSON HILL: Okay, Mr. Young, if you could  
24 pull the slide deck for a minute. Okay, did you present this  
25 to the ANC?

1 MR. UTZ: We did, yes.

2 CHAIRPERSON HILL: Did you, were you the actual  
3 person?

4 MR. UTZ: I was there, but Sam was the actual  
5 person.

6 MR. HOLLMAN: It was me..

7 CHAIRPERSON HILL: All right, I mean, Mr. Utz, I'm  
8 just trying to -- what am I trying to express? It's a lot  
9 of information.

10 MR. UTZ: I know.

11 CHAIRPERSON HILL: I mean, there's a lot of things  
12 that you guys are throwing at us, and did you see the very  
13 first case that we had? And that was just about, that was  
14 about eight -- from nine people to 20 people.

15 MR. UTZ: Yeah.

16 CHAIRPERSON HILL: So what I'm trying to get at  
17 is maybe the next time you come here, if there was a way to  
18 dilute this down a little easier for us to digest. I'm not  
19 saying this application, I'm saying in general, there is a  
20 lot of relief that you're asking for and there's a lot of  
21 different variance elements. And it's kind of all over the  
22 map. And I know that at the ANC, they just are like is it  
23 pretty, will it be a problem for us, etc.

24 We have to actually look at the standards and  
25 understand what we're saying yes or no to based on the

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1 standards. I think something's pretty, right, okay. I mean,  
2 you know, there used to be a club in the basement that I used  
3 to go to in the 80s.

4 PARTICIPANT: Bojangles.

5 CHAIRPERSON HILL: Okay, very good. Sam just  
6 heard me tell stories of it, he's too young to have enjoyed  
7 it.

8 MR. HOLLMAN: My dad used to go there.

9 CHAIRPERSON HILL: Okay, great, very good. So the  
10 point is it's a lot of information, it's a lot of  
11 information, you know. I don't know how to digest it all so  
12 quickly. So I'm going to, let's say I'm going to turn to the  
13 Office of Planning just so they can help me digest some of  
14 this. Where's the Office of Planning, please?

15 MR. KIRSCHENBAUM: Good afternoon, Chair Hill and  
16 members of BZA, Jonathan Kirschenbaum with the Office of  
17 Planning. We recommend approval of the supplement section  
18 and variance request to permit the renovation and expansion  
19 of the existing building. And we rest on the record. Please  
20 let me know if you have any questions.

21 CHAIRPERSON HILL: Mr. Kirschenbaum, that's great.  
22 Okay, so I don't know, you can start walking through --  
23 walking me through your report if you want to. And I'll pull  
24 up your report, and let's see if you can explain each thing  
25 they're asking for a why you think it should be approved.

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1 MR. KIRSCHENBAUM: You know, I don't have a magic  
2 way of making this really succinct either. Is there  
3 something that is standing out to you that you want me to  
4 focus on? There's a lot of relief and it's pretty multi-  
5 layered. I'm happy to just slowly walk through everything,  
6 but yeah, I don't have like a very just brief description of  
7 what's going --

8 CHAIRPERSON HILL: I understand, I understand.

9 MR. UTZ: We do have, so sorry, some of the slides  
10 are focusing on exactly this. And we wrestled with this  
11 issue for a long time Chairman Hill and tried to balance  
12 while we're doing it on the detail and the information with  
13 giving you what you would need to dig into the details  
14 themselves to show that the relief standards have been met.

15 So we tried to give kind of a sense of the project  
16 but then also includes slides that were --

17 CHAIRPERSON HILL: I'm not saying it's easy. I'm  
18 not saying it's easy.

19 MR. UTZ: Right, but we could bring up those  
20 slides that we think are intended for that purpose if it  
21 helps kind of bring the conversation along. There are about  
22 five of them that are particularly --

23 CHAIRPERSON HILL: Yeah, that would help me. If  
24 you could that, that would help me. Do you know which  
25 slides?

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1 MR. UTZ: Yeah, so --

2 CHAIRPERSON HILL: Even in your slide  
3 presentation, in your deck, Mr. McBeath -- Mr. McBeath, give  
4 me one second, then I'll get to Ms. John. Mr. Utz, even in  
5 your slide PowerPoint, there's just so many different  
6 exhibits.

7 MR. UTZ: Yeah.

8 CHAIRPERSON HILL: That's the thing. Mr. McBeath,  
9 I'll get to you last. Ms. John, you had a comment?

10 VICE CHAIR JOHN: I just would like them to speak  
11 more clearly to the first prong of the variance test and why  
12 that, the shape of the lot is an exceptional condition where  
13 there are other -- just looking at one of the slides I saw  
14 in the record, there are other lots that don't have, that are  
15 not straight, you know. Not straight lot lines. So why in  
16 this particular case can't you meet that 45-degree setback?

17 That's the answer we have to have in order to  
18 approve the variance request. I'm not so concerned with the  
19 penthouse setback because I think, in my view, I heard a  
20 fairly good explanation of the elevator 4 and why you need  
21 to keep that in the vault. But I don't understand the whole  
22 45-degree setback and why that's driven by the shape of the  
23 lot.

24 So if you can dig down into that, that's the  
25 answer that I would really need more on.

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1 CHAIRPERSON HILL: Okay, so Mr. Utz, go ahead and  
2 start to answer Ms. John's question with whatever slide you  
3 need, and Mr. McBeath, I guess that was kind of also why  
4 don't you start there.

5 MR. McBEATH: Okay. I think if we go to the plan,  
6 that would be helpful. That's going to be about slide number  
7 --

8 PARTICIPANT: Eight isn't it?

9 MR. McBEATH: Maybe if we go back, because I don't  
10 think that really -- I'd even go back a little more, yeah,  
11 go back again. So yeah, one more, the other way, other way.  
12 I'm sorry, 9 was great, one to the, 10, number 10, number 10.

13 So right now the slide, level No. 9 is right there  
14 in the --

15 CHAIRPERSON HILL: Mr. McBeath, let me introduce  
16 you, one second. Mr. Utz, which exhibit is this one in?

17 MR. UTZ: So this is Exhibit 43, and it should be,  
18 and I'm sorry it's 42. The presentation itself is 42.

19 CHAIRPERSON HILL: You got 42A1, A2, A3.

20 MR. UTZ: It should be in Exhibit 42A, 42A2.

21 CHAIRPERSON HILL: Okay, that's it. Okay, thank  
22 you, I'm sorry, Mr. McBeath.

23 MR. McBEATH: Not at all, not at all. So if we  
24 look at -- again, I know we've talked about this before and  
25 some of you understand. So on the 9th floor, you can already

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1 see some of that blue shade, which is that one-to-one that  
2 I think you're asking me to address, is already in the  
3 existing enclosed mechanical yard. So we're already, we've  
4 already started this project with ourselves already into that  
5 MU zone.

6 As we talked about, that whole gray zone really  
7 became very difficult for us to move up. So everything  
8 within that zone is going to be into the MU zone. We had to  
9 find real estate for the new mechanical equipment that was  
10 going to be servicing the 9th, 10th, and 11th floor, and we  
11 put that on the 11th floor, again, below the 130 feet.

12 It's on the 11th, but it's in that same gray zone.  
13 So everything that kind of fits within the gray zone that's  
14 now in the blue, which is the MU zone, we don't need to keep  
15 switching sides, is going to be within that one-to-one  
16 setback from the MU zone.

17 The problem we had is the office building portion,  
18 so the scope of which we wanted that, became very difficult.  
19 Because I think you can see, if you look at that, you may be  
20 able to see, I apologize if your screen is small you can't  
21 see it. There's a little column show immediately directly  
22 to the right of the gray zone on the righthand side of the  
23 building.

24 If we stepped back and got out of the blue MU  
25 zone, we literally started coming way, way back and every

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1 floor got worse. So we had to go to the column grid of this  
2 existing building to cut it in terms of feasible, making the  
3 project feasible and affordable to do. And so what we really  
4 did is we started losing effective ability to plan the space  
5 and make it feasible to lay out reasonable sized footprints  
6 and floor plates for the office users in the market.

7           So that's what we were trying to articulate. And  
8 if you go to the next slide, slide 11, you can begin to see  
9 that how much on 10 and 11 we actually enter that. Again,  
10 though that may not look like a lot of square foot, you can  
11 see that we missed this whole column line.

12           On number 10, you can see the MU zone pushes out  
13 of that column line. So we'd be coming all the way back to  
14 where that stair core is. We would just lose a substantial  
15 amount of square feet in order to respect that MU Zone. And  
16 I apologize if that's not clear and it's hard to see where  
17 the column lines are, but you can see that we'd lose  
18 substantial amount of square footage.

19           Again, it's not just -- for example, on the 11th  
20 floor, you wouldn't just come back to that first column you  
21 could see because that 45-degree line goes past that. You'd  
22 always -- you'd almost come back all the way to the stair  
23 hall again on both sides. Really becoming just a very small  
24 footprint for a typical office user.

25           Does that start to address that, Ms. John, or?

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1           VICE CHAIR JOHN: I guess what would help is what  
2 are these red lines, what are you trying to show us there?  
3 The problem is that in this format we don't have pointers and  
4 it's hard to see what you're talking about.

5           So if you had, for example, you know, a diagram  
6 on this slide for example, what you could have done, as  
7 opposed to what you're proposing. You're talking to it, but  
8 I'm having difficulty following you, I'm not an architect.

9           MR. McBEATH: I understand, I understand. It says  
10 I can request to annotate. Is that possible?

11          VICE CHAIR JOHN: I don't know.

12          CHAIRPERSON HILL: Mr. Young.

13          VICE CHAIR JOHN: There you go.

14          MR. McBEATH: Right, oh, yeah. So what we're  
15 starting to talk about is we would lose substantial square  
16 footage if we, from a structural perspective to get  
17 completely out of there. And here, we would not even be able  
18 to kind of come off the elevators and even access this at  
19 all, right. Because this is inside the column grid.

20          The next level of column lines is actually down  
21 here. Which means because we're inside those, so to stay out  
22 of that zone, to not create that kind of 45-degree plane stay  
23 out of the zone, we would lose the penthouse altogether and  
24 we would just have floor plates that really became  
25 unfunctional as we went up the building.

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1           So it's just not that we're trying to grab the ten  
2 feet that's on the outside, it's that we're trying to keep  
3 what would be an economically feasible reason to be able to  
4 support the 9th, 10th, and 11th floor.

5           VICE CHAIR JOHN: Okay, that's helpful.

6           MR. McBEATH: And to the other question, I don't  
7 know if it's easy to see now, here's where the property line  
8 is. You can see the property line sometimes hugs our  
9 building, sometimes doesn't. Which is why those actual  
10 metrics it may look like we're cutting a funny 45-degree, but  
11 we're -- it just cuts the building differently depending on  
12 when it hits the building.

13           And that's kind easily to see in number 10. I  
14 can, here let me, I can probably try to draw that. So if  
15 it's hard to see, the property line is up here, then it cuts  
16 in, then it goes in. Then it leaves the building, then it  
17 comes back to the building, then it goes to the building,  
18 then it goes to the building, then it leaves the building,  
19 then it comes back to the building, then it leaves the  
20 building.

21           Which if you go to the next slide -- do I have  
22 control now to go to the next slide? Again, two more. Thank  
23 you. One more, right there. So that's why it make look our  
24 shading didn't quite work. But that's, so when you -- if I  
25 showed you how we stepped in and stepped out, that's why all

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1 of a sudden you have areas that are not within that MU  
2 setback and areas that are.

3           That's because the property line at times is  
4 following the building, at times is not following the  
5 building. Again, creating kind of a greater complexity just  
6 to try to make that work.

7           VICE CHAIR JOHN: Okay, thank you.

8           MR. McBEATH: You're welcome.

9           MEMBER SMITH: I think I have a question along  
10 those same lines. Because it's sounding like a fair amount  
11 of your concern is having usable floor plates. Was there  
12 some consideration given to filling in the terrace?

13           And I understand the architectural reasons and the  
14 selling point of that terrace as you're looking down to  
15 Georgetown, which is about half a mile down M Street. But  
16 was there some consideration given to filling in that terrace  
17 if it met the zoning requirements to get additional square  
18 footage?

19           MR. McBEATH: Certainly we looked at a whole bunch  
20 of different options as we approached this project. One of  
21 the difficulties with those larger footprints, candidly, is  
22 we're -- they're very big footprints at the bottom and you're  
23 a very long way away from the stairs. So in and of itself  
24 there are other issues that we're dealing with.

25           But I think, to answer your question, the terraces

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1 weren't initially to get outdoor space that we think that's  
2 a benefit to both the tenant and the community kind of  
3 activate with vegetation and green space. It was really we  
4 thought very important for the massing of the building and  
5 just how it interacted with the neighborhood.

6           And so we looked at a two-step, a three-step, a  
7 four-step. That's kind of a three-step if you call it that.  
8 So we did look at a lot of different options. We just, that  
9 was driven by all the factors, but I think primarily from a  
10 design perspective and what we thought was appropriate for  
11 that site.

12           MEMBER SMITH: Okay, thank you.

13           CHAIRPERSON HILL: Okay. Mr. Young can -- does  
14 anybody need any presentations? Otherwise I'll ask Mr. Young  
15 to pull it so I can see the screen again. Okay, Mr.  
16 Kirschenbaum, so can you speak to Ms. John's question about  
17 the variance?

18           MR. KIRSCHENBAUM: Sure. I think it would be  
19 helpful to direct everyone's attention to the OP report. On  
20 page 9, that shows the property lines of the building, which  
21 has so much to do with the variance argument. It's outlined  
22 in red.

23           CHAIRPERSON HILL: Yup.

24           So on the interior of the square, basically the  
25 lines that are, the western lines and then that southern line

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1 that is shared with lot 74, that's also the zone boundary  
2 line for the D5 and MU10 zones. And that's important to keep  
3 in mind because that plays into the arguments.

4           So this is sort of a classic variance property.  
5 I say that on page 4 of our report, the exceptional condition  
6 is an existing office building located on a irregular-shaped  
7 triangular lot with very few regularly shaped angles or lot  
8 lines. As a result of this lot configuration, the existing  
9 floor plates of the existing building contain multiple  
10 unique, atypical angular features, particularly along the  
11 western and northern sides.

12           There's also an exceptional situation where the  
13 subject lot abuts lot 74, which is zoned MU10 and where the  
14 zone boundary line follows the property line between these  
15 two lots, creating a zoning line that is both irregular and  
16 jagged. And the requirement for the 45-degree angle is not  
17 that it has to be set back from the property line, it has to  
18 be set back from the shared zone -- it has to be shared back  
19 from the zone boundary line.

20           So in this case, it is coterminous, but the  
21 regulation is based on the zone line, not the property line.  
22 The intent of that regulation is not for view sheds, it's to  
23 ensure that there's adequate light and air to residential  
24 properties. In this case, the abutting property on lot 74  
25 is a hotel, so there should not be any sort of detrimental

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1 impact to the zoning regulations.

2           And then lastly the subject property is also the  
3 only property on the square with this number of atypical  
4 angles and jagged property lines abutting a lower density  
5 zone district.

6           So that's the first prong of the test with regards  
7 to the exceptional situation.

8           CHAIRPERSON HILL: Okay. Commissioner May, are you  
9 there?

10           COMMISSIONER MAY: Yeah.

11           CHAIRPERSON HILL: Yeah, I don't know if you look  
12 at No. 9 again that, at the OZ report, I mean, I'm sorry, the  
13 OP report. I mean, I don't see how they, and I'm just asking  
14 you, because I don't see how they're going to be able to see  
15 that penthouse. I don't see which road you're kind of able  
16 to -- like you'd have to be in the building across the  
17 street.

18           COMMISSIONER MAY: Right, and I don't disagree,  
19 but it would have been good to have a view from across the  
20 way so that we could understand that for sure. Or have a  
21 section that showed what the, you know, what the potential  
22 visibility was from New Hampshire.

23           I mean, it's, you know, this setback is designed  
24 to address partially, you know, the buildings in that MU  
25 zone, but it's also I think about what else can be seen. And

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1 so, you know, we have this weird confluence of streets and  
2 you have some potential long views. So a view all the way  
3 from the top --

4 CHAIRPERSON HILL: I guess the only reason why --

5 COMMISSIONER MAY: All the way to the left, you  
6 go all the way to the left down M Street, you could see the  
7 building where it is not set back, but I don't think that's  
8 really a huge problem. What I'm more concerned about is what  
9 you can see from New Hampshire Avenue right across the  
10 street.

11 CHAIRPERSON HILL: Right, and maybe I'm -- and I'm  
12 just having this discussion just so I understand what they're  
13 asking for. Like I didn't think that across the street you  
14 would be able to see over that building, but maybe you can,  
15 I don't know. Meaning over the hotel.

16 COMMISSIONER MAY: Yeah, I don't think so. But  
17 again, there's not a document in the record.

18 CHAIRPERSON HILL: Okay, so that's the view you're  
19 interested in, though.

20 COMMISSIONER MAY: Yeah, a view or a section that  
21 demonstrates that, that's it's not visible from across the  
22 street.

23 CHAIRPERSON HILL: Mr. McBeath, do you understand?

24 MR. McBEATH: Yep, we understand. And I really  
25 apologize, obviously that's something that we would have

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1 loved to have in that package if we knew that was critical.  
2 We just assumed that you, you know, that we can't -- I mean  
3 we looked at, again, Google Earth is not science, but we  
4 looked on it with -- we did a lot of views but we didn't see  
5 it so we didn't worry about it.

6 CHAIRPERSON HILL: As long as you understand what  
7 you're being asked for from this point forward.

8 MR. McBEATH: Yup.

9 COMMISSIONER MAY: And your building and what  
10 you're proposing is not in Google Earth, right, so you can't  
11 perceive what your building would be.

12 MR. McBEATH: Understand, understand.

13 CHAIRPERSON HILL: Okay, all right. Does anybody  
14 have any questions for anybody? Okay. Mr. Young, is there  
15 anybody here to speak from the public?

16 MR. YOUNG: We do not have anyone.

17 CHAIRPERSON HILL: Okay. Mr. McBeath, it is a  
18 silly question, but you actually remembered the name of the  
19 club? What was the name of the club?

20 MR. McBEATH: I thought it was -- it's not  
21 Bojangles, it was -- it was oh, God, it had a spiral  
22 staircase. And the Marines loved to show up there too.

23 CHAIRPERSON HILL: It's okay, never mind. I just  
24 thought you -- that wasn't the name, that's why it confused  
25 me.

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1 MR. McBEATH: Oh.

2 CHAIRPERSON HILL: Okay, as well as this  
3 presentation. I'm confused. All right, so Mr. Utz, do you  
4 -- Ms. John, do you have any final questions?

5 VICE CHAIR JOHN: No, I have no questions.

6 CHAIRPERSON HILL: All right, Mr. Smith?

7 MEMBER SMITH: I don't have any more questions.

8 CHAIRPERSON HILL: All right, Commissioner May,  
9 you've explained what Mr. McBeath needs to provide, and I  
10 guess Mr. McBeath, you understand what you need to provide.

11 MR. McBEATH: Yes.

12 CHAIRPERSON HILL: When can you provide it?

13 MR. McBEATH: Hey, Morgan, I don't know if you can  
14 speak, but can we provide that within 24 hours? Can we have  
15 that information?

16 MR. HOLLMAN: Yes, yes, we can certainly do that.

17 MR. McBEATH: Okay.

18 CHAIRPERSON HILL: Okay. Well, then, I don't  
19 know, Mr. May, are you, I forget if you're around next --

20 COMMISSIONER MAY: Well, so Mr. Chairman, I mean,  
21 I have a question. If I'm the only person who's concerned  
22 about that and if there's, I mean, if I'm the only one who  
23 has an interest in seeing that and that's the only thing that  
24 we're looking for, there might be another way to get to the  
25 answer and get confidence and try to deliberate today.

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1           CHAIRPERSON HILL: I don't, I mean, no offence,  
2 Mr. May, I know I've worked with you now a long time. And  
3 I know about like the penthouse setback and you know views  
4 that you like to look at and what you have to see. I just  
5 happen to kind of know that area, as I've now expressed, and  
6 I just don't think that you can see it.

7           But I don't need anything and so, you know, I  
8 would be able to deliberate today, but I don't know what you  
9 might need to make yourself feel more comfortable.

10           COMMISSIONER MAY: All right. So simple math.  
11 Let me look at an overall view, a context map, right. We  
12 have a context map that shows the aerial?

13           MR. UTZ: There's a context map in the  
14 presentation for today. It's slide 2. It's cropped a bit  
15 from some of the outlying streets, but we tried to capture  
16 the immediate component.

17           COMMISSIONER MAY: Okay. Okay, so if the -- I  
18 mean, it seems that the width of 1143 New Hampshire is -- the  
19 width of that building or the distance from that, the front  
20 facade of that building to the --

21           CHAIRPERSON HILL: Mr. McBeath, if you could mute  
22 your microphone.

23           MR. McBEATH: I'm sorry, I'm trying to control the  
24 section as he gives me those dimensions. I'll be happy to  
25 mute.

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1           COMMISSIONER MAY:    Yeah, so I mean, I'm just  
2 looking at what that just, what the setback distance is from,  
3 you know, over the top of 1143 New Hampshire Avenue.  It  
4 looks like it is at least 90 feet before you get to the  
5 building, when you get to sort of the center of the building.  
6 So even if the, at 130-plus penthouse were more than, you  
7 know, were 50 or 60 feet above.

8           I mean, I agree with you, Mr. Chairman.  I don't  
9 think there's any significant chance of a view of, from the  
10 public space to the area that should be set back to which  
11 they're requesting relief.  Except if you look at it from  
12 down M Street, which is the long view than I would expect or  
13 what I would be concerned about.  So I'm okay with proceeding  
14 with deliberation.  It doesn't seem --

15           And since I'm the only person who was asking that  
16 question and I'm the only person who had an outstanding  
17 issue, I'm happy moving on to deliberations.

18           CHAIRPERSON HILL:  Okay.  All right, then let's  
19 see, Mr. Utz, do you have anything else you'd like to add?

20           MR. UTZ:  Nothing else.  We greatly appreciate  
21 your time.  We would love to conclude today and ask for your  
22 support.  We're happy to, you know, to continue to provide  
23 any information that you might need.  But we do think that  
24 the application meets the standards of relief.  We know it  
25 was a really complicated request, highly detailed.

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1           We did focus for this particular consideration on  
2 the light and air impacts, as the Office of Planning  
3 mentioned, on 1143 itself. You know, we spent a lot of time  
4 studying that specific joinder of those property lines. So  
5 really focused on that and concluded that there wasn't an  
6 adverse component to that relationship. So we would ask for  
7 your support.

8           But that said, we greatly appreciate your time and  
9 we're happy to answer any questions that might result from  
10 further deliberation. Thank you.

11           CHAIRPERSON HILL: Okay, thank you. Now if you  
12 find out the name of that nightclub, you should let Mr. Moy  
13 know and he'll tell me. Okay. All right, I guess you all  
14 are excused. Bye-bye.

15           Okay, I think it's Mr. May that's typing. So  
16 you're typing notes, that's great, I know you've got a lot  
17 of notes.

18           COMMISSIONER MAY: Yeah, I keep notes on all these  
19 things.

20           CHAIRPERSON HILL: I know. So well, I'm happy to  
21 begin in terms of it was a lot of information. And I do, I  
22 see how they had to walk through each and every piece of that  
23 information.

24           I think that, for one who is not an architect,  
25 again, it was more now falling to the Office of Zoning, and

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1 thanking Ms. John for the continued questions about the  
2 variance and how the Office of Planning at least told us that  
3 page No. 9, and I was able to understand at least their  
4 argument for the variance.

5           However, and I know the applicant is watching, I  
6 think all of that stuff is necessary, I think you had to  
7 present all of it. I don't think there's a way, and in the  
8 future I don't think there's a way that you might have been  
9 able to boil it down better. I think that there's just a lot  
10 of information, and I think that to cover yourself as the  
11 applicant, you do have to present as full an argument as you  
12 can. And so I do believe they did do that.

13           I will be voting in favor because I believe that  
14 I will agree with the analysis that the Office of Planning  
15 has provided. I think that, you know, it's nice that the ANC  
16 is in support. I think these are one of those cases where  
17 I don't think the ANC is necessarily a great expert on the  
18 standard of this stuff. I mean, there's just way too much  
19 stuff going.

20           You know, they, the applicant, has to get through  
21 the ANC, and they have to do whatever bargaining they have  
22 to do and you know, trees, sidewalks, whatever they have to  
23 do to get past them. But it ends up being with us to  
24 determine whether or not the standards have been met. And  
25 after hearing the applicant's argument and my fellow Board

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1 members and the Office of Planning, I feel comfortable voting  
2 in favor of this application.

3 I will turn it to Commissioner May, if you're done  
4 writing notes and tell us what you think. I mean that in a  
5 nice way.

6 COMMISSIONER MAY: I know you do. Yeah, I'm just,  
7 you know, I'm trying to record your little bits of wisdom  
8 here for posterity.

9 No, I agree with you. I mean, I, it is terribly  
10 complicated. It's a little hard to understand exactly why --  
11 or the connection between the, well, the need to develop the  
12 building in the way they are proposing as opposed to trying  
13 to, you know, model the building a little bit more to meet  
14 the setback requirements.

15 I think we got a fairly reasonable explanation to  
16 that, and I do think that one of the biggest complicating  
17 factors on this project is the existing building and the  
18 existing mechanical systems, their location.

19 So I think, you know, if they were starting from  
20 scratch, I'm sure they could get a, you know, a really good  
21 building that met all of the requirements and, you know, we  
22 wouldn't be going through this. But they're not starting  
23 from scratch and they're not even, you know, erasing the  
24 mechanical space because it's, you know, it's just too, it's  
25 too complicated to do that.

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1 I think that the argument makes sense, and since  
2 there's no objection to the abutting property owner and from  
3 the abutter and it's you know, only marginally visible from  
4 public space, I don't have any problem granting the requested  
5 variances.

6 I also think that, you know, they have these other  
7 things have the -- the relief having to do with the courts.  
8 And I think that was pretty well explained and it's pretty  
9 straightforward, so I'm in favor of that as well.

10 The loading dock issue, again, it's their  
11 constrained by the existing building and I think they're  
12 doing the best they can with it. So I don't have any problem  
13 with granting any of the relief that's been requested.

14 CHAIRPERSON HILL: Okay, Mr. Smith.

15 MEMBER SMITH: Come to me next. I agree with  
16 everything that Commissioner May has stated. My major  
17 concern was his concern. But coming down to the second prong  
18 of the test, the peculiar and exceptional practical  
19 difficulty. So my concern did lay with could they have  
20 redesigned the 9th, the 10th, and 11th floors to be in  
21 keeping with the zoning regulations meeting the setback  
22 requirements.

23 And could they have filled in this -- the same  
24 amount of reasonable square footage if they had filled in the  
25 terrace. But I think I've given great weight to OP's

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1 analysis on the jagged nature of that property line.

2           So I think it would be practically difficult in  
3 any way, shape, or form to meet the setback regulations for  
4 the MU10 zone if they were to expand this building. So I am  
5 in support of the questions of the variances.

6           CHAIRPERSON HILL: Vice Chair John.

7           VICE CHAIR JOHN: So I can support the request for  
8 relief in all of the areas that have been requested. The  
9 most difficult part for me was trying to understand how the  
10 angular configuration of the property as it intersected with  
11 the MU10 zone created an exceptional condition. And I  
12 thought the applicant did a good job of trying to step us  
13 through the impacts of that.

14           And so I thought the other areas of relief, that  
15 the two courts and the parking, that the height of the  
16 parking lot was, you know, reasonable. They have kind of  
17 what is existing and tried to make the best out of what they  
18 had. So I thought that that was reasonable. So I have no  
19 objection to the application. I thought they did a good job  
20 of getting me to understand what they were trying to do.

21           I think, even though I agree with you, Mr.  
22 Chairman, that they needed to have that much detail, I think  
23 at some point the applicant should step back and produce a  
24 more, sort of a diagram that speaks to their presentation in  
25 a very straightforward way with the knowledge that, you know,

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1 we're not architects.

2           So the idea is to make us understand what they  
3 know at a much deeper level. Maybe to take it up a notch in  
4 the presentation, not to dumb it down, but just to focus on  
5 the, you know, the essential features that we need to make  
6 a decision under the regulations. But I thought they did a  
7 good job, you know, in eventually getting there.

8           CHAIRPERSON HILL: Okay, yeah, no, I agree with  
9 also what you said, Ms. John. You know, you don't know how,  
10 what the Board's going to be like at different periods of  
11 time with different members also.

12           So all right, I'm going to go ahead and make a  
13 motion to approve Application No. 20291, as captioned and  
14 read by the Secretary, and ask for a second, Ms. John.

15           VICE CHAIR JOHN: Second.

16           CHAIRPERSON HILL: The motion is made and  
17 seconded. Mr. Moy, can you please take a roll call vote.

18           MR. MOY: Thank you, Mr. Chair. When I call your  
19 name, if you would please respond with a yes, no, or abstain  
20 to the motion made by Chairman Hill to approve the  
21 application, seconded by Vice Chair John. Zoning  
22 Commissioner Peter May.

23           COMMISSIONER MAY: Yes.

24           MR. MOY: Mr. Smith.

25           MEMBER SMITH: Yes, sir, approve.

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1 MR. MOY: Vice Chair John.

2 VICE CHAIR JOHN: Yes.

3 MR. MOY: Chairman Hill.

4 CHAIRPERSON HILL: Yes to approve.

5 MR. MOY: Staff would record the vote as 4-0-1.

6 And this is on the motion made by Chairman Hill to approve,  
7 seconded by Vice Chair John. Also in support of the motion  
8 was Mr. Smith and Zoning Commissioner Peter May, we have a  
9 Board seat vacant. The motion carries 4-0-1.

10 CHAIRPERSON HILL: Okay, great, thank you, Mr.  
11 Moy.

12 All right, it's been a long day, and it's been a  
13 pleasure being with all of you. Mr. Moy, do we have anything  
14 else before we adjourn?

15 MR. MOY: There's nothing from the staff, sir.

16 CHAIRPERSON HILL: Okay, see you all next time.  
17 Bye-bye.

18 (Whereupon, the above-entitled matter went off the  
19 record at 3:55 p.m.)

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C E R T I F I C A T E

This is to certify that the foregoing transcript

In the matter of: Public Hearing

Before: DCBZA

Date: 10-07-20

Place: teleconference

was duly recorded and accurately transcribed under my direction; further, that said transcript is a true and accurate record of the proceedings.



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Court Reporter

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