

GOVERNMENT OF  
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

+ + + + +

REGULAR PUBLIC MEETING

+ + + + +

WEDNESDAY

MARCH 10, 2021

+ + + + +

The Regular Public Meeting of the District of Columbia Board of Zoning Adjustment convened via Videoconference, pursuant to notice at 9:27 a.m. EDT, Frederick L. Hill, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

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

ZONING COMMISSION MEMBER PRESENT:

PETER SHAPIRO, Commissioner  
PETER G. MAY, Commissioner

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY, Secretary  
DON ANDREWS, Board of Zoning Adjustment  
PAUL YOUNG, Zoning Data Specialist

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

JOHN RICE, Esquire

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ALEXANDRA CAIN, Esquire

The transcript constitutes the minutes from the  
Regular Public Meeting held on March 10, 2021.

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

2 (9:27 a.m.)

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

5 Good morning, ladies and gentlemen. We are convened and  
6 broadcasting this public hearing by videoconference. This is the  
7 March 10th, 2021, public hearing of the Board of Zoning Adjustment  
8 of the District of Columbia. My name is Fred Hill, Chairperson.  
9 Joining me today will be Lorna John, Vice Chair; Chrishaun Smith,  
10 Board Member; and representing the Zoning Commission will be Peter  
11 Shapiro and Peter May.

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

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

21 Please state your name and home address before providing  
22 oral testimony or your presentation. Oral presentation should be  
23 limited to a summary of your most important points. When you're  
24 finished speaking, please mute your audio so that your microphone

1 is no longer picking up sound or background noise.

2           If you're experiencing difficulty accessing Webex or  
3 your -- or by telephone call-in or if you have forgotten to sign  
4 up 24 hours prior to the hearing, then please call our OZ Hotline  
5 number at 2020-727-5471. Once again, 202-727-5471 to sign up to  
6 testify and to receive Webex login or call-in instructions.

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

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

22           The order of procedures for special exceptions and  
23 variances are pursuant to Y 409. The order of appeals is also in  
24 Y 507.

25           At the conclusion of each case, an individual who is

1 unable to testify because of technical issues may file a request  
2 for leave to file a written version of the planned testimony to  
3 the record within 24 hours following the conclusion of public  
4 testimony in the hearing. If additional written testimony is  
5 accepted, the parties will be allowed reasonable time to respond  
6 as determined by the Board. The Board will then make its decision  
7 at its next meeting, but no earlier than 48 hours after the  
8 hearing.

9           Moreover, the Board may request additional specific  
10 information to complete the record. The Board or the 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  
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's 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 deliberate 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 an emergency closed  
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 a request 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: Good morning, Mr. Chairman, members of the  
16 Board. I do have a couple items for the Board and for the record.  
17 First of all, while I think about it, Vice Chair John is having  
18 technical difficulties, so staff is working with her to get her in  
19 or at least by telephone.

20 So No. 1 for today's docket and for the record  
21 transcript, we have four cases. Actually, five cases that is off  
22 today's docket. Two cases have been postponed/rescheduled to  
23 April 28th, 2021. These two cases are Case Application No. 20404  
24 of Deanwood 711, LLC and Case Application No. 20405 of Deanwood  
25 719, LLC. Both of these cases rescheduled to April 28th, 2021.

1           Application No. 20409 of Joseph and Elizabeth Lunsford  
2 has been administratively rescheduled to May 19th, 2021.  
3 Application No. 20401 of ABCT Development<sup>4</sup>, LLC has been withdrawn  
4 by the applicant as well as Case Application No. 20399 of 2237-  
5 2239 12th Street, LLC; also withdrawn by the applicant.

6           So other than that, we -- there are -- there is a  
7 preliminary matter to your first case when you ask me to proceed.

8           CHAIRPERSON HILL: Okay. Let's just give Ms. John a  
9 minute and see whether she can also even dial in perhaps. I'll be  
10 right back myself. I'm just going to grab something.

11           VICE CHAIR JOHN: Good morning. Hello?

12           CHAIRPERSON HILL: Oh, great. Ms. John, you're there?

13           VICE CHAIR JOHN: Yes, I'm here and I'm still trying to  
14 get on. My Verizon service went out last night, so I'm trying to  
15 connect on -- over cellular, so.

16           CHAIRPERSON HILL: Okay. But can you hear us? Well,  
17 obviously.

18           VICE CHAIR JOHN: I can hear you very well, thank you.

19           CHAIRPERSON HILL: Okay. Then just give me one second,  
20 please.

21           VICE CHAIR JOHN: Okay.

22           COMMISSIONER SHAPIRO: And Vice Chair John, we can hear  
23 you quite well as well.

24           VICE CHAIR JOHN: Okay. Thank you, very much.

25           COMMISSIONER SHAPIRO: Though we miss your face.



1 VICE CHAIR JOHN: Thank you.

2 CHAIRPERSON HILL: All right. Great. Well, Mr. Moy,  
3 then you can go ahead and call our first case if you'd like.

4 MR. MOY: Yes, sir. Thank you. This would be Case  
5 Application No. 20313 of FHD, LLC and the caption as advertised  
6 reads as amended for special exceptions under the RA-use  
7 requirement Subtitle U, Section 421.1, pursuant to Subtitle F,  
8 Section 5201 from side yard requirements, Subtitle Title F,  
9 Section 306.6, and under the Voluntary Inclusionary Zoning  
10 Requirements Subtitle F, Section 5206.1. This will construct a  
11 two-story rear addition and convert a semi-attached principal  
12 dwelling unit into a four-unit apartment building in the RA-1  
13 zone. This is at premises 4310 2nd Street, N.W., Square 3318, Lot  
14 811.

15 As the Board will recall, you last heard this at your  
16 meeting session on January 13th, but on March 3rd, 2021, the Board  
17 rescheduled this case as a continued hearing to today, March 10th.  
18 Other than that, in terms of preliminary matters, Mr. Chairman, as  
19 you're aware, the applicant is requesting a waiver from the 21-day  
20 filing rule in order for them to include in the record their Tree  
21 Preservation Plan, a Subdivision plan, and as well they submitted  
22 revised architectural plans, elevations, Burden of Proof, et  
23 cetera, within this 24-hour period.

24 So those are the primary preliminary matters and, of  
25 course, in that bundle, I'll call it, there is a revised self-

1 certification.

2 CHAIRPERSON HILL: Okay. Mr. Sullivan, are you there?

3 COMMISSIONER SHAPIRO: I'm here, but I'm going to jump  
4 out and jump back in.

5 CHAIRPERSON HILL: Okay. Mr. Sullivan, could you  
6 introduce yourself for the record?

7 MR. SULLIVAN: Yeah. Good morning, Mr. Chairman and  
8 members of the Board. My name is Marty Sullivan on behalf of the  
9 applicant.

10 CHAIRPERSON HILL: Okay. And who is here with you, Mr.  
11 Sullivan?

12 MR. SULLIVAN: We have the architect, Adam Crain, and  
13 the property owner, Nhan Lam.

14 CHAIRPERSON HILL: Okay. And Mr. Goodman, could you  
15 introduce yourself for the record?

16 COMMISSIONER GOODMAN: Yes. My name is Jonah Goodman,  
17 ANC Commissioner in 4C10 here to represent ANC 4C.

18 CHAIRPERSON HILL: Okay. Great. Hi, Commissioner.

19 COMMISSIONER GOODMAN: How are you doing? Good morning.

20 CHAIRPERSON HILL: Good morning. Mr. Crain, could you  
21 introduce yourself please for the record?

22 MR. CRAIN: Sure. Adam Crain. I'm the project  
23 architect.

24 CHAIRPERSON HILL: Mr. Lam, could you introduce yourself  
25 for the record, please?

1 MR. LAM: Yes. My name is Nhan Lam, property owner.

2 CHAIRPERSON HILL: All right. Okay. Mr. Sullivan,  
3 there's a bunch of stuff that you just submitted, and I know that  
4 some of it we kind of were specifically asking for. Unless the  
5 Board has any issues, I want to see everything and so I'm looking  
6 at my fellow Board members. I don't see anybody raising their  
7 hand.

8 Ms. John, you don't have any opposition to this,  
9 correct?

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

11 CHAIRPERSON HILL: Okay. So, Mr. Moy, can you let  
12 everything into the record?

13 MR. MOY: (No audible response.)

14 CHAIRPERSON HILL: I lost Mr. Moy.

15 MR. YOUNG: Mr. Moy is going into his training, so --

16 CHAIRPERSON HILL: Oh, yeah. He went into training.

17 MR. YOUNG: -- Mr. Andrews is taking over. I also have  
18 the party status; the person calling in by phone.

19 CHAIRPERSON HILL: Okay. Great.

20 MR. YOUNG: That's Ms. El Amin.

21 CHAIRPERSON HILL: Could you spell that name for me  
22 again, Mr. Young? I'm sorry.

23 MR. YOUNG: It's E-L, A-M-I-N.

24 CHAIRPERSON HILL: Ms. El-Amin, can you hear me?

25 MS. EL-AMIN: Yes, I can hear you.

1 CHAIRPERSON HILL: Okay. Great. All right. Mr.  
2 Andrews, can you hear me?

3 MR. ANDREWS: Yes, sir. I can.

4 CHAIRPERSON HILL: Could you go ahead and ask the staff  
5 to allow everything into the record?

6 MR. ANDREWS: Yes, sir.

7 CHAIRPERSON HILL: Okay. Mr. Sullivan, you didn't add a  
8 -- you didn't give us a new PowerPoint, did you?

9 MR. SULLIVAN: No. We don't have that because we  
10 already presented on the current plans. The changes made were  
11 minor changes, and I can go through that --

12 CHAIRPERSON HILL: And I understand that.

13 MR. SULLIVAN: -- with the Board.

14 CHAIRPERSON HILL: And you'll get an opportunity, Mr.  
15 Sullivan. I'm just saying, I thought you went -- you went from  
16 five to four units and from three to two floors, right?

17 MR. SULLIVAN: So from the beginning, I believe we were  
18 at six originally. Now, we're down to four. We dropped a floor.  
19 We are -- we're currently a full FAR, but originally, we were  
20 doing a new building and the new building was going to be such  
21 that the lower level was not going to count in Gross Floor Area.

22 Now that we're working with the existing building, that  
23 lower level does count in Gross Floor Area. So essentially, you  
24 could say we've lost a third of the Gross Floor Area because now  
25 we have to count the lowest level.

1 CHAIRPERSON HILL: Okay. But did you --

2 MR. SULLIVAN: And --

3 CHAIRPERSON HILL: -- lose a floor?

4 MR. SULLIVAN: Yeah. Oh, yeah. We reduced --

5 CHAIRPERSON HILL: You did lose a floor of height --

6 MR. SULLIVAN: Yeah.

7 CHAIRPERSON HILL: -- since the last time you were here?

8 MR. SULLIVAN: Well, no not since the last time. I  
9 believe you've seen the revised reduced massing --

10 CHAIRPERSON HILL: Which --

11 MR. SULLIVAN: -- which was --

12 CHAIRPERSON HILL: Which exhibit is that?

13 MR. SULLIVAN: 67C.

14 MR. YOUNG: Chairman, the exhibits have now been  
15 uploaded.

16 CHAIRPERSON HILL: Oh, thanks.

17 MR. SULLIVAN: And the only change, there's a new plat  
18 and plan. So what happened with the plat is we did obtain our  
19 record lot. If you remember back in the beginning, that was the  
20 first issue flagged. We were proceeding on a tax lot so that the  
21 area of that lot has not changed, so nothing has changed except  
22 the number. The number now is Record Lot 108. In addition to  
23 that, yesterday we added -- we noted that it's a permeable space  
24 under the --

25 CHAIRPERSON HILL: Mr. Sullivan --

1 MR. SULLIVAN: -- under the --

2 CHAIRPERSON HILL: Mr. Sullivan?

3 MR. SULLIVAN: -- (audio interference) spaces. Yes?

4 CHAIRPERSON HILL: I appreciate it. I'm just trying to  
5 get my head around this before you start --

6 MR. SULLIVAN: Okay.

7 CHAIRPERSON HILL: -- telling us --

8 MR. SULLIVAN: All right.

9 CHAIRPERSON HILL: -- a little bit about what happened  
10 since the last time you were here.

11 MR. SULLIVAN: Right.

12 CHAIRPERSON HILL: And so -- but I appreciate what  
13 you're trying to do. Again, right, your plans haven't changed  
14 since -- and now I'm going back again -- right, 67C, correct?

15 MR. SULLIVAN: Correct. Not materially --

16 CHAIRPERSON HILL: Mr. Crain, is that correct?

17 MR. SULLIVAN: -- they haven't, correct.

18 COMMISSIONER SHAPIRO: Mr. Chair?

19 CHAIRPERSON HILL: Yes?

20 COMMISSIONER SHAPIRO: So if the plans have not changed  
21 in 67C, the plans that were just uploaded, those are literally the  
22 same plans as 67C?

23 MR. SULLIVAN: A few minor changes. Not the structure  
24 itself, but to some notations including the area of disturbance  
25 around the magnolia tree is now on the site plan within the plans

1 and the record lot, we have a record lot, so the number of the lot  
2 changed and then we also noted that there -- it's permeable pavers  
3 under -- for the parking spaces.

4 COMMISSIONER SHAPIRO: Okay. Thank you for that.

5 MR. SULLIVAN: I believe that's it, yeah.

6 COMMISSIONER SHAPIRO: All right. Thank you.

7 CHAIRPERSON HILL: Okay. Let me do this. So Ms. El-  
8 Amin, can you hear me?

9 MS. EL-AMIN: Yes, I can hear you.

10 CHAIRPERSON HILL: Okay. So Mr. Sullivan is the  
11 attorney for the applicant. So he's going to go ahead and  
12 present.

13 MS. EL-AMIN: Yes.

14 CHAIRPERSON HILL: Then you'll have an opportunity to  
15 ask questions after his presentation, then you'll have an  
16 opportunity --

17 MS. EL-AMIN: Got it.

18 CHAIRPERSON HILL: -- to also give your presentation and  
19 then Mr. Sullivan will have an opportunity to ask you questions  
20 and then the ANC --

21 MS. EL-AMIN: Uh-huh.

22 CHAIRPERSON HILL: -- will also have an opportunity to  
23 give their presentation and ask questions as well. They're also a  
24 party. So just to let you know --

25 MS. EL-AMIN: Okay. Uh-huh.

1 CHAIRPERSON HILL: -- this kind of works. And then also  
2 we'll hear from the Office of Planning as well.

3 So Mr. Sullivan, I know you kind of started a little  
4 bit. Could you please tell us what happened since the last time  
5 you were here? And also at the same time, since this is somewhat  
6 new, and it is a little bit -- it'll be helpful to the Board to  
7 kind of clarify again what your argument is as to why you think  
8 you're meeting the criteria for us to grant the relief requested  
9 and you can go ahead and just start whenever you like.

10 MR. SULLIVAN: (No audible response.)

11 CHAIRPERSON HILL: I can't hear you, Mr. Sullivan.  
12 Sorry, you're on mute.

13 MR. SULLIVAN: Thank you, Mr. Chairman and members of  
14 the Board. We had proceeded -- I thought this was going to be a  
15 fairly limited hearing because I think we went all the way through  
16 the plans and so I'm sorry that I don't have a PowerPoint showing  
17 that. If you need to see any plans, I'll point to the exhibits.

18 CHAIRPERSON HILL: You can go ahead and just walk us  
19 through. And I guess why it's a little -- and, Mr. Sullivan, I  
20 didn't want you to necessarily have to do another PowerPoint  
21 presentation, but again, we hear a lot of cases and we see a lot  
22 of cases and so when all of a sudden somebody is telling me they  
23 go from five to four units and three to two floors, it kind of  
24 throws the Board off. So it doesn't sound like a minor thing, and  
25 so if we have to go back and kind of figure it all out and scrub



1 | it all out, it just -- we -- it just gets confusing for us.

2 |           MR. SULLIVAN: Okay.

3 |           CHAIRPERSON HILL: So you can just go ahead and walk us  
4 | through however you want to walk us through what's happened since  
5 | the last hearing, you know, and then --

6 |           MR. SULLIVAN: Okay.

7 |           CHAIRPERSON HILL: -- we can go from there.

8 |           MR. SULLIVAN: Okay. So you, the Board, has reviewed  
9 | the plans as they are now. They've reviewed it with four units,  
10 | with the current footprint, the current height which is only 26  
11 | feet at this point. The lot occupancy is 38 percent. The only  
12 | thing that's changed is we have the record lot now and we have an  
13 | update on the Tree Preservation Plan which was a key comment from  
14 | the Board outstanding after the last hearing. So no changes to  
15 | the structure.

16 |           There's three areas of relief. There's relief, of  
17 | course, under U 421 for an RA-1 new residential development; and  
18 | on that I would refer to the Office of Planning's report. The  
19 | requirements for that have to do with schools and with public  
20 | facilities availability and transportation. We have four parking  
21 | spaces, so we have a parking space for each unit.

22 |           The second area of relief is special exception for side  
23 | yard relief. We're required to have one side yard and that yard,  
24 | because we have two non-confirming side yards, that side yard  
25 | needs to be at least 3 feet wide on one or other side. And on the

1 other side, we can continue and extend against the property line.

2 So essentially, the way we look at is we're asking for 3  
3 feet of relief from the south side adjacent to the alley. Now,  
4 again, this was argued in the last one two, so that you've seen  
5 all that and that's a special exception.

6 The other relief is for Voluntary Inclusionary Zoning  
7 and for that it's just the special exception, general special  
8 exception, criteria for that. For the side yard relief, the  
9 specific special exception criteria is the light and air privacy  
10 test and because this relates to the adjacent alley, there's no  
11 impact from shadow from the 3 feet of reduction in side yard and  
12 so we don't have an updated Shadow Study because it would show you  
13 nothing because it's facing the south and it's only 3 feet as  
14 well.

15 We've secured ANC support which I believe we had at the  
16 last hearing as well. We had the IZ unit included, and it was  
17 down to four units. On the Tree Preservation Plan, the applicant  
18 has been working very hard on this and they -- we submitted a Tree  
19 Preservation Plan and then just yesterday we received an email  
20 from Urban Forestry okaying that plan, so we're confident that the  
21 tree has a program which will protect it and we think that  
22 responds to what I think was one of the bigger issues for the  
23 neighbor and the community as well regarding protection of the  
24 tree.

25 CHAIRPERSON HILL: Okay. Okay. Does the Board have any

1 questions for the applicant?

2 Mr. Shapiro?

3 COMMISSIONER SHAPIRO: Thank you, Mr. Chair. Yeah, Mr.  
4 Sullivan, I'm still a bit confused because I thought my read of  
5 this is that -- and again, this goes back to the Chair's -- well,  
6 anyway, you did not change your approach -- the applicant has not  
7 changed their approach as to how they're constructing this  
8 building since we last saw them, so my understanding was it was  
9 going to be a tear down and now it's going to -- you're going to  
10 retain most of the existing structure and just add on. That did  
11 not -- that change did not occur since we last heard this?

12 MR. SULLIVAN: No. No, it did not. That was two  
13 hearings ago.

14 COMMISSIONER SHAPIRO: Okay. Okay. That's all the  
15 questions I have for now, Mr. Chair.

16 CHAIRPERSON HILL: Yeah. I got you, Mr. Shapiro.  
17 All right. Mr. Smith?

18 BOARD MEMBER SMITH: (No audible response.)

19 CHAIRPERSON HILL: No?

20 Ms. John, do you have any questions?

21 VICE CHAIR JOHN: No, I don't have any questions. I  
22 believe Mr. Sullivan's summary has helped to put it in perspective  
23 this morning, so I have no questions at this time.

24 CHAIRPERSON HILL: Okay.

25 Ms. El-Amin, can you hear me?

1 MS. EL-AMIN: Yes, I can hear you.

2 CHAIRPERSON HILL: Do you have any questions for the  
3 applicant?

4 MS. EL-AMIN: Yes. Well, I need a clarification. Thank  
5 you for the update. I received the information yesterday and I  
6 had some questions because I had also been in communications with  
7 the applicant and also with the Urban Forestry and the plat --

8 CHAIRPERSON HILL: Hello, Ms. El-Amin?

9 MS. EL-AMIN: (No audible response.)

10 CHAIRPERSON HILL: Ms. El-Amin?

11 MS. EL-AMIN: (No audible response.)

12 CHAIRPERSON HILL: Hello?

13 MS. EL-AMIN: (No audible response.)

14 MR. YOUNG: It looks like she just got disconnected.

15 CHAIRPERSON HILL: Okay. We'll give her a minute.  
16 Yeah, we'll give her a minute, I guess.

17 COMMISSIONER SHAPIRO: Mr. Chair, may I?

18 CHAIRPERSON HILL: Yeah, sure.

19 COMMISSIONER SHAPIRO: There's an additional  
20 question/clarification I think we want to make sure that we  
21 clarify this for the staff. Whether or not we have heard the  
22 applicant's case in its -- at the appropriate level of detail in  
23 the first hearing. It's not clear to me whether we actually have  
24 gone through -- when I'm looking at the OZ notes, it's not clear  
25 that we've actually heard the applicant's case-in-chief, and that

1 the opponent has had an opportunity to respond. So can we get  
2 some clarification on that?

3 CHAIRPERSON HILL: Okay. Let's see. Mr. Cochran, can  
4 you hear us?

5 MR. COCHRAN: Yes, Mr. Chair. I can.

6 CHAIRPERSON HILL: Could you introduce yourself for the  
7 record, please?

8 MR. COCHRAN: Sure. I'm Steve Cochran with the --  
9 representing the Office of Planning in this case, 20313.

10 CHAIRPERSON HILL: Okay. Mr. Cochran, did you hear Mr.  
11 Shapiro's question?

12 MR. COCHRAN: Yes.

13 CHAIRPERSON HILL: Do you have an answer?

14 MR. COCHRAN: I do not remember the applicant having  
15 presented a two-story scheme before this one as part of a hearing,  
16 but, you know, I'm an old guy and maybe my memory is somewhat poor  
17 on this. Chairman, I'm looking --

18 CHAIRPERSON HILL: Hang on a second.

19 MR. COCHRAN: I've just been looking through the record  
20 and I just don't see anything that indicates that OP filed a  
21 report based on a two-story structure before the most recent  
22 supplemental filing. So I'm a little bit confused on what the  
23 actual case is. Not the case, but the -- when the applicant last  
24 presented three stories versus two stories.

25 CHAIRPERSON HILL: Okay. Give me a second, Mr.

1 Sullivan. Give me one --

2 MR. SULLIVAN: Okay.

3 CHAIRPERSON HILL: Sure. Give me one second. Give me  
4 one second. Some things take a second.

5 Mr. Young, is Ms. El-Amin back?

6 MR. YOUNG: Yes, she is. I will unmute her now.

7 MS. EL-AMIN: Hi. Yes, I apologize. My phone just  
8 disconnected you all.

9 CHAIRPERSON HILL: That's all right. No problem. Ms.  
10 El-Amin, so just -- I'm going to come back to you --

11 MS. EL-AMIN: Okay.

12 CHAIRPERSON HILL: -- but just to fill you in, the  
13 Commissioner Shapiro was asking whether or not we've heard all of  
14 the presentations that we needed to hear earlier. We're still  
15 talking about basically the different relief about the building  
16 and not necessarily anything about the Urban Forestry just yet, so  
17 just to kind of bring you up-to-date. So give me a minute and  
18 I'll come back to you. All right? I just want to let this  
19 question play out.

20 MS. EL-AMIN: Okay. And I'm trying to sign in --

21 CHAIRPERSON HILL: Mr. Sullivan --

22 MS. EL-AMIN: -- versus on the computer right now, so  
23 maybe you'll see me in a minute.

24 CHAIRPERSON HILL: Okay. Great. All right. Well,  
25 that'll be interesting. All right.

1           Mr. Sullivan, do you have a response to the questions  
2 that are currently being asked of you?

3           MR. SULLIVAN: I was just tracking the dates. I believe  
4 our hearing date was February 3rd and the submission date of the  
5 previous plans was in January. It was January 29th. I mean,  
6 we're happy to -- if we could share the plans, I'm happy to go  
7 through them again.

8           CHAIRPERSON HILL: That's fine. We can. Just give me  
9 one second. I'm trying to think. So were you here at the end of  
10 December originally?

11          MR. SULLIVAN: I believe it was February 3rd or -- yeah,  
12 February 3rd.

13          CHAIRPERSON HILL: Right. So the third story is that --  
14 you've removed that back area of the building, correct?

15          MR. SULLIVAN: Correct.

16          CHAIRPERSON HILL: Right. So the remaining -- the front  
17 --

18          MR. SULLIVAN: I'm looking at --

19          CHAIRPERSON HILL: I see what you've done. You --

20          MR. SULLIVAN: I'm looking for the transcript. I think  
21 you would see in the transcript at the end it was -- we were sort  
22 of -- we were honed in on the tree as an outstanding item.

23          CHAIRPERSON HILL: Right. So Mr. Shapiro --

24          MR. SULLIVAN: I just got a --

25          CHAIRPERSON HILL: I wish these things were easier. If

1 | you go to --

2 |           MR. SULLIVAN: We --

3 |           CHAIRPERSON HILL: Well, I got -- Exhibit 52. I went  
4 | all the way back to December 21st and so that's where I see kind  
5 | of the presentation that was then and it's easier to see the  
6 | difference between the plans.

7 |           And Mr. Sullivan, I will give you an opportunity to go  
8 | ahead and walk us through your current exhibit in -- actually,  
9 | let's go ahead and do that because then --

10 |           MR. SULLIVAN: Yeah, yeah.

11 |           CHAIRPERSON HILL: -- Ms. El-Amin can go ahead and see  
12 | it.

13 |           MR. SULLIVAN: So --

14 |           CHAIRPERSON HILL: Can you go ahead and pull up --

15 |           MR. SULLIVAN: And --

16 |           CHAIRPERSON HILL: -- I guess it's No. 84 and/or Mr.  
17 | Sullivan, what do you want to say?

18 |           MR. SULLIVAN: I'm just -- I'm getting an update from my  
19 | assistant as well. I think on the 3rd we talked about the plans,  
20 | we showed the plans, but it was a party status hearing and so --

21 |           CHAIRPERSON HILL: 3rd being when the -- the 3rd being  
22 | what?

23 |           MR. SULLIVAN: February 3rd, right.

24 |           CHAIRPERSON HILL: Right. All right. Why don't you go  
25 | ahead --



1 MR. SULLIVAN: And it wasn't a (audio interference).

2 COMMISSIONER SHAPIRO: Go ahead and pull up Exhibit 84.  
3 Isn't that the one that has the plans?

4 MR. YOUNG: So Mr. Chair, so it was not --

5 COMMISSIONER SHAPIRO: Yes, yes?

6 MR. YOUNG: -- a full hearing I'm -- that's what I'm  
7 hearing Mr. Sullivan said?

8 MR. SULLIVAN: Right. We had a full hearing on the  
9 previous plans and then since then --

10 MR. COCHRAN: No.

11 MR. SULLIVAN: -- scaled it back, yes.

12 MR. COCHRAN: Mr. Chair, even though it's -- when you  
13 search on the OZ website, 20313 comes up for February 3rd. If you  
14 look at the transcript, it's not even listed as a case that was  
15 heard that day, so I think that Mr. Sullivan has clarified  
16 appropriately.

17 CHAIRPERSON HILL: Okay. So Mr. Sullivan, why don't you  
18 go ahead and just give us your argument for how you're meeting,  
19 again, the criteria for us to grant the relief requested and go  
20 ahead and just walk us through the plans and I think at exhibit, I  
21 guess it's 84, is that what you wanted us to pull up, Mr.  
22 Sullivan?

23 MR. SULLIVAN: (No audible response.)

24 CHAIRPERSON HILL: Now I've lost, Mr. Sullivan. Oh,  
25 there we go.

1 MR. SULLIVAN: It is 70 -- let me see. Oh, it's not in  
2 yet, so I don't know what number it is actually because it just  
3 got --

4 CHAIRPERSON HILL: If you --

5 MR. SULLIVAN: -- accepted today.

6 CHAIRPERSON HILL: If you refresh, it'll pop up.

7 MR. SULLIVAN: Okay.

8 MR. CRAIN: I do think 84 is correct and the reason why  
9 is at the cellar level we pulled the areaway back a little bit to  
10 give a little more breathing room for the tree, so that's my note.  
11 I think that's submitted as well.

12 MR. SULLIVAN: Yeah. 83 is the plat and 84 is the  
13 plans.

14 CHAIRPERSON HILL: Got it. So which one do you want?  
15 You want to talk about the plat, or you just want to go through  
16 the plans?

17 MR. SULLIVAN: Let's start with the -- Adam, I'll leave  
18 that to you.

19 MR. CRAIN: Yeah, I think the plan is the best exhibit.  
20 Sure, I'll give an overview on -- so I've got Exhibit 84 open.

21 CHAIRPERSON HILL: Mr. Young, could you pull up Exhibit  
22 84?

23 Ms. El-Amin, can you hear me?

24 MS. EL-AMIN: Yes, I can hear you.

25 CHAIRPERSON HILL: Can you actually see something on the

1 computer?

2 MS. EL-AMIN: I can see you right now and --

3 CHAIRPERSON HILL: Oh, great.

4 MS. EL-AMIN: Yeah, I --

5 CHAIRPERSON HILL: So you can see the presentation?

6 MS. EL-AMIN: Yes. Yes, I was able to login. I'm home  
7 back -- I'm back home now.

8 CHAIRPERSON HILL: Okay. Wonderful. Wonderful.

9 All right. Mr. Young, if you could pull up 84?

10 MR. YOUNG: Yep. I am working on it now.

11 CHAIRPERSON HILL: No problem.

12 COMMISSIONER SHAPIRO: Mr. Chair?

13 CHAIRPERSON HILL: Yep?

14 COMMISSIONER SHAPIRO: So because some of the issues  
15 that have been brought to us have to do with light, air, and  
16 privacy which clearly is related to the size and configuration of  
17 the building, if we could ask Mr. Sullivan, as you go through  
18 this, just -- you know, we're working off 84, but please be clear  
19 with anything that has changed since the last time we partially  
20 looked at this to help us make sense of light, air, and privacy  
21 issues.

22 CHAIRPERSON HILL: Okay. Okay. Right. So now I'm --  
23 Mr. Sullivan, can you hear me?

24 MR. SULLIVAN: Yes.

25 CHAIRPERSON HILL: Okay. Okay. So I'm getting --

1 everybody is getting texts, and messages, and all this stuff. So  
2 Mr. Sullivan, just start from the beginning again. Okay?

3 MR. SULLIVAN: Okay.

4 CHAIRPERSON HILL: Like, go ahead and make your argument  
5 for this building, right and then --

6 MR. SULLIVAN: Okay. Okay.

7 CHAIRPERSON HILL: And then, Office of Planning, if you  
8 could pay attention obviously and make sure that we're all on the  
9 same page when we get done with this because, again, what seems to  
10 have happened, Mr. Sullivan, is we never heard about this project,  
11 right.

12 MR. SULLIVAN: No. No, that's not true actually.

13 CHAIRPERSON HILL: What I'm saying, Mr. Sullivan, is you  
14 had a big giant thing on the 3rd. You had a three-story addition  
15 at the end and it's no longer there --

16 MR. SULLIVAN: Yeah, (audio interference).

17 CHAIRPERSON HILL: -- right?

18 MR. SULLIVAN: Right.

19 CHAIRPERSON HILL: And so I'm saying as far as I'm  
20 concerned, we haven't heard this building yet, right. So just go  
21 ahead and make your argument --

22 MR. SULLIVAN: Okay.

23 CHAIRPERSON HILL: -- for this building. Okay?

24 MR. SULLIVAN: Okay. And that's the source of my  
25 confusion and I'm sorry that I wasn't clear and prepared on this,

1 but we had a very full hearing and then in my mind I'm thinking  
2 well, since then it only got a whole lot better, so I --

3 CHAIRPERSON HILL: No, I got it. And I guess --

4 MR. SULLIVAN: And --

5 CHAIRPERSON HILL: And Mr. Sullivan, and I know. I'm  
6 not trying to necessarily argue with you. I'm just trying to  
7 provide clarity as to how this works and I know you're hearing me  
8 as well. It's just that we just hear so much stuff, you know, and  
9 the first time we heard this was in December and then in February  
10 it turns out all we heard was party status. We didn't even hear  
11 anything else. So we literally haven't seen this design yet. So  
12 to think that the Board is going to remember what happened at the  
13 end of December and then it's the exact same thing, but it -- it's  
14 just too much for us.

15 MR. SULLIVAN: I hear you. I'm sorry.

16 CHAIRPERSON HILL: So --

17 MR. SULLIVAN: Yeah, I apologize.

18 CHAIRPERSON HILL: Okay. Go ahead.

19 MR. SULLIVAN: Okay.

20 CHAIRPERSON HILL: No problem.

21 MR. SULLIVAN: So I think, Mr. Crain, if you could go  
22 through the plans and then I'll jump in at the end and talk about  
23 the criteria for approval of the special exceptions?

24 MR. CRAIN: No problem. Let's go to -- yeah, let's --  
25 this is the 3D renderings on the left side. We're showing the

1 front and the rear. To give an overview, we are doing a rear  
2 addition and conversion to a four-unit apartment house.

3 One of the previous designs that, I guess, was or was  
4 not presented was we had a third level on this. The building was  
5 actually deeper. We had initially set the third floor back to  
6 allow for light to pass over this house to the solar panels of the  
7 adjacent property. That has been trimmed off. We are now  
8 utilizing the IZ bonus, so one of these four units will be an IZ  
9 unit.

10 Next slide shows the site plan. On the top is the  
11 existing. We're seeking to --

12 CHAIRPERSON HILL: Hey, Mr. Crain?

13 MR. CRAIN: Yes, sir?

14 CHAIRPERSON HILL: Mr. Crain, we're always curious and I  
15 just want to know which one is the IZ unit also? So you can just  
16 flip back if you want to show us.

17 MR. CRAIN: It's unit 4, but I'll point that out when we  
18 get to it.

19 CHAIRPERSON HILL: Yep. Thanks.

20 MR. CRAIN: Sure. Not a problem. So we're retaining  
21 the existing façade and the end wall to respect the street  
22 frontage and keep that continuous. We are proposing four parking  
23 spaces at the rear, so every unit will have a parking space. On  
24 this site plan, you know, we had the tree located in the adjacent  
25 rear yard which you can see that kind of big circle is dashed

1 around with the radius which actually is a little more required  
2 than the -- that required, I guess, clear space, that (audio  
3 interference).

4 CHAIRPERSON HILL: Mr. Crain? Mr. Crain, I'm sorry to  
5 interrupt you.

6 Mr. Rice, can you hear me?

7 MR. RICE: Yes, sir.

8 CHAIRPERSON HILL: Is DDOT here?

9 MR. RICE: I believe they are, sir.

10 CHAIRPERSON HILL: Can you --

11 MR. RICE: The DDOT representatives are Daniel Malooly  
12 and Sharon Dendy.

13 CHAIRPERSON HILL: Ludie (sic), L-U-D-I-E?

14 MR. RICE: Mr. Daniel Malooly, M-A-L-O-O-L-Y. And Ms.  
15 Sharon Dendy, D-E-N-D-Y.

16 CHAIRPERSON HILL: Okay. Mr. Malooly, Ms. Dendy, can  
17 you hear me?

18 MS. DENDY: I can hear you.

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

21 MS. DENDY: My name is Sharon Dendy with DDOT Urban  
22 Forestry.

23 CHAIRPERSON HILL: Okay. And is Mr. Malooly with you?

24 MS. DENDY: He's not with me. He's on a separate --

25 CHAIRPERSON HILL: Mr. Malooly, can you hear me?

1 MR. MALOOLY: (No audible response.)

2 CHAIRPERSON HILL: That's all right. Ms. Dendy, you can  
3 hear me, correct?

4 MS. DENDY: Yes, I can.

5 CHAIRPERSON HILL: Okay. Do we have you for a little  
6 while or what's your time constraints?

7 COMMISSIONER SHAPIRO: Sir, I think Mr. Malooly just  
8 finally unmuted himself.

9 CHAIRPERSON HILL: Mr. Malooly, can you hear me?

10 COMMISSIONER SHAPIRO: Oh, my apologies. I looked at  
11 it.

12 CHAIRPERSON HILL: That's all right.

13 Ms. Dendy?

14 MS. DENDY: Yes?

15 CHAIRPERSON HILL: Can you be with us for a little  
16 while? What's your time constraints?

17 MS. DENDY: I'm free until 12:00.

18 CHAIRPERSON HILL: Okay. Great. All right. I just  
19 wanted to know. All right. Well, thank you then for joining us.  
20 All right.

21 Mr. Crain, you were kind of just starting to talk about  
22 that tree?

23 MR. CRAIN: Yes, I was. So we had what I would call  
24 extensive conversations via email with Urban Forestry, and I think  
25 it was Mr. Malooly and Daniel Just was copied on those. So we've



1 -- on the site plan we've located the tree and its critical root  
2 zone as you can see by the circular dash line. There was a  
3 request to basically keep any excavation outside of a certain  
4 distance from that tree which we complied with. That's kind of  
5 that 14-foot, almost 15-foot, radius that's coming off of the tree  
6 there. So this is a -- we do have an email from Mr. Malooly  
7 saying that this was -- he was okay approving this plan.

8           So I guess if we go to the next slide, on the cellar  
9 level which is the bottom half of the screen, again we show that  
10 tree and the circular radius. The areaway on the previous plan  
11 went all the way to the property line. That's been pulled back  
12 several feet to give a little more space and breathing room to the  
13 roots for that tree.

14           Also just as kind of, I guess, a bigger picture, the  
15 whole building is a little shorter than one of the previous design  
16 iterations in response to the tree as well. So the building got  
17 shorter, and the areaway pulled away which gave more room to --  
18 for those tree's roots to allow it to be protected.

19           Let me see. I think -- can we go to Slide No. -- what  
20 page is this? Slide No. 7; big colored section. I think this  
21 kind of most accurately depicts the dissection through the  
22 building. Unit 4 which is the light blue one on the top left  
23 would be the IZ unit. So they're kind of split front to back; two  
24 up, two down. We are proposing a roof deck, as you can see, with  
25 the roof hatch access over green Unit 3.

1           And if you go to the last slide, that one -- that's the  
2 one that calls out the IZ unit as Unit 4. That'll be in our net  
3 unit totals on the matrix on the right. So if there's any  
4 questions, let me know or if DDOT wants to chime in regarding the  
5 tree they're welcome to.

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

7           MR. SULLIVAN: Yes. Thank you, Mr. Chair. So I'll run  
8 through the tests. I also wanted to point out, I believe we have  
9 -- there is an OP supplemental report in Exhibit 75 which I --  
10 what I believe was on the -- in support of the revised plans.  
11 Maybe that's the one that was just -- that was filed after the  
12 hearing though. Yeah, okay.

13           SO regarding the special exception criteria, there's  
14 three areas of relief. That's U 421. All new residential  
15 development, multi-family development in the RA-1 zone requires  
16 BZA approval and this is one of those projects that a year ago  
17 didn't require approval because it was an addition to a building  
18 and now it does because of the recent appeal.

19           And there are -- the other area of relief is for  
20 Voluntary Inclusionary Zoning and we are asking for side yard  
21 special exception. Again, that's 3 feet. The side yard requires  
22 3 feet because if you have a non-conforming yard, you can continue  
23 it at a width of 3 feet and only one side yard's required so  
24 that's just on the one side.

25           The general criteria for a special exception relief

1 applied to all three areas of relief and it's that the relief is  
2 within the spirit and intent of the regulations and does not  
3 adversely affect the use of neighboring property. On this, the  
4 size of the building, as mentioned, is -- now, when you look at  
5 that building when you saw the plan, you see three stories. It's  
6 technically three stories. It's the lower level and two stories  
7 above it.

8           When we were designing a new building, it was going to  
9 be that lower level plus three stories. So you would have seen  
10 four levels, or you did see four levels on that previous plan. So  
11 that's a level that went away. Now, because, essentially, we  
12 don't have a free level. Now, we don't have a level that's free  
13 of Gross Floor Area and so all of this had to be included in the  
14 calculation of FAR. So even though we increased it by having an  
15 IZ bonus, overall the massing has decreased quite a bit because  
16 almost the entire lower level was included in Gross Floor Area  
17 originally.

18           So because of the size of the building, because of the  
19 number of parking spaces, it's completely a matter-of-right and  
20 somewhat less than matter-of-right size structure. If we built  
21 new, we could build to 40 feet high. We could build four levels  
22 if you were building a single family or a flat. So for those  
23 reasons, we believe it meets the general criteria and does not  
24 adversely affect the use of neighboring property. I think you  
25 could throw the Tree Preservation Plan and the work that we've

1 done on that in that category as well.

2           Regarding the specific criteria, as it relates to -- of  
3 course, the IZ voluntary relief doesn't have any criteria for  
4 approval; no conditions. Specific conditions for the side yard  
5 relief are the -- that's where the light, and air, and privacy  
6 test come in and they shall not substantially visually intrude on  
7 the character, scale, and pattern of houses along the street.

8           It's a row house in a row house neighborhood and it's  
9 continuing back further as a row house, so for that reason it  
10 doesn't substantially visually intrude. Regarding privacy, and  
11 light, and air, there's no impact from that 3 feet because it's  
12 adjacent to an alley and it's merely 3 feet just for the addition  
13 not, of course, for the existing structure.

14           And then the specific criteria for U 421 for the  
15 establishment of new residential development itself, the criteria  
16 that the BZA "shall refer the application to the relevant District  
17 of Columbia agencies for comment and recommendation as to the  
18 adequacy of the following: A, Existing and planned area of  
19 schools to accommodate the number of students that can be expected  
20 to reside in the project." We did. We listed the schools  
21 available and because it's only four units, clearly, we would have  
22 no problem accommodating the number of students expected to reside  
23 in the project.

24           "B, Public streets, recreation, and other services to  
25 accommodate the residents that can be expected to reside in the

1 project." We're located within three blocks of three bus lines.  
2 The Georgia Avenue-Petworth Metro Station is 7/10ths of a mile  
3 away. We are providing four parking spaces which is three more  
4 than the requirement, and there are public recreation facilities  
5 including the Bruce Monroe Community Park at Georgia Avenue, N.W.  
6 and Irving Street, N.W. a mile-and-a-half away and the Park View  
7 Rec Center less than a mile away and Grant Circle Park, .3 miles  
8 away.

9 Section 421.3, "The BZA shall refer the application to  
10 the Office of Planning for comment and recommendation on the site  
11 plan, arrangement of buildings, and provisions of light, air,  
12 parking, recreation, landscaping, and grading." And I would, of  
13 course, refer to the Office of Planning report in satisfaction of  
14 that requirement. So those are the general and specific  
15 conditions for all three areas of relief.

16 CHAIRPERSON HILL: Okay.

17 MR. SULLIVAN: Questions? Thank you.

18 CHAIRPERSON HILL: All right. Thanks, Mr. Sullivan.

19 Does the Board have any questions of Mr. Sullivan?

20 Ms. John, do you have any questions of Mr. Sullivan?

21 VICE CHAIR JOHN: No, no questions at this time.

22 CHAIRPERSON HILL: Okay.

23 Ms. El-Amin, can you hear me?

24 MS. EL-AMIN: Yes, I can hear you.

25 CHAIRPERSON HILL: Nice to see you, Ms. El-Amin.

1 MS. EL-AMIN: Thank you. Nice to see you as well.

2 CHAIRPERSON HILL: So Ms. El-Amin, there are a variety  
3 of things that the applicant has gone ahead and spoken about. I  
4 know that it seemed to me as though one of the things you were  
5 most concerned about was the tree, but you can go ahead and either  
6 ask any questions of Mr. Sullivan and/or there also is -- so  
7 DDOT's on the phone and DDOT is the one who is charge -- who is  
8 the expert about the tree basically, right. They're with Urban  
9 Forestry. So I will be asking DDOT to give a presentation or at  
10 least get their opinion and then you get a chance to ask questions  
11 of everybody. Is there any questions that you have of Mr.  
12 Sullivan right now?

13 MS. EL-AMIN: Yes, I -- first, my arborist just received  
14 the new plans and Tree Protection Plan yesterday, so I don't have  
15 an updated report for him to provide to you guys. So my last  
16 report that I filed by my -- the deadline was respond to the  
17 earlier Tree Protection Plan that we said was not sufficient.

18 Second of all, I looked at the new plans and I do  
19 appreciate the new design. I will note that I raised it to them a  
20 little, Urban Forestry, that the new plat and the new design do  
21 not match. So I would like for them to match up because the new  
22 design pushes back the areaway to protect my tree by, I believe, 4  
23 feet on the cellar, bottom, level and it also relocates the  
24 parking for -- to take it out of the critical root zone, but the  
25 new plat does not represent that.

1           So that is still a concern for me and so that's my  
2 questions to Mr. Sullivan. I relayed my concerns to Mr. Malooly,  
3 and he said that he supports the design in the Tree Protection  
4 Plan and the new design, but he did not sign off on the new plat.

5           CHAIRPERSON HILL: Okay. Well, Ms. El-Amin, I'll see if  
6 I can find some clarification for that for you. The design that  
7 we, the BZA, approve is the design that you're looking at.

8           MS. EL-AMIN: Okay.

9           CHAIRPERSON HILL: Right. Like, they have to build what  
10 we approve and so --

11          MS. EL-AMIN: Okay.

12          CHAIRPERSON HILL: -- that's the design they have to  
13 approve.

14          Ms. Denby, can you hear me?

15          MS. DENBY: Yes, I can hear you. Sorry.

16          CHAIRPERSON HILL: No, that's okay. So, Ms. Denby, is  
17 Mr. Malooly with us now or Mr. Malooly, are you there?

18          MR. MALOOLY: Yeah, that's right. I'm here.

19          CHAIRPERSON HILL: Oh, great. Perfect. Mr. Malooly,  
20 could you introduce yourself for the record, please?

21          MR. MALOOLY: Yeah, sure. My name is Daniel Malooly.  
22 I'm an urban forester with DDOT Urban Forestry. Yeah, that's me.

23          CHAIRPERSON HILL: Okay. So Mr. Malooly or Ms. Denby,  
24 either one of you can go first or tell us. I mean, we're not the  
25 experts in tree protection and so you've had a chance to look at

1 | their plans, I assume, and we just want to make sure, and you can  
2 | maybe tell us how you got to this or if there's some way you can  
3 | explain to Ms. El-Amin how this tree now is going to be protected  
4 | and please go forward whenever you're ready.

5 |           MR. MALOOLY: Yeah, sure. I can speak on the plans  
6 | themselves and kind of any technical parts of tree preservation. I  
7 | think Sharon might know a little bit about -- more about the  
8 | particulars of the tree protection law than me, but yeah. We were  
9 | contacted by Ms. El-Amin and I inspected the tree with another  
10 | arborist in our department, I believe on January 5th or sometime  
11 | about there, and we measured the tree and we had looked at some  
12 | other tree protection plans that the developer had put together.

13 |           We found them lacking in a couple areas and we've kind  
14 | of been back and forth with the developer. They've altered some  
15 | things and made some changes. The final form that we -- that I  
16 | said I was okay with I looked at a couple evenings ago, but  
17 | basically in F 4310 there's a section of the critical root zone of  
18 | the tree which is, you know, from the base of the tree it extends  
19 | out kind of in a circle from the trunk 23 feet.

20 |           So they're going to protect with fencing to block out  
21 | any equipment. There's not going to be any digging. There's not  
22 | going to be any material stored in that area. They're going to  
23 | block off an entire area. In the plan, those are referenced as  
24 | the "Tree Protection Zone." So they're building like a tree  
25 | protection fence out of chain-link fence and nobody's going to be



1 | able to go in that area. So any roots that are in that area are  
2 | going to be protected and not disturbed.

3 | CHAIRPERSON HILL: Mr. Malooly?

4 | MR. MALOOLY: There was --

5 | CHAIRPERSON HILL: Mr. Malooly, let me interrupt you one  
6 | second.

7 | MR. MALOOLY: Sure.

8 | CHAIRPERSON HILL: Mr. Sullivan, where is all this that  
9 | he's talking about in the record?

10 | MR. SULLIVAN: The Tree Preservation Plan is --

11 | CHAIRPERSON HILL: I see the Tree Preservation Area.

12 | MR. SULLIVAN: The plan is -- it's in here, I know.  
13 | I'll find it.

14 | MR. LAM: Exhibit 85.

15 | CHAIRPERSON HILL: Okay. I got it. All right. Thank  
16 | you.

17 | All right. Mr. Malooly, please go ahead.

18 | And Ms. El-Amin, are you able to access Exhibit 85?

19 | MS. EL-AMIN: I have a copy of it on my phone, yes.

20 | CHAIRPERSON HILL: Okay. Great. Perfect.

21 | All right. Mr. Malooly, please continue.

22 | MR. MALOOLY: Yeah, sure. So one of the main things  
23 | they're doing is that Tree Protection Zone which, if you have that  
24 | open, it's the blue area. It's kind of a blue area on that plan  
25 | if we're looking at the same thing. You know, going from there,

1 | there's a yellow line where there's root pruning being done. I'm  
2 | reading that they've specified that it'll be done, you know,  
3 | using, you know, basically to certain standards. Like they're not  
4 | going to use an excavator and just tear up roots in that area.  
5 | They're going to make a clean root pruning cut where construction  
6 | and excavation is taking place.

7 |           The reason you want to do that is so when you take an  
8 | excavator and you're just pulling up soil, you can grab roots and  
9 | rip them back even all the way to the trunk and into Ms. El-Amin's  
10 | property, so they're going to cut them cleanly so that doesn't  
11 | happen.

12 |           There's other areas where they're building it looks like  
13 | a deck, and stairs and, landing where they're not going to be  
14 | doing an excavation. They're just going to be pouring -- they're  
15 | just going to be making concrete footers and those are going to be  
16 | done by hand it's specifying and they're going to put down  
17 | woodchips to prevent compaction to the soil which is when like if  
18 | you're just driving a lot of heavy equipment and there's a lot of  
19 | boots moving back and forth that could compact the soil and hurt  
20 | roots. So they're going to put down mulch to kind of ease some of  
21 | that pressure.

22 |           The tree is going to have to be pruned, so they're going  
23 | to do that to ANC standards under the direction of an arborist.  
24 | There's a list of specifications that they're going to go work by  
25 | and those are included within the plan that they've presented to

1 us. There's also going to be a pre-construction meeting that  
2 they'll invite me to or invite an Urban Forestry arborist to that  
3 will attend and that'll be with, you know, the construction crew  
4 and then also the site manager, and myself or another UFA  
5 arborist.

6 CHAIRPERSON HILL: One second, Ms. El-Amin. I'll get to  
7 you.

8 MR. MALOOLY: Uh-huh.

9 CHAIRPERSON HILL: Go ahead, Mr. Malooly.

10 MR. MALOOLY: Yeah, so that's pretty much it. I didn't  
11 really prepare a presentation on this. This isn't really a plan  
12 that I have come up with. It's something that was created by the  
13 developer and then we kind of looked at it --

14 CHAIRPERSON HILL: That's okay.

15 MR. MALOOLY: -- and said that, yes --

16 CHAIRPERSON HILL: This is --

17 MR. MALOOLY: Yes, it is --

18 CHAIRPERSON HILL: This is great. This is more than  
19 we've ever seen before to be quite honest.

20 Ms. El-Amin, you had a question for Mr. Malooly?

21 MS. EL-AMIN: Yes, I just have a quick question. You  
22 mentioned that the pruning has to be to ANC standard by an  
23 arborist. Is that the same for the cutting of the roots?

24 MR. MALOOLY: I'm not sure if it's mentioned on here "to  
25 ANC standards." That's like a pruning standard that gets used.

1 I'm sorry, I'm just reading this plan here. I hadn't -- yeah. I  
2 mean, they specify that they're going to use a root pruning saw or  
3 a, you know, vibratory plow or knife, or hand-digging, or if a  
4 trencher is going to be used that all roots encountered will be  
5 cut cleanly and evenly with a sharp pruning saw.

6 So they're going to do those with any of those tools  
7 that are specified. We would also be having that pre-construction  
8 meeting, so I could go over some other methods they could use.  
9 But, you know, it specified in there that they're not just going  
10 to use an excavator and just rip up the roots. That's the main  
11 concern.

12 MS. EL-AMIN: I understand that. I was just curious  
13 because I'm not an arborist. So anyone can cut, prune, roots?  
14 You don't have an be an arborist special to cut the -- prune the  
15 roots or cut the roots is what I'm trying to get an understanding  
16 of.

17 MR. MALOOLY: Yeah. I mean, I guess if they're doing it  
18 to those standards, I would be comfortable with that. I guess I  
19 would be more comfortable if an arborist was directing it, but  
20 that wasn't specified in this plan, but --

21 MS. EL-AMIN: Okay.

22 MR. MALOOLY: -- main goal is to prevent an excavator  
23 from ripping those back to the trunk. That's the main goal of the  
24 root pruning and have the cuts made cleanly.

25 CHAIRPERSON HILL: But Mr. Malooney (sic) -- Malooney?

1 Malooly, you mentioned again you have a pre-construction meeting  
2 with them?

3 MR. MALOOLY: Yes. Yeah, that's specified in their Tree  
4 Protection Plan. It says, "Prior to any construction, a pre-  
5 construction meeting with a DDOT" --

6 CHAIRPERSON HILL: Right.

7 MR. MALOOLY: -- "is required" --

8 CHAIRPERSON HILL: Okay.

9 MR. MALOOLY: -- so.

10 CHAIRPERSON HILL: Okay.

11 Ms. El-Amin, do you have any more questions for DDOT?

12 MS. EL-AMIN: No, I do not.

13 CHAIRPERSON HILL: Okay. Do you have any more questions  
14 for the applicant?

15 MS. EL-AMIN: I would just ask if my arborist can also  
16 attend the meetings as well, the arborist that cares for my tree.

17 CHAIRPERSON HILL: Mr. Sullivan, did you hear that?

18 MR. SULLIVAN: Yes, of course.

19 CHAIRPERSON HILL: Is that fine with you?

20 MR. SULLIVAN: Yeah.

21 CHAIRPERSON HILL: Okay. All right. So, Ms. El-Amin,  
22 they'll go ahead and invite your arborist as well to that pre-  
23 construction meeting. And I guess, Mr. Sullivan, you can invite,  
24 you know, at the pre-construction meeting whatever there is that  
25 the arborist thinks that they -- if Ms. El-Amin wants to have her

1 arborist also attend those meetings, you're comfortable with that?

2 MR. SULLIVAN: (No audible response.)

3 CHAIRPERSON HILL: You're nodding your head yes for the  
4 record.

5 MR. SULLIVAN: Yeah, yeah.

6 CHAIRPERSON HILL: Okay. All right. Let's see.

7 Commissioner, did you have anything you'd like to add?

8 COMMISSIONER GOODMAN: In question to DDOT or the  
9 applicant?

10 CHAIRPERSON HILL: Well, Commissioner, you, as you know  
11 this, like you have an opportunity to present. I mean, I got a  
12 long day ahead of me, you guys. I gotta let you know. You're  
13 just the first case, right. I'm not even on my real commissioner  
14 yet. Shapiro is only here for -- Mr. Shapiro is only here for  
15 this one case. So what I'm trying to ask you, Commissioner, you  
16 get a chance to present, ask questions --

17 COMMISSIONER GOODMAN: Yeah.

18 CHAIRPERSON HILL: -- what have you. Is there anything  
19 you'd like to add?

20 COMMISSIONER GOODMAN: Yeah, thank you. Real quick and  
21 then I'll let you go --

22 CHAIRPERSON HILL: Sure.

23 COMMISSIONER GOODMAN: -- and we'll move on.

24 CHAIRPERSON HILL: Sure. Go ahead.

25 COMMISSIONER GOODMAN: I'll just -- I'll skip ahead

1 since you've heard all of this. I just wanted to note for the  
2 record that the majority of the community is opposed to this  
3 project and outcomes of the increased density on the lot. Many of  
4 the neighbors had expressed concerns about this Tree Protection  
5 Plan. The ANC is supporting this project.

6           Knowing that, I just want to make sure that for why --  
7 that the ANC recognizes that the RA-1 zone doesn't necessarily  
8 provide for these protections and regulations. As such, we  
9 acknowledge that the applicant could build bigger within FAR and  
10 GAR without addressing many of these requests, so we have to  
11 decide if the risks of opposing this would lead to a new applicant  
12 building larger, adding more density, removing more off-street  
13 parking, and not negotiating to the extent that the applicant has.

14           And we found that the risk is high and thus our  
15 agreement to support this application contains conditions to  
16 address many of these items. The applicant has met all of these  
17 and we appreciate, as you mentioned, like of the extensive work  
18 with Urban Forestry and DDOT on this plan which is not common for  
19 these projects.

20           And just I'll wrap up in saying that I hope we can  
21 potentially work with the Zoning Commission to look at some of  
22 these backlog of RA-1 cases and do something to address the  
23 requirements that all cases require a special exception. Simply  
24 saying an exception is required and finding no regulations about  
25 what is or not permissible makes it really difficult for our

1 communities when these projects are happening.

2 Had the applicant not acted in good faith with  
3 negotiations, we could have seen a much larger project here, but  
4 no guidance from Zoning Regulations about what essentially matter-  
5 of-right. I really hope we can clean that up and make these  
6 meetings a lot more efficient for everyone going forward.

7 With that, the ANC does support this understanding that  
8 the community is not opposed, but we appreciate the applicant's  
9 considerable conditions and working with us to get to a good  
10 point.

11 CHAIRPERSON HILL: Okay.

12 COMMISSIONER GOODMAN: That's all I got. I appreciate  
13 it.

14 CHAIRPERSON HILL: Okay. No, that's cool.  
15 Commissioner, what is it again that you're saying that you want to  
16 try to get the Zoning Commission to clean up?

17 COMMISSIONER GOODMAN: RA-1. Just the request that  
18 every case has to come through a special exception without any  
19 kind of matter-of-right definitions within this. This is now  
20 what, I think, my fourth case with you in three months on these  
21 RA-1 cases and we just would like to be able to convey to a  
22 community. I'll tell you, we about an RF-1. It is very clear what  
23 is matter-of-right and what is special exception. It's written in  
24 regulations. RA\_1 is any new building has to come to a special  
25 exception without any kind of further regulations outside of an



1 FAR or GAR, so I would just like to see a lot more clarity around  
2 that so that the community understands what they can ask for and  
3 what's reasonable for them to say, "This is now allowable. This  
4 is permissible."

5 CHAIRPERSON HILL: Okay. You can go ahead and, you  
6 know, the Commissioner can pass that along to the Zoning  
7 Commission.

8 COMMISSIONER SHAPIRO: Yes. It's noted, Commissioner  
9 Goodman. I appreciate it.

10 CHAIRPERSON HILL: Okay. All right. So let's see. Ms.  
11 El-Amin, do you have any questions for the Commissioner?

12 MS. EL-AMIN: I do not.

13 CHAIRPERSON HILL: Okay. Mr. Sullivan, do you have any  
14 questions?

15 MR. SULLIVAN: No, thank you.

16 CHAIRPERSON HILL: Okay.

17 Okay. Mr. Cochran, do you have anything you'd like to  
18 add one way or the other?

19 MR. COCHRAN: Yes, sir. Sorry, but it'll be brief.  
20 We recommended approval of the applicant's previous proposal in  
21 this case for that new larger five-unit three-story apartment  
22 building on the site and we're now recommending approval of the  
23 conversion of the existing single-family dwelling to a two-story  
24 apartment building with an IZ unit which would include an addition  
25 to the rear of the building and that addition would be less tall,

1 less deep, and more stepped back at the second story than the  
2 previous proposal.

3 Our report at Exhibit 50 analyzes the new proposal as if  
4 it were a completely new application, and specifically OP  
5 recommends the Board approve the special exception for the  
6 proposed new residential development in the RA-1 zone, the special  
7 exception from the 3-foot side yard requirement, and the Voluntary  
8 Inclusionary Zoning unit.

9 Most of the previous testimony we've given on this case  
10 applies to the updated project. I just wanted to note, however,  
11 that the revised projects would generate less shadowing than had  
12 been indicated for the earlier proposal on page 10 of Exhibit 32  
13 and as with the previous proposal, less than might occur with a  
14 by-right addition if the building had remained a single-family  
15 house. But for this more recent proposal, the applicant has  
16 chosen not to submit a revised Shadow Study that would have  
17 demonstrated that there's less impact from the new proposal than  
18 from the last.

19 You also admitted several documents into the record  
20 today. The revised plan including minor changes to the plans that  
21 were submitted at Exhibit 67C. Sheet 4 of the most recent plans,  
22 the ones that you submitted today, moves the 4 HVAC units that had  
23 been in the backyard onto the unoccupied roof at the back of the  
24 second floor.

25 And since there wouldn't be any access to that part of

1 the roof from the second floor except for maybe an HVAC or roof  
2 repairman using a ladder, there shouldn't be any potential impact  
3 on the privacy of use of nearby properties from having that open  
4 portion of the first-floor roof at the back of the second floor.  
5 That's relevant to something else that was added into the record  
6 by someone else.

7           Also on Exhibit 67 on the most recent drawings, they've  
8 labeled what's actually the roof as the third floor. It's  
9 actually the roof. So that's it. That's just a mistake in their  
10 drawings and that's our testimony.

11           CHAIRPERSON HILL: Okay. Great. Thank you, Mr.  
12 Cochran.

13           Does the Board have any questions for the Office of  
14 Planning?

15           (No response.)

16           CHAIRPERSON HILL: Ms. El-Amin, do you have any  
17 questions for the Office of Planning?

18           MS. EL-AMIN: I do not.

19           CHAIRPERSON HILL: Commissioner, do you have any  
20 questions for the Office of Planning?

21           COMMISSIONER GOODMAN: No, thank you.

22           CHAIRPERSON HILL: Mr. Sullivan, do you have any  
23 questions for the Office of Planning?

24           MR. SULLIVAN: No, thank you.

25           CHAIRPERSON HILL: Ms. John, I know you're on the phone.

1 Can you hear me?

2 VICE CHAIR JOHN: Yes. I can hear you, Mr. Chairman. I  
3 have no questions.

4 CHAIRPERSON HILL: Oh, Mr. Young, is there anyone here  
5 wishing to testify?

6 MR. YOUNG: We do not.

7 CHAIRPERSON HILL: Okay.

8 Mr. Sullivan, is there anything you'd like to add at the  
9 end?

10 MR. SULLIVAN: Yes, because unfortunately I have to add  
11 one small wrinkle after -- as if we haven't had enough. Ms. El-  
12 Amin's absolutely right. The plat in the area -- where the  
13 areaway is doesn't match the site plan I discovered when she made  
14 that comment. So it's a minor revision to the plat in relation to  
15 the Tree Preservation Plan.

16 And so we'd like to -- if the Board saw fit to approve,  
17 we would like to be able to submit that and it would match the  
18 site plan. So the site plan that you saw is correct in the area  
19 of the areaway next to her property. The plat needs to be  
20 corrected in that area.

21 CHAIRPERSON HILL: So you need to submit a revised plat?

22 MR. SULLIVAN: We do.

23 CHAIRPERSON HILL: Okay. To match what again?

24 MR. SULLIVAN: The site plan that was on -- in the plans  
25 and --

1 COMMISSIONER SHAPIRO: It's in these.

2 MR. SULLIVAN: 84. It's going to be 84.

3 CHAIRPERSON HILL: To match Exhibit 84?

4 MR. SULLIVAN: Yes.

5 CHAIRPERSON HILL: Okay. And how long would that take  
6 you to do?

7 MR. SULLIVAN: A day.

8 MR. CRAIN: A couple hours.

9 MR. SULLIVAN: We could do it today.

10 CHAIRPERSON HILL: Okay. All right. And so you are  
11 comfortable with the condition that we include the -- how come  
12 we're still (audio interference) exhibit numbers up -- the Tree  
13 Protection Plan in Exhibit 85, correct?

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

15 CHAIRPERSON HILL: Mr. Sullivan? I'm sorry.

16 MR. SULLIVAN: Yes.

17 CHAIRPERSON HILL: Okay. Okay. Ms. El-Amin, we'd be  
18 adding that as a condition which means they have to do it. Okay?  
19 Let's see. All right. I don't think -- OAG, you didn't have any  
20 conditions, right? And ANC, you didn't have any conditions other  
21 than that Tree Protection Plan.

22 COMMISSIONER GOODMAN: No, sir.

23 CHAIRPERSON HILL: Okay. All right. I love it. OAG.  
24 I meant so say OP, but I got OAG, and they answered the question  
25 anyway which is great. All right. All right. Does anybody have

1 any questions?

2 (No response.)

3 CHAIRPERSON HILL: Okay. I'm going to go ahead and  
4 close the record and close the hearing and excuse everyone. Thank  
5 you all, very much.

6 MS. EL-AMIN: Thank you.

7 CHAIRPERSON HILL: Oh, I meant to thank the Office of --  
8 I'm sorry, DDOT. I meant to thank DDOT. Thank you DDOT for  
9 coming.

10 COMMISSIONER SHAPIRO: Of course, that -- Mr. Chair,  
11 that was very helpful to have DDOT there.

12 CHAIRPERSON HILL: Yeah. No, I mean -- well, I mean  
13 this is the most time I've ever seen such a detailed Tree  
14 Protection Plan.

15 COMMISSIONER SHAPIRO: Yeah.

16 CHAIRPERSON HILL: You know?

17 COMMISSIONER SHAPIRO: Yeah.

18 CHAIRPERSON HILL: I mean, it's kind of ruined everybody  
19 else now because now I'm going to be like, "No, where's your  
20 really outlined Tree Protection Plan?" So --

21 COMMISSIONER SHAPIRO: The bar is high.

22 CHAIRPERSON HILL: -- in any case. Yeah, it really is a  
23 high bar now. I'm going to go ahead and start and then go around  
24 the table. I actually -- after hearing -- it took us a while to  
25 get through it, but after getting through the revised plans, I

1 understand the argument that the Applicant is putting forward in  
2 terms of how they're meeting the standard. I would agree with  
3 their argument.

4 I would also agree with the Office of Planning's  
5 argument concerning the revised plans. I think that part of it,  
6 not that it -- the only thing about the Shadow Study that I didn't  
7 necessarily need is that this could be done as a -- this could be  
8 done as a larger project, right. So I thought I didn't need any  
9 more revised Shadow Study from this. I'm glad that the issue  
10 about the party status person and the tree protection, I believe,  
11 has been addressed.

12 I also think that, you know, they're providing the four  
13 parking spaces, so I was happy to see that. And in terms of the,  
14 again, the side yard, the residential development, and the IZ  
15 requirements, I do think that they have met all of the criteria  
16 for us to grant the application, so I am going to be voting to  
17 approve.

18 Mr. Shapiro, do you have any comments?

19 COMMISSIONER SHAPIRO: Sorry about that, Mr. Chair.  
20 It's a procedural question. I just want to make sure that I --  
21 the Urban Forestry Division's, their work, the updated Tree  
22 Protection Plan seemed excellent. I just want to make sure that  
23 adding that as a condition is within our purview.

24 CHAIRPERSON HILL: Sure. Mr. Rice?

25 MR. RICE: So it would be within your purview to add a

1 condition related to the Tree Protection Plan in so far as you're  
2 -- you have the authority to impose conditions to protect adjacent  
3 properties. When I spoke to DDOT, they informed me that their  
4 enforcement ability of the Urban Forestry Preservation Act of 2002  
5 and the Canopy Protection Amendment to the 2016 is independent of  
6 any condition that you guys impose.

7 So as to avoid like duplication or enforcement  
8 confusion, it might be a good idea to just note that DDOT, you  
9 know, appeared and found that they were protected by, you know,  
10 those laws and that there was a plan in place that they would  
11 enforce.

12 COMMISSIONER SHAPIRO: So the --

13 MR. RICE: That way it's not pulling it into the --

14 COMMISSIONER SHAPIRO: So it might be better to  
15 reference it rather than have it be a condition?

16 MR. RICE: Yes, sir.

17 CHAIRPERSON HILL: Oh, you guys. Why you guys got to  
18 complicate my life? So what's the problem with the duplication,  
19 Mr. Rice, because the reason why I'm asking this, right, is I  
20 think this is within our ability in terms of what we're supposed  
21 to do, right, with the next door neighbor and protecting their  
22 rights, et cetera. I'm comfortable with the plan that I've seen,  
23 right, and so --

24 MR. RICE: Yes.

25 CHAIRPERSON HILL: And so if we can use it as a



1 condition --

2 MR. RICE: I mean, it's completely within your  
3 authority, but --

4 CHAIRPERSON HILL: -- I'd rather leave it as -- pardon  
5 me?

6 MR. RICE: I was saying it's completely within your  
7 authority, sir.

8 CHAIRPERSON HILL: Okay. So I'd like it as a condition.  
9 I liked it. I thought it was great. Okay. I got the thumbs up.  
10 Okay. Mr. Shapiro, you got anything else?

11 COMMISSIONER SHAPIRO: No, sir. No, sir.

12 CHAIRPERSON HILL: Okay. Mr. Smith?

13 BOARD MEMBER SMITH: Mr. Chairman, I don't have anything  
14 to add. I agree with everything that was said by you and Mr.  
15 Shapiro, and I would just say kudos to Ms. El-Amin for really  
16 being on it and diligent in reaching out to the Urban Forestry  
17 Division to get a second opinion, to start the ball going to get a  
18 second opinion and to begin the dialogue between D.C. Forestry and  
19 the applicant, and I think kudos to her good work for pushing the  
20 applicant to provide a better product at this hearing. So with  
21 that, I would support the special exception.

22 CHAIRPERSON HILL: Well, yeah. Absolutely, Mr. Smith.  
23 I mean, this actually -- you know, if the neighbor wasn't paying  
24 attention something different probably would have happened.

25 Ms. John?

1           VICE CHAIR JOHN: So I agree with the analysis of how  
2 the applicant is meeting the criteria for the new residential  
3 development and the special exception for the IZ unit and for the  
4 side yard. I am not on board in making the Tree Preservation Plan  
5 a condition because I believe OAG is correct, that it is really  
6 not within our jurisdiction and that by referencing the plan it  
7 takes it out of the responsibility out of the Board to enforce  
8 conditions that is in the order.

9           So I agree with everything else except -- and I know you  
10 like the plan, Mr. Chairman, and it really is quite impressive. I  
11 looked at it last night when I had internet and cable connection,  
12 but I think that this sets the Board up for now having in-depth  
13 hearings on tree preservation which is not within our jurisdiction  
14 and so that would be my only caveat in terms of what has been  
15 said. So I would end it there.

16           CHAIRPERSON HILL: Okay. Well, this would -- and Ms.  
17 John, I appreciate it and I'm sorry that I can't actually see your  
18 face today. OAG is saying that it is within our purview and it is  
19 within our rights to do it. At least that's what I thought OAG  
20 said. OAG is also saying that it's duplicative and that really  
21 what would supersede is the rules of tree protection in DDOT.

22           And before I let OAG speak, and the reason, Ms. John,  
23 that I'm even giving you any kind of pushback is that I just feel  
24 more comfortable with the understanding of what we've gone through  
25 and the work that Ms. El-Amin has done, and I'd just like to see

1 | it in the record. And if we come up against another issue where  
2 | in the future we're trying to define or determine whether or not  
3 | it's within the Board's purview, I mean, we can look at each case  
4 | individually as we do and then determine at that point that this  
5 | isn't really for us because it's not the adjacent neighbor or it's  
6 | not something that really is within the standard that we're  
7 | reviewing and that we would leave it up to -- maybe it's three  
8 | houses down or something. I don't know.

9 | I mean, it's because it's the adjacent neighbor, and  
10 | that I just feel comfortable with this plan, and that OAG seemed  
11 | to say that we could do this and it would just be duplicative, but  
12 | I'm going to let OAG talk next and then we can go around the table  
13 | and if I lose, I lose.

14 | Mr. Rice?

15 | MR. RICE: So the condition is not -- the condition  
16 | would fall squarely within your authority under X 901.4 to impose  
17 | requirements pertaining to design, appearance, screening,  
18 | landscaping, et cetera as you deemed necessary to protect adjacent  
19 | or nearby properties. And my comment, as I said earlier, is, you  
20 | know, there are laws on the books that will enforce these through  
21 | DDOT. So you are correct, Mr. Chair, it would be duplicative, but  
22 | it is within your authority to impose the condition under X 901.4.

23 | CHAIRPERSON HILL: Ms. John, did that change your mind?

24 | VICE CHAIR JOHN: Actually, no because the Tree  
25 | Preservation Plan, the -- let me see if I can say that. I don't

1 want to have a lengthy discussion about that. I will defer to  
2 OAG, but in this case we're protecting the roots on the neighbor's  
3 property and there is no issue with respect to light, air, or  
4 privacy coming from the location of the tree, at least I didn't  
5 hear that discussion, but -- and I agree with you, Mr. Chairman,  
6 that it is an excellent plan, but I think that benefit can be  
7 achieved by referencing the plan and I don't see how the Board  
8 enforces this plan.

9 So I think it's a construction issue. It's not a zoning  
10 issue. It's that the construction must be undertaken in such a  
11 way that it does not harm the tree root system or -- yeah, that it  
12 doesn't harm the tree root system. So I would just leave it  
13 there. I don't want to make a major issue out of this. If  
14 everybody else thinks it should be included as a condition, then  
15 I'm outvoted, and I can live with that.

16 CHAIRPERSON HILL: Okay. I don't mind.

17 VICE CHAIR JOHN: (Audio interference).

18 CHAIRPERSON HILL: I don't mind being outvoted either.  
19 I don't mind being outvoted either.

20 So Mr. Smith, where are you?

21 BOARD MEMBER SMITH: Based on the opinion of Mr. Rice, I  
22 do believe it's within our purview, so I am comfortable with  
23 conditioning the Tree Preservation Plan with the special  
24 exception?

25 CHAIRPERSON HILL: Mr. Shapiro?

1 COMMISSIONER SHAPIRO: Yeah, just a further  
2 clarification with Mr. Rice. I was taken up in something that  
3 Vice Chair John said. So, I mean, the piece that it's about how  
4 to take care of the roots on the applicant's property, but to Vice  
5 Chair John's point, that still feels like a construction issue.  
6 So I'm confused about why it is within our purview. You know, I  
7 have the same dilemma. I love this plan and I'm where Vice Chair  
8 John is which is --

9 CHAIRPERSON HILL: Give me a second. Give me a second.

10 Mr. Rice, can you site the regulation again that you're  
11 hanging your hat on on this one because I'm looking at the regs.

12 MR. RICE: (No audible response.)

13 COMMISSIONER SHAPIRO: You're on mute.

14 CHAIRPERSON HILL: Oh, sorry.

15 COMMISSIONER SHAPIRO: No, not you. Mr. Rice.

16 CHAIRPERSON HILL: Oh.

17 MR. RICE: X 901.4, sir.

18 CHAIRPERSON HILL: Well, I thought I had it in front of  
19 me. Okay. Go ahead and answer Mr. Shapiro's question.

20 MR. RICE: So typically you would be conditioning relief  
21 based -- you know, conditions to be based upon the relief that  
22 you're affording and then the adverse impacts that the, you know,  
23 relief creates. However, under X 901.4 in the instance of the  
24 special exception, you have the additional authority to, quote,  
25 "impose requirements pertaining to design, appearance, size,

1 signs, screening, landscaping, lighting, building materials, or  
2 other requirements it," as in you, the BZA, "deems necessary to  
3 protect adjacent or nearby properties or to ensure compliance with  
4 the intent of the Zoning Regulations."

5 So what I'm saying is you could impose the condition  
6 under the Regulation X 901.4, and you would be noting that it is,  
7 you know, as applied to what is on the applicant's property.  
8 Obviously, you can't impose conditions that are on another  
9 property.

10 COMMISSIONER SHAPIRO: Then this -- under that section  
11 it would be the "other" impacting what's on the neighbor's  
12 property. Those are the two pieces that you would pull out of  
13 what you read?

14 MR. RICE: Correct. It would be that you are deeming  
15 that that requirement is necessary to protect adjacent or nearby  
16 property.

17 COMMISSIONER SHAPIRO: So, Mr. Chair, if we can -- if we  
18 do include this, can we make sure that we're including this in  
19 reference to that specific reg?

20 CHAIRPERSON HILL: Yeah, I'm looking at it. You guys  
21 are -- yes, yes. Mr. Shapiro, you want to stay with us the whole  
22 day? Okay. All right. Yeah, I got it. So right, X 901.4. I'm  
23 looking right at it, right, and it's exactly what he just said.  
24 Okay? And so what are you voting, Mr. Shapiro? Are you voting to  
25 include it or not?

1 COMMISSIONER SHAPIRO: Including it with precision  
2 around why we're including it which is the --

3 CHAIRPERSON HILL: X 901.4.

4 COMMISSIONER SHAPIRO: Right. But the piece --

5 CHAIRPERSON HILL: Okay.

6 COMMISSIONER SHAPIRO: -- that is relevant to this --  
7 well, it doesn't matter. As long as you're referencing that, it's  
8 fine with me.

9 CHAIRPERSON HILL: Okay.

10 Ms. John --

11 COMMISSIONER SHAPIRO: I'm fine voting --

12 CHAIRPERSON HILL: -- you're getting outvoted; is that  
13 okay?

14 VICE CHAIR JOHN: That's perfectly fine, Mr. Chairman.

15 CHAIRPERSON HILL: Okay. All right.

16 VICE CHAIR JOHN: I still think that we can follow-up  
17 for greater clarity on 901, X 901.4, at a later date just for my  
18 understanding, but I'm fine with including it with that specific  
19 reference because remember also that the applicant is really  
20 asking for side yard relief which is on the south side. That side  
21 yard relief is not impacting the neighbor in terms of light,  
22 privacy, and -- yeah. So anyway, I'm prepared to move on, Mr.  
23 Chairman. We have a very long day.

24 CHAIRPERSON HILL: That's okay. Yeah, okay. Then let's  
25 -- we'll -- we can find further clarity on X 901.4 in terms of,

1 | you know, again, I'm looking at landscaping's mentioned there,  
2 | but, you know, to protect -- anyway, so. And usually that's like  
3 | a fence or -- not a fence. Usually it's like, you know, tall  
4 | trees that we're talking about, right. So, but --

5 | VICE CHAIR JOHN: Right.

6 | CHAIRPERSON HILL: -- nonetheless --

7 | MR. RICE: And Mr. Chair, if I could --

8 | CHAIRPERSON HILL: Okay, great.

9 | MR. RICE: If I could offer a reminder, the applicant  
10 | did agree to a condition that they would submit a revised plan,  
11 | the plat, within a day that matches Exhibit 84.

12 | CHAIRPERSON HILL: Yeah, thanks. I wasn't going to make  
13 | it a condition. I was just going to leave the record open for it.

14 | MR. RICE: Yep.

15 | CHAIRPERSON HILL: Okay. All right. Okay. All right.  
16 | I'm going to make a motion to approve Application No. 20313 as  
17 | captioned and read by the secretary to include Exhibit 85 which is  
18 | the landscaping plan per the Board's understanding that allows us  
19 | to under Regulation X 901.4 as well as leaving the record open so  
20 | that the applicant can submit a revised plat to match Exhibit 84.  
21 | And I would like to specify that in the condition, the applicant  
22 | has agreed to invite the party status arborist to the meeting, the  
23 | initial meeting and all subsequent meetings, that involve the tree  
24 | and ask for a second. Ms. 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?

3 MR. ANDREWS: Yes, Mr. Chair. When I call your name,  
4 would you please respond with a yes, no, or abstain to the motion  
5 made by Chairman Hill to approve the relief requested. The motion  
6 was seconded by Vice Chair John to approve. Zoning Commissioner  
7 Shapiro?

8 COMMISSIONER SHAPIRO: Vote yes.

9 MR. ANDREWS: Mr. Smith?

10 BOARD MEMBER SMITH: Yes.

11 MR. ANDREWS: Chairman Hill?

12 CHAIRPERSON HILL: Yes.

13 MR. ANDREWS: Vice Chair John?

14 VICE CHAIR JOHN: Yes.

15 MR. ANDREWS: We have a Board seat vacant. Staff will  
16 record the vote as 4 to 0 to 1 and this motion is made by Chairman  
17 Hill to approve the relief requested. The motion was seconded by  
18 Vice Chair John to approve. Also in support was Zoning  
19 Commissioner Shapiro and Mr. Smith. The motion carries as 4 to 0  
20 to 1 to approve.

21 CHAIRPERSON HILL: Thank you, Mr. Andrews.

22 VICE CHAIR JOHN: Mr. Chairman, could we --

23 CHAIRPERSON HILL: All right, Mr. Shapiro.

24 Ms. John?

25 VICE CHAIR JOHN: Can we take a five-minute break? I

1 might need to --

2 CHAIRPERSON HILL: Yeah, yeah.

3 VICE CHAIR JOHN: -- (audio interference).

4 CHAIRPERSON HILL: We're going to take a 10-minute  
5 break.

6 VICE CHAIR JOHN: Thank you.

7 CHAIRPERSON HILL: Okay. Let's see. So Mr. Andrews,  
8 can you hear me?

9 MR. ANDREWS: Yes, sir.

10 CHAIRPERSON HILL: I believe that we, at the last time  
11 had asked -- we had promised that we were going to hear 20359  
12 earlier and so I'm trying to see what 23059 is. Okay. Wow. So  
13 23059 is like a big one. Mr. Shapiro, did we lose you?

14 COMMISSIONER SHAPIRO: (No audible response.)

15 CHAIRPERSON HILL: We did. All right. Mr. Smith, then  
16 I guess we're going to hear 20359 next. Mr. Andrews, can you hear  
17 me?

18 MR. ANDREWS: Yes, sir. That's correct.

19 CHAIRPERSON HILL: Okay. Great. And then, Mr. Smith,  
20 we're going to go ahead and do that.

21 Mr. May, we're taking a break. How are you doing,  
22 Commissioner? Were you watching, Commissioner?

23 COMMISSIONER MAY: More like listening.

24 CHAIRPERSON HILL: Listening? I was going to harass  
25 your colleague, Commissioner Shapiro, but he got off the phone

1 before I could do so if he even wanted to stay longer with us, but  
2 nonetheless. All right. Okay. I'm going to go ahead and take my  
3 10-minute break then and we'll be back. All right? Thank you.

4 VICE CHAIR JOHN: Thank you. Thank you.

5 (Whereupon, the above-entitled matter went off the  
6 record at 11:04 a.m. and reconvened at 11:15 a.m.)

7 CHAIRMAN HILL: All right. Mr. Andrews, can you hear  
8 me?

9 (No verbal response)

10 CHAIRMAN HILL: Well, Ms. John, you're still kind of  
11 breaking up a little bit there, so we'll see how it goes.

12 VICE CHAIR JOHN: Okay. I'm using cellular data, so  
13 let's see how that works.

14 CHAIRMAN HILL: Okay.

15 VICE CHAIR JOHN: There's nothing working, no cable, no  
16 internet, in this house.

17 CHAIRMAN HILL: Okay. All right. Mr. Andrews, can you  
18 introduce yourself for the record, Mr. Andrews.

19 MR. ANDREWS: Yes, Chairman.

20 I'm Don Andrews with the Board of Zoning Adjustments. I  
21 do the intake (audio interference). I'm filling in for Mr. Moy  
22 today.

23 Good morning, everyone, or, yes, it's still good  
24 morning.

25 CHAIRMAN HILL: Good morning. Good morning.

1 And we have Commissioner Peter May joining us.

2 Mr. Andrews, could you please go ahead and read into our  
3 next case.

4 MR. ANDREWS: Yes, sir.

5 Application Number 20359 of 1301 West Virginia, LLC.

6 As amended, pursuant to 11 DCMR Subtitle X, Chapter 9,  
7 for a special exception under the residential conversion  
8 requirements of Subtitle U, Section 320.2, to convert the existing  
9 principal dwelling unit into a three-unit apartment house in the  
10 RF-1 Zone at premises 1301 West Virginia Avenue, N.E. (Square  
11 4064, Lot 75).

12 CHAIRMAN HILL: Let me see who we've got.

13 Mr. Williams, can you hear me?

14 MR. WILLIAMS: Yes, I can.

15 CHAIRMAN HILL: Could you introduce yourself for the  
16 record, please.

17 MR. WILLIAMS: Yes, Zach Williams, a land-use attorney  
18 with Venable, representing the Applicant.

19 CHAIRMAN HILL: Okay. Ms. Cain, are you there?

20 MS. CAIN: Yes, I'm here.

21 CHAIRMAN HILL: Okay. Maybe you can help me keep track  
22 of some of the party status people if I kind of lose my way here,  
23 because I don't have them all individually listed as to who they  
24 are.

25 And I think, is Ms. Ferster with us?

1 (No verbal response)

2 CHAIRMAN HILL: Ms. Cain, do you have the list of who we  
3 granted party status to?

4 MS. CAIN: Yes, give me just a second here. So, you  
5 granted party status to Ms. Albury Dale or -- sorry -- Ms. Albury,  
6 who is represented by her daughters, Ms. Albury Dale and  
7 Ms. Featherstone. Those are the individuals who have engaged  
8 Ms. Ferster to represent them as their legal counsel.

9 You did also grant party status to Karen Durbin and to  
10 Holy Name Catholic Church.

11 CHAIRMAN HILL: Okay. Great.

12 I don't see Ms. Ferster yet.

13 Ms. Albury, can you hear us?

14 MS. LOTTIE ALBURY: Yes.

15 CHAIRMAN HILL: Ms. Albury, maybe you have two audios  
16 going. Maybe you turn off -- either mute your phone or mute your  
17 computer audio. That might be helpful for a second.

18 And I'm going to keep going around the table.

19 Ms. Durbin, are you there?

20 MR. HOFFMAN: Ms. Durbin won't be able to attend. She  
21 let me know this morning.

22 CHAIRMAN HILL: Okay. And who are you, sir?

23 MR. HOFFMAN: Commissioner Hoffman.

24 CHAIRMAN HILL: Okay. Commissioner, welcome.

25 Ms. Durbin is not going to be with us.

1 Ms. Albury, can you hear us?

2 MS. LOTTIE ALBURY: Yes, I can hear.

3 CHAIRMAN HILL: Okay. And Ms. Albury, I'm sorry, what's  
4 your daughter's name again?

5 MS. LOTTIE ALBURY: Can they hear us?

6 CHAIRMAN HILL: Yes.

7 MS. LOTTIE ALBURY: Okay. We'll mute ourselves again.

8 CHAIRMAN HILL: Actually, you're doing okay.  
9 Could you introduce yourself, please?

10 MS. FEATHERSTONE: All right. Introduce yourself, Mom.

11 CHAIRMAN HILL: No, Ms. Albury I'm good with.

12 It's you I'm trying to get the name of, ma'am.

13 MS. FEATHERSTONE: Oh, I'm Brenda Featherstone. I'm  
14 having issues being able to connect to the Cisco Webex, so I'm  
15 here. So, you won't see my name displayed on the bottom of the  
16 screen, but I'm here with my mother, Lottie Albury, and my sister,  
17 Benita Dale.

18 CHAIRMAN HILL: Okay. Ms. Dale -- I'm sorry, Ms. Stone  
19 [sic] and Ms. Dale.

20 MS. FEATHERSTONE: Featherstone.

21 CHAIRMAN HILL: Pardon me?

22 MS. FEATHERSTONE: Featherstone.

23 CHAIRMAN HILL: Oh, Featherstone. I'm sorry.

24 MS. FEATHERSTONE: Yes, sir. That's all right.

25 CHAIRMAN HILL: Okay. Let's see. I do see Ms. Dale.

1           Can you -- are you -- Ms. Featherstone, are you and  
2 Ms. Dale right there next to your mom?

3           MS. FEATHERSTONE: Yes, we are.

4           CHAIRMAN HILL: Okay. Then you guys can both use  
5 Ms. Albury's connection, if you want to.

6           I don't see Ms. Ferster anywhere. Do you know if she's  
7 joining you?

8           MS. FEATHERSTONE: I don't think she's planning to join  
9 us this morning.

10          CHAIRMAN HILL: Oh, okay. All right. Okay.  
11 Let's see, then. Who's representing the church again?

12          MS. FEATHERSTONE: Cheryl McLaughlin.

13          MS. DALE: She's calling in.

14          MS. FEATHERSTONE: She's going to call in.

15          CHAIRMAN HILL: Okay. Ms. McLaughlin, can you hear us?  
16 Ms. McLaughlin, can you hear us?

17          MS. MCLAUGHLIN: Yeah, I was having some issues,  
18 technical issues.

19          Can you hear me now?

20          CHAIRMAN HILL: Yeah, I can.

21          Ms. Albury, why don't you mute your line until we get to  
22 you.

23          And Ms. McLaughlin, could you introduce yourself, again,  
24 for the record.

25          MS. MCLAUGHLIN: Certainly. I'm Sheryl McLaughlin. I'm

1 representing Father William Maloney, on behalf of Holy Name  
2 Catholic Church, as well as the property, which is Center City  
3 Public Charter School, and Four Walls, which is located on Neal  
4 Street.

5 CHAIRMAN HILL: Okay. Mr. Williams, who's here with  
6 you? You're on mute, Mr. Williams.

7 MR. WILLIAMS: Sorry about that.

8 CHAIRMAN HILL: And Ms. McLaughlin, if you could mute  
9 yourself, as well.

10 MR. WILLIAMS: Sorry about that.

11 The Applicant, which includes Messrs. Matt and Sam  
12 Medvene.

13 CHAIRMAN HILL: Okay. I'm looking up Medvene.

14 Okay. There's two Medvenes.

15 Mr. Matt Medvene, can you hear me? Can you introduce  
16 yourself for the record?

17 MR. MATT MEDVENE: Sorry about that. I didn't realize I  
18 was muted.

19 Yes, my name is Matt Medvene. I am one of the  
20 Applicants.

21 CHAIRMAN HILL: Is that your brother, Samuel?

22 MR. MATT MEDVENE: Indeed, it is.

23 CHAIRMAN HILL: I don't think your brother was here the  
24 last time, correct?

25 MR. SAMUEL MEDVENE: I was.



1 CHAIRMAN HILL: Oh, okay.

2 All right. Mr. Sam Medvene, can you introduce yourself  
3 for the record, please.

4 MR. SAMUEL MEDVENE: Yep. My name is Sam Medvene. I'm  
5 currently residing in the project, or the address of discussion,  
6 as well as being part-owner, as well, with my brother.

7 CHAIRMAN HILL: Okay. Mr. Petyak -- is that your  
8 name? -- could you introduce yourself, as well.

9 I can't hear you, Mr. Petyak.

10 MR. PETYAK: Apologies. Ryan Petyak, architect (audio  
11 interference).

12 CHAIRMAN HILL: Okay. All right.

13 So, Ms. Albury, I guess, or Ms. Featherstone, or Ms.  
14 Dale, I mean, you guys are all together, so you all can let me  
15 know. It seems as though your attorney had filed something that  
16 said you all wanted to remain separate parties.

17 Was that correct?

18 MS. FEATHERSTONE: Yes, sir, that is correct.

19 CHAIRMAN HILL: Okay. And then Mr. Durbin, where are  
20 you -- oh, I'm sorry -- yeah, Mr. Durbin, where are you -- oh, no,  
21 I'm sorry, not Ms. Durbin; she's not here.

22 So, Commissioner, right, you said she's not here.

23 MR. HOFFMAN: Yeah.

24 CHAIRMAN HILL: Okay. All right.

25 All right. So, Ms. Featherstone, is there a reason why

1 Ms. Ferster hasn't joined you?

2 MS. DALE: I'm going to unmute myself.

3 MS. FEATHERSTONE: Okay. Wait. I'll mute myself back.

4 MS. DALE: Mr. Hill?

5 CHAIRMAN HILL: Yes.

6 MS. DALE: Ms. Ferster is trying to keep her fees a  
7 little lower for us sort of. You know, it's quite expensive to  
8 have an attorney present all the time. So, she's advising us as  
9 much as she can. So, you know, we have to keep our costs down.

10 CHAIRMAN HILL: I got it. I understand.

11 MS. DALE: Yes.

12 CHAIRMAN HILL: I guess what I'm going to do,  
13 Ms. Featherstone -- was that Ms. Dale that just spoke to me?

14 MS. FEATHERSTONE: Yes.

15 MS. DALE: Yes.

16 CHAIRMAN HILL: Okay. I see. All right. Great.

17 So, Ms. Dale, what I'm going to do is I'm going to  
18 start -- and this is for all of the party status people -- I'm  
19 going to go ahead and start with the Applicant and ask the  
20 Applicant what has happened since the last time we were here.

21 So, now, just so the other party status people  
22 understand what we're doing, there's a lot of things that are not  
23 necessarily within the Board's purview, right, such as  
24 construction, certain things that happen during construction, and  
25 some of the things that got brought up during the submissions that

1 | you all submitted. And it seems as though some movement has  
2 | happened with the Applicant concerning some of your concerns.

3 | I don't know whether or not you have the regulation in  
4 | front of you, which is U§320.2. So, U§320.2 is what the Applicant  
5 | is actually here to argue and that's what they're -- we're going  
6 | to be focusing or trying to focus our testimony on.

7 | We're going to take everyone's testimony and we'll do  
8 | our best to -- I know Ms. Dale and the other status party people  
9 | are not zoning attorneys, so we'll try to listen to everyone and  
10 | also understand what things are within the purview of zoning. So,  
11 | we're going to try to stay to, you know, again, the arguments in  
12 | terms of U, Section 320.2.

13 | There was a lot of information in the record, and we've  
14 | read all of it.

15 | And so, you know, first of all, definitely, Ms. Albury,  
16 | I'd like to welcome you. Nice to see you. Thanks for joining us.

17 | I know there's a lot of things going on that you wish weren't  
18 | going on, but we're going to try to walk through this, okay.

19 | MS. LOTTIE ALBURY: Yes, okay.

20 | CHAIRMAN HILL: Oh, okay.

21 | MS. CAIN: Mr. Chair?

22 | CHAIRMAN HILL: Yes?

23 | MS. CAIN: Just two preliminary matters that I wanted to  
24 | point out before the Board gets into the merits of the case.

25 | The Applicant did submit a motion to waive the 15-day

1 | posting requirements; that's at Exhibit 80. It was posted on the  
2 | property 13 days before the hearing.

3 |           In addition, there was also the request to postpone the  
4 | hearing from the party opponents; that's at Exhibit 85.

5 |           So, we would just recommend that the Board address those  
6 | two preliminary issues before the merits of the case.

7 |           CHAIRMAN HILL: Okay. The first issue, I don't have any  
8 | problem waiving in terms of the posting, because I think we're all  
9 | here and I think it's been -- it's clear now that everyone is  
10 | here. So, unless the Board has an issue with the posting, and if  
11 | so, please raise your hand, I'm going to go ahead and waive that.

12 |           I don't see anyone raising their hand. All right. So  
13 | we're going to go ahead and waive that.

14 |           The other is that there was a request for a postponement  
15 | of this hearing; is that correct, again, Ms. Cain?

16 |           MS. CAIN: Yes, that's correct.

17 |           CHAIRMAN HILL: And who made that filing; again, if you  
18 | could remind me.

19 |           MS. CAIN: So, that was submitted by the party-  
20 | opponents. That's in Exhibit 85 of the record. And this was due  
21 | to ongoing negotiations regarding a memorandum of understanding  
22 | regarding construction (audio interference).

23 |           CHAIRMAN HILL: Got it. And who filed that?

24 |           MS. CAIN: I believe it came in from Ms. Albury. It's  
25 | the party-opponents.

1 CHAIRMAN HILL: Got it. So, Ms. Dale, I guess I'm a  
2 little hesitant to agree to the postponement only because we're  
3 kind of all here and it seems as though the memorandum of  
4 understanding that you're trying to negotiate through, we might be  
5 able to get more clarity by going through this hearing rather than  
6 postpone. And what you seem to be, again, trying to work out, are  
7 things that are possibly outside of the Board's purview.

8 But it's only after we go through this exercise, this  
9 hearing, that we'll know exactly what is or isn't outside of our  
10 purview. So, if it's all right, I'd rather continue and go ahead.  
11 I'm just kind of telling you my thoughts to this. I don't need to  
12 hear from you yet, because I'm going to ask my fellow board  
13 members their thoughts, but that's kind of where I am right now.

14 I'm going to go around to my fellow board members and  
15 ask them what their thoughts are on the postponement. I'm going  
16 to start with you, Commissioner May.

17 COMMISSIONER MAY: Thank you. Yes, I agree with you,  
18 Mr. Chairman, that it is helpful that we are all here and we can  
19 start discussing the case, but most importantly, I think the  
20 issues that are the reason for the postponement have to do with  
21 things that are not really relevant to the zoning decision that we  
22 have to make.

23 So, of course, I would remind people that we won't  
24 necessarily get to the point of making a decision today anyway; we  
25 may just hear it and there may still be time before we make a

1 decision. But we'll see as the day goes.

2 CHAIRMAN HILL: Okay. Ms. John?

3 VICE CHAIR JOHN: Mr. Chairman, I agree with your  
4 comments, as well as Commissioner May's comments, and I would also  
5 note that this is, the request for the continuance is to negotiate  
6 the construction MOU, which is not really something that is before  
7 the Board.

8 And so, I would not agree to the postponement.

9 CHAIRMAN HILL: Okay. Mr. Smith?

10 MEMBER SMITH: I agree with the comments of Ms. John. I  
11 do not agree with the postponement of this particular case for the  
12 exact same reasons.

13 CHAIRMAN HILL: Okay. Let's see.

14 So, what I'm going to go ahead and do is I'm going to  
15 start with the Applicant, Mr. Williams.

16 And Ms. Albury, if you could mute your line, as well as  
17 Mr. -- I'm going to butcher your name -- Petyak, if you could mute  
18 your line.

19 If everybody could mute your line, unless they're  
20 speaking, that would be helpful.

21 And Ms. Albury, you haven't muted yet. Now you're  
22 muted. Okay, perfect. You're muted. You guys are muted.

23 All right. Let's see now.

24 Okay. Mr. Williams, I don't think we heard this yet,  
25 correct, we just went through the whole issue about party status,

1 correct, Mr. Williams?

2 MR. WILLIAMS: That's correct.

3 CHAIRMAN HILL: Okay. So, Mr. Williams, I'm going to go  
4 ahead and let you present your case, and then, you know, if you  
5 want to speak to -- you can even go ahead and speak to the issues  
6 that the party status people are having, because we're going to  
7 hear from them, as well, and just let us know kind of where you  
8 are.

9 But as you know, you are here to argue for the relief  
10 under U, Section 320.2, and you can begin whenever you'd like.

11 MR. WILLIAMS: Thank you, Chairman Hill.

12 We have a presentation. If Mr. Young could bring it up,  
13 we could start there.

14 CHAIRMAN HILL: Is that in the record, by chance?

15 MR. WILLIAMS: Yes, it is.

16 CHAIRMAN HILL: Okay. Before you start, Mr. Williams,  
17 since I've got a little pause, so, if anyone else is listening,  
18 we're going to -- can my fellow board members hear me?

19 (No verbal response)

20 CHAIRMAN HILL: I guess one of our fellow board members  
21 has to take a meeting at 1:30. If we can make it to 1:30 for  
22 lunch, we're going to go ahead and try to make it to 1:30.

23 I think that was right, correct, Mr. Smith?

24 (No verbal response)

25 CHAIRMAN HILL: Okay. He's nodding yes.

1                   So, we'll see what happens. Unless somebody's dying,  
2 we'll try to make it till 1:30.

3                   So, all right, Mr. Williams, go ahead.

4                   MR. WILLIAMS: Thank you.

5                   Again, my name is Zach Williams. I'm a land-use  
6 attorney and agent for the Applicant.

7                   Next slide, please.

8                   This property is located at 1301 West Virginia Avenue  
9 NE. This is a large corner-lot property in the Trinidad  
10 neighborhood, across from Gallaudet University.

11                  Next slide.

12                  This is the survey of the property that gives you a  
13 sense for how large it is. You can see the existing two-story  
14 home there in the frame, and the land area of the property is just  
15 under 3600 square feet. It is just shy of being large enough to  
16 be subdivided for a second lot.

17                  Second slide -- next slide, please.

18                  This is the existing house, as it exists today. You can  
19 see the two-story row home there and then the area within the  
20 retaining wall there is all part of the private property and part  
21 of the application, as well.

22                  Next slide.

23                  This is the rear of the property as it exists today,  
24 with the deck that you can see there, agenda to the alley, from  
25 which the picture is taken from.



1               Next slide, please.

2               The relief that we're requesting here at this time is  
3 simply to, a special exception to convert the existing single-  
4 family home to a three-dwelling unit apartment house in the RF-1  
5 Zone, which is permitted by special exception.

6               At this time, the building addition and expansion that  
7 we're proposing is all by-right; in other words, it's permitted  
8 under the development standards of the RF-1 Zone. Two parking  
9 spaces are provided on-site, and the Office of Planning currently  
10 supports the relief we're seeking.

11              Next slide, please.

12              There has been quite a bit of ANC and community  
13 discussion about this application, and we'll get more into this as  
14 we go. We filed this application last August. We have met with  
15 the ANC now. We have presented at three separate monthly  
16 meetings. We presented at two separate Planning and Zoning  
17 Committee meetings. We've also had private meetings with the  
18 neighbors, as well as the ANC single-member district commissioner,  
19 Mr. Zach Hoffman.

20              This process started in November and has continued up  
21 until last night; we presented, again, to the ANC last night.

22              We have also reached out to neighbors on the block.  
23 There are 12 letters of support in the record from nearby  
24 neighbors. There's one neutral letter. And those are at  
25 Exhibits 46 and 65.

1               Next slide, please.

2               As a result of these meetings and discussions with the  
3 community, the Applicant has made significant changes to the  
4 application. When we first filed this application, we were  
5 seeking a number of items of additional relief. One was to add  
6 additional dwelling units, including an IZ unit. Another was to  
7 add a rear addition, more than 10 feet past the adjoined property.

8               And the third was to add penthouses on the roof, which would have  
9 also required special exception.

10              As a result of concerns and issues that were raised by  
11 the community, the Applicant has withdrawn all relief, except for  
12 the request for three dwelling units in the apartment house.

13              Other changes the Applicant has made include revising  
14 the architectural design; essentially, going back to the drawing  
15 board back in December and redesigning the entire building to  
16 address community's concerns and to model the property in a lot of  
17 ways off of the approval at 1501 West Virginia a few years ago and  
18 the design that was approved there.

19              Further, the height has been reduced to address shadow  
20 concerns. And HVAC equipment has been moved to the roof and to  
21 the Neal Street side of the property to mitigate concerns of noise  
22 to the adjacent property owner.

23              Next slide.

24              These are the previous architectural renderings that we  
25 initially filed, just to give you a sense for the changes that

1 have been made; this is what we originally had in the record.

2 Next slide, please.

3 This is a bird's-eye view of the previous renderings.  
4 You can see the penthouse on the roof, which has now been removed.

5 And the shaded area, you can sort of see it in light  
6 blue at the back of this rendering, is the addition that we were  
7 seeking additional relief for, that went beyond the 10-foot -- 10  
8 feet beyond the adjacent rear structure. That has now been  
9 removed from the application.

10 Next slide, please.

11 This is a current rendering. This is the current  
12 applicable rendering. You can see that we have made really  
13 wholesale changes to this property; adding a lot more brick,  
14 changing the third-story aesthetic to make it blend in better with  
15 the community and to match 1501 West Virginia, another large  
16 corner lot that was approved for a third dwelling unit a couple of  
17 years back.

18 We are still keeping the front porch roof. We are not  
19 seeking any relief to alter any of the additional porch roofs or  
20 porch; that is all staying in place.

21 Next slide, please.

22 This is a bird's-eye view of the current design; again,  
23 giving you a sense for the changes that we've made and the changes  
24 that we think mitigate concerns that were raised by the community.  
25 There's no longer a penthouse; there's now the roof hatches to

1 access the rooftop decks on the rooftop.

2 Next slide, please.

3 I included the shadowed space here because this has  
4 been -- there has been considerable discussion about shadowing  
5 impacts from the site. This is the summer shadow study. I only  
6 raise this because there's been a lot of discussion about the  
7 winter solstice study, but the winter solstice, as we know, is  
8 only 1 out of 365 days of the year.

9 During the summer months, there is almost no change to  
10 the current shading of the adjacent properties, because the  
11 existing property already provides some shading and the proposed  
12 changes, the angle of the sun at that time of the year would make  
13 very minimal changes to the shadow studies.

14 Next slide, please.

15 This is a winter shadow study at the winter solstice.  
16 This has been the focus of discussion. There's a lot to digest  
17 here, but to help the Board kind of understand what we're talking  
18 about, in the bottom right-hand corner of the screen, you can see  
19 I've outlined with one circle and one oval. That is the area that  
20 is currently not shaded during the winter solstice that would be  
21 shaded, with this addition.

22 So, as you can see, a considerable amount of the rear  
23 yard of the adjacent neighbor is already in shade under the winter  
24 solstice. There's a small triangle that isn't. And then a  
25 portion of the roof is already in shade and there would be another

1 | portion that would be shaded just during the winter solstice, and  
2 | that's at 2:00 p.m. on the winter solstice. You can see during  
3 | the noon period and the morning, that shading is obviously not  
4 | there.

5 |           Next slide, please.

6 |           We provided this extended shadow study to address  
7 | concerns from the property owner of the property outlined in  
8 | purple on this slide. The property owner there does have solar  
9 | panels, so she had a legitimate concern about the shading, and so  
10 | we went back to our architect and asked to provide an extended  
11 | shadow study and that we were able to confirm that the shadow of  
12 | the proposed structure will not impact the property there in  
13 | purple and will not impact the solar panels.

14 |           Next slide, please.

15 |           There have been a number of similar nearby projects  
16 | approved. Every project obviously stands on its own, but there's  
17 | been a statement and suggestion in the record that there really  
18 | aren't any projects like this in Trinidad or even nearby, and we  
19 | would submit that that actually several have been approved just  
20 | over the last few years.

21 |           The one at 1501 West Virginia that I mentioned earlier  
22 | this, is the one that's just two blocks away and very similar in  
23 | the sense that it's a similarly shaped large corner lot. You can  
24 | see how we sort of modeled our building off of the design that was  
25 | approved here. This project is actually bigger than ours; they

1 | were also requesting side yard relief, which we are not  
2 | requesting.

3 |           There was also a suggestion in the record that this  
4 | project was somehow less height. That's not accurate. This  
5 | project actually had an approved height of 35 feet.

6 |           Next slide.

7 |           This is another nearby project. This is on the same  
8 | block as the current project at issue in this case, 1151 Oates  
9 | Street NE. This was approved in July 2018, also for a three-unit  
10 | apartment house on a significantly smaller lot.

11 |           Next slide, please.

12 |           Finally, this project was approved just a few months  
13 | agree, January 7th, 2021, at 1638 Trinidad Avenue NE. This was  
14 | also approved as a three-unit apartment house.

15 |           I believe that's my last slide.

16 |           Next slide, please.

17 |           Yes. So, just to sum up, discuss what has happened in  
18 | the last few months, shortly after the postponed hearing in  
19 | January, there was outreach that was done by the Applicant,  
20 | myself, and by the ANC to schedule a mediation session to go over  
21 | issues with the neighbors again. That outreach was made  
22 | January 29th and we immediately responded and said we're  
23 | available.

24 |           Unfortunately, as I mentioned in my filing, the adjacent  
25 | neighbors and church did not make themselves available and

1 indicated that they were busy filing their opposition. And it  
2 wasn't until the end of February that we did hear back from the  
3 ANC that the adjacent neighbors now were available to discuss a  
4 potential construction management agreement, which we had, by the  
5 way, mentioned for months that we were amenable to.

6 So, we did have a meeting with the adjacent neighbors,  
7 as well as the church, as well as Ms. Durbin, and it was a very  
8 productive meeting. And Mr. Hoffman organized the meeting and did  
9 a really good job of bringing everyone together.

10 The issues that were presented, we actually found that a  
11 lot of it was common ground. The Applicant was able to agree to  
12 most everything that was presented in that meeting.

13 We then had a second meeting a few days later, requested  
14 by the Albury family and that meeting, additional requests were  
15 made of the Applicant that the Applicant was not able to agree to.

16 These were requests not commonly seen in a construction  
17 management agreement, such as upgrades, the adjacent home, the  
18 roof, the windows, things like that, that are sort of outside the  
19 purview of what would typically be provided in a construction  
20 management agreement.

21 Nonetheless, we found that most everything that was  
22 being asked for, we were able to provide or at least provide some  
23 aspect of. We sent over a construction management agreement with  
24 these changes to the Albury family and their lawyer and we did not  
25 hear back from them until 9:00 a.m. this morning, and we have been

1 furiously reviewing and trying to meet, you know, find common  
2 ground here all morning long, actually.

3 But I think the frustration on the Applicant's side is  
4 that while we have attempted repeatedly to meet with the community  
5 and find common ground and make changes, we're continuously, and I  
6 will say that the Applicant feels continuously demonized in public  
7 filings and made to sound like they're ignoring the community  
8 don't care and that's just not the case at all. And so, I just  
9 want to put that out there for the record, and that concludes my  
10 presentation, unless there's any questions.

11 CHAIRMAN HILL: All right. Thank you, Mr. Williams.

12 Does the Board have any questions of the Applicant?

13 Mr. May?

14 COMMISSIONER MAY: Yes. Can we bring up what looks like  
15 slide 12 on the PowerPoint presentation.

16 (Pause)

17 COMMISSIONER MAY: Thank you. So, I'm curious about the  
18 rooftop structures. You know, you referred to a hatch. It looks  
19 like there's a hatch, as opposed to a full penthouse, but that's  
20 not the sort of hatch that I would typically expect. It's also a  
21 little unusual to have the parapet wall like that.

22 So, I'm curious, what's the point of having that --  
23 first of all, let's just deal with the parapet wall abutting 1303?

24 MR. WILLIAMS: Yes. Good question.

25 Can I defer that one to our architect? I think he'd be



1 best suited to answer that question.

2 COMMISSIONER MAY: Please do. I always like to have  
3 architects answer architectural questions, rather than lawyers.

4 MR. WILLIAMS: Yes. Me, too.

5 MR. PETYAK: Good morning. Ryan Petyak, architect.

6 We are using the parapet along this condition here  
7 because of the 1:1 setback from the adjoining property to be able  
8 to have a roof hatch that is large enough to be able to -- as we  
9 said earlier, we moved the mechanical units up to the rooftop to  
10 help with concerns about noise at the lower level -- so, we have  
11 what is called a "Dayliter hatch"; it's not a standard flat-roof  
12 hatch that domes -- it's called a "Dayliter hatch," so the door  
13 actually comes to the underside of it and a latch is able to be  
14 engaged and flipped up like an awning window.

15 So, that parapet is -- I can look at drawings, but off  
16 the top of my head, I think it's 3 and a half feet tall, but don't  
17 hold me to that -- but essentially what that is doing is that  
18 provides an edge for that penthouse and structure over top of the  
19 stair and the Dayliter hatch to be attached thereto.

20 COMMISSIONER MAY: Okay. So, you understand why there  
21 are setback rules, right?

22 MR. PETYAK: Yes, sir.

23 COMMISSIONER MAY: So, why don't you tell me what you  
24 think the purpose of that is.

25 MR. PETYAK: To avoid structures that are "less than

1 | sightly" from the neighbor's property.

2 |           COMMISSIONER MAY: Yeah. "Less than sightly," that's an  
3 | interesting way to put it.

4 |           So, yeah, I mean, what you're doing is you're putting up  
5 | a wall that's four feet above a 31-foot, 7-inch rooftop, I  
6 | think --

7 |           MR. PETYAK: That's correct.

8 |           COMMISSIONER MAY: -- and it's three and a half feet,  
9 | you say.

10 |           MR. PETYAK: I'm looking at the construction documents  
11 | now as we're chatting. I'm sorry, yes.

12 |           COMMISSIONER MAY: Yeah. So, I mean, it's -- I don't  
13 | understand why you didn't just go with a flat hatch and not have  
14 | that parapet wall, which would be, you know, less problematic from  
15 | a visual perspective, at least from my visual perspective.

16 |           MR. PETYAK: Per request from the client, as well as,  
17 | just in terms of having mechanical roof units on top. You know,  
18 | if you provide a flat hatch, then you're looking at a ladder,  
19 | wall-mounted ladder to have access to those units. It was  
20 | requested and preferred to have a stair access to those areas.

21 |           COMMISSIONER MAY: I don't get that at all. I mean,  
22 | there are rooftop units on (audio interference) all the time that  
23 | have no hatches like that at all. I mean, the one on my house was  
24 | put up there with a hand crank. I don't understand why there  
25 | would be any issue by that.

1           MR. PETYAK: This specific product was being requested  
2 by the owner.

3           COMMISSIONER MAY: Okay. Well, again, I still don't  
4 understand why it's necessary.

5           I'm also not totally convinced that it is compliant with  
6 zoning regulations, which are designed to sort of minimize those,  
7 that additional height along a sidewall, you know, when it's  
8 visible like this. And it's, you know, I mean, at three and a  
9 half feet, you're close to exceeding the -- or, actually, the  
10 total at the end is 37.1 or 37 feet, 1 inch or something like  
11 that, right? I saw that dimension somewhere.

12           I mean, doesn't that mean that you're above the 35 feet  
13 that you're allowed.

14           MR. PETYAK: As I said, I'm trying to get into my model  
15 now. I wasn't prepared to have the physical present model that  
16 we've been working on.

17           COMMISSIONER MAY: Well, you don't need to do that.  
18 Just look at the drawings that you submitted.

19           MR. PETYAK: I'm sorry, I'm working from home, so I'm  
20 struggling getting my server to have access -- I've got wireless  
21 issues -- to access my server. So, I'm getting there. My  
22 apologies.

23           COMMISSIONER MAY: Okay.

24           CHAIRMAN HILL: Commissioner May?

25           COMMISSIONER MAY: Yeah?

1 CHAIRMAN HILL: I've got a question for you, actually,  
2 because I'm looking at this also.

3 The 1:1 setback, doesn't that parapet wall come all the  
4 way to the front of the building?

5 COMMISSIONER MAY: Yeah.

6 CHAIRMAN HILL: And so, isn't that supposed to be  
7 setback, then?

8 COMMISSIONER MAY: Well, parapet walls are not really  
9 defined as something that has to be setback; it's rooftop  
10 structures. Parapet walls can go up to the allowed height, I  
11 think, in an RF-1 Zone. So, it could go up to 35 feet.

12 But it's very weird to have a parapet wall on a sidewall  
13 and not, and, you know, only on a sidewall.

14 CHAIRMAN HILL: That's right. No, I remember seeing  
15 that.

16 COMMISSIONER MAY: I mean, this, you know, if you went  
17 with this --

18 MR. MATT MEDVENE: I'd just like to jump in real quick.

19 COMMISSIONER MAY: Yes?

20 MR. MATT MEDVENE: Sorry. How's it going?

21 My name is Matt, one of the Applicants. While Ryan is  
22 pulling up the model, I can -- circling back to the product.

23 So, we have gone through several different projects,  
24 working through the nuances of roof hatches with the Zoning  
25 Department and the zoning reviewers and everyone within that

1 division, and over the last several years, we have found that this  
2 product from Dayliter is the one that they have been the most  
3 amenable to.

4           There's another product that they've also been open to.  
5     It is called a Skyview Skylight, I believe. Basically, it's more  
6 of a -- it's an electrical or motor-operated, flat hatch that  
7 would not require this. But we tried that on a previous project,  
8 and it was extremely -- on top of being very expensive, you've got  
9 a, in our opinion, a much more inferior product, because it was  
10 more finicky. It had to be shipped from New York. And because it  
11 was motorized, if any of the wires -- it was very -- we've  
12 continued to have issues with it -- we actually have it in one of  
13 our homes and do not recommend it -- as such, we've been sticking  
14 with this Dayliter product that has gone through multiple plan  
15 reviews on multiple projects and the Zoning Department has  
16 approved it.

17           The parapet wall in this particular scenario, it does  
18 seem a little odd that it is only on one party wall, rather than  
19 the entire perimeter. That was actually an adjustment that we  
20 made. We lowered and reduced the parapet around the other three  
21 sides of the roof, at the request of both, the community and the  
22 neighbors, and we only kept this one section of it, as it was at  
23 the location of the two roof hatches.

24           COMMISSIONER MAY: Uh-huh.

25           And you understand how the parapet wall on that side

1 contributes to the shadows that are cast on the neighboring  
2 property, as well, right?

3 MR. MATT MEDVENE: Yes.

4 COMMISSIONER MAY: Okay. So, I'm not really sure that  
5 that is a smart idea.

6 And, you know, I'm sympathetic to the challenges of  
7 having a roof hatch and how complicated that can be, but, you  
8 know, the structures that you are proposing there are larger than  
9 they would really have to be to accommodate a stair that goes out  
10 through that opening. And, again, I'm not totally convinced that  
11 this is compliant with the Zoning Regulations. I'll ask the  
12 Office of Planning about that later on.

13 But it just seems like you're piling up a lot of stuff  
14 along that wall and it's exacerbating the issue with the sunlight  
15 on the neighbor's property.

16 You know, there are also ways to address this that could  
17 have been done with how the stair is placed within the building,  
18 but I'm not going to ask you to redesign the building, but for  
19 future reference, you should be thinking about that and not just  
20 the product that you want to use for the hatch.

21 All right. Well, that's it for my questions and  
22 comments.

23 CHAIRMAN HILL: Mr. Petyak -- and how do you say your  
24 name again?

25 MR. PETYAK: Petyak, like I've got a pet yak.

1 CHAIRMAN HILL: Petyak, all right.

2 Mr. Petyak, is that another Dayliter hatch directly  
3 opposite?

4 MR. PETYAK: That's correct. There is a front unit and  
5 a back unit that have their own Dayliter hatches. You can see  
6 with the railing locations that there's actually two individual,  
7 private areas or semi-private areas, I guess I should say.

8 CHAIRMAN HILL: Yeah, okay.

9 All right. Mr. Young, can you drop the slide deck so I  
10 can see everybody again.

11 Mr. Smith, do you have any questions?

12 MEMBER SMITH: I would just say a statement. I share  
13 the same exact concerns as Mr. May. And I am not completely sold  
14 that not only the parapet, but the (audio interference)  
15 penthouses, I don't believe -- it's questionable whether they meet  
16 the front setbacks. I think, especially that one on the front, it  
17 seems to be right on the edge of the front building wall there.

18 So, I was just reserve my questions for the Office of  
19 Planning, if they're listening.

20 CHAIRMAN HILL: Okay. So, we can get to those questions  
21 with the Office of Planning when we get to the Office of Planning.

22 Ms. John, do you have any questions?

23 VICE CHAIR JOHN: No, I have no questions.

24 CHAIRMAN HILL: Okay. Ms. Dale, can you hear me?

25 MS. DALE: Yes, I can hear you.

1 CHAIRMAN HILL: Okay, great. Perfect.

2 Let's see. Do you have any questions for the Applicant,  
3 Ms. Dale, on his presentation?

4 MS. DALE: I do have -- I would like to ask the fact  
5 that -- well, not ask -- but he made a statement that he didn't  
6 make changes to the porch, but the way the porch is right now, the  
7 front porch goes all the way across the windows.

8 Right now, the porch has been redesigned. It looks like  
9 it's just a step up to the front porch. The porch, as it is now  
10 on the front is all the way across the front of the house. So,  
11 that's incorrect when he said that there were no changes made to  
12 the front porch.

13 CHAIRMAN HILL: Mr. Williams, can you clarify your  
14 statement.

15 MR. WILLIAMS: Yes. The existing porch extends the  
16 length of the house, but there's a significant addition that is  
17 being added to the side of the house. And so, we're not going to  
18 extend the porch. Actually, I think we would even have to get  
19 relief to do that, to extend the porch beyond where it currently  
20 is. So, we're keeping it where it is. It has the appearances, as  
21 though it's taking up less space, but it isn't.

22 CHAIRMAN HILL: Okay. I understand.

23 Ms. Dale, do you have any further questions?

24 MS. DALE: No, that was all.

25 CHAIRMAN HILL: Thank you.



1           Let's see. Ms. McLaughlin, do you have any questions  
2 for the Applicant about his presentation?

3           MR. ANDREWS: Commissioner, she's going to have to be  
4 sworn in -- Mr. Chair, she's going to have to be sworn in before  
5 she provides testimony.

6           CHAIRMAN HILL: Okay. Did she not sign in with the  
7 affidavit?

8           MR. ANDREWS: That's correct.

9           CHAIRMAN HILL: Okay. Ms. McLaughlin, could you listen  
10 to Mr. Andrews, please. He's going to swear you in.

11          MS. MCLAUGHLIN: Uh-huh:

12          MR. ANDREWS: Ms. McLaughlin, could you raise your right  
13 hand. Ma'am?

14          CHAIRMAN HILL: Her hand is raised, Mr. Andrews.

15          MR. ANDREWS: Oh, pardon me. Pardon me.

16          (Oath administered)

17          MS. MCLAUGHLIN: I do.

18          CHAIRMAN HILL: All right. Ms. McLaughlin, do you have  
19 any questions for Mr. Williams on his presentation?

20          MS. MCLAUGHLIN: No, I don't really have any question on  
21 the presentation. But I do want to make a comment.

22                I feel like if it wasn't for the Alburys -- they're the  
23 ones that have kind of been keeping us looped in and keeping us  
24 abreast of what's going on -- a lot of the communications that  
25 we're supposed to be getting, we're really not getting.

1 CHAIRMAN HILL: Ms. McLaughlin, it's okay. You'll have  
2 the chance to give your testimony.

3 MS. MCLAUGHLIN: Okay.

4 CHAIRMAN HILL: This is just for questions.  
5 You don't have any questions right now?

6 MS. MCLAUGHLIN: No, I don't think I have any questions  
7 on what they're proposing to do?

8 CHAIRMAN HILL: Okay. Ms. Dale, I think you had a  
9 presentation; is that correct?

10 MS. DALE: Yes, we have a presentation.

11 CHAIRMAN HILL: Okay. Mr. Young, could you please pull  
12 up your presentation.

13 MS. FEATHERSTONE: Mr. Hill?

14 CHAIRMAN HILL: Yes.

15 MS. FEATHERSTONE: My sister -- we're all three going to  
16 speak, but Brenda is going to start.

17 CHAIRMAN HILL: Sure. Okay. No problem.

18 COMMISSIONER MAY: Mr. Chairman, can I ask a question?

19 CHAIRMAN HILL: Yes. Certainly, Mr. May.

20 COMMISSIONER MAY: I'm sorry, we're rolling right into  
21 the party in opposition's testimony?

22 CHAIRMAN HILL: Yeah.

23 COMMISSIONER MAY: I thought we'd hear from the Office  
24 of Planning and DDOT before doing that?

25 CHAIRMAN HILL: Yeah, the way that I've been told to do

1 | it Mr. May is I go through everybody and then we end up at Office  
2 | of Planning.

3 |           COMMISSSIONER MAY:    Okay.    That's new.    All right.  
4 | Thank you.

5 |           CHAIRMAN HILL:   No, that's the way we've always done it.

6 |           COMMISSSIONER MAY:   Okay.

7 |           CHAIRMAN HILL:   I'm just telling you.

8 |           COMMISSSIONER MAY:   It's been a long time since I've  
9 | done a BZA case with opposition, I guess.

10 |           CHAIRMAN HILL:   I wish I could say the same, Mr. May.

11 |           COMMISSSIONER MAY:   Yeah.   Well, we have them at the  
12 | Zoning Commission, all the time.

13 |           CHAIRMAN HILL:   All right.   Okay.

14 |           Ms. Featherstone, do you want to go ahead?

15 |           MS. FEATHERSTONE:   Yes, sir.   Thank you.

16 |           Good morning, I'm Brenda Featherstone, appearing as an  
17 | authorized representative of my mother, Mrs. Lottie Albury, along  
18 | with my sister, Benita Albury Dale.

19 |           We are appearing without a lawyer today for the simple  
20 | reason that we have very limited funds; however, we are fortunate  
21 | to have retained Ms. Andrea Ferster to assist us.

22 |           We are here to speak our truth and represent our mother.  
23 | I will start with this overview of what we will be present today.

24 |           MS. DALE:   Next slide.

25 |           MS. FEATHERSTONE:   Next slide, please.

1 MS. DALE: Next.

2 MS. FEATHERSTONE: No, next one. One more slide.

3 This is the slide. All right. This is the order in  
4 which we intend to make this presentation today. I'll have my  
5 mother make a statement and then I come in and read several of the  
6 slides, and then my sister Benita will also continue will showing  
7 the rest of the slides, and then we will conclude, and that will  
8 be the end of our presentation.

9 CHAIRMAN HILL: Okay.

10 MS. FEATHERSTONE: Next slide, please.

11 MS. DALE: No, this is it, right here.

12 MS. FEATHERSTONE: No, go back. I'm sorry. Okay.

13 MS. DALE: Speak up, Mom.

14 MS. FEATHERSTONE: Speak up.

15 MS. LOTTIE ALBURY: Hello. My name is Lottie Albury,  
16 owner of 1303 West Virginia Avenue NE. I'm 98 years old and have  
17 lived in the Trinidad/Ivy City air for over 70 years. I've lived  
18 in my house since 1946 and plan to live out my years here.

19 I still exercise and keep moving. My mother lived to be  
20 113 years old, and I am going to be alive just as long. I'm a  
21 cancer survivor for six years.

22 MS. FEATHERSTONE: Next slide.

23 MS. DALE: Next slide.

24 MS. LOTTIE ALBURY: This slide shows the view from the  
25 rear of my house and the 10-foot extension and the 37-foot, 11-

1 inches wall towering over my house.

2 Next slide, please.

3 This is the view from my backyard.

4 MS. DALE: Speak up, Mama.

5 CHAIRMAN HILL: We can hear Ms. Albury very well.

6 MS. DALE: Okay. Thank you, sir.

7 CHAIRMAN HILL: Go ahead, ma'am.

8 MS. LOTTIE ALBURY: This is the view from my back door,  
9 where I stand, wave, and talk to neighbors. The high wall and  
10 extension will cut off socializing with neighbors who walk along  
11 Neal Street. The wall separates and in as much as away my  
12 connection to my community. This deeply saddens me.

13 The extension and wall also takes away my sunlight,  
14 breezes, and cross-ventilation.

15 I'll face a brick wall, looking out my back door.

16 Next slide.

17 MS. DALE: Next slide.

18 MS. LOTTIE ALBURY: I enjoy watching the children  
19 playing in the schoolyard and other activities at the charter  
20 school. Children have always been my heart, even after I retired  
21 from the District publicly school after the passing of my husband.

22 I will lose that enjoyment of watching the hustle and bustle of  
23 seeing teachers, parents, and children coming and going.

24 Next slide.

25 MS. FEATHERSTONE: Next slide, please.

1 MS. DALE: Okay. Here we go.

2 MS. FEATHERSTONE: That's fine.

3 MS. LOTTIE ALBURY: This view shows the proximity of my  
4 back door to 1301.this is where I stand to talk and wave to  
5 neighbors from my back door.

6 Next slide.

7 Here's a view from my upstairs window. The sunlight,  
8 cross-breezes, and views will be blocked by the high wall and  
9 extension. I don't have much land, but I love what I have.

10 What about my right to basic air, light, and enjoyment  
11 of my home?

12 MS. DALE: Next slide, please.

13 MS. FEATHERSTONE: I will now take us through a review  
14 of the adverse effects of the revised plans on Mrs. Albury's use  
15 and enjoyment of her property: Loss of natural heating and  
16 cooling from the sun and air, with resulting elevated electrical  
17 bills that strain a fixed income; impact on the integrity of the  
18 roof, due to snow and ice, creating roof damage and potential  
19 water intrusion over time; noise, dust, and vibrations during the  
20 sustained time required for large-project construction, which will  
21 endanger her health and well-being; permanent loss of key features  
22 of how she has enjoyed her home, her yard, and her neighborhood  
23 for the last 70-plus years.

24 Next slide, please.

25 On March 7th, we received testimony from Mr. Ronald

1 Lipford, principal architect from Arel Architects, Inc., and this  
2 is on Exhibit 81 and 82, of how the revised plans with heightened  
3 wall can trap snow, ice, and rain, and damage our mother's roof.

4 Now, we understand that he is an architect and not a  
5 structural engineer who expressed information to us about what  
6 could and might happen.

7 The adjacent eh proposed high vertical wall of 1301 is a  
8 perfect condition for large snowdrift that hasn't been accounted  
9 for. There has never been a snowdrift risk or added snow load  
10 weight to be concerned with at 1303.

11 The adjacent proposed wall of 1301 will also deflect  
12 wind-driven rainwater that 1303 has never experienced before.  
13 Shedding water from this wall will create a great risk for water  
14 intrusion into 1303. Details on how this will be controlled by  
15 the Applicant has not been presented to 1303, nor have solutions  
16 been provided to offset the increased water that must be  
17 discharged at 1303 to the ground or to an existing storm drain  
18 system.

19 The architect is saying that it is his professional  
20 opinion that the proposed scope of work not only will have a  
21 physical effect to the occupants but will also have substantial  
22 structural impact on the use and enjoyment of the adjacent  
23 dwelling; in particular, light and air available to 1303.

24 Next slide, please.

25 All right. This is, I guess, a schematic which shows

1 the snowdrift; that little triangle on top of the diagram of my  
2 mother's house, the back of it, okay.

3 Next slide, please.

4 All right. This is Exhibit 47. The parapet cutout and  
5 reduced shadow cutout show up multiple yards away and the 10-foot-  
6 wall shadow still blocks 100 percent of the sunlight of  
7 Ms. Albury's back windows after the winter solstice, and the  
8 winter solstice occurs on the 21st of December, but the winter  
9 afterwards shows that the shadow will be in place for the rest of  
10 the winter.

11 Next slide, please.

12 MS. DALE: An extended construction for three-unit --  
13 this is about the extended construction for a three-unit design:  
14 noise, dust, and vibrations.

15 The extended size and scope of the three-unit plans  
16 destroying the existing building and dismissing out a new basement  
17 will create extensive noise, dust, and vibrations over extended  
18 period of time, which is a serious health risk to my mother, given  
19 her age and blood pressure.

20 We are still in negotiations with the Medvenes, who have  
21 not yet agreed to provide the mini-split units to give our mother  
22 clean air and a safe indoor temperature during construction. That  
23 was one of the reasons why I did request a postponement, so we  
24 would have more time for negotiations, considering we didn't get  
25 the agreement until March 6th.



1               Next slide, please.

2               Applicants think other three-unit designs justify their  
3 special exception requests and ignore broad neighborhood  
4 opposition. The Applicants must show that there's a specific  
5 request for a special exception for a three-unit building will not  
6 adversely affect the adjacent and neighboring properties.

7               We have not gotten satisfaction that they've proven that  
8 their building is not going to adversely affect our mother.

9               We have been able to get 13 letters of oppositions and  
10 one retraction letter in support of the project.

11              Next slide, please.

12              Applicants claim 1501 West Virginia is a precedent,  
13 justifying their special exception request. 1501 West Virginia  
14 does not have a back extension, blocking sunlight, air, and  
15 ventilation.

16              It is located southeast of the adjacent property and  
17 does not cast extensive shadows on the neighboring property. They  
18 have a roof height of only 27'10"; compared to the 37'11" in the  
19 Medvenes' revised plans.

20              And also, West Virginia accommodated neighbors by  
21 obtaining a special side-yard exception to add square footage,  
22 where it would have the least impact on the neighbors.

23              Next slide.

24              This is a frightening example of destruction to the  
25 adjacent property, and this is the biggest fear that we do have

1 with this development next door to our mother's property. It does  
2 show a devastating impact that the oversized construction can have  
3 on a smaller adjacent row house, and the picture on the right  
4 shows the foundation of the property was damaged and it is now  
5 held up by stilts.

6 And thank you for allowing us. And we have the  
7 conclusion -- I'm sorry -- next slide -- and this is the  
8 conclusion: The sustained construction period for the three-unit  
9 design effectively causes Mrs. Albury to vacate her home for  
10 months for her health and safety concerns; post-construction, the  
11 design of the three-unit plan continues to deprive Mrs. Albury of  
12 the air, light, warmth, and cooling ventilation, and enjoyment of  
13 her own home; burdens her financially, and negatively affects the  
14 integrity of her roof and drainage.

15 Given this undue burden on the neighboring property, the  
16 special exception for the third unit, we feel, should be denied.  
17 We request that the BZA impose requirements pertaining to design,  
18 appearance, and size it deems necessary to protect agenda or  
19 nearby property.

20 We would like to request that the special side-yard  
21 exception, as in 1501, to add square footage on the Neal Street  
22 side, to give the Medvenes more square footage, so they can reduce  
23 the depth of the 10-foot wall.

24 We are still actively negotiating in good faith to try  
25 to reach a construction agreement with the Medvenes.

1           And that's the end of our presentation and thank you for  
2 allowing us to give it.

3           Could you also unmute my -- when you get to the point of  
4 bringing another (audio interference) to testify, my sister is  
5 holding on to testify. Her name is Sandra Albury.

6           CHAIRMAN HILL: Okay. Great.

7           MS. DALE: Thank you.

8           CHAIRMAN HILL: Thank you, Ms. Dale.

9           Let's see. So, I can see you guys. I can hear you on  
10 one and I can see you on the other, so we're good.

11           I guess, well, first of all, Ms. Dale and  
12 Ms. Featherstone, I might just say, you know, you're really being  
13 wonderful daughters to your mother.

14           And then, Ms. Albury, it's really just a pleasure to  
15 hear you be with us and speak to us, and thank you for your  
16 testimony and, again, I am sorry that you have to be here for  
17 this, but it's still nice to have you with us.

18           MS. LOTTIE ALBURY: Thank you.

19           CHAIRMAN HILL: You're welcome.

20           Let's see. Let me start with Commissioner May. Do you  
21 have any questions?

22           COMMISSIONER MAY: No, I do not. Thank you.

23           CHAIRMAN HILL: Mr. Smith, do you have any questions?

24           MEMBER SMITH: No questions.

25           CHAIRMAN HILL: Ms. John, do you have any questions?

1 VICE CHAIR JOHN: No, I have no questions.

2 CHAIRMAN HILL: Okay. Let's see.

3 Mr. Williams, do you have any questions?

4 MR. WILLIAMS: No questions.

5 CHAIRMAN HILL: Okay. All right.

6 So, I'm going to go next to Ms. McLaughlin. So,  
7 Ms. McLaughlin, can you go ahead and give us your testimony,  
8 please.

9 MS. MCLAUGHLIN: Yes. So, our biggest concern with the  
10 project is just making sure that the safety and the welfare of the  
11 children in the school were going to be protected. I know, like,  
12 anytime we have any kind of work done within the schools or around  
13 the property, we have to make sure that there is the type of  
14 insurance to make sure that the children are protected, and the  
15 workers have all been background-checked. That was probably,  
16 first and foremost, our primary concern.

17 Our second concern was, of course, the flow of traffic  
18 at, like, when the kids start going back to school and at  
19 dismissal.

20 A few concerns about parking, but that was at the  
21 absolute forefront of our concerns.

22 I feel like a lot of what we've gained has been sort of  
23 like an afterthought. I really, like, I've gone through, I've  
24 checked emails to make sure I didn't miss any emails, but a lot of  
25 things did not come through. I definitely don't want to accuse

1 anybody of not sending them, but I will just say that we haven't  
2 had them. We didn't get the letter until way, much later on.

3 But if it wouldn't have been for the Alburys, the  
4 Alburys are the ones who have been keeping us abreast of what's  
5 been happening, just to make sure that we do know what's going on.

6 I do know Ms. Albury personally and so -- she's also  
7 been a member of our parish for a very, very long time; longer  
8 than I've certainly been there -- so her concerns, of course,  
9 become a part of our concerns, as well. We're not saying that  
10 there shouldn't be some sort of positive construction put on that  
11 corner; of course, it's much better to have something there than  
12 to have it vacant, but, you know, just due diligence, do things  
13 the right way -- that's our main point.

14 And the other concern was, of course, whenever there is  
15 new construction, there is always a rodent problem, and so we just  
16 want to make sure that there's follow-up to, I mean, be ahead of  
17 the game on that, and that's just things that have generally  
18 happened with any construction, here in the city.

19 CHAIRMAN HILL: Okay. Thank you, Ms. McLaughlin.

20 MS. MCLAUGHLIN: You're welcome.

21 CHAIRMAN HILL: Commissioner May, do you have any  
22 questions for Ms. McLaughlin?

23 COMMISSIONER MAY: (Shaking head no.)

24 CHAIRMAN HILL: No?

25 Mr. Smith?

1 MEMBER SMITH: No questions.

2 CHAIRMAN HILL: Ms. John?

3 VICE CHAIR JOHN: Just a clarification that the traffic  
4 (audio interference) construction. Your concern (audio  
5 interference) would be, Ms. McLaughlin.

6 CHAIRMAN HILL: Ms. John, you're kind of breaking up  
7 there.

8 MS. MCLAUGHLIN: Yeah, I'm sorry, I didn't hear what you  
9 said.

10 VICE CHAIR JOHN: Oh, I was asking, I understood that  
11 you are discussing traffic problems during construction.

12 MS. MCLAUGHLIN: Uh-huh.

13 VICE CHAIR JOHN: Okay. Thank you.  
14 That's it.

15 MS. MCLAUGHLIN: All right. Thank you.

16 CHAIRMAN HILL: Thank you, Ms. John.

17 Mr. Williams, do you have any questions of the  
18 Applicant -- of Ms. McLaughlin?

19 MR. WILLIAMS: I do not.

20 CHAIRMAN HILL: Okay. Ms. Dale, do you have any  
21 questions of Ms. McLaughlin?

22 MS. DALE: (Shaking head no.)

23 CHAIRMAN HILL: No? You're shaking your head no. Okay.  
24 Thank you.

25 All right. Ms. Brown-Roberts, are you there?

1 MS. BROWN-ROBERTS: Yes, Mr. Chairman.

2 CHAIRMAN HILL: Could you please introduce yourself for  
3 the record and then -- oh, wait, hold on. I'm sorry, give me a  
4 second. I forgot.

5 Commissioner, can you hear me?

6 MR. HOFFMAN: Yes.

7 CHAIRMAN HILL: All right. Commissioner, you're also a  
8 party, and so, do you have a presentation to give?

9 Could you please give us your testimony?

10 MR. HOFFMAN: Yes. I don't have a presentation. I did  
11 submit my ANC report last night, as we discussed, and the previous  
12 meeting was scheduled for last night.

13 Unfortunately, the ANC was not able to vote on a motion  
14 to support the project; instead, it was tabled for another time.  
15 That vote was 6:0:1.

16 Due to significant community supports or significant  
17 community opposition and a lack of any construction management  
18 agreement, the ANC was not able to vote on a motion to support the  
19 project or oppose it; it was tabled by our chairperson.

20 CHAIRMAN HILL: Okay. Commissioner, have you been a  
21 commissioner for a little while?

22 MR. HOFFMAN: Three months.

23 CHAIRMAN HILL: Okay. All right.

24 I'm asking that, just because I was curious as to how  
25 many things you've heard thus far.

1           Do you know if they were -- they were not able to take a  
2 vote, so I'm just asking you your testimony -- do you know if  
3 there was going to be a vote if they did get the construction  
4 management plan and all of that in agreement?

5           Do you know -- I'm just trying to get a feel for where  
6 your ANC was on this matter, like in favor, in opposition -- did  
7 you have an opinion?

8           MR. HOFFMAN: That's not something I can say confidently  
9 and speak for the body, 5-D, because of the nature of the  
10 conversation that went around this issue last night.

11           CHAIRMAN HILL: All right. That's okay. That's fine.  
12           So, you're not sure. You don't know where you are,  
13 okay.

14           All right. Let's see. Does anybody have any questions  
15 for the commissioner and the board members, and if so, raise your  
16 hands?

17           (No verbal response)

18           CHAIRMAN HILL: I don't see anybody raising their  
19 hands --

20           MR. WILLIAMS: I do, Chairman Hill.

21           CHAIRMAN HILL: Who's that?

22           Okay. Give me one second, Mr. Williams. I'll get to  
23 you.

24           Ms. Dale, do you have any questions for the  
25 commissioner?



1 (No verbal response)

2 CHAIRMAN HILL: No? Shaking your head.

3 Ms. McLaughlin, do you have any questions for the  
4 commissioner?

5 (No verbal response)

6 CHAIRMAN HILL: No? Shaking your head.

7 Mr. Williams, what's your question?

8 MR. WILLIAMS: Yes. My question is just to Mr. Hoffman  
9 to confirm whether he had proposed a motion to support the  
10 application, should a construction management agreement be  
11 provided at the ANC last night.

12 MR. HOFFMAN: Yeah, procedurally, there actually was no  
13 motion at all, based on the way the motion was tabled. So, the  
14 only vote that did occur was the vote and a motion, that was  
15 seconded, to table the discussion of the item. So, no vote was  
16 taken, nor, in fact, will the minutes reflect that any motion was  
17 made at all to support the project.

18 CHAIRMAN HILL: Okay. All right.

19 Mr. Williams, any more questions?

20 MR. WILLIAMS: No. No questions.

21 CHAIRMAN HILL: Okay. Ms. Brown-Roberts, could you  
22 please introduce yourself for the record.

23 MS. BROWN-ROBERTS: Okay. Good morning, Mr. Chairman,  
24 and members of the BZA.

25 Maxine Brown-Roberts, representing the Office of

1 Planning on BZA Case 20359.

2 The proposal is a conversion from a single-family  
3 dwelling to a three-unit apartment building under Subtitle U,  
4 Section 320-2. The lot is currently developed with a semi-  
5 detached, single-family dwelling, constructed about 1931.

6 The proposed conversion would result in three units;  
7 therefore, there's not an IZ requirement.

8 Based on the lot size, the proposal would meet the  
9 requirement of a minimum of 900 square feet of land area for the  
10 three units.

11 Under Subtitle X, (audio interference) 1.1, proposal  
12 meets the intent of the RF-1 Zone, which is intended to provide  
13 for areas predominantly developed with row houses on small lots.  
14 And conversions to apartment houses are permitted, with the  
15 approval of the special exception.

16 In this case, the proposal meets the special exception  
17 requirements of Subtitle U, Section 320.2.

18 And would the proposal of (audio interference) affect  
19 adversely the use of the neighborhood properties?

20 As demonstrated by the Applicant, the addition would  
21 increase the shade on adjacent properties; however, the additional  
22 shading, should not be to an extent that would significantly and  
23 unduly affect the light and air to the adjacent property.

24 The third floor of the rear addition would be extended  
25 10 feet beyond the rear of the adjacent property and are allowed

1 as a matter-of-right. The rear addition would not have any  
2 openings on the side facing the adjacent neighbor.

3 The door and the balconies on the portion of the  
4 building that faces Neal Place and a nonresidential building.  
5 While it would be taller than the existing structures along the  
6 alley, it would be setback from the rear property line to allow  
7 parking spaces on the lot, which would minimize its visual impact  
8 overall.

9 Two roof decks would be provided and access by internal  
10 stairs. Due to the parapet wall and the setback of the deck area,  
11 there would be no views to the properties to the north and the  
12 west; views would be towards Neal Place and the nonresidential on  
13 the north.

14 Post-conversion to an apartment house and its associated  
15 addition, should not unduly compromise the privacy and use and  
16 enjoyment of neighboring properties. On the roof plan, the  
17 Applicant stipulated that the setbacks were met, as the dimensions  
18 were not provided on the (audio interference) at Exhibit 12, sheet  
19 number 3.

20 Regarding the height of the building, the plans show 37  
21 feet. The parapet wall is allowed to extend up to 4 feet and the  
22 height of the building would be 33 feet.

23 The third-story addition would be visible from West  
24 Virginia Avenue, Neal Place, and the alley. Although many of the  
25 row dwellings along West Virginia Avenue are two-stories, it would

1 not be out of character to have a three-story building at this  
2 location.

3 In the neighborhood, the corner lots are larger and can  
4 accommodate larger buildings at the end of the row or the block;  
5 in addition, this building would be across from two large  
6 buildings: a school and a church. The addition would be visible  
7 from the public alley to the rear but would be generally in  
8 character with the rear of houses in material and design.

9 The Office of Planning, therefore, recommends approval  
10 of the requested special exception and I am available for  
11 questions.

12 CHAIRMAN HILL: All right. Thank you, Ms. Brown-  
13 Roberts.

14 All right. I'm going to go around the table with the  
15 board members.

16 Commissioner May, do you have questions for the Office  
17 of Planning?

18 COMMISSIONER MAY: I do, thank you.

19 Ms. Brown-Roberts, you heard my questioning about the  
20 parapet wall and the small structure housing the stairway and  
21 (audio interference) a hatch, and I'm really curious about a  
22 couple of things. I mean, it is hard to tell from the drawings  
23 that were provided, but I don't quite understand, you know, how  
24 the parapet can be 37 feet tall in this zone. I thought that, you  
25 know, was limited to the 35.

1 MS. BROWN-ROBERTS: It's the 35 feet and then I think it  
2 can go up to, the property wall can extend up to four feet, before  
3 they would have to --

4 COMMISSIONER MAY: Up to four feet of parapet wall?

5 MS. BROWN-ROBERTS: Yes.

6 COMMISSIONER MAY: Okay. I didn't think that that was  
7 permitted in this zone. Okay. I'm going to check that.

8 And, I mean, I guess the setback requirement would be, I  
9 would think, would apply regardless of whether there's a parapet  
10 wall there. Because, you know, parapets, when you measure a  
11 parapet, I mean, setbacks on a rooftop, they are typically from  
12 where the plane of the roof hits the plane of the wall, not where  
13 the parapet is.

14 MS. BROWN-ROBERTS: So, from my experience, when there  
15 is a parapet wall, the structure is not usually setback.

16 COMMISSIONER MAY: Okay. Which is a different question.  
17 It's a question of whether it's required to be setback, because,  
18 again, I've seen so many diagrams where, you know, they draw the  
19 setback line and the start of that line is where the roof plane  
20 hits the wall plane, regardless of whether there's a parapet.

21 Now, again, that can vary from zone to zone, so maybe it  
22 doesn't apply --

23 MS. BROWN-ROBERTS: Yeah, I think I'm going to have to  
24 clarify with the zone administrator.

25 COMMISSIONER MAY: Yeah, okay.

1           And do you understand why I'm focused on?

2           Because it's, you know, all of that stuff piled up along  
3 the property line of 1303, I mean, yes, it does mean that there's  
4 less sort of privacy concern, but there is more daylight being  
5 blocked by an extra three and a half feet of walls.

6           MS. BROWN-ROBERTS: Yes, I understand.

7           COMMISSSIONER MAY: Yeah, okay. Thank you.

8           CHAIRMAN HILL: So, Ms. Brown-Roberts, if you could just  
9 write that note down about the Zoning administrator.

10          MS. BROWN-ROBERTS: Pardon me?

11          CHAIRMAN HILL: Could you just make a note of that.

12          MS. BROWN-ROBERTS: Yes. Yes.

13          CHAIRMAN HILL: Okay. Commissioner May, do you have any  
14 more questions for the Office of Planning?

15          COMMISSSIONER MAY: I do not.

16          CHAIRMAN HILL: Ms. John, do you have any questions for  
17 the Office of Planning?

18          VICE CHAIR JOHN: One question.

19          Ms. Brown-Roberts, can you talk about the shadow studies  
20 and what your impression was, in terms of the impact to the  
21 adjacent neighbor's house.

22          MS. BROWN-ROBERTS: Yeah. When I saw them, I think  
23 that, yes, there is additional studies some times of the year, but  
24 from, especially with the latest set of plans that the Applicant  
25 provided, I think that would be something that we would say is

1 excessive. But, definitely, there would be additional shadowing.

2 VICE CHAIR JOHN: Thank you. I also have another  
3 question.

4 Did you have -- were you able to see the discussion  
5 about the snowdrift on the roof --

6 MS. BROWN-ROBERTS: Yes, I did see that --

7 VICE CHAIR JOHN: -- (audio interference). Go ahead.

8 MS. BROWN-ROBERTS: But we don't have the experience to  
9 say, to comment on that.

10 VICE CHAIR JOHN: Okay. Thank you.

11 CHAIRMAN HILL: Mr. Smith, do you have any questions for  
12 the Office of Planning?

13 MEMBER SMITH: No questions, because I think, you know,  
14 Mr. May pretty much asked my question to Ms. Brown.

15 If I could get some additional clarification, because  
16 I'm still not sold that it meets the rooftop structure, if the  
17 penthouses meet the setback requirements.

18 And looking at the setback requirements -- and, you  
19 know, I'm not going to interpret for the Zoning administrator --  
20 but under Section 1504, setbacks for penthouses, it seems to me  
21 that a penthouse or any rooftop structure must meet a setback at a  
22 distance equal to its height, from the front building wall of the  
23 roof upon which it is located, and also the rear of the wall.

24 And the stair penthouse is seven feet. It seems to me  
25 it needs to be setback more than what it is now, of course, I can

1 see where the draft, it doesn't look like -- I don't see any  
2 measurements that show how far the setbacks from the front and  
3 rear of the building are. And it may be we need a side-yard  
4 requirement -- a side-building (audio interference) requirement  
5 (audio interference).

6 So, if I can get some additional clarification, that  
7 would be great.

8 MS. BROWN-ROBERTS: Okay.

9 CHAIRMAN HILL: Commissioner May, could you mute your  
10 line, please. Thanks.

11 All right. Let's see. Somebody is unmuted and I don't  
12 know who it is, but maybe not.

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

15 MS. DALE: I'm not sure if it would be for the Office of  
16 Planning, but I just wanted someone to let us know what does it  
17 really mean when it says that your property should not adversely  
18 affect the adjacent property?

19 Because I don't feel that that has really been addressed  
20 to us. Because we're feeling that the 10-foot extension and the  
21 shadowing, that, to us, is adversely affecting the enjoyment of my  
22 mother's property, as far as the height, size.

23 CHAIRMAN HILL: I understand.

24 Ms. Brown-Roberts, I am going to throw this one on you.  
25 Can you help define "adverse effect."



1           You're on mute, Ms. Brown-Roberts.

2           MS. BROWN-ROBERTS: An adverse effect would be something  
3 that generally not -- would affect your enjoyment of your house;  
4 however, the addition can -- the extended 10 feet is permitted, as  
5 a matter-of-right.

6           So, the Zoning regulation already says that 10 feet is  
7 not an adverse impact; it's when you go over that 10 feet, that  
8 there would be an adverse impact.

9           The same thing with the shadowing, there is going to be  
10 some shadowing, but it's the extent. Is the shadowing so much  
11 that it completely, you know, blocks your light most days or most  
12 times of the year so that you can't enjoy the use of your backyard  
13 or it would affect, say, plants in your backyard. So, those are  
14 some of the things that we look at.

15           MS. DALE: Okay. In terms of the shadow study, during  
16 the winter solstice, my mother's house is completely shaded. To  
17 us, that is really a critical component of their building causing  
18 adverse impact of her enjoyment.

19           Her house is going to be cold. She has to -- you know,  
20 her heating bills are going to escalate under those conditions.  
21 She's absolutely getting no sun during the winter solstice, and  
22 that's when we really need the sun, is to keep that warmth. I  
23 mean, that's the purpose of that sun is to melt the snow and to  
24 melt the ice.

25           It's not going to be available, the sunlight is not

1 going to be there because of all of the shadowing during the  
2 winter solstice.

3 MS. FEATHERSTONE: Or throughout the winter.

4 MS. DALE: Or throughout the winter.

5 CHAIRMAN HILL: Ms. Dale?

6 MS. DALE: Yes?

7 CHAIRMAN HILL: I'm just going to try to clarify.

8 Ms. Brown-Roberts, as I understand, again, you don't  
9 think that the additional shadowing at the winter solstice is  
10 adverse, correct?

11 MS. BROWN-ROBERTS: That's correct.

12 CHAIRMAN HILL: Okay.

13 MS. BROWN-ROBERTS: There is additional, I mean, I'm  
14 saying there is additional shadowing, but I don't think it is to  
15 such an extent that it is adverse.

16 CHAIRMAN HILL: Okay. I have a question for you,  
17 Ms. Brown-Roberts, just for clarity for me.

18 If everybody can mute that you are lines unless they're  
19 talking. Somebody has got feedback -- I think it's me.

20 Ms. Brown-Roberts, the massing, again, I know we have  
21 this whole thing that we're trying to figure out on the penthouse  
22 and the setback, but the massing is a matter-of-right; is that  
23 correct?

24 (No verbal response)

25 CHAIRMAN HILL: You're on mute.

1 MS. BROWN-ROBERTS: Oh, I'm sorry.

2 Yes, it is.

3 CHAIRMAN HILL: Okay.

4 MS. BROWN-ROBERTS: They are allowed to do the  
5 additional --

6 MEMBER SMITH: Ten feet.

7 MS. BROWN-ROBERTS: -- the additional on top and also  
8 the 10-foot extension.

9 What we still have to check is what would be, like, the  
10 penthouse, to see if that would affect any shadowing.

11 CHAIRMAN HILL: I understand. Okay.

12 MS. FEATHERSTONE: May I ask a question?

13 CHAIRMAN HILL: Ms. Featherstone?

14 MS. FEATHERSTONE: Yes.

15 CHAIRMAN HILL: Sure. Go ahead.

16 MS. FEATHERSTONE: May I add some (audio interference)?

17 We're all focusing -- we seem to be focusing on the  
18 winter solstice, which is one day in December. The winter  
19 solstice actually begins winter, so the sun is not going to rise  
20 as high in the sky in the winter, as it does in the summer.

21 Consequently, it's going to be lower in the sky and from  
22 two o'clock, almost every day in the winter, I mean, starting at  
23 noon, by two o'clock every day, my mother's roof will be a total  
24 shadow. That is the time of year that it is the coldest here in  
25 Washington, D.C. This is one of the reasons we are extremely

1 concerned about it.

2 I just wanted to clarify that and get that in the  
3 record.

4 CHAIRMAN HILL: What's your question, though, Ms. Albury  
5 [sic]? I'm sorry.

6 MS. FEATHERSTONE: Sir, it's not a question; it's a  
7 statement of clarification.

8 CHAIRMAN HILL: Okay.

9 MS. FEATHERSTONE: That the commissioner seemed, and the  
10 young lady from the Office of Planning, appear to be focusing only  
11 on the date of the winter solstice, December 21st. That date  
12 begins or marks the beginning of winter --

13 CHAIRMAN HILL: I understand.

14 MS. FEATHERSTONE: -- when it's already cold, okay. But  
15 when you get no sun on your roof, at all, that's the issue.

16 CHAIRMAN HILL: No, Ms. Albury [sic], I get you.

17 The reason why we look at that one particular date is  
18 that's the height. Everyone understands that it's leading up to  
19 it and it's after that; that's just kind of why they're pointing  
20 out that one date. But we do understand your statement.

21 MS. FEATHERSTONE: Okay. Thank you.

22 CHAIRMAN HILL: Sure. Ms. McLaughlin, do you have any  
23 questions for the Office of Planning?

24 (No verbal response)

25 CHAIRMAN HILL: You're shaking your head no.

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

3 MR. HOFFMAN: I had one question based on the DDOT  
4 report. Does the Office of Planning have any opinion on the side  
5 of the street, on Neal Street, where there's currently a curb cut,  
6 and a small driveway on the property that appears in the current  
7 plans, that will remain.

8 Does the Office of Planning have any opinion on if that  
9 should be removed and the curb cut should be restored in that  
10 section?

11 MS. BROWN-ROBERTS: We are in support of the DDOT  
12 recommendation.

13 MR. HOFFMAN: Okay.

14 CHAIRMAN HILL: Okay. Mr. Williams, do you have any  
15 questions for the Office of Planning?

16 MR. WILLIAMS: I do. I have one.

17 CHAIRMAN HILL: Okay.

18 MR. WILLIAMS: Ms. Brown-Roberts, did you discuss or  
19 confirm that, as far as the penthouse setback requirements go,  
20 that any structure less than four feet in height, is not subject  
21 to such setback requirements?

22 MS. BROWN-ROBERTS: As I said, Mr. Williams, that is  
23 something that I am going to follow-up on, just to confirm all of  
24 that.

25 MR. WILLIAMS: Okay.

1 CHAIRMAN HILL: Okay. Mr. Williams --

2 MR. WILLIAMS: I just want to point out that these  
3 structures are less than four feet, and my read of the writings is  
4 that the setback requirements would not apply.

5 CHAIRMAN HILL: Okay. Mr. Williams, just for the  
6 record, (audio interference), you guys are in agreement with  
7 DDOT's condition about close the existing curb cut and driveway to  
8 Neal Street and restore the former driveway to green space?

9 MR. WILLIAMS: So, that's something that I think we need  
10 to go through public space for. So, I don't know that we can  
11 necessarily agree to that condition, because it's a process.  
12 We're going to have to go through the process, I believe, but I  
13 don't know that it's a condition that we can necessarily agree to.

14 CHAIRMAN HILL: Ms. Cain, can you help me with that.

15 MS. CAIN: Give me one minute to pull up the report.

16 CHAIRMAN HILL: Okay. I'll come back to you.

17 Let's see. Did I get everybody?

18 I got everybody. Okay.

19 You can come back to me, Ms. Cain, in a second.

20 So, just to let everybody know, I'm going to take public  
21 testimony and then I'm going to take a break, because I've got to  
22 take a break.

23 And so, Mr. Young, is there anybody here for public  
24 testimony?

25 MR. YOUNG: Yeah. We have two witnesses. One is

1 calling in by phone.

2 CHAIRMAN HILL: Okay. Let's do the phone person first,  
3 if I can.

4 And what's their name?

5 MR. YOUNG: That's Ms. Albury.

6 CHAIRMAN HILL: Oh, okay.

7 MS. SANDRA ALBURY: Hi, there. Can you hear me?

8 CHAIRMAN HILL: Hi, Ms. Albury.

9 Yep, I can hear you. I mean, I guess, Ms. Albury,  
10 you're kind of already part of the party status, but nonetheless,  
11 I'll give you your three minutes --

12 MS. SANDRA ALBURY: Well, I'm the other daughter.

13 CHAIRMAN HILL: I understand.

14 Please introduce yourself for the record.

15 MS. SANDRA ALBURY: Okay. I'm Sandra Albury, Lottie B.  
16 Albury's daughter.

17 CHAIRMAN HILL: And where do you live, Ms. Albury?

18 MS. SANDRA ALBURY: I'm in Philadelphia, PA.

19 CHAIRMAN HILL: Okay. All right.

20 Well, Ms. Albury, go ahead. You have three minutes to  
21 give your testimony. And also, you're a very nice family. You  
22 guys are all supporting your mother, which is wonderful.

23 So, please, go ahead and give your testimony.

24 MS. SANDRA ALBURY: Sure. In closing, I just wanted to  
25 make a statement that this has been a really difficult situation

1 for all parties, but our main concern is for the health and safety  
2 of our mother and other family members that are living at 1303, as  
3 they encounter months of this construction.

4 And it's very frightening to see the situation, you  
5 know, on West Virginia Avenue with the rear of the adjacent  
6 property, 1503, being supported on stilts. It is something that  
7 we really don't want anything like this happening to 1303. And in  
8 all earnest, we really hope that we can arrive at a win-win  
9 situation in the end.

10 But, currently, we're still negotiating with the  
11 developers on the construction management agreement. So, that's  
12 just my closing statements for the family. We are just really  
13 concerned with the whole construction phase, what it might do to  
14 the house. Is it going to be sturdy enough?

15 And looking at that 1501 residence, we're a little  
16 scared right about now. So, I don't know how you guarantee, if  
17 there's any guarantee, that in jackhammering down into a  
18 foundation right next to Mom's house, how that is going to maybe  
19 readjust her foundation.

20 Someone needs to look at that 1503 and see what's going  
21 on with that neighbor, because she can't live in a house that's on  
22 stilts; that's just not possible.

23 CHAIRMAN HILL: Okay. All right. Thank you,  
24 Ms. Albury.

25 MS. SANDRA ALBURY: Thank you.



1 CHAIRMAN HILL: Thank you for your testimony.

2 Does the Board have any questions for Ms. Albury, and if  
3 so, raise your hand.

4 (No verbal response)

5 CHAIRMAN HILL: Okay. Ms. Dale, do you have any  
6 questions for the witness?

7 (No verbal response)

8 CHAIRMAN HILL: You're shaking your head no.

9 Ms. McLaughlin, do you have any questions for the  
10 witness?

11 (No verbal response)

12 CHAIRMAN HILL: You're shaking your head no.

13 Mr. Williams, do you have any questions for the witness?

14 MR. WILLIAMS: No.

15 CHAIRMAN HILL: Okay. All right.

16 Ms. Albury, I'll let you kind of -- I'm sure you are  
17 going to kind of listen in and watch, but we don't handle  
18 construction issues; like, DCRA does, and so, they will be sure  
19 during permitting that everyone is compliant and it's safe in  
20 terms of moving forward with the construction. We're here just,  
21 basically, for the zoning issues.

22 Okay. Mr. Johnson [sic], can you hear me?

23 MS. JOHNSON: Yes. Can you hear me?

24 CHAIRMAN HILL: Oh, it's Ms. Johnson.

25 MS. JOHNSON: Ms. Johnson. I'm Dietrich Johnson, and I

1 | would like to say good afternoon to everyone. Thank you for  
2 | allowing us to have additional comments to make.

3 |           And I basically wanted to say that I was in support of  
4 | the opposition case that was brought by the Albury family.

5 |           Can you hold on one moment -- my (audio interference) is  
6 | about to go out. And I wanted to thank you so much for that  
7 | pause.

8 |           But I wanted to just stand with Mrs. Albury to support  
9 | her, along with the other people who have supported her and also  
10 | make a retraction. As you've heard today, she's been living in  
11 | her house and in the community for over 70 years and has  
12 | established herself as a woman of character and integrity, making  
13 | a contribution to the District Government, to our community, to  
14 | her family. And her character is so important when we represent  
15 | her and support her, and I just want to let you know that.

16 |           The other thing that I would like to say is that there  
17 | was a concern on my part when the residents at 1301 came to my  
18 | door on two different occasions, and because I work at home, I was  
19 | not able to talk with them or review their plan. But the last  
20 | time one of the Medvenes came and asked me, wanted to talk with  
21 | me. I couldn't talk.

22 |           And I said, Well, I'll take the information. So, he  
23 | turned a sheet around to me and said, Would you sign this, and all  
24 | this letter says is that I talked with you. I just need to have a  
25 | signature that says that I've talked with you about the project.

1           So, I said I would prefer to take everything and read  
2 it. And the first thing I read was the letter he asked me to  
3 sign, which said, the very last line of the letter says, I am in  
4 support of this project, which was definitely in opposition to  
5 what he had stated to me.

6           Mr. Williams indicated that the community is trying to  
7 demonize them. That has not been the case at all. We are  
8 exercising our right as a community and with Mrs. Albury as being  
9 the adjacent house to it, to express how it could impact her. And  
10 her voice, alone, is very, very important to this project.

11           But when you have the support of others -- I had a  
12 neighbor at 1321 West Virginia who didn't fully understand what he  
13 had signed and has since retracted it because the developers want  
14 their projects to go forward, so sometimes there are occasions  
15 where they're not up front with the community. And so, to have  
16 this opportunity -- and as I was listening to the case before,  
17 there was talk about a tree-protection plan and roots.  
18 Mrs. Albury has roots in this community.

19           An individual, a citizen should also have some type of  
20 protection, and I am thankful for the ANC Commission, thankful for  
21 the Board of Zoning, that there's an opportunity that just because  
22 the regulation says it's by-right, that we do take the time to see  
23 how it can adversely affect others. And, basically, I just hope  
24 that you will come in agreement and look at this situation  
25 thoroughly.

1           As the Alburys have indicated, they are willing to work,  
2 and we are in support of them as they go forward with their case.

3           CHAIRMAN HILL:   Okay.   Thank you, Ms. Johnson.

4           Does the Board have any questions for Ms. Johnson, and  
5 if so, please raise your hand.

6           (No verbal response)

7           CHAIRMAN HILL:   I don't see anybody raising their hand.

8           All right.   Ms. Dale, do you have any questions for  
9 Ms. Johnson?

10          No?   You're shaking your head no.

11          MS. DALE:   No, just -- I have no questions, but I am  
12 just, again, thanking her for her testimony.   But, no, I do not  
13 have any questions for her.

14          CHAIRMAN HILL:   Thank you, Ms. Dale.

15          MS. DALE:   Can you hear me?

16          CHAIRMAN HILL:   Yeah, I can.   I heard you.   We heard  
17 you.

18          Ms. McLaughlin, do you have any questions for the  
19 witness?

20          (No verbal response)

21          CHAIRMAN HILL:   No?   You're shaking your head no.

22          Mr. Williams, do you have any questions for the witness?

23          MR. WILLIAMS:   I do not, but I think Sam Medvene may  
24 have a follow-up, since he was mentioned in the testimony.

25          MR. SAMUEL MEDVENE:   Just a point of clarification --

1 I'm not sure fit matters -- but with her -- with me passing, I had  
2 two letters that day; one for saying that recognition of reviewing  
3 the property again. As she mentioned, I did speak with them two  
4 times.

5 And the second one was if there were any questions or  
6 for our position to be read, there was a second letter that she  
7 was handed for review and to potentially submit, which is the  
8 letter of support.

9 So, that is why there was the miscommunication. I  
10 wasn't trying to push something for that to be done. But I just  
11 wanted to explain that transaction.

12 And then I did also -- a point of clarification for the  
13 other individual on the street -- I reviewed page by page with  
14 him, the original plans, and I have since gone back to the second-  
15 revised plans and hadn't had the opportunity to go through. He  
16 wasn't home when I did that again.

17 And we did retract that number from our letters of  
18 support in the presentation.

19 CHAIRMAN HILL: Okay. All right.

20 Okay. Well, thank you very much to the witnesses.

21 Mr. Young, you can excuse the witnesses.

22 (Pause)

23 CHAIRMAN HILL: Okay. And Mr. Medvene, I am kind of  
24 curious. So, the clarification that you're giving, you're saying  
25 that there was two letters; one saying that you actually talked to

1 something and another letter in support.

2 MR. SAMUEL MEDVENE: Correct. I had two letters.

3 CHAIRMAN HILL: So, you gave both letters or you gave  
4 one by accident?

5 MR. SAMUEL MEDVENE: I did not give the second letter  
6 and I should have. That's on me.

7 CHAIRMAN HILL: Okay. So, you weren't trying to be --

8 MR. SAMUEL MEDVENE: Huh-uh. I should have provided  
9 both letters and --

10 CHAIRMAN HILL: You weren't trying to be clever?

11 MR. SAMUEL MEDVENE: No, by no means.

12 CHAIRMAN HILL: Okay. All right.

13 Let's see. Mr. Young, is there anybody else for  
14 testimony?

15 MR. YOUNG: There's not.

16 CHAIRMAN HILL: Okay. I think we're going to have to  
17 talk about some stuff, so is it all right if we take a quick  
18 break?

19 (No verbal response)

20 CHAIRMAN HILL: Okay. I'm going to take a quick break,  
21 okay. I'll be right back.

22 (Recess taken at 12:57 p.m.)

23 (Proceedings resumed at 1:08 p.m.)

24 CHAIRMAN HILL: Okay. Can you all hear me?

25 (No verbal response)

1 CHAIRMAN HILL: I guess, just nod.

2 Okay. I think Ms. John is with us by phone now, again;  
3 is that right, Ms. John?

4 VICE CHAIR JOHN: I'm here, Mr. Chairman.

5 CHAIRMAN HILL: Okay. Great.

6 Okay. Mr. Smith, are you there?

7 MEMBER SMITH: Yes, I'm here.

8 CHAIRMAN HILL: Mr. Andrews, what was the administrative  
9 matter?

10 MR. ANDREWS: Mr. Chair, there was a filing receipt from  
11 the Applicant yesterday that was submitted after the 24-hour  
12 deadline. I wanted to bring that to your attention.

13 I'll defer to the Applicant of the contents and whether  
14 they are requesting a waiver.

15 CHAIRMAN HILL: Mr. Williams?

16 MR. WILLIAMS: Yes, the two letters that we submitted  
17 were a rebuttal to an architect letter that was submitted by the  
18 party in opposition the day prior. And so, we submitted, it's  
19 just rebuttal, and it hasn't come up in today's hearing. But if  
20 it was necessary for it to come up, then we would have referenced  
21 those.

22 CHAIRMAN HILL: Okay. So, you're still asking to have  
23 them submitted?

24 MR. WILLIAMS: We are asking that they be part of the  
25 record, since they are rebuttal response to a letter --

1 CHAIRMAN HILL: Okay. That's fine.

2 I don't think we're going to get to a decision today,  
3 necessarily, so unless the Board has any issues, we'll go ahead  
4 and allow that into the record.

5 Nobody is raising their hand no.

6 Okay. So, Mr. Andrews, please go ahead and allow that  
7 into the record.

8 MR. ANDREWS: Yes, sir.

9 CHAIRMAN HILL: Thank you. Just so everyone is clear  
10 what I'm going to try to do after this hearing, it looks as though  
11 we don't have to break at 1:30 as I thought; however, there is an  
12 ANC commissioner, I think, that's waiting for application 20400  
13 and there's a request to postpone. So, we're going to go ahead  
14 and do that and then take lunch, if everybody can kind of just  
15 bear with me.

16 So, just to get back to this, now. Mr. Andrews, would  
17 you call us back in, please, for the record.

18 MR. ANDREWS: Yes. I'll take a roll call.

19 CHAIRMAN HILL: No, you don't have to do that. Never  
20 mind. I'll call us back in.

21 We're back in -- all Mr. Moy does, Mr. Andrews -- and  
22 thank you -- is that we're just back in, starting again at or  
23 approximately 1:09 p.m. And so, that's all he says. Sorry.

24 Okay. Great. So, let's see.

25 Okay. I did have one question real quick,



1 Mr. Andrews --

2 MR. ANDREWS: Yes?

3 CHAIRMAN HILL: -- and maybe this is for the -- I'm  
4 sorry -- Mr. Williams, Mr. Williams, Mr. Williams, and this is  
5 maybe for the architect.

6 The house next door that was on stilts for another  
7 project, do you know why that happens or how that happens?

8 And you don't necessarily think that that's going to  
9 happen to Mrs. Albury's property, right?

10 I mean, what's the deal with the stilts, as far as you  
11 know -- you could take a guess.

12 MR. WILLIAMS: Yeah, obviously, we're not affiliated  
13 with that project, at all, but I think what we looked at, when we  
14 looked at that, was that they had some structural issues that  
15 dealt, related to underpinning and none of that is going to be  
16 going on at this particular house at 1301.

17 CHAIRMAN HILL: Right. You guys aren't doing  
18 underpinning?

19 MR. WILLIAMS: No. My understanding is no, we are not.

20 CHAIRMAN HILL: Okay. But, again, that is something  
21 that would come up in permitting?

22 MR. WILLIAMS: Correct. That would be permit-related,  
23 as would all the structural reviews that have been raised.

24 CHAIRMAN HILL: Right. And then, just -- I don't know  
25 if you know -- if you did have to do underpinning like that, you

1 would have to get permission from the property owner?

2 MR. WILLIAMS: I believe there's a notice letter that  
3 goes out --

4 CHAIRMAN HILL: Right.

5 MR. WILLIAMS: -- that is part of the permitting  
6 process, yes.

7 MR. PETYAK: If I may?

8 You have to do what is called a "neighbor notification  
9 form," which is not necessarily -- you can notify that you will be  
10 doing underpinning on the home. It's the landowner's right to  
11 perform underpinning for the work, but we must notify the  
12 neighbor. And then through that, go through a third-party special  
13 inspections process through the City.

14 CHAIRMAN HILL: But that's not something that you expect  
15 at this point?

16 MR. PETYAK: The design of this property is not going to  
17 be utilizing underpinning. We're planning on doing a stepped  
18 foundation condition. So, the basement of this property is, we're  
19 accommodating, essentially, a ledge within the lower unit so we do  
20 not need to underpin, correct.

21 CHAIRMAN HILL: That might be something, Mr. Williams,  
22 that you can clarify.

23 I don't think you're going to get to a decision today  
24 because there's other things that I know Commissioner May is  
25 interested in, and I know you're continuing to work on an MOU with

1 the neighbor. So, you might as well -- you know, you can specify  
2 and alleviate their concerns in that area, and then also let them  
3 know how permitting goes in terms of, you know, the safety of  
4 their property, right. Okay?

5 Let's see. So, that was one thing that I had a question  
6 of.

7 The other for me, I guess, and I'll let Mr. May clarify  
8 what questions he has and what he may want to see, the next place,  
9 and whether we do a continued hearing concerning those questions,  
10 or if we get to a decision or not. I don't -- actually, we might  
11 not get to a decision.

12 Commissioner Hoffman, so, you know that -- so, you  
13 didn't take a vote because you guys wanted to still see if an MOU  
14 could be achieved with the party in opposition. Then, if you had  
15 gotten an MOU, then you think that, at least, you could have taken  
16 a vote; is that correct?

17 MR. HOFFMAN: Potentially. In light of, also, the  
18 amount of negative and oppositional community feedback that we  
19 have received on the case, we did not feel that, at that time, we  
20 could properly make any decision, and that no community agreement  
21 had been met.

22 CHAIRMAN HILL: Right. But, eventually -- well, not  
23 community agreement; you're talking about the memorandum of  
24 understanding. A community agreement is something different.

25 MR. HOFFMAN: Yes.

1 CHAIRMAN HILL: But you think you'll be able to take a  
2 vote at some point. I'm just saying, up or down, you're going  
3 take a vote, correct?

4 MR. HOFFMAN: Yes. Yes.

5 CHAIRMAN HILL: When is your next ANC meeting?

6 MR. HOFFMAN: That would be April 13th.

7 CHAIRMAN HILL: Okay. All right.

8 I know Commissioner May has a bunch of stuff, and so  
9 maybe, actually, Commissioner May, if it's okay, I'll let you  
10 clarify what you're kind of interested in understanding and if we  
11 need to have a continued hearing about that understanding, and  
12 then I'm going to circle back at the end because I have a couple  
13 of comments, as well.

14 But may I start with you, Commissioner May?

15 MR. HOFFMAN: Chair Hill, could I actually made one  
16 comment, that I've been advised by my Zoning Committee chair to  
17 make in this case?

18 CHAIRMAN HILL: Sure.

19 MR. HOFFMAN: With reference to issues that Commissioner  
20 May has brought up regarding the roof hatches. In BZA Case 20088  
21 and 20089, there were similar agreements to move to the smaller  
22 roof hatches that did not end up requiring BZA exception. Due to  
23 community feedback that the ANC received, there was a request to  
24 not have a penthouse on the properties and they, instead, went for  
25 the similar hatches.

1           And we appreciated, on those cases, at the time, not  
2 having the extended rooftops and having those roof hatches, and  
3 those cases were brought before the BZA and approved, without  
4 exception.

5           CHAIRMAN HILL:   Okay.   Great.

6           MR. HOFFMAN:   (Indiscernible.)

7           CHAIRMAN HILL:   Thanks, Commissioner Hoffman.

8           I think Commissioner May has different issues than a  
9 penthouse --

10          MR. HOFFMAN:   Sure.

11          CHAIRMAN HILL:   -- but I appreciate that clarity.

12          Commissioner May?

13          COMMISSSIONER MAY:   You know, actually, that was helpful  
14 information, and it is related.   It's not the entirety of the  
15 questions.   I mean, part of it is the parapet wall and part of it  
16 is those, theoretically, 4-foot-high structures that how has the  
17 hatches.

18          And, you know, I would appreciate understanding through  
19 the Office of Planning, whether the Zoning administrator considers  
20 those, you know, what's being proposed here as being compliant  
21 with the Zoning regulations, because it's hard to tell.   I mean,  
22 it may be that they are, but it is kind of hard to tell, given the  
23 drawings that we received.

24          So, whatever can be done, by the Office of Planning, to  
25 clarify that, I think would be helpful, because it does affect how

1 much shadow would be cast by this renovated building and expanded  
2 building onto the property to the north.

3           The other aspect of this is that the Applicant could  
4 revise their plans to come up with a scheme that uses the lower-  
5 lying, or the hatches that can be installed closer to the roof.  
6 You know, it's already pretty good that the roof height is only  
7 31'7" or whatever it is, but whatever can be done to sort of keep  
8 the protrusions, you know, on the rooftop, to a minimum, I think  
9 would be very helpful and reduce the potential for adverse impact  
10 on the Albury property.

11           So, you know, I think that there are a couple of things  
12 that could happen from here. We could get clarity from the Zoning  
13 administrator and if everything is clearly within the (audio  
14 interference), that's fine.

15           Somebody's microphone is on and it's making a lot of  
16 noise. Thank you.

17           Or the Applicant could revise, you know, submit a  
18 revised plan for the roof that would further reduce that. I think  
19 that would help, as well.

20           And, you know, I don't think that we need to have  
21 another hearing on it. I mean, I would look for some further  
22 feedback from the Office of Planning and/or the Applicant. And  
23 whatever we get, or if we get nothing at all, I think that we  
24 could still go ahead and go to a decision without having a further  
25 hearing.

1 CHAIRMAN HILL: Okay. What I understood, Commissioner,  
2 that you're asking for, and I'm a little curious on some of this  
3 myself, because I have difficulty with these roof hatches a little  
4 bit, and I'm a little bit different than actually you and  
5 Commissioner Turnbull, in that I've never really understood what  
6 is within Zoning, and also within that, whatever the particular  
7 zone might be, insofar as these roof hatches.

8 So, I guess the first question is, and I guess the  
9 Office of Planning is listening, and I will ask for a yes or no at  
10 the end of this, but that you'll clarify with the Zoning  
11 administrator if these, what they were calling Daylitter hatches  
12 are compliant is the first question.

13 Correct, Ms. Brown-Roberts?

14 MS. BROWN-ROBERTS: Yes, Mr. Chairman.

15 CHAIRMAN HILL: And then, also, I guess we're talking  
16 about the wall up there, as well.

17 Correct, Ms. Brown-Roberts?

18 MS. BROWN-ROBERTS: The parapet wall, yes.

19 CHAIRMAN HILL: Yes. Okay. So, we're going to get  
20 clarification on that; so, that's one thing.

21 And then, I guess, Commissioner May, if you're saying  
22 that you think that the Zoning administrator believes they to be  
23 compliant, that you don't need to see anything else?

24 COMMISSSIONER MAY: No, I don't.

25 But I would say that one way to help reduce the impact

1 of this development on the neighboring property, would be to  
2 adjust the plans and to use that other roof hatch product or  
3 something else entirely, because I'm sure there are more than two  
4 roof-hatch products that are on the market.

5 So, come up with something else that, you know, reduces  
6 or eliminates the need for that parapet wall and for those 4-foot-  
7 high structures on the roof, because I think that would go, you  
8 know, part of the way to help reduce the impacts on the  
9 neighboring property, and that could be a good thing.

10 CHAIRMAN HILL: Okay. So, we'll circle back around a  
11 little bit.

12 And this is where I'm, and Commissioner May, this might  
13 even be a sidebar conversation that I have with you, because I  
14 personally like these things, and so that's why I'm confused as to  
15 what -- and you and Commissioner Turnbull always like the flat  
16 thing, you know. And I'm using the word "like" very loosely,  
17 right.

18 COMMISSSIONER MAY: Yes.

19 CHAIRMAN HILL: I understand what your -- I don't know  
20 if the increased shadowing is necessarily that much more harmful  
21 than the flat, you know, hatch. Anyway, I'm muddying the waters.

22 But I don't know what the Applicant is going to do  
23 anyway, because if the Zoning administrator says, Yeah, they're  
24 compliant, then they're not going to do anything.

25 COMMISSSIONER MAY: Well, if they truly want to make



1 | peace with the neighbor next door, they might do something anyway.

2 |           CHAIRMAN HILL: Right. So, we'll leave it up to oh  
3 | we'll see what happens.

4 |           COMMISSSIONER MAY: Yes.

5 |           CHAIRMAN HILL: Okay.

6 |           COMMISSSIONER MAY: And I'm not saying that I really  
7 | like these hatches. You know, our original vote at the Zoning  
8 | Commission was not to allow penthouses, period, in RF-1 Zones, and  
9 | the hatches came out as a way of getting rooftop access without  
10 | that.

11 |           Previously, our thought was that the rooftop access  
12 | would come from stairways that were external to the building.

13 |           CHAIRMAN HILL: Okay. That's interesting.

14 |           COMMISSSIONER MAY: Yeah. Including, you know, there's  
15 | a case right now that's almost completely decided where we tweaked  
16 | these regulations, so ...

17 |           CHAIRMAN HILL: To tweak them to do what?

18 |           COMMISSSIONER MAY: I can't remember, man. It's --

19 |           CHAIRMAN HILL: Right.

20 |           COMMISSSIONER MAY: -- I have so many cases, you know.  
21 | I can't recite all the changes. But if you're really interested,  
22 | I can get you the number and you can read it.

23 |           CHAIRMAN HILL: Yeah, you can get me the number, yeah.

24 |           Okay. So, for the record, I like these hatches or  
25 | whatever. Then, because I had other things that I have issues

1 with.

2 And so, Mr. Smith, do you have anything you want?

3 MEMBER SMITH: You know, I completely agree with Mr.  
4 May. Once again, he has articulated my viewpoint so eloquently.

5 To belabor his point, just because the Zoning  
6 administrator may state that it's in accordance with the  
7 regulations, doesn't mean that it may not be harmful or have an  
8 adverse impact to the adjacent neighbors.

9 So, I completely agree with him. I do need additional  
10 clarification. In looking at the drawings, it looks like the  
11 parapet is nearly five feet above the roofline, nearly five feet.  
12 It looks like it's 4'11". So I do need some additional clarity  
13 on the maximum height of a parapet.

14 As Ms. Brown was stating before, she believed that it  
15 was four, and if that's the case, then it does exceed the maximum  
16 allowed for the Zone. We need additional clarification.

17 I agree with Mr. May. I do believe that they attempt to  
18 do different treatments with the roof hatch to address the adverse  
19 impacts on the neighboring property. So, I completely agree with  
20 him. I second everything that he was saying.

21 And to help Mr. May out with what he was saying to you,  
22 Mr. Hill, the text amendment is ZC 1413(e).

23 COMMISSSIONER MAY: Thank you. I'm glad you keep track  
24 of that.

25 (Laughter)

1 MEMBER SMITH: I'm reviewing it for you, so you may get  
2 some comments back from me.

3 (Laughter)

4 COMMISSSIONER MAY: Oh, good. I look forward to that.

5 CHAIRMAN HILL: All right. Ms. John?

6 VICE CHAIR JOHN: Thank you, Mr. Chairman.

7 So, I am also concerned about the impact of the shadows  
8 on the neighbor's roof. And so, if the removal of the parapet  
9 (audio interference) --

10 CHAIRMAN HILL: Ms. John, I'm sorry, I lost you. I  
11 heard you say, "If the removal" and then that was the end.

12 VICE CHAIR JOHN: Oh, am I breaking up?

13 CHAIRMAN HILL: Now I can hear you again.

14 VICE CHAIR JOHN: So, I was saying that I am also  
15 concerned about the shadowing on the roof of the neighbor in the  
16 winter months. And I had plans (audio interference) --

17 CHAIRMAN HILL: Sorry, Ms. John, you're breaking up  
18 again.

19 VICE CHAIR JOHN: I can't see it here but -- so, I am  
20 concerned about the shadowing on the neighbor's roof. So, if the  
21 issue with the parapet wall would help to mitigate that impact for  
22 (audio interference).

23 I'm also concerned about the accumulation of snow and  
24 ice in the winter, and I'm not sure why that's true in this case  
25 when it's never happened before -- well, I've not addressed that

1 | issue before, for a third-floor addition, so I don't know who  
2 | should answer this question.

3 |           And I think I may have missed my opportunity to ask it  
4 | when the Applicant testified, but it hadn't come up then.

5 |           CHAIRMAN HILL: Okay. Ms. John, I'll let you go ahead  
6 | and ask your question.

7 |           What I heard -- you kind of broke up -- is that you also  
8 | had concerns about the shadowing and your question about the  
9 | parapet wall and the shadowing; is that correct?

10 |           VICE CHAIR JOHN: Yes.

11 |           CHAIRMAN HILL: Okay. What's the question you have,  
12 | please?

13 |           VICE CHAIR JOHN: My question is, will Commissioner  
14 | May's suggestion help to reduce the shadowing on the wall?

15 |           I mean, does there have to be -- on the roof -- does it  
16 | have to be a parapet, or could it be a railing, which would be  
17 | less dense?

18 |           You know, I don't, but my concern is that the neighbor's  
19 | rooftop might be significantly covered in shadow during the  
20 | winter. So, if that could be addressed.

21 |           CHAIRMAN HILL: Okay. So, Mr. Williams, I think you're  
22 | following along, probably?

23 |           MR. WILLIAMS: Yes, I am.

24 |           CHAIRMAN HILL: Again, you know, what seems to be the  
25 | discussion is whether or not this is compliant, as per the Zoning

1 administrator, and even if it is, whether or not the Board is  
2 going to agree with the additional shadowing from that parapet  
3 wall, and if there were, like, railings that might be able to stop  
4 shadowing.

5           And I guess what I'm not clear on, and I don't even know  
6 if you can show us from one of your shadow studies -- or maybe  
7 we'll do this later -- I don't know -- just how much additional  
8 shadowing is happening from that parapet wall, right. That's kind  
9 of, like, something you might want to throw into the record,  
10 right.

11           MR. WILLIAMS: Right.

12           CHAIRMAN HILL: And so, I don't know if it clearly  
13 states that or not. So, that's one thing where I think we kind of  
14 are.

15           And we might have a continued hearing, just on this  
16 parapet wall issue -- I don't know -- right. I know where I am  
17 about some other things, and I am going to speak last when  
18 everyone is done.

19           Ms. John, do you have anything else?

20           VICE CHAIR JOHN: No.

21           CHAIRMAN HILL: Okay. So --

22           MR. WILLIAMS: Should I speak to those two issues real  
23 quick?

24           CHAIRMAN HILL: Sure. Go ahead.

25           MR. WILLIAMS: Okay. I'll start with the parapet wall,

1 | because it seems to be such a big concern.

2 |           Our view is that it is allowed, per the by-right  
3 | development standards in the RF-1 Zone. And I also want to just,  
4 | I think everyone is aware of this -- this was not our first  
5 | choice. Our first choice was to have a penthouse in the middle of  
6 | the roof, and we were asked not to do that.

7 |           And I my Mr. Hoffman just alluded to that. So, you are  
8 | seeing a second iteration of the plans that we redesigned in order  
9 | to respond to comments from the community; this was not our first  
10 | choice. So, I just want to make sure that is clear for the BZA  
11 | and the record. We already reworked the plans once and that  
12 | you're seeing the results of a discussion with the community and  
13 | the ANC and the Planning and Zoning Committee. That's issue  
14 | number one.

15 |           Number two, the parapet wall, I don't have an exhibit  
16 | that shows just the parapet wall's shadow, but we've been talking  
17 | about this here offline with the architect and the Applicant. We  
18 | think it impacts a very small sliver in the rear yard, just the  
19 | parapet wall, itself. And I don't have an exhibit, so I can't  
20 | swear on that, but that's what we believe the difference would be.

21 |           The other thing I would say is that we reduced the  
22 | height. So, this building can go to 35 feet of height, by-right.

23 |           That is what was approved at 1501. The height here is less than  
24 | 32 feet. So, on three sides of the building, it's less than 32  
25 | feet; it's less than what is allowed by-right. And the parapet

1 wall is just on that one side because of the change from having a  
2 penthouse.

3           So, we are already under what we could do. So, I just  
4 want to make sure it's clear. We made those changes on purpose.  
5 That was not our first choice. That was not our initial goal or  
6 intent. These changes have been made directly as a result of  
7 concerns from the community and at a great expense to the  
8 Applicant to go back and hire an architect to rework the entire  
9 design of the building.

10           So, we are trying to respond to comments from the  
11 community as best as we can and what you're getting as a result of  
12 that is, the best we can do in terms of meeting as many goals as  
13 possible. So, I want to make that as clear as I possibly can.

14           On the structural issue, this is actually important.  
15 When we go in for permits, we have to go through a review. I  
16 mentioned this in my filing. We have to go through a review with  
17 DCRA, per Code, where a structural engineer has to do an analysis  
18 and certify that the addition will not cause any structural issues  
19 from snowdrift.

20           This specific issue comes up during the permitting  
21 process and we have a structural engineer. The Applicant has been  
22 through this many times. That engineer, one of those letters that  
23 we talked about that we submitted yesterday, is from that engineer  
24 who speaks to this as a rebuttal to this concern.

25           So, there already is a process for this to ensure that

1 | there will not be any issues there, and if there are, we're  
2 | required to go back and rework the whole plan by DCRA and Building  
3 | Code. So, I just wanted to address those two concerns.

4 | CHAIRMAN HILL: Okay. Ms. John, and then I'll get  
5 | Mr. May.

6 | Mr. May, you're not muted.

7 | COMMISSSIONER MAY: Sorry.

8 | VICE CHAIR JOHN: So, Mr. Williams, when the design was  
9 | changed, were the Alburys involved, and did they understand the  
10 | implications of potential shadowing from the placement of the  
11 | units on the roof and the parapet wall? Did they understand all  
12 | of that?

13 | MR. WILLIAMS: I can't speak to what they understood. I  
14 | know that, I believe -- and they can speak for themselves and  
15 | correct me if I'm wrong -- they were at the Planning and Zoning  
16 | Committee meeting in December, at least one of the representatives  
17 | was, after which we made this change. And if I'm incorrect about  
18 | that, please correct me, but I am fairly confident that at least  
19 | one of the Albury representatives was there, that heard the  
20 | comments that we reacted to, to that meeting.

21 | VICE CHAIR JOHN: Thank you.

22 | I realize you cannot comment on how they understood it,  
23 | so maybe I asked the question differently.

24 | What I wanted to know is during the discussions with the  
25 | Alburys directly, and discussing the impacts to their mother's



1 house, did you discuss the changes in the rooftop, the placement  
2 of the equipment on the rooftop, as well as the parapet wall?

3 MR. WILLIAMS: Yes. The HVAC equipment was directly  
4 discussed, and the parapet wall and those changes have now been  
5 made for the last -- they were made in December, so we've had  
6 numerous meetings.

7 Now, again, I can't speak to if they're understanding or  
8 if I'm not being eloquent enough to explain this, because I may  
9 not be, but this has been out there. This is not -- we're not  
10 hiding the ball. This has been out there and discussed at, I  
11 think, five ANC meetings now. So, it has been discussed ad  
12 nauseam with the community and all of the interested parties.

13 VICE CHAIR JOHN: Okay. I was aiming for the interested  
14 parties, the adjacent neighbor --

15 MR. WILLIAMS: Yes.

16 MR. JOHNSON: -- because it's the adjacent neighbor who  
17 is directly impacted by a project, such as this. And that's all I  
18 am trying to ascertain.

19 MR. WILLIAMS: Yes.

20 VICE CHAIR JOHN: I'm not saying that you're hiding the  
21 ball.

22 We see a lot of these cases --

23 MR. WILLIAMS: Yeah.

24 VICE CHAIR JOHN: -- and many times, the adjacent  
25 neighbor does not fully understand what's happening with the

1 project and that's all I'm trying to ascertain, and your  
2 representation is that it is --

3 MR. WILLIAMS: Yes.

4 VICE CHAIR JOHN: -- so thank you very much.

5 MR. WILLIAMS: Thank you.

6 CHAIRMAN HILL: Okay. Commissioner May, did you have  
7 another question?

8 COMMISSSIONER MAY: A question or a comment?

9 So, Mr. Williams, just so you understand, you know, we  
10 have read the case file and we saw the evolution of the design  
11 from the earliest submission, and we are aware that it has  
12 evolved, in response to the neighborhood concerns, and I don't  
13 think it really helps your case to say things like, Look, we've  
14 already gone this far.

15 I mean, that's just not what we're asking, right.  
16 Whatever you have done, it is still not enough to address the  
17 concerns of the most-affected neighbor and we are making  
18 suggestions on how you might further address that. So, my advice  
19 to you, would be to take that advice very seriously and act  
20 accordingly. And if you can't do it, you can't do it. But if you  
21 can do it, it's probably a good thing to do, because it will help  
22 reduce the potential for adverse impact.

23 And the other thing that I would also point out is that,  
24 yes, we are aware that the summer [sic] solstice is a single day;  
25 however, the day before it is only a few minutes different and the

1 day after is only a few minutes different. So, there is a whole  
2 season of impact. We are just seeing the peak at 2:00 p.m. on the  
3 winter solstice, but we know that it lasts much longer than that,  
4 right. Everybody does. So ...

5 MR. WILLIAMS: No, I appreciate the feedback. We'll  
6 definitely consider it.

7 COMMISSSIONER MAY: All right. Thank you.

8 CHAIRMAN HILL: Okay. Let me see now.

9 Mr. Smith, do you have any final issues that you want  
10 addressed?

11 MEMBER SMITH: No, I don't have any more questions or  
12 concerns.

13 CHAIRMAN HILL: Okay. Mr. Williams, when you guys  
14 are -- I know that you are trying to put together an MOU with the  
15 party status people in terms of like construction and things like  
16 that. I know that it's still kind of in a process.

17 Do you know how close you are to getting an MOU?

18 MR. WILLIAMS: Well, we have exchanged drafts over the  
19 last week or so and I think we have gotten close to the point  
20 where we have maxed-out what we can provide. So, again, you need  
21 two parties to agree, or more, and I can't speak if any of the  
22 other parties.

23 I think we provided a robust agreement that hits all the  
24 major concerns that we typically hit in these agreements and more,  
25 and we'll still talk through it, but at some point, it takes more

1 | than just us to negotiate.

2 |           CHAIRMAN HILL: I understand.

3 |           MR. WILLIAMS: I hope we can get there.

4 |           CHAIRMAN HILL: Sure. Let me see where -- if everybody  
5 | could just mute your lines, unless you're talking -- thanks. I  
6 | think it's Mr. Williams. Thanks.

7 |           Okay. I guess this is where I am, and I don't know if  
8 | you guys want to have, actually, a limited scope hearing or not,  
9 | and so I'll kind of throw this out. Well, I know what I want to  
10 | do. I know what I want to hear exactly or see, and this is where  
11 | it's a little bit -- this is the first time I'm kind of asking  
12 | something a little different, but, you know, I'm still going to  
13 | go -- I'm going to hang my hat on X 901.4 in terms of adverse  
14 | impact to, you know, that we a long -- I can't believe this is the  
15 | only the second case -- and it's terms of adverse impact.

16 |           Like, do you know, Mr. Williams, again, like, I -- well,  
17 | let me start with this.

18 |           To Ms. Dale and Ms. Albury, like, they are able to go 10  
19 | feet back as matter-of-right, right, and I know that you all have  
20 | gone back-and-forth as to what they're allowed to do. They are  
21 | here for the third unit, right, and we're trying to figure out the  
22 | adverse impacts on the third unit --

23 |           MR. WILLIAMS: Correct.

24 |           CHAIRMAN HILL: -- so a lot of these things -- thanks,  
25 | Mr. Williams -- a lot of these things are maybe -- wait a minute.

1 So, we're here, basically, for the third unit.

2 Mr. Williams, what I am kind of curious of is, does  
3 Miss -- and now I'm just asking a side question -- does Ms. Albury  
4 have a deck in her backyard, do you know?

5 MR. WILLIAMS: I believe -- I'm not sure -- I believe  
6 so.

7 CHAIRMAN HILL: Right.

8 MR. SAMUEL MEDVENE: She does not.

9 CHAIRMAN HILL: Okay.

10 MR. WILLIAMS: I'm corrected. She does not. The deck  
11 is on our side.

12 CHAIRMAN HILL: Who said that?

13 MR. WILLIAMS: The Applicant.

14 CHAIRMAN HILL: So, Mr. Medvene, and I am going to look  
15 through the regulations and see what my authority is, but while  
16 you're putting your MOU together, the part that has been  
17 disturbing me is that Ms. Albury can't walk past your 10-foot  
18 thing and see her neighbors, right.

19 I don't know if there's some way you can make it so that  
20 she can see past your 10 feet, right, and I don't know if that's a  
21 walkway, a wooden walkway, a deck, something that might make it so  
22 that miss -- hold on, Commissioner, I'll get you in a second --  
23 something that can make it so that Ms. Dale [sic] can see the  
24 school, can see, like, you know, past her 10 feet.

25 Ms. Albury has been in the neighborhood for forever --

1 | you know, not forever -- sorry -- she's been there for a long  
2 | time, right. She's been an upstanding neighbor. She just seems  
3 | like a charming person. If there's anything that I can do to help  
4 | her so she can see past your 10 feet and I'm allowed to do it, I'm  
5 | going to try to do it, okay. So, I'm just letting you know if you  
6 | come back and there's some way that Ms. Albury -- the shadowing  
7 | and the tiny bit of shadowing that comes up for that retaining  
8 | wall -- I'm sorry, the wall that they're talking about, and I  
9 | totally get it, that's not my concern, right.

10 |           Ms. Albury can't see past your 10 feet. So, if you can  
11 | let me know how -- I don't even want an answer. I don't need an  
12 | answer. If you all can just let me know that Ms. Albury can see  
13 | past that 10 feet and see the school and see her neighbors, it  
14 | would make me understand how this project doesn't have any adverse  
15 | impact. I'm just throwing that out there. So, that's all I had  
16 | to say about that.

17 |           And, Commissioner, you have something, Mr. Hoffman?

18 |           MR. HOFFMAN: Yeah, I wanted to address this point,  
19 | because this was something that we talked about early on in the  
20 | design concepts. There was very little confidence that the  
21 | Applicant would be able to get a side yard compliance from this  
22 | Board to, instead of going back, go further towards Neal Street.  
23 | We had suggested that as an alternative; instead of going back, go  
24 | wider, to avoid the 10-foot setback --

25 |           CHAIRMAN HILL: I'm just going to stop you. The 10 foot

1 is a matter-of-right, right. I mean, I know you guys have to go  
2 through all your negotiations, but now you are what you are, and  
3 they've gone through the design and they've spent -- and I do  
4 think that they have gone back-and-forth. This has gone back-and-  
5 forth. We see a lot of cases, and to Ms. Dale and to all the  
6 other people, they have worked with you guys, right. They have  
7 tried to do things. They have reduced the size. They have done a  
8 lot of stuff.

9 I am just stuck on the thing that I am stuck on and my  
10 other board members are stuck on the things that they're stuck on.

11 And I think we're going to end up, what we see next -- and  
12 Mr. Williams, you can just nod your head that you hear me and  
13 understand me, correct?

14 (No verbal response)

15 CHAIRMAN HILL: Okay. Great. Perfect. Wonderful.

16 So, all right. So, that being the case, I'm going to go  
17 around the table just to -- well, actually, I'm just going to go  
18 to the Applicant. The Applicant only gets the conclusion. The  
19 Applicant actually gets rebuttal and the conclusion, and I still  
20 have to deal with a -- I still have an ANC commissioner that is  
21 just trying to get on for a postponement and it's almost to  
22 two o'clock.

23 God, it's almost two o'clock and we started at 9:30.

24 So, Mr. Williams, do you have any rebuttal and a  
25 conclusion?

1 MR. WILLIAMS: Nothing beyond what we've already  
2 discussed, Commissioner.

3 CHAIRMAN HILL: Okay. Great. Perfect. Thank you.

4 All right. So, then, I guess where we are, is we're  
5 going to find out what the Zoning administrator has to say. After  
6 we find out what the Zoning administrator has to say, we're going  
7 to see whether the Applicant changes anything.

8 I would like to see whatever the MOU is that finally  
9 gets addressed and, if there's anything to do about Ms. Albury  
10 being able to see past the 10-foot wall, okay, that's what I want  
11 to hear and see.

12 And then, I guess, do you want to do a continued  
13 hearing?

14 I mean, then this goes back to another thing, and this  
15 is also the Applicant that can kind of figure this out. I don't  
16 know if you get a yes from the ANC or not. Like, if you go back  
17 to the ANC and somehow get a yes after all this work that you've  
18 done, that would be help you.

19 But now, Ms. Cain, now I'm going to go to where if they  
20 have anybody in opposition, then I have to do a full order,  
21 correct, Ms. Cain?

22 MS. CAIN: Yes. I mean, at this point, you have parties  
23 in opposition, so it would be a full order, unless they were to  
24 revoke their opposition.

25 CHAIRMAN HILL: Right. So, I don't know how --



1 Mr. Williams, do you know the difference between a full order and  
2 a summary order, right --

3 MR. WILLIAMS: I do.

4 CHAIRMAN HILL: -- and the time that's involved, and  
5 you're nodding your head.

6 So, I don't know if you think you can get it. You only  
7 have two party status, by the way, because as I understand this,  
8 Ms. Cain, since -- sorry, give me a second -- since Ms. Durbin has  
9 not shown up, she loses her party status, correct?

10 MS. CAIN: I'm not entirely clear on that. If they  
11 don't show up to the meeting where party status is decided, they  
12 lose it automatically.

13 I'm not sure what happens if they don't show up for the  
14 actual hearing. I would need to double-check that.

15 CHAIRMAN HILL: Okay. You can double-check.

16 I think they lose their party status, because this is  
17 the meeting, right. You just can't get party status and then not  
18 show up. Nobody wants to miss this fun, okay.

19 So, I think, Mr. Williams, you only have two party  
20 status people to say yes to and then the ANC. I don't know if  
21 you're going to get there or not, but I'm just kind of throwing  
22 that out. If you want to try to get all of this wrapped up and  
23 get through the ANC again and see if the ANC will vote yes.

24 And to the ANC's commissioner, to everybody that's  
25 paying attention, this is basically, the massing -- again,

1 Ms. Dale and everybody -- the massing, the bulk is matter-of-  
2 right, okay. So, we are here for the third unit, right, and now  
3 we are going through the intricacies of this penthouse thing that  
4 my colleagues want to hear about, right.

5 So, Mr. Williams, I'm trying to process this as to where  
6 we may come back with you, right, because you hear everything we  
7 wanted to see -- and I'm talking out loud. We're going to hear  
8 from the Zoning administrator, then I guess the Applicant is going  
9 to figure out what the Applicant wants to do, and then I'm going  
10 to hear about some solution to Ms. Albury seeing past that 10  
11 feet -- patio, concrete slab, you know -- and, yeah, and then I  
12 guess you could submit, Mr. Williams.

13 Do you know, Mr. Williams, whether you want to try to go  
14 back in front of the ANC or not or you don't know?

15 MR. WILLIAMS: Well, if we're going to defer the BZA  
16 hearing, then we ought to at least give ourselves one more chance  
17 to get before them.

18 CHAIRMAN HILL: Okay. And that's the 13th of April.

19 Commissioner Hoffman, can you see if you can get these  
20 guys back before you on the 13th?

21 MR. HOFFMAN: Yes.

22 CHAIRMAN HILL: Okay. So, Ms. Dale and Ms. McLaughlin,  
23 just so you know what's happening, the Applicant is going to come  
24 back to you and see if they can work things out, okay. And then  
25 they're going to go back to the ANC and see what happens, right.

1           Ms. McLaughlin, again -- well, Ms. McLaughlin, the  
2 things you're talking about really are just construction, right,  
3 like timing. You know, background checks, I don't know about  
4 background checks -- I've never heard about background checks --  
5 but, you know, whatever it is you think you can figure out, right,  
6 you know, you're talking about construction, right. So, go ahead  
7 and work with Mr. Williams.

8           Ms. Dale, go ahead and work with Mr. Williams, see if  
9 you can get what you're getting.

10          And Mr. Williams, I just keep repeating it over and over  
11 again. I want some kind of explanation or at least why you're not  
12 going to help Ms. Albury see past that 10 feet.

13          MR. WILLIAMS: Oh, I've got it.

14          CHAIRMAN HILL: You got it, right.

15          And then, am I missing anything from anybody, and if so,  
16 raise your hand.

17          (No verbal response)

18          CHAIRMAN HILL: Okay. I don't see anybody raising their  
19 hand, so I'm going to assume that we're all good, everybody  
20 understands.

21          And then, I guess, Mr. Williams, if you guys are on  
22 the 13th -- I'm pulling up a calendar -- the 13th of April, I  
23 mean, I'll do my best to get to you.

24          So, Mr. Andrews -- I don't know if Mr. Moy is back or  
25 not -- do you have our calendar for the 21st of April?

1 MR. ANDREWS: I do, Mr. Chair.

2 CHAIRMAN HILL: What's there on the 21st of April?

3 MR. ANDREWS: The 21st of April, I'm not sure, but  
4 Mr. May is back with us May 12th.

5 CHAIRMAN HILL: No, no, no. I got you.

6 I'm sorry. I was trying to understand how many cases we  
7 have on the 21st of April.

8 MR. ANDREWS: One minute, Mr. Chair.

9 CHAIRMAN HILL: Actually, it doesn't matter. I want to  
10 do it on the 21st of April.

11 I believe Mr. Williams is going to help me out, so I'm  
12 going to help you out, Mr. Williams, and we're going to be back  
13 here on the 21st of April, okay.

14 COMMISSSIONER MAY: In case you're interested, I'll show  
15 up on the 21st.

16 CHAIRMAN HILL: Oh, I'm sure, Mr. May, you're going to  
17 show up (audio interference).

18 COMMISSSIONER MAY: Even though I wasn't scheduled, I  
19 can do it.

20 CHAIRMAN HILL: Okay. So, we're going to come back for  
21 a very limited scope hearing on the 21st, okay.

22 The record is closed for everything, except for the  
23 items that we have requested. And I guess the filing, and this is  
24 where -- I don't know -- Ms. Cain is about to say something -- but  
25 I don't know if Mr. Andrews can help me with the dates or if

1 Ms. Cain can help me with the dates as to when you might want to  
2 see stuff -- but I want to get back here on the 21st of April for  
3 a limited scope hearing, just about the issues we talked about.  
4 And if that's the case, if somebody can help me with the filings.

5 MS. CAIN: Okay. So, for a hearing on the 21st, we  
6 would recommend, I think is if the Applicant can have their  
7 submissions in by March 31st, with two weeks for the party-  
8 opponents to respond.

9 CHAIRMAN HILL: Mr. Williams, would that work for you,  
10 March 31st?

11 MR. WILLIAMS: That should work.

12 CHAIRMAN HILL: So, March 31st. That means that the  
13 party-opponents would have until the 14th to respond and hopefully  
14 you all have an agreement, so there's nothing to respond to.  
15 That's what we're hoping for, right.

16 MS. CAIN: Yeah. And then, did the Board also want  
17 responses from OP, because that could also come in on the 14th.

18 CHAIRMAN HILL: Okay. Sure.

19 Because the Office of Planning might have new  
20 information after they talk to the Zoning administrator and  
21 whatever happens, right?

22 MS. CAIN: Uh-huh. And then just as an additional  
23 clarification for you, Mr. Chair, regarding the third-party status  
24 request, my understanding in looking at the regulations, is that  
25 per Y 44.16, at this point, they would need to formally withdraw

1 | their party status request to no longer be considered as a party.

2 | It's not automatic if they are unable to appear at the hearing.

3 | CHAIRMAN HILL: Well, that doesn't seem right to me, but  
4 | okay.

5 | So, Mr. Williams, I don't know, now you've got a third  
6 | person. You got to get Ms. Durbin to sign off.

7 | But still, you know, whether you get past us or not is  
8 | not, you know -- getting past us is the important part, right.  
9 | And so, that means if we can get something from the ANC from like  
10 | the 16th of April, would that be fair, Commissioner?

11 | MR. HOFFMAN: Yes, Chairman.

12 | CHAIRMAN HILL: Okay. All right.

13 | Does everybody understand the dates?

14 | (No verbal response)

15 | CHAIRMAN HILL: Okay. All right.

16 | Mr. Williams, good luck.

17 | MR. WILLIAMS: Thank you.

18 | CHAIRMAN HILL: And the record is closed, except for the  
19 | items we talked about, which is the memorandum of understanding,  
20 | some comment about how to help Ms. Albury see past the 10 feet of  
21 | that house, the penthouse issues, and the penthouse issues. And  
22 | so, we'll wait to see what we see.

23 | So, okay. Good luck, everybody. I'm going to say good-  
24 | bye to everybody. The hearing is closed. Thank you.

25 | MR. HOFFMAN: Thank you.

1 CHAIRMAN HILL: All right. Mr. Andrews, can you hear  
2 me?

3 (No verbal response)

4 CHAIRMAN HILL: You guys, this is just -- I think we --  
5 if the ANC person is still there, they have been waiting, and so I  
6 would just like to find out where we are with this whole  
7 postponement issue.

8 MR. ANDREWS: Mr. Chair, I can hear you.

9 CHAIRMAN HILL: Okay. Great.

10 Could you go ahead and call our next case, 20400.

11 MR. ANDREWS: Yes, sir.

12 Application of case number 20400 of Green Street  
13 Apartments, LLC. Address, 2326-2328 Green Street SE. The project  
14 is to construct a new, detached, three-story with cellar and  
15 penthouse, ten-unit apartment house in the RA-1 Zone.

16 The relief: special exception under the new residential  
17 development requirements of Subtitle U, Section 421.1., and from  
18 the minimum vehicle parking requirements of Subtitle C, Subsection  
19 701.5, pursuant to Subtitle C, Subsection 703.2 and Subtitle X,  
20 Subsection 902.1.

21 And there is a preliminary matter. Counsel has  
22 requested a postponement. The ANC filed a motion in support  
23 yesterday, Mr. Chair.

24 CHAIRMAN HILL: Okay. Great.

25 Mr. Sullivan, could you introduce yourself for the

1 record, please.

2 MR. SULLIVAN: Yes, thank you, Mr. Chairman, Members of  
3 the Board.

4 Marty Sullivan with Sullivan Barros, on behalf of the  
5 Applicant.

6 CHAIRMAN HILL: Great. Commissioner Muhammad, can you  
7 hear me?

8 MS. MUHAMMAD: Yes, I can hear you.

9 CHAIRMAN HILL: Could you introduce yourself for the  
10 record, please.

11 MS. MUHAMMAD: Hollie Muhammad, chair of ANC 8-A.

12 CHAIRMAN HILL: Welcome, Commissioner.

13 MS. MUHAMMAD: Thank you.

14 CHAIRMAN HILL: Commissioner Moore, can you hear me?

15 (No verbal response)

16 CHAIRMAN HILL: Commissioner Moore, can you hear me?

17 (No verbal response)

18 CHAIRMAN HILL: Okay. Let's see what happens.

19 COMMISSIONER MOORE: Can you hear me?

20 CHAIRMAN HILL: Yes. Can you hear me, Commissioner?

21 COMMISSIONER MOORE: Yes, I had to unmute myself.

22 CHAIRMAN HILL: No problem.

23 Could you introduce yourself for the record, please?

24 COMMISSIONER MOORE: Hi, I'm Commissioner 8A04,  
25 Commissioner Moore.



1 CHAIRMAN HILL: Okay. Welcome, Commissioner.

2 COMMISSIONER MOORE: Thank you.

3 CHAIRMAN HILL: Mr. Sullivan, so, you're asking for a  
4 postponement?

5 MR. SULLIVAN: That's correct, Mr. Chair.

6 CHAIRMAN HILL: Why are you asking for the postponement  
7 and when would you like the postponement to?

8 MR. SULLIVAN: It's simply because we have not had the  
9 opportunity to be at a full ANC meeting and we have not gotten to  
10 vote. And we were also about to propose a change and possible  
11 driveway onto the property to try to get parking spaces, in  
12 response to concerns from the ANC.

13 We're not sure yet if that's exactly what they want.  
14 They might want the green space, instead of the driveway, but  
15 that's an outstanding issue.

16 So, we were okay with asking for a postponement until  
17 their next meeting. I don't think they're meeting in April, so  
18 we'd have to wait until May.

19 CHAIRMAN HILL: Commissioner Muhammad, when is your next  
20 ANC meeting?

21 MS. MUHAMMAD: Okay. So, they need to come to our  
22 executive meeting, which will be the 15th of March, and our next  
23 community meeting will be May 4th.

24 CHAIRMAN HILL: Okay. So, can they tell get on that  
25 May 4th if they meet your exec meeting?

1 MS. MUHAMMAD: Yes.

2 CHAIRMAN HILL: Okay.

3 MS. MUHAMMAD: That's the plan.

4 CHAIRMAN HILL: Okay. Great, Commissioner, thank you.

5 So, May 4th. Okay. So, I see May 4th is a Tuesday.

6 Gosh, I mean, Mr. Sullivan, I don't know. Is the 12th,  
7 you want to try and come back on the 12th; is that what you're  
8 going to shoot for?

9 MR. SULLIVAN: That would be great if we could do that.

10 CHAIRMAN HILL: Right. Mr. Andrews, you don't -- I  
11 mean, is Mr. Moy around?

12 MR. ANDREWS: Mr. Chair, he's doing training today.

13 CHAIRMAN HILL: Oh, yeah. Okay. All right. I don't  
14 know. All right. I'll go ahead and do it, just because I don't  
15 know the dates.

16 So, Mr. Rice, can you hear me?

17 MR. RICE: Yes, sir.

18 MR. ANDREWS: Mr. Chair, I have the --

19 CHAIRMAN HILL: If we try to get back here -- go ahead,  
20 Mr. Andrews.

21 MR. ANDREWS: I have Mr. Moy's schedule.

22 CHAIRMAN HILL: Okay. How many cases do we have on  
23 May 19th?

24 (Pause)

25 CHAIRMAN HILL: Mr. Andrews, I'm sorry, I can't hear

1 | you.

2 |           MR. RICE: My count is nine, but Mr. Andrews may know  
3 | better.

4 |           CHAIRMAN HILL: Your count is nine?

5 |           (No verbal response)

6 |           MR. RICE: (Nodding head.)

7 |           CHAIRMAN HILL: And what do we have on May 26th,  
8 | Mr. Rice?

9 |           MR. ANDREWS: Six cases, sir.

10 |           CHAIRMAN HILL: Okay. Mr. Sullivan, if it doesn't  
11 | bother you, I'm going to put you on May 26th.

12 |           MR. SULLIVAN: Okay.

13 |           CHAIRMAN HILL: Okay. So, we're coming back on May  
14 | 26th.

15 |           So, Mr. Rice, if we come back on May 26th, can you let  
16 | us know the dates of things.

17 |           MR. RICE: Yes, sir.

18 |           CHAIRMAN HILL: Can you let us know now or can you let  
19 | us know later?

20 |           MR. RICE: It'll take a second to calculate, but I can  
21 | provide it to the secretary and also to Mr. Sullivan.

22 |           CHAIRMAN HILL: Okay. Great.

23 |           So then, Mr. Sullivan probably knows the dates better  
24 | than anybody else.

25 |           So, we're going to come back here on May 26th, okay.

1 MS. MOORE: Okay.

2 CHAIRMAN HILL: Commissioner, can you hear me?

3 MS. MOORE: Yes, I can.

4 CHAIRMAN HILL: All right. Well, thank you all very  
5 much.

6 COMMISSIONER MOORE: You're welcome. Thank you.

7 CHAIRMAN HILL: You'll come back here on May 26th.

8 And you guys, by the way, for the record, I was trying  
9 to get you all before that last case, but that last case went a  
10 whole lot longer than I thought, so we're doing it before lunch,  
11 at least. So, at least we're now going to go eat.

12 COMMISSIONER MOORE: Right. Yes, sir. Thank you. I  
13 appreciate it.

14 MS. MUHAMMAD: Thank you, Chairman.

15 COMMISSIONER MOORE: Have a good one.

16 MR. SULLIVAN: Thank you.

17 CHAIRMAN HILL: Thank you. You all take care.

18 We'll see you all on May 26th.

19 MS. MUHAMMAD: Okay. Thank you.

20 CHAIRMAN HILL: Okay. So, it's two o'clock, okay.

21 And we've got -- how many do we have left -- one, two,  
22 three, four -- we've got four left, right. So, what do you think,  
23 45 minutes? Is that too much? Forty-five minutes?

24 What?

25 COMMISSSIONER MAY: Half an hour?

1 CHAIRMAN HILL: Okay. We can try half an hour.  
2 I've got to go get something to eat. I'm not at my  
3 house.  
4 COMMISSSIONER MAY: Okay.  
5 CHAIRMAN HILL: So, let's shoot for 35, 40 minutes.  
6 Let's see what happens.  
7 COMMISSSIONER MAY: All right.  
8 CHAIRMAN HILL: Okay. Thank you. Bye-bye.  
9 (Recess taken at 2:00 p.m.)  
10 CHAIRPERSON HILL: Mr. Andrews, are you there?  
11 MR. ANDREWS: Mr. Chair, I am.  
12 CHAIRPERSON HILL: Okay. Great. So I'm going to go  
13 ahead and call us back to order here. The time is now around 2:53  
14 p.m., after a lunch break. And Mr. Andrews, if you can go ahead  
15 and call our next case.  
16 MR. ANDREWS: Yes, sir. The Application No. 20281 of  
17 Square 737, LLC, pursuant to 11 DCMR Subtitle X, Chapter 9 for a  
18 special exception under the Downtime-use requirements of Subtitle  
19 --  
20 CHAIRPERSON HILL: Mr. Andrews? Mr. Andrews? My I  
21 interrupt you one second?  
22 MR. ANDREWS: Sure.  
23 CHAIRPERSON HILL: Was 20358 next or no? It doesn't  
24 matter, I'm just --  
25 MR. ANDREWS: No. Staff changed it.

1 CHAIRPERSON HILL: That's okay. That's okay. Go ahead.  
2 Please start again, if you wouldn't mind. I'm sorry to interrupt  
3 you.

4 MR. ANDREWS: Of course. Of course. No, not at all.  
5 Not at all.

6 Application No. 20281 of Square 737 LLC, pursuant to 11  
7 DCMR Subtitle X, Chapter 9, for a special exception under the  
8 Downtown-use requirements of Subtitle I, Section 303.1(i) to  
9 permit a veterinary hospital use on the first floor of an existing  
10 mixed-use building in the D-5 Zone at premises 150 I Street,  
11 Southeast, Square 737, Lot 828.

12 There is a preliminary matter as well, Mr. Chair. We  
13 would need a waiver from the -- or you to consider a waiver from  
14 the notarization requirements.

15 CHAIRPERSON HILL: Okay.

16 MR. ANDREWS: Yes, sir.

17 CHAIRPERSON HILL: Okay. Great. Ms. Hottel-Cox, are  
18 you there?

19 MS. HOTTEL-COX: Good afternoon, Chair. Yes, I'm here.

20 CHAIRPERSON HILL: Great. Could you please introduce  
21 yourself for the record?

22 MS. HOTTEL-COX: Meghan Hottel-Cox with Goulston &  
23 Storrs, counsel for the applicant.

24 CHAIRPERSON HILL: Okay. Great. Ms. Hottel-Cox, first  
25 of all, nice to see you.

1 MS. HOTTEL-COX: Nice to see you as well.

2 CHAIRPERSON HILL: You need a waiver from the  
3 notarization requirements. Could you tell us why again?

4 MS. HOTTEL-COX: Yes. Just during the ongoing pandemic  
5 there, D.C. hasn't finalized the remote notarization rules, so we  
6 have an affirmation as opposed to an affidavit. It's just simply  
7 not notarized since the remote notarization for the person in our  
8 office who files those wasn't able to get one.

9 CHAIRPERSON HILL: Okay. I don't have an issue with the  
10 waiver unless the Board has an issue; and if so, please raise  
11 your hand. I don't see anyone raising their hand. Okay, Ms.  
12 Hottel-Cox, who is here with you today?

13 MS. HOTTEL-COX: So we have Matt Tsau with WC Smith, the  
14 applicant. And then we should have Dan Teich, who is a  
15 representative of District Vet, although I'm not seeing him as one  
16 of the presenters. I just messaged him. Oh, there he is. Okay.  
17 I think we have everyone now.

18 CHAIRPERSON HILL: Okay. Dr. Teich, if you could please  
19 introduce yourself for the record.

20 DR. TEICH: Hi, everyone. My name is Dan Teich. I'm a  
21 veterinarian here in Washington, D.C. I'm one of the owners of  
22 District Veterinary Hospital. We have a hospital on Capitol Hill  
23 at Eastern Market, and one in the Brookland neighborhood.

24 CHAIRPERSON HILL: Okay. Let's see. Give me a second.  
25 Mr. Young, are there people here wishing to testify?

1 MR. YOUNG: I don't have anyone.

2 CHAIRPERSON HILL: Okay. All right. I'm going to let  
3 my fellow Board members know, for the record, Dr. Dan is my vet,  
4 okay, and he is my veterinarian, and he's fantastic. It will not  
5 influence my looking at the zoning on this but, you know, Elvis  
6 and Lucy, Dr. Dan, were ours. Right. Okay. Right. Yeah. Okay.  
7 All right. Okay. That's it.

8 So Ms. Hottel-Cox, let's see. If you could go ahead and  
9 walk us through your application and why you think you are meeting  
10 the requirements for us to grant the special exception or the  
11 relief requested. And you can begin wherever you like.

12 MS. HOTTEL-COX: Thank you. And Mr. Young, we did  
13 submit a presentation. If you could pull that up for us, that  
14 would be great. While that's getting pulled up, I'll go ahead and  
15 get started.

16 So again, good afternoon. My name is Meghan Hottel-Cox,  
17 and I'm with Goulston & Storrs representing the applicant in this  
18 case. We are excited to be here virtually today to present WC  
19 Smith's plans to bring District Vet to the mixed-use project, The  
20 Garrett, at 150 I Street, Southeast. The Garrett is part of The  
21 Collective, a three-building mixed use project between I Street, H  
22 Street, New Jersey Avenue, and 2nd Street Southeast. This  
23 community is full of many pet owners, including approximately one-  
24 third of the over 1,100 residents at The Collective.

25 The property is located in the D-5 Zone which requires



1 special exception approval for an animal hospital, which brings us  
2 here today to ask for a special exception approval for District  
3 Vet to occupy approximately 4,100 square feet of the ground floor.  
4 District Vet will provide high-quality day-to-day veterinary care  
5 for pets of residents in the area. The proposal meets all of the  
6 requirements for special exception approval of District Vet as  
7 detailed in our filings.

8           The space and day-to-day operations have been designed  
9 with residents in mind, mitigating any noise or smells from the  
10 veterinary use. The District Vet use will not include any  
11 boarding of animals, and there will be no external yards for  
12 animals. We will speak more in our presentation about how the  
13 proposed use serves the residents and community. I am happy to  
14 report that we are here today with support of the Office of  
15 Planning and the District Department of Transportation.

16           Additionally, the ANC submitted a resolution into the  
17 record showing unanimous support for the project and the requested  
18 relief. We greatly appreciate the ANC's time working with us on  
19 this project and their commitment to this community-serving  
20 operation at The Garrett. With that, we have two witnesses today;  
21 Matt Tsau will testify on behalf of the applicant, and Dr. Dan  
22 Teich will testify on behalf of District Vet. With that, I'm turn  
23 it over to Matt.

24           MR. TSAU: Good afternoon, everyone. Again, my name is  
25 Matt Tsau. I'm with WC Smith/Square 737 LLC. Just to give you a

1 little background on the (audio interference) --

2 CHAIRPERSON HILL: Mr. Tsau, you're kind of breaking up  
3 a little bit. I don't know. Maybe speak a little slowly.

4 MR. TSAU: Sure. I'll try again. Again, good  
5 afternoon. I am Matt Tsau. I'm with WC Smith/Square 737 LLC.  
6 Just to give a little bit of background on WC Smith, we consider  
7 ourselves a resident of the Capitol Riverfront. We actually moved  
8 our headquarters down here in 2003 just a couple blocks away from  
9 the (audio interference) property at 150 I Street. You know, and  
10 in that time, (audio interference) we have been a big part of the  
11 community. While we were building 150 I Street, (audio  
12 interference) no dog park, and all this history to say we feel  
13 that (audio interference) its use of the extremely community  
14 service (audio interference) as well as (audio interference).

15 We feel that this really benefits (audio interference).  
16 He's making a statement we went (audio interference). We also did  
17 receive other (audio interference). Were you able to hear me all  
18 right?

19 CHAIRPERSON HILL: Yeah, Mr. Tsau, you're kind of -- if  
20 we have further questions -- I pretty much caught everything you  
21 had to say, but maybe we'll -- Ms. Hottel-Cox, if you can move on,  
22 and then we'll come back to hear about the standards from you.  
23 And if we have any questions for Mr. Tsau, we can refer them back  
24 to him.

25 MS. HOTTEL-COX: Sure. I'll --

1 MR. TSAU: Would it be easier if I call in?

2 CHAIRPERSON HILL: I think we're okay for now, Mr. Tsau.

3 MR. TSAU: Okay.

4 CHAIRPERSON HILL: But if we need to, we'll ask you to  
5 call in.

6 MS. HOTTEL-COX: Sure. And I'll turn it over to Dr.  
7 Teich to walk through some of the operations and how that -- I  
8 think some of his presentation will also speak to how we meet the  
9 standards. And then once he's finished, we're happy to answer any  
10 questions the Board might have.

11 DR. TEICH: Okay. My turn. Hi, everybody. I think  
12 we're going -- are we going to the next slide, I think, correct?  
13 Yeah. We're good. Awesome.

14 District Vet is going to occupy a corner of the  
15 building. It's going to be a general wellness practice. There's  
16 no boarding, there's no overnight care. And it's going to be  
17 serving dogs and cats pretty much exclusively. Three-quarters to  
18 more than that of our clientele is expected to walk to the  
19 facility and spend anywhere from 35 minutes to an hour and then  
20 walk home.

21 The basics will be spay, neuter, vaccinations, and minor  
22 well-pet visits. There's going to be no extensive surgical  
23 facilities in this particular location. For more complicated  
24 surgical interventions, that will be at our Eastern Market office.

25 I think we're going to go on to the next one. This is

1 just a quick little layout of the facility. The entrance is going  
2 to be on 2nd Street. In the top right corner, there's going to be  
3 a vestibule as well so that it's double doored. We have an  
4 extensive waiting room and lobby. And then the exam rooms are  
5 flanking off of the lobby area.

6 The back of the hospital, the treatment room, consists  
7 of a box-in-a-box type build where there's a 19-foot ceiling but  
8 all the room -- every single room that you see is its own box  
9 within providing excess shielding for any outside and inside noise  
10 that may be present. It contains required restrooms and other  
11 spaces along with having a staff break room which will be above as  
12 a mezzanine that you can see the stairway in the center of the --  
13 in the very center, you'll see there's a stairway that leads up to  
14 a mezzanine for a staff break room.

15 All animal holding for the day or temporary is going to  
16 be in the bottom left area where it's an insulated room, for our  
17 own edification too. That's a quick tour of the inside of the  
18 facility as well. The walls are all heavily insulated, and the  
19 ceilings are insulated. The box-in-a-box ceilings are also  
20 insulated as well. Even though they're inside of a building and  
21 there's free space above them, they are insulated for temperature  
22 and for any sound abatement too. And in the lobby area, there  
23 will be sound abatement features.

24 I think we have one more slide. Oh, yeah. Sorry. This  
25 is just a little mezzanine, and I think there's one more.

1 Okay.

2           This is just a quick little overview of our current two  
3 hospitals that we have. Top left is our Brookland Hospital which  
4 is going to be a very similar design to the I Street facility.  
5 You'll see that -- in the back left, you'll see that the boxes  
6 within the entire -- in the entire space. The feeling of the  
7 facility is a warm one. I want you to walk in and feel like  
8 you're in somebody's living room. It's good for the pets, it's  
9 good for the clients, and it's great for staff morale as well.

10           And just in case you're wondering, the bottom right,  
11 that's me and my dog. That's Brian. Brian, the dog.

12           Top -- and then on the top right is a treatment facility  
13 of our Brookland office. Just above that is the treatment  
14 hallway. And then bottom left is the Eastern Market lobby waiting  
15 room area. And I think we are -- I think there might be one more,  
16 but I think that's about it.

17           MS. HOTTEL-COX: I think that's the last slide.

18           DR. TEICH: Right.

19           MS. HOTTEL-COX: While this is up, I'll just speak to a  
20 couple of other points to note some of the conversations with the  
21 ANC and also touch on a couple of the other standards from the  
22 zoning regulations.

23           Specifically, as Dr. Teich was mentioning, there is a  
24 lot of insulation to prevent noise that could be disruptive to  
25 residents within the building, in addition to the significant slab

1 between the ground floor and the residential units above. Where  
2 there's not a secondary ceiling, there will be acoustical tiles to  
3 ensure there's not a noise issue. Additionally, any animal waste  
4 will be removed from the tenant facility on a daily basis and will  
5 be removed from the building at least weekly.

6 The ANC was also focused on pick up and drop off for the  
7 few customers who may drive to the site, as well as parking, and  
8 we've agreed to work with them moving forward with the project  
9 with DDOT through the public space approvals process for this.  
10 That concludes our presentation, but we're happy to answer any  
11 questions that the Board may have.

12 CHAIRPERSON HILL: Okay. Thank you, Ms. Hottel-Cox.  
13 Does the Board have any questions for the applicant? Commissioner  
14 May? Did I lose Commissioner May?

15 COMMISSIONER MAY: No. Sorry about that. No, I have no  
16 questions.

17 CHAIRPERSON HILL: Okay. Mr. Smith?

18 BOARD MEMBER SMITH: No questions.

19 CHAIRPERSON HILL: Ms. John?

20 VICE CHAIR JOHN: (Audio interference).

21 CHAIRPERSON HILL: Okay. I'm going to turn to the  
22 Office of Planning.

23 MR. MORDFIN: Good afternoon. I'm Stephen Mordfin with  
24 the Office of Planning, and the Office of Planning finds this  
25 application to be in conformance with the provisions of the

1 zoning regulations for this use and therefore, supports the  
2 application and is available for questions.

3 CHAIRPERSON HILL: Okay. Great. Does anybody have any  
4 questions for the Office of Planning; and if so, please raise your  
5 hand. Does the applicant have any questions for the Office of  
6 Planning? All right. Mr. Young, I think I asked you before, is  
7 there anybody here wishing to speak?

8 MR. YOUNG: We do not.

9 CHAIRPERSON HILL: Okay. Ms. Hottel-Cox, you have  
10 anything you would like to add at the end?

11 MS. HOTTEL-COX: No. Thank you.

12 CHAIRPERSON HILL: Okay. Dr. Teich, nice to see you  
13 again.

14 DR. TEICH: Thank you so much.

15 CHAIRPERSON HILL: You know, see you at some point. I  
16 did have a goatee the last time you saw me.

17 DR. TEICH: Yes.

18 CHAIRPERSON HILL: All right. Okay. All right. I'm  
19 going to close the hearing, and the record, and excuse everyone  
20 from the room. Okay. I'll let somebody else begin, if that's  
21 okay. Commissioner May.

22 COMMISSIONER MAY: I mean, this is a very  
23 straightforward case, and I don't see any issues to be concerned  
24 or even worthy of discussion. I'm ready to move forward.

25 CHAIRPERSON HILL: Mr. Smith.

1 BOARD MEMBER SMITH: I agree with Mr. May. I think,  
2 based on the OP staff report, the applicant successfully mitigated  
3 any adverse impacts, and I will be in support.

4 CHAIRPERSON HILL: Ms. John.

5 VICE CHAIR JOHN: I support the application. It's  
6 fairly straightforward, and I think the applicant did a good job  
7 of explaining how the application meets the criteria.

8 CHAIRPERSON HILL: Thank you. I agree with my  
9 colleagues in terms of how the applicant has met the criteria for  
10 us to grant this relief requested. I also refer to the Office of  
11 Planning's report and their analysis as well as the report from  
12 ANC 6D as well as DDOT. I'm going to make a motion to approve  
13 Application No. 20281 as captioned and read by the secretary and  
14 ask for a second. Ms. John?

15 VICE CHAIR JOHN: Second.

16 CHAIRPERSON HILL: The motion been made and seconded.  
17 Mr. Andrews, could you take a roll call vote, please.

18 MR. ANDREWS: Yes, Mr. Chair. When I call your name,  
19 would you please respond with a yes, no, or abstain to the motion  
20 made by Chairman Hill to approve the relief requested. The motion  
21 was seconded by Vice Chair John to approve. Zoning Commissioner  
22 May?

23 COMMISSIONER MAY: Yes, to approve.

24 MR. ANDREWS: Mr. Smith?

25 BOARD MEMBER SMITH: Yes, to approve.



1 MR. ANDREWS: Vice Chair John?

2 VICE CHAIR JOHN: Yes, to approve.

3 MR. ANDREWS: We have a Board seat -- Mr. Hill, Chairman  
4 Hill?

5 CHAIRPERSON HILL: Sure. Yes, to approve.

6 MR. ANDREWS: We have a Board seat vacant. Staff will  
7 record the vote as 4 to 0 to 1. And this is the motion made by  
8 Chairman Hill to approve the relief requested. The motion was  
9 seconded by Vice Chair John to approve. Also in support was  
10 Zoning Commissioner May and Mr. Smith. The motion carries as 4 to  
11 0 to 1 to approve.

12 CHAIRPERSON HILL: Okay. Great. Thank you. Mr.  
13 Andrews, you can go ahead and call our next case when you get a  
14 chance.

15 MR. ANDREWS: Yes, sir. The next case is Application  
16 No. 20358 of Abraham Atansuyi as amend -- I'll spell the last  
17 name, A-T-A-N-S-U-Y-I -- as amended, pursuant to 11 DCMR Subtitle  
18 X, Chapter 9 for a special exception under the residential  
19 conversion requirements of Subtitle U, 320.2, and pursuant to  
20 Subtitle X, Chapter 10 for an area variance from the residential  
21 conversion requirements of Subtitle U, 320.2(c), to convert an  
22 existing flat into a three-unit apartment house in the RF-1 zone  
23 at premises 71 New York Avenue, Northwest, Square 618, Lot 70.

24 There is a preliminary matter, Commissioner -- I'm sorry  
25 -- Mr. Chair. The applicant failed to appear on February 24th

1 public hearing. The Board granted a postponement to allow the  
2 applicant an additional opportunity to appear or to withdraw the  
3 application. The Office of Zoning notified the applicant that  
4 failure to appear at the 3/10 hearing today would result in the  
5 dismissal of their case but has not yet received any response from  
6 the applicant.

7 As such, if the applicant fails to withdraw the  
8 application before this date and fails to appear, the Board may  
9 dismiss the application.

10 CHAIRPERSON HILL: Okay. Mr. Rice, can you hear me?

11 MR. RICE: Yes, sir, I can.

12 CHAIRPERSON HILL: Okay. So the applicant is not here?  
13 There's nobody here, right, Mr. Young?

14 MR. YOUNG: There is not.

15 CHAIRPERSON HILL: Okay. So I'm going to go ahead and  
16 make a -- I don't know if I need to make a motion. Do I have to  
17 make a motion, or I can just go ahead and dismiss it as per Y  
18 600.4?

19 MR. RICE: Sir, just to be clear, this is case No.  
20 20342, correct?

21 CHAIRPERSON HILL: No, 20358.

22 MR. RICE: Okay.

23 CHAIRPERSON HILL: No problem.

24 MR. RICE: And I believe that is Ms. Cain

25 CHAIRPERSON HILL: Oh, that's Ms. Cain. I'm sorry. Ms.

1 Cain, can you hear me? Can you hear me?

2 MS. CAIN: Uh-huh.

3 CHAIRPERSON HILL: I don't know if -- oh, now, I can  
4 hear you. So do I need to make a motion, or I can just go ahead  
5 and dismiss as per Y 600.4?

6 MS. CAIN: I think you can just immediately dismiss  
7 this.

8 CHAIRPERSON HILL: Okay. So if -- I don't know. Mr.  
9 Moy, if you're listening or Mr. Andrews, like, if these people are  
10 ever before us again, I'd like to know, okay? So I'm going to go  
11 ahead and just go ahead and dismiss this as per Y 600.4. And I  
12 guess we're done. They didn't show up. They haven't shown up  
13 twice. Okay. All right. So that's dismissed. All right.

14 The next one is -- well, I got 20403. Let's go ahead  
15 and do that one next, Mr. Andrews, if that's okay.

16 MR. ANDREWS: Yes, Mr. Chair.

17 CHAIRPERSON HILL: And you can read it (audio  
18 interference).

19 MR. ANDREWS: Application of 20403 of Benton Wisheart  
20 and Laura Hruby. And last name H-R-U-B-Y. Address 1381 Potomac  
21 Avenue, Southeast. Project, to construct a new two-story rear  
22 addition with cellar to an existing two-story attached principal  
23 dwelling unit in the RF-1 zone. The relief for special exception  
24 under the rear addition requirements of Subtitle E, Section 205.4.  
25 The lot occupancy requirements of Subtitle E, Subsection 304.1

1 pursuant to Subtitle E, 5201 and Subtitle X, 902.1. I'm sorry,  
2 901.2. Pardon me.

3 CHAIRPERSON HILL: 902.1. Okay.

4 MR. ANDREWS: Is that what I said? Yes. Yes, sir.

5 CHAIRPERSON HILL: I'm just clarifying. Okay.

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

8 MS. FOWLER: Hi. Good afternoon. This is Jennifer  
9 Fowler. I'm the architect representing the homeowners.

10 CHAIRPERSON HILL: All right. Ms. Fowler, I don't have  
11 anything in particular to ask of you. I guess, if you wouldn't  
12 mind speaking a little bit to the general standards of X 901.2  
13 (sic) --

14 MS. FOWLER: Okay.

15 CHAIRPERSON HILL: -- after just kind of going through  
16 this. And you can begin whenever you like.

17 MS. FOWLER: Okay. Great. So this is a two-story rear  
18 addition that we're proposing that extends beyond the allowable  
19 lot occupancy requirements. We're going from 53 percent to 69.6  
20 percent. We're also asking for relief for the 10-foot rear  
21 setback requirement. We are going 10 feet 8 inches on one side  
22 and 10 -- sorry -- 8 inches past that number on one side and 15  
23 inches on the other side. So our addition ranges from -- because  
24 I guess the neighbors have different depths, we have 10 foot 8 on  
25 one side and 11 foot 3 on the other side.

1           So we're just slightly beyond the 10-foot setback  
2 requirement on those two -- over those two neighbors, but we are  
3 staying at the same height as the existing roof, so we're  
4 extending the existing roof height to the back, so hoping to  
5 minimize the impact on the neighbors because of that.

6           We did submit a sun study in the record, and that's  
7 Exhibit 31 which shows very minimal impact throughout the year  
8 because of the orientation of the house. It was also reviewed by  
9 the Office of Planning who noted that the sun study did show that  
10 there was not an undue impact, so that is on the record.

11           And we also have extensive neighborhood support. We  
12 have letters of support from both adjacent neighbors, and we also  
13 reached out to the neighbors behind that live on 14th Street, and  
14 they offered their support, and were comfortable with the proposal  
15 as well as ANC and the CHRS. So we kind of feel like it was well-  
16 vetted, and everybody was very comfortable with the small impacts  
17 that were presented. With that, I'll just leave it open to  
18 questions. I don't really have anything else to add.

19           CHAIRPERSON HILL: Okay. Does the Board have any  
20 questions for the applicant?

21           Mr. Mordfin, could you introduce yourself for the  
22 record, please?

23           MR. MORDFIN: Good afternoon. I'm Stephen Mordfin with  
24 the Office of Planning, and the Office of Planning finds this  
25 application to be in conformance with provisions of the zoning

1 | rights and therefore supports the application and is available for  
2 | questions. Thank you.

3 | CHAIRPERSON HILL: Does the -- I'm sorry. Does the  
4 | Board have any questions for the Office of Planning? Does the  
5 | applicant have any questions for the Office of Planning?

6 | MS. FOWLER: No, thank you.

7 | CHAIRPERSON HILL: Is there anyone wishing to speak in  
8 | support? I'm sorry. Well, is there anyone here wishing to speak,  
9 | Mr. Young?

10 | MR. YOUNG: We do not.

11 | CHAIRPERSON HILL: Okay. Mr. May, can you hear me? Can  
12 | you open Exhibit 11? And everybody can do it if they want to.  
13 | And then go to C3. And Mr. May, tell me when you get there.

14 | COMMISSIONER MAY: I'm sorry, Exhibit 11?

15 | CHAIRPERSON HILL: Exhibit 11 which I think are the  
16 | architectural plan -- oh, no. I'm sorry. I'm sorry. Exhibit 6.

17 | COMMISSIONER MAY: Exhibit 6.

18 | CHAIRPERSON HILL: Exhibit 6.

19 | COMMISSIONER MAY: Yeah.

20 | CHAIRPERSON HILL: Ms. Fowler, this is a side note.  
21 | This doesn't have to do with you.

22 | MS. FOWLER: Okay.

23 | CHAIRPERSON HILL: C3.

24 | COMMISSIONER MAY: Yeah.

25 | CHAIRPERSON HILL: That view to the east, you see that

1 | little thing sticking up? Is that a wall again that's kind of  
2 | like the previous case that kind of --

3 |           COMMISSONER MAY: Yeah. It looks like there is an  
4 | extended parapet wall of the -- from the back side of that  
5 | property.

6 |           CHAIRPERSON HILL: Right. So I'm just -- it just --  
7 | it's weird, I mean, those things happen like that.

8 |           COMMISSIONER MAY: Yeah.

9 |           CHAIRPERSON HILL: Okay. I was just curious.

10 |           COMMISSIONER MAY: Yeah, they're -- maybe Ms. Fowler  
11 | could explain reasons why she thinks things like that happen. I  
12 | don't know. It doesn't seem necessary.

13 |           MS. FOWLER: Yeah. You know, there's a fire rating  
14 | requirement to have a parapet along a party wall that a lot of  
15 | times you see additions with parapet walls because of the fire  
16 | safety issue; however, there's ways around it. You can actually  
17 | fire rate the roof surface for the first four feet and then that  
18 | eliminates the need for a parapet wall. But you know, I do often  
19 | see additions throughout the neighborhood that have these parapet  
20 | walls. So it is a -- it's a building fire code concern.

21 |           CHAIRPERSON HILL: Okay. I was just curious. Okay.

22 |           MS. FOWLER: Yeah.

23 |           CHAIRPERSON HILL: Thank you. Sorry for that  
24 | indulgence. All right.

25 |           MS. CAIN: Mr. Chair?

1 CHAIRPERSON HILL: Does anybody have anything else?

2 MS. CAIN: Mr. Chair?

3 CHAIRPERSON HILL: Sure.

4 MS. CAIN: One quick thing. We did get notified from  
5 the Office of Zoning that the applicant did submit something after  
6 the 24-hour deadline. I think that might have been an updated  
7 survey. So I just wanted to see if the Board -- if the applicant  
8 still wants to admit that to the record and go through that  
9 process?

10 CHAIRPERSON HILL: Ms. Fowler, do you want that in the  
11 record?

12 MS. FOWLER: Yeah. So the survey hasn't changed, but I  
13 think there's a requirement that it be signed by the applicant.  
14 So basically, the only difference is the new survey that was  
15 submitted has -- it's certified by DCRA, and it also has my  
16 signature and stamp.

17 CHAIRPERSON HILL: Okay. That's fine.

18 MS. FOWLER: So it's just for yeah, crossing our --

19 CHAIRPERSON HILL: I appreciate you working with the  
20 Board for that need.

21 MS. FOWLER: Yeah.

22 CHAIRPERSON HILL: I'd like to go ahead and allow it  
23 into the record unless anybody raises their hand. Okay. We'll  
24 put that in the record.

25 MS. FOWLER: Thank you.



1 CHAIRPERSON HILL: Ms. Fowler, do you have anything  
2 you'd like to add at the end?

3 MS. FOWLER: Oh, no. Thank you.

4 CHAIRPERSON HILL: Okay. All right. I'm going to close  
5 the record, and the hearing, and please excuse the applicant.

6 Okay. I didn't really have any issues with this  
7 application. I thought it was pretty straightforward. I would  
8 agree with the analysis that was provided by the Office of  
9 Planning, as well as the ANC, as well as the Capitol Hill  
10 Restoration Society, and DDOT, and vote to approve.

11 Mr. May, do you have anything to add?

12 COMMISSIONER MAY: No, that sums it up.

13 CHAIRPERSON HILL: Mr. Smith?

14 BOARD MEMBER SMITH: I don't have anything else to add.

15 CHAIRPERSON HILL: Vice Chair John.

16 VICE CHAIR JOHN: This has been very straightforward,  
17 and I'm in support of the application based on the record.

18 CHAIRPERSON HILL: Okay. I'm going to go ahead and make  
19 a motion then to approve Application No. 20403 and ask for a  
20 second. Ms. John?

21 VICE CHAIR JOHN: (No audible response.)

22 CHAIRPERSON HILL: No, I didn't hear anything either.

23 VICE CHAIR JOHN: Second.

24 CHAIRPERSON HILL: Okay. Great. Perfect. The motion  
25 made and seconded.

1           Mr. Andrews, if you can please go ahead and take a roll  
2 call vote.

3           MR. ANDREWS: Yes, sir, Mr. Chair. When I call your  
4 name, would you please respond with a yes, no, or abstain to the  
5 motion made by Chairman Hill to approve the relief requested. The  
6 motion was seconded by Vice Chair John to approve. Zoning  
7 Commissioner May?

8           COMMISSIONER MAY: Yes, to approve.

9           MR. ANDREWS: Mr. Smith?

10          BOARD MEMBER SMITH: Yes, to approve.

11          MR. ANDREWS: Chairman Hill?

12          CHAIRPERSON HILL: Yes, to approve.

13          MR. ANDREWS: Vice Chair John?

14          VICE CHAIR JOHN: Yes.

15          MR. ANDREWS: We have one Board seat vacant. Staff will  
16 record the vote as 4 to 0 to 1. And this is a motion made by  
17 Chairman Hill to approve the relief requested. The motion was  
18 seconded by Vice Chair John to approve. Also in support was  
19 Zoning Commissioner May and Mr. Smith. The motion carries 4 to 0  
20 to 1 to approve.

21          CHAIRPERSON HILL: Okay. All right. Thank you, Mr.  
22 Andrews.

23          MR. ANDREWS: Yes, sir.

24          CHAIRPERSON HILL: Mr. Andrews, when you get a chance,  
25 you can call our last case.

1 MR. ANDREWS: My pleasure, sir. Application No. 20342  
2 of Peggy C. Kennedy, pursuant to 11 DCMR Subtitle X, Chapter 9 for  
3 special exception under the new residential development provisions  
4 in Subtitle U, 421.1 to convert an existing detached principal  
5 dwelling unit into a nine-unit apartment house in the RA-1 Zone at  
6 premises 1212 Madison Street, Northwest, Square 2934, Lot 34.

7 And Mr. Chair, we have preliminary issues in the matter.  
8 There was a request for advance opposition Party Status of L and G  
9 Morris. And then there was also L&G Morris opposed motion to  
10 waive filing deadline.

11 CHAIRPERSON HILL: Okay. I'm sorry. The filing  
12 deadline, Mr. Andrews, was from whom?

13 MR. ANDREWS: L and G Morris.

14 CHAIRPERSON HILL: Okay.

15 MR. ANDREWS: And then a final matter was applicant's  
16 motion to waive 21-day deadline.

17 CHAIRPERSON HILL: Okay. Let me do this first. Mr.  
18 Sullivan, could you introduce yourself for the record, please.

19 MR. SULLIVAN: Yes. Thank you, Mr. Chair, and members  
20 of the Board. My name is Marty Sullivan. I'm with Sullivan &  
21 Barros on behalf of the applicant.

22 CHAIRPERSON HILL: Mr. Sullivan, what's the waiver again  
23 you needed?

24 MR. SULLIVAN: We filed -- well, I'm not sure -- oh, it  
25 was -- one was just for the PowerPoint. The PowerPoint was five

1 minutes late. I don't know if that's --

2 CHAIRPERSON HILL: No, I think it's this one day -- was  
3 it the topo and stuff? No, revised plans, renderings, revised  
4 plat, revised -- topo survey.

5 MR. SULLIVAN: Okay. Yeah. We updated the topo survey.

6 CHAIRPERSON HILL: Okay. And you were only one day late  
7 it looks like. So I don't have any issue with that unless the  
8 Board does, and if so, you can raise your hand. No. Okay.

9 Then the next is the PowerPoint presentation. You said  
10 you were five minutes late. I want to see the PowerPoint  
11 presentation, and I think it is already in here. And so that --  
12 unless the Board has any issue, I'm going to go ahead and allow  
13 into the record. Nobody is raising their hand. Nobody is raising  
14 their hand. All right.

15 Then the next is who is here with -- I see Mr. Brown,  
16 who I know is not with you, Mr. Sullivan. Mr. Crain is your  
17 architect, I assume?

18 MR. CRAIN: Yes. Adam Crain, project architect.

19 CHAIRPERSON HILL: Okay. Great, Mr. Crain.

20 Mr. Brown, could you introduce yourself for the record?

21 MR. BROWN: Yes. I see you've unmuted me. It's David  
22 Brown. I'm here on behalf of Laura and Gordon Morris, adjacent  
23 property owners.

24 CHAIRPERSON HILL: Okay. Do you have anything, Mr.  
25 Brown, that allows you to be here to represent the Morrisses?

1 MR. BROWN: Yes, we filed a -- we have filed a party  
2 status application which was going to be ruled upon at the outset  
3 of the hearing today.

4 CHAIRPERSON HILL: Got it.

5 MR. BROWN: That has not been ruled upon, but we have  
6 also filed yesterday basically a request to withdraw from the  
7 proceeding because our differences with the applicant have been  
8 resolved.

9 CHAIRPERSON HILL: Oh, okay.

10 MR. BROWN: So you have a request to call me in and a  
11 request to go out all at the same time.

12 CHAIRPERSON HILL: Okay. But where -- all I'm just  
13 trying to find out is the -- I'm trying to see where -- I've seen  
14 the party status request before, I'm just trying to see where your  
15 name is.

16 MR. RICE: I believe the authorization, sir. This is  
17 Jack Rice. The attachment to Exhibit 33, the authorization for  
18 Mr. Brown.

19 CHAIRPERSON HILL: Okay. Great. Thank you, Mr. Rice.  
20 Okay. Got it. All right. So Mr. Brown, your client was the  
21 adjacent neighbor, correct?

22 MR. BROWN: Correct.

23 CHAIRPERSON HILL: And so your client had requested  
24 party status. We were going to rule on that today. And now  
25 you're saying that your client is withdrawing their request for

1 party status; is that correct?

2 MR. BROWN: I guess that's the proper way to phrase it,  
3 yes, because we are no longer opposed to the application.

4 CHAIRPERSON HILL: Okay. So Mr. Rice, do we need to do  
5 anything? They're withdrawing their party status.

6 MR. RICE: You can basically consider both matters moot,  
7 or you can just basically acknowledge that they have come in and  
8 withdrawn their request. But either way, the matter is moot.

9 CHAIRPERSON HILL: Okay. I think both matters are moot,  
10 so I don't think we have to do anything. So therefore, unless the  
11 Board has any issues, I'll go ahead and excuse Mr. Brown. Nobody  
12 is raising their hand. All right. Mr. Brown, well, thank you  
13 very much.

14 MR. BROWN: Thank you.

15 CHAIRPERSON HILL: All right, Mr. Sullivan. Well, let's  
16 see. Hold on one second. We're going to excuse Mr. Brown. Well,  
17 Mr. Sullivan, congratulations. And then go ahead and if you want  
18 to walk us through your presentation and tell us how you believe  
19 you're meeting the criteria for us to grant the relief requested.  
20 And you can begin wherever you like.

21 MR. SULLIVAN: Thank you, Mr. Chair, and members of the  
22 Board. This is 1212 Madison Street, Northwest. The request is  
23 for special exception relief under U 421.1 for a new multifamily  
24 residential development in the RA-1 Zone. We're not asking for  
25 any relief in addition to that, so the structure itself is within

1 the matter of right restrictions for massing.

2 It's to -- it's an 11-unit building which will include  
3 an IZ unit.

4 Next slide, please.

5 And you'll see here this is -- you may remember 1214  
6 Madison was before you for a similar request about two months  
7 ago.

8 Next slide, please.

9 We have the support of the ANC, and the Office of  
10 Planning, and DDOT. And as you heard, we now do not have  
11 opposition from the immediate neighbor to the left.

12 And I'll turn it over to Mr. Crain. Also, I'd like to  
13 note for Mr. Young, there's no member of the architect team James  
14 Foster who's an attendee. He's not going to present, but he may  
15 be able to answer some of the questions too if -- depending on  
16 what those questions are.

17 CHAIRPERSON HILL: Mr. Sullivan, you're bringing up that  
18 previous case because is that the property that's adjacent to this  
19 property?

20 MR. SULLIVAN: Yes. If you go back one slide, please.  
21 So yeah, it's to the right.

22 CHAIRPERSON HILL: Right.

23 MR. SULLIVAN: That's actually not what it looks like,  
24 but it's to the right or to the west. And that's the property  
25 that was the subject of the appeal last summer.

1 CHAIRPERSON HILL: Right.

2 MR. SULLIVAN: And it was approved for a special  
3 exception about a month ago.

4 CHAIRPERSON HILL: Okay. All right. Thank you for the  
5 clarification.

6 MR. SULLIVAN: You're welcome. Adam, would you like to  
7 present please?

8 MR. CRAIN: Sure. Could we pull up Exhibit 37-B? It  
9 will be the architectural plans.

10 MR. SULLIVAN: Aren't you -- do you want to use the  
11 PowerPoint presentation, Adam?

12 MR. CRAIN: Oh, you want to use that?

13 MR. SULLIVAN: Yeah.

14 MR. CRAIN: Sure. Sure. Okay. I guess we'll go to  
15 slide Number 5. There we go. Okay.

16 For the record, my name is Adam Crain, project architect  
17 with 2Plys.

18 We are proposing here an addition to an existing  
19 building and a conversion to 11 units. It is a detached apartment  
20 house in the RA-1 Zone. There is an existing (audio interference)  
21 side yard of 3 feet on one side that will be retained with the  
22 addition, and there's a side yard of 8 feet on the other side.  
23 We're proposing a bay window at the front in public space. Three  
24 parking spaces at the rear as you can see.

25 Next slide.



1           A little bit clearer of a site plan here. We show the  
2 adjacent 1214 Madison on the top of this screen for comparison and  
3 context, and the other adjacent house on the bottom. All the  
4 circles and the (audio interference) those are trees that are  
5 being protected during the construction. There were modifications  
6 to the parking and the building as a result of those tree  
7 protections.

8           Next slide.

9           This is the floor plan showing the 11 units. Three  
10 units at cellar, three at the first, three at the second, and then  
11 two units will occupy the third floor and the penthouse. Those  
12 are both bi-level units. They'll have walk-out curves at the  
13 rear, and the penthouse will be achieved by paying into the  
14 housing fund. There is an IZ unit being proposed.

15          Next slide.

16          These are elevations along the entry side. The front  
17 elevation on the right-hand side with a bay window that will be in  
18 public space. You can see the penthouses is atop.

19          Next slide.

20          This is the side elevation. I believe this will be the  
21 side that will be facing 1214 Madison, and the rear elevation on  
22 the right.

23          Next slide.

24          These are some updated renderings showing the front at  
25 the top, rear views at the bottom. Again, you can see 1214

1 Madison with its penthouse on the side for context.

2 Next slide, please.

3 I think, Marty, this goes back to yours.

4 MR. SULLIVAN: Thank you, Adam. Regarding the project  
5 meets the general special exception requirements. It is in  
6 harmony with the general purpose and intent of the RA-1 zone and  
7 will not tend to affect adversely the use of neighboring property.  
8 The RA-1 zone provides for areas predominantly developed with low  
9 to moderate density development including multifamily residential  
10 buildings. This building complies with development standards of  
11 the RA-1 zone and provides a little more parking than required.

12 The area is made up of a mix of larger residential  
13 developments and single-family dwellings that including 1214 next  
14 door.

15 Next slide, please.

16 The specific requirements of U 421.2, the BZA shall  
17 refer the application to the relevant District agencies for  
18 comment and recommendation as to the adequacy of the following:  
19 Existing and planned area schools to accommodate the numbers of  
20 students that can be expected to reside on the project. And we've  
21 listed the schools, and you'll find that in the Office of Planning  
22 report as well including capacity numbers for those schools  
23 included in the Office of Planning's report.

24 Next slide, please.

25 Public streets, recreation, and other services to

1 accommodate the residents that can be expected to reside on the  
2 project. To the extent this goes to DDOT, and DDOT has no  
3 objection. The property has access to multiple transportation,  
4 options. It's very close to Georgia Avenue, of course. Also near  
5 a bikeshare station on Georgia Avenue and, in addition, as noted  
6 in the Office of Planning report, it is close to the Emery Heights  
7 Community Center and within a half mile from Rock Creek Park and  
8 several other parks.

9 Next slide, please.

10 Regarding 421.3, the BZA shall refer to the Office of  
11 Planning for comment and recommendation on the site plan  
12 arrangement and building structures, and provisions of light, air,  
13 parking, recreation, landscaping, and grading. And we would, of  
14 course, refer you to the Office of Planning report for that. And  
15 as noted here, the project meets the development standards. We're  
16 maintaining the western side yard, so there's a significant side  
17 yard between this building and the building to the east, and it's  
18 a little closer to the larger apartment building to the west.

19 Next slide, please.

20 And we have submitted the required plans and elevations.

21 Next slide, please. And that's it for our presentation.

22 The Board has any questions?

23 CHAIRPERSON HILL: Mr. Sullivan, you might not know  
24 this. I just have a quick question for you and then I'll let my  
25 fellow Board members. The property that's to -- the one -- the

1 property that just signed off on your project, are those lots too  
2 small to do what this is? You don't if (audio interference).

3 MR. SULLIVAN: There's actually no minimum lot area for  
4 this activity. I mean, if you're asking me practically speaking,  
5 it's 2,826 square feet is the lot area of that building so, in my  
6 experience, it could certainly be three or four units, although  
7 the FAR number is quite low.

8 CHAIRPERSON HILL: Okay. Okay. Thank you.  
9 Commissioner May, you have any questions?

10 COMMISSIONER MAY: No.

11 CHAIRPERSON HILL: Mr. Smith, you have any questions?

12 BOARD MEMBER SMITH: No questions.

13 CHAIRPERSON HILL: Ms. John?

14 VICE CHAIR JOHN: One question. Is there a slide that  
15 shows the adjacent property of the party that's withdrawing party  
16 status request?

17 MR. SULLIVAN: I don't know if there's a slide, but I'm  
18 going to -- I'll direct you to -- I would say Exhibit 5 is  
19 probably.

20 MR. CRAIN: It's page 5 of the PowerPoint we showed if  
21 you want to pull the site plan.

22 MR. SULLIVAN: Okay. So page 5 of the PowerPoint. And  
23 then if you're looking at the photos on Exhibit 5, they started  
24 with four, it shows that, although there is a tree there. No,  
25 that just shows the line. For a photo, Ms. John, is Exhibit 5,

1 photo Number 4.

2 VICE CHAIR JOHN: Is that in the PowerPoint, or can  
3 someone pull up the exhibit?

4 MR. CRAIN: The first page of the PowerPoint shows a  
5 rendering, if that's what you're looking for. That shows context.

6 VICE CHAIR JOHN: Was it (audio interference)?

7 MR. SULLIVAN: There you go.

8 VICE CHAIR JOHN: I looked at that rendering, and it  
9 didn't really help me much. I wasn't sure what I was looking at.  
10 I -- yeah. So are those townhouses there to -- on the opposite  
11 side away from the 1214 Madison?

12 MR. CRAIN: On the left side of those, they are attached  
13 townhomes, yes.

14 VICE CHAIR JOHN: Yeah. Oh, okay. I wasn't sure if  
15 that was a huge apartment building or townhouses. But that's the  
16 scale, I think that's what you're trying to say.

17 MR. CRAIN: Yes, ma'am.

18 VICE CHAIR JOHN: Okay. All right. Thank you.

19 CHAIRPERSON HILL: Okay. I see a Mr. Brewer here. Mr.  
20 Brewer, could you introduce yourself?

21 MR. BREWER: Sean Brewer on a project at 1212 Madison.

22 MR. ANDREWS: Mr. Chair, the witness needs to be sworn  
23 in.

24 CHAIRPERSON HILL: Okay. Thanks. One second, Mr. Brewer.  
25 Are you with Mr. Sullivan?

1 MR. BREWER: Yes.

2 CHAIRPERSON HILL: Okay. Mr. Sullivan, who is Mr.  
3 Brewer?

4 MR. SULLIVAN: He's the contract purchaser.

5 CHAIRPERSON HILL: Okay. And who is Mr. Foster?

6 MR. SULLIVAN: He's with the architect team.

7 CHAIRPERSON HILL: Okay. If we need them, Mr. Andrews,  
8 to answer any questions, I'll swear them in. We can swear them in  
9 but, for now, I'm going to leave it alone. Ms. Myers, could you  
10 introduce yourself please.

11 MS. MYERS: Hi. Crystal Myers with the Office of  
12 Planning. Want me to say my piece or --

13 CHAIRPERSON HILL: Yes, please.

14 MS. MYERS: Okay. So the Office of Planning is  
15 recommending approval of this case. And I guess we can stand on  
16 the record of the staff report.

17 CHAIRPERSON HILL: Okay. Does anybody have any  
18 questions for the Office of Planning; and if so, raise your hand.  
19 Mr. Smith?

20 BOARD MEMBER SMITH: I just have one clarifying  
21 question, and it probably leads me into the previous case that  
22 we are -- could you quickly explain how this project meets the  
23 side yard requirements per Section 306 of Subtitle F?

24 MS. MYERS: Yes, certainly. So the existing side yard  
25 on one side is on the east side -- well, on the west side it's 3

1 feet. And because that's the existing side yard, they're  
2 maintaining that which is how they're complying with the  
3 requirement. And on the other side, on the east side at 8 feet,  
4 which is the minimum requirement, and they're actually increasing  
5 the existing side yard. They're going from six-and-a-half feet to  
6 8 feet which meets the standard.

7 BOARD MEMBER SMITH: Okay. So you're saying with any  
8 addition in this particular zone, and they're required to have two  
9 side yards because of the density of this building, and being that  
10 it's three units per floor, one of the side yard requirements can  
11 be met by maintaining the existing non-complying side yard and not  
12 meeting an 8-foot minimum?

13 MS. MYERS: Yeah, because that's the existing one, yeah.

14 BOARD MEMBER SMITH: Okay. Thank you.

15 CHAIRPERSON HILL: Anyone else from the Board? Mr.  
16 Young, do you have anybody here wishing to speak?

17 MR. YOUNG: We do not.

18 CHAIRPERSON HILL: Mr. Sullivan, did you have any  
19 questions for the Office of Planning?

20 MR. SULLIVAN: No, I don't. Thank you.

21 CHAIRPERSON HILL: Do you have anything you'd like to  
22 add in conclusion?

23 MR. SULLIVAN: No. Thank you.

24 CHAIRPERSON HILL: All right. Unless the Board has  
25 anything and you want to raise your hand, I'm going to close the

1 record and the hearing. Oh, Mr. May. I can't hear you, Mr. May.

2 COMMISSIONER MAY: I'm sorry. Maybe I missed this, but  
3 I didn't see an ANC report. Did we already talk about that  
4 because I didn't see it in the records?

5 CHAIRPERSON HILL: Oh, I'm sorry. Thank you, Mr. --  
6 Commissioner. Well, two things actually reminds me of something  
7 else. DDOT wanted a relocation of the bike rack, Mr. Sullivan.

8 MR. SULLIVAN: Okay. I'm sorry. I wasn't -- I didn't  
9 see that condition.

10 CHAIRPERSON HILL: Okay.

11 MR. SULLIVAN: But if it's not -- if we haven't done  
12 that, I'm sure we can accommodate that.

13 CHAIRPERSON HILL: I'm going to ask Mr. Rice to clarify  
14 what that is in one minute. And then can you address the ANC? I  
15 thought you said that the ANC was in support?

16 MR. SULLIVAN: I believe it's Exhibit 38.

17 MR. MAY: Yeah, I saw a note to that effect, but I'm --  
18 for some reason, it wasn't in what I had. Okay. I got it now.  
19 Thank you. Sorry about that.

20 CHAIRPERSON HILL: And Mr. Rice, are you aware of DDOT's  
21 condition?

22 MR. SULLIVAN: Mr. Chair?

23 MR. RICE: Yes, sir. I'm trying to find it in the  
24 report right now.

25 CHAIRPERSON HILL: Is it a condition or a



1 recommendation?

2 MR. RICE: It was a request for information or  
3 recommendation. It was not a condition.

4 CHAIRPERSON HILL: Got it. Mr. Sullivan. Yeah, Mr.  
5 Sullivan.

6 MR. SULLIVAN: I'm told we have revised it according to  
7 that comment, that we did do that. So 37C should show the  
8 response to that.

9 MR. CRAIN: Is that the bike rack you're talking about,  
10 Marty?

11 MR. SULLIVAN: That's the bike rack. Could you explain  
12 that (audio interference)?

13 MR. CRAIN: Yeah, I'm -- I have it on 37C, the site  
14 plan. It's kind of shown 15 feet in front of that tree in the  
15 rear yard at the bottom left of the building. We have a kind of a  
16 dashed box with the outdoor biking space. I'm not sure if DDOT  
17 was asking for that in the front, but the building is at the front  
18 with a bay window projecting. So I don't believe they allow it in  
19 public space, so we cannot put it in the front of the building  
20 without putting it in actual public space.

21 CHAIRPERSON HILL: Okay. I mean, I'm fine with it.  
22 DDOT didn't have it as a condition. It looks as though you're  
23 working with them. All right. DDOT. Anybody have any last  
24 questions or anything before I close the record? Okay. I'm  
25 closing the record and the hearing, and if you can excuse

1 everybody then.

2 I thought that the applicant had made their argument. I  
3 mean, the thing that I think is kind of interesting about this  
4 and, I guess, Mr. May, you guys are talking about this, is that  
5 again, this is a matter of right massing. What we can be talking  
6 about is the fact that it's nine units or the number of people in  
7 terms of the density. And so, you know, I will agree with what  
8 the applicant has put forward as to how they're meeting the  
9 criteria for us to grant the application.

10 I will also agree with the analysis that's provided by  
11 the Office of Planning as well as now that DDOT -- they're working  
12 with DDOT in terms of the bike rack being in the back of the home  
13 rather than in public space. And then the ANC also was in  
14 support, and this particular ANC is quite active, and I know that  
15 they look very closely at these particular issues. So I'm going  
16 to go ahead and agree with the applicant and vote in support of  
17 the application. Mr. -- Commissioner May.

18 COMMISSIONER MAY: Yeah. So I agree with you. I'm  
19 prepared to vote in favor of this. You know, this particular type  
20 of case where we're talking about an RA-1 zone, I mean, we just  
21 have this requirement that any time you do a multi-unit building  
22 in an RA-1 zone, it has to be approved by the BZA. And what we're  
23 going to look at is whether there need to be some more careful  
24 guidance on how the decision-making should happen because it's not  
25 really very specific. It's not -- you know, there's no minimum

1 square footage for the number of units like there is in an RF-1  
2 zone for a conversion or anything like that, but we're going to  
3 look at the question of what's the -- you know, what sort of  
4 conditions can be put on it because very often you wind up with an  
5 RA-1 zone that has a lot of single-family homes and then all of a  
6 sudden in a small lot, like the one next door, you wind up with a  
7 much larger apartment building and that is -- it's not exactly  
8 working the way we would like, so that's what we'll look at.

9 In any case, this one, I think, you know, the building  
10 itself has been, I think sensitively designed in the context and  
11 the immediately abutting neighbor is now in support of the  
12 application, so I don't see any reason to be concerned about it,  
13 and I'm prepared to vote in favor.

14 CHAIRPERSON HILL: Thank you. Mr. Smith.

15 BOARD MEMBER SMITH: I'll second Mr. Mays comments. It  
16 seems like the neighbor has had his or her issues addressed. This  
17 particular case, it seems to be meeting all of the requirements as  
18 required for the special exception in this zone, so I will be in  
19 support of this special exception, and I stand on the OP report in  
20 my support.

21 CHAIRPERSON HILL: Vice Chair John.

22 VICE CHAIR JOHN: I agree with Commissioner May's  
23 observations, and I think this case is a little different in that  
24 the neighbor -- the adjacent neighbor has withdrawn their  
25 objections and, so I'm going to give great weight to the also

1 Planning's report, and I'm in support of the application.

2 CHAIRPERSON HILL: All right. So I'm going to go ahead  
3 and make a motion to approve Application No. 20342 as captioned  
4 and read by the secretary and ask for a second. Ms. John?

5 VICE CHAIR JOHN: Second.

6 CHAIRPERSON HILL: The motion has been made and  
7 seconded. Mr. Andrews, if you could go ahead and take a roll call  
8 vote.

9 MR. ANDREWS: Yes, Mr. Chair. When I call your name,  
10 would you please respond with a yes, no, or abstain to the motion  
11 made by Chairman Hill to approve the relief requested. The motion  
12 was seconded by Vice Chair John to approve. Zoning Commissioner  
13 May?

14 COMMISSIONER MAY: Yes, to approve.

15 MR. ANDREWS: Mr. Smith?

16 BOARD MEMBER SMITH: Yes, to approve.

17 MR. ANDREWS: Chairman Hill?

18 CHAIRPERSON HILL: Yes, to approve.

19 MR. ANDREWS: Vice Chair John?

20 VICE CHAIR JOHN: Yes, to approve.

21 MR. ANDREWS: Staff will -- we have a Board seat vacant.  
22 Staff will record the vote as 4 to 0 to 1 in this motion made by  
23 Chairman Hill to approve the relief requested. The motion was  
24 seconded by Vice Chair John to approve. Also in support was  
25 Zoning Commissioner May and Mr. Smith. The motion carries 4 to 0

1 to 1 to approve.

2 CHAIRPERSON HILL: Okay. Thanks Mr. Andrews. Mr.  
3 Andrews, do we have anything else before the Board today?

4 MR. ANDREWS: You do not, sir.

5 CHAIRPERSON HILL: All right. Mr. Andrews, it was a  
6 pleasure having you with us today. Thank you for your time.

7 MR. ANDREWS: (Audio interference). Yeah.

8 CHAIRPERSON HILL: And everyone, it was nice to see you  
9 as well. And I hope you all have a nice day.

10 VICE CHAIR JOHN: Thank you, Mr. Chair.

11 COMMISSIONER MAY: Thank you.

12 CHAIRPERSON HILL: We stand adjourned. Bye-bye.

13 (Whereupon, the above-entitled matter went off the record at  
14 3:53 pm)

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C E R T I F I C A T E

This is to certify that the foregoing transcript

In the matter of: Public Meeting

Before: DCBZA

Date: 03-10-21

Place: Teleconference

was duly recorded and accurately transcribed under my  
direction; further, that said transcript is a true and accurate  
record of the proceedings.

