

GOVERNMENT OF  
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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REGULAR PUBLIC HEARING

+ + + + +

WEDNESDAY

OCTOBER 28, 2020

+ + + + +

The Regular Public Hearing of the District of Columbia Board of Zoning Adjustment convened via Videoconference, pursuant to notice at 10:49 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  
CLIFFORD MOY, Secretary

ZONING COMMISSION MEMBERS PRESENT:

ANTHONY HOOD, Member  
MICHAEL TURNBULL, Member

OFFICE OF ZONING STAFF PRESENT:

SARA A. BARDIN, Director, Office of Zoning

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

MARY NAGELHOUT, ESQUIRE, Counsel to the Board

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The transcript constitutes the minutes from the  
Regular Public Hearing held on October 28, 2020

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

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

2 (10:49 a.m.)

3 CHAIRPERSON HILL: So the hearing will please come to  
4 order.

5 Good morning, ladies and gentlemen. We are convening  
6 and broadcasting this public hearing by videoconference. This is  
7 the October 28th, 2020, public hearing of the Board of Zoning  
8 Adjustment of the District of Columbia. My name is Fred Hill,  
9 Chairperson. Joining me today is Lorna John, Vice-Chair;  
10 Chrishaun Smith, Board Member; and representing the Zoning  
11 Commission will be Chairman Anthony Hood, as well as Commissioner  
12 Michael Turnbull.

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

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

22 Please state your name and home address -- please state  
23 your name and home address before providing oral testimony or your  
24 presentation; oral presentation to be limited to a summary of your  
25 most important points. When you are finished speaking, please

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

3           If you're experiencing technical difficulties accessing  
4 Webex or your telephone, there's a call-in number that you may  
5 call, and I'll repeat it twice, which is 202-727-5471. Once  
6 again, 202-727-5471. It's also on the screen in front of you.

7           All persons planning to testify either in favor or in  
8 opposition should have signed up in advance. They will be called  
9 by name to testify. If this is an appeal, only parties are  
10 allowed to testify by signing up to testify. By signing up to  
11 testify, all participants completed the oath or affirmation as  
12 required by Subtitle Y 408.7.

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

23           The order of procedures for special exceptions and  
24 variances are in Subtitle Y 409. The order of procedures for  
25 appeals is in Subtitle Y 407.

1           At the conclusion of each case, an individual who is  
2 unable to testify because of technical issues may file or request  
3 for leave to file a written version of the planned testimony to  
4 the record within 24 hours following the conclusion of public  
5 testimony in the hearing. If additional written testimony is  
6 accepted, then parties will be allowed a reasonable time to  
7 respond as determined by the Board. The Board will then make its  
8 decision at its next meeting, but no earlier than 48 hours after  
9 the hearing. Moreover, the Board may request additional specific  
10 information to complete the record. The Board and staff will  
11 specify at the end of the hearing exactly what is expected and the  
12 date when persons must submit the evidence to the Office of  
13 Zoning. No other information shall be accepted by the Board.

14           The Board's agenda may include previous cases set for a  
15 decision. After the Board adjourns the hearing, the Office of  
16 Zoning, in consultation with myself, will determine whether a full  
17 or summary order may be issued. A full order is required when the  
18 decision it contains is adverse to a party, including an affected  
19 ANC. A full order may also be needed if the Board decision  
20 differs from the Office of Planning's recommendation. Although  
21 the Board favors the use of summary orders whenever possible, an  
22 applicant may not request the Board to issue such an order.

23           The District of Columbia Administrative Procedures Act  
24 requires that the public hearing on each case be held in the open  
25 before the public. However, pursuant to Section 405(b) and 406 of

1 the Act, the Board may, consistent with its rules of procedures  
2 and the Act, enter into a closed meeting on a case for purposes of  
3 seeking legal counsel on a case pursuant to D.C. Official Code  
4 Section 2-575(b)4, and/or deliberating on a case pursuant to D.C.  
5 Official Code Section 2-575(b)13, but only after providing the  
6 necessary public notice and, in the case of emergency, close the  
7 meeting after taking a roll call vote.

8 Preliminary matters are those which relate to whether a  
9 case will or should be heard today, such as requests for a  
10 postponement, continuance, or withdrawal, or whether proper and  
11 adequate notice of the hearing has been given. If you're not  
12 prepared to go forward with the case today or if you believe the  
13 Board should not proceed, now is the time to raise such a matter.

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

15 MR. MOY: Thank you, Mr. Chairman. We do, but I think  
16 it would be more efficient for the Board if I notice that for you  
17 when I call the case. The only other note I'd like to make is  
18 there is a motion to postpone to the Spectrum Builders LLC, Case  
19 20282 that was filed Saturday, October 24th, but I can tee that up  
20 for you when I call that case.

21 CHAIRPERSON HILL: Okay, Mr. Moy, let's do that after  
22 Chairman Hood, let's do that Spectrum case, and then we can -- and  
23 then we'll do all that.

24 Okay. So, everybody, it is 10:50, do you want to say  
25 11:00, come back at around 11:00?

1 Thank you.

2 (Off the record)

3 (On the record)

4 CHAIRPERSON HILL: Oh, just to let everybody know, we  
5 are going to break at noon, because a Board member has something  
6 they need to take care of, and so we'll have lunch at noon. And  
7 then there might also be another like interruption at some point  
8 and, if so, if that Board member who just raised their hand, and I  
9 can go ahead and pause the hearing.

10 All right, Mr. Moy, can you call us back and call our  
11 next case?

12 MR. MOY: Yes. Thank you, Mr. Chairman.

13 The Board is back in session and the Board is in its  
14 public hearing agenda session. The time is at or about -- at or  
15 about 11:06.

16 So this first case in the hearing session is Case  
17 Application No. 20289 of 400 Seward Square LLC. And, as it stands  
18 in the record and as filed by the Applicant, it is for an area  
19 variance from the lot area requirements of Subtitle E, Section  
20 201.7, to permit an addition of three units to an existing 14-unit  
21 apartment building in the RF-3 Zone at premises 400 Seward Square,  
22 S.E., Square 819, Lot 28. And this was last heard by the Board on  
23 October 21st and continued to today, October 28th.

24 CHAIRPERSON HILL: Okay. Mr. Sullivan, can you  
25 introduce yourself, please?

1 MR. SULLIVAN: Yes. My name is Marty Sullivan with  
2 Sullivan & Barros on behalf of the Applicant.

3 CHAIRPERSON HILL: Mr. Sullivan, I was going to wear a  
4 tie, I forgot, I was going to wear a tie.

5 Ms. Wilson?

6 MS. WILSON: Hi, Alex Wilson from Sullivan & Barros on  
7 behalf of the Applicant.

8 CHAIRPERSON HILL: Okay, great.

9 So, Mr. Sullivan, I know that there's been a variety of  
10 things going on with this. I just want to start with the Office  
11 of Planning and then you can make some comments.

12 But, Ms. Elliott, are you there? Could you introduce  
13 yourself?

14 MS. ELLIOTT: Good morning, Mr. Chairman, members of the  
15 Board, I'm Brandice Elliott, representing the Office of Planning.

16 CHAIRPERSON HILL: Okay. So, Ms. Elliott, as I  
17 understand it, something is being said to the Zoning Commission  
18 about this, and so there is -- postponing a couple of weeks might  
19 form some clarity. If you can explain all that and then I'll let  
20 Mr. Sullivan have a response?

21 MS. ELLIOTT: Sure. So we did do our homework last  
22 week. We met with the Office of the Attorney General, as well as  
23 Zoning Administrator. A lot of the discussion is in light of the  
24 fact that we have other similar cases to this in the pipeline and  
25 so, because of that, we decided that it would be best to request a

1 -- or to submit an emergency text amendment to the Zoning  
2 Commission for consideration. That text amendment would clarify  
3 whether existing apartment houses are -- it would clarify the fact  
4 that existing apartment houses that were legally constructed are  
5 conforming uses, and so, therefore, the use variance would not be  
6 required, although in this case the area variance is still  
7 required because there is not 900 square feet of land area per  
8 dwelling unit. So the relief that the Applicant has requested  
9 would remain intact.

10 So basically, from a procedural stance, that text will  
11 be brought to the Zoning Commission tomorrow evening, and then,  
12 should they accept it, because it's an emergency text amendment,  
13 it would become effective immediately. So, you know, the Board  
14 could decide to listen to the case today, but they would not be  
15 able to make a decision, or it could be postponed for another  
16 week, you know, once the text would be effective and we know  
17 exactly, you know, what the Zoning Commission has approved.

18 CHAIRPERSON HILL: Okay. Mr. Sullivan, are you  
19 following all that?

20 MR. SULLIVAN: Yes, and I had a phone conversation with  
21 the Zoning Administrator on Friday, which agreed with everything  
22 that Ms. Elliott said there.

23 CHAIRPERSON HILL: Okay.

24 MR. SULLIVAN: So I'm understanding that all. My only  
25 question was -- we're ready to go forward, if the Board wants to

1 go forward. I know it's the vote that's a key date, not  
2 necessarily a hearing date. So just to save us a week, I guess,  
3 because the Board wouldn't be able to decide next week if we  
4 waited until next week anyway, so we'd lose a week, but I'll leave  
5 that to the Board.

6 So you have to wait a week to give a decision anyway, so  
7 if we postpone the hearing until next week, we'll have to wait  
8 another week for the decision. If we move forward with the  
9 hearing this week -- you don't have to wait anymore? Okay.

10 Okay, well, then I guess it doesn't matter. So it's up  
11 to the Board, whatever --

12 CHAIRPERSON HILL: Okay. Next let's hear the Zoning  
13 Commission Chairman, what do you -- do you have a suggestion as to  
14 delay or here, or thoughts?

15 COMMISSIONER HOOD: So I would like to respond to Mr.  
16 Sullivan. Mr. Sullivan, you're usually up on stuff, I'm surprised  
17 you didn't know we don't have to wait anymore. I'm just -- I was  
18 taken aback by that, actually, I was very surprised that you  
19 thought --

20 MR. SULLIVAN: I -- yeah, I asked for some clarification  
21 on that, but I didn't -- I thought that was the case, but --

22 COMMISSIONER HOOD: That's all right. I'm really just  
23 messing with you and giving you a hard time.

24 MR. SULLIVAN: I appreciate it.

25 COMMISSIONER HOOD: Mr. Chairman, I would like to wait

1 until after the Board -- I would like to hear the analysis of  
2 Board Member -- of Vice Chair John and Board Member Smith. I'll  
3 probably follow their lead since they're on the Board and I'm only  
4 here for 20 minutes.

5 CHAIRPERSON HILL: Okay. Well, if that's -- if it's an  
6 open -- if it's an open -- then it doesn't matter to me then. I  
7 mean, we -- Ms. John, Mr. Smith -- Mr. Smith, do you want to hear  
8 today or do you want to wait?

9 MR. SMITH: I would prefer to -- I would prefer to hear  
10 it today and we can make a decision about it next week.

11 CHAIRPERSON HILL: Ms. John?

12 VICE CHAIR JOHN: I'm fine with that. We could also  
13 hear it next week, depending on what next week looks like, but I'm  
14 fine either way. I leave it to you to decide, Mr. Chairman.

15 CHAIRPERSON HILL: Mr. Moy, what does next week look  
16 like?

17 (Pause)

18 MR. MOY: Okay, Mr. Moy, he might not -- he might not be  
19 there.

20 COMMISSIONER HOOD: Mr. Chairman, while we're waiting  
21 for Mr. Moy to come back, I would agree, next week sounds very  
22 good. I know I gave it to the Board members, but I wanted to be  
23 last. I think next week will be sufficient as far as I'm  
24 concerned.

25 CHAIRPERSON HILL: All right, okay, that's fine with me

1 then. Let's just do it next week.

2 All right, Mr. Sullivan, then we'll see you next week.  
3 We'll put you on first, if I can manage to do that. Okay?

4 MR. SULLIVAN: Thank you, I appreciate that. And I  
5 think it's Notre Dame?

6 CHAIRPERSON HILL: Oh, is that what it is?

7 MR. SULLIVAN: Yeah, I wasn't sure.

8 CHAIRPERSON HILL: I think you're right. I wonder why,  
9 I wonder why. They have just a fantastic marketing department  
10 then, because I don't have any interest in Notre Dame, you know.

11 Okay, all right. Thank you all. We'll see where Mr.  
12 Moy -- all right, thank you, Chairman Hood.

13 COMMISSIONER HOOD: All right, take care.

14 (Pause)

15 CHAIRPERSON HILL: Okay, let's see. Commissioner  
16 Turnbull, are you there?

17 COMMISSIONER TURNBULL: I am here.

18 CHAIRPERSON HILL: Okay.

19 COMMISSIONER TURNBULL: Somewhere -- there I am.

20 CHAIRPERSON HILL: Okay, great. Perfect. Good to see  
21 you. Okay, I don't know if Mr. Moy is here; I don't know if  
22 something happened.

23 (Background noise)

24 CHAIRPERSON HILL: Is that you, Commissioner Turnbull?

25 COMMISSIONER TURNBULL: Yeah, that's me. I thought just

1 to lighten up our day, we --

2 CHAIRPERSON HILL: I appreciate it. I think -- I really  
3 -- you know, we can continue this conversation. I think it was  
4 like maybe on an episode of "Gilligan's Island" or something, you  
5 know, as I was a child, because there's no need for me to know  
6 that.

7 Ms. John, it would seem to me -- I think we lost Mr.  
8 Moy. I'm going to announce the next case, if it ends up being  
9 that way. Ms. John, you have your hand up? Your microphone is  
10 not on, Ms. John.

11 VICE CHAIR JOHN: When is our next hearing date, Mr.  
12 Chairman? Do we really have one on the 4th of November?

13 CHAIRPERSON HILL: I think we do, I think we do. There  
14 was one -- there was -- I think -- yeah, I think we do. I think  
15 we had -- I think we -- during the last Presidential election, we  
16 had a training the next day, that I do remember. And so I think,  
17 Mr. Moy, we do have a hearing, public hearing on the 4th, correct?

18 COMMISSIONER TURNBULL: I see it down, Mr. Shapiro will  
19 be there with you.

20 MR. MOY: Yeah, I'm sorry, Mr. Chairman, I lost  
21 connectivity for a couple minutes, so I missed your ending with  
22 that last case that -- yeah. So where are we now? We're --

23 CHAIRPERSON HILL: Ms. John, I think your microphone is  
24 not muted, I don't know, because something is beeping.

25 Mr. Moy, so the last case, which was 20289, is now going

1 to be heard next week. And then so there was a question as to  
2 whether or not we're having a hearing next week, so I'm confirming  
3 that first. We are having a hearing next week, correct?

4 MR. MOY: We have a hearing scheduled next week for  
5 November the 4th with Peter Shapiro. So Michael Turnbull is  
6 correct.

7 CHAIRPERSON HILL: Okay.

8 MR. MOY: Yeah, because that's a Wednesday, November 4th  
9 is a Wednesday.

10 VICE CHAIR JOHN: I'm incredulous, Mr. Moy.

11 MR. MOY: I know. Regardless of what happens Tuesday,  
12 okay? Life goes on.

13 VICE CHAIR JOHN: I assume that people will be awake,  
14 but we'll see.

15 CHAIRPERSON HILL: Okay, all right. Okay, all right.  
16 So, Mr. Moy, so that next hearing, we're -- sorry, 20289 has been  
17 moved to next week and we'll do it first, if we can, and you can  
18 go ahead and call our next case.

19 MR. MOY: Yes, sir. And I believe before the break you  
20 wanted to take up the Spectrum case, correct?

21 CHAIRPERSON HILL: Oh, yeah. Thank you.

22 MR. MOY: Because there's a motion for --

23 CHAIRPERSON HILL: Yeah. No, do that one next.

24 MR. MOY: Okay. So for the transcript, this is Case  
25 Application No. 20303 of Spectrum Builders Group LLC. The caption

1 asks for special exceptions under the residential conversion  
2 requirements, Subtitle U, Section 320.2; Subtitle U, Section  
3 320.2(1) -- I'm going to say L, it could be an I -- from the  
4 rooftop architectural elements requirement, Subtitle U, Section  
5 320.2(h); and under Subtitle E, Section 5201 of the side yard  
6 requirements; Subtitle E, Section 207.3, to convert an existing  
7 semi-detached principal dwelling unit into a three-unit apartment  
8 house, RF-1 Zone, at premises 1638 Trinidad Avenue, N.E., Square  
9 4055, Lot 53.

10 And I think that, as I hinted earlier, there's a request  
11 to postpone from both the Applicant and the ANC.

12 CHAIRPERSON HILL: Okay, great. Thank you.

13 Let's see. Could -- is it Ms. Bacher?

14 MS. BACHER: It's Bacher, but --

15 CHAIRPERSON HILL: Bacher? Okay, great. Could you  
16 introduce yourself, please?

17 MS. BACHER: Hi, I'm Emily Bacher on behalf of the  
18 Applicant, representing the Applicant.

19 CHAIRPERSON HILL: Okay. And is it Ms. Shropshire?

20 MS. SHROPSHIRE: Yes, it's Keisha Shropshire. Can you  
21 hear me?

22 CHAIRPERSON HILL: Yes. Could you introduce yourself,  
23 please?

24 MS. SHROPSHIRE: Yes. I'm Keisha Shropshire, I'm the  
25 ANC Commissioner for single member (phonetic) District 5D-02, with

1 ANC 5D Commission.

2 CHAIRPERSON HILL: Okay, great. Hi, Commissioner. How  
3 are you doing?

4 MS. SHROPSHIRE: Good. How are you?

5 CHAIRPERSON HILL: Good. I like your background.

6 MS. SHROPSHIRE: Thank you.

7 CHAIRPERSON HILL: All right. Ms. Bacher -- Bacher --  
8 I'm sorry if I'm -- yeah -- you're requesting a postponement,  
9 correct?

10 MS. BACHER: Yeah, that's correct.

11 CHAIRPERSON HILL: Okay. And, Ms. Shropshire -- I mean  
12 Commissioner -- you're also requesting a postponement. You guys  
13 are talking --

14 MS. SHROPSHIRE: Correct.

15 CHAIRPERSON HILL: -- were you talking about next week?

16 MS. BACHER: No, we're talking about December 16th.

17 CHAIRPERSON HILL: Mr. Moy, what does December 16th look  
18 like?

19 MR. MOY: Sorry, I was looking for my mute button, as I  
20 usually do. So, anyway -- so, yeah, that looks good for the  
21 Board, Mr. Chairman.

22 CHAIRPERSON HILL: Okay, all right. So then let's go  
23 ahead and move you guys to December 16th, and hopefully you all  
24 can get together and make my day easier. Okay?

25 MS. SHROPSHIRE: Thank you.

1 CHAIRPERSON HILL: All right, thank you. Thanks,  
2 Commissioner. Thanks, Ms. Bacher.

3 MS. SHROPSHIRE: All right, thanks.

4 CHAIRPERSON HILL: Bye-bye.

5 MS. SHROPSHIRE: Are we dismissed now?

6 CHAIRPERSON HILL: Yes, yes. Or you're welcome to  
7 watch, it's always entertaining.

8 (Laughter)

9 CHAIRPERSON HILL: Okay. Then the next one, Mr. Moy?  
10 Whenever you get a chance.

11 (Pause)

12 MR. MOY: Okay. So this would be Case Application No.  
13 20280 of VBS Community Builders. This is amended for a special  
14 exception under residential conversion requirements, Subtitle U,  
15 Section 320.2; including waivers of the rear addition  
16 requirements, Subtitle U, Section 320.2(e); rooftop architectural  
17 element requirements, Subtitle U, Section 320.2(h); and pursuant  
18 to 11 DCMR Subtitle X, Chapter 10, for area variance from the lot  
19 area requirements of Subtitle U, Section 320.2(d), to convert an  
20 existing residential building into a five-unit apartment house,  
21 RF-1 Zone. This is at 622 I Street, N.E., Square 857, Lots 32 and  
22 113.

23 And I'll leave it at that.

24 CHAIRPERSON HILL: Okay, great. Let's see now -- oh,  
25 Ms. Moldenhauer, do you want to introduce yourself?

1 MS. MOLDENHAUER: Good morning. My name is Meredith  
2 Moldenhauer, from the law firm of Cozen O'Connor, on behalf of the  
3 Applicant.

4 CHAIRPERSON HILL: Okay. Who is with you, Ms.  
5 Moldenhauer?

6 MS. MOLDENHAUER: I have Mr. Smith, Mr. Wells, and Ms.  
7 Rottman.

8 CHAIRPERSON HILL: Okay. Mr. Smith, could you introduce  
9 yourself, please?

10 MR. WHITNEY SMITH: Yes. Good morning, Whitney Smith  
11 with Man Kitty Group, the developer of this project.

12 CHAIRPERSON HILL: Okay. Mr. Wells?

13 MR. WELLS: Good morning, I'm Bryon Wells, also with Man  
14 Kitty Group.

15 CHAIRPERSON HILL: Ms. Rottman?

16 MS. ROTTMAN: Good morning, Emilie Rottman, Square 134  
17 Architects.

18 CHAIRPERSON HILL: Commissioner Eckenwiler, would you  
19 like to introduce yourself?

20 MR. ECKENWILER: Good morning, Mr. Chairman, members of  
21 the Board, Mark Eckenwiler, Vice Chair, ANC 6C, on behalf of the  
22 ANC.

23 CHAIRPERSON HILL: All right, Commissioner. Well,  
24 welcome. I haven't seen you yet, so good to see you, although you  
25 kind of just froze there on me. I think you're with us, correct?

1 MR. ECKENWILER: I am, Mr. Chairman. My network  
2 connection has been up and down. I emailed Mr. Young my phone  
3 number, I'm already dialed in. So, if the video computer  
4 connection drops, we can just call back.

5 CHAIRPERSON HILL: Okay, fine. Well, let's leave you on  
6 for now, okay? All right.

7 All right, Ms. Moldenhauer, I assume you're going to be  
8 presenting to us?

9 MS. CAIN: Mr. Chairman?

10 CHAIRPERSON HILL: Yes.

11 MS. CAIN: One quick issue preliminarily before you get  
12 into the merits of the case. There was an issue with Otis in this  
13 case. The caption for the case was not amended to reflect the  
14 variance relief, so this was filed with OZ. We believe the Board  
15 can proceed with waiving this based on the requirements of Y  
16 402.11, given the fact that the ANC and OP did review the variance  
17 relief as part of their review and they have commented on it, but  
18 just a little preliminary matter to address before we move on to  
19 the merits.

20 CHAIRPERSON HILL: Okay, great. Well, actually, there  
21 is even our also notice issue that I've had kind of with the 19  
22 days and the DC register, correct?

23 MS. CAIN: Excuse me. Because it was postponed from its  
24 original hearing date on the 7th, the timing of the register isn't  
25 so much of an issue; it's what was in the case caption that was

1 advertised.

2 CHAIRPERSON HILL: Okay, but now the caption has been  
3 fixed, correct?

4 MS. CAIN: Yes. So Tony did send out revised public  
5 hearing notices, including the variance relief on October 15th.  
6 So those went to the Applicant, the 200-footers, the ANC. Again,  
7 like I said, the ANC has reviewed the variance relief, OP has  
8 reviewed the variance relief, so people are -- have been on notice  
9 of it. In addition, the letter submitted by the Applicant in  
10 support did reflect the variance relief as well.

11 CHAIRPERSON HILL: Okay. I'm going to waive the time  
12 requirements, unless one of my Board members raises their hand --  
13 they have not. Okay, so we'll go ahead and do that.

14 All right, so now --

15 MS. MOLDENHAUER: Thank you, Mr. Hill. I just want to  
16 note that we did make sure that the proper notice was provided on  
17 the poster at Exhibit 74B, so -- because we worked back and forth  
18 with the Office of Zoning on that. So I just wanted to make sure  
19 that that was properly also on the record, but I won't go any  
20 further since you've already waived. Thank you.

21 CHAIRPERSON HILL: Okay, all right. Ms. Moldenhauer,  
22 I'm going to go ahead -- I mean, I don't know how much time we're  
23 going to take, but I'm going to put 15 minutes on the clock just  
24 to start. I think it might end up going longer than that now that  
25 I'm looking a little bit more into it.

1           In fact, Mr. Young, go ahead and throw -- I don't know,  
2 throw 30 minutes up there, just so I know where we are, and we'll  
3 see what happens.

4           I mean, I know you know, Ms. Moldenhauer, where you  
5 stand in terms of the different agencies and what their opinion is  
6 of your argument, and so I'll let you begin whenever you like.

7           MS. MOLDENHAUER: Thank you very much, Chairman Hill.  
8 We have a PowerPoint presentation that I'd ask Mr. Young to pull  
9 up.

10          CHAIRPERSON HILL: Ms. Moldenhauer, just real quick. So  
11 that's not in the record, right?

12          MS. MOLDENHAUER: No, it is. We filed it 24 hours in  
13 advance --

14          CHAIRPERSON HILL: Oh, great, perfect.

15          MS. MOLDENHAUER: -- of the hearing.

16          CHAIRPERSON HILL: Good for you, that's great.

17          MS. MOLDENHAUER: I try to stay on top of these things.  
18 It's not always easy in 24 --

19          CHAIRPERSON HILL: I know, I know, but I'm just saying  
20 it doesn't -- it helps the Board.

21          Okay. All right, go ahead. I'm sorry.

22          MS. MOLDENHAUER: Not a problem.

23          So we're here today to present the project at 622 I  
24 Street, N.E. Next slide.

25          As a quick overview, we are asking for one variance, a

1 variance from the 900 square foot requirement under Section  
2 320.2(d). Under this relief, we're asking for 17 square feet of  
3 relief, and we're asking for a special exception relief to convert  
4 a residential building to an apartment building. Under that  
5 special exception, we are asking for two waivers, one from the 10-  
6 foot extension requirement, and then another from the  
7 architectural element for the rooftop.

8           So I will turn to the next slide and turn to Mr. Smith  
9 to kind of -- I will walk through the project. As everyone can  
10 see, the project is located in the RF Zone. The property is a  
11 large, irregularly-shaped property, with the wider portion on the  
12 rear portion and a smaller portion facing the street.

13           Next slide.

14           I'll turn now to Mr. Smith to walk through the project  
15 and some of the initial community outreach.

16           MR. WHITNEY SMITH: Thank you. Thank you, Meredith.

17           Just to give, you know, a very high level. As you know,  
18 we're converting this project into a five-unit apartment building.  
19 One of the exciting elements of this is that we will have an  
20 inclusionary zoning unit, which is something that we're very happy  
21 to be able to produce.

22           We'll have a third-story addition on the building facing  
23 I Street, in addition to digging a new cellar to allow for two  
24 units, two-over-twos. The rear addition will have a meaningful  
25 connection, connecting that front portion, allowing access from I

1 Street to the rear three-story structure, which will have three  
2 family-size units.

3 Let's move to the next slide. This is the existing  
4 conditions of the project. So you can see all the way on the left  
5 we have our structure there. That is the current state, as you  
6 can see, the two-story plus the area that is filled in, and then  
7 there's kind of a gap between our structure and our neighbor.

8 The next picture shows the rear area right now where it  
9 expands from that sort of narrow lot to the wider lot on the  
10 picture all the way to the right, so it's now double wide at that  
11 view, and this is the view from the alley.

12 Next slide. This shows certain perspective from the  
13 rear alley facing our project. The 624 I Street on the right, you  
14 can see it, which is our neighbor, that's their rear alley  
15 dwelling building unit. And 628 is another rear alley dwelling  
16 unit that is more comparable in its sort of positioning and height  
17 to the structure that we're proposing in the rear.

18 Next slide. This gives you a sort of bird's eye of the  
19 block. It shows the neighbors that were within the 200 foot of  
20 our property that we had gone out to. You know, obviously, it was  
21 a great challenge with the pandemic and face-to-face interaction,  
22 but we were able to get in front of the majority of our neighbors,  
23 give a chance to (indiscernible) in addition, it was also an  
24 opportunity to garner a lot of support for our project.

25 We have currently about 26 letters of support, 17 of

1 those letters are shown in green and those are within the 200 foot  
2 of our property.

3           Let's move on to the next slide. 618, which is our  
4 neighbor to the west, this is the neighbor with about 85 feet of  
5 our -- sharing 85 feet of our border. They provided us with a  
6 letter of support after taking some time reviewing our plans,  
7 allowing us to virtually, as well as in person, present our  
8 project to them. And they were extremely satisfied and thought  
9 our project would be a good addition to the area, enough to  
10 provide a letter of support.

11           Next slide. Our neighbor at 620 is to the west as well.  
12 They are -- they have a smaller frontage to our property;  
13 however, we have spent a lot of time with them. We made our first  
14 contact in June. In late June, we did a virtual presentation and,  
15 following that, had a number of in-person interactions, as many as  
16 five, and we've had a number of email correspondence with them,  
17 probably totaling about nine.

18           These conversations, the nature, essentially, is just  
19 continuing to kind of talk through the project, our plans, to help  
20 make them feel comfortable with what we're doing. We had a number  
21 of attempts also to not only present it to the property owner, but  
22 also members of their family. Our most recent communication with  
23 them was as recent as last week.

24           Next slide, please. Our neighbor at 624, this is our  
25 neighbor to the east, we've had a number of correspondences with

1 them. We started our initial conversation with them in April; in  
2 late May, we had a virtual presentation with them. Since then,  
3 we've had about seven in-person conversations. We've walked their  
4 property with them, trying to provide them with a sense of what  
5 our project -- how our project would be situated on the property.  
6 We've had ten email threads with them and, most recently, we had  
7 another virtual presentation on Monday with them to sort of  
8 further detail our plans.

9           Next slide, please. And now I'll turn it over to Emilie  
10 to kind of run through the plans of the project.

11           MS. ROTTMAN: As you can see on this site plan, we're  
12 proposing to add a third story to the existing structure, and also  
13 extend the existing structure back no more than ten feet from  
14 either adjacent neighbor for that portion of the building. We're  
15 providing a one-story meaningful connection off of the courtyard,  
16 and then providing a three-story rear addition beyond that.

17           One thing to note, we were intentional about angling a  
18 portion of the rear part of the addition to create more space in  
19 the courtyard area. I'm not sure if there's a way for me to use  
20 my mouse to highlight different things or not. Let me request  
21 permission before -- great. So in this area we were adding the  
22 angled wall to really create more of an opening in this location  
23 with this portion of the courtyard, and that was it for this. We  
24 are providing four parking spaces and we've made sure that the  
25 trash is off of the alleyway, but that there's still access to the

1 alley.

2           If you could go to the next slide, please? Or do --  
3 thank you.

4           We also -- from the front façade we are proposing to  
5 relocate the door from the left side of the building to the right  
6 side of the building, and we are infilling the missing portion of  
7 the front façade of the dogleg where we'll be extending the  
8 cornice line across and bringing in a new window.

9           For the third floor, we are proposing to build directly  
10 on top of the cornice line. And we went through a series of  
11 iterations, but ultimately decided to go with a more traditional  
12 or historic-looking roofline with the dormered windows.

13           Next slide. And one of the main reasons we did relocate  
14 the door, as you can see from the existing neighbors, every other  
15 property door is along that right side and they are all slightly  
16 more elevated, so this would be more in kind with the  
17 neighborhood.

18           Next slide. These are just our typical floor plans.

19           If we can go to the next slide? We are providing a  
20 total of five units; each unit is a three-bedroom-two-and-a-half-  
21 bath unit. And you can see the meaningful connection from the  
22 front portion of the building to the rear portion of the building,  
23 and again just to note this notched angle to really create a sense  
24 of privacy between the two pieces. We also are providing an IZ  
25 unit, which is located here on the first floor.

1           You can go through the next slides just to show this is  
2 the typical plan. The front portion is -- each unit is a two-  
3 story unit, lower and first floor is one, second and third floor  
4 is the other, and in the rear portion it's a flat one first floor  
5 for each unit.

6           And if you go up to the next slide? This is just the  
7 third floor.

8           And the following slide? Just to illustrate that, we  
9 are proposing a roof deck, and are making sure to keep the railing  
10 setback at at least to a one-to-one setback.

11           Next slide. And here you can see the meaningful  
12 connection in sort of its courtyard elevations. This is the back  
13 face of the existing structure, the ones for connection, and the  
14 front face of the rear portion of the addition. After our  
15 presentations to the ANC -- or the PZ initially, we lowered the  
16 height of the meaningful connection to reduce its visibility.

17           Next slide. And we also wanted to note where the  
18 existing fence is located for the neighboring property, between  
19 the two, and the majority of the meaningful connection will be  
20 covered by that existing fence. Also, in terms of privacy, we  
21 wanted to note that we were purposeful of not putting any windows  
22 along this façade of any at-risk windows to, again, maintain  
23 privacy between the adjoining neighbors.

24           Next slide. And I know Whit went into this earlier with  
25 the existing structure, how there's a number of alley structures,

1 mostly garages, but with the two-story accessory dwelling unit and  
2 three-story accessory dwelling unit, we just wanted to show the  
3 context of our building in relationship to those.

4           Next slide. And we also went through some additional  
5 privacy measures after conversations with both the abutting  
6 neighbors and the ANC where we updated the design to include  
7 additional vegetation, and we omitted the Juliet balcony  
8 projections that were off the kitchen areas and adding an anti-  
9 glare film to again reduce any glare or solar obstructions that  
10 may be caused by the addition. And in addition to that, as I had  
11 previously mentioned, we were trying to be mindful of the spacing  
12 between the areas of the courtyard. So from this corner to the  
13 point of the property line, this area, it's 20 feet. So, even  
14 though it may look narrow in certain areas, it's a pretty large  
15 space.

16           Next slide. And I guess to kind of go into some of the  
17 other design considerations as to how we ended up --

18           MS. MOLDENHAUER: Yeah, Emilie, we'll go into that two  
19 slides from now.

20           MS. ROTTMAN: Okay, sorry.

21           MS. MOLDENHAUER: No, it's okay. I kind of broke up the  
22 presentation a little bit.

23           MS. ROTTMAN: But I will hand this back over to Meredith  
24 for a very short while. Thank you.

25           MS. MOLDENHAUER: Thanks, Emilie, and I'm going to call

1 back on you in a moment.

2 CHAIRPERSON HILL: Hey, Meredith? Ms. Moldenhauer?

3 MS. MOLDENHAUER: Yes.

4 CHAIRPERSON HILL: You had proffered some expert  
5 testimony, right?

6 MS. MOLDENHAUER: Yes, and Ms. Rottman has been in the  
7 record previously.

8 CHAIRPERSON HILL: There was somebody who hadn't been, I  
9 think.

10 MS. MOLDENHAUER: Not in this case.

11 CHAIRPERSON HILL: Mr. Moy, you said there was someone  
12 maybe who still needed to be approved?

13 MR. MOY: I'm sorry, Mr. Chairman, but these buttons are  
14 really small. Okay. So, yes, Mr. Smith, he has been before the  
15 Board before, but for some reason he's not on my sheet, but it  
16 wouldn't hurt to reconfirm -- confirm or affirm his expert status.  
17 But for Ms. Rottman, not before the BZA; maybe she's been before  
18 the Zoning Commission.

19 CHAIRPERSON HILL: Okay. So, Ms. Rottman and Mr.  
20 Schneck, is that right? So you're both registered architects, is  
21 that correct?

22 MS. ROTTMAN: Yes.

23 CHAIRPERSON HILL: Mr. Schneck?

24 MS. MOLDENHAUER: I'm not sure if Mr. Schneck is on the  
25 call.

1 CHAIRPERSON HILL: Oh, all right.

2 MS. MOLDENHAUER: Mr. Schneck is a principal with Ms.  
3 Rottman's group.

4 CHAIRPERSON HILL: Is he on the call?

5 MS. MOLDENHAUER: I don't believe so.

6 CHAIRPERSON HILL: Okay, so he doesn't need to be then  
7 let in as an expert. So does anybody have any issues with Ms.  
8 Rottman and her resume? I do not.

9 All right, nobody is raising their hand -- oh, Mr.  
10 Turnbull?

11 COMMISSIONER TURNBULL: I'm okay.

12 CHAIRPERSON HILL: Okay, great. All right. Then, Ms.  
13 Rottman, we'll go ahead and make sure you're on our list as an  
14 expert.

15 And, Mr. Young, if you could pull up their presentation  
16 again, please? Thank you.

17 MS. ROTTMAN: I'm not sure if it's necessary or not, but  
18 Mr. Schneck did text me that he is in the audience, if he needed  
19 to un-mute.

20 CHAIRPERSON HILL: Okay. Well, we'll see what happens.  
21 Just leave him alone for now.

22 MS. ROTTMAN: Sounds good.

23 CHAIRPERSON HILL: Okay. Ms. Moldenhauer?

24 MS. MOLDENHAUER: Okay, we're back at slide 23.

25 Okay. As the Chairman indicated, you know, we're aware

1 of kind of the position of this case. We wanted to start off and  
2 hopefully not go through boring case law, but go through some  
3 helpful, important, you know, factors that we look at when looking  
4 at the variance test. We obviously understand the significance of  
5 the variance test and want to look at some of the case law that  
6 identifies the standard.

7           And so, first, we start off with the *Palmer* case, where  
8 it identifies that the unique circumstance or peculiar -- the  
9 circumstance that must be identified for the property cannot be a  
10 general condition in the neighborhood. So in a moment we'll kind  
11 of walk through the neighborhood and some of the unique conditions  
12 that we look at.

13           In addition to that, you know, we look at whether or not  
14 -- in *Gilmartin*, it seems unlikely that many properties would be  
15 affected in this same or particular way.

16           And then, finally, we look at the *1700 block of N Street*  
17 *v. the BZA*, which is a Court of Appeals that discussed a YMCA and  
18 a variance from the parking relief, and in that case the Court of  
19 Appeals stated that, due to the irregular shape of the lot, which  
20 appeared to be unique and the cost provided for the required off-  
21 street parking to be extraordinary, one of the problems was that  
22 if you had to cut the pool off, that doing so, the cost provided  
23 for the parking under the pool tank would be problematic, and that  
24 that created the practical difficulty and satisfied the variance  
25 test.

1           Next slide. So we look now today at this case and we  
2 look at, you know, both the OP report and what we have in the  
3 record. And the OP report, while identifying that they did not  
4 find the property to be exceptional, did acknowledge that the  
5 property was two and a half times the size of a minimum lot in the  
6 neighborhood. You know, we go through and point out that it is  
7 the largest existing, you know, lot that is not for a non-  
8 contributing, or a church or other type of non-residential use.  
9 And then the Office of Planning also acknowledges that it is a  
10 wider and is much wider than the minimum requirement of 18 square  
11 feet -- or 18 feet at a 40-foot width at the largest in the unique  
12 shape in the rear.

13           Next slide. So here we specifically kind of go through  
14 in detail and we look at, you know, all of the other standard  
15 rectangular and long lots that are in this square. And we also  
16 look at the -- that the property is 4,484 square feet and one of  
17 the largest in the square. The property is uniquely wider and  
18 obviously shaped where it has the smaller front portion with a  
19 wider rear.

20           And, uniquely, kind of an interesting factor here is  
21 this is a unique condition, it's a unique condition in this area,  
22 because the diagonal road here on the right-hand side of the  
23 screen here is actually created by West Virginia Avenue, which  
24 comes up on the right-hand corner here of the slide, and was  
25 originally designed for part of the B&O railroad tracks which was

1 intended to be expanded, but never was. And so that's part of why  
2 this lot is unique and is so large.

3 And then in addition to that, when comparing it to other  
4 larger lots, you know, any other larger lots are existing churches  
5 or properties that are in the NC-10 Zone, which is directly on the  
6 other side of the street here.

7 Next slide. So we -- if the property is unique given  
8 these factors, then the next question is what is the practical  
9 difficulty and how does that relate. And so we look at practical  
10 difficulty and some of the case law, and again we go back to the  
11 *1700 Block of N Street*. In this case, the Court of Appeals found  
12 that it was appropriate for the board to evaluate whether there  
13 were any feasible alternate measures, in this case to potentially  
14 build a pool, and the required zoning. And so that's really what  
15 we are looking at today. We are looking at this unique large site  
16 with a unique shape and whether or not that has a challenge given  
17 any feasible alternative measures, and whether alternatives would  
18 require relief as well.

19 And so we'll go to the next slide and I'll ask Ms.  
20 Rottman now kind of to -- you know, keeping the Zoom virtual  
21 meeting interesting, to pop back over to her and for her to walk  
22 through architecturally where there is practical difficulty from  
23 an architectural perspective in alternative designs.

24 Ms. Rottman?

25 MS. ROTTMAN: Sorry, I thought hit un-mute. My

1 apologies. Thank you very much, Meredith.

2           So as discussing earlier with the presentation as to how  
3 we sort of ended up with the design scheme we did, we looked at a  
4 number of ways to build on the lot. And if we were to just extend  
5 back with the narrow portion of the building as far as we could,  
6 it limited the amount of units that we could put into the  
7 property, especially because of window locations and it sort of  
8 being more of a narrow size, and it would have been three stories  
9 all the way back. And if we were to be adding windows, especially  
10 along the party wall, it would be at-risk windows, potentially  
11 worse in terms of privacy issues.

12           We also looked at if we were to be adding an accessory  
13 dwelling unit as a rear or alley lot structure instead of the  
14 proposed layout that we came up with and there were a number of  
15 challenges in construction with the utilities. In order to bring  
16 the utilities from the street, we have a narrow opening available  
17 to be able to extend the utilities back and for added maintenance  
18 and other things like that, it would have had to be an easement  
19 beneath the existing structure. And you also wouldn't be able to  
20 get -- there's no way as essentially a matter of right to get five  
21 family-sized units on the property. If we were to just do the  
22 ten-foot addition, you'd have three units and you would lose the  
23 IZ unit in particular.

24           And so this is sort of how we ended up where we did in  
25 terms of the design.

1 MS. MOLDENHAUER: Thank you, Ms. Rottman.

2 Next slide. So we go back then to, given the uniqueness  
3 and the practical difficulty of the design, as Ms. Rottman has  
4 walked through, especially looking at all alternative measures or  
5 alternative designs, we also want to consider for this variance  
6 test the fact that we are asking for a de minimis amount of  
7 relief.

8 In *Gilmartin*, the Court of Appeals guided the board and  
9 said, when looking at a variance test, you can look at, you know,  
10 three different factors: the weight of the burden of strict  
11 compliance; two, the severity of the variance requested; and,  
12 three, the effect of the proposed variance. That case has  
13 obviously -- *Gilmartin* has been around forever, it's still great  
14 law, because even the Court of Appeals just confirmed, actually  
15 this summer in 2020 they issued a decision in a BZA case for Kline  
16 Operation, which was a hotel on 5th Street that went before the  
17 Board and was affirmed. The Court of Appeals in *450K* affirmed  
18 this and actually called out the fact that the Board can consider,  
19 and in that case it was a de minimis amount of relief, the Board's  
20 order referenced the de minimis standard.

21 And so here we believe that, you know, this is good law  
22 and the Board -- you know, the Office of Planning report,  
23 unfortunately, says that, you know, the Applicant makes a de  
24 minimis argument, and suggests that it is a minimal nature relief  
25 and should be reviewed as a factor, but that they don't consider

1 that as a prong. We are just simply pointing out to the Board  
2 that it is something the Board has looked at before -- next slide  
3 -- and something that the Court of Appeals has acknowledged.

4 In addition to that, kind of looking at the de minimis  
5 standard, in Case 19119, this was a 900-square-foot case, the  
6 Board did find that three square feet here, we're asking for 16,  
7 was de minimis and that they had a corresponding lower burden of  
8 proof in that order. In addition to that, in the BZA Case 19117,  
9 they also applied a de minimis standard for a 10.6 percent relief.  
10 And then in Case 18865 for the height of an accessory dwelling  
11 structure at a 3.2 percent degree of relief, the Board in that  
12 order also referenced the de minimis standard.

13 Next slide. So what is de minimis about our relief?  
14 Let's just kind of dive in here and look at the numbers. So we  
15 are asking for, you know, 0.36 percent shorter than the 900 square  
16 feet relief for this lot. The lot is 4,484 square feet, which  
17 instead of providing 900 square feet per unit, we're talking about  
18 896. So we're, you know, 3.2 square feet per unit of relief. We  
19 believe that this 16 square feet, you know, is de minimis, but  
20 that we do satisfy the high level of a variance test.

21 The Applicant has approached the three abutting property  
22 owners potentially to acquire this land, this 16 square feet.  
23 That, unfortunately, has not been successful, which also leads to  
24 the challenge that this property is landlocked and there's no  
25 other way to potentially expand the site. In addition to that,

1 the redesign would eliminate the fourth IZ unit, which is  
2 obviously a benefit to the project.

3 Next slide. Then we go to the third aspect of the  
4 variance test, no detriment to the public good. Here the  
5 neighborhood has overwhelmingly supported the project, given the  
6 letters of support. The ANC also in their footnote supports the  
7 variance for the fifth unit. OP states the variance would not  
8 harm the public good in their report and granting the relief here  
9 would allow for a family-size IZ unit.

10 We, you know, know that there's lots of times, you know,  
11 one bedrooms are two bedrooms, sometimes, you know, even two  
12 bedrooms and dens that are provided in IZ, but this is a three-  
13 bedroom family-size unit in and also next to a high-density zone,  
14 which is right near K Street. It's literally right behind the  
15 Whole Foods that is on H Street, N.E. And so it has a lot of  
16 amenities, as well as access to public transit, as I think is  
17 outlined in our filing.

18 Next slide. I kind of leave the variance test and  
19 quickly go into the special exception relief. We are looking and  
20 kind of focusing in on the two areas of waivers that we're asking  
21 for. The first waiver that we are requesting is the ten-foot  
22 waiver to project 81 feet past the adjacent property, and then the  
23 second is from the rooftop embellishment, as Ms. Rottman had  
24 walked through with the façade and architectural design.

25 Next slide. In OP's report, the ten-foot waiver, they

1 quote and they say OP is not opposed to the proposed massing, as  
2 it should not unduly affect light and air. They also identify  
3 that since the rear addition complies with the development  
4 standard it would not have --

5 CHAIRPERSON HILL: Ms. Moldenhauer?

6 MS. MOLDENHAUER: -- an impact on adjacent properties.

7 CHAIRPERSON HILL: Ms. Moldenhauer? I would say, you  
8 know, there is a hard stop at 12 o'clock. So --

9 MS. MOLDENHAUER: I'm almost done.

10 CHAIRPERSON HILL: Gotcha.

11 MS. MOLDENHAUER: Okay, sorry. I appreciate that, Mr.  
12 Hill, and I will hard stop.

13 Next slide. So I think as part of the record one of the  
14 things we looked at was the privacy concerns and the distance  
15 proposed. We obviously understood the ten-foot rule was intended  
16 to provide light and air and a distance from neighboring property  
17 owners. As Ms. Rottman, the addition to the row home portion of  
18 the structure is only ten feet from the abutting neighbors.  
19 Obviously, we then created a meaningful connection creating an  
20 open courtyard to provide a distance. As you can see here, we're  
21 35 feet, six and a three fourths inches from our western neighbor,  
22 with also no windows on our eastern neighbor's side.

23 Next slide. We went through following our first meeting  
24 with the ANC and kind of wanted to understand a better  
25 understanding of some of the characteristics of the neighborhood

1 and whether or not the separation was consistent with the  
2 character, especially as it satisfies the special exception test,  
3 and so I'm just going to flip through the next couple slides to  
4 show -- next slide, next slide -- I'm sorry, before that.

5           So, as you can see, what we did was we looked at kind of  
6 every neighborhood, whether you're in the downtown zone, whether  
7 you're in a certain area of a residential zone or whether you're  
8 in like an R-1-B up in Upper Northwest or in another area in  
9 Brookland, every area has its own character. And so one of the  
10 things we wanted to ensure was that, even though we were asking  
11 for relief on this waiver requirement for the special exception  
12 standard, that it was designed consistent in effect with the  
13 character of the neighborhood. We've shown images of the alley  
14 and the structures consistent with some of the other alley  
15 structures, as well as mitigation factors that we've proposed in  
16 regards to landscaping and angling and taking away of a Juliet  
17 balcony to try and address some of these factors in connection  
18 with some of our conversations.

19           Based on all of that, we'll open up the record to Board  
20 questions, potentially after lunch. Two minutes to spare, maybe,  
21 but thank you.

22           CHAIRPERSON HILL: Okay. Mr. Young, if you can pull the  
23 presentation for a minute. All right, we're probably going to  
24 come back to the presentation.

25           I know there was a break at noon that had to happen, so

1 we're going to go ahead and take the break.

2 Ms. John, what do you think, like how long for lunch?

3 VICE CHAIR JOHN: Forty five minutes?

4 CHAIRPERSON HILL: All right, perfect. There you go.

5 So we'll be back here at 11:45 -- I'm sorry, 12:45, 12:45. Thank  
6 you all.

7 MS. MOLDENHAUER: Thank you.

8 (Off the record)

9 (On the record)

10 MR. MOY: Yes. Thanks, Mr. Chairman. So the BZA Public  
11 Hearing session is back in session after a quick lunch break and  
12 the time is at or about 12:49 p.m.

13 CHAIRPERSON HILL: Okay. So I know that we're at  
14 questions and, my fellow Board members, I think this is going to  
15 be a long day, just to let you know.

16 Commissioner, I don't know -- I see your report and  
17 everything. I mean, do you want to give testimony or did you have  
18 a presentation, or what would you like to do?

19 MR. ECKENWILER: Mr. Chairman, I'm happy to summarize.  
20 ANC 6C opposes the request for special exception relief, that's  
21 our bottom line and that was by a 5-to-zero vote with one  
22 abstaining member. You can see our full letter at Case Exhibit  
23 79. I'm happy to run through a quick summary of the points in  
24 that letter, if that would be useful to you.

25 CHAIRPERSON HILL: Yeah, sure, that would be great.

1 Please, go ahead.

2 MR. ECKENWILER: So just sort of taking you through, all  
3 of this arises under Subtitle U, Section 320.2, as you know.

4 Our objections are threefold. The first is that one of  
5 the requirements in 320.2(e) is that the addition not extend more  
6 than ten feet as the rear wall of any primary adjacent dwelling  
7 structure and this blows that out of the water. This addition  
8 would extend 81 feet as the building -- I believe it's the  
9 building to the east, 624. And while it's true that the Board  
10 does have discretion under 320.2(1) to waive that requirement, ANC  
11 6C would oppose that because it would entirely subvert the purpose  
12 of that provision. You're obviously well familiar with this,  
13 which relates also in the RF Zones under Subtitle E, and, you  
14 know, it was put there by the Zoning Commission for a reason. We  
15 think it would entirely undermine the purposes of that restriction  
16 to grant relief, grant a waiver in this case.

17 Second, as you know, there's also a requirement in  
18 320.2(h) -- and, again, this has parallels in Subtitle E -- not to  
19 significantly alter an original architectural element. In this  
20 case there's a proposed new third story which would rise directly  
21 from the existing cornice line at the front of the building and,  
22 as we've cited in the letter, there was a Zoning Administrator  
23 interpretation holding for the parallel provision in Subtitle E  
24 that, in order to avoid creating such a significant alteration,  
25 any new addition of a floor or penthouse should be set back at

1 least three feet from the protected rooftop architectural element.  
2 So in this case that would be the cornice, there's no setback  
3 provided in this case.

4 And, third, we would also refer the Board to the  
5 provision of 320.2(i), substantial adverse impacts on the air,  
6 light, and privacy of adjacent dwellings.

7 One thing to note here is we've got a new three-story  
8 structure that is directly behind and facing the rear of 620 I  
9 Street, so that's the building immediately to the west, and to see  
10 that in plan -- and you can refer to Exhibit 59A, sheet SD, that's  
11 Sierra Delta 1.12.

12 To touch a little bit on something that Ms. Rottman  
13 covered in her presentation, it's true that the application does  
14 include some notional and extraordinarily vague depictions of  
15 screening foliage, maybe a screening fence. At the outset I would  
16 note there are absolutely no specifics about that, what the height  
17 is supposed to be, you know, what kind of foliage. We doubt that  
18 that screening would be effective even if it were established, to  
19 the extent it's depicted at all. There's no commitment offered to  
20 properly maintain that screening and, in any event, we would  
21 question the likelihood that that commitment would be enforceable  
22 as a practical matter in the future.

23 One really important point about this last issue,  
24 320.2(i), so that's air, light, and privacy, that may not be  
25 weighed under the waiver provision in 320.2. So failure to comply

1 with that, in other words, having a substantial undue adverse  
2 impact on air, light, and privacy would be fatal to the  
3 application.

4 And as one final point, I do want to touch on the  
5 allusion that was made to the various letters. As I think you can  
6 see from the map, the letters of support are not only form  
7 letters, but the vast majority of those are from properties that  
8 are really nowhere near the zone of impact for this project.

9 And I do want to clarify one thing. You know, Mr. Smith  
10 did refer to, you know, the property to the west, there are  
11 actually two properties to the west, 618 is further to the west  
12 and, while it does share a common lot line that's at the rear of  
13 that property, 620 I immediately to the west is bounded on two  
14 sides by the property at issue here and there's no letter in the  
15 record -- I think, you know, the Applicant's presentation makes  
16 clear that, despite their best efforts, they've got no letter of  
17 support or even non-objection from either of the adjacent owners,  
18 either 620 or 624 I Street.

19 And for all of those reasons we would urge the Board to  
20 deny the application. I'm happy to answer any questions.

21 CHAIRPERSON HILL: Okay. Thanks, Commissioner.

22 So you guys, again, you're opposed to the variance as  
23 well, right?

24 MR. ECKENWILER: That's not correct, Mr. Chairman. And  
25 just to preface that, it's worth keeping in mind the variance

1 request here is as to one prong of the special exception, that's  
2 the 900-square-foot rule, so it's subsidiary to the request for a  
3 special exception. ANC 6C in its vote did support relief as to  
4 that one prong, but it doesn't really make any difference to our  
5 bottom line because it is simply one piece of the request for a  
6 special exception relief overall, which we absolutely oppose.

7 CHAIRPERSON HILL: Okay, all right.

8 Let's see. Does the Board have any questions for -- and  
9 I'm going to turn to the Office of Planning and go through all of  
10 their report, but does the Board have any questions for the  
11 Applicant or the Commissioner? And if so, please raise -- Mr.  
12 Turnbull?

13 COMMISSIONER TURNBULL: Thank you, Mr. Chair.

14 Commissioner Eckenwiler, you -- you're not opposed or  
15 you're not in opposition to the 900-square-foot waiver or allowing  
16 -- does that mean that you -- it sounded like Ms. Moldenhauer said  
17 you were in -- and maybe I'm misinterpreting what she said, but  
18 something to the effect you'd be in support of the IZ unit or the  
19 five units?

20 MR. ECKENWILER: So the ANC voted to support the  
21 variance relief for that one sub-prong --

22 COMMISSIONER TURNBULL: Right.

23 MR. ECKENWILER: -- of the special exception test. So  
24 on the 900-square-foot piece, we supported that one  
25 (indiscernible) of the application.

1 COMMISSIONER TURNBULL: Not necessarily leading to the  
2 approving five units on the site?

3 MR. ECKENWILER: Well, that's one of the requirements  
4 for them, I mean, if they're asking for five units --

5 COMMISSIONER TURNBULL: Right.

6 MR. ECKENWILER: -- that would be necessary. Honestly,  
7 that's as far as the vote went.

8 COMMISSIONER TURNBULL: That's as far as -- okay. All  
9 right, thank you.

10 CHAIRPERSON HILL: Okay. Anyone else? All right,  
11 turning to the Office of Planning.

12 MS. ELLIOTT: Hi. Good afternoon, Mr. Chairman, members  
13 of the Board. I'm Brandice Elliott, representing the Office of  
14 Planning, and I'm going to give you our recommendation for Case  
15 20280, 622 I Street, N.E.

16 The Office of Planning is recommending denial of the  
17 requested area variance, and I think I would like to go through  
18 OP's analysis a little bit just to add some clarity to what we  
19 reviewed and how we reviewed it. The Applicant provided a lot of  
20 information and I just want to make sure that, you know, our  
21 recommendation doesn't get lost.

22 So, basically, the area variance, the Applicant is  
23 required to demonstrate that there is an extraordinary or  
24 exceptional situation that results in a practical difficulty,  
25 right? So the two uniquenesses that have been identified by the

1 property owner include the size of the lot and the shape of the  
2 lot. And so if you consider those to be uniquenesses, you move  
3 to, you know, identify how those uniquenesses result in a  
4 practical difficulty.

5           So in regards to the shape of the lot -- I'm sorry, in  
6 regards to the size of the lot, if you say that this is a unique  
7 lot because it's so large, that creates a practical difficulty for  
8 this project how? And so that's where we get hung up on the  
9 variance criteria, because we don't see how the size of the lot  
10 itself is creating a practical difficulty other than the Applicant  
11 really can't construct the five units that they'd like to have on  
12 the lot.

13           And just to clarify, the regulations only allow four  
14 units on this lot. I think there were some statements made by the  
15 Applicant that it could be, you know, misinterpreted as five units  
16 are permitted, and five units are not permitted. The zoning  
17 regulations require 900 square feet of land area per unit and on  
18 this lot that's four units, and there's no allowance to round up  
19 no matter how close you get to that number. So four units is  
20 where we're at.

21           And so as it relates to the irregular shape of the lot,  
22 which is the uniqueness that the Applicant identified, you know,  
23 how does the shape of a lot create a practical difficulty that  
24 necessitates this relief? The shape of a lot really has nothing  
25 to do with the 900-square-foot rule. And so in fact the Applicant

1 has responded to the shape of the lot in the design of their  
2 development. They've created a unique response by incorporating a  
3 meaningful connection into their design and concentrating a large  
4 portion of the mass at the rear of the lot and, but for the fifth  
5 unit that's being proposed, OP would support that solution.

6 So I hope that that explains why we're recommending  
7 denial of the area variance. You know, once you get over the  
8 first prong, we can talk about some of the other prongs of the  
9 area variance test, but I think we're having a hard time getting  
10 over the first one. And again, as I indicated, we would be able  
11 to recommend the approval of the special exception except that it  
12 includes more units than what are permitted. So that's where  
13 we're at and I'm happy to take any questions that you have.

14 CHAIRPERSON HILL: Okay. So the question I had that I  
15 was a little confused about is that, you know, you're not  
16 recommending support of the waiver to go past the ten feet, right?  
17 But if -- and this is where I got confused in your report -- if  
18 the fifth unit was not there and they didn't need the 900 square  
19 feet and they had the same design, you would then be in favor of  
20 the waiver?

21 MS. ELLIOTT: Yeah. And Commissioner Eckenwiler  
22 explained this as well, but the 900-square-foot requirement is  
23 sort of tucked into the special exception criteria as well. So,  
24 you know, with the Applicant requesting more units than permitted  
25 by that section, we can't support the special exception relief --

1 CHAIRPERSON HILL: And --

2 MS. ELLIOTT: -- but if they reduced it to four units,  
3 we would be able to.

4 CHAIRPERSON HILL: And so, again, the Office of Planning  
5 did not have any -- well, they didn't think that there was an  
6 adverse impact or a substantially adverse impact about the light  
7 and air with the design?

8 MS. ELLIOTT: Right. I think the design, we were  
9 generally supportive of the solution that they came up with,  
10 because it does put a larger portion of the mass at the rear -- at  
11 the rear of the lot. And so, because of the north-south  
12 orientation of the lot, we felt that it would have less of an  
13 impact by, you know, concentrating the massing there. But that  
14 being said, you know, when OP filed its report, it had not yet  
15 seen the comments from the ANC. I think it's worth stating that  
16 we -- you know, OP is supportive of the design, but they should  
17 respond to the ANC's concerns as well.

18 CHAIRPERSON HILL: Okay. So -- and, Commissioner, I  
19 appreciate you pointing out the regulations. I mean, that is what  
20 we always end up getting stuck with, right? Whether or not the  
21 light and air is actually adversely affected enough that we can or  
22 can't support the application.

23 So, I mean, I'm kind of just talking this through,  
24 because I'm trying to understand again where the ANC was. And I'm  
25 not asking a question just yet, Mr. Commissioner, but, again --

1 well, I'll ask that in a minute.

2 So does anybody have any other questions for the Office  
3 of Planning? Mr. Turnbull.

4 COMMISSIONER TURNBULL: Ms. Elliott, good morning -- or  
5 good afternoon. Had you seen -- when you talk about impacts,  
6 adverse effects, had you seen a shadow obstruction at all when you  
7 looked at this --

8 MS. ELLIOTT: I don't believe that one was provided with  
9 this application.

10 COMMISSIONER TURNBULL: Okay. And you're right, maybe  
11 with the north-south access it might be -- it's hard to tell, but  
12 still you haven't seen anything?

13 MS. ELLIOTT: No.

14 COMMISSIONER TURNBULL: So it's your best professional  
15 guess right now as to what the effects would be? Okay, all right.

16 MS. ELLIOTT: With the variance.

17 COMMISSIONER TURNBULL: I appreciate that and I respect  
18 to your guess. But, all right, so that might be something that  
19 should be required.

20 Okay, all right. Thank you.

21 CHAIRPERSON HILL: Ms. Elliott, one quick thing again.  
22 As far as the de minimis argument, I can't remember whether we had  
23 approved something before with kind of this de minimis argument;  
24 can you recall?

25 MS. ELLIOTT: It's certainly an argument that has come

1 up in past cases and, fortunately, because we had a lunch break,  
2 we had some time to look up some of the cases that were referenced  
3 in the presentation. Those were all cases where OP did recommend  
4 denial of the relief. You know, the variance criteria doesn't --  
5 it doesn't flex depending on the degree of relief that's being  
6 requested, you know, it sort of takes a black-and-white approach  
7 to it. And so in this case, like I said, you know, there's sort  
8 of this assumption -- suggestion that five units are permitted,  
9 but they're not, because the regulations don't round up. So it  
10 doesn't matter how close you get to that number, the variance is  
11 still required.

12 So we have seen, you know, applicants make that argument  
13 before, it's not one that's generally accepted by OP because, you  
14 know, we're taking a very rigid perspective of the variance  
15 criteria; I do believe that the Board has considered it in its  
16 decisions.

17 CHAIRPERSON HILL: Okay. Mr. Turnbull? You're on mute,  
18 Mr. Turnbull.

19 COMMISSIONER TURNBULL: This damn button. The de  
20 minimis argument is a slippery slope, at best. It can go a couple  
21 of different ways and the favorite case that's cited is *Gilmartin*,  
22 you know, it's like raised on a pedestal. But the court noted  
23 that the Board has flexibility to consider a number of factors,  
24 including the severity of variances requested, and hypothesized  
25 that the de minimis nature could potentially be considered. So

1 it's not carte blanche that the Board can automatically go ahead  
2 and say, oh, it's de minimis, so we can go ahead and do it.

3 So I think you have to put reading *Gilmartin* in  
4 perspective. It's not just an open book that you can go to and  
5 grab things from it, there's -- and maybe the Office of Attorney  
6 General can also comment on this, but it's a slippery slope that  
7 has to be carefully looked and analyzed in relationship to what  
8 you're talking about.

9 CHAIRPERSON HILL: Okay. Let's see. Ms. John or Mr.  
10 Smith, do you want to go next? Do you have anything?

11 MR. SMITH: No, I don't have anything.

12 CHAIRPERSON HILL: Ms. John?

13 MR. SMITH: Commissioner Turnbull answered my question.

14 CHAIRPERSON HILL: Okay. Ms. John?

15 VICE CHAIR JOHN: So I have a question for Ms. Elliott  
16 on the limitation to four units. I don't have my regulations in  
17 front of me; can you just go over that again? Why is the four-  
18 unit limitation in that zone? And are you saying that --

19 MS. ELLIOTT: So --

20 VICE CHAIR JOHN: Go ahead.

21 MS. ELLIOTT: Well, it's based on the land area of the  
22 lot. So the special exception relief -- and let me see, I'm  
23 scrolling through our report a little bit to find out exactly  
24 where to point you to -- it's under 320.2(d), it requires that  
25 there be a minimum of 900 square feet of land area per dwelling

1 unit. And so that's the relief that's -- the variance relief  
2 that's being requested. Based on the land area of this lot, which  
3 is 4,484 square feet, they are permitted four units. It comes  
4 pretty close to five units, I believe it's 16 square feet shy of  
5 that fifth unit, but nonetheless, again, we don't round up. The  
6 regulations allow for four units.

7 VICE CHAIR JOHN: Okay, thank you. That's helpful,  
8 because I was in my mind thinking of this chart in the regulations  
9 showing which apartments could be allowed in the RF-1 Zone versus  
10 the RA Zones and I was wondering if the limitation was from that  
11 chart, and I forgot about it, but I understand the rationale. I  
12 believe you address that on page 4 of your report. So, thank you  
13 for that.

14 CHAIRPERSON HILL: Mr. Eckenwiler, your microphone is  
15 not muted, just so you know.

16 Ms. Elliott, the -- right, just so I'm clear again, it's  
17 not that there's -- it's the 900 square feet that's keeping them  
18 from the fifth unit. I mean, if they have the additional 18  
19 square feet, then they could get the fifth unit -- or whatever, 16  
20 square feet, right?

21 MS. ELLIOTT: Yes.

22 CHAIRPERSON HILL: Okay.

23 MS. ELLIOTT: Yes.

24 CHAIRPERSON HILL: Ms. John, did you have anything more?  
25 No? Okay.

1           Commissioner Eckenwiler, do you have any questions for  
2 the Office of Planning?

3           MR. ECKENWILER: No, Mr. Chairman.

4           CHAIRPERSON HILL: Ms. Moldenhauer, do you have any  
5 questions for the Office of Planning?

6           MS. MOLDENHAUER: Thank you, just maybe one or two.

7           So, thank you, Ms. Elliott. And it was helpful for the  
8 clarification that OP, you're saying, is supportive of four units  
9 and would be supportive of the variance but for the variance  
10 request.

11          MS. ELLIOTT: Yes.

12          MS. MOLDENHAUER: So then looking at the variance, I  
13 understand kind of Mr. Turnbull's question and your response to  
14 that regarding de minimis. I guess my question is, Mr. Turnbull  
15 identified that it is -- you know, it has to be evaluated on a  
16 case-by-case basis, but my understanding of your report was that  
17 you didn't even consider the de minimis standard, is that correct,  
18 that you didn't apply it as part of the prong?

19          MS. ELLIOTT: No, it's -- well, it's not part of the  
20 prong. So, no, we did not evaluate that as part of our analysis.

21          MS. MOLDENHAUER: So it's not that you looked at de  
22 minimis and said, nope, we don't consider this, it's just that you  
23 didn't look at it at all because that's how OP views it?

24          MS. ELLIOTT: Correct.

25          MS. MOLDENHAUER: If OP then -- so I guess is OP saying

1 that they don't look to Court of Appeals cases to interpret the  
2 zoning regulations and the process in their evaluations?

3 MS. ELLIOTT: I mean, we read the regulations for what  
4 they are and when they need to be addressed, you know, we do work  
5 in coordination with OAG and the Zoning Administrator to ensure  
6 that we're interpreting the regulations correctly, so -- and, you  
7 know, a lot of that is in response to court cases. So that's how  
8 we use the regulations.

9 MS. MOLDENHAUER: I guess I'm just -- because, you know,  
10 as the Applicant, we did point out to the Office of Planning the  
11 fact that there was this recent case just in 2020, in July, where  
12 the Court of Appeals again referenced, Mr. Turnbull's point, a  
13 very old case, *Gilmartin*, and they reiterated in a case actually  
14 where OP was in fact supportive of the relief. The Board used the  
15 term in their order "de minimis" -- OP did not, but the Board used  
16 that, and the court affirmed that and referenced this standard.  
17 But despite that more recent decision, OP still decided that they  
18 were not going to evaluate the de minimis standard, is that  
19 correct?

20 MS. ELLIOTT: The de minimis is not part of the  
21 regulations, so, no, we did not review it as part of the zoning  
22 variance relief.

23 MS. MOLDENHAUER: Going back to a question, the 900-  
24 square-foot relief is a land area relief, correct?

25 MS. ELLIOTT: Uh-huh.

1 MS. MOLDENHAUER: Has OP --

2 MS. ELLIOTT: Yes.

3 MS. MOLDENHAUER: Sorry, what was that? We were talking  
4 over --

5 MS. ELLIOTT: I said yes. I nodded, but I don't know if  
6 I actually have to say it, so yes.

7 MS. MOLDENHAUER: So that would then be almost like  
8 analogous to a property asking for relief from like the 1800-  
9 square-foot rule, which the Board maybe sees where you say, well,  
10 we want to build on something, but we have 17,800 square feet and  
11 we want to build a single-family home, but we can't because we  
12 don't have the land area, would that be a similar land area?  
13 Because it's land area, obviously, one to, I think, the 1800-  
14 square-foot requirement, here it's 900 square feet -- I'm just  
15 trying to see -- those are both land area requirements, is that  
16 correct?

17 MS. ELLIOTT: So I think that you're potentially  
18 branching into different hypothetical situations, I mean, that I  
19 can't respond to. In regards -- I can respond how we reviewed and  
20 applied the variance relief to this case, I don't -- I can't, you  
21 know, foresee how we're going to do that in another hypothetical  
22 case that I have no details on.

23 MS. MOLDENHAUER: That's fine. I appreciate your  
24 response, thank you. No other questions.

25 CHAIRPERSON HILL: Mr. Turnbull?

1 COMMISSIONER TURNBULL: So, yeah, I think it's unfair to  
2 ask the Office of Planning to speculate on a theoretical case, I  
3 think that's putting Ms. Elliott in a very awkward situation to  
4 comment on something that is purely theoretical. And I just --

5 MS. MOLDENHAUER: I'm trying to compare, that's all.

6 COMMISSIONER TURNBULL: Well, I know, but I think it --  
7 it's theoretical. Also, I think that the Board -- I believe that  
8 the Board is not required -- that the Board is -- I have to ask, I  
9 do not -- I don't believe that the Board is required to consider  
10 the de minimis nature of a variance. I would have to ask OAG to  
11 maybe help me out, but just throwing that out.

12 MS. CAIN: Mr. Turnbull, it's not a requirement; it is  
13 something that we think the Board could consider. Just to be  
14 clear, there is the statement in *Gilmartin* regarding the severity  
15 of the relief. The Court of Appeals in none of their opinions has  
16 ever articulated a clear standard as to what the de minimis -- or  
17 how that could be, you know, applied to a case. There are other  
18 jurisdictions that have done that, but D.C. is not one of them.

19 So, like I said, it is something that the Board could  
20 potentially consider, but there's not really any set standard on  
21 it at this point.

22 COMMISSIONER TURNBULL: That's what I thought. Thank  
23 you very much.

24 CHAIRPERSON HILL: Okay --

25 MS. MOLDENHAUER: I would just --

1 CHAIRPERSON HILL: -- (indiscernible) --

2 MS. MOLDENHAUER: -- could I -- Ms. Cain, the more  
3 recent case in *Kline*, which was decided this summer in July of  
4 2020, did include a new quote. It said the severity of the  
5 variance relief, quote, "including whether the variances are de  
6 minimis." I agree, there's no standard on how de minimis is  
7 required, but it did provide additional language, which is new.

8 CHAIRPERSON HILL: Let's see. Mr. -- oh, Ms. John?

9 VICE CHAIR JOHN: So, Mr. Chairman, I wanted to follow  
10 up with Ms. Cain because, as I understand it, the de minimis  
11 standard could not be used to satisfy the exceptional condition or  
12 the undue hardship prongs of the variance test, but it could be  
13 used to support the question of whether or not there was some  
14 substantial detriment to the public good.

15 So I don't know if OAG has a response to that, do I  
16 really understand the issue correctly. Thank you.

17 MS. CAIN: I mean, again, the court has not really  
18 articulated, you know, how this can be applied, you know, as to  
19 what prongs it can go to. In this case, in the *Kline* case that  
20 Ms. Moldenhauer cited to, it appears to be tied to the second  
21 prong, so the practical difficulty and undue hardship, which is  
22 also how it's been advanced in this case. Again, there is no  
23 clear standard that has ever been articulated. So it would really  
24 be up to the Board to decide, you know, how they felt it was  
25 applicable to a certain case if they wanted to go down that road

1 of establishing some kind of standard to use.

2 MS. MOLDENHAUER: I would just agree with Ms. Cain. The  
3 *Kline* case does apply it specifically to the second prong, to Ms.  
4 John's question, not to the public good and intent, but rather to  
5 the practical difficulty and the uniqueness prong, they walk  
6 through that, and I think it would be up to the Board if they so  
7 determined.

8 CHAIRPERSON HILL: Okay. Ms. Elliott, I had one last  
9 question. I was trying to understand I guess the 81 feet past the  
10 -- you know, the neighboring wall or what have you, I'm looking --  
11 I mean, is the meaningful connection how we're getting to the 81  
12 feet? Like how are we getting to the 81 feet? Because you're  
13 taking it all the way back then to the end of the building that's  
14 up against the alley, is that correct?

15 MS. ELLIOTT: Correct -- well, there's the conversion of  
16 the original structure and then there's the -- which does not go  
17 beyond the neighboring properties. I'm sorry, I am sort of  
18 recalling some of this from memory, I should probably pull up the  
19 plans and look at them as well, but the meaningful connection in  
20 addition to that rear mass is how we're getting the 81 square  
21 feet.

22 CHAIRPERSON HILL: Hey, Mr. Young? Mr. Young, can you  
23 pull up the presentation for me for a second and go to slide 20?

24 (Pause)

25 CHAIRPERSON HILL: Ms. Elliott, what I'm just again

1 trying to understand is what -- and this is where I can go back  
2 into the plans more -- slide 20, Mr. Young. Thank you.

3 And, Ms. Moldenhauer, feel happy to chime in here. I  
4 mean, the 81 feet, Ms. Elliott, how are you getting it?

5 MS. ELLIOTT: Well, I mean, that is the dimension that  
6 the Applicant provided in their application, but that's -- that is  
7 the distance from the rear wall of the neighboring property all  
8 the way to the end of the new addition at the rear.

9 CHAIRPERSON HILL: Got it, got it. Okay, all right.

10 You can drop it down again, Mr. Young, unless my  
11 colleagues need that slide, but that's what I was looking at.

12 Okay. I'm going to look one more to my colleagues, does  
13 anybody have any questions before I ask for testimony from the  
14 public? All right.

15 Mr. Young, I think there is testimony from the public.  
16 I don't know if there's anyone in support. Is there anyone in  
17 support, Mr. Young, or you don't know?

18 MR. YOUNG: I'm not sure if there's support or  
19 opposition, but I have a few names on my list.

20 CHAIRPERSON HILL: Okay. Can you bring them in?

21 (Pause)

22 CHAIRPERSON HILL: Mr. Horowitz, are you there?

23 MR. HOROWITZ: Yes, I'm here. Thank you.

24 CHAIRPERSON HILL: Okay. Let's see. Give me one  
25 second, Mr. Horowitz. I thought there was one more person and I'm

1 looking for them.

2 MR. YOUNG: We do have one more and we just had someone  
3 reach out, because I didn't see him on there, but he is trying to  
4 get on now.

5 CHAIRPERSON HILL: Okay, then we'll go with Mr. Horowitz  
6 first. Mr. Horowitz, could you just state your name and address  
7 for the record?

8 MR. HOROWITZ: Sure. Alex Horowitz, I'm at 919 6th  
9 Street, N.E.

10 CHAIRPERSON HILL: So where are you in relationship to  
11 the property?

12 MR. HOROWITZ: I'm diagonally across the alley from it.  
13 So my home is just slightly north and I guess that would be west  
14 of the property.

15 CHAIRPERSON HILL: Okay. If you see the clock, the  
16 public has three minutes for testimony, and you can begin whenever  
17 you like.

18 MR. HOROWITZ: Okay, great. Well, thanks so much for  
19 hearing from me. My name is Alex Horowitz, and my wife and I have  
20 lived in the neighborhood for coming up on nine years. We are  
21 foster parents, as well as parents, and we are frequently users of  
22 the alley. Our kids ride bikes back there a lot, and they also  
23 ride Thomas the Tank Engine Power Wheels in the alley. So we are  
24 back there usually several days a week. We're probably the most  
25 frequent users of the alley.

1           And my concerns are mostly about safety here. And I've  
2 called 911 before when I heard gunshots and people were shot in  
3 our alley this past winter, and I think it would be good to have  
4 more homes on the alley and more eyes on the alley. And I  
5 currently -- I have a garage which abuts the alley and we're still  
6 -- you know, we're involved back there, even though we have a  
7 garage that separates our back yard from the alley. I think it  
8 would be good to have more homes in the neighborhood. I have a  
9 lot of friends who would like to live here, but we are -- you  
10 know, we are short on housing, and today the vacant lots that are  
11 back there are mostly filled with trash and weeds. And people do  
12 dump things in the alley, because it's obvious that what's back  
13 there is vacant and so that's not a place where people live,  
14 that's a place to dump things.

15           So I think it would be a big plus to have more homes,  
16 especially facing the alley. And since there's a large building  
17 across I Street now with the back of the Whole Foods building, it  
18 doesn't seem out of place at all to me.

19           And I did weigh in with the ANC at the first meeting. I  
20 asked to weigh in with the ANC at the second meeting since I  
21 didn't voice all these issues and I heard some other objections  
22 come up, which seemed to be mostly about aesthetics, so I asked to  
23 speak at the second meeting. The ANC wouldn't let me speak and  
24 has -- my view of the ANC input is that the ANC mostly describe  
25 their own aesthetic preferences, including making some critical

1 comments about our alley, and did not reflect the input of  
2 neighbors like myself or neighbors who I've talked to who also  
3 think that it would be better to have homes and more eyes on the  
4 alley instead of vacant lots, the vacant lots that are there now  
5 that are filled with trash and weeds, where people dump debris  
6 behind them.

7 Thank you.

8 CHAIRPERSON HILL: Okay, great. Thank you.

9 Let's see -- oh, does the Board have any questions for  
10 the witness?

11 Okay. Does the Applicant have any questions for the  
12 witness?

13 (Pause)

14 MS. MOLDENHAUER: Sorry, I was on mute. Mr. Horowitz,  
15 have you seen the plans for the project?

16 MR. HOROWITZ: Yes.

17 MS. MOLDENHAUER: And you're still supportive of the  
18 project?

19 MR. HOROWITZ: Yeah. I mean, it looked very nice to me.  
20 And, again, you know, I'm thinking also about what's there today  
21 and it seems like an enormous improvement, both facing I Street --  
22 sorry if you hear toddler noise in the background -- both facing I  
23 Street and also facing the alley. So it seems good to me, I like  
24 the way it looks. I think it would be great to have homes where  
25 we have vacant lots now and garbage.

1 CHAIRPERSON HILL: Commissioner, do you have any  
2 questions for the witness?

3 COMMISSIONER TURNBULL: No questions, Mr. Chairman.

4 CHAIRPERSON HILL: Okay. All right, Mr. Horowitz, thank  
5 you so much for your testimony and that's it.

6 MR. HOROWITZ: Thank you.

7 CHAIRPERSON HILL: Mr. Young, did you find the other  
8 person?

9 (Pause)

10 CHAIRPERSON HILL: Mr. Horowitz, you might want to mute  
11 your mike, or introduce us to your toddler.

12 Mr. Young?

13 MR. YOUNG: Yeah, it was Denika Robinson, who I believe  
14 is the adjacent neighbor.

15 CHAIRPERSON HILL: Do you have her on the phone?

16 MR. YOUNG: No, she's in the room right now.

17 CHAIRPERSON HILL: Oh, oh. Ms. Robinson, can you hear  
18 me?

19 (Pause)

20 CHAIRPERSON HILL: Ms. Robinson? Okay.

21 MS. ROBINSON: Yeah. Can you hear me?

22 CHAIRPERSON HILL: Yes. Could you give us your name and  
23 address for the record, please?

24 MS. ROBINSON: Denika Robinson and the address is 620 I  
25 Street, N.E.

1           CHAIRPERSON HILL:    Okay.    And you're the adjacent  
2 neighbor?

3           MS. ROBINSON:    Yes.

4           CHAIRPERSON HILL:    Okay.    You have three minutes to  
5 provide your testimony and you may begin whenever you like.

6           MS. ROBINSON:    Yes.    We -- well, actually, I have  
7 opposition to the project, because when the lot was first vacant,  
8 I went downtown and I did a lot of fighting in court, because I  
9 used to maintain the lot when there was the camper and everything  
10 on the lot, I had all of that removed.    When people came in and  
11 dumped a lot of big trash cans, I had to pay for that to have that  
12 removed.    So I went to (indiscernible) court and I brought all of  
13 that to get ownership of the property.    And I was told that,  
14 because we had been maintaining the yard for more than 25 years,  
15 we had ownership -- or that entitled us, not to -- it's another  
16 word other than squatter's rights, but because we had been  
17 maintaining that lot for 25 years and they used to -- the city  
18 used to always fine us for trash and debris in the lot.

19                    So the lot hasn't been maintained recently because we  
20 found out that the builders were coming in and they were going to  
21 build into the back of our yard, which was -- you know, which was  
22 the property that we fought for.    They even came to us the other  
23 day and asked us if we would allow them to purchase the extra  
24 footage needed.    And we told them we would not because we were in  
25 opposition of that, because no one came to us in the beginning of

1 the project to have any type of discussions with us in reference  
2 to that that I went downtown to fight for, but now you want to  
3 have all of these discussions with us and you want to have us to  
4 write a letter of support.

5           So, no, I don't support the project. We were going to  
6 -- once we had -- we would take that lot and we were going to put  
7 that so we could have vehicle parking, because the property -- the  
8 building across the street, the new apartment building that is  
9 across the street, those members were supposed to park in their  
10 garage, but now they've taken up all of the parking on I Street,  
11 so we were going to convert that into parking for our private  
12 vehicles.

13           So, no, we're not in support of this project. It's  
14 going to be behind the home and she's only going to have that  
15 little space just to open up the gate to go out. So everything  
16 that they're saying, I don't -- the people on the opposite side of  
17 us, 620 -- 618, it's not in connection with that lot; it's right  
18 behind our home. So I just want to say we're not in support of  
19 that. We fought hard to maintain ownership of that lot. No one  
20 came to us in the beginning with these plans, now you want to come  
21 to us when nothing can be done. So we're not in support of that.

22           CHAIRPERSON HILL: Okay. Are you -- if you're facing  
23 the property, are you the house to the left?

24           MS. ROBINSON: Yes. We're 620, right next to the  
25 property.

1 CHAIRPERSON HILL: Right. Okay, all right. Let's see.  
2 Does the Board have any questions for the witness?

3 COMMISSIONER TURNBULL: Ms. Robinson, thank you very  
4 much for being here today. It sounds like -- I guess I'm trying  
5 to piece this together. The property behind your property, is  
6 that the property you were taking care of?

7 MS. ROBINSON: Where they're planning to build the  
8 additional homes facing the alley.

9 COMMISSIONER TURNBULL: Okay. And you thought that that  
10 -- the city had somehow indicated that that might be yours just  
11 because you had taken care of it, is that my understanding?

12 MS. ROBINSON: Well, I actually went to D.C. Superior  
13 Court. I had a court hearing for that.

14 COMMISSIONER TURNBULL: Oh, okay. So you've talked to  
15 the owners, the Applicant that wants to build this, and have they  
16 been responsive to your concerns or have you just been ignored or  
17 -- I'm just confused as to what's really happening here.

18 MS. ROBINSON: Well, we weren't initially talked to in  
19 the beginning of all of the plans and everything. They spoke with  
20 us maybe a couple of months ago to show us the drawings of what  
21 the house is going to look like and the house behind. So,  
22 initially, from the onset, no, we didn't have any communication  
23 with them. We didn't know anything about it until they came to us  
24 to show us site plans.

25 COMMISSIONER TURNBULL: It sounds like -- it sounds like

1 the Applicant's reaching out to you as the immediate neighbor was  
2 not very successful about it.

3 MS. ROBINSON: They didn't try to reach out to us at all  
4 until they already had the site plans of everything that they were  
5 going to do. So when they finally reached out to us about two  
6 months ago, that's when they were saying, oh, look, we acquired  
7 this land, this is what we're going to -- this is what the house  
8 is going to look like next door, this is what the house is going  
9 to look like behind you. And then again they reached out to us  
10 just recently for a letter of support. And then, after the letter  
11 of support, they tried to reach out to us to say, oh, hey, we have  
12 some good news that's going to benefit the both of us, you'll have  
13 right to the easement where you don't have to pay for it, but we  
14 want to get this 16 foot, we want to purchase 16 feet, because  
15 they said that they only had -- in their plans it was 4,484 and,  
16 if they had that extra space of our yard, then they could reach  
17 the 4500 that was required for zoning.

18 COMMISSIONER TURNBULL: Okay. So they wanted 16 feet of  
19 your back yard at the very end?

20 MS. ROBINSON: Correct, correct.

21 COMMISSIONER TURNBULL: Okay. All right, thank you very  
22 much.

23 MS. ROBINSON: So they could have 4500.

24 COMMISSIONER TURNBULL: Right, right. Thank you very  
25 much for coming down and talking to us, we really appreciate it.

1 CHAIRPERSON HILL: Ms. Robinson, just bear with me here  
2 for a second, okay?

3 So, Ms. Moldenhauer, I'm just looking at a -- I guess  
4 it's -- I don't know, it's a (indiscernible) I forget what these  
5 things are called -- the 33 is Ms. Robinson's piece of land, do  
6 you know? And 32 is you guys and then 113 -- 113 and 32 is both  
7 of yours, correct?

8 MS. MOLDENHAUER: Correct, 113 --

9 CHAIRPERSON HILL: Right --

10 MS. MOLDENHAUER: -- I'm trying to --

11 CHAIRPERSON HILL: -- and 32, right, I gotcha.

12 And so, Ms. Robinson --

13 MS. MOLDENHAUER: And 31 is Ms. Robinson.

14 CHAIRPERSON HILL: 33.

15 MS. MOLDENHAUER: 33, sorry. I can't see.

16 CHAIRPERSON HILL: Okay. So, Ms. Robinson, I'm just  
17 kind of talking this through with you a little bit in that we are  
18 here to determine whether or not the Applicant has met the  
19 criteria that we can grant the relief being requested, right? You  
20 are correct in everything you've talked about thus far in that  
21 they are here because they don't have enough square footage to get  
22 that fifth unit, right? And so they were trying to, I guess,  
23 purchase some -- as far as -- and I apologize for this -- as far  
24 as like, you know, you all have taken care of that land and  
25 whether or not that's your land, that's completely out of our

1 purview. I don't even know -- I have nothing to say about that,  
2 right?

3 MS. ROBINSON: Correct.

4 CHAIRPERSON HILL: So I'm just telling you what is  
5 happening right now that I think is before us, right? And so they  
6 are here before us because they don't have that extra square  
7 footage for the fifth unit, okay, right?

8 MS. ROBINSON: Yes.

9 CHAIRPERSON HILL: And so what has been happening now --  
10 and I don't -- and I'm just -- again, I'm not -- I'm just talking  
11 through some things and I don't know what may happen. So don't  
12 think that I know what's going to happen, right? But they can  
13 build four units, right, and they would still have to come before  
14 us for a variety of other things, right? And they would still  
15 have the ability to build what they're building, but with four  
16 units. Okay?

17 MS. ROBINSON: Correct.

18 CHAIRPERSON HILL: I'm just trying to tell you what  
19 might happen again or where things might be going. Okay?

20 MS. ROBINSON: Okay.

21 CHAIRPERSON HILL: So I'm just saying all that for you  
22 to take into consideration. And I do appreciate your testimony  
23 and now my understanding that -- how these lots are all connected  
24 around your home, right, okay? And again pointing out that they  
25 might be back before us again with the exact same design, but with

1 four units, okay?

2 MS. ROBINSON: Correct, I understand.

3 CHAIRPERSON HILL: All right, okay. Does -- Ms. John,  
4 have you got questions? You're on mute, Ms. John.

5 VICE CHAIR JOHN: Thank you. Ms. Robinson, do you have  
6 alley access right now? If you don't --

7 MS. ROBINSON: From my -- yes, if we go out the back  
8 gate, we can go through the lot to the alley. But with them  
9 building that, with what they intend on building, we won't have  
10 alley access anymore.

11 VICE CHAIR JOHN: Okay. And you were offered the  
12 opportunity to have an easement, is that what was offered to you?

13 MS. ROBINSON: Only if they purchased that extra land  
14 from us, then we would be able to use that little bit of space.  
15 So we're not selling that space, we're not selling that 16 feet.

16 VICE CHAIR JOHN: But you would not have any access to  
17 the alley, right?

18 MS. ROBINSON: No, we will not.

19 VICE CHAIR JOHN: Okay, all right. Thank you.

20 CHAIRPERSON HILL: Oh, Ms. Robinson, you -- like I said,  
21 I don't know where this might be going, but, again, there might be  
22 a different discussion about access, you know, to the alley at  
23 another time now. I guess what I'm trying to kind of point out is  
24 that 16 feet has become very valuable, right? And so -- okay.

25 So do you -- Ms. Robinson, do you understand what I'm

1 saying about what could possibly happen to that lot, that they  
2 could build four units with the exact same thing that's going on,  
3 you do understand that, correct?

4 MS. ROBINSON: Yes.

5 CHAIRPERSON HILL: Okay, all right. Okay.

6 Does anybody have any other questions for Ms. Robinson?  
7 Ms. Moldenhauer, you have a question? Sure.

8 MS. MOLDENHAUER: So sorry, I'm just trying to  
9 understand. You're Agnes Robinson?

10 MS. ROBINSON: I'm Denika Robinson, I'm her daughter.  
11 I'm the one that went downtown to initially fight the case.

12 MS. MOLDENHAUER: All right. So you're her daughter,  
13 not the property owner?

14 MS. ROBINSON: Correct.

15 MS. MOLDENHAUER: Okay. So have there been  
16 conversations that your mother, the owner of the property, Agnes  
17 Robinson, had with the -- with the developers that maybe you were  
18 not privy to?

19 MS. ROBINSON: The only conversation that she had that I  
20 wasn't privy to was when they came around and said to her that  
21 they wanted to have a webinar with her. Immediately, she called  
22 me, I came over, and that's when I spoke to them via the webinar.  
23 And anything else that they sent to her, she sent it directly to  
24 me. So I'm the one that speaks for her when it comes to this  
25 property.

1 MS. MOLDENHAUER: I'm just trying to make sure that I  
2 understand and that the record is clear that -- not that --

3 MS. ROBINSON: Yeah, she doesn't speak --

4 MS. MOLDENHAUER: -- it's, you know --

5 MS. ROBINSON: -- to them --

6 MS. MOLDENHAUER: -- specific, but it's just --

7 MS. ROBINSON: -- (indiscernible) speak to me --

8 MS. MOLDENHAUER: -- that you're the daughter, not Ms.  
9 Agnes Robinson, who owns the property, which is fine.

10 And the references that you were making were regarding  
11 the tax sale, because the developers bought the lot on a tax sale  
12 -- I'm just trying to make sure I'm clear -- the references that  
13 you made were regarding the tax sale of the property?

14 MS. ROBINSON: Right, because we didn't have any  
15 knowledge of the tax sale and it wasn't posted the way it's  
16 supposed to be listed in reference to that.

17 MS. MOLDENHAUER: But that's -- all right. And then you  
18 indicated that, as I think my clients had offered to provide,  
19 separate and apart from anything else and had agreed -- and my  
20 client's testimony is -- to provide the access through a gate off  
21 of the rear of the property, through the rear of the property for  
22 the property owner, for Ms. Agnes Robinson, to gain access off the  
23 rear no matter what in connection with --

24 MS. ROBINSON: No, we did not --

25 MS. MOLDENHAUER: -- (indiscernible) discussions.

1 MS. ROBINSON: -- agree to that. The first words that  
2 you stated, it was not agreed, that was only if we sold part of  
3 our land to them.

4 MS. MOLDENHAUER: We can clarify, but that was offered  
5 separate and apart, and my client can clarify that at a later  
6 date.

7 MS. ROBINSON: That was just offered -- that was just  
8 offered a couple of days ago.

9 MS. MOLDENHAUER: We'll clarify that, but, okay, no  
10 other questions.

11 CHAIRPERSON HILL: Commissioner Eckenwiler, do you have  
12 any questions for the witness?

13 MR. ECKENWILER: No questions, Mr. Chairman.

14 CHAIRPERSON HILL: Okay. Before I let Ms. Robinson go,  
15 does anybody have anything else for Ms. Robinson?

16 Okay, all right. Ms. Robinson, thank you so much for  
17 your testimony and good luck.

18 MS. ROBINSON: Thank you.

19 CHAIRPERSON HILL: All right. Ms. Elliott?

20 MS. ELLIOTT: Yes.

21 CHAIRPERSON HILL: I do have one question. So I forgot  
22 about this. So the ZA used to have a two-percent flexibility,  
23 right? Used to, used to --

24 MS. ELLIOTT: Yes.

25 CHAIRPERSON HILL: -- right? And though the Zoning

1 Commission took away that flexibility for the lot area  
2 requirements, right? But he -- the Zoning Administrator used to  
3 have that flexibility, correct?

4 MS. ELLIOTT: In the 1958 regulations, yes. That was  
5 revised in the 2016 regulations. The Zoning Administrator  
6 actually specifically asked that that provision be removed, so  
7 that -- it could not be applied to this situation.

8 CHAIRPERSON HILL: Well, no, but it could have been  
9 applied to this situation?

10 MS. ELLIOTT: Previously --

11 CHAIRPERSON HILL: Right.

12 MS. ELLIOTT: -- it cannot anymore.

13 CHAIRPERSON HILL: The Zoning Administrator asked to  
14 have that responsibility taken away?

15 MS. ELLIOTT: My recollection is he did not want the two  
16 percent to apply to land area.

17 CHAIRPERSON HILL: Interesting. Okay, all right.

18 Let's see. Does anybody got anything else for anybody  
19 until I give some conclusions here? All right.

20 Mr. Eckenwiler, Commissioner Eckenwiler, do you have  
21 anything to add in conclusion?

22 MR. ECKENWILER: Nothing further, Mr. Chairman. We'll  
23 stand on my testimony and our written report.

24 CHAIRPERSON HILL: So, Commissioner, I do have a  
25 question for you again, just I had forgotten to do it. So if this

1 is back before us again for four units with the exact same design,  
2 none of the ANC's -- I'm sorry, none of the ANC's opposition would  
3 have gone away, right? I mean, you guys would still be opposing,  
4 probably. You don't know yet, because you haven't seen whatever a  
5 four-unit design is, but is that possibly accurate?

6 MR. ECKENWILER: So, Mr. Chairman, it's hard for me to  
7 see how the outcome would be any different if the only change were  
8 the number of units given the basis for our objections.

9 CHAIRPERSON HILL: Okay.

10 MR. ECKENWILER: If the design remains the same, then I  
11 think it would be unusual for our conclusions to change.

12 CHAIRPERSON HILL: Yep. Okay. Ms. Moldenhauer, do you  
13 want to add anything? Do you want to sum up?

14 MS. MOLDENHAUER: Yes. We just have a few responses in  
15 regards to rebuttal based on the testimony we heard. Just first  
16 I'll ask Mr. Smith to address what has been offered and maybe, you  
17 know, in regards to access, just to be very, very clear. And just  
18 maybe briefly clarify, even though I think the chair has made  
19 clear, a tax sale previously or interest in the property is not  
20 privy to the Board, but just so that there's no misunderstanding  
21 of kind of the level of (indiscernible) briefly, Mr. Smith.

22 MR. WHITNEY SMITH: Briefly, in terms of access to the  
23 rear, that was brought up in an early conversation in that we  
24 heard her concern and we did offer to have access through a gate,  
25 we would adjust our plans so that she would have that rear alley

1 access. Her concern was what if there's a fire, how would she be  
2 able to get out, and, again, we've heard that concern.

3 In terms of the tax sale, that was done appropriately.  
4 We filed the necessary requirements in terms of filing and going  
5 through that process. Nothing was transferred with the land,  
6 there was no -- sorry, nothing was transferred with the land  
7 stating that there was any other ownership. So we were not aware  
8 of anything that happened in the past and we were under the  
9 impression everything was moving forward appropriately.

10 MS. MOLDENHAUER: Thank you, Mr. Smith.

11 Last, we've heard the Office of Planning testify that,  
12 you know, they would be supportive of the special exception relief  
13 for four units, but not for the variance relief. Mr. Smith, can  
14 you briefly talk to the practical difficulty here in design and  
15 challenges that would be associated with, you know, complying with  
16 the zoning requirements in that regard?

17 MR. WHITNEY SMITH: Sorry, to clarify your question, are  
18 you speaking about --

19 MS. MOLDENHAUER: The four versus the five units.

20 MR. WHITNEY SMITH: Sure. So with the four units  
21 there's a requirement of an inclusionary zoning unit that then is  
22 bound by requirements to sell at a lower amount. To afford to  
23 build that unit, we would need a market rate fifth unit to  
24 essentially recoup that cost. So it makes it very difficult just  
25 to build four units, we would need that fifth unit to do that.

1           Again, and I think as it's been clarified previously,  
2 these would be family-size units and we feel very beneficial to  
3 the area.

4           MS. MOLDENHAUER:   Sorry, because I want to make sure  
5 that this is kind of tied in.  You talked about the practical  
6 difficulty here between the fourth and the fifth unit, because of  
7 the unique shape and the fact that we have this smaller street-  
8 facing portion, and then the fact that the building then opens up  
9 into the wider portion, we've talked a little bit about and OP has  
10 indicated their support for the design, because that does, and as  
11 we argue, allow for light and air and increased privacy based on  
12 that design.  How does that design also be -- given the unique  
13 shape of the lot and the need to kind of create that design -- how  
14 does it also create towards the practical difficulty from a  
15 construction perspective?

16           MR. WHITNEY SMITH:   Just to clarify again, are you  
17 asking the expense of utilities and that sort of thing moving to  
18 the rear or --

19           MS. MOLDENHAUER:    Yeah, just more the design  
20 construction.

21           MR. WHITNEY SMITH:   So the design of the rear, you're  
22 saying, is we've put three units back there because of the amount  
23 of density we're allowed or we'd like to put there?  I just need  
24 clarification of the question, I'm sorry.

25           MS. MOLDENHAUER:    Sure.  No, I'm just trying to -- in

1 order to build a new structure and provide an addition to the  
2 existing structure, you're not expanding an existing structure,  
3 you're expanding and then creating a new structure --

4 MR. WHITNEY SMITH: Sure.

5 MS. MOLDENHAUER: -- does that create additional  
6 practical difficulty if you were to only be able to build four  
7 units versus five units?

8 MR. WHITNEY SMITH: In terms of the fifth unit and  
9 building that structure, there would be additional difficulty. We  
10 would still have to build a meaningful connection to connect those  
11 to provide that -- the egress that we're trying to get to. But  
12 the -- I guess I'm trying to just clarify again --

13 MS. MOLDENHAUER: No, I think -- I think you were  
14 getting to that. I mean, I think that's --

15 MR. WHITNEY SMITH: Okay.

16 (Pause)

17 MS. MOLDENHAUER: I think that, you know, one of the  
18 things that, you know, we -- what we would -- what I'd like to ask  
19 is, I'd like to ask for an opportunity to supplement the record  
20 and kind of, you know, provide some additional information to the  
21 Board. I think we had some good questions in regards to questions  
22 regarding the standard, as well as and potentially some need to  
23 have some additional conversations given OP's statements here.  
24 And so what I would ask the chair is to allow us an opportunity to  
25 work with Office of Planning and to work with the Applicant, and

1 to supplement the record at a later date and then come back.

2 CHAIRPERSON HILL: I'm sorry, my microphone was muted.

3 MS. MOLDENHAUER: I saw the light.

4 CHAIRPERSON HILL: Yeah, good. Let's see.

5 CHAIRPERSON HILL: So, Ms. Elliott and then Ms. John,  
6 I'll get you, just -- I'm sorry, since I got my mic unmuted.

7 Ms. Elliott, can you hear me? So like this -- I mean,  
8 we've heard a lot of arguments already and everything about all  
9 this and I kind of think I know somewhat where we are. But the  
10 argument that is a financial argument in terms of the fourth unit  
11 having to be an IZ unit and the cost involved with that fourth IZ  
12 unit, you all kind of thought it -- is that something that you  
13 guys take into account or, I mean, does that matter at all with  
14 the variance?

15 MS. ELLIOTT: So first of all this is a new argument, we  
16 have not received this one previously and we certainly haven't  
17 reviewed it. I think it's difficult to make an argument that  
18 there's a zoning requirement that, you know, doesn't want -- that  
19 they're unable to provide. We would need to see what the  
20 applicant is able to come up with, but the IZ -- the requirement  
21 to provide an IZ one; I can tell you is kind of weak from our  
22 perspective, but we need to see that argument flushed out and see  
23 what's provided.

24 CHAIRPERSON HILL: Okay. So, Ms. John, you had a  
25 question.

1           VICE CHAIR JOHN: I have a question for Mr. Smith, just  
2 to clarify. Are you now saying that you're prepared to provide  
3 rear alley access to Ms. Robinson whether or not she sells that 16  
4 square foot piece of land to you?

5           MR. SMITH: Yes. And to clarify those are two separate  
6 conversations. The initial conversation was directly addressing  
7 her interest in having alley access due to what she considered a  
8 dangerous situation by not having it. The 16 square feet was to  
9 address our zoning concern, so that was a conversation that  
10 happened more recently when we offered to purchase the land, there  
11 was no contingent basis on that, that was purely to address that.

12           VICE CHAIR JOHN: Okay. Thank you.

13           CHAIRPERSON HILL: Okay. So back to this, which is the  
14 Ms. Moldenhauer's keeping the record open. I don't know where  
15 you're going to get -- I don't know what's going to happen. I  
16 mean, we've heard the case and like, you know, if -- if -- and I'm  
17 trying to figure this out also and this is all hypothetical that  
18 we're now continuing to discuss. But, again, if there were an  
19 application before us, again, that had four units, your client  
20 would still have to go back before the ANC -- back to the ANC and  
21 I think the Board would remember Ms. Robinson and kind of figuring  
22 out what Ms. Robinson's needs are when -- I mean, I don't know  
23 what -- I'm kind of -- I'm trying to figure out the design and how  
24 the easement would play out.

25           But, Mr. Smith, in terms of now that Ms. Robinson has

1 kind of brought this up and what you seem to be saying is that the  
2 design of the easement work for you even with four units, meaning  
3 giving Ms. Robinson the easement there. I don't know if that's  
4 what you said or not, but I know that that's something the Board  
5 will probably be asking about if you come back before us with four  
6 units. And so just throwing it out there.

7 So, Ms. Moldenhauer, you want to keep this alive, it  
8 sounds like, and so you want to supplement the record in what way?  
9 And then I'll ask the Board what the Board wants to do.

10 MS. MOLDENHAUER: I'd be happy to hear from the Board  
11 first. I noticed that Mr. Turnbull was raising his hand.

12 CHAIRPERSON HILL: I think that would be a good idea.  
13 Mr. Turnbull?

14 COMMISSIONER TURNBULL: Thanks, Mr. Chairman. You know,  
15 we -- we haven't even really talked about the case per se, other  
16 than Ms. Moldenhauer has got some ideas of what she may want to do  
17 to make changes, but I am not ready to wait. The architectural  
18 (audio interference). I mean, I think Commissioner Eckenwiler made  
19 a good point. I mean, does -- the regulations call for the  
20 setback, a 3-foot setback at a minimum, so I think that has to --  
21 from my standpoint, we need to do that. The 10-foot, I don't know  
22 where they are going to go with the 10-foot going to 81 feet. And  
23 how they are -- how you build back there. That's going to be a  
24 whole new game whether they can magically come up with an  
25 invisible (audio interference) link. I don't know. But I think

1 the variance going to -- I would agree, I think going to four  
2 units is going to be something that may get this thing through,  
3 but how you get there, I am not sure and what you are going to  
4 have to do. I think that there is also the impact which we  
5 haven't really talked about. They haven't really talked to Ms.  
6 Robinson or her daughter about the impacts. About the lighting,  
7 what's the light -- what kind of lights have they got shining down  
8 on her yard? What's -- they've got a big deck now on that back  
9 building, noise, sound. What are they going to do to isolate to  
10 protect her from that? There are issues I think they need to talk  
11 to the neighbors and, specifically, Ms. Robinson and her daughter,  
12 about how this -- what they're going -- how it's going to impact  
13 them?

14 I don't think they have any idea other than they see the  
15 pretty little picture of what this building may look like.  
16 There's an impact to someone who's suddenly going to have a new  
17 structure built right behind them. So I think -- so I think Ms.  
18 Moldenhauer has got -- or her team has got to get together and  
19 really do a thorough analysis and come back to the Board with a  
20 proposal that is going to maybe at least satisfy some of what the  
21 ANC wants and also satisfy some of the needs of Ms. Robinson and  
22 then it's got to come by and pass muster for the zoning rights for  
23 the BZA.

24 I mean, we have to look at it as our right and then just  
25 assume -- are they meeting -- are they doing -- have they done

1 what they need to do as per the regulations? So I'm not sure what  
2 Ms. Moldenhauer is going to come back with, but I'm willing to put  
3 it off, because I don't think it's going to go anywhere right now.

4 I think it needs work. The plan needs work. So I'm more than  
5 willing to put it off. In fact, it needs to be put off.

6 CHAIRPERSON HILL: Ms. John? I'm just asking in advance  
7 any comments and then I'm going to have a couple comments and then  
8 we'll see where we get.

9 VICE CHAIR JOHN: I really have nothing to add to what  
10 Commissioner Turnbull said, because I agree with everything he  
11 said. And I think this needs work. I'm disappointed that there  
12 wasn't any discussion -- well, that Ms. Robinson still has so many  
13 issues and so, I think it needs more work and I suggest that we  
14 put it off.

15 CHAIRPERSON HILL: Mr. Smith?

16 MR. SMITH: I second Mr. Turnbull's concerns. My  
17 concern is that there -- and this project does need work because  
18 there hasn't been any analysis of the impacts and I understand the  
19 reason why OP in their report didn't really elaborate on the  
20 issues of light and air. And I appreciate the interpretation from  
21 OP regarding that -- the size of the addition. But it would be  
22 great to see from the applicant some light and air studies to see  
23 how this particular scaling and mass of an addition to rear of the  
24 building, if it would impact not only Ms. Robinson, but the other  
25 adjacent properties.

1           So I would be in support of pushing that back with  
2 additional detailed information from the applicant.

3           CHAIRPERSON HILL:   Okay.   So, I'm going to give my  
4 thoughts I suppose.   I would like -- I mean, I would like to say  
5 one thing, I mean, this developer has done a lot of work and does  
6 a lot of work and, you know, they have a very good reputation.  
7 Like, I mean, they're a good developer for the city and so I know  
8 that they are -- I'm sure they're just trying to figure how best  
9 to work through some of these issues.   But I can see now that the  
10 next-door neighbor is something that they are continuing to try to  
11 work through.   So I just wanted to kind of mention that and what I  
12 know.

13           In terms of this project thus far, what I find  
14 interesting is Mr. Turnbull, we didn't even get to the cornice or  
15 things, you know, other aspects of the design -- or I'm sorry,  
16 other aspects of the relief requested.

17           I would ask the applicant to go back and work with the  
18 Office of Planning and see what might happen in terms of  
19 discussions with the Office of Planning.   I'm going to kind of  
20 show my cards and Commissioner Eckenwiler, you're sitting there as  
21 well and I see you all -- well, this is the first time I've seen  
22 you since I've had COVID.   But, you know, we have done meaningful  
23 connection projects, we have approved things where there's been  
24 the massing in the rear of larger properties.

25           I have been convinced that light and air has not been an

1 issue on certain projects and not convinced otherwise. I'm saying  
2 it's not outside of something that we've already done, right. And  
3 so I would like to see also, I guess, and this is what has been  
4 mentioned by Commissioner Turnbull, I guess, is a sun study,  
5 right. You know, really taking a look at the light and air and  
6 how that massing in the rear is affecting the neighboring  
7 properties, I suppose, right. And so that would be good -- and so  
8 Ms. Moldenhauer I'm kind of kicking it back to you, because I  
9 don't really know what we're -- what you're going to come -- what  
10 -- I'm not really sure what's going to happen, right. Like, you  
11 know, if this is going to be a different project that comes back  
12 through us or if it's the same project and the arguments -- you're  
13 clarifying some of the arguments with the Office of Planning that  
14 have been fleshed out here today, right. So what would you like  
15 to do?

16 MS. MOLDENHAUER: And I think, Mr. Chairman Hill, we  
17 don't know yet either. I think we need to go back and have a  
18 discussion and then have a discussion with OP. So I'm just waiting  
19 to confer with my clients via text. And I've just confirmed we  
20 would be looking for about like a 45-day continuance to give us  
21 enough time to evaluate these different factors.

22 CHAIRPERSON HILL: Okay. That puts us at -- they don't  
23 even schedule you out that far do they, Commissioner Turnbull?  
24 You're not scheduled out that far, right?

25 MR. MOY: Yes, he is. I have Mr. Turnbull and he could

1 confirm for me, but I have Mr. Turnbull returning December the  
2 16th.

3 CHAIRPERSON HILL: What's our docket like on December  
4 the 16th?

5 MR. MOY: Well, you have nine cases now. But Mr.  
6 Turnbull will be here that day, so, I mean, you know, that's half  
7 the point, right?

8 CHAIRPERSON HILL: Okay. All right. Okay. All right.

9

10 UNIDENTIFIED: Mr. Chairman?

11 CHAIRPERSON HILL: Yes.

12 UNIDENTIFIED: We did get the last witness, if you  
13 wanted to bring him over.

14 CHAIRPERSON HILL: Yes. That would be great. Before  
15 you do, give me one second, just let me think a minute. Okay. Go  
16 ahead. There we go. Mr. Ulan?

17 MR. ULAN: Yes. I'm at 645 K Street on the other side  
18 of the alley. I was just hoping that this project could make it.  
19 This community kind of needs this renovation. I'm just starting  
20 to hear children playing in the alley and we -- young parents and  
21 older ones who have lived -- who have been born here and are  
22 continuing to live here would like this to proceed.

23 I understand your -- the need for doing these studies.  
24 But I implore you guys, let's don't -- let's keep this alive and  
25 let's make this happen. This community needs it. I like the

1 traditional architecture theme that's been displayed. I think  
2 that's going to be a real help. Sure, I think those studies are  
3 going to be required, but please do whatever you can. I implore  
4 you to keep this alive. We really -- the community needs it.  
5 Thank you for the opportunity to talk.

6 CHAIRPERSON HILL: Okay. Mr. Ulan, can you hear me?

7 MR. ULAN: Yes.

8 CHAIRPERSON HILL: Okay. That's great. So this is  
9 going to continue to move forward. There might be even another  
10 ANC meeting about this at one point. Do you understand what the  
11 ANC is and the meetings that they have?

12 MR. ULAN: Absolutely.

13 CHAIRPERSON HILL: Okay. Then I would suggest that you  
14 keep your eye on the agenda and make your voice heard when that  
15 time comes.

16 MR. ULAN: All right. Thank you.

17 CHAIRPERSON HILL: But before you go, does the Board  
18 have any questions for Mr. Ulan? Ms. Moldenhauer, any questions  
19 for Mr. Ulan? No. Commissioner Eckenwiler?

20 MR. ECKENWILER: No questions for Mr. Ulan, although I  
21 will observe -- I think Mr. Ulan testified before us either before  
22 the committee or the full ANC earlier this month, so I think he is  
23 well familiar with our proceedings.

24 CHAIRPERSON HILL: Okay. Great. Yeah. Okay. Perfect.  
25 All right. Okay, Mr. Ulan, thank you for your time.

1 MR. ULAN: You're welcome.

2 CHAIRPERSON HILL: Ms. Moldenhauer, I guess we'll go  
3 ahead and see you on December -- oh, sorry, Ms. John has a  
4 question.

5 VICE CHAIR JOHN: Not a question, Mr. Chairman, I just  
6 wanted to note that there's a letter of opposition from Mr.  
7 Leonard in the file.

8 CHAIRPERSON HILL: Thank you.

9 VICE CHAIR JOHN: That's all.

10 CHAIRPERSON HILL: Okay. Let's take a look at it. Okay.

11

12 MS. MOLDENHAUER: The letter addresses noise from the  
13 balcony, and we'll engage with Mr. -- sorry, I forgot the -- with  
14 the individual who filed the letter between now and the subsequent  
15 hearing.

16 CHAIRPERSON HILL: Got you. 92160.

17 VICE CHAIR JOHN: Yeah. Thank you.

18 CHAIRPERSON HILL: Sure. So, Ms. Moldenhauer, again,  
19 we'll see what happens. And I know you guys -- you're going to  
20 talk with your client, you're going to talk with the Office of  
21 Planning. I guess what I'm also trying to point out is that,  
22 like, you know, I don't know how the Board thinks about any of the  
23 things that we're -- well, I shouldn't say that. Like the cornice  
24 -- I don't know what all of the members think of the cornice. I  
25 mean, Mr. Turnbull has let his thoughts be known and so we'll just

1 see what we see when we see it.

2 All right. Is that it? Does anybody got anything  
3 they'd like to add? Yeah, Mr. Turnbull?

4 COMMISSIONER TURNBULL: Yeah, Mr. Chair, I mentioned  
5 that -- as I said, we haven't done what we normally do is we get -  
6 - on the dais, talk about it and go through everything. But I  
7 just thought to avoid multiple hearings or continued hearings, I  
8 thought I better at least put out there that I'm not that in favor  
9 of waiving the cornice regulations. So I'm just throwing that out  
10 that it's -- for me that's a lift.

11 CHAIRPERSON HILL: No, I got you. And, Commissioner  
12 Turnbull, I guess -- and I'm sorry to just make it all confusing  
13 for everybody, I don't know if I'm on board with you. And so  
14 that's -- I'm just -- that's what I'm saying.

15 COMMISSIONER TURNBULL: Okay.

16 CHAIRPERSON HILL: So, you know, right. But again,  
17 you're correct.

18 COMMISSIONER TURNBULL: It's one of the things they have  
19 to think about.

20 CHAIRPERSON HILL: Yes. Absolutely, 100 percent. All  
21 right. So this has taken a long time. All right. Are we done?  
22 Okay I guess that's it. Nice to see you. I can't wait, December  
23 16th.

24 MS. MOLDENAUER: Thank you. And we'll just follow  
25 standard protocol for any filings in advance. So we don't need to

1 go through that right now, but we appreciate it.

2 CHAIRPERSON HILL: Okay. All right. Mr. Moy, are you  
3 good?

4 MR. MOY: Well, okay, as I understand it, there's no  
5 timelines for submission or responses, but it might be helpful to  
6 know when the next ANC meeting will be.

7 MR. ECKENWILER: Mr. Moy, ANC 6C will next meet on  
8 November 12th. Customarily we meet on the second Wednesday, but  
9 that falls on Veterans Day, as I think you discussed in an earlier  
10 case today, so we pushed that one day later. Our December  
11 calendar is a normal one so whatever that second Wednesday is,  
12 which would be probably not that long before December 16th.

13 MS. MOLDENHAUER: The second Wednesday would be the 9th,  
14 December 9th.

15 MR. ECKENWILER: It is. It is indeed.

16 CHAIRPERSON HILL: Okay. Commissioner Eckenwiler, how  
17 long have you been a commissioner?

18 MR. ECKENWILER: Too long. I'm wrapping up my fourth  
19 term, so very close to eight dog years.

20 CHAIRPERSON HILL: Only eight years?

21 MR. ECKENWILER: Like I said, they're dog years.

22 CHAIRPERSON HILL: Oh, got you, okay, all right. All  
23 right. I'm going to excuse everyone. Thank you.

24 MS. MOLDENHAUER: Thank you.

25 UNIDENTIFIED: Thank you very much.

1 CHAIRPERSON HILL: Bye. So by the way, Mr. Moy, that's  
2 a continued hearing.

3 MR. MOY: Yes, sir. Thank you.

4 CHAIRPERSON HILL: All right. I don't even know, do we  
5 -- are we just going to keep chugging along? I mean, we still  
6 have like, I think, a full day. Oh and you have -- and so we're  
7 going to lose Ms. John, apparently, she has a hard stop at 5:30.  
8 Chrishaun, Mr. Smith, are you with us?

9 MR. SMITH: I'm with you.

10 CHAIRPERSON HILL: Mr. Turnbull, are you with us?

11 COMMISSIONER TURNBULL: Yeah, I'm with you. I just need  
12 about a minute for --

13 CHAIRPERSON HILL: Oh, right now?

14 COMMISSIONER TURNBULL: -- a bathroom break.

15 CHAIRPERSON HILL: Okay. All right. Let's take a quick  
16 break. Come back in a minute or whatever, a couple minutes.  
17 Thank you.

18 MR. MOY: So the hearing is back in session after a  
19 very, very, very quick break and the time is at or about 2:14 p.m.

20

21 So the next case application before the Board for  
22 hearing is Case Application No. 20297 of Hart H-A-R-T Wardman,  
23 LLC. Caption advertised for a special exception under Subtitle G,  
24 Section 1200. From the lot occupancy requirements, of Subtitle G,  
25 Section 404.1; rear yard requirements of Subtitle G, Section

1 405.2; from the side yard requirements of Subtitle G, Section  
2 406.1, this would connect the existing two principal dwelling  
3 units into one building and then construct a third-story addition  
4 to the new 14-unit apartment building in the MU-4 zone at premises  
5 302 through 304 Florida Avenue, N.W., Square 519, Lots 71 and 72.

6 As you recall, Mr. Chairman, there are three documents  
7 from the applicant that are untimely: one is the revised  
8 surveyors plat; their PowerPoint that was uploaded to record with  
9 the 24 hour period before the hearing and motioned away following  
10 deadline to submit a revised self serve, under Exhibit 38; and the  
11 affidavit of posting is a bit late, I think it's like three days.

12 CHAIRPERSON HILL: Okay. Ms. Wilson, could you introduce  
13 yourself, please?

14 MS. WILSON: Hi, Alex Wilson from Sullivan & Barros on  
15 behalf of the applicant.

16 CHAIRPERSON HILL: Okay. Can you tell us who's here  
17 with you just so I know?

18 MS. WILSON: Sure. Mr. Yaffe is here, he represents the  
19 owner. And I'm also here with Samson Cheng, who is the architect  
20 and Ron Schneck, who is also a architect.

21 CHAIRPERSON HILL: Okay. And who's Ms. Lewis?

22 MS. WILSON: I believe that's our SMD.

23 CHAIRPERSON HILL: Oh, okay. Great. Commissioner, can  
24 you hear me?

25 MS. LEWIS: Yes, I can hear you. Can you hear me?

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

3 MS. LEWIS: Yes. My name is Karla Lewis, and I am the  
4 advisory neighborhood commissioner for 5E06. And (audio  
5 interference) District. And I'm (audio interference).

6 CHAIRPERSON HILL: Okay. Thanks, Commissioner. Well,  
7 welcome.

8 MS. LEWIS: Thank you.

9 CHAIRPERSON HILL: Mr. Schneck, do you want to introduce  
10 yourself for the record, please? We can hear you; we can't see  
11 you. Let's try again. There we go.

12 MR. SCHNECK: Hi. My name is Ron Schneck and I'm  
13 principal with Square 134 Architects. I'm the architect of record.

14 CHAIRPERSON HILL: Okay. Mr. Yaffe, you want to  
15 introduce yourself?

16 MR. YAFFE: Sure. Hi, I'm Joey Yaffe with New City  
17 Construction and we are one of the development partners on the  
18 Hart Wardman condo project.

19 CHAIRPERSON HILL: Mr. Cheng, can you introduce  
20 yourself, please?

21 MR. CHENG: Hi, my name is Samson Cheng and I work with  
22 Square 134. I'm an architect.

23 CHAIRPERSON HILL: Okay. Ms. Wilson, I'm going to go  
24 ahead and put 15 minutes up on the clock just so I know where we  
25 are in terms of your presentation. A couple of things, I guess,

1 for us there was a notice requirement that was delinquent because  
2 of a technical issue and it was only 19 days in the DC Register;  
3 however, everyone was properly notified, the ANC, the Office of  
4 Planning, the District agencies and the property owners within 200  
5 feet. So on my own motion I'm going to waive our requirement for  
6 that 40 days per Y 402.19(a). And I don't see, unless any board  
7 members have an issue with that, if you do, please raise your  
8 hand. Okay.

9 Let's see, then the next thing is that Ms. Wilson, there  
10 was some waivers for time, you were asking. I guess one, you've  
11 changed your self-cert; can you explain that to me, please?

12 MS. WILSON: Sure. I have an explanation for all of the  
13 waivers, they're all sort of related. After we submitted the  
14 application in April, each peer suggested that the applicant  
15 stagger the rear proposed buildings, so it maintained its  
16 appearance as two separate buildings, since we are combining them  
17 internally. And that changed. The degree of relief for the rear  
18 yard was increased by two feet. And we submitted the plans on  
19 time as Exhibit 34A, which had all of the accurate zoning  
20 information on the chart on page 3. As well as an explanation  
21 about the rear yard change and both the ANC and OP were served.  
22 But I put the self-certification in the wrong folder for ourselves  
23 to upload, so it was a simple human error and I apologize for  
24 that. I didn't realize it until Monday, which is why it was late.  
25 So, again, I apologize.

1           And then the other submissions are related to an issue  
2 that OAG pointed out yesterday. When the buildings were staggered  
3 that third story, which has always been set back was inadvertently  
4 updated to be four inches shy of the 15-foot rear yard setback  
5 requirement. And the entire reason we were permitted to ask for  
6 special exception relief for the rear yard, despite having windows  
7 within 40 feet of our rear, is because all of our proposed windows  
8 meet the 15-foot rear yard setback, including those third floor  
9 windows.

10           So we want to maintain that 15-foot setback on the third  
11 story so we can continue to ask for special exception relief and  
12 we do not have to ask for a variance relief. So to resolve that  
13 issue, we are requesting to submit an updated plat showing a 15-  
14 foot setback for the third story.

15           And then as we were trying to work this all out  
16 yesterday, we didn't meet the deadline to submit the presentation,  
17 so we'd also ask that that be allowed into the record so we can  
18 give a full presentation to you today. And I'll just add that the  
19 requested relief and degree of relief were timely in the record  
20 via the plans, all of the parties were served, and this  
21 information will not prejudice any parties.

22           CHAIRPERSON HILL: And this is what you guys presented  
23 to the ANC?

24           MS. WILSON: Correct. I think -- I think we actually  
25 presented the 13-foot 9-inch setback instead of the 11-foot

1 9- inch setback. I have to check because that meeting was in May,  
2 so -- yeah, but they were absolutely served --

3 MS. LEWIS: Our -- our meeting -- our meeting was in  
4 June. Sorry, this is Commissioner Lewis speaking, sorry. So our  
5 meeting was in June and whatever changes are being presented today  
6 were not presented to the (audio interference) Civic Association  
7 or the ANC.

8 CHAIRPERSON HILL: So as you go through your  
9 presentation, right, if you can try to figure out where the  
10 differences are between what you might have presented to the ANC  
11 and what you're presenting to us, because it sounds like you're  
12 talking about a couple of feet in difference or a couple of  
13 inches, I'm a little confused about that, but you can point that  
14 out in your presentation.

15 I'm fine with waiving the time requirements and I'd like  
16 to hear the presentation and see the presentation. I guess the  
17 thing in the future, Mr. Moy, and I can't figure out how to do  
18 this is, I'd like to be able to pull up the presentation in the  
19 record. And so we can't get it right away, right. Like it just  
20 doesn't turn on, right?

21 MR. MOY: That is something we have to coordinate with  
22 Paul Young on. If that's what you're referring to -- you're  
23 referring to the PowerPoint?

24 CHAIRPERSON HILL: Yeah. So like if we -- if this comes  
25 in inside 24 hours and we decide we want to allow it into the

1 record, is there a way to pull it up?

2 MR. MOY: Let me check on that and I'll get back with  
3 you.

4 CHAIRPERSON HILL: Okay. Or maybe we can discuss that  
5 in a different way. But anyway, so Ms. Wilson, so I'm comfortable  
6 unless the Board has any issues with waiving the time  
7 requirements. I don't see anyone raising their hand, so -- oh,  
8 Mr. Turnbull?

9 COMMISSIONER TURNBULL: I just had one question. I  
10 printed up some documents yesterday, some plans and sections  
11 elevations, Exhibit 34; is the PowerPoint different from what I've  
12 been looking at then?

13 MS. WILSON: The plans are identical because they didn't  
14 have the -- they didn't have a dimension for that third-story  
15 setback and it's -- the change on the plat was for four inches and  
16 so that would imperceptible on the plan. So the plans are  
17 accurate.

18 COMMISSIONER TURNBULL: Okay. Thank you.

19 CHAIRPERSON HILL: Okay. I learned a new word,  
20 imperceptible. Okay. All right. Ms. Wilson, you can go ahead  
21 and start whenever you'd like.

22 MS. WILSON: Great. Thank you. Mr. Young, could you  
23 please pull up the presentation? Thank you.

24 The applicant is proposing to internally combine the  
25 existing rear dwellings and create one 14-unit apartment building,

1 one unit of which will be an IZ unit. These buildings are  
2 designated historical landmarks known as the Wardman Flats and the  
3 project is subject to each (audio interference). I do have the  
4 architects here if there are any specific questions. But the  
5 special exception criteria are relatively objective so I thought  
6 it would be most efficient to run through that first. If you  
7 could, please go to the next slide.

8 Requesting special exception relief from the lot  
9 occupancy side yard and rear yard requirements of the MU-4 zone.  
10 I know the preliminary issue maybe made this seem a bit more  
11 complicated, but the degree of relief for each area is relatively  
12 small, 5 percent more lot occupancy than what is permitted by  
13 right since we are doing an IZ development. A side yard that is  
14 1.36 feet shy of the requirement and rear yard relief of about 3  
15 feet and that's only for a small portion of the building. And  
16 that is the area of relief that -- in which we gained a degree of  
17 about two feet. So we presented to the ANC with a smaller degree  
18 of relief, we only needed about  
19 1 foot and 3 inches of relief and now we need 3 feet and  
20 3 inches, so that is the difference. Next slide, please.

21 From the front will look about the same because of the  
22 historic requirements. And all of these rear dwellings here are  
23 part of the Wardman Flats, historic landmark. Could you skip to  
24 slide 6, please?

25 So this shows the light well, which is also considered a

1 side yard in the MU-4 zone, not a court. This is a section and  
2 it's just showing it in the center of the building and since it's  
3 an interior row building it will not be visible at all. Next  
4 slide, please.

5 This is a rendering of the rear façade, and as I  
6 mentioned earlier, the design is subject to each (audio  
7 interference) approval. Could you skip to slide 9?

8 We are requesting rear yard relief for a small portion  
9 of the second story, only the portion that's right above the  
10 second-story windows. The rest of the building meets the rear  
11 yard setback requirement as the rear yard is measured from the  
12 center line of the alley for the first 20 feet of building height  
13 and the third-story is now sufficiently set back as previously  
14 discussed. Next slide, please.

15 All three areas of relief must meet the requirements of  
16 G 1200 and the rear yard must also comply with G 1201. The  
17 requested relief meets the purpose and intent of the MU-4 zone as  
18 it would allow the applicant to reconfigure and adaptively reuse  
19 the existing structures as a multifamily building within a mixed  
20 use area in close proximity to transit, including bus service on  
21 Florida Avenue and within a half mile of the Shaw- Howard  
22 University Metro Rail Station. Next slide, please.

23 The project will not tend to adversely affect the use of  
24 neighboring properties. We have support letters from the directly  
25 adjacent neighbors and others on the block and the degree of

1 relief is not much more than what would be permitted as a matter  
2 of right. Next slide, please.

3 As I mentioned, relief of the rear yard is also subject  
4 to G 1201. In the MU-4 zone, the rear yard is measured from the  
5 center line of the alley for the first 20 feet of the building.  
6 The alley behind the building is 10 feet wide. So the first 20  
7 feet of vertical building height is set back over 15 feet from the  
8 center line of the alley, satisfying the rear yard requirements.

9 The third story cannot use the alley line set back, but  
10 it is set back 15 feet from the rear lot line. So the first 20  
11 feet of building height plus the third story meets the rear yard  
12 requirements and we do not need relief for those portions. And  
13 this has been confirmed by the ZA in a determination letter.  
14 There is a small portion on the second story circled in this photo  
15 measuring 4 feet and 3 inches in vertical height and that portion  
16 cannot use the alleyway in set back and is measured from the rear  
17 lot line and that portion is set back 11 feet and 9 inches from  
18 the rear lot line. So it is 3 feet and 3 inches shy of meeting  
19 the requirements and that is the only portion that needs relief.

20 I'll mention it again, but when we presented to the ANC  
21 that dimension was 13 feet and 9 inches from the rear lot line,  
22 which made it 1 foot and 3 inches short and now since we've added  
23 2 feet, it's 3 feet and 3 inches short. And, again, there are no  
24 windows on that portion. Next slide, please.

25 Regarding Section 1201(a), since the portion needing

1 relief does not have windows, special exception relief is  
2 permitted, and this section is satisfied. Next slide, please.

3 Skipping to C, as B is related to office use, which we are  
4 not proposing, the only non-parallel building is the one across  
5 the alley and the proposed rear wall of the building is at about  
6 the same distance as the existing rear wall, so there will be no  
7 changes to the site lines. Next slide, please.

8 One parking space is proposed, but no parking or loading  
9 is required because this is a historic building. The applicant is  
10 also providing six long-term bicycle parking spaces and a short-  
11 term bicycle parking rack. Next slide, please.

12 We have four letters of support from neighbors on the  
13 same block, from 300 Florida, 306, which are both adjacent to the  
14 property and 308 and 310. ANC 5E submitted a resolution in  
15 support. The Office of Planning is recommending approval of the  
16 application and DDOT has no objection. And, again, the degree of  
17 relief is relatively small for each area: 5 percent more lot  
18 occupancy than what is permitted by right; a side yard is 1.36  
19 feet shy of their requirement; and rear yard relief of about 3  
20 feet, really a 4-foot portion of the building. Thank you. Please  
21 let me know if you have any questions.

22 CHAIRPERSON HILL: I'm thinking. Does the Board have  
23 any questions for the applicant?

24 VICE CHAIR JOHN: Ms. Wilson, can you go back over the  
25 location of the windows in the rear and why the rear windows

1 comply with the regulations?

2 CHAIRPERSON HILL: Ms. Wilson, you're on mute. Sorry.

3 MS. WILSON: Sorry. I've been talking this whole time.

4 CHAIRPERSON HILL: Right. I was like -- I was grabbing  
5 a piece of paper and I wasn't looking.

6 MS. WILSON: Mr. Young, could you please pull up slide  
7 12? For some background on this, we did a case on Georgia Avenue  
8 and I cannot remember the case number, but in that case we  
9 actually talked to OP and they were the ones who initially said if  
10 the windows are properly set back then the -- then you can comply  
11 with Section 1201(a), even there are windows facing because the  
12 windows are within the setback, so the rear yard relief is not  
13 required for that portion. And I guess how they review it is,  
14 they only review the portion that needs relief. And in this  
15 slide, you can see that the first 20 feet have the windows for the  
16 first story and second story. And although it's only set back 11  
17 feet and 9 inches from the rear lot line, the first 20 feet of  
18 vertical height is -- for the rear yard is measured from the  
19 center line of the alley.

20 So that portion of the building is allowed to add an  
21 additional 5 feet for its total rear yard. And so the total rear  
22 yard of that portion is 16 feet and 9 inches. And so that portion  
23 is not subject to review of the rear yard requirement. And so  
24 since the only portion that needs relief is that 4-foot 3-inch  
25 portion at the top that doesn't have windows, Section A is

1 satisfied. You want to go to the next slide. Because there are  
2 no apartment windows that are within -- that are subject to this  
3 review. And maybe OP can jump in because I know that we talked to  
4 them about this for a previous case, but we also did confirm this  
5 with the zoning administrator, and we have a determination letter  
6 to this effect.

7 CHAIRPERSON HILL: Give me a second. Go ahead, Ms.  
8 John. Sorry.

9 VICE CHAIR JOHN: So this was the requirement that says,  
10 no apartment window shall be located within 40 feet directly in  
11 front of another building?

12 MS. WILSON: And we meet that because the portion  
13 needing rear yard relief does not have a window. Only other  
14 portions of the building but those portions meet the rear yard  
15 setback requirement.

16 VICE CHAIR JOHN: Okay. I'll wait to hear from OP.  
17 Thanks.

18 CHAIRPERSON HILL: Mr. Smith?

19 MR. SMITH: I want clarification from OP on that  
20 determination. I don't have any questions.

21 CHAIRPERSON HILL: Okay. Mr. Turnbull?

22 COMMISSIONER TURNBULL: Yes, Ms. Wilson, I wonder -- and  
23 maybe -- you probably said something, but the individual special  
24 exceptions that you're looking to get, can you talk about how they  
25 don't affect the neighboring properties?

1 MS. WILSON: Sure. Well, we have letters of support  
2 from the neighboring properties and the degree of relief for each  
3 is so small that it's -- the building itself is not going to be  
4 too different than what would be permitted as a matter of right.  
5 It's 5 percent lot occupancy, there's a side yard that's not  
6 visible from anywhere and it actually allows them light into the  
7 building in the form of the light well and then the rear yard  
8 relief is only 3 feet and 3 inches.

9 COMMISSIONER TURNBULL: Okay. I thought I heard you say  
10 that, but I just wanted to be sure. Thank you.

11 MS. WILSON: Of course.

12 CHAIRPERSON HILL: Okay. The Office of Planning?

13 MR. MORDFIN: Hi. Good afternoon. This is Stephen  
14 Mordfin. The Office of Planning is in support of this application  
15 and I guess what I'll talk about first is, with the rear yard  
16 where it's measured from and what the provision says -- one  
17 second. So the provision says, no apartment window shall be  
18 located within 40 feet directly in front of another building and  
19 that's for obtaining rear yard relief.

20 At the top of the windows it's at 20 feet from the  
21 ground, so they can measure from the center line of the alley and  
22 they meet the minimum requirement. At the top of those windows or  
23 just above the window is where they hit the 20 feet, and so  
24 therefore, above that they have to measure from the rear lot line.  
25 So that increases -- because it's a 10-foot alley, it increases

1 the rear yard setback requirement by 5 feet. But it has no  
2 windows there, because the provision under  
3 G1201.1 (a) says no apartment window shall located within 40  
4 directly in front of another building, and in this case there is  
5 no apartment window within 40 directly in front of another  
6 building, so we find that for the special exception relief for the  
7 rear yard that this application is in conformance with that  
8 criteria and also with the other ones of this provision which  
9 talks about office windows, which does not apply, in buildings  
10 that are not parallel to adjacent buildings. This building would  
11 not be parallel to the adjacent buildings across the alley because  
12 of the angle, however -- but the rear wall would be no closer to  
13 adjacent buildings across the alley than the existing buildings.  
14 They are just rebuilding what is there now by removing a portion  
15 of the existing building and putting in some new construction.

16 The next provision has to do with service provision  
17 -- service functions, which are not applicable to this application  
18 and DDOT had no objection. There were no District agencies that  
19 had an objection to this. So that's why we found that this  
20 application is in conformance with the special exception  
21 requirement for the provision that allows for the applicant to  
22 reduce the rear yard and so we support that.

23 We found that the application was in conformance with  
24 the other special exception requirements for the side yard because  
25 even though it looks more like a courtyard on the side of that

1 building, which as the Applicant said is not visible from  
2 anywhere, the zoning rights do say that that has to be counted as  
3 a side yard and not a courtyard.

4 So for those reasons the application was found by the  
5 Office of Planning to be in conformance with the criteria and we  
6 support it. Thank you.

7 CHAIRPERSON HILL: Thank you, Mr. Mordfin. Ms. John,  
8 did that answer your question?

9 VICE CHAIR JOHN: I'm still trying to figure it out.  
10 Are you saying that the top part of the building -- it's the  
11 drawings that are confusing me and we're not able to -- the top  
12 part of the building is the one that needs relief and it is not  
13 within 40 feet of another building?

14 MR. MORDFIN: Well, it's the windows that are what's  
15 important. The way the provision is written --

16 VICE CHAIR JOHN: Right.

17 MR. MORDFIN: -- it says --

18 VICE CHAIR JOHN: No apartment window shall be located  
19 within 40 feet directly in front of another building. There are  
20 no windows on that top part. So you're saying --

21 MR. MORDFIN: Right. There are no windows, because this  
22 (audio interference) and until you get to a height above the  
23 second-story windows, so it's just a façade at that point or brick  
24 or whatever the rear of the building is faced with that does not  
25 meet the setback. The windows themselves actually are in

1 conformance with the regs.

2 VICE CHAIR JOHN: Okay. Thank you.

3 CHAIRPERSON HILL: Mr. Smith, do you have any questions  
4 for the Office of Planning?

5 MR. SMITH: No. I understood his clarification, and  
6 thank you, Mr. Mordfin.

7 CHAIRPERSON HILL: Commissioner Turnbull, do you have  
8 any questions for the Office of Planning?

9 COMMISSIONER TURNBULL: No. Thank you, Mr. Mordfin,  
10 really appreciate it.

11 CHAIRPERSON HILL: Ms. Wilson, do you have any questions  
12 for the Office of Planning?

13 MS. WILSON: No. Thank you for adding further  
14 clarification.

15 CHAIRPERSON HILL: Mr. Young, does anyone here wish to  
16 speak in support or opposition?

17 MR. YOUNG: We just have the ANC Commissioner.

18 CHAIRPERSON HILL: Okay. Great. Thank you.  
19 Commissioner, can you hear me?

20 MS. LEWIS: Yes.

21 CHAIRPERSON HILL: Commissioner -- and I apologize, I  
22 kind of went out of order, it's been already a long day.

23 MS. LEWIS: I know. I've been on since 9:30.

24 CHAIRPERSON HILL: Oh gosh, I'm sorry for you. All  
25 right. Do you have any testimony that you'd like to give?

1 MS. LEWIS: Yes, I do.

2 CHAIRPERSON HILL: Please, go ahead.

3 MS. LEWIS: Okay. So this application is in my  
4 community. And the community is actually looking forward to the  
5 development of these properties, because, you know, no one wants  
6 to really look at the blighted property. So we want this (audio  
7 interference) type of development happening in this area. So on  
8 June 16th, the ANC voted to support this application with a couple  
9 of recommendations. And the two issues that we had, number 1,  
10 with regards to parking, and number 2 was with regards to  
11 affordable housing. So those were the two areas that we had  
12 issues with.

13 Now I believe Ms. Wilson mentioned that we wrote a  
14 resolution, but as far as I know we did not write a resolution,  
15 what we did was submitted Form 129 and on Form 129 we accepted  
16 -- you know, we agreed or supported the application, but we also  
17 asked about these recommendations.

18 And so with regards to parking, the applicant is going  
19 to build 14 units. These 14 units or these two buildings are on a  
20 commercial corridor, which is Florida Avenue Northwest. And this  
21 Florida Avenue Northwest, where it's located, is just maybe a few  
22 blocks from the infamous *Dave Thomas Circle* and we all know about  
23 the traffic congestion that happens at the *Dave Thomas Circle*.

24 So one of the other things that the applicant did was  
25 they noted that the type of people that they would be looking to

1 live in this particular residence would be those that would use  
2 Metro or cycle. And if that's the case then we said well, for  
3 those particular addresses, 302 and 304, that they shouldn't have  
4 any RPP parking, no RPP parking for those two addresses. Because  
5 it's Florida Avenue, Florida Avenue addresses do not have any  
6 parking on Florida Avenue, so any of the residents should be  
7 parking on neighboring blocks, which is the 3rd Street Northwest,  
8 4th Street Northwest and R Street Northwest. And residents did  
9 come forward at the Bates Area Civic Association meeting and,  
10 basically, you know, voiced their concerns about parking, because  
11 it's already extremely congested and overcrowded with regards to  
12 parking. So that's one of the things that we asked for, is that  
13 there no RPP be attached to these two addresses.

14 I think I already mentioned about the *Dave Thomas*  
15 *Circle*. And let's see -- they said that they're going to have 14  
16 units there and it's been -- you know, I've been a resident in  
17 D.C. for 36 years now, they always say that people are going to  
18 ride the Metro, but what we've seen is that people will bring --  
19 you know, they'll move and they will come with cars. If it's a  
20 couple, sometimes you have two cars, because you know the jobs --  
21 people have jobs within the DMV, within the District, Maryland and  
22 Virginia, and some of those places are in remote areas and they  
23 have to drive. So we're talking about, you know, 14 apartments  
24 with possibly having two people with cars, you know, we're talking  
25 -- or even three, if they're coming with a child that's over 18

1 years of age. I mean, there's a possibility of having three cars  
2 per apartment building, which would be 42 parking spaces, but only  
3 one space for this particular apartment building. So that is  
4 definitely a concern. And they have no underground parking. We  
5 realize that this is in a historic -- the apartment building is  
6 historic.

7 So, basically, what I'm trying to say is that, you know,  
8 pass the D.C. government can be a little bit more stringent with  
9 regards to either requiring underground parking for some of these  
10 new developments or trying to find other ways to reduce traffic  
11 and congestion. I mean, right now we have DDOC (audio  
12 interference) that (audio interference) DC, and they're asking  
13 people for ideas as to how to move the traffic within Washington,  
14 D.C. because of all of the traffic congestion. So it would help  
15 if we would do things like place no RPP on such buildings, so we  
16 won't bring more, you know, more vehicle traffic to the area.

17 We also have issues with traffic right now because we  
18 have the Northeast Boundary Tunnel Project from the D.C. corridor  
19 that's right across the street from where this building is now.  
20 And so we have a lot of construction in the area and the traffic  
21 there is horrendous.

22 The second issue pertains to housing. I know everyone  
23 talked about, you know, the housing inequity in D.C. We have over  
24 7,000 homeless people right now. We can't house all of the  
25 homeless people, but we need affordable housing in D.C., and we

1 would like to have a percentage of the units reserved for  
2 affordable housing.

3 So with that said, as recommended for ANC 5E, I would  
4 like the Board to please consider the recommendations.

5 CHAIRPERSON HILL: Okay. Thank you, Commissioner.  
6 Let's see, Ms. Wilson, I don't know -- so Commissioner, you guys  
7 did submit the form to us and that is the report -- just so you  
8 know, that is the report. And so you did submit your approval of  
9 the project and you did mention some of these issues in your  
10 report and it's okay, we're going to talk through some of those  
11 right now.

12 MS. LEWIS: Okay. Sorry. I stated that we submitted  
13 the Form 129, but we did not submit a resolution. I think Ms.  
14 Wilson said something about we submitted a resolution.

15 CHAIRPERSON HILL: Okay. Yeah, I don't -- yeah, this is  
16 the form that tells us what you guys decided to do, right. so it  
17 seems as though you voted to support the application.

18 MS. LEWIS: Yes. Yes.

19 CHAIRPERSON HILL: Okay. All right. So I just wanted  
20 to be clear on that one. So the issues with the -- Mr. Mordfin,  
21 there's not parking relief being requested for this application,  
22 correct?

23 MR. MORDFIN: That's correct.

24 CHAIRPERSON HILL: Okay. So as far as -- Ms. Wilson, do  
25 you know -- do you guys -- I mean, we, Ms. Lewis, there is no

1 mechanism right now for us to necessarily enforce RPP, people not  
2 applying for RPP. I know that they're trying to implement some  
3 kind of a mechanism, an actual mechanism that we can do that at  
4 DDOT, but as of now there's not a way to actually stop people from  
5 doing -- from applying to RPP. However, the developers have in  
6 the past agreed to tell their residents they can't apply for RPP.

7

8 Now, I don't know, Ms. Wilson, if you guys --  
9 Commissioner, give me one second, give me one second.

10 MS. LEWIS: Okay.

11 CHAIRPERSON HILL: So I don't know, Ms. Wilson, if you  
12 guys have talked about any of this, I mean, do you guys have a  
13 position on the two items that the ANC commissioner is bringing  
14 up?

15 MS. WILSON: Yes, we have discussed it. This building  
16 is ineligible for RPP, so we were okay with that. I know you were  
17 saying there's no mechanism for enforcing, but I really don't  
18 think any of the residents will be permitted to apply for RPP,  
19 because we're on a commercial street. And then we are subject to  
20 IZ, so we are going to provide at least one unit and right now  
21 that -- I believe that satisfies the condition or the  
22 recommendation in the form 129.

23 CHAIRPERSON HILL: Okay. Great. Commissioner, did you  
24 hear all that?

25 MS. LEWIS: I -- how many units were going to be

1 allocated as affordable? I didn't hear the number.

2 MS. WILSON: One unit.

3 MS. LEWIS: Just one unit?

4 MS. WILSON: We are satisfying the IZ requirement, which  
5 right now is one unit as we've calculated and that will be refined  
6 more during permitting of course.

7 MS. LEWIS: One unit is (audio interference).

8 CHAIRPERSON HILL: They're satisfying the regulation,  
9 Commissioner, that's what they're trying to point out.

10 MS. LEWIS: Okay. And the other my understanding, now  
11 mind you this is my first time, I'm coming to the end of my first  
12 term as a commissioner, but there was something that I read where  
13 there were other buildings that had no RPP as a requirement for  
14 those buildings and they were listed with the Department of Motor  
15 Vehicles. So anyone that lived in those buildings could not apply  
16 for RPP. As it stands now, if you don't do this, they could go  
17 and get RPP and park within the vicinity.

18 So that's when there's no regulation, the regulation  
19 would be to have these two addresses, 302 and 304, listed with the  
20 Department of Motor Vehicles as not being permitted to have RPP  
21 parking.

22 CHAIRPERSON HILL: I understand. And this is where it's  
23 new for me anyway and Mr. Mordfin can list or Ms. Wilson, somebody  
24 can tell me. This building since it's on a commercial street, it  
25 can't get RPP; is that correct, Mr. Mordfin?

1 MR. MORDFIN: That I don't know if they can or they  
2 cannot. That's a DDOT question.

3 CHAIRPERSON HILL: Commissioner, Commissioner,  
4 Commissioner, can you mute your line? Can you give me a second?  
5 I've had a long day, Commissioner. I know you've been waiting a  
6 long time, I know, but my day it going to keep on going for  
7 another eight hours. Gosh.

8 Okay. Mr. Turnbull, you were nodding your head a second  
9 ago, I don't know if you know something. Your mic is not on  
10 Commissioner.

11 COMMISSIONER TURNBULL: That does sound right that since  
12 it's on a commercial street, it is not eligible for RPP, which  
13 means they could not get a sticker to park on any streets in the  
14 neighborhood, I think, and Ms. Wilson can confirm that. But in  
15 think she did already that -- that's the way I think it works that  
16 if it's on a major commercial street, you cannot get RPP.

17 CHAIRPERSON HILL: Okay.

18 COMMISSIONER TURNBULL: When you go to get RPP you've  
19 got to give your address and when it's going to show up, they're  
20 going to say you're ineligible, I believe. I don't know exactly  
21 how that works. I'm just -- I know.

22 CHAIRPERSON HILL: Okay. So, Commissioner Lewis, that  
23 building can't get RPP, I guess. And what I'm learning right now  
24 with you is, I didn't know that they -- I just didn't understand  
25 that myself, so anyway, that one issue then is now -- you don't

1 have to worry about that one issue.

2           What I do want to clarify with you as far as I  
3 understand it, there is -- and this is where I'm saying I'm  
4 confused, there is not a mechanism currently for us to give an  
5 address to DDOT so that they can't get RPP, but I guess there is  
6 on a commercial street. And so is that correct, Ms. Wilson?

7           MS. LEWIS: So the -- oh, sorry.

8           CHAIRPERSON HILL: That's all right. Ms. Wilson.

9           MS. LEWIS: Me or Ms. Wilson?

10          CHAIRPERSON HILL: Ms. Wilson. I'm sorry, Commissioner.

11          MS. WILSON: That's my understanding, since we're on a  
12 commercial street, we can't even apply for RPP.

13          CHAIRPERSON HILL: Got it. Okay. Commissioner, you had  
14 a comment?

15          MS. LEWIS: Yes. Because there are many residents that  
16 live on Florida Avenue that can get RPP. What they cannot get is  
17 guest RPP parking. They are not eligible to get guest RPP parking  
18 and they are parking on the side streets, like 3rd Street and 4th  
19 Street and R Street.

20          CHAIRPERSON HILL: Okay. Okay. Does anybody have any  
21 questions for the Commissioner or the applicant? Okay.  
22 Commissioner, do you have anything that you'd like to add at the  
23 end?

24          MS. LEWIS: Just that I would just like the Board to  
25 consider the recommendations. I know that what Ms. Wilson is

1 saying is that they're not required -- that they cannot get RPP  
2 parking, but that is not my understanding. Because there are many  
3 residents that live on Florida Avenue that do have RPP parking.  
4 My understanding is that they are not eligible for guest parking.

5 CHAIRPERSON HILL: Mr. Turnbull?

6 COMMISSIONER TURNBULL: I don't know. That's new to me,  
7 but it's not what I heard, but I'm sure, maybe someone else would  
8 know. I just had one question for Ms. Wilson on the IZ; what AMI  
9 is that at?

10 MS. WILSON: I believe it's going to be at 60 percent  
11 AMI. Maybe one of the architects can --

12 COMMISSIONER TURNBULL: 60 percent. Okay. Thank you.

13 MS. WILSON: 60, yes.

14 COMMISSIONER TURNBULL: 60. Okay.

15 CHAIRPERSON HILL: Commissioner Lewis, what I'm trying  
16 to clarify with you is that they are doing everything that you're  
17 asking them to do. That's what I'm pointing out, like, they can't  
18 apply for RPP, they cannot, so that's the RPP issue. And they're  
19 satisfying the IZ requirements, which is the affordable housing.

20 So what I'm trying to explain is that they are doing  
21 everything that you seem to have -- you know, you might want more  
22 IZ units, we'd all like more IZ units, but like, they're meeting  
23 their requirement.

24 MS. LEWIS: What would happen if we find out later that  
25 they are able to apply for RPP? Is there anything that we can do?

1 CHAIRPERSON HILL: I'm being --

2 MS. LEWIS: If it's decided?

3 CHAIRPERSON HILL: -- I'm being told -- Ms. John, you  
4 have a question?

5 VICE CHAIR JOHN: I'm just looking at the DDOT website  
6 and it does back up what Ms. Wilson has represented concerning RPP  
7 parking in the commercial block. So, in any event, that's not  
8 something that we can resolve at the BZA, Commissioner. We can't  
9 enforce it.

10 MS. LEWIS: Okay.

11 CHAIRPERSON HILL: So anyway, I think you're good,  
12 Commissioner, is what I'm trying to point out. But I guess you'd  
13 have to go to DDOT and, you know, complain to DDOT if there was  
14 some issue that is wrong with what -- and I don't see why they  
15 would go against what they're saying they're going to do.

16 So, I -- I'm sorry, Mr. Young, there's nobody else you  
17 said, correct?

18 MR. YOUNG: That's correct.

19 CHAIRPERSON HILL: Okay. All right. Ms. Wilson, is  
20 there anything you'd like to add at the end?

21 MS. WILSON: Thank you.

22 CHAIRPERSON HILL: Okay. All right. Well,  
23 Commissioner, it was a pleasure having you with us. I hope it  
24 wasn't a long day.

25 MS. LEWIS: It was long. My day began at 4 a.m.

1 CHAIRPERSON HILL: All right. Well, you have a good  
2 rest of your day, and you can come back and check in with us  
3 around 7 if you want to.

4 MS. LEWIS: No, thank you.

5 CHAIRPERSON HILL: All right. I'm going to close the  
6 hearing. I'm going to excuse everybody. Thank you.

7 Is the Board ready to deliberate? And if so, can  
8 somebody else do some talking? Mr. Turnbull?

9 COMMISSIONER TURNBULL: Okay, Mr. Chair. Mr. Chair,  
10 after hearing the presentation and asking some of our questions  
11 and listening to them, I think they've met -- and hearing the  
12 Office of Planning's report and their approval of it, I don't  
13 think there's anything here that I have trouble with. I think  
14 they've met all the conditions that are necessary for approval on  
15 this. And I'm just looking at here they had -- I mean, the things  
16 that show up are the lot occupancy, rear yard and side yard, it's  
17 going to get HPRB approval, but from a design standpoint, I really  
18 don't have any comments to talk about with the building, per se,  
19 because they're going to meet the historic requirements that they  
20 mete out. So I think they meet all the requirements for the  
21 special exception relief for the rear yard, the lot occupancy and  
22 the side yard. I have no issues with this, I'm ready to move  
23 forward on it.

24 CHAIRPERSON HILL: Mr. Smith?

25 MR. SMITH: I completely agree what Mr. Turnbull said.

1 I believe that the request for lot occupancy, rear yard setback  
2 requirements, side yard setback requirements are reasonable in  
3 nature for us to support the request on the base of small impact -  
4 - and if the ANC commissioner is still on the line, this question  
5 about RPP has come up fairly regularly -- at least, you know, I've  
6 been on the Board since the summer and we've heard this question  
7 three or four times since I've at least been up here. And from  
8 what I understand, that is completely within the realm of DDOT and  
9 there's even an open question of whether DDOT can regulate it to  
10 that nature by address. So this -- that's completely within the  
11 realm of DDOT. But I do believe that the applicant has attempted  
12 to mitigate some of those impacts by providing additional long-  
13 term bicycle parking above and beyond what is required upon  
14 themselves. I would support the request for the special exception  
15 for this development.

16 CHAIRPERSON HILL: Vice Chair John.

17 VICE CHAIR JOHN: I agree with everything that  
18 Commissioner Turnbull and Board Member Smith have said. I will  
19 give great weight to OP's analysis, particularly OP's testimony  
20 regarding Subsection G 1201. And that is the location of the  
21 windows and whether they meet the requirement. I appreciate the  
22 ANC's testimony and agree that the BZA has no ability to enforce  
23 the RPP requirement, even though it's a valid consideration. And  
24 the applicant is really not seeking parking relief, so based on  
25 all of that, I can support the application.

1 CHAIRPERSON HILL: Okay. Great. Thank you. I have  
2 nothing to add. I'm going to go ahead and make a motion to  
3 approve Application Number 20297 as captioned and read by the  
4 secretary and ask for a second, Ms. John?

5 VICE CHAIR JOHN: Second.

6 CHAIRPERSON HILL: Mr. Moy, the motion has been made and  
7 seconded. Could you please take a roll call vote?

8 MR. MOY: Yes, thank you, Mr. Chairman. When I call  
9 your name if you would please respond with a yes, no or abstain to  
10 the motion made by Chairman Hill to approve the application for  
11 the relief requested, seconded by Vice Chair John. Zoning  
12 Commissioner Michael Turnbull?

13 COMMISSIONER TURNBULL: Yes.

14 MR. MOY: Mr. Smith?

15 MR. SMITH: Yes.

16 MR. MOY: Ms. John?

17 VICE CHAIR JOHN: Yes.

18 MR. MOY: Chairman Hill?

19 CHAIRPERSON HILL: Yes.

20 MR. MOY: And we have a board seat vacant. The staff  
21 would record the vote as 4-to-zero-to-1 and this is on the motion  
22 made by Chairman Hill to approve, second by Vice Chair John, also  
23 in support of the motion, Mr. Smith and Zoning Commissioner  
24 Michael Turnbull. Motion carries 4-to-zero-to-1.

25 CHAIRPERSON HILL: Thank you, Mr. Moy. Let's see, are

1 we all good to keep chugging along? Okay. You want to run a  
2 couple of cases. Okay. All right. Mr. Moy -- I was joking.  
3 Although if I fall down, maybe -- Mr. Moy, you can go ahead and  
4 call our next case.

5 MR. MOY: Thank you, Mr. Chairman. So that would be  
6 Case Application No. 20298 of 3215 Mount Pleasant Partners, LLC.  
7 Caption advertised for special exceptions under Subtitle C,  
8 Section 703.2; from the minimum parking requirements of Subtitle  
9 C, Section 701.5; and under Subtitle C, Section 1504 and the  
10 penthouse setback requirements of Subtitle C, Section 1502.1(b).  
11 This would redevelop the existing historic building with a new  
12 mixed-use project providing 15 apartment units and retail space,  
13 MU-4 zone at premises 3215 Mount Pleasant Street, Northwest,  
14 Square 2608, Lot 825.

15 CHAIRPERSON HILL: Ms. Hottel-Cox, could you introduce  
16 yourself, please.

17 MS. HOTTEL-COX: Yes. For the record, my name is Meghan  
18 Hottel-Cox with Goulston and Storrs and I'm the representative for  
19 the applicant.

20 CHAIRPERSON HILL: And who are you here with today?

21 MS. HOTTEL-COX: Phil Kang with Velocity and Kevin  
22 Sperry with Casa Architects.

23 CHAIRPERSON HILL: Okay. I'll tell you what, I'll let  
24 you guys introduce yourselves if we get to you, okay.

25 Ms. Hottel-Cox, welcome, I haven't seen you since the

1 pandemic I don't think.

2 MS. HOTTEL-COX: Thank you.

3 CHAIRPERSON HILL: All right. Let's see, first of all,  
4 there was again a deficient notice on our part in terms of the  
5 Register -- the DC Register in that it was only for 19 days  
6 posted, sorry, prior to the hearing. However, all of the other  
7 notices were sent out, meaning the ANC was notified and the Office  
8 of Planning and all of the other District agencies and all the  
9 other property owners within 200 feet. I believe that the notice  
10 has been satisfied and I'm going to make a motion on my own motion  
11 to waive that one area of notice, which is the D.C. Register,  
12 pursuant to Y 4021(a), unless the Board has any questions or  
13 concerns, you can raise your hand if you do. Okay. That's great.

14

15 Let's see, Ms. Hottel-Cox, if you can go ahead and walk  
16 us through your application and tell us why you believe you are  
17 meeting the requirement for us to grant the relief requested. I  
18 would like you to kind of speak to DDOT and their implementation  
19 of the TDM plan and what you had worked through with them and then  
20 -- I do think we'll have a couple of questions for you, but I'll  
21 just let you go ahead and let you do your presentation first.

22 MS. HOTTEL-COX: Sure. Thank you. Mr. Young, can you  
23 bring up the presentation that we submitted?

24 So again, good afternoon. My name is Meghan Hottel-Cox  
25 and I, along with my colleague, Allison Prince, are with Goulston

1 and Storrs representing the applicant in this case. We are  
2 excited to be here virtually today to present Velocity's plans for  
3 a mixed-use project in Mount Pleasant.

4 We're here requesting special exception relief from the  
5 parking requirements and penthouse setback requirements for  
6 property located at 3215 Mount Pleasant Street, Northwest. The  
7 project will construct an addition to the existing one-story  
8 building to create a four-story mixed-use building with  
9 approximately 1,300 square feet of ground floor retail and 14  
10 (audio interference).

11 The existing building is a contributing building in the  
12 Mount Pleasant Historic District and the project's design has  
13 already been unanimously approved by the Historic Preservation  
14 Review Board earlier this year.

15 The project includes a setback at the fourth floor to  
16 minimize its visibility and a side courtyard to provide light and  
17 air to the building unit.

18 Finally, the project does trigger the inclusionary  
19 zoning requirements and will provide two affordable units at its  
20 delivery. The project requests two special exceptions, parking  
21 relief and penthouse setback relief.

22 First, we are requesting relief from the requirement to  
23 provide two parking spaces at the rear of the property. As  
24 detailed in our filings, the property is well served by public  
25 transit, including several bus stops only steps from the property

1 and the Columbia Heights Metro Rail Station approximately half a  
2 mile away and is well served by neighborhood resources, including  
3 grocery stores, a bank, a pharmacy, numerous restaurants and  
4 outdoor space.

5           Additionally, as our architect Kevin Sperry will  
6 testify, given the limited area at the rear of the building and  
7 the small amount of alley access, no parking can be provided.

8           Finally, we have agreed to DDOT's three conditions as  
9 part of our transportation demand management plan. We are also  
10 requesting relief for the elevator overrun to be located along the  
11 northern sidewall rather than setback one-to-one. The location of  
12 the elevator overrun is essentially mandated by the narrowness and  
13 angle of the property and the project's resulting design.

14           First, given the size of the building only one elevator  
15 is needed and should be located roughly in the center of the  
16 building for ease of access to all units. Further, its location  
17 on the north side of the property is due to the central courtyard  
18 at the South. The existence of the courtyard is necessary to  
19 provide adequate light to the residential units, but it further  
20 narrows the group, making the setback requirements unduly  
21 restrictive in this case.

22           Finally, given the shape of the building and the  
23 courtyard, placement of the elevator overrun in a manner that  
24 complies with the one-to-one setback requirement is impracticable.

25           I am happy to report that we are here today with the

1 support of the Office of Planning and the District Department of  
2 Transportation. As I noted, we are in agreement with all the  
3 conditions contained in the DDOT report. Additionally, the ANC  
4 submitted a resolution into the record showing unanimous support  
5 for the project and the requested relief.

6 We greatly appreciate the ANC's time working with us on  
7 this project and their commitment to affordable housing in the  
8 neighborhood.

9 We know a letter was filed in opposition to the parking  
10 relief from Historic Mount Pleasant. Their letter is similar to  
11 their opposition raised at the Historic Preservation Review Board,  
12 arguing that the project is too large for the site.

13 First, I would note that Historic Mount Pleasant was not  
14 opposed to the required penthouse setback relief. Second, while  
15 Historic Mount Pleasant disagrees, we have provided significance  
16 evidence in the record regarding the inability to provide the  
17 required parking on-site, which Phil and Kevin will speak to more.

18 Finally, I would note that the community and the ANC  
19 specifically support the size of the project because it triggers  
20 the inclusionary zoning requirements. Additional housing and  
21 affordable housing are a priority of this community and the  
22 District at large and the parking relief is necessary for the  
23 project to provide this housing.

24 With that, as I mentioned, we have two witnesses today,  
25 Phil Kang will testify on behalf of the applicant and Kevin

1 Sperry, with Casa Architects who we are offering as an expert in  
2 architecture, will explain the project details. So with that,  
3 I'll turn it over to Phil.

4 MR. KANG: -- members of the board. My name is Phil  
5 Kang, I'm the managing partner of Kang which owns the 3215 Mount  
6 Pleasant building. We've formally operated the property for about  
7 four years. The plan before the Board today is a result of  
8 significant time and effort and a lot of work on the part of our  
9 overall team, the community and especially the ANC and (audio  
10 interference). We are very excited to be here to present it to  
11 the Board.

12 The property is a one-story building currently, which  
13 houses a laundromat business. The laundromat primarily serves the  
14 immediate neighborhood and the residents. Parking has never  
15 really been a main feature of either the building or the business  
16 for the patrons.

17 In developing this project we coordinated our efforts  
18 with both the HPRB and the ANC, and Office of Planning, to come up  
19 with an acceptable, workable (audio interference) design as well.

20 We worked very hard to find a very balanced project that fit  
21 within the context of the neighborhood. We made it economically  
22 feasible, worked with the unit site characteristics and we worked  
23 with the Historic Preservation Office on the design of the project  
24 from the onset. Our work with the ANC and HPRB resulted in a  
25 revised design that received full support from both the ANC and

1 unanimous concept approval of HPRB earlier this summer.

2 Kevin Sperry, our architect from Casa will detail our  
3 projects plans which would build (audio interference) retail and  
4 new residential housing, which also includes affordable housing is  
5 an ideal project for this site.

6 Mount Pleasant is a terrific, walkable community with  
7 close access to transit, groceries, retail. It's an ideal space  
8 for increase in housing. Providing new housing in this very  
9 transit and amenity-rich neighborhood where there's both the city  
10 schools and providing new housing and affordable housing in a  
11 resource-rich area across the city, while fitting in with the  
12 context of the Mount Pleasant corridor.

13 Before I do turn it over to Kevin, who will walk through  
14 the technical aspects of the plans, I wanted to take a minute to  
15 touch on our community outreach and express our thanks to the ANC  
16 for all of the time that they've spent with us from the onset,  
17 through the HPRB hearing and now here with you today.

18 The project has truly been a collaborative effort and  
19 indicative of how we here at VPM work when it comes to  
20 entitlements, especially in historic districts, and with the ANC.

21 As you may or may not recall when this Board approved our  
22 application over in Cleveland Park, and we're very happy to say  
23 that our approach at Cleveland Park was very similar to what we  
24 did here at Mount Pleasant.

25 Our experience has been working with all of the state

1 builders, both community and regulatory resulted in a more  
2 efficient progress -- process and a better design. We're invested  
3 in being good neighbors in the Mount Pleasant community, with this  
4 project. I wanted to express to the Board our community outreach  
5 and the fact that we are able to make a project like ours work  
6 with IZ units that are actually the largest in the building.

7           Finally, I wanted to express my thanks to the community  
8 support for this project. I believe our project will better the  
9 sense of community, especially in terms of where we're located,  
10 right in the middle of the block in Mount Pleasant. We're offering  
11 upgraded, affordable and new residential units and new retail  
12 facilities in an area where there hasn't been a lot of development  
13 and during a time where progress will be very welcome.

14           So with that, I will turn it over to Kevin Sperry of  
15 Casa Architects to kind of walk you through the project plans and  
16 the site constraints.

17           MR. SPERRY: Thank you, Phil.

18           CHAIRPERSON HILL: Can I just interrupt you one second.

19           Ms. Hottel-Cox, I guess if I know your -- we just have a lot of  
20 things going on today. If you could maybe focus in a little bit  
21 more just on the relief that's being requested in terms of the  
22 parking and all the relief that's being requested, that would be  
23 helpful.

24           MS. HOTTEL-COX: Sure. I think Kevin will detail that  
25 and we're happy to answer questions once Kevin is finished.

1           CHAIRPERSON HILL: Thank you.

2           MR. SPERRY: That sounds great. I'll go ahead and skip  
3 forward a few slides. There is -- thank you, again. So we'll  
4 stop here real quick. The first item that I'll discuss is the  
5 mechanical penthouse, which is actually the elevator overrun. So  
6 this is the best angle that you might be able to see that  
7 mechanical penthouse. As Meghan described very well, the  
8 courtyard is sort of the driving factor of the design and that's  
9 the thing that pushed the mechanical penthouse to the North beyond  
10 the one-to-one setback.

11           But as you can see in this image, it's actually there  
12 for a reason in that if it were sort of more centrally located, it  
13 would be more perceptible to passersby on the street. Here, you  
14 can see that it's farthest to the North, not compliant, but  
15 precisely for that reason you can't see it. It's in a kind of  
16 thin area of the building that I like to call the "neck," which  
17 connects the two volumes on the east and west side.

18           So next slide, please. Here you can see -- this is a  
19 shot and on the left is the east elevation which is actually the  
20 rear façade of the building and it's at the best diagrammatic view  
21 that you can see that elevator protruding above the roof, not see  
22 one-to-one setback. So it's about three to four feet, probably  
23 more closer to three feet above the parapet and it's directly  
24 against the building.

25           The gray box that you're looking at here is the rear

1 volume to the right of our building, it's a one-story carriage  
2 house structure in the rear of the building. The other building  
3 is a three-story building immediately next to us and our, as you  
4 saw before, our mechanical penthouse is central on the building,  
5 so with the angles you would never be able to see it from the  
6 street.

7           On the right you can see a plan, which kind of explains  
8 what I was just describing. The mechanical overrun is all the way  
9 to the -- what's actually the north façade of the building and  
10 it's farther away from the western -- sorry, the southern façade  
11 of that courtyard. So you cannot see it from the street. I'm not  
12 sure if we have the other rendering of this slide or not, but the  
13 location of the mechanical over on the end of the elevator was  
14 specifically placed so that it would not be perceptible from the  
15 street. Next slide, please.

16           Here in the back we have a slide outlining our parking  
17 relief. So the rear yard is kind of peculiar in a way that we do  
18 have an alley which we are adjacent to, however, we're kind of at  
19 a kitty-corner relationship with the alley. We only have a 10-  
20 foot 9 connection to the alley, the other two properties to the  
21 sides there that you can see are other properties and they've  
22 built up with fences and curbs and things like that. Right now  
23 the building is accessed because it's sort of open on one side.  
24 But for us to actually get parking in the back, because we only  
25 have a 30-foot wide lot, you would actually need a drive aisle

1 which would connect to the parking spaces. So the parking spaces  
2 would be about 18 feet deep, the drive aisle would be 20 feet  
3 wide, so that would amount to effectively a 38-foot by 30-foot  
4 dimension that you would need to achieve the two required parking  
5 spaces. We're showing three just because you get that third extra  
6 one.

7           So it's a very large area and if you were to achieve  
8 that, then setting back the building, you end up losing almost  
9 3,000 square feet of space and from the very beginning of the  
10 process, from our discussions with the ANC and with the  
11 neighborhood, having a building which has inclusionary building  
12 units in it was very important. And by losing this amount of  
13 area, which amounts to actually about 27 percent of the site here,  
14 would be taken up by this parking area. So that would, like I  
15 said, lose almost 3,000 square feet of space, which would thereby  
16 drop it to the point in which we could not provide IZ units.

17           So it's kind of -- they're sort of tied together in that  
18 way. Also with a 30-foot wide lot, you cannot have below- grade  
19 parking. You would need 20 feet for the ramp and then you would  
20 only have 10 feet extra to the side. You would need turn around  
21 access and it becomes geometrically not feasible to have parking  
22 below grade. So we looked at those two options both in the rear  
23 and below grade and for all these reasons we determined that none  
24 of them were feasible, which DDOT agreed to us and ANC agreed to  
25 us on. Next slide, please.

1           The DDOT conditions that we'll quickly go over. The  
2 first one is, essentially, (audio interference) which will be  
3 distributed to the tenants which could be very important  
4 information on how to achieve and how to access that public  
5 transit which is very well served in this community.

6           CHAIRPERSON HILL: Mr. Sperry -- Mr. Sperry, you can  
7 just go ahead and move on past this one. I've seen it in your  
8 slide deck.

9           MR. SPERRY: Okay. I guess the short answer is, we're  
10 going to be complying with all of these items. And I actually  
11 believe this might be the last slide.

12           MS. HOTTEL-COX: Yes, that is all of our presentation,  
13 but we're happy to answer any questions.

14           CHAIRPERSON HILL: Okay. Great. Okay. Mr. Young,  
15 thank you.

16           Ms. Hottel-Cox, I'm just curious, was it the ANC that  
17 wanted you guys to keep the Heller's Bakery sign? And are you  
18 keeping it?

19           MS. HOTTEL-COX: I'll refer to Kevin on that one, I  
20 think he would have the best answer.

21           MR. SPERRY: Yeah, so this is a very good question and  
22 it -- took circuitous thought to get the design where it is today.  
23 At the beginning we actually thought that that Heller's Bakery  
24 sign was historic and beloved by the community. So our first  
25 design that we proposed sort of really tweaked to the building so

1 that we could keep the sign. Upon submission, we received very  
2 strong feedback from the community that said, look, the sign is  
3 not historic, we do like the sign, but we hate your building more  
4 than we like the sign. So we decided that we wanted to work well  
5 with the community, so we completely redesigned the building and  
6 what we found was that to keep that three-story line of buildings  
7 running consistently along the street was far more important to  
8 the community than showing the sign. So that's what we did and  
9 that kind of resulted in the design that we have before us today.  
10

11 CHAIRPERSON HILL: So you're not adding the sign to your  
12 building? I'm just curious now.

13 MR. SPERRY: So the sign -- oh, I see, the sign that  
14 you're referring to is actually a recreation of the sign on our  
15 new building. We would love to have some sort of a graphic on the  
16 south façade, but it --

17 CHAIRPERSON HILL: I'm sorry, this is getting -- I'm  
18 just trying -- I'm seeing the drawings. I'm just curious. I'm  
19 just curious. Are you keeping the Heller's Bakery sign on your  
20 building the way it is shown in your diagrams?

21 MR. SPERRY: Yes.

22 CHAIRPERSON HILL: Okay. That's all I wanted to know.  
23 Sorry, I asked. Okay. Does any of the Board members have any  
24 questions? Mr. Smith?

25 MR. SMITH: I just have one quick question. In your TDM

1 you -- well DDOT has studied your TDM, they say you're proposing  
2 to incorporate eight bike parking spaces at the site, but you do  
3 not differentiate between what's long-term and short-term. What  
4 do you currently project is the number of spaces that will be  
5 long-term bike parking spaces at the site?

6 MR. SPERRY: We're currently showing five long-term  
7 spaces in the site and one of the items that they requested was to  
8 have multiple size bikes, so we're having oversized bike parking  
9 spaces within the building on the first floor, within a secured  
10 bike storage room on the first floor of the building.

11 MR. SMITH: And in that case, it could potentially --  
12 you could potentially have more than five, am I correct?

13 MR. SPERRY: Well, in addition to that we have short-  
14 term bike spaces, we have four short-term bike spaces outside on  
15 two racks.

16 MR. SMITH: Okay. Thank you. That's all -- that's my  
17 only question.

18 CHAIRPERSON HILL: Mr. Turnbull?

19 COMMISSIONER TURNBULL: Thank you, Mr. Chair. Ms.  
20 Hottel-Cox, can you talk a little bit about Exhibit 32, the Mount  
21 Pleasant -- Historic Mount Pleasant letter?

22 MS. HOTTEL-COX: Sure. So in response to the Historic  
23 Mount Pleasant letter, part of -- they raised some more objections  
24 to just kind of the general design and size of the project.  
25 Because we are triggering the inclusionary zone and requirements,

1 we are allowed to go to 5 percent of lot occupancy as opposed to  
2 60 percent that is allowed when you don't trigger IZ. They had  
3 taken issue with that at the Historic Preservation Review Board  
4 and then raised similar concerns, although they were directly  
5 related to our parking request. Their letter argued that we had  
6 not provided evidence that parking on the property was not  
7 feasible.

8           We believe that we have submitted sufficient evidence  
9 into the record that parking is not feasible at the property as  
10 Kevin testified and as shown on our plans to provide parking at  
11 grade in the rear, would so greatly reduce the project and make it  
12 not feasible and in particular, the concern to the community that  
13 this project incorporated affordable housing, it would reduce the  
14 density so much that it would no longer trigger the IZ  
15 requirements.

16           Additionally, the below-grade parking, as Kevin noted,  
17 isn't geometrically possible. It's also -- you know, one of the  
18 specific concerns that the zoning regulations contemplate is the  
19 structural integrity of historic resources. The letter from  
20 Historic Mount Pleasant takes issue with the idea that our  
21 building is a historic resource given HPRB's approval, but there  
22 are also historic resources on either side of us and so excavation  
23 is something that has to be considered, not only for our property,  
24 but for the adjacent property. So that's something I would note  
25 in response to their letter.

1           COMMISSIONER TURNBULL: Okay. One of the things they  
2 talk about is the elevator overrun, the mechanical equipment, they  
3 are concerned that you're not really showing everything, by the  
4 sounds of it.

5           MS. HOTTEL-COX: So I think Kevin can speak to this in a  
6 bit more detail. We do anticipate that if there is, you know,  
7 additional mechanical equipment as the ground-level tenant is  
8 decided and, you know, the building is filled out, if additional  
9 mechanical equipment is need on the roof, it will comply with all  
10 the zoning regulation requirements. The only thing that we need  
11 really for is that penthouse, but I'll let Kevin speak to that if  
12 he has any more detail.

13           MR. SPERRY: That is correct, Meghan. Thank you. The  
14 mechanical system currently is proposed as a VRS system actually,  
15 which reduces the number of units from 14 down to 1 main unit plus  
16 a fresh-air unit. All of those units are going to be less than  
17 four feet above the parapet on the roof, if needed, and they will  
18 be located at a one-to-one setback. They will not be against the  
19 side wall. So we were still working through all of that detail  
20 and we do have areas on the roof to accommodate all of those  
21 mechanical units within the one-to-one setback area.

22           COMMISSIONER TURNBULL: Even if you have a restaurant on  
23 the ground floor or --

24           MR. SPERRY: Yes, that's correct.

25           COMMISSIONER TURNBULL: Okay. Just going back on the

1 elevator, you talked about how the elevator -- let me get my note  
2 here. Is there any way that that's going to impact the use of the  
3 neighboring buildings? Is there any way that that elevator  
4 overrun will impact any building? The building on that one side  
5 primarily? I know it's way up high, but --

6 MR. SPERRY: I believe the only way that it would impact  
7 that building -- so we are -- you're right, we are one floor --  
8 effectively, one floor above the neighboring building to our  
9 North. I don't think that it will impact them at all from a  
10 programmatic standpoint. We have been on their roof. They do not  
11 have any roof access from their tenants to the roof. The only way  
12 that it would impact it is something that we're actually going  
13 through right now, which is the snow load study that we, you know,  
14 because we're building a taller building than they're building,  
15 the snow load might kind of collect in that corner next to our  
16 building. Technically, you could say that elevator might  
17 exacerbate that, but in such a small way, I don't think it will be  
18 noticeable within our structural study. We have done that study  
19 and we have a solution and we have discussed it with the neighbor  
20 next to us.

21 COMMISSIONER TURNBULL: I was going to say, you have a  
22 meeting regularly with these people as to your plans?

23 MR. SPERRY: Yes.

24 COMMISSIONER TURNBULL: You can address whatever issues  
25 may come up then?

1 MR. SPERRY: Absolutely.

2 COMMISSIONER TURNBULL: Okay. Thank you.

3 CHAIRPERSON HILL: Ms. John?

4 VICE CHAIR JOHN: No questions, Mr. Chairman.

5 CHAIRPERSON HILL: Mr. Smith, did I ask you?

6 MR. SMITH: Yes. My question was about bike parking.

7 CHAIRPERSON HILL: Oh, you're right. Okay. All right.

8 Is the Office of Planning?

9 MS. THOMAS: Yes. Good afternoon, Mr. Chairman, members  
10 of the Board. Karen Thomas with the Office of Planning for Case  
11 Number 20298. We will stand on the record of our own report,  
12 recommending approval of this application. We believe the  
13 Applicant's submission and the testimony here today satisfy the  
14 criteria and any concerns that the Board may have and that we also  
15 have with the application. So we are in support of the relief as  
16 requested for parking and for the one-to-one setback of the  
17 elevator override. Thank you.

18 CHAIRPERSON HILL: Okay. Does anybody have any  
19 questions for the Office of Planning? Mr. Smith?

20 MR. SMITH: No, I don't have any questions.

21 CHAIRPERSON HILL: Mr. Turnbull? No, you're shaking  
22 your head. Ms. John? Ms. Thomas is that a real background or is  
23 that fake?

24 MS. THOMAS: The plant is fake, unfortunately.

25 CHAIRPERSON HILL: I was thinking the Office of Planning

1 pays well.

2 MS. THOMAS: Oh, no. If I release that background,  
3 you'll see my refrigerator.

4 CHAIRPERSON HILL: All right. Does the Applicant have  
5 any questions for the Office of Planning?

6 MS. HOTTEL-COX: No questions.

7 CHAIRPERSON HILL: Okay. Mr. Young, is there anybody in  
8 the waiting room?

9 MR. YOUNG: There is. You also have the ANC  
10 commissioner on here, Mr. Stewart.

11 CHAIRPERSON HILL: Where is the ANC commissioner?  
12 Oh, oh, I'm sorry, Mr. Commissioner, I didn't realize that.  
13 Commissioner, please introduce yourself.

14 MR. STEWART: Sure. I also believe that a member of the  
15 community, Alex Baca is shortly dialing in and wants to testify as  
16 well. So, my name is Jon Stewart, I am an ANC commissioner in ANC  
17 1D, which is coterminous with the Mount Pleasant neighborhood. We  
18 have five ANC commissioners. It's a relatively small ANC. We do  
19 have our own resolution. We supported this project unanimously.  
20 My SND does not include Mount Pleasant Street. My SND is adjacent  
21 to it and kind of has a little bit of a kitty-corner to it. The  
22 ANC commissioner who represents Mount Pleasant Street tends to  
23 focus more on health and safety issues and outreach issues to the  
24 Latino community of Mount Pleasant Street. So I try to kind of  
25 pick up some of the slack on these sort of technical zoning

1 issues.

2           So a few notes. First, just with regard to -- very  
3 quickly with regard to the Heller sign. That was something that  
4 the Applicant originally proposed having the second-story setback  
5 farther. And we did tell them like right away, don't worry too  
6 much about that mural, let's move that façade on up. We told them  
7 that, other community members told them that, Historic Mount  
8 Pleasant told them that, and then the Historic Preservation Office  
9 in their staff report, also told them that.

10           So we feel like having those upper stories brought  
11 forward to be right facing the street, is more compatible with the  
12 overall look and feel of Mount Pleasant Street in the Historic  
13 District. So that's part of the reason why. Also, the Historic  
14 Preservation office also identified that the mural that's there is  
15 of dubious lineage in terms of actually being -- having been done  
16 within the period of significance for the Historic District. So  
17 perhaps some parts of it is original, but there's been a lot of  
18 touch up and that sort of thing. But no one is quite sure when it  
19 happened, but it probably doesn't go back all that long.

20           So with regard -- you know, the penthouse setback issue,  
21 it's a technical matter and I'm not really going to talk about  
22 that too much. But with regard to the parking relief, that's  
23 something where I think we can give you a good ANC perspective on  
24 sort of like the holistic neighborhood view of it.

25           First things is that our businesses on Mount Pleasant

1 are heavily reliant on pedestrian foot traffic, that is the bulk  
2 of the clientele. So putting more pedestrians on the street,  
3 putting more people living on the street is a good thing and  
4 worrying about parking is sort of like secondary or tertiary  
5 concern.

6           The building itself, the address has a walkability score  
7 of 98 on Zillow, so it's a heavily walkable neighborhood, it also  
8 has high transit scores. With regard to transit, not only is the  
9 building close to the Columbia Heights Metro Station, but we have  
10 the 42, 43, H2, H3, H4, H8 Metro bus lines and DC Circulator line  
11 all going down Mount Pleasant Street or at least parts of Mount  
12 Pleasant Street. Mount Pleasant also leads the District in bike  
13 commuting, according to DDOT, and there's a Capital Bikeshare  
14 station right across the street.

15           There's also, of course, the floor plan including bike  
16 storage for residents and we're very close to a number of  
17 different bike lanes. The 15th Street bike lane. There's a bike  
18 lane on Columbia Road going down through Adams Morgan and we're  
19 not too far away from the bike trail that goes through the Rock  
20 Creek Park along the Rock Creek Parkway. That's how I like to  
21 commute to work sometimes.

22           Finally, an item of significant note is that, you know,  
23 this is like a block away from 16th Street where we have the S1,  
24 S2, S4 and S9 Metro bus lines. Those are the most popular bus  
25 routes in the city and it's -- unless something goes drastically

1 wrong, DDOT will finally finish the 16th Street bus lanes project  
2 before any residents ever move into this apartment building.

3           So the most popular bus line in the city is going to be  
4 dramatically improved with dedicated rush hour bus lanes before  
5 this project really ever comes online. So we have expanding mass  
6 transit capacity enabled.

7           Regarding the historical element, it's important to  
8 recognize that 100 years ago, Mount Pleasant was a designed  
9 community. And that's part of what makes it historic is that it  
10 was designed around the idea of mass transit, where -- it was  
11 actually the 42 bus line used to be the 42 street car that went  
12 down around Mount Pleasant Street, turned around at the Park  
13 Plaza, then went down Columbia to Connecticut Avenue. So we have  
14 a bus instead of a streetcar. I'd love to have a streetcar back,  
15 but the whole idea around -- the whole concept of the neighborhood  
16 is designed around mass transit.

17           So we think that if there's any neighborhood in any  
18 location of a spot that can cope with not having parking in the  
19 building, it's this one. So like question would be, like, if not  
20 -- if -- if this doesn't qualify for zoning relief in terms of  
21 just like, not meeting it, what would?

22           There's also a number of spots under discussion which is  
23 two, which seems almost -- I mean, there was a lot of talk earlier  
24 on it, I've been on since 9:30 this morning, so I'm right there  
25 with you in terms of how long this day has been. There was a lot

1 of talk earlier in other cases about de minimus. I would say two  
2 parking spots in the context of Mount Pleasant is definitely de  
3 minimus.

4 I think we've already seen the high-water mark in terms  
5 of car ownership and parking in the neighborhood. So DDOT --

6 CHAIRPERSON HILL: Commissioner, I'm just going to kind  
7 of cut you off just a little bit. But I appreciate all of the  
8 testimony that you've given thus far. Is there anything you want  
9 to leave us with?

10 MR. STEWART: Sure. There are two points I want to  
11 leave you with. The first is that everything that the applicant  
12 said about it being a good process is true. I have no incentive  
13 to agree with them if that wasn't true. But it has been, they've  
14 been very solicitous of the community, they've come to our ANC  
15 meetings, several of them, take a lot of feedback and they've  
16 heavily revised this project over time, based not only on our  
17 feedback, but also on Historic Mount Pleasant's feedback and the  
18 Historic Preservation Review Board's feedback. So we're pretty  
19 satisfied with this project.

20 The second point that I would say too, is that I'm just  
21 extremely disappointed in Historic Mount Pleasant's opposition to  
22 this project. I wasn't expecting that, I wasn't -- I didn't think  
23 I needed to come here to testify on our behalf, but I think that  
24 their opposition represents, frankly, a fringe and minority  
25 viewpoint and it sort of represents scorch trick tactics. I think

1 they're being disingenuous in their opposition. And they're  
2 trying to throw up and seize onto anything that they can do to  
3 stop this project, to force a redesign, to force it to go back to  
4 HPRB, to add costs to it, potentially even to get the applicant to  
5 abandon their plans just because they're too costly.

6 So Historic Mount Pleasant has wanted a one-story  
7 building, this is all zoned MU-4, everything else about this  
8 building is by right, right? We're within the fire limits, it's  
9 within the height limits, it's within the lot occupancy limits.  
10 Those are the major zoning points as are all by right, except for  
11 these two minor points of zoning relief and it's just very  
12 disappointing to see Historic Mount Pleasant continue along the  
13 pattern of these sorts of oppositional tactics. So that's my  
14 view. Thank you.

15 CHAIRPERSON HILL: Okay. All right. Does anybody have  
16 any questions of the commissioner? Mr. Turnbull?

17 COMMISSIONER TURNBULL: Not a real question. Sounds  
18 like you have a challenging job with the Historic Mount Pleasant  
19 people.

20 MR. STEWART: Yes. And, I mean, they're very -- they  
21 have fantastic technical support for residents when there's any  
22 question about like, which vendor should you use? What sort of  
23 columns should you use to rework your porch on your front porch?  
24 They are a fantastic resource, but unfortunately, they tend to  
25 just like oppose everything and I'm not sure why.

1           COMMISSIONER TURNBULL: I just found their letter and  
2 their comments just totally surprising. I didn't get expect to  
3 get that kind of a letter at all from them. But interesting how  
4 your comments and our -- hopefully things will work better in the  
5 future.

6           MR. STEWART: I hope so too.

7           CHAIRPERSON HILL: Okay. All right. Mr. Young, you  
8 said there was someone else here to testify?

9           MR. YOUNG: Yes. Alex Baca in the waiting room.

10          CHAIRPERSON HILL: Oh, Mr. Baca, can you hear me?

11          MS. BACA: Yes. Hi, yeah, this is Alex. Can you hear  
12 me?

13          CHAIRPERSON HILL: Yes. You want to use your camera?  
14 It's not necessary, I just want to know.

15          MS. BACA: Yeah, I'm in the car right now and I'm hoping  
16 that my reception is going to stay --

17          CHAIRPERSON HILL: That's okay.

18          MS. BACA: -- so if you can hear me. I'll go ahead. I  
19 actually -- I care so much about this that I wrote testimony for  
20 it last night, so I'm very excited to give it.

21          CHAIRPERSON HILL: Sure.

22          MS. BACA: All right. I'm just going to go ahead.  
23 I've obviously in support of this. I actually live at 3115 Mount  
24 Pleasant Street. If you're not familiar with that, it's a 40-unit  
25 building. It's 0.2 miles from the proposed project. It has no

1 parking -- I should also say that I own a car, it's registered in  
2 Zone 1. I often park it on or around Mount Pleasant Street and I  
3 think my experience may sort of speak to why I support this and  
4 why I would like to see the parking relief granted, because I  
5 don't find it hard to park on Mount Pleasant.

6 I do find it very disappointing that there's (audio  
7 interference) parking is a neighborhood issue. I think Jon kind  
8 of spoke to that, in that like, this is kind of a tertiary thing,  
9 because the things that I really value about where I live and I  
10 think that -- at least as far as I can tell my neighbors value  
11 about where we live, is that it's really nice and there's a lot of  
12 people and it's close to the places that I need to go. I also  
13 take public transit or bike or walk, just by owning a car. So  
14 there's not -- I do fully agree with, ANC 1 needs process. I  
15 think they've correctly and appropriately advocated for a larger  
16 building. I feel like my views have been represented by my  
17 commissioners and I hope that I can recourse by speaking here  
18 today.

19 (Audio interference). But I think it's both completely  
20 sensible for more housing to be built on Mount Pleasant Street and  
21 completely stupid to insist that the parking minimum relief not be  
22 granted. I would actually love to see this exceed MU-4. I love  
23 destiny, I think it's very important. But 12 units or whatever  
24 this project is will do, you know, in compliance with MU-4, that's  
25 totally fine, as long there's inclusionary zoning in it. They

1 obviously deserve to expect far more than parking spaces do.

2 I do also like to remember that our neighborhood is very  
3 significant and its historic designation is from 1878 or 1949, so  
4 there (audio interference) a parking minimum, so it's kind of  
5 inconsistent with its historic use and its present character.  
6 Parking concerns aren't really relevant to what our neighborhood  
7 is and not granting this will be -- will kind of make -- I  
8 actually, know will absolutely make our neighborhood worse. I  
9 would like more housing, more affordable housing and way less  
10 parking.

11 So that is my spiel. Thank you for listening. I should  
12 note that in my day job, it may be obvious to some of you on this  
13 call, I work for Greater Greater Washington. I am testifying  
14 today as a resident. These are my views, not my organization's,  
15 and nobody paid me to be here. So, thank you.

16 CHAIRPERSON HILL: I was wondering why I was recognizing  
17 your name there. All right. Okay. Let's see, does anybody have  
18 any questions for Ms. Baca? Okay. All right, Ms. Baca, thank you  
19 so much and, you know, continue the good work that you're doing.

20 MS. BACA: Thank you so much and enjoy the rest of the  
21 day.

22 CHAIRPERSON HILL: Thank you. All right. Let's see,  
23 does anyone have any other questions they want to add? If so,  
24 please raise your hand.

25 Ms. Hottel-Cox, do you have anything you want to add at

1 the end?

2 MS. HOTTEL-COX: No. Unless the Board has any other  
3 questions, we're set.

4 CHAIRPERSON HILL: Okay. I'm then going to close the  
5 hearing and excuse everyone. Let's see, is everybody gone.  
6 Okay. You're kind of new, why don't you talk now, okay.

7 MR. SMITH: I figured you were going to rip those  
8 training wheels off today. So if we're deliberating a decision  
9 right now --

10 CHAIRPERSON HILL: Yes.

11 MR. SMITH: -- I would say I am in support of this -- of  
12 both the special exceptions. I do believe that the -- the main  
13 concern was regarding the parking from my standpoint. The issue  
14 of the penthouse setback. In the application itself, it looks as  
15 if the Applicant has took or has given great care to ensure the  
16 design of the elevator overruns are not able to be seen from the  
17 street. So I do not have any major concerns with that particular  
18 special exception, and I would support that.

19 My concern was regarding the minimum parking  
20 requirements, and I do believe that the applicant has provided  
21 sufficient information to supplement OP's report in that it would  
22 BE detrimental to the historic buildings to the North and South of  
23 this particular property to construct two additional parking  
24 spaces. And I do believe that the applicant has demonstrated that  
25 the reduction of the parking will not be out of character with the

1 surrounding neighborhood because there are sufficient uses, there  
2 are also sufficient transportation options to reach the site, and  
3 also the Applicant is providing additional bike storage within the  
4 building to accommodate for the request of reduction. So I would  
5 be in support of the special exception for the reduction in regard  
6 to the two parking spaces.

7 CHAIRPERSON HILL: Okay. Great. Thank you, Mr. Smith.  
8 Mr. Turnbull?

9 COMMISSIONER TURNBULL: Thank you, Mr. Chair. I would  
10 concur with Mr. Smith's comments. I would agree with all the  
11 things he said and the relief requested is really -- I think the  
12 Applicant gave a very good presentation on why they need the  
13 relief and they addressed several concerns about -- the architect,  
14 Mr. Stewart, went through the possible impacts for snow and talked  
15 about how they would be looking at that as they go ahead. So  
16 they're addressing any issues that I had about the impact of the  
17 height of the chimney -- or the elevator, I should say. So I  
18 think they're meeting the mark on addressing issues.

19 The parking, as talked by Commissioner Stewart was very  
20 good in addressing that this is a transit-oriented location and  
21 that the parking is really, from their standpoint, minimal,  
22 compared to getting the housing.

23 And I was gobsmacked by the Mount Pleasant -- the  
24 Historic Mount Pleasant group, but that was sort of a shock and  
25 getting their comments about why they don't like it. But I think

1 the Applicant has addressed those concerns and I think that the  
2 ANC commissioner went through it very carefully and sort of gave a  
3 different perspective on how things are looking.

4 So from that standpoint, I think the ANC sounds like  
5 they were really involved in this project, they asked a lot of  
6 questions, they had a lot of meetings and I think they made a lot  
7 of -- considering that it's a transit-oriented location, I think  
8 that they made the case, at least to me, that the relief should be  
9 granted and the project should go ahead. So I'll be voting in  
10 favor.

11 CHAIRPERSON HILL: Thank you, Commissioner. Ms. John?

12 VICE CHAIR JOHN: I agree with everything Mr. --  
13 Commissioner Turnbull has said and Board Member Smith and I think  
14 we should permanently retire his training wheels. And I am in  
15 support of the application.

16 CHAIRPERSON HILL: Okay. All right. Thank you. I will  
17 agree with all of my colleagues and also the analysis as supplied  
18 by the Office of Planning.

19 DDOT, I guess their condition is the TDM plan in Exhibit  
20 13, which they have agreed to. I guess we'll go ahead and put it  
21 in as a condition. So I'm going to make a motion to approve  
22 Application Number 20298 as captioned and read by the secretary,  
23 including the TDM plan in Exhibit 13, and ask for a second, Ms.  
24 John?

25 VICE CHAIR JOHN: Second.

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

3 MR. MOY: Yes, thank you, Mr. Chairman. When I call  
4 your name, if you would please respond with a yes or no or abstain  
5 to the motion made by Chairman Hill to approve the application for  
6 the relief being requested, including the TDM plan under Exhibit  
7 13 in the case record, and the motion is seconded by Vice Chair  
8 John.

9 Okay. Zoning Commissioner Michael Turnbull?

10 COMMISSIONER TURNBULL: Yes.

11 MR. MOY: Mr. Smith?

12 MR. SMITH: Yes.

13 MR. MOY: Vice Chair John?

14 VICE CHAIR JOHN: Yes.

15 MR. MOY: Chairman Hill?

16 CHAIRPERSON HILL: Yes.

17 MR. MOY: And we have a board seat vacant. Staff would  
18 record the vote as 4 to 0 to 1. And this is on the motion made by  
19 Chairman Hill to approve, seconded by Vice Chair John, and also  
20 supported by Mr. Smith and Zoning Commissioner Michael Turnbull.  
21 Motion carried, sir.

22 CHAIRPERSON HILL: Thank you. Yes.

23 COMMISSIONER TURNBULL: Chairperson Hill, I just want to  
24 point out something, because learning curve for me having done  
25 this Webex now for what, several months? And I kept on having to

1 click on the mute icon and I never realized that all you have to  
2 do is push your space bar on my computer and so it automatically  
3 changes that and I never realized that. I'm like, how simple, how  
4 simple. I'm like totally oblivious to it.

5 CHAIRPERSON HILL: I didn't know that either. You just  
6 -- I didn't know that, that's great. Thank you, Commissioner.  
7 Did you all know that? I didn't know that. Did you all know  
8 that? Oh, you all knew that. Chrishaun, knew that? Ms. John,  
9 did you know that?

10 VICE CHAIR JOHN: It depends on which computer you're  
11 using.

12 COMMISSIONER TURNBULL: Us older ones, it takes awhile  
13 for things to kick in.

14 CHAIRPERSON HILL: Okay. Great. Well, thank you,  
15 Commissioner, for sharing.

16 Let's see, there are -- we still have one, two, three,  
17 four cases. I'm going to leave this -- four cases, four cases.  
18 I'm going to lose Ms. John at 5:30? 5:30? I mean, we might be  
19 okay. We'll see. I know that there's some that -- I mean, I'm --  
20 let's --

21 MR. MOY: 15 minutes each.

22 CHAIRPERSON HILL: Yeah, I don't think that's going to  
23 happen. Let's take a break. Do you all want to take a break or  
24 no? Okay. Let's take a break, okay. Let's come back in like 5,  
25 10 minutes. Okay. Thank you.

1 MR. MOY: Thank you, Mr. Chairman. The hearing is back  
2 in session and the time is at or about 4:06. The next case  
3 application before the board is Case Application No. 20299 of  
4 Residential Redevelopment, LLC. Captioned and advertised for area  
5 variance from minimum alley width requirements, Subtitle C,  
6 Section 303.3(a), to subdivide the existing lot into one alley lot  
7 and convert the detached principal dwelling unit into one semi-  
8 detached principal dwelling unit in each lot. R-3 Zone. This is  
9 at 1673 W Street Southeast, Square 5755, Lot 835.

10 CHAIRPERSON HILL: Okay. Great. Thank you. Hello, Mr.  
11 DeBear, how are you?

12 MR. DEBEAR: Good. How are you, Mr. Chair?

13 CHAIRPERSON HILL: Good. Thank you. Welcome. Is this  
14 your first time?

15 MR. DEBEAR: It's my first time participating. I've  
16 watched plenty, but I don't think I've participated.

17 CHAIRPERSON HILL: Well, welcome to the pandemic. Let's  
18 see, Mr. DeBear, if you'd like to introduce yourself for the  
19 record?

20 MR. DEBEAR: Yes. My name is Eric DeBear on behalf of  
21 the Applicant, Residential Redevelopment, LLC, (audio  
22 interference) counsel from Cozen O'Connor.

23 CHAIRPERSON HILL: Okay. And who's here with you today?

24 MR. DEBEAR: Manish Paliwal is the owner/managing member  
25 of Residential Redevelopment and Paul Dupnick is the architect

1 from Retrospect.

2 CHAIRPERSON HILL: Okay. They can introduce themselves,  
3 I guess, if and when we get to them if that's all right. If you  
4 want to go ahead and start to walk us through your presentation  
5 and why you believe that we should grant the relief that's being  
6 requested and how you're meeting the standards for us to grant  
7 that relief. I'm going to put 15 minutes on the clock just so I  
8 know where we are, and you can begin whenever you like.

9 MR. DEBEAR: Great. Thank you. Mr. Young, if you would  
10 just pull up the presentation, the PowerPoint. If you could just  
11 move to the next slide? So this is a property located at 1673 W  
12 Street Southeast. It's located in the R3 zone. It's a large lot  
13 in the R3 zone. It's 9,600 square feet plot area.

14 One additional matter I did want to note was, Mr. Moy  
15 read off the case description and the request for relief has been  
16 revised to only one alley lot, not two. And we'll get to that and  
17 we'll show the revised subdivision. It's submitted into the  
18 record, all the public notice signs were updated, it's the same  
19 relief but only one lot. Next slide, please.

20 And so here's an aerial view, a Google image of the  
21 property. As noted, it's a large property in the R3 zone.  
22 Notably, on this slide, you can see that it abuts a paved alley to  
23 the West and then a paper alley running along the southern border  
24 of the property, and we can get into why that is of consequence  
25 later on. Next slide, please. And now I'll turn it over to my

1 client, Manish Paliwal.

2 MR. PALIWAL: Greetings everyone. My name is Manish  
3 Paliwal and I'm the developer of this lot and the owner of  
4 Residential Redevelopment. Residential Redevelopment has been  
5 developing single-family homes since 2018 in southeast, southwest  
6 and northeast. We have been improving single-family properties in  
7 these neighborhoods. We plan to continue to improve the  
8 neighborhoods and build single-family homes at 1673 W Street.

9 We will be developing three townhomes by-right, which  
10 will be street facing the frontage on W Street. These by-right  
11 lots will be improved with single-family homes. We are seeking  
12 the Board's approval for a fourth lot, which will be located on  
13 the 30-foot wide alley behind by-right those street facing homes.

14

15 If approved, the alley lot will be improved with a  
16 (audio interference) single-family home. So there will be a total  
17 of four recorded lots and four single-family homes, which will be  
18 (audio interference).

19 We presented our proposal to ANC 8A October 6th and they  
20 have voted in support of the proposed alley lot relief, creating a  
21 alley lot and residence. The ANC's resolution is in the record as  
22 Exhibit 33. We seek your support and approval so that we can  
23 provide the neighborhood with good quality housing. Next slide.  
24 Going back to -- (audio interference).

25 MR. DEBEAR: And I will just turn directly to Paul

1 Dupnick, the architect, to talk a little about the design and the  
2 subdivision.

3 MR. DUPNICK: Hello, everyone hear me all right?

4 MR. CHAIRPERSON HILL: Yes.

5 MR. DUPNICK: Okay. Great. My name is Paul Dupnick,  
6 I'm with Retrospect. I've worked with Manish on a couple of  
7 projects in the past, single-family homes in the southeast. And  
8 even though -- I understand that we we're not -- the relief we're  
9 seeking is not related to the architectural features, I'd be happy  
10 to go over the plan.

11 And looking at the lot, I would say the most important  
12 aspect of where we decide to place the building or where it is,  
13 was we were try to be conscious  
14 of privacy both for the front three lots and the  
15 neighbors, which was why we did create that tax lot, which enabled  
16 us to move the building to that side of the lot and focus both the  
17 views, the windows, on the -- what would be the south facing. So  
18 the windows and the south exposure would be on the side yard and  
19 not looking right into the backyard of both our front three lots  
20 and the adjoining lot. And so, again, the building itself  
21 conforms to all the zoning requirements of R3 as well.

22 And I will follow-up on what Eric was saying, the alley  
23 -- we have an alley in the front, the 20-foot public alley that's  
24 actually paved, but our side yard actually abuts a paper alley  
25 that is treed, it's not actually paved. And I can answer any

1 questions about the architectural plan, which I believe is the  
2 next slide.

3 So, two-story building with a roof deck --

4 CHAIRPERSON HILL: Yeah, Mr. Dupnick -- I'm sorry, Mr.  
5 DeBear, I'm just going to stop him for one second just because I'm  
6 trying to chug through the day a little bit and, I guess, and, you  
7 know, and I appreciate the slide deck that I'm able to flip  
8 through right here. I guess if you can kind of like -- I mean,  
9 the Office of Planning, they are in -- not in support of your  
10 application, so -- unless I'm missing that part of it, perhaps you  
11 can just continue to speak to how you believe we should grant  
12 this, you know, go against the Office of Planning, basically, and  
13 so maybe you can speak to that, the zoning requirements, that  
14 would be -- and then bring your architect in if you need him to  
15 back up whatever your argument is.

16 MR. DEBEAR: Absolutely. I just wanted to give a brief  
17 background, but yeah, if Paul Young could maybe flip to the next  
18 slide. We were just getting there Chair Hill, so I understand and  
19 appreciate your time and if you could maximize that and go back to  
20 it, we can go through why we think we meet the variance standard.

21

22 So as noted, the variance relief we are seeking is to  
23 create an alley record lot and under Subtitle C 303.3 there are  
24 two requirements to create a new alley record lot and that's one,  
25 meet the minimum lot area requirements in the zone for a semi-

1 detached property in the R3 zone and that would be 3,000 square  
2 feet and we do meet that, and then the second requirement is to be  
3 located on an alley with a width of 24 feet, whereas we do not  
4 meet that requirement because the paved alley is only 20 feet in  
5 width. Next slide, please.

6 So when going through the variance test, I think it's  
7 important to keep in mind what the actual test is and this goes to  
8 what the OP has stated and why they're in opposition. It is that  
9 the property faces unique circumstances that are peculiar to that  
10 property and not to general conditions in the neighborhood.  
11 Again, that's the first prong of the variance test. Next slide,  
12 please.

13 So the first exceptional condition that we believe we  
14 have on this lot is that we are an exceptionally large lot in the  
15 R3 single-family zone. Our lot is not 1,600 square feet and if  
16 you look at the -- all the lots within the light green there, they  
17 are almost all significantly smaller. Many of the lots, in fact,  
18 are only 2,000 to 3,200 square feet and so those just meet the lot  
19 standards for one property and do not afford the ability to  
20 subdivide and create an alley lot.

21 And in conjunction with that, if you could go to the  
22 next slide, Mr. Young. In conjunction with that, we are the only  
23 property in the square that directly abuts the improved portion of  
24 the alley. As Paul alluded to, that paper alley that runs west to  
25 east, is wooded and is not improved. And so as you can see in the

1 R3 zone, no other property actually abuts an alley, so not only  
2 are we exceptionally large, allowing for four lots to be  
3 subdivided in terms of lot area, but we are directly abutting a  
4 20-foot wide alley whereas no other properties have those  
5 conditions. Next slide, please.

6 And so we talk about the practical difficulties and what  
7 that means in reality for this development, and the practical  
8 difficulty is where is the uniqueness of the property prohibits  
9 the Applicant from building their specific proposal. So here that  
10 would be, we have the lot area, we are an exceptionally large with  
11 the lot area for four lots. However, we need four extra feet on  
12 the alley, therefore making that practically difficult, and we'll  
13 show some examples of how we cannot otherwise subdivide into four  
14 lots. Next slide, please.

15 So by reason of the exceptional size and exceptional  
16 location on the alley, strict application of the alley width  
17 requirement would result in a peculiar and practical difficulty to  
18 the property owner. Again, the property can be subdivided into  
19 four lots and four homes can be constructed, all of which meet the  
20 requirements in the R3 zone, but for the fact that the alley is  
21 four feet narrower than what is required. Next slide, please.

22 So just to show the Board some examples, again, the  
23 proposal is for four lots and the lot can support that in terms of  
24 lot area. We cannot create four street-facing lots, those lots  
25 would necessarily have to be 15 feet in width, which would require

1 variance relief. You can go down to, I believe, 16 feet by  
2 special exception and that is also providing an IZ unit as well.  
3 So again, we have the lot area, but we could not get four lots  
4 that are street facing avoiding the alley lot due to the overall  
5 width of the lot. Next slide, please.

6 Alternatively, the obvious potential resolution would be  
7 to donate from the property four feet to make the alley wider;  
8 however, that would not only result in substandard street-facing  
9 lots, but would also decrease our alley lot width thereby being  
10 under the required lot area minimum for an alley lot in the R3  
11 zone, which is 3,000 square feet. Next slide, please.

12 And so we've walked through why we are exceptional and  
13 why that exceptional condition and situation results in a  
14 practical difficulty to subdivide the property into four lots, but  
15 in addition to that and something that OP has agreed with us on,  
16 is that there will be no detriment to the public good and I think  
17 that's an important element when looking at alley width relief,  
18 which is really intended to ensure safety and not allow for  
19 inappropriate access to an alley.

20 So we're on a 20-foot wide alley and it's only 110 feet  
21 from W Street. Four D.C. agencies, including (audio interference)  
22 and DDOT have submitted no objection to this proposal. We only  
23 directly abut one other lot and so that, again, minimizes any  
24 impact to the public good and there's an existing apartment  
25 building across the alley that would not be impacted. Next slide,

1 please.

2           As my client mentioned, the ANC voted in support of the  
3 alley lot proposal. Again, we -- you know, given the restrictions  
4 and the difficulties caused by the pandemic, we did come up with a  
5 create way to try to engage the community. Mr. Paliwal  
6 distributed fliers for virtual meetings and we offered to have  
7 virtual meetings really any night in a week that anyone who RSVP'd  
8 could coordinate and we only received one RSVP and that discussion  
9 was positive. There's no letters in the record, but, you know,  
10 the one conversation we did have was positive and the ANC's  
11 resolution also acknowledges that there has been no stated  
12 community opposition to this proposal. Next slide, please. I'm  
13 coming to the end.

14           So in terms of detriment to the zone plan, obviously, OP  
15 has stated that they do not support really any proposal, it sounds  
16 like, that's on a substandard alley, but it's important to note  
17 that, again, an alley residence as proposed is a permitted use of  
18 the R3 zone and if you had an existing record lot, then a dwelling  
19 could be constructed with only a 15-foot wide alley if within 300  
20 feet of W Street, which we meet.

21           And then again, I think the important public policy  
22 here, we are promoting another family size 5-bedroom home and  
23 that's something Mr. Dupnick was going to walk through. This is  
24 a family size home in the neighborhood that, you know, can  
25 contribute to the neighboring housing stock. Again, that's

1 something ANC had said that they would like to see. Next slide.

2           And lastly, I did just want to note, because it's so  
3 recent, that as I'm sure Commissioner Turnbull remembers, very  
4 recently the zoning commission took up a text amendment and  
5 actually allowed any alley tax law created between 1958 and 2016  
6 to become a record lot without meeting requirements for alley  
7 width, and now we certainly recognize that this proposal did not  
8 come within the gambit of that text amendment; however, the  
9 commission did make comments, including the one highlighted from  
10 Chairman Hood, that they would like to explore further decreasing  
11 the alley width requirements for all lots.

12           And that's not to say that means this should be granted,  
13 it is to say that when you're talking about detriment to the zone  
14 plan, it is something that is contemplated and going with all of  
15 the factors that would contribute to meeting this variance test  
16 for a fourth lot, we believe that the alley lot would pose no  
17 detriment to the zone plan. And with that, I would turn it over  
18 to any questions the Board might have.

19           CHAIRPERSON HILL: Thank you, Mr. DeBear. Does anybody  
20 have any questions for the applicant?

21           COMMISSIONER TURNBULL: Well, the technique I was  
22 talking to you about muting is not working for me anymore, so.

23           Mr. DeBear, you could create just three lots on this  
24 that go all the way back to the same length as the other lots on  
25 the -- in the area.

1 MR. DEBEAR: Correct, but I would say that that is not  
2 what the variance test goes toward. The proposal is for four lots  
3 and we have the lot area to provide four lots, but the practical  
4 difficulty is creating those four lots if they're all street  
5 facing.

6 COMMISSIONER TURNBULL: On that plan that you show from  
7 sheet 5 or whatever it is. I wonder if Paul can bring that up.  
8 Those two cars, are you proposing -- what is that, like a driveway  
9 next to the --

10 MR. DEBEAR: Yeah, so that's actually a tax lot,  
11 Commissioner Turnbull, and we did confirm this with the zoning  
12 administrator. In order to create a semi-detached lot, because  
13 otherwise you're required to provide a setback for an alley lot,  
14 we have a small tax lot in between the street facing lots and the  
15 alley lot that could provide access to parking. Mr. Paliwal has  
16 said he desires to incorporate parking spaces for all four lots,  
17 that's just for example purposes only.

18 COMMISSIONER TURNBULL: Because I was going to say, how  
19 does that address the other three lots, it just doesn't -- I don't  
20 figure it out --

21 MR. DEBEAR: That would be part of the access to the  
22 other three lots.

23 COMMISSIONER TURNBULL: It seems kind of strange.

24 MR. DEBEAR: An easement. Well, yeah, tax lots not  
25 subject to zoning, so it -- and if you look at the alley

1 regulations, you are only required to provide a setback for non-  
2 alley lots and so that's an alley lot. It's a tax lot and it's  
3 substandard and it can't be improved, but it's permitted.

4 COMMISSIONER TURNBULL: So what am I looking at here?  
5 I'm looking at -- there's two dimension lines here that covers the  
6 gray house and it goes through this public alley, there's one  
7 public alley which is a paper alley, I guess, and then you got  
8 this other -- so what is the lot? Is it -- is the dashed line at  
9 the back of those lots with the two cars, is that an easement then  
10 or what?

11 MR. DEBEAR: Yes, that would be an easement in between  
12 the three lots where the dashed lines are, that's the three  
13 street-facing lots, that's again part of this development but not  
14 part of this application. And then we have the alley tax lot,  
15 which is 10 feet wide and then we have the 3,000 square foot alley  
16 lot with the home on it.

17 COMMISSIONER TURNBULL: Okay. I'm just a little bit  
18 confused by what I'm really looking at here. And I'm trying to  
19 get a feel as to what we're really approving as far as an alley  
20 lot.

21 MR. DEBEAR: Right. So the alley lot is -- I don't know  
22 if Mr. Young can zoom in here on the PDF. Thank you. Keep going,  
23 one more. Thank you. Now if you can just scroll down a little  
24 bit. So that alley lot, the dimensions are 30 by 26 and you can  
25 see the home, which is a semi-detached home and Mr. Dupnick was

1 walking through briefly the plans for that, but again the alley  
2 lot itself is the subject of this application as we need the  
3 relief from the alley with requiring to create the new alley  
4 record lot.

5 COMMISSIONER TURNBULL: 30 by 26. Okay. 30 feet is the  
6 --

7 MR. DEBEAR: Sorry, 50. I'm sorry.

8 COMMISSIONER TURNBULL: I was going to say, it's 50  
9 feet. It's 50 feet and then 5-foot yards on either side, that  
10 adds up to the 60 feet that I'm seeing on the street dimension.

11 MR. DEBEAR: I think that is a -- it's 50 plus the two  
12 5-foot side yards, so that's 60 feet. I apologize, the typing on  
13 my printout is also small and it's hard to see on the screen.

14 COMMISSIONER TURNBULL: And then what, it's 26 and 24?

15 MR. DEBEAR: Correct.

16 COMMISSIONER TURNBULL: So it's 60 by 50 is the --

17 MR. DEBEAR: 50 by 60.

18 COMMISSIONER TURNBULL: 50 by 60. Okay. And then the  
19 other thing is an easement, which is not part of the application;  
20 is that right?

21 MR. DEBEAR: Correct.

22 COMMISSIONER TURNBULL: All right. Thank you.

23 CHAIRPERSON HILL: Okay. Mr. Smith?

24 MR. SMITH: I don't have any questions for the  
25 Applicant.

1 CHAIRPERSON HILL: Okay. Ms. John? No?

2 VICE CHAIR JOHN: No questions.

3 CHAIRPERSON HILL: Office of Planning?

4 MS. FOTHERGILL: Good afternoon, Chairman Hill and  
5 members of the Board, I'm Anne Fothergill from the Office of  
6 Planning for Case 20299. And the Office of Planning has  
7 recommended denial of this application based on the first prong of  
8 the variance test.

9 Because this is not an existing alley tax lot or  
10 existing alley record lot, the Applicant has to go through  
11 subdivision to create a alley record lot and so they need relief  
12 from the subdivision regulations for alley record lots and (audio  
13 interference) it is for the lot width -- the alley width. And in  
14 this case, the first prong of the variance test, the exceptional  
15 condition, the applicant has stated that it's a large --  
16 exceptionally large tax lot, but underneath it are three  
17 underlying record lots that are not exceptionally large, they're  
18 3200 square feet each, I believe, and could be developed by right.

19 And so those are not exceptionally large. The tax lot can be  
20 removed and those lots can be developed to my understanding. And,  
21 in fact, those adjacent property to the east is a 6,400 square  
22 foot lot. So the 3,200 square foot lots are not exceptional  
23 compared to that adjacent property.

24 And then the adjacency to the improved alley, we didn't  
25 find that that was an exceptional condition. And so that was the

1 first prong of the finding of the exceptional situation we  
2 couldn't get the -- those -- that the conditions of the property  
3 created a practical difficulty.

4 And then we did go on to discuss the second and third  
5 prong, but without the first prong, we couldn't recommend it. And  
6 I'm happy to take any questions.

7 CHAIRPERSON HILL: Okay. Does anybody have questions  
8 for the Office of Planning?

9 MR. SMITH: I have a question.

10 CHAIRPERSON HILL: Mr. Smith?

11 MR. SMITH: So the second prong, no substantial  
12 detriment to the public good. Could you elaborate on the reason  
13 or the intent of requiring a 20-foot alley?

14 MS. FOTHERGILL: Sure. And the Applicant mentioned that  
15 there are different criteria for existing alley lots and that the  
16 alley width is different. The subdivision criteria do require a  
17 20-foot alley and it is for safety and access and we do ask  
18 applicants to consult with fire and emergency medical services,  
19 DPW, DC Water to make sure all those agencies can support  
20 development on an alley if it doesn't meet the full width. But it  
21 is -- the intent really is to make sure that if you're in a  
22 residential development, it's in a location that can be accessed  
23 safely. So that is the intent.

24 MR. SMITH: Okay. Thank you.

25 CHAIRPERSON HILL: Mr. Turnbull?

1 COMMISSIONER TURNBULL: So, Ms. Fothergill, thank you  
2 for your report. So you're, basically, I'm trying to rephrase  
3 what you said. The underlying -- what's underlying this large lot  
4 are three record lots?

5 MS. FOTHERGILL: Yes.

6 COMMISSIONER TURNBULL: Just tax lots -- there's three  
7 record lots, and you're saying that can be developed as a matter  
8 of right?

9 MS. FOTHERGILL: Yes.

10 COMMISSIONER TURNBULL: Three 20-foot lots, which would  
11 be the standard lots?

12 MS. FOTHERGILL: Yes.

13 COMMISSIONER TURNBULL: So I -- is the -- you're saying  
14 that the Applicant is simply trying to get more bang for the buck  
15 out of this development then?

16 MS. FOTHERGILL: The Applicant, their proposal is for  
17 the fourth lot.

18 COMMISSIONER TURNBULL: For a fourth lot. But there's  
19 no reason why they can't develop three lots as a matter of right?

20 MS. FOTHERGILL: Correct. That's our understanding.

21 COMMISSIONER TURNBULL: Yeah. Thank you.

22 CHAIRPERSON HILL: Ms. John?

23 VICE CHAIR JOHN: No questions.

24 CHAIRPERSON HILL: Okay. Mr. DeBear, do you have any  
25 questions for the Office of Planning?

1 MR. DEBEAR: I do. If Mr. Young could pull up the slide  
2 show, I just have a couple quick questions. And first of all,  
3 before he pulls that up, I'll just ask my first question. So you  
4 mentioned, Ms. Fothergill, the adjacent property that's 6,400  
5 square feet, but is it correct that that doesn't have access to a  
6 paved alley?

7 MS. FOTHERGILL: That is correct.

8 MR. DEBEAR: Okay. And it's correct that whether it's  
9 three record lots or it be one tax lot, both are owned by  
10 Residential Redevelopment and both have enough lot area to create  
11 and meet the minimum lot area requirements for lots?

12 MS. FOTHERGILL: Yes. The proposal -- the average lot  
13 as proposed meets the lot area requirement.

14 MR. DEBEAR: If Mr. Young could just -- I just have one  
15 other question for OP. So OP in its report stated that the size  
16 of the lot is not in itself exceptional, you didn't really provide  
17 anything to back that up. Mr. Young, if you could just go to  
18 slide 9?

19 So you noted that it's not exceptional, but I was just  
20 curious kind of what OP's basis for that was? If you look at all  
21 the other single family lots in the R3 zone, do you see any -- and  
22 again, understanding that you don't have the lot area numbers, but  
23 just looking at it, do you see any that are as large and have  
24 access to an alley on this slide, which is, you know, the general  
25 neighborhood?

1 MS. FOTHERGILL: And are you referring to the 3,200  
2 square foot lots?

3 MR. DEBEAR: I'm referring to, do you see any lots that  
4 are as big as ours and have access to an alley?

5 MS. FOTHERGILL: So the 9,600 square foot tax lot is  
6 larger in the slide you're showing.

7 MR. DEBEAR: No further questions.

8 CHAIRPERSON HILL: Okay. Yes, Ms. John?

9 VICE CHAIR JOHN: Mr. DeBear, can you verify when the  
10 test was created?

11 MR. DEBEAR: I do not know that information off the top  
12 of my head, Board Member John. I simply know that it's existing  
13 now. Certainly, if it was created before 2016, we wouldn't be  
14 here. So I would have to assume it was created after 2016.

15 VICE CHAIR JOHN: But it was not created as part of this  
16 development?

17 MR. DEBEAR: Correct. It was existing when the Applicant  
18 bought the property. And he can speak to that, if need be.

19 VICE CHAIR JOHN: All right. Thank you.

20 CHAIRPERSON HILL: Okay. Let's see, anyone else. Okay.  
21 Is there anybody here, Mr. Young, wishing to speak in support or  
22 opposition?

23 MR. YOUNG: We do not have anyone.

24 CHAIRPERSON HILL: Okay. Mr. DeBear, is there anything -  
25 - so, I guess we're wrapping this up, right? You guys don't have

1 any questions for anybody? Okay. Mr. DeBear, do you have  
2 anything that you would like to add at the end?

3 MR. DEBEAR: I would just add that the area variance  
4 test does not require you to prove that you can't do any  
5 by-right developments. It is the proposal and again, the lot area  
6 gives us enough area to meet the requirements for four lots, but  
7 for the alley width, we would be able to provide four lots by  
8 subdividing this property.

9 And so to state that you could do three lots is just  
10 simply not relevant and not part of the area variance standard.  
11 And to that end, we showed the Board that we cannot otherwise  
12 subdivide this property into four lots due to needing other  
13 variances. So if we had an ability to subdivide to four street-  
14 facing lots and didn't need the area variance for the alley width,  
15 then that would be a different story, but it's not.

16 And then on top of that, I think, it's certainly  
17 important highlight the ANC's support, no community opposition.  
18 We've heard testimony from OP that the intent of the alley width  
19 regulation is for safety and we have all four agencies and OP  
20 saying this is a safe proposal. And so there would be no  
21 detriment to the public good and we believe that we have met the  
22 standard to create this new (audio interference) record lot.

23 CHAIRPERSON HILL: Okay. All right. Thank you, Mr.  
24 DeBear. All right. Okay. I guess that's it. I'll go ahead and  
25 excuse you, Mr. DeBear, we'll go ahead and close the record and

1 we'll see where we are. Thank you.

2 MR. DEBEAR: Thank you.

3 CHAIRPERSON HILL: Are we ready to talk about this?  
4 Okay. Does that mean, Ms. John, you'd like to take a crack at  
5 starting to talk about this?

6 VICE CHAIR JOHN: I can try.

7 CHAIRPERSON HILL: Okay.

8 VICE CHAIR JOHN: This is problematic because I  
9 understand the Applicant's interest in having the fourth lot, but  
10 I -- you know, OP has made a pretty good argument concerning the  
11 ability of the Applicant to develop three lots as a matter of  
12 right and I'm not persuaded that there's an exceptional condition  
13 just because this large lot is next to an alley -- a developed  
14 alley, so I don't think for me that's enough to create an  
15 exceptional condition. And so I'm not inclined, based on the fact  
16 that -- I don't see a very strong basis for saying that the first  
17 prong of the variance test has been satisfied and so I think in a  
18 way, and others may disagree, the Applicant has created his own  
19 practical difficulty, it's not created by the size of the lot. So  
20 that's sort of how I'm thinking of it.

21 CHAIRPERSON HILL: Okay. Okay, Mr. Smith.

22 MR. SMITH: I believe that the Applicant has created  
23 their own hardship by attempting to create an alley tax lot. The  
24 Applicant -- granted the size of the lot gives them some  
25 measurability to subdivide the lot into three legal conforming

1 lots, and I do not believe that the Applicant has sufficiently  
2 demonstrated to me that they meet the first prong of the variance  
3 test. I do not believe that this particular property rises to the  
4 occasion of having an extraordinary or an exceptional situation,  
5 so I wouldn't support the variance.

6 CHAIRPERSON HILL: Commissioner Turnbull.

7 COMMISSIONER TURNBULL: I think like the Vice Chair  
8 mentioned, this is a little problematic, I'm a little conflicted  
9 by -- I like to see things -- we need more residential and  
10 development to help for the housing, but I think both Mr. Smith  
11 and the Vice Chair have made credible arguments. They brought up  
12 a lot of things that is in the OP report. I mean, having a  
13 shorter lot and then the alley -- the shorter lots would not be  
14 consistent with the other lots on that same side of the street.  
15 There are shorter lots behind the paper alley that would be  
16 consistent to what they're trying to make. But I guess I go back  
17 into the argument that OP makes is that, that they've made -- the  
18 Vice Chair stated, they sort of made their own practical problem  
19 for themselves.

20 The difficulty that they're talking about, I think is  
21 more of their own making. It's got nothing to do with the site  
22 per se there. They have a perfectly developable piece of land  
23 that can have three regulation lots and trying to create a fourth  
24 out of this just creates more of a problem. So I -- I'm a little  
25 bit conflicted with it. I tried to be a little bit flexible, but

1 I can't reach that over the bar yet. So I would agree with my  
2 colleagues so far, and I would not be in favor of this.

3 CHAIRPERSON HILL: Okay. Well, it doesn't look like  
4 there's the notes here to move this forward and let's weigh in in  
5 terms of anybody agreeing with the argument that's being put  
6 forward. I mean, I'm also -- I'm disappointed that they can't do  
7 the four lots, you know, but I think that as we've been told,  
8 instructed many, many times in terms of the variance -- a variance  
9 being a very difficult task to overcome. I think that, you know,  
10 this is not as things have been (audio interference) -- Mr.  
11 Turnbull, you're not muted, I'm sorry (audio interference).

12 MR. MOY: It's not me, sir. Before you all vote, you  
13 may want to consider waiving the notice requirements for this  
14 case. I think you kind of skimmed past that in the beginning.

15 CHAIRPERSON HILL: Oh great. Okay. Thanks. Well, I  
16 guess we'll go ahead and do this first then. So there was a 19-  
17 day notice requirement. I'm sorry, there was a 40-day notice  
18 requirement that due to a technical issue was only done for 19  
19 days. But I think that this case was properly noticed. It was  
20 sent to the ANC, the Office of Planning, the other District  
21 agencies, and also property owners within the 200 feet. So I'm  
22 going to make a motion on my other motion that the requirement for  
23 the 40 days be waived as per Y 4021(a) and I don't see anybody  
24 raising their hand that they have any objection to that. So that  
25 is -- we've waived that on our own motion.

1           So back to the discussion, I guess. Yeah, I mean, it's  
2 just disappointing. I mean, I'm disappointed because the ANC is  
3 also -- it sounds as though they're in favor of it. I mean, I do  
4 think that there is some uniqueness to the property; however, I  
5 don't think it rises to the occasion where it's a variance  
6 standard, you know, when you're crossing that first prong.

7           I think that they do three by-right properties. And I  
8 don't know exactly, Commissioner Turnbull, I guess, why you got to  
9 24 feet wide alleys versus 20, you know, and I can't remember what  
10 that is. I mean, they have -- and actually, I'm kind of curious  
11 if you remember any of this. Because, I mean, they have all of  
12 the safety people have signed off, right. Do you remember why it  
13 was 24 feet?

14           COMMISSIONER TURNBULL: I'm trying to recall back when  
15 OP was doing this, and I don't whether they had done alley studies  
16 and looked at like with the Department of Transportation and  
17 somehow 24 came up as the magic number. I'm not really sure if  
18 they had surveyed and came up with what made sense or if they  
19 talked to EM folks back then, I'm not sure.

20           CHAIRPERSON HILL: Right. This isn't something like  
21 this Applicant can come in front of the zoning commission in some  
22 kind of way with this, can they?

23           COMMISSIONER TURNBULL: No, I think -- I think they'd  
24 have to -- I mean, OP would have to go back, and we'd have to do a  
25 change on alley width regulations. I mean, you would have to --

1 you know, there are different caveats to the different alley  
2 widths. You know, if you're like within 300 feet or whatever of a  
3 so-called street -- I mean, you would have to go back and make  
4 some changes to it in order to get this thing done right.

5 CHAIRPERSON HILL: Okay. All right. Well, it doesn't  
6 seem like we're there. So I'm going to make a motion to not  
7 approve -- I'm going to make a motion to deny Application Number  
8 20299 as captioned and read by the secretary, including the fact  
9 that they were trying to get two alley lots for just one alley lot  
10 as was clarified in the application. And I ask for a second, Ms.  
11 John?

12 VICE CHAIR JOHN: Second.

13 CHAIRPERSON HILL: Mr. Moy, the motion was made and  
14 seconded. Do you to take a roll call vote.

15 MR. MOY: Thank you, Mr. Chairman. When I call your  
16 name, if you would please respond with a yes --

17 MR. DEBEAR: I'm sorry, I was trying to get back in just  
18 to respond to some of the Board's comments. I know this is  
19 unusual, but it's really important to say that a self- created  
20 hardship is not a bar to an area variance and that is case law and  
21 I'd be happy to supplement the record.

22 CHAIRPERSON HILL: Mr. DeBear, how did you get back in?

23 MR. DEBEAR: I -- well, I didn't have an opportunity  
24 Chair Hill to respond to the Board comments.

25 CHAIRPERSON HILL: Mr. DeBear, I appreciate what you're

1 trying to do, but during deliberations, even in the hearing room  
2 itself, we would have never brought you guys back up, right. I'm  
3 saying we would have never brought you guys back up. So I  
4 appreciate what you're trying to do right now, but it's just out  
5 of order. And so, you know, I don't know if you want to submit  
6 something into the record in terms of -- and we're just having  
7 deliberations --

8 MR. DEBEAR: I understand.

9 CHAIRPERSON HILL: It's as if it was a member of the  
10 community started to yell at us during deliberations.

11 MR. DEBEAR: I would not be representing my client  
12 properly if I didn't at least try, because I didn't have an  
13 opportunity to respond or comment. I hope you appreciate that.  
14 And I apologize for jumping in while you're deliberating, I know  
15 that's very unusual.

16 CHAIRPERSON HILL: Okay. Okay. Thank you very much. I  
17 appreciate your attempt. Thank you.

18 MR. MOY: I'm sorry, Mr. Chairman. As the Board is  
19 aware, typically, the Chair would close the record and then go  
20 into your deliberation.

21 CHAIRPERSON HILL: Well, I did close the record.

22 MR. MOY: I don't know. I'll talk to staff later.

23 CHAIRPERSON HILL: And I don't know, you know -- anyway,  
24 it's interesting. So we'll have to figure that out another way.  
25 So again, I made the motion, the motion was seconded and Mr. Moy,

1 you're taking a roll call vote?

2 MR. MOY: Yes, sir. So when I call your name, if you  
3 would each respond with a yes, no or abstain to the motion made by  
4 Chairman Hill to deny the Application for the relief that's being  
5 requested, seconded by Vice Chair John. Zoning Commissioner  
6 Michael Turnbull?

7 COMMISSIONER TURNBULL: Yes, to deny.

8 MR. MOY: Mr. Smith?

9 MR. SMITH: Yes, to deny.

10 MR. MOY: Vice Chair John?

11 VICE CHAIR JOHN: Yes, to deny.

12 MR. MOY: Chairman Hill?

13 CHAIRPERSON HILL: Yes, to deny.

14 MR. MOY: And we have a board seat vacant. Staff will  
15 record the vote as 4-to-zero-to-1 and this is on the motion made  
16 by Chairman Hill to deny, seconded by Vice Chair John, and also in  
17 support of the motion, Mr. Smith and Zoning Commissioner Michael  
18 Turnbull. Motion carries, Mr. Chairman.

19 CHAIRPERSON HILL: Okay. Great. Hey guys, I'm sorry,  
20 but I'm going to take a three-minute break real quick and so I'll  
21 be right back as well. Thanks.

22 (Pause)

23 MR. MOY: The Board is back in session. The time is at  
24 or about 4:57 and we are coming down to the home stretch and we're  
25 at Application No. 20300, Brad Mueller, M-U-E-L-L-E-R. Captioned

1 and advertised for a special exception under Subtitle E, Section  
2 5201, from the lot occupancy and requirements, Subtitle E, Section  
3 304.1. This would construct a two-story accessory garage  
4 structure in the rear yard of an existing attached principal  
5 dwelling unit in the RF-1 Zone at 1309 Potomac Avenue, Southeast,  
6 Square 1046, Lot 854.

7 CHAIRPERSON HILL. Okay. Great. Mr. Mueller, could you  
8 please introduce yourself for the record.

9 MR. MUELLER: Yeah, good evening. My name is Bradley  
10 Mueller. I live with my wife, Allison Mueller, at 1309 Potomac  
11 Avenue, Southeast.

12 CHAIRPERSON HILL: Okay. Mr. Mueller, if you want to  
13 just kind of walk us through your applic -- well, first of all,  
14 there was a notice thing that we had an issue with, in terms of  
15 the Register -- DC Register that should have been posted for 40  
16 days. It was only posted for 19 days. All the other requirements  
17 for the notice were satisfied, meaning it was properly sent to the  
18 ANC, the Office of Planning, the other District agencies, and all  
19 the property owners within 200 feet.

20 I do not have any issues with waiving this on our own  
21 motion, so I'm going to waive that notice requirement on my motion  
22 pursuant to Y 402.1(a) unless any of my fellow Board members have  
23 an issue, you can raise your hands. Okay. You do not.

24 Then after that, I guess, Mr. Mueller, if you want to go  
25 ahead and walk us through your application, tell us a little bit

1 about why you believe you are meeting the standard for which we  
2 should grant the application. And then I don't know if you're  
3 well aware of this and I'll be -- there was an apartment building  
4 where there was like, you the inside the 200-footers and the  
5 apartment building, I guess a lot of the 200-footer things were  
6 returned and I don't -- do you know the apartment building I'm  
7 speaking of by any chance?

8 MR. MUELLER: I know there's two apartment buildings  
9 kind of directly behind my house but I -- this is the first time  
10 learning of this.

11 CHAIRPERSON HILL: Okay. And if you can just again let  
12 us know about the notice and how they probably know about it, the  
13 apartment building? I know you went to the ANC. I know you  
14 posted and so -- and you can just repeat that if that's basically  
15 what the -- your thoughts are as to how those apartment buildings  
16 would know about your project. So that's only one thing to  
17 mention. Other than that, you can begin whenever you like.

18 MR. MUELLER: Yeah, but that's -- I'm just a little bit  
19 confused by that. First, let me preface my presentation by saying  
20 I'm not a trained architect. I'm also not an attorney. So  
21 forgive me as I kind of stumble through this presentation as a  
22 layperson but to speak to the notices, we just -- myself and the  
23 architect that I'm working with just followed the standard  
24 procedure which was the sending out of the -- within the 200-foot  
25 radius.

1 CHAIRPERSON HILL: Okay.

2 MR. MUELLER: So I'm a little bit confused.

3 CHAIRPERSON HILL: Mr. Mueller, don't worry about it.  
4 Just tell me again about just -- actually, just -- and don't -- we  
5 know you're not an expert. We know you're not an architect and  
6 just go ahead and walk us through your project. Okay?

7 MR. MUELLER: Sure. Mr. Young, do you mind pulling up  
8 the PowerPoint that I sent over? Thanks. Next slide is fine.  
9 Just to let you guys know we're trying or proposing to construct a  
10 two-story garage in the rear of the property. The total  
11 footprint, 396 square feet. The point of coming before the Board  
12 is to ask for a 10 percent increase in the total lot coverage.  
13 This would make the garage functional, and the extra 10 percent is  
14 merely just to make the space large enough to house a car and then  
15 the useful space on top.

16 Next slide, please? Yeah, here's the proposed plat. So  
17 we -- you know, it shows the garage which is a footprint of 24 in  
18 depth by 16-1/2 wide, standard two-by-four construction, and then  
19 the offset, 12 inch -- or 12 feet from the center of the alley,  
20 pretty standard building and plat, again, looking for the 10  
21 percent increase to allow us to build that footprint that we  
22 propose.

23 Next slide, please? This is the north elevation, so  
24 this is facing the rear of my existing house, pretty standard  
25 construction with HardiePlank siding. No windows on the east or

1 west side of the house. That kind of could be a privacy factor  
2 for the neighbors on the adjacent sides of us.

3 Next slide, please? This is the alley facing side.  
4 Pretty standard garage door, pedestrian door which leads to a  
5 vestibule and a set of stairs that goes to the upstairs studio  
6 space.

7 Next slide, please? This is the interior layout, the  
8 upstairs being on the left side of your screen, bathroom and then  
9 two kind of studio spaces and the reason for this whole project --  
10 I probably should have started with this -- is just because we're  
11 a growing family and we need more space, a common issue on Capitol  
12 Hill. I have a one-month-old baby, no basement and nowhere to put  
13 anything in this house, so this is really just kind of a way to  
14 gain more storage space for our family so we can kind of grow in  
15 this house and then gain the additional covered parking spot  
16 beneath.

17 Next slide, please? This is looking in the alley at  
18 several existing structures, garage structures, double -- two-  
19 story garage structures that are adjacent to us in the alley and  
20 just kind of the different views of those properties that are  
21 already existing and other neighbors that have already constructed  
22 similar projects.

23 Next slide? That might be the last slide.

24 CHAIRPERSON HILL: Okay. Great. Thank you, Mr.  
25 Mueller.

1 MR. MUELLER: Sure.

2 CHAIRPERSON HILL: Does anybody have any questions for  
3 Mr. Mueller? All right. Turning to the Office of Planning. Oh,  
4 Mr. Mueller?

5 MR. MUELLER: Yes, the --

6 CHAIRPERSON HILL: Are there other people here with you?

7 MR. MUELLER: Yeah, my architect, Mr. Ward, is here with  
8 us as well.

9 CHAIRPERSON HILL: Okay. All right. Okay. That's  
10 okay. If we have any questions, we can bring him in. Okay.  
11 Turning to the Office of Planning. Thank you.

12 MR. MORDFIN: Good afternoon. I'm Stephen Mordfin and  
13 the Office of Planning is in support of this application. It  
14 meets all the criteria necessary for the special exception that  
15 they've requested and, as I said, we are in support. Thank you  
16 and I'm available for questions.

17 CHAIRPERSON HILL: Okay. Does anybody have any  
18 questions for the Office of Planning? Does the applicant have any  
19 questions for the Office of Planning?

20 MR. MUELLER: No.

21 UNIDENTIFIED SPEAKER: No.

22 CHAIRPERSON HILL: Mr. Young, is there anybody here  
23 wishes to speak in support or opposition?

24 MR. YOUNG: We do not.

25 CHAIRPERSON HILL: Okay. Mr. Mueller, is there anything

1 you'd like to add at the end?

2 MR. MUELLER: No, I don't think so. I just appreciate  
3 everyone's time and sticking around until the evening. Appreciate  
4 that.

5 CHAIRPERSON HILL: Okay. All right. Well, thank you.  
6 I'm going to close the hearing. I'm going to excuse the Applicant  
7 and the Office of Planning and then I'm going to turn to my fellow  
8 Board members. Is the Board ready to deliberate? I see  
9 everyone's nodding their head. I can start -- I didn't have an  
10 issue with the application. I thought it was pretty  
11 straightforward. I had a little bit of questions about those 200-  
12 footers, but I'm satisfied that -- you know, the ANC had -- you  
13 know, are in support. They've had their hearing and so then I  
14 will also give (audio interference) that was provided by the  
15 Office of Planning, so I'm going to vote in favor.

16 Mr. Turnbull?

17 COMMISSIONER TURNBULL: Oh, I agree with you, Mr. Chair.  
18 I -- there is -- this is a fairly straightforward application and  
19 I think the Office of Planning's explanation that -- for granting  
20 the relief is fairly easy to do so I would be in favor of  
21 supporting this also.

22 CHAIRPERSON HILL: Mr. Smith?

23 MR. SMITH: I won't belabor the point. I agree with  
24 both of you. I give great weight to OP's report so I would be in  
25 support of this special exception.

1 CHAIRPERSON HILL: Vice Chair John?

2 VICE CHAIR JOHN: I'm also in support of the application  
3 based on everything that everyone has said.

4 CHAIRPERSON HILL: Okay. I'm going to make a motion to  
5 approve Application Number 20300 as captioned and read by the  
6 secretary. I'd ask for a second, Ms. John?

7 VICE-CHAIR JOHN: Second.

8 CHAIRPERSON HILL: The motion is made and seconded. Mr.  
9 Moy, go ahead and take a roll call vote.

10 MR. MOY: Thank you, Mr. Chairman. When I call your  
11 name, if you would please respond with a yes, no or abstain to the  
12 motion made by Chairman Hill to approve the application under  
13 relief requested. The motion was seconded by Vice Chair John.  
14 Starting with Commissioner Michael Turnbull?

15 COMMISSIONER TURNBULL: Yes.

16 MR. MOY: Mr. Smith?

17 MR. SMITH: Yes to approve.

18 MR. MOY: Vice Chair John?

19 VICE CHAIR JOHN: Yes.

20 MR. MOY: Chairman Hill?

21 CHAIRPERSON HILL: Yes to approve.

22 MR. MOY: We have a board seat vacant. Staff would  
23 record the vote as 4-to-zero-to-one and this is on the motion of  
24 Chairman Hill to approve, seconded by Vice Chair John. Also in  
25 support of the motion, Mr. Smith and Zoning Commissioner Michael

1 Turnbull. Motion carries, sir.

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

3 You may -- you can call our next case when you get a  
4 chance, Mr. Moy.

5 MR. MOY: Okay. This will be Case Application Number  
6 20301 of Eric Wortman, W-O-R-T-M-A-N. Captioned and advertised  
7 for a special exception under Subtitle E, Section 205.5, and 5201  
8 from the rear addition requirements of Subtitle E, Section 205.4  
9 to construct a two-story rear addition to existing attached  
10 principal dwelling unit. RF-1 Zone at premises 229 14th Street,  
11 Northeast, Square, 1055, Lot 55.

12 CHAIRPERSON HILL: All right. Let's see, is it Ms.  
13 Boyette?

14 MS. BOYETTE: Yes.

15 CHAIRPERSON HILL: All right. Could you introduce  
16 yourself, please?

17 MS. BOYETTE: Yes, hi. My name is Melissa Boyette. I'm  
18 an architect with Old City Design Studio.

19 CHAIRPERSON HILL: Okay. And then is it von Felden?

20 MS. BOYETTE: That's my client, Shannon von Felden, at  
21 (audio interference).

22 CHAIRPERSON HILL: Sure, Ms. von Felden, do you want to  
23 like -- are you going to be presenting, Ms. Boyette, or is Ms. von  
24 Felden?

25 MS. BOYETTE: I will be presenting.

1 CHAIRPERSON HILL: Oh, okay. All right. Ms. von  
2 Felden, can you hear me? You're on --

3 MS. VON FELDEN: Yeah, we can hear you.

4 CHAIRPERSON HILL: Okay. Could you introduce yourself  
5 for the record?

6 MS. VON FELDEN: Yes, I'm sorry, this is Shannon von  
7 Felden. I'm here with my husband, Eric Wortman, and we're the  
8 homeowners of 229 14th Street Northeast.

9 CHAIRPERSON HILL: Okay. All right. Who's Eric  
10 Wortman?

11 MS. VON FELDEN: He's my husband. He's the co-owner of  
12 the home.

13 MR. WORTMAN: We're sitting here together.

14 CHAIRPERSON HILL: Oh, yeah. Okay. I'm just -- I just  
15 got confused. Okay. All right. Okay. Ms. Boyette -- Ms. von  
16 Felden, you can go ahead and mute yourself and then if we need  
17 you, we can bring you in.

18 Ms. Boyette, if you could go ahead and walk us through  
19 the application and tell us why you think we should grant the  
20 relief being requested?

21 MS. BOYETTE: Sure, I mean --

22 CHAIRPERSON HILL: Before you do that, there has been a  
23 notice issue and there was a notice issue in the DC Register. We  
24 should have noticed this 40 days in advance. It was only noticed  
25 19 due to a technicality. However, all the other notice

1 requirements are satisfied, meaning it was properly sent to the  
2 ANC, the Office of Planning and other District agencies, and  
3 property owners within 200 feet as well as posting. So I'm going  
4 to go ahead and, on my motion,, waive the publication requirements  
5 as per the ability for me to do so per Y 402.1(a) and if I see any  
6 of my board members objecting, I'm going to go ahead. You've got  
7 a -- I do not see you objecting so, Ms. Boyette, I put 15 minutes  
8 on the clock, and you can begin whenever you'd like.

9 MS. BOYETTE: Thank you. Good afternoon. I'm  
10 representing my clients who you just spoke with, Eric Wortman and  
11 Shannon von Felden, who live at the subject property at 229 14th  
12 Street Northeast. We're here today to request a special exception  
13 under Subtitle E 205.5 and 5201 from the rear addition  
14 requirements of Subtitle E 205.4, the 10-foot rule.

15 This proposed project is a two-story addition at the  
16 rear of an existing two-story attached interior row home. The  
17 proposed footprint of the addition is 16-foot-deep by 12-1/2 feet  
18 wide and the additional maintained light and air to the existing  
19 home via the dog leg at the south end of the property.

20 Eric and Shannon live in the home with their three  
21 children. The existing home has three bedrooms and one full bath  
22 and there's no cellar or basement level which is the reason for  
23 the extension at the rear.

24 In terms of light, we provided a sun study that was  
25 reviewed extensively with the ANC. As you can imagine, an

1 addition casts shadow but nothing that was terribly uncommon or  
2 out of the ordinary. We also did a comparison sun study of a 10-  
3 foot by-right rear addition to show that this special exception  
4 16-foot-deep addition does not drastically change the affects of  
5 the sun compared to a 10-foot by-right addition.

6 In terms of air, again, our condition is similar to  
7 light, which is that we have a dog leg, so air will not be  
8 affected greatly. And regarding privacy, the addition will be  
9 solid along the north property line. There will be high windows  
10 on the dog leg façade at the south, and a door and window on the  
11 east façade facing the alley, so not facing a neighbor, and no  
12 neighbors have expressed any concerns regarding privacy issues.

13 The massing and the density as being proposed is not  
14 excessive and attempts to match the existing massing of the house.  
15 The roof line of the existing house will be continuous with the  
16 addition.

17 We have letters of support from the adjacent neighbor at  
18 227, which is the neighbor to the south. The house to the north,  
19 at 231, has not provided a letter but Shannon and Eric have been  
20 in touch with him throughout the process and he does not currently  
21 live in the home, he rents the home out. And we have additional  
22 letters of support in the record from 217 14th Street Northeast,  
23 237 14th Street Northeast.

24 So this is a project that's requesting relief from the  
25 10-foot rule only. That is the only relief being sought. The 16-

1 foot addition which we're proposing, the lot occupancy would be 60  
2 percent which is the maximum allowed by right. The addition  
3 complies with the zoning requirements for the rear yard which  
4 provides a -- we're providing a 27-foot deep rear yard. That's  
5 all.

6 CHAIRPERSON HILL: All right. Let's see, does the Board  
7 have any questions for Ms. Boyette?

8 COMMISSION TURNBULL: Where was the sun studies?

9 MS. BOYETTE: That was --

10 MR. WORTMAN: Other than the counter studies (audio  
11 interference) I got it.

12 MS. BOYETTE: Yep.

13 CHAIRPERSON HILL: Okay. But I'm going to turn to the  
14 Office of Planning.

15 MS. THOMAS: Yes, good evening again, Mr. Chair, members  
16 of the Board. Karen Thomas with the Office of Planning for Case  
17 Number 20301. We will send a record of our report in support of  
18 the application. They -- we believe that the applicant has met  
19 the criteria for special exception relief from the 10-foot rule  
20 and, with that, I'll be happy to take any questions. Thank you.

21 CHAIRPERSON HILL: Okay. Does the Board have any  
22 questions for the Office of Planning? Does the Applicant have any  
23 questions for the Office of Planning?

24 MS. BOYETTE: I do not.

25 CHAIRPERSON HILL: Ms. Thomas, it was a long day. Are

1 you the person that had the background and the back that looked  
2 like you were in a multi-million-dollar home?

3 MS. THOMAS: Right, so I changed it, so you could see.

4 CHAIRPERSON HILL: Okay. All right. Mr. Young, is  
5 there anybody here who wishes to speak in support or opposition?

6 MR. YOUNG: No, sir.

7 CHAIRPERSON HILL: Okay. All right. Ms. Boyette, is  
8 there anything you'd like to say at the end?

9 MS. BOYETTE: No. Thanks for your time.

10 CHAIRPERSON HILL: Have you been before us before, Ms.  
11 Boyette?

12 MS. BOYETTE: Yes.

13 CHAIRPERSON HILL: Okay. I mean, because you don't come  
14 a lot though, right?

15 MS. BOYETTE: Not too frequently. It's been about a  
16 year, I think.

17 CHAIRPERSON HILL: Okay.

18 MS. BOYETTE: A little over a year.

19 CHAIRPERSON HILL: You do a good job.

20 MS. BOYETTE: Thank you.

21 CHAIRPERSON HILL: Yeah. Mr. Turnbull?

22 COMMISSIONER TURNBULL: Thank you, Mr. Chair. Ms.  
23 Boyette, the -- on the dog leg, the extension -- the neighbor next  
24 to the extension that goes out, the other one that wrote a letter  
25 saying that they're okay with it then?

1 MS. BOYETTE: Correct, the ones that are on the dog leg  
2 side said that they are fine with that, and we have some high  
3 windows that are facing their property.

4 COMMISSIONER TURNBULL: Okay. Great. Thank you.

5 MS. BOYETTE: Thank you.

6 CHAIRPERSON HILL: Okay. I'm going to go ahead and  
7 close the record. Mr. Young, if you'd excuse everyone, please?  
8 You all ready to deliberate? Does someone want to go first just  
9 because I'm tired of talking? Mr. Turnbull?

10 COMMISSIONER TURNBULL: Yeah, Mr. Chair, I think 20301  
11 is a fairly straightforward case, I mean, if they -- they build  
12 past the 10-foot rule, but it seems like they've met all the  
13 requirements. They've talked to the neighbors. Sounds like the  
14 sun study is unobjectionable and it looks like they've done  
15 everything that they should do to protect privacy. They've got  
16 high windows. The -- I think it's really easy for me to approve  
17 this. I really don't see anything that is really that concerning,  
18 so I would be voting to approve this.

19 CHAIRPERSON HILL: Mr. Smith?

20 MR. SMITH: I agree with Mr. Turnbull and I would state  
21 that I appreciate the Applicant reaching out to the neighbors and  
22 the ANC to assure that their project is compatible or their  
23 neighbors are in agreement with what they're proposing. So I will  
24 vote yes.

25 VICE CHAIR JOHN: I support the application and I also

1 appreciate the efforts of the Applicants and the Applicants'  
2 architect to consider, you know, the neighbors in terms of the  
3 placement of the windows and OP approves of the application and so  
4 I have room to -- and -- as well as the ANC so I'm quite able to  
5 support the application.

6 CHAIRPERSON HILL: Okay. I don't have anything to add.

7 I will agree with my colleagues and their analysis. I also will  
8 note, as you mentioned, that I would agree with the analysis of  
9 the Office of Planning as well as the ANC in terms of the great  
10 weight that we are to give them.

11 I'm going to make a motion to approve Application Number  
12 20301 as captioned and read by the secretary and ask for a second,  
13 Ms. John.

14 VICE CHAIR JOHN: Second.

15 CHAIRPERSON HILL: The motion is made and seconded. Mr.  
16 Moy, if you could please take a roll call vote?

17 MR. MOY: Thank you, Mr. Chairman. When I call your  
18 name, if you'd please respond to the yes, no or abstain to the  
19 motion made by Chairman Hill to approve the application for the  
20 relief requested? The motion was seconded by Vice Chair John.

21 Zoning Commissioner Michael Turnbull?

22 COMMISSIONER TURNBULL: Yes.

23 MR. MOY: Mr. Smith?

24 MR. SMITH: Yes.

25 MR. MOY: Vice Chair John?

1 VICE CHAIR JOHN: Yes.

2 MR. MOY: Vice Chair John?

3 VICE CHAIR JOHN: Yes.

4 MR. MOY: Thank you. Chairman Hill?

5 CHAIRPERSON HILL: Yes.

6 MR. MOY: We have a board seat vacant, Mr. Chairman. I  
7 would -- staff would record the vote as four to zero to one and  
8 that's on your motion to approve the application seconded by Vice  
9 Chair John. Also in support of the motion is Mr. Smith and Zoning  
10 Commissioner Michael Turnbull and, as I said before, there's a  
11 board seat vacant. Motion carries 4-to-zero-to-1.

12 CHAIRPERSON HILL: Okay. Great. All right. We have  
13 one more case. I think it is going to take a little bit of time.  
14 Do we need a break before the case, or we'll just go into the  
15 case? Okay. I'm just waiting for everybody to say yes. Okay.  
16 All right. Mr. Moy, you can call our last case.

17 MR. MOY: Thank you, sir. So this would be Case  
18 Application No. 20302 of SQL512 Taylor, LLC. Captioned and  
19 advertised for a special exception under Subtitle U,  
20 Section 320.2. This would construct a third-story and three-story  
21 rear addition and to -- and convert an existing semi-detached  
22 principal dwelling unit into a three-unit apartment house in the  
23 RF-1 Zone at premises 512 Taylor Street Northwest, Square, 3231  
24 Lot 98, and I believe there was an affidavit. I'm assuming that  
25 was an affidavit of maintenance and letter of support that was

1 submitted within that last 24 hours deadline.

2 CHAIRPERSON HILL: Okay. There was an affidavit of  
3 maintenance, Mr. Moy, and then also you're saying a letter in  
4 support?

5 MR. MOY: Yes.

6 CHAIRPERSON HILL: Okay. All right. Let's see now, is  
7 it Mr. Heisey?

8 MR. HEISEY: Yes. Can you hear me?

9 CHAIRPERSON HILL: Yes. Could you introduce yourself,  
10 please, for the record?

11 MR. HEISEY: Hi, I'm Joel Heisey. I'm a representative  
12 for the owner which would be Square and Lot Development, 512  
13 Taylor, LLC. Oh, I see both of the owners are also here as well,  
14 Amit Vora and Sima Tessema.

15 CHAIRPERSON HILL: Okay. Let me -- I'll tell you what,  
16 Mr. Heisey, are you going to be presenting to us?

17 MR. HEISEY: Yes.

18 CHAIRPERSON HILL: Okay.

19 MR. HEISEY: And if you have five minutes, I could even  
20 get Ms. Johns (ph) in here but sounds like you guys want to take a  
21 break.

22 CHAIRPERSON HILL: Yeah, the -- no, no, no, we're not  
23 taking a break.

24 MR. HEISEY: Oh, okay.

25 CHAIRPERSON HILL: So the -- well, let me get the -- Mr.

1 -- well, what I'm going to say is if you don't need the owners --  
2 when you need the owners to testify if we get to that point, you  
3 can go ahead and do that or we can have them introduce themselves.

4 MR. HEISEY: I think we agreed that I'd give most of the  
5 presentation. It's pretty straightforward. You've considered a  
6 case exactly like this this summer as well.

7 CHAIRPERSON HILL: Okay.

8 MR. HEISEY: So I think it's straightforward.

9 CHAIRPERSON HILL: Okay. So let's see where we get.  
10 Mr. Heisey, welcome. I'm glad to see that you're, you know,  
11 faring well during these interesting times.

12 All right. Okay. So, Mr. Heisey -- well, first of all,  
13 there's a notice thing that I need to go through in terms of our  
14 own issues. There was a technicality, and the notice wasn't  
15 published in the DC Register. It was only published for 19 days  
16 rather than 40 and -- however, the notice was sent to all the  
17 other people in terms of the ANC, the Office of Planning, other  
18 District agencies and property owners within 200 feet as well as  
19 being posted. I don't have any concern about the notice so I'm  
20 going to go ahead and waive that one requirement as per Y 402.1  
21 (a) unless my fellow board members have an issue and, if so, raise  
22 your hand. I don't see you raising your hand, so I'm going to go  
23 ahead and waive that requirement.

24 And then as far as you, Mr. Heisey, I guess there was --  
25 you guys just submitted your affidavit of maintenance inside the

1 24 hours; is that correct?

2 MR. HEISEY: Yes. I kind of lost track of days. Sorry.  
3 I was thinking a day before, but it's 24 hours which really is  
4 two days before so, yeah, I was a bit --

5 CHAIRPERSON HILL: Got it. Mr. Moy, we're going to go  
6 ahead and allow it into the record as well as then I guess if  
7 there was a letter of support, that you can go ahead and put that  
8 in the record as well.

9 MR. HEISEY: There's actually two additional letters of  
10 support.

11 CHAIRPERSON HILL: Okay. I have both -- two additional  
12 letters of support then. You can tell us about that, Mr. Heisey,  
13 if you want to. And I'm going to give you 15 minutes on the clock  
14 to tell us about your project and why you think that we should  
15 approve it and why you're meeting the standard for us to approve  
16 it and you can begin whenever you like.

17 MR. HEISEY: Thank you. I know it's been a long day.  
18 I've been with you guys since 9:30 as well, so I'll try to be  
19 brief and just keep it to the bare minimums. I'm glad you did  
20 have to do the notices though because in one of the letters of  
21 objection, that issue was brought up.

22 What this is, it's very similar to a adjoining prop --  
23 or not adjoining, but a property on the same block. It's an  
24 existing single-family dwelling, two stories with a cellar. The  
25 proposed plans are Exhibit 5 which go through all the plans. It

1 has a site plan, elevations and floor plans. I'm not going to do  
2 a PowerPoint presentation or anything because you have all the  
3 documents you need. And it meets all the zoning requirements  
4 except for the conversion and to allow a third unit in the RF-1  
5 Zone.

6 They are proposing to add a third story and a rear  
7 addition with a roof deck. Like I said, meets all the zoning. It  
8 meets the 10-foot setback and everything else. It's basically a  
9 build -- the size is built by-right and, as a two-unit, it would  
10 be fine, it's just the special exception.

11 The layout for the building, just for information, is  
12 the basement is a two-bedroom unit. The first floor is a one-  
13 bedroom, a den unit. The second and third floor is a duplex unit  
14 with four bedrooms. It's essentially the same building that was  
15 constructed at 532 Taylor Street and presented to the Board in  
16 July for conversion to a three-unit and it was approved by the  
17 Board as well at that time.

18 The Agency reviews. D-DOT has no objection and sees no  
19 adverse impact from this development which is their letter on  
20 Exhibit 27. OP supports the application though they did have a  
21 few comments. Their report is Exhibit 28 -- 26. One of the  
22 comments was the materials on the side of the building, instead of  
23 using siding, to use brick to more match the existing building.  
24 The owner will consider that while he's going through his final  
25 development plans.

1           There has been several comments, I think, both in the OP  
2 report and in a lot of the letters of opposition about not using  
3 vinyl siding. It may not be clear enough on the drawings, but the  
4 developer does intend to use cement board siding like a Hardie  
5 board plank, not vinyl. So that also addresses OP's concern about  
6 that.

7           They had another concern about the windows on the second  
8 floor. If you go to Sheet A 43 which is the second to last sheet  
9 of the drawing plans, you'll notice the window on the second floor  
10 to rear is two casement windows. The owner has no problem with  
11 converting those to two double-hung windows as per OP's  
12 recommendations.

13           Otherwise those were comments. They weren't a condition  
14 for their approval and -- but they did support the approval of  
15 this application.

16           The ANC submitted a letter yesterday. It's a bit of a  
17 confusing kind of thing. It's one of their form letters. They  
18 got the date of the meeting that we met ANC incorrect. We didn't  
19 meet them in June. We had a meeting with them on October 14th of  
20 2020. They agreed with the development in all respects except the  
21 commitment to provide a \$15,000 contribution to the housing trust  
22 fund. The developer does not think that's a reasonable  
23 expectation and it is beyond the scope of the ANC to request.

24           All the other conditions that they have requested, he  
25 has agreed to meet and/or has already met and the ANC had no other

1 objections to the project other than that contribution to the  
2 housing trust fund.

3 CHAIRPERSON HILL: Mr. Heisey, excuse me real quick.  
4 So, I'm like, looking at their letter. So the conditions I'm  
5 trying to understand --

6 MR. HEISEY: I was doing it again, right?

7 CHAIRPERSON HILL: Right. So providing the point of  
8 contact, phone, e-mail, members can contact with questions or  
9 concern about the development; you are going to do that, correct?

10 MR. HEISEY: Yes.

11 CHAIRPERSON HILL: Provide name and contact information  
12 for the employee and project manager, correct?

13 MR. HEISEY: Yes.

14 CHAIRPERSON HILL: Provide the following information for  
15 the employee and general contractor, website, list of previous  
16 work, license, insurance, bonding information, correct?

17 MR. HEISEY: Correct.

18 CHAIRPERSON HILL: During building and construction,  
19 agree not to block the public alley, to recon -- to reform the --  
20 so you're in Exhibit --

21 MR. HEISEY: Oh, let's see, that would be Exhibit 39.

22 CHAIRPERSON HILL: 39. So Exhibit 39, you were in  
23 agreement for all of those general points including the parking --

24 MR. HEISEY: Correct.

25 CHAIRPERSON HILL: -- and rental?

1 MR. HEISEY: I don't have it in front of me but yes,  
2 there was everything else in there except that one item.

3 CHAIRPERSON HILL: Right, the affordable housing  
4 contribution.

5 MR. HEISEY: Right.

6 CHAIRPERSON HILL: Yeah, I don't even know if we are  
7 able to put that in there ourselves but, anyway, so I just wanted  
8 to get that clarity. Okay. Please continue.

9 MR. HEISEY: The same item came up previously when we  
10 were doing the 532 Taylor Street and the Board deliberated, said  
11 you didn't -- and, actually, there was disagreements that it was  
12 actually slowing down the process by them raising an objection on  
13 something that was beyond the scope of what the ANC could request.

14 Other than -- the support, that's why I wanted to get  
15 those two letters in. One of those letters that was in -- they  
16 were late because they -- I only received them yesterday. The  
17 adjoining neighbor at 514 T Street which is -- there's the alley  
18 on one side. He's the only adjoining property -- immediately  
19 adjoining property owner. He is in support of the project. The  
20 other two letters are from 530 and 5 -- the owners -- (audio  
21 interference) -- seven property owners and nine additional people  
22 from the neighborhood and two from outside the neighborhood.

23 I'd like to spend a little bit of time on this just  
24 because it is opposition and a lot of the items that they're  
25 raising I don't feel are relevant to the application and the

1 exception that we're requesting.

2           They have it broken down into kind of three points: a  
3 direct impact, a block concern, and our neighborhood and the  
4 citywide. So that's four different areas.

5           The direct impact, they're predominant -- they have A  
6 through N items listed. They're predominantly dealing with  
7 construction-related issues about trash, debris, lead abatement  
8 and things like that which really have no application. In the  
9 zoning rules, they're all dealt with DCR construction and I don't  
10 think they -- they shouldn't have any bearing on this case.

11           Some mention of shadow and green space. The shadow  
12 would only affect the neighbor at 514 Taylor Street and he's fine  
13 with the project. This is a north-south facing building so most  
14 of the daylight sun is against the rear of the building.

15           The block concerns are more kind of general detail -- or  
16 things like peace and quiet, like they're worried about having  
17 three families of occupants rather than two families. They think  
18 that's going to generate too much worry about privacy as it not  
19 being a single-family home. Privacy and generally expected zoning  
20 requires are there are no side windows on the neighbor to 514.  
21 There are windows upon the out.

22           Kind of notes of materials which, again, are  
23 construction issues, so I don't think a lot of those -- there's no  
24 objections really raised any zoning issues as far as allowing this  
25 as a third unit. They raised (audio interference) general issues

1 about traffic and parking. They will be providing on this  
2 development two parking site -- parking spaces. One is only  
3 required by the zoning, but they are providing two. DDOT again  
4 has said there were no adverse impacts on the traffic.

5 The objections on the nationwide basis really boil down  
6 to they don't want pop-ups. They're worried about affordability  
7 and having high quality renovations within the city which, I mean,  
8 I think we could all -- probably could agree with that on a very  
9 general basis. How it applies specifically to this application,  
10 I don't see how it's directly relevant.

11 And then their citywide issues focus more on that they  
12 want to see solar panels, green space development and more  
13 environmental issues which, again, I don't feel pertain directly  
14 to this application for a third unit in a building that qualifies  
15 by right as a two-unit property.

16 So that -- basically, just to conclude, there's  
17 virtually a similar project that was approved previously this  
18 summer at 532 Taylor. The OP agrees with the parking and the  
19 size. They are not in -- they are in agreement and recommending  
20 approval for the project. Other than that, I guess if you have  
21 any questions, I'm more than glad to entertain them. Thank you.

22 CHAIRPERSON HILL: Okay. Does the Board have any  
23 questions for the Applicant?

24 VICE CHAIR JOHN: Just one question.

25 CHAIRPERSON HILL: Sure. Ms. John?

1 VICE CHAIR JOHN: Mr. Heisey, on your slide A 43, there  
2 are windows on the side of the addition, and you said that the  
3 windows are on the alley and it appears to --

4 MR. HEISEY: Yes. Yeah.

5 VICE CHAIR JOHN: Right, is that a -- it appears that  
6 that could be, but I don't know what A 43 is representing.

7 MR. HEISEY: That would be the east elevation which is  
8 the alley side elevation. This is if you were standing in the  
9 alley, this is what you would see.

10 VICE CHAIR JOHN: Oh, so this relief is just intended to  
11 show what was there originally?

12 MR. HEISEY: Well --

13 VICE CHAIR JOHN: The dark (audio interference)?

14 MR. HEISEY: No, that is the original building that is  
15 staying, that's in brick and then the new addition, they're just  
16 showing it as side.

17 VICE CHAIR JOHN: Thank you. That counts.

18 MR. HEISEY: It's all one building.

19 VICE CHAIR JOHN: Okay. Thank you.

20 MR. HEISEY: Sure.

21 CHAIRPERSON HILL: Okay. Anyone else? Mr. Turnbull?

22 COMMISSIONER TURNBULL: Sorry about that. How far back  
23 are you going from the neighbor's property? How far back  
24 are you --

25 MR. HEISEY: Ten feet.

1 COMMISSIONER TURNBULL: You are 10 feet?

2 MR. HEISEY: Yes, it's -- the plat shows it but also if  
3 you look at drawing -- oh, let's see, which one is that? It's at  
4 the beginning -- it's actually page number 2. There are two lot  
5 diagrams. There's the existing on the left and on the right,  
6 there shows the proposed and you'll see that it comes back. It's  
7 not dimensioned very clearly on the side, it might -- probably  
8 should have been. If you look in the alley, it has the dimensions  
9 of the 10 feet beyond the existing structure on the other side.

10 COMMISSIONER TURNBULL: I'm trying to read these 8-1/2  
11 by 11 drawings, and I have my magnifying glass for --

12 MR. HEISEY: Yeah, I have it on the screen so I can blow  
13 it up too. I'm at 67 percent right now.

14 COMMISSIONER TURNBULL: So you're within the regulations  
15 going back only 10 feet then?

16 MR. HEISEY: Correct.

17 COMMISSIONER TURNBULL: All right.

18 MR. HEISEY: I see Sima's here nodding his head as well.

19 CHAIRPERSON HILL: Commissioner Turnbull, is that it?

20 COMMISSIONER TURNBULL: Yeah, I guess the -- I  
21 appreciate the fact that you kept what the regs are, tried to  
22 follow the regs and tried -- not tried to get rid of it or change  
23 it. I'm not too thrilled by the stairs going up in the front but  
24 I can see why you're doing that, to make your plan work so that  
25 you get the third story, but I guess it will be hidden, for the

1 most part.

2 MR. HEISEY: Visually, yes. I mean, this has been done,  
3 like I said, down at 532 when I was out there posting and all this  
4 and you look, you can't really see it even from the other side of  
5 the street.

6 COMMISSIONER TURNBULL: Yeah.

7 MR. HEISEY: You can see the roof line but it's -- you  
8 can't really see the deck itself or the stairs very well.

9 COMMISSIONER TURNBULL: Okay. Thank you.

10 MR. HEISEY: Sure.

11 CHAIRPERSON HILL: All right. Thank you, Mr. Turnbull.  
12 Anyone else? Questions for the Applicant? All right. I'm going  
13 to turn to the Office of Planning.

14 MR. COCHRAN: Thanks, Mr. Chair. OP is recommending  
15 that you approve the project. I just wanted to note two things.  
16 We had said something about these -- there being no nearby solar  
17 panels. Is -- although there are solar panels on that house to  
18 the south at 4024 Fifth Street. They're about 70 feet, maybe even  
19 80 feet away from the Applicant's house which is why we didn't  
20 mention that.

21 The other thing I want to note is that there is one  
22 significant difference between 532 and 512. 532 is a mid-block  
23 structure. 512 is on the alley, so you'll be able to see that  
24 south side of the building from an angle if you're on the street.  
25 That's why we recommended that the Applicant up its game on

1 materials because you will be able to see those from the street.  
2 That's all we have to say.

3 CHAIRPERSON HILL: Okay. I just got a couple of quick  
4 questions before you turn it over to the Board -- I'm sorry, to  
5 the other members of the Board. As -- so, again, the massing is  
6 matter of right. Everything's matter of right, it's just the  
7 third unit, correct?

8 MR. COCHRAN: Correct.

9 CHAIRPERSON HILL: And then the -- this is for my  
10 clarification, I forget how high are you able to go up in the --  
11 so they're doing the setback, right, from the third story?  
12 Correct?

13 MR. COCHRAN: Right.

14 CHAIRPERSON HILL: Right? And they're going up 35 feet?  
15 Is that what the --

16 MR. COCHRAN: Thirty-five, yes.

17 CHAIRPERSON HILL: Right, and then 10 feet back?

18 MR. COCHRAN: Right.

19 CHAIRPERSON HILL: Right. Okay. All right. Let's see,  
20 so Mr. Smith? May I have you on site? Everyone, Ms. John is  
21 going to have to leave us and so we'll see what happens with this  
22 case but, Ms. John, thank you for your time today and we'll see  
23 you next time.

24 VICE CHAIR JOHN: You're welcome, Mr. Chairman. I will  
25 read into the remaining portion of the hearing.

1 CHAIRPERSON HILL: Okay. Thank you. Let's see if we  
2 get there. That's what I'm saying, I don't know what's going to  
3 happen.

4 VICE CHAIR JOHN: Okay. Thank you.

5 CHAIRPERSON HILL: All right. Okay. Mr. Smith, did you  
6 have any questions for the Office of Planning?

7 MR. SMITH: Mr. Chairman, I don't have any questions for  
8 the Office of Planning.

9 CHAIRPERSON HILL: Commissioner Turnbull?

10 COMMISSIONER TURNBULL: Yeah, I guess the only thing,  
11 so, Mr. Cochran, you are really -- you're really pushing -- or  
12 trying to get them to realize the alley side should be all brick  
13 then?

14 MR. COCHRAN: No, I believe that we said at least all  
15 brick on the first floor and then some variation of the material  
16 above. I recognize that it's typical to have a rear addition on  
17 houses like this.

18 CHAIRPERSON HILL: Okay.

19 MR. COCHRAN: Some (audio interference) just seemed  
20 excessive.

21 COMMISSIONER TURNBULL: So the first floor would be  
22 brick and be read as -- and then a transition to HardiePlank or  
23 something else? That's right?

24 MR. COCHRAN: Right, yeah. Right.

25 COMMISSIONER TURNBULL: Okay. I -- fine. I can

1 appreciate that. Thank you.

2 CHAIRPERSON HILL: All right. Mr. Young, are there  
3 people here wishing to speak?

4 MR. YOUNG: Yes. I have four that are in opposition and  
5 one that's undeclared that I'm waiting for -- to follow in but  
6 I'll bring the four in opposition in.

7 CHAIRPERSON HILL: Okay.

8 MR. HEISEY: For the record, I agree with OP and didn't  
9 have any questions. Thank you.

10 CHAIRPERSON HILL: Okay. Thank you, Mr. Heisey. Is it  
11 Ms. Cotton?

12 MS. COTTON: That's correct.

13 CHAIRPERSON HILL: Okay. Why don't I start with you,  
14 Ms. Cotton, if that's all right and I'll kind of go around and see  
15 who I missed. You want to introduce yourself for the record,  
16 please?

17 MS. COTTON: Sure, my name is Linda Cotton and I live  
18 within 200 feet of the property under discussion.

19 CHAIRPERSON HILL: Okay. So, Ms. Cotton, you'll have  
20 three minutes to give your testimony and you can begin whenever  
21 you like.

22 MS. COTTON: Okay. It should be less than that and I  
23 apologize, I didn't hear all the discussion beforehand so I may be  
24 repeating the summary that was given of some of the opposition.

25 So I just wanted to let the Board know that I did,

1 obviously, receive notice of this rescheduled hearing by mail but  
2 never got one for the original hearing.

3           As the application stands now, I oppose the exception to  
4 DC Zoning for the construction of a third story and a rear  
5 addition to this house to make it into a three-unit building. I  
6 believe that it is -- it would be detrimental to our neighborhood  
7 because it changes the character of the neighborhood from one of  
8 families to one of more transient residents. It puts more  
9 increased pressure on our resources such as parking and, as you  
10 were just discussing, it could be esthetically unpleasing  
11 depending on materials that are used; for example, on the side of  
12 the house and whether or not the front of the third floor is  
13 recessed. And it comes with, you know, blocking of light and air  
14 for surrounding neighbors.

15           Additionally, as you mentioned, there's another house  
16 that was just done on the same block and it -- by the same owner,  
17 and if these conversions had increased the stock of affordable  
18 housing in D.C., I would be more in favor, but I see that that's  
19 not the case with these condos. So I would just request that  
20 negotiations take place between the owner and Felper (ph) and the  
21 interested neighborhood parties. That's it.

22           CHAIRPERSON HILL: Okay. Thank you. Let me see, Ms.  
23 Cotton, why don't you stay with us for a minute and mute your  
24 microphone if you wouldn't mind. I'm going to let everybody  
25 testify and then I'll come back around for questions if the Board

1 has any.

2 Is it Ms. Olson?

3 MR. HEISEY: May I make a -- just a brief response?

4 MS. COTTON: Yes.

5 CHAIRPERSON HILL: Mr. Heisey?

6 MR. HEISEY: Yes, may I make just a brief response?

7 CHAIRPERSON HILL: Let me just -- I understand what  
8 you're saying. If you want to, I'll let you ask questions in a  
9 minute. It's not necessarily a respond to it kind of thing, but  
10 I'll get you at the end.

11 MR. HEISEY: Okay.

12 CHAIRPERSON HILL: You'll have an opportunity to ask  
13 questions of witnesses.

14 MR. HEISEY: You want to hear all those first and then  
15 -- okay.

16 CHAIRPERSON HILL: Yes, and I was going to do questions.  
17 It wasn't so much -- I'm not interested in a discussion with  
18 anyone. If you have questions, then that's something different.

19 Ms. Olson, can you hear me?

20 MS. OLSON: Yes, I can hear you. I'm -- seem to not be  
21 showing up on the screen but I'm here and --

22 CHAIRPERSON HILL: Okay. Could you introduce yourself  
23 for the record, please?

24 MS. OLSON: Yes, my name is Annette Olson. I've been a  
25 Petworth resident for 13 years. I live in the house at 4024 Fifth

1 Street that is perpendicular to this property on the east side.  
2 I'm the person with solar panels, but I'm also the person whose  
3 plum tree is probably going to be killed by this -- the shade of  
4 the property, et cetera. So plant a --

5 CHAIRPERSON HILL: Okay. Let me just interrupt.

6 MS. OLSON: Yeah.

7 CHAIRPERSON HILL: One second. I'm sorry. And, Mr.  
8 Young, if you could start the clock again? I -- Ms. Olson, I was  
9 just trying to get your address first and introduction --

10 MS. OLSON: Yes.

11 CHAIRPERSON HILL: -- but you'll have three minutes to  
12 give your testimony and you can begin whenever you like.

13 MS. OLSON: So in -- oh, I plan to spend a minute on my  
14 testimony, a minute on the brief letter and a minute, if possible,  
15 for a colleague of -- a neighbor of mine who could not make the  
16 briefing because of training and she had four points that she  
17 wanted to make.

18 CHAIRPERSON HILL: Okay. So now I'm just getting -- in  
19 terms of prec --

20 MS. OLSON: First --

21 CHAIRPERSON HILL: Ms. Olson -- that's fine.

22 MS. OLSON: Yeah.

23 CHAIRPERSON HILL: In terms of procedurally, like you  
24 can't represent anyone unless there's something in the record  
25 that's saying you're representing them. You're more than happy to

1 read whatever is there but you can't say that you are  
2 representing.

3 MS. OLSON: Yeah, I called yesterday, your office  
4 yesterday to ask this question and I did not get a reply so.

5 CHAIRPERSON HILL: Okay. Feel free to go ahead and give  
6 the testimony. I'm just saying you're not --

7 MS. OLSON: Yeah.

8 CHAIRPERSON HILL: I mean, it's a technicality but like  
9 you're not representing --

10 MS. OLSON: Yeah. I understand completely so yeah.

11 CHAIRPERSON HILL: Yeah, but feel free to do what you  
12 were doing, I'm just clarifying.

13 MS. OLSON: Yeah.

14 CHAIRPERSON HILL: Okay. Go ahead.

15 MS. OLSON: Okay. First, I want to mention a little bit  
16 of my background in that I'm a -- I'm approaching this in a  
17 holistic point. I've been an adviser, environmental scientist  
18 adviser for the Smithsonian, EPA, NOAA and even the Institute of  
19 Architects for the Built Environment Committee. I lead the Green  
20 Neighbors D.C. group, and I do want to say I support new designs  
21 and things. I myself had a green roof put on my front porch but I  
22 feel that it's necessary to have a good design and this is not.  
23 This design is a pack as many bedrooms and baths into square  
24 footage as possible but, primarily, you know, we're willing, as  
25 neighbors, to work in and we make suggestions for improvements and

1 we're not against pop-ups, but we are against pop-ups that we feel  
2 like would degrade the quality of the neighborhood by the view to  
3 the street.

4           There's been no neighbor interaction, outreach that we  
5 were aware of, those of us who wrote the letters, and there's  
6 appear -- we're glad to hear about the permeable parking going in.  
7 There appeared no willingness to be sustainable or affordable. So  
8 -- and none of us were able to attend the ANC meeting because none  
9 of us -- as Linda said, I received the first notice about the  
10 request for zoning adjustment. We did not know about the October  
11 14th ANC meeting so that's why we wrote the group letter.

12           So -- but, first, my particular interest in this  
13 property and concern about this property is that I get solar panel  
14 -- south -- solar power until 6:00 p.m. and I believe -- and I  
15 would like to request a solar report -- that I will likely get one  
16 less hour as a result of this project because of the increase in  
17 the height. I also grow vegetables and I know, you know, growing  
18 vegetables is scoffed at and my plum tree will probably be killed  
19 but all these things, you know, are one of the reasons why I'm a  
20 little frustrated that we weren't approached too and discussed.

21           One of the -- two other main concerns for me personally,  
22 is I worry about the transformer being right near the now double-  
23 hung windows in the east alley and the metal stair landing in the  
24 back. So I recommend that something be considered about that.  
25 It's 10 feet from that, but I don't know if that falls inside or

1 outside the regulations.

2           But another issue is that we recommend that the builder  
3 look at the flooding issue. The alley floods a lot. It creates  
4 massive puddles and with the decrease in permeability, you know,  
5 it's just by 10 feet, but even that could be a problem.

6           So the next point is that the consensus letter that we  
7 wrote is for 17 households, 15 of which are within 50 meters, and  
8 -- or 200 feet, actually, and the main concern is -- as Mr. Heisey  
9 noted, is we break it up into categories and the -- our main  
10 concerns are really the immediate impacts on the neighbors and the  
11 block, but we put in our concerns about this development for the  
12 purpose of the ANC and the council and the mayor as well because  
13 we want to -- after this is resolved, we plan to take this  
14 further.

15           So the immediate impacts is the damage reported by the  
16 two houses next to 532 Taylor and how the fact that the residents  
17 of the houses, both houses, on Taylor moved out afterwards and now  
18 the new homeowners are having to deal with flashing problems, I  
19 believe.

20           The other main concern is the poor quality and awful  
21 view of the design, how it's basically a big block of siding and  
22 it'll be very visible through the street. We're also concerned  
23 about the design of the units themselves within each floor are not  
24 really family friendly. The rooms are very small. Two of the  
25 three units have eat-in kitchens only. And then, of course, we

1 get into the neighborhood and the lack of affordable housing and  
2 how these units compare to our neighborhood are costing one to two  
3 times the cost of an entire house.

4 And we know it's not a requirement, but we're hoping it  
5 will be soon, because climate change is coming and we need to take  
6 care of this, the lack of any suggestions of sustainable measures.  
7 We strongly feel, as a community -- I mean, we all read and  
8 participated in this consensus document -- is that solar be put on  
9 and that, you know, LED lighting (audio interference).

10 CHAIRPERSON HILL: Ms. Olson?

11 MS. OLSON: Yeah.

12 CHAIRPERSON HILL: I just got to interrupt you a little  
13 bit. You've gone way over three minutes.

14 MS. OLSON: Okay.

15 CHAIRPERSON HILL: I don't mind, I'm just letting you  
16 know. Like do you have a lot more?

17 MS. OLSON: Okay. Those were the main points. I was  
18 just -- my neighbor, Melanie, basically had the same concerns. So  
19 proper lighting, solar, architecture and no blocking of sunshine.  
20 So that's it.

21 CHAIRPERSON HILL: Okay. Great. Thank you very much.  
22 Thank you for your testimony. Is it Ms. Vora?

23 UNIDENTIFIED SPEAKER: Vora?

24 UNIDENTIFIED SPEAKER: No, it's not on the agenda. It's  
25 not on the agenda.

1 CHAIRPERSON HILL: Hello?

2 UNIDENTIFIED SPEAKER: No, they're a part of the  
3 Applicant team.

4 MR. HEISEY: Yeah, he's ones of the owners.

5 CHAIRPERSON HILL: Oh, okay. Then --

6 MR. HEISEY: He is one of the owners.

7 CHAIRPERSON HILL: Then there was a -- I see Olson,  
8 Cotton, Hoffman, Sandra Hoffman?

9 MS. HOFFMAN: Yes, hi.

10 CHAIRPERSON HILL: Go ahead.

11 MS. HOFFMAN: So I --

12 CHAIRPERSON HILL: Ms. Hoffman, before you begin, can  
13 you just give me your name and address first?

14 MS. HOFFMAN: Sandra Hoffman, 701 Taylor Street  
15 Northwest. Sandra Hoffman, 701 Taylor Street Northwest. Can you  
16 hear me now?

17 CHAIRPERSON HILL: I can.

18 MS. HOFFMAN: Okay.

19 CHAIRPERSON HILL: So you'll have three minutes to give  
20 your testimony and you can begin whenever you like.

21 MS. HOFFMAN: I am -- have been a resident of Petworth  
22 for almost 20 years. What I want to address is really the impact  
23 of the exception for three units on the character of the  
24 neighborhood and on the years and years of investment that  
25 neighbors have made in trying to build a suitable neighborhood for

1 families and the need that families have to be able to be within  
2 walking distance of Metro and have dense family housing still  
3 exist in the District.

4 As Annette noted, the units in this are really not  
5 family suitable. Two of them basically do not have living areas,  
6 they're only living kit -- walk -- you know, eat-in kitchens. And  
7 the larger unit is on the upper two floors which I really don't  
8 think is going to be very appropriate for children.

9 UNIDENTIFIED SPEAKER: No, children can't go upstairs.

10 MS. HOFFMAN: The unit -- these units will make this  
11 property worth roughly -- I mean, the -- 532 looks like it's going  
12 to sell for about \$2 million. A house in the District in this  
13 area sells for about five to 600 unrenovated to about eight or 900  
14 renovated for a family home. So if this kind of exception is --  
15 continues to be allowed, I don't see any way that, economically,  
16 we can sustain single, you know, family housing in this  
17 neighborhood. I'm -- my neighbors and I are opposing a similar  
18 proposal at 705 Taylor Street.

19 We've made a lot of investments in this neighborhood  
20 including investments in additional schools, renovation of our  
21 schools, playgrounds, libraries. I cannot tell you how many hours  
22 of my life have been spent trying to get public in -- working to  
23 get this kind of public investment in the social and physical  
24 infrastructure needed by families and it is just so disheartening  
25 to see this being destroyed by these exceptions to our zone.

1           So I think that that's about all I have to say, but I  
2 support the letter and all of the environmental and esthetic  
3 concerns that are raised as well.

4           CHAIRPERSON HILL: Okay. Thank you, Ms. Hoffman. Let's  
5 see, then -- let's see, is it Ms. Escumbise?

6           MS. ESCUMBISE: Hi, it's Michelle Escumbise.

7           CHAIRPERSON HILL: Escumbise. Yes, I can hear you.

8           MS. ESCUMBISE: Right. Okay. I'm not showing up  
9 either. I don't know why, but it's okay. I'm also sending a  
10 letter of opposition and also signed a group letter as well. I  
11 live at 511 Taylor Street which is directly across the street from  
12 the proposed development and I submitted a letter which is, I  
13 believe, Exhibit 32, and so I was --

14          CHAIRPERSON HILL: Okay. Ms. Escumbise, can you see the  
15 clock on the screen?

16          MS. ESCUMBISE: Yes. Yeah, over there. Three minutes.  
17 I say --

18          CHAIRPERSON HILL: Mr. Young -- no, that's okay. Mr.  
19 Young, if you'd just go ahead and start that and Ms. Escumbise, if  
20 you can just begin whenever you like?

21          MS. ESCUMBISE: Okay. Awesome. So I will spare you in  
22 the interest of time reading my entire letter, but I do echo --

23          CHAIRPERSON HILL: Thank you.

24          MS. ESCUMBISE: -- the sentiments of my neighbors. We  
25 have not -- no one I know on the block -- and I will speak for

1 myself individually -- have received any outreach from the  
2 developer and there is documentation saying that there's been  
3 community outreach but in a few of the exhibits, it's referencing  
4 a different development address. And I checked on this on the  
5 26th when I wrote the letter, but it was Exhibit 5, Exhibit 6,  
6 Exhibit 7, Exhibit 9 and Exhibit 26. This is a tiny block. It's  
7 only 17 houses. So when people talk -- are talking about concerns  
8 about congestion and that sort of thing, it is real because nobody  
9 just -- if somebody -- there's going to be a unit with three  
10 apartments in it, that is going to cause congestion, additional  
11 congestion on the street in addition to the other developments  
12 which is 532 Taylor Street Northwest.

13           Just as my neighbors, I am not opposed to development.  
14 We just actually would like an opportunity to discuss options and  
15 collaborate with the developer to make this development a better  
16 fit for our street because it is such a small street. There's  
17 four houses on one side and there's eight houses on the other. So  
18 six additional units definitely causes parking issues and other  
19 congestion issues as well as affordability.

20           I think the listing for the top floor of 532 is like  
21 \$899,000 for a two-floor condo. So I don't know how this is  
22 affordable or is really making a bene -- neighborhood beneficial  
23 improving it based on these -- just putting in some really quick  
24 -- not -- I'm not saying quick. There's definite investment for  
25 the developer to take the time to build out the units but the size

1 and scope I think really needs to be addressed, if possible, and I  
2 really look forward to discussing that with the developer. But,  
3 as I said, to date, we have received zero outreach from the  
4 developer. We've received the -- a notice about the zoning  
5 hearing and that's all I've gotten so far and right now, people  
6 are renting the house across the street and that's all we've  
7 gotten, and I'm digging through the zoning stuff that we've  
8 received so I think that's about it for my time. Thank you.

9 CHAIRPERSON HILL: Okay. Thank you. All right. Let me  
10 see, did I miss anybody, Mr. Young?

11 MR. YOUNG: I have the one for -- that's calling in on  
12 the phone that's undeclared.

13 CHAIRPERSON HILL: Okay. Can you let me speak with that  
14 person?

15 MS. WATERS: Hi, my name is Diana Waters. Can you hear  
16 me?

17 CHAIRPERSON HILL: Yeah, Ms. Waters, can you hear me?

18 MS. WATERS: Yes.

19 CHAIRPERSON HILL: Okay.

20 MS. WATERS: I'm sorry, I -- I'm in a -- I'm out at a  
21 doctor's office so it is maybe a little noisy.

22 CHAIRPERSON HILL: No problem. If you could please just  
23 introduce yourself for the record first and then you'll have three  
24 minutes to give your testimony.

25 MS. WATERS: Okay. I don't have a written. My name is

1 Diana Waters. I live at 536 Taylor Street Northwest.

2 CHAIRPERSON HILL: Okay.

3 MS. WATERS: Okay? And I am calling in reference to a  
4 -- my concern is taxes. I am a senior. I bought my home for  
5 retirement. I do not want, as is happening all over D.C., the  
6 seniors are being taxed out of their homes and we already have one  
7 unit. I'm not opposed for the renovation of it, but for three  
8 stories. My taxes have already gone up -- okay -- since 532  
9 Taylor was renovated. And my concern is I do not want to be taxed  
10 out of my home nor do I want to be taxed out of D.C. So that is  
11 my concern. When you have a three-unit and you already got one  
12 and then another one coming in? So that's our taxes and I don't  
13 think it's right. I mean, for renovation for families, it's their  
14 home, yes, but for another three-unit, I don't see that.

15 MR. YOUNG: Yeah, that's it.

16 CHAIRPERSON HILL: Okay. All right. Thank you. You  
17 went ahead -- can you hear us?

18 MS. WATERS: Yeah, I can hear you.

19 CHAIRPERSON HILL: Okay. Mr. Young, I'm just trying to  
20 understand if -- can she stay on the phone --

21 MS. WATERS: I'm Ms. Waters.

22 CHAIRPERSON HILL: No, no, I'm sorry, I'm speaking to  
23 the administrative person here, Ms. Waters.

24 MS. WATERS: Oh, okay. Okay.

25 CHAIRPERSON HILL: I'm trying to understand, Mr. Young,

1 can Ms. Waters stay and listen or she won't be able to hear  
2 anything once you take her -- can you keep her in the room somehow  
3 -- not in the room, but like is she able to hear what's going on  
4 after we dismiss the witnesses?

5 MR. YOUNG: Yes.

6 CHAIRPERSON HILL: Okay. By just being on the line?

7 MR. YOUNG: Yeah.

8 MS. WATERS: Yes.

9 CHAIRPERSON HILL: Okay. All right. Ms. Waters, then  
10 just bear with me here for a minute.

11 MS. WATERS: Sure.

12 CHAIRPERSON HILL: Does the Board have any questions of  
13 any of the witnesses? Mr. Turnbull?

14 COMMISSIONER TURNBULL: I guess my general question is,  
15 so the Applicant never reached out to any of you to talk to you  
16 about the plans or show you plans at all?

17 MS. WATERS: No, not at all, not -- none, zero.

18 COMMISSIONER TURNBULL: Did they go to --

19 MS. COTTON: No.

20 COMMISSIONER TURNBULL: Were you at any ANC meetings  
21 where they may have brought these out or --

22 MS. COTTON: We had no idea that this was even happening  
23 except from getting the zoning letter. I'm sorry to -- I'm not  
24 trying to speak for everybody else -- except for receiving a  
25 zoning letter and there was recently a placard put on the door

1 that this hearing was going to occur.

2 COMMISSIONER TURNBULL: So --

3 MS. COTTON: So we haven't received any outreach from  
4 the developer at all.

5 COMMISSIONER TURNBULL: So Mr. Heisey never came by and  
6 said look, hey, we got something going on, I'd like to show you  
7 what we're intending to do, can we talk, I'd like to get your  
8 input?

9 MS. COTTON: No, sir, not at all.

10 MS. OLSON: No, sir.

11 COMMISSIONER TURNBULL: Okay. Thank you.

12 CHAIRPERSON HILL: Okay. Mr. Smith, no questions? Mr.  
13 Heisey, do you have any questions?

14 MR. HEISEY: Not as much questions as much as kind of  
15 some of the things that were said were not accurate. The outreach  
16 issues (audio interference).

17 CHAIRPERSON HILL: Okay. Mr. Heisey, can you -- one  
18 second.

19 MR. HEISEY: I'm just going to let you know Mr. Tessema  
20 would address those.

21 CHAIRPERSON HILL: I understand, I'm just letting you  
22 know -- I'm just trying to ask you then we -- you'll have an  
23 opportunity to rebut but do you have any questions?

24 MR. HEISEY: No direct questions, no.

25 CHAIRPERSON HILL: Okay. All right. Let's see, I do.

1 Was it -- Ms. Olson, were you the one that had the solar panels?

2 MS. OLSON: Yes. Yes, I'm the one --

3 CHAIRPERSON HILL: Okay.

4 MS. OLSON: -- who has the solar panels. They are to  
5 the east and, depending on the time of the year, the sun will set  
6 directly behind this plan -- the planned addition.

7 CHAIRPERSON HILL: Right, so you're say -- you're unsure  
8 whether -- whatever. You think that this building might affect  
9 your solar but where are you located?

10 MS. OLSON: So Taylor Street is the east-west street and  
11 this -- the planned building is north-south. I'm to -- directly  
12 to the east.

13 CHAIRPERSON HILL: What's your address again? What's  
14 your address?

15 MS. OLSON: I live at 4024 Fifth Street.

16 CHAIRPERSON HILL: Okay. All right. Well, I want to  
17 thank you all very much for your testimony and now I will excuse  
18 you from the hearing. Thank you very much. Mr. Cochran?

19 MR. COCHRAN: Sir.

20 CHAIRPERSON HILL: In terms of the solar, I mean, I'm  
21 looking over there at 4024 Fifth Street.

22 MR. COCHRAN: Yes.

23 CHAIRPERSON HILL: That's the home that you said was  
24 not, in your opinion, affected. No? Was that a different home?

25 MR. COCHRAN: I said that that -- that we did not

1 consider it because it -- the solar panels were 70 to 80 feet  
2 away. I'm not enough of a scientist to know whether it would be  
3 affected or not. It didn't seem to me, but I don't feel  
4 comfortable stating that as a proven fact.

5 CHAIRPERSON HILL: Okay. And this is where I'm -- Mr.  
6 Turnbull?

7 COMMISSIONER TURNBULL: Well, I'm just following up on  
8 your line of questioning. Had the Applicant presented a shadow  
9 study at all or --

10 MR. COCHRAN: The applicant had not.

11 COMMISSIONER TURNBULL: Has not. So that's something we  
12 could ask if we wanted to really confirm this.

13 MR. COCHRAN: That's correct.

14 COMMISSIONER TURNBULL: Okay. Thank you.

15 CHAIRPERSON HILL: Okay. I mean, we might end up -- I  
16 mean, the discussions that I'm trying to figure out we can talk  
17 about all this as, again, this envelope is a matter of right,  
18 right? They are doing everything within their matter of right in  
19 terms of the building envelope and so I'm a little con -- and I  
20 guess this is even things maybe that we can talk about with the  
21 Office of the Attorney General, I suppose, like, you know, if it's  
22 matter of right, they can do it anyway and it doesn't -- and I'm  
23 kind of just jumping around here. It doesn't matter about solar,  
24 right? Like, you know, it's --

25 MR. COCHRAN: Oh, if they were building this as just an

1 addition to a single-family house and to build exactly the massing  
2 as they're showing. However, the special exception regulations  
3 say that you have to evaluate the conversion and the additions  
4 associated with it. So that's where the impact on solar would  
5 come. You know, the conversion would not have an effect. The  
6 additions that happen to be part of the conversion could possibly  
7 and, again, it's 70 to 80 feet to the east.

8 CHAIRPERSON HILL: No, I understand. I'm --

9 MR. COCHRAN: And so that would certainly help.

10 CHAIRPERSON HILL: I don't necessarily think that the so  
11 -- that we're going to -- if we see a solar study, we're going to  
12 see any impact to this home and I --

13 MR. COCHRAN: Anything from five percent or more is  
14 considered a significant impact. So even if it's just five  
15 percent, that's cited in the zoning regulations.

16 CHAIRPERSON HILL: Right. So what I'm trying to  
17 understand, I guess, is, again, you know, if this were the next-  
18 door neighbor -- right -- we could possibly be having a different  
19 discussion. So that's one thing and I don't know, I guess I'm  
20 looking at you, Mr. Cochran, and then the other though is if --  
21 what I get confused about is if this were just -- you know, you're  
22 just doing two units, right? And it's within the matter of right  
23 envelope, then solar doesn't come into the discussion.

24 MR. COCHRAN: That's right.

25 CHAIRPERSON HILL: It's because of going through the

1 special exception for the conversion that solar gets kicked into  
2 the discussion, right?

3 MR. COCHRAN: Exactly, yes.

4 CHAIRPERSON HILL: All right. So -- all right. So,  
5 let's see. Yeah, I don't need OAG. That's right. All right.

6 Mr. Smith, do you have any questions for anybody?

7 MR. SMITH: No, I don't have any questions.

8 CHAIRPERSON HILL: Mr. Turnbull, do you have any  
9 questions for anybody?

10 COMMISSIONER TURNBULL: My only concern as this would --  
11 talking to Mr. Cochran was -- the Applicants have brought up that  
12 they've never had any meetings -- I mean, the community outreach  
13 and the shadow studies, they seem to all talk about the impact on  
14 their homes, what this is going to do. So my only question was -  
15 - and you're right, there can be a matter of right building going  
16 on but once he goes into the conversion, what the building looks  
17 like or what it does, the impact, does play into our analysis of,  
18 well, what we should accept or what we can apply to this. So I'm  
19 just -- my only con -- and, you're right, you make -- the shadow  
20 study may be -- may show nothing of an impact but on -- sort of  
21 going on the realm -- sort of going on the direction of playing it  
22 safe and just covering our bases, I think it is something we might  
23 want to ask for and I'm just throwing that out there.

24 CHAIRPERSON HILL: That's fine. I don't necessarily  
25 disagree. I'm just trying to think this through a little bit. So

1 I guess, Mr. Heisey, if you could provide us with some kind of a  
2 solar study as to, you know, the effect on the surrounding  
3 properties of the massing, that would be helpful. And then the  
4 only thing I'm kind of interested in is -- and since we're now  
5 asking for one thing, like I am curious as to what it is that you  
6 guys are planning on doing for the materials that they're talking  
7 about on the alley. I know you just said some -- you said -- you  
8 basically said HardiePlank, I think, but like, you know, I don't  
9 -- if you could just clarify that and show me what that is, I  
10 guess, in an exhibit, that would be something to take a look at  
11 and then I guess that's it.

12           You know, you've already -- the ANC gave those  
13 conditions, you know, that basically seem to address a lot of the  
14 items that even the witnesses had come up with. I mean, again, to  
15 speak to some of -- and Mr. Smith, Mr. Turnbull will have an  
16 opportunity -- Mr. Heisey, you will also have an opportunity to  
17 say something but is that -- you know, you did go to the ANC  
18 meeting. You have posted, you have mailed out letters. I mean,  
19 you know, I don't know -- you know, it's never clear -- you know,  
20 you're following the regulations as to what you're supposed to be  
21 doing to notify people. I mean, I don't know whether, you know,  
22 you went around and knocked on everybody's door, you know, but, I  
23 mean, you had your ANC meeting. So, you know, that is something  
24 that I think the community has been notified but, really, beyond  
25 that, it's now just for me, also to Mr. Turnbull's question, you

1 know, any time solar issues that might get -- somebody that might  
2 have a solar panel issue, I'm just saying I guess interested in  
3 seeing a solar, you know, shadow study. Mr. Heisey, is that  
4 understandable?

5 MR. HEISEY: It is. The reason we really hadn't  
6 considered it is, like Mr. Cochran said, the end of her house is  
7 about 70 feet away from the side of ours. The panels are on the  
8 roof of a two-story house. We're to the east. Most of the sun is  
9 -- far as I've ever known, goes and sets in the west. Maybe in  
10 the longest day of the summer near sunset, you might get a little  
11 bit of a shadow starting at the edge of her property and going  
12 across the back of her wall. I can't see a three-story structure  
13 70 feet away casting a shadow on a two-story structure.

14 Sure, I guess a solar study the architect could do. I  
15 -- like I said, I'm the representative for it. The owner can  
16 address it if you'd like to do that --

17 CHAIRPERSON HILL: Well, I -- I'd like -- I know --

18 MR. HEISEY: -- but the other thing I would like him to  
19 say is addressing the community outreach because there was some.  
20 The ANC single member district before the ANC meeting even told us  
21 that she posted flyers on the neighborhood around the block and  
22 had no response from that either. So I'm not understanding where  
23 people are coming up, they didn't know about this meeting. The  
24 200-foot letters were sent out August 6th. Like I said, I mean,  
25 we followed the rules. Mr. Tessema did make some efforts. I'd

1 let him go into more detail of exactly what he did on that.

2 MR. TESSEMA: Sure, I'd like to address that if you guys  
3 -- thank you so much. It's a long day. There was -- about the  
4 solar panel, this neighbor is so far away from that -- from the  
5 building, there's actually a tree in our back yard. We could help  
6 to trim that so this neighbor could get a -- more light to their  
7 solar panel that -- and we're -- we've been working with -- in  
8 that community for awhile now. We know just about everyone in  
9 that community.

10 The neighbor that claimed that she was not aware of this  
11 development, I personally remember meeting her. She drives a red  
12 Hyundai Launcher, I believe, and we met a lot of the neighbors.  
13 We talked to them about this project so, yeah, the outreach has  
14 done pretty good as well as the ANC person reached out to all the  
15 neighbors in that area.

16 There was another issue that was made which was is  
17 parking. We have four parkings in that neighborhood that is  
18 available for the community either to rent or purchase. So  
19 there's -- the demand for parking is a -- has not been as high as  
20 we had anticipated. So parking, we'll have four available for the  
21 community.

22 I think that's all my notes. And the material question,  
23 Chairman, you erased. It'd be lap siding and (audio interference)  
24 cement boards. In rendering, it looks very similar to a siding  
25 that's actually cement board and we could have that called out in

1 a drawing if needed.

2 CHAIRPERSON HILL: Okay. All right. Mr. Tessema, I  
3 mean, you know, I don't think it's going to be an undue burden for  
4 you guys to put together a shadow study and so go ahead and like,  
5 you know, ask your architect because I'm -- I mean, I'm a little  
6 confused -- or not confused, is the wrong word -- I can see your  
7 property and then I can see the witness's property and it looks  
8 like, you know -- I mean, you're kind of perpendicular to that  
9 property, right? I mean, it's -- I'm not saying it's not far away  
10 but it's also not really, really far away, right? I mean, like  
11 it's right next -- it's just -- I just want to see something --  
12 okay -- right -- as to, you know, what, if any, effect you're  
13 going to have on that neighbor's solar panels. Okay? And so  
14 that's it, right? That's all I need. Do you guys need anything  
15 else?

16 COMMISSIONER TURNBULL: Mr. Chair?

17 CHAIRPERSON HILL: Yeah, Commissioner.

18 COMMISSIONER TURNBULL: Can you hear me?

19 CHAIRPERSON HILL: Yes.

20 COMMISSIONER TURNBULL: Okay. I -- my only other  
21 comment would be maybe if the Applicant would look at Mr.  
22 Cochran's proposal to -- on the alley side to have brick on that  
23 first floor and then transition to HardiePlank, that the brick on  
24 the first floor, I think he was concerned that the appearance of  
25 the brick go along on the first floor and then make a nice

1 transition to the HardiePlank would be more in keeping with the  
2 style that, as he -- he's better at expressing what he thought  
3 would be better into carrying on the theme of the house, the brick  
4 going back a little bit further and then transitioning to it. It  
5 made a more cohesive side to look at from the street that is very  
6 visible. And so instead of just having an abrupt break with  
7 HardiePlank, that you have the brick on the first floor and then  
8 transition up to having HardiePlank on the second floor, second  
9 and third floors. It sounds like -- it makes sense to me. It  
10 sounds like it's a way to transition and make that side of the  
11 alley more cohesive and better fit in with the neighborhood.

12 CHAIRPERSON HILL: Okay. Mr. Turnbull, I'm sorry, I  
13 thought it already is that way. That is what they've showed us I  
14 thought.

15 COMMISSIONER TURNBULL: I don't think so. I think they  
16 show the new (audio interference).

17 CHAIRPERSON HILL: Brick is on the -- it's going to be  
18 brick where the actual home is now.

19 COMMISSIONER TURNBULL: Right.

20 CHAIRPERSON HILL: Like that brick is there --

21 COMMISSIONER TURNBULL: Right.

22 CHAIRPERSON HILL: -- and then the new material is for  
23 the new home, the new --

24 COMMISSIONER TURNBULL: Right. I think --

25 CHAIRPERSON HILL: Right. Is that correct, Mr. Cochran?

1 They are doing what you had suggested, correct?

2 MR. COCHRAN: Oh, not to --

3 MR. HEISEY: If I can jump in, I'll clarify all this.  
4 Mr. Turnbull is correct. What is shown on the side elevation  
5 again is A 43. The existing building is brick. The extension on  
6 the first floor does show as siding. In talking with the owner,  
7 he has agreed that, yes, it -- he will do that as brick on the  
8 first floor on that. That's not a major change that he would  
9 agree to. So I think that --

10 CHAIRPERSON HILL: Okay.

11 MR. HEISEY: -- addresses Mr. Turnbull's concern and  
12 everything else. I mean, the owner has agreed that -- and, again,  
13 changing the windows as per OP's request is also agreeable.

14 CHAIRPERSON HILL: Okay. Do you see what they're  
15 talking about or do you need something --

16 MR. TESSEMA: Yep. Yep.

17 CHAIRPERSON HILL: Okay. All right. Okay. Then let's  
18 --

19 MR. COCHRAN: And I think if they want -- if we're going  
20 to continue this, they can submit a corrected drawing or whatever.

21 CHAIRPERSON HILL: Okay. Mr. Heisey, do you understand?

22 MR. HEISEY: Certainly.

23 CHAIRPERSON HILL: Okay. All right. So we need a  
24 corrected drawing on that from you, Mr. Heisey. We'd also need a  
25 shadow study and, in particular, the -- how it affects that

1 property's solar panels. How long will these two items take to  
2 get from you guys?

3 MR. HEISEY: I'd have to address the owner and his  
4 architects and see how long that would take. Like you say, it  
5 should not take too long.

6 CHAIRPERSON HILL: Okay. I'm just trying to figure out  
7 when you're back to us.

8 MR. TESSEMA: A week.

9 CHAIRPERSON HILL: A week?

10 MR. TESSEMA: Yeah.

11 CHAIRPERSON HILL: Okay. So, Mr. Moy.

12 MR. MOY: Mr. Chairman, we -- as you know, there's no  
13 hearing on Veterans' Day which is November 11th. So if the  
14 Applicant can't submit all these materials for the next hearing,  
15 which is next Wednesday, then the next opportunity would be  
16 November the 18th at the earliest. That would be at the earliest.  
17 We could always do it later.

18 MR. HEISEY: Would this be a decision or a continued  
19 hearing?

20 CHAIRPERSON HILL: It'd be a decision.

21 MR. HEISEY: Okay.

22 CHAIRPERSON HILL: So then I'm trying to say if you give  
23 us -- I want to -- does that seven-day thing come into effect  
24 again?

25 MR. MOY: That -- that's up to the Board because you're

1 setting additional information, supplemental information.

2 CHAIRPERSON HILL: Well, can't you set the dates -- and  
3 I'm looking at the calendar. Can you tell the Applicant when we  
4 should get information from them?

5 MR. MOY: Okay. So today's the 28th of October, so if  
6 the Applicant can submit the requested supplemental information by  
7 let's say Monday, November the 9th, then the Board can set its  
8 decision on November 18th but that's non-responsive. So if you're  
9 not asking for responses, I'll have to change the timeline.

10 CHAIRPERSON HILL: I mean, I don't need responses. I  
11 mean, that's what I'm trying to understand.

12 MR. MOY: No, I'm just asking just to be certain.

13 CHAIRPERSON HILL: Okay. So, yeah, I'm not asking for  
14 any responses from anybody.

15 MR. MOY: Not even from the ANC?

16 CHAIRPERSON HILL: That's where I get always confused --  
17 I -- that's where I get confused, Mr. Moy, as to what our timeline  
18 actually is in some cases. Like the ANC always gets to respond,  
19 right? They're a party, right?

20 MR. MOY: To have an opportunity to respond.

21 CHAIRPERSON HILL: Right. So that's fine. So then if  
22 you gave -- right. So if we got all the materials by Friday, the  
23 6th, right, then you would be --

24 MR. MOY: You would set the --

25 CHAIRPERSON HILL: -- then you would give the ANC time

1 to respond if they had anything to respond by -- to those  
2 additional materials being asked for by Friday, the 13th?

3 MR. MOY: Yes.

4 CHAIRPERSON HILL: And then we could have a decision on  
5 the 18th?

6 MR. MOY: Correct.

7 CHAIRPERSON HILL: Okay.

8 COMMISSIONER TURNBULL: All right. 11/6, 11/13, 11/18.  
9 Okay.

10 UNIDENTIFIED SPEAKER: Mr. Chair?

11 UNIDENTIFIED SPEAKER: Sorry.

12 COMMISSIONER TURNBULL: No, just for my clarification, I  
13 understand the request for the shadow study. The second request  
14 which is the -- to identify the materials used, is this for the  
15 entire façade of the building or all the elevation or just the  
16 elevation facing the alley?

17 CHAIRPERSON HILL: It was just the elevation facing the  
18 alley.

19 COMMISSIONER TURNBULL: Okay. I just need that for  
20 clarity, that's all. Thank you.

21 CHAIRPERSON HILL: No, that's great. Okay. then I  
22 guess, Mr. Heisey, you followed along?

23 MR. HEISEY: I -- that sounds fine.

24 CHAIRPERSON HILL: Okay.

25 MR. HEISEY: In fact, I have another case on the 18th as

1 well, so I'll be back, guys.

2 CHAIRPERSON HILL: Great.

3 MR. HEISEY: Hopefully not for another nine hours.

4 CHAIRPERSON HILL: I think that Mr. Moy -- well, anyway,  
5 we'll see what -- you know, if you speak to Mr. Moy, maybe we can  
6 put you up at the -- well, you're -- it's a decision anyway so we  
7 don't need you for a decision.

8 MR. HEISEY: No, you know, just -- you'll take a carrier  
9 meeting in the meeting portion so -- correct?

10 CHAIRPERSON HILL: Yes. It'll be a decision --

11 MR. HEISEY: That's right.

12 CHAIRPERSON HILL: -- and so -- and I guess -- yeah, so,  
13 again, I'm trying to -- I mean, it's been a lengthy day but I know  
14 that the witness are -- and I'm -- I haven't closed the hearing  
15 yet but -- well, anyway, so -- yeah, that's fine. So I -- so we  
16 need those two items, Mr. Moy. Other than that, the record is  
17 closed.

18 MR. MOY: Yeah, I just want clarify, if I may ask to Mr.  
19 Heisey, because had made -- in the case record, we do have  
20 affidavit posted but I do not have an affidavit of maintenance  
21 unless that was the one you filed yesterday.

22 MR. HEISEY: That was the one I filed yesterday. I  
23 couldn't find the correct --

24 MR. MOY: Okay.

25 MR. HEISEY: -- form for it so I just used the original

1 posting and I was trying to put a note on it somewhere and there  
2 really wasn't a place to do that and I couldn't find the form that  
3 was for an affidavit of continued maintenance.

4 MR. MOY: Okay. Yeah, we'll be back in touch. I want  
5 to be sure to be able to allow that in the record if that's okay  
6 with the Board.

7 CHAIRPERSON HILL: Yeah, if you need to clarify that  
8 affidavit of maintenance, Mr. Moy, then that's fine to allow that  
9 into the record as well. Okay?

10 MR. MOY: Okay. Thank you, Mr. Chair.

11 CHAIRPERSON HILL: So then there's three items that  
12 we're asking for, the shadow study, the materials for the alley  
13 wall and then if the affidavit of maintenance needs to be --

14 MR. MOY: Just the proper form.

15 CHAIRPERSON HILL: -- clarified.

16 MR. MOY: Yeah.

17 CHAIRPERSON HILL: Other than that, does the Board have  
18 any other questions? Okay. All right. So the hearing's closed.  
19 Thank you very much, Mr. Heisey. We'll see you on decision --

20 MR. HEISEY: Thank you, Chairs, and --

21 CHAIRPERSON HILL: -- 11/18.

22 MR. HEISEY: Thank you, gentlemen.

23 CHAIRPERSON HILL: So take care.

24 MR. HEISEY: All right. It's been a long day for you  
25 guys.

1 CHAIRPERSON HILL: Nope, it's okay. And then, Mr. Moy,  
2 if you -- Mr. Young, if you can excuse everyone? Okay. Well, Mr.  
3 Turnbull, like your room's gotten darker over the day and, Mr.  
4 Smith, is (audio interference).

5 MR. SMITH: I'm just completely --

6 CHAIRPERSON HILL: I'm like, do you have light? I'll  
7 send you a lamp.

8 COMMISSIONER TURNBULL: Well, it's -- I got a light --  
9 you can see a light over this -- there's a reflection of a clock -  
10 -

11 CHAIRPERSON HILL: Right.

12 COMMISSIONER TURNBULL: -- and every time it gets dark,  
13 I'm getting a reflection from a lamp that I got over here and it's  
14 -- kind of looked kind of strange.

15 CHAIRPERSON HILL: There's not much. Not much. Then  
16 you all have a good day. Mr. Moy, is there anything else you need  
17 from the Board?

18 MR. MOY: There's nothing from the staff, sir.

19 COMMISSIONER TURNBULL: Mr. Chair, you were brilliant  
20 today.

21 CHAIRPERSON HILL: It's a rocket docket. I love you,  
22 you got -- I got to tell my wife. Okay. Thank you.

23 UNIDENTIFIED SPEAKER: All right. Take care.

24 CHAIRPERSON HILL: Thank you.

25 UNIDENTIFIED SPEAKER: Bye-bye.

1                   (Whereupon, the above-entitled matter went off the  
2 record at 6:28 p.m.)

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In the matter of: Public Hearing

Before: DCBZA

Date: 10-28-20

Place: Teleconference

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