

GOVERNMENT  
OF  
THE DISTRICT OF COLUMBIA

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ZONING ADJUSTMENT

+ + + + +

PUBLIC HEARING

+ + + + +

WEDNESDAY

JANUARY 13, 2021

+ + + + +

The Regular Public Hearing of the District of Columbia Board of Zoning Adjustment convened via video-teleconference, pursuant to notice at 10:04 a.m. EDT, Frederick L. Hill, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

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

ZONING COMMISSION MEMBERS PRESENT:

ANTHONY HOOD, Chairman  
PETER SHAPIRO, Commissioner  
ROBERT MILLER, Commissioner

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY, Secretary  
SARA A. BARDIN, Director, Office of Zoning  
PAUL YOUNG, Zoning Data Specialist

OFFICE OF PLANNING STAFF PRESENT:

JONATHAN KIRSCHENBAUM

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MAXINE BROWN-ROBERTS  
MATTHEW JESICK  
KAREN THOMAS  
STEPHEN MORDFIN

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

JOHN K. RICE, ESQUIRE  
ALEXANDRA CAIN, ESQUIRE

The transcript constitutes the minutes from the  
Regular Public Hearing held on January 13, 2021.

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Case No. 20358 - Application of Abraham Atansuvi. . . . .  
(Postponed to February 24, 2021, by consent  
of Applicant and ANC 5E)

Case No. 20351 - Application of William H. Cowdrick,  
Trustee. . . . .  
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P-R-O-C-E-E-D-I-N-G-S

(10:04 a.m.)

CHAIRPERSON HILL: Okay. All right. So, the hearing will please come to order.

Good morning, ladies and gentlemen. We're convened and broadcasting this public hearing by videoconference. This is the January 13th, 2021 public hearing of the Board of Zoning Adjustment of the District of Columbia.

My name is Fred Hill, Chairperson. Joining me today is Lorna John, Vice Chair, Chrishaun Smith, Board Member and representing the Zoning Commission is Rob Miller.

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

The webcast video will be available on the Office of Zoning website after today's hearing.

Accordingly, everyone who is listening on Webex or by telephone will be muted during the hearing and only persons who have signed up to participate or testify will be unmuted at the appropriate time.

Please state your name and home address before providing oral testimony or your presentation. Oral presentations should be limited to a summary of your most important points.

When you're finished speaking, please mute your audio so

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

3           If you are experiencing difficulty accessing Webex or  
4 your telephone call-in or if you have forgotten to sign up 24  
5 hours prior to this hearing, then please call OZ Hotline number at  
6 202-727-5471 to sign up to testify and to receive Webex login or  
7 call-in instructions.

8           All persons planning to testify, either in favor or in  
9 opposition, should have signed up in advance, will be called to  
10 testify. If this is an appeal, only parties are allowed to  
11 testify.

12           By signing up to testify, all participants completed the  
13 oath or affirmation as requested by -- as required by Subtitle Y  
14 408.7.

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

25           The order of procedures for special exceptions and

1 variances are pursuant to Y 409.

2           If this is an appeal, the order of the appeal is  
3 pursuant to Y 507.

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

9           If additional written testimony is accepted, then  
10 parties will be allowed a reasonable time to respond as determined  
11 by the Board.

12           The Board will then make its decision at the next  
13 meeting but no earlier than 48 hours after the hearing.

14           Moreover, the Board may request additional specific  
15 information to complete the record.

16           The Board and the staff will specify at the end of the  
17 hearing exactly what is expected and the date when the person must  
18 submit the evidence to the Office of Zoning. No other information  
19 shall be accepted by the Board.

20           The Board's agenda may include previous cases set for  
21 decision. After the Board adjourns the hearing, the Office of  
22 Zoning, in consultation with myself, will determine whether a full  
23 or a summary order may be issued.

24           A full order is required when the decision it contains  
25 is adverse to a party, including an affected ANC. A full order

1 may also be needed if the Board's decision differs from the Office  
2 of Planning's recommendation.

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

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

16           Preliminary matters are those which relate to whether a  
17 case will or should be heard today, such as requests for a  
18 postponement, continuance or withdrawal, or whether proper and  
19 adequate notice of the hearing has been given.

20           If you're not prepared to go forward with the case today  
21 or believe that the Board should not proceed, now is the time to  
22 raise such a matter.

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

24           MR. MOY: Yes, Mr. Chairman. I do have a brief  
25 announcement regarding the docket for today and these are cases

1 that were originally scheduled but they've been postponed and  
2 rescheduled.

3           The first of the four cases is that first is application  
4 number 20354 of Cambridge -- Cambridge Holdings, LLC, postponed  
5 and rescheduled to March 31st, 2021.

6           Application number 20339 of Lee, L-E-E, Street  
7 Development LLC, postponed, rescheduled to March 3rd, 2021.

8           Application number 20358 of Abraham, and I'm going to  
9 spell his last name. It's A-T-A-N-S-U-Y-I, postponed and  
10 rescheduled to February 24th, 2021. And this is based on a  
11 consent agreement from both the applicant and ANC 5E.

12           And finally, case application number 20351 of William H.  
13 Cowdrick, Trustee, postponed and rescheduled to March 3rd, 2021.

14           Other than that, there are other preliminary matters to  
15 some of the cases today but, again, it's more efficient that I  
16 bring that to the Board's attention when I call the application,  
17 Mr. Chairman.

18           CHAIRPERSON HILL: Okay. That sounds good to me.

19           Let's see. Give me one second.

20           Commissioner Miller, welcome. I'm always jealous of the  
21 sunshine in your room, Commissioner Miller. I got to tell you.  
22 It just -- man, you're doing COVID correctly.

23           COMMISSIONER MILLER: Well, I was supposed to be at the  
24 beach this week.

25           (Laughter)

1 CHAIRPERSON HILL: Yeah.

2 COMMISSIONER MILLER: I'm trying to channel the sun.

3 CHAIRPERSON HILL: Okay. All right. Well --

4 COMMISSIONER MILLER: I'm pretending I'm in Florida.

5 CHAIRPERSON HILL: All right. Well, you make me feel  
6 better. Now actually -- now I realize that you're also suffering.  
7 So -- all right.

8 Let's see. Okay. Mr. Moy, if you could please call our  
9 first case.

10 MR. MOY: All right. This would be case application  
11 number 20368 of KD -- yes, KD's Klubhouse and that's with a "K"  
12 and this captioned and advertised for a special exception under  
13 the R-use requirements of Subtitle U, Section 203.1(h) to permit  
14 the operation of a child development center for 160 children in  
15 the RF-1 Zone at premises 4025 9th Street, S.E., Square 6159, Lot  
16 124.

17 The only announcement I have for you, Mr. Chair, is that  
18 within this 24-hour period prior to the hearing, the applicant has  
19 tried to up -- wanted to update a bike rack photograph. So that's  
20 not on the record unless you allow it in.

21 CHAIRPERSON HILL: Okay. And then was there something --  
22 -- Mr. Moy, we did get something from the ANC, right, but it wasn't  
23 -- did that get into the record? I can't remember whether that  
24 got in or not.

25 MR. MOY: I think it's -- if it's ANC 8E, I think it's

1 under Exhibit 43 and 43A, unless there's a more recent one.

2 CHAIRPERSON HILL: Okay. Give me a second. I'm going  
3 to look here, everyone.

4 VICE CHAIR JOHN: It's in Exhibit 43 and 43A.

5 CHAIRPERSON HILL: Got it. Okay.

6 In terms of the information on the bike rack, unless the  
7 Board has any issues, I'd like to see it. And so, Mr. Moy, if you  
8 could go ahead. And if the Board has any issues, please raise  
9 your hand.

10 I don't see you raising your hands. So we'll go ahead  
11 and allow the information into the record.

12 Mr. Moy, if you could go ahead and do that.

13 It seems to me that something is in the record already  
14 about the bike racks. I don't know if that's what you're trying  
15 to get in there or not. But maybe that's --

16 MR. MOY: Okay. I'll take care of that. If it is  
17 (audio interference), otherwise I'll have the staff upload it into  
18 the case record, sir.

19 CHAIRPERSON HILL: Okay. Great. Thank you. All right.

20 Let's see here now. Ms. Douglas, are you there?

21 MS. DOUGLAS: Yes, I am. Yes, I am. I'm here.

22 CHAIRPERSON HILL: Could you please introduce yourself  
23 for the record?

24 MS. DOUGLAS: I'm Katrina Douglas, address 17 Brandywine  
25 Street, S.W. of Washington, D.C.

1 CHAIRPERSON HILL: Okay. Let's see. And then is that  
2 Ms. Arnold? Could you introduce yourself?

3 MS. ARNOLD: Yes. Yes. Tracy Arnold. Can you hear me  
4 okay?

5 CHAIRPERSON HILL: Yes.

6 MS. ARNOLD: Okay.

7 CHAIRPERSON HILL: Could you introduce --

8 MS. ARNOLD: Tracy Arnold. Yes. I'm Tracy Arnold. I'm  
9 one of the representatives for KD's Klubhouse, 9560 Marlborough  
10 Pike, Suite 204, Upper Marlboro, Maryland.

11 CHAIRPERSON HILL: Okay. Great. Thank you. Welcome to  
12 you, Ms. Arnold and Ms. Douglas.

13 Ms. Douglas, are you going to be presenting to us?

14 MS. DOUGLAS: No. It's --

15 CHAIRPERSON HILL: Pardon me?

16 MS. DOUGLAS: (Audio interference).

17 CHAIRPERSON HILL: Ms. Arnold's going to present?

18 MS. ARNOLD: We don't have -- I don't -- I couldn't hear  
19 what she was saying. We don't have any pictures or anything. I  
20 was waiting for the exhibit when you receive the exhibit.

21 But we just wanted to speak to the fact, because last  
22 time when we were on here, you postponed it until -- you needed  
23 the other information to be uploaded.

24 Hopefully, you and your Board has had a chance to review  
25 all the things that have been submitted, including the information

1 from the ANC Commissioner.

2 We're just asking that the Board would move to allow for  
3 this special exception with the zoning because we're not making  
4 any changes with this building at all.

5 The bike rack issue did come up at last minute, but we  
6 did everything that we possibly could to resolve this issue as  
7 well.

8 We're not asking for any difference with the building or  
9 anything. As stated previously, just as a reminder, this building  
10 was once used as a daycare facility. When the church that owns  
11 the building currently rented it out to a charter school, the  
12 zoning changed.

13 We're just asking that it be placed back into its  
14 original use so that KD's Klubhouse can get their use and  
15 occupancy so that we can continue with the business.

16 No structural changes. No objections from the  
17 community. No objections from the ANC Commissioner.

18 So we're just -- we're just asking that the special  
19 exception be granted.

20 CHAIRPERSON HILL: No, I understand, Ms. Arnold.

21 So you are -- you're basically giving your presentation  
22 now? I mean --

23 MS. ARNOLD: Okay.

24 CHAIRPERSON HILL: -- does -- is Ms. Douglas -- because  
25 Ms. Douglas was written down as the representative. So was she

1 going to add anything to this?

2 MS. ARNOLD: She'll be --

3 MS. DOUGLAS: Excuse me. Not to cut you off. I  
4 actually work here and this -- the daycare I'm working for  
5 essential children, so I stepped out so I can hear you guys and  
6 that's why I'm putting it on mute. So that's why I have allowed  
7 Ms. Arnold to speak because I am running my business today and we  
8 also have children.

9 So I didn't want to start the presentation and be  
10 interrupted because I am actually working with children now at the  
11 daycare facility at another location.

12 CHAIRPERSON HILL: Okay. So let's see. So, first of  
13 all, Mr. Rice, I just want to make sure that we're good with --  
14 and now I'm a little confused as to Ms. Arnold as to -- I guess  
15 she is representing the applicant or she is giving testimony, I  
16 guess. Is there anything I need to do in terms of Ms. Arnold  
17 giving testimony?

18 MR. RICE: No, sir.

19 CHAIRPERSON HILL: Okay. All right.

20 Because now -- Ms. John, Mr. Smith and Mr. Miller, I  
21 mean, we didn't -- we didn't hear this yet, right? This is the  
22 first time we're hearing this; is that correct or did I miss  
23 something?

24 No. Right. You're nodding yes. Okay.

25 So, Ms. Arnold, let me -- let me do this. Let me -- let

1 me kind of go through this a little bit and we'll -- we'll see  
2 where we get.

3 MS. ARNOLD: Okay.

4 CHAIRPERSON HILL: Is the Office of Planning there?

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

7 CHAIRPERSON HILL: Hi, Ms. Brown-Roberts. Could you  
8 give your -- welcome, Ms. Brown-Roberts. Happy New Year to you.

9 MS. BROWN-ROBERTS: You, too. Thank you.

10 CHAIRPERSON HILL: Could you please give us your report?

11 MS. BROWN-ROBERTS: As in the -- at the last hearing,  
12 the Office of Planning did give a presentation of our report and  
13 we recommended approval of the daycare saying that they met all  
14 the requirements, and we had some conditions that we recommended.  
15 The applicant was in agreement with those conditions.

16 And then there was some conditions also for DDOT wherein  
17 -- I think the BZA had asked her to provide a plan showing the  
18 location of the bike rack and also the trees along the -- that was  
19 facing -- trees along the parking.

20 I don't know -- I haven't seen those plans as yet but,  
21 you know, the Office of Planning -- based on the Office of  
22 Planning's report, we are recommending approval.

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

24 So did I make a mistake? Ms. John, I may have to turn  
25 to you. Did we hear this already?

1           VICE CHAIR JOHN: We heard some of it. We stopped or  
2 continued when the question of DDOT's recommendations were  
3 discussed and the applicant needed to go back and meet with, I  
4 believe, Gorove Slade and the Office of Planning to figure out how  
5 the applicant would proceed with the TDM plan and with  
6 landscaping. So that's on page two of DDOT's recommendation.

7           And so we have the photograph of the bicycle racks. but  
8 I don't know about the landscape screening, and I believe that was  
9 missing.

10           The -- also the ANC report, just to add that here, does  
11 not meet the standard of the regulation and so we can't give it  
12 great weight.

13           CHAIRPERSON HILL: Right. So, Ms. Arnold, have you  
14 guys --

15           MR. RICE: Mr. Chair.

16           CHAIRPERSON HILL: Yep.

17           MR. RICE: If I can offer a point of order. I misspoke  
18 earlier about Ms. Arnold being authorized to speak.

19           Ms. Arnold doesn't have authorization so it would be a  
20 good idea to just confirm with Ms. Arnold orally or via the  
21 secretary that she understands that she is under oath and that she  
22 is representing that she has been authorized to speak on behalf of  
23 the applicant.

24           CHAIRPERSON HILL: Okay. Let me do this first step.

25           Ms. Douglas, can you hear me?

1 MS. DOUGLAS: Yes, sir. I can hear you.

2 CHAIRPERSON HILL: So you're authorizing Ms. Arnold to  
3 speak on your behalf, correct?

4 MS. DOUGLAS: Yes.

5 CHAIRPERSON HILL: Ms. Arnold, are you under oath and do  
6 you understand that you're under oath?

7 MS. ARNOLD: Yes. Can you hear me okay?

8 CHAIRPERSON HILL: I can hear you. I can hear you.

9 MS. ARNOLD: Okay.

10 CHAIRPERSON HILL: So, wait. Before now, Mr. Rice, this  
11 is where I haven't had to sign in yet. So if they signed in,  
12 aren't they -- didn't they already -- is there a box they clicked  
13 or something that says they're under oath?

14 MR. RICE: That's my understanding, sir. But I have not  
15 seen that side of getting into the hearing. So I thought it would  
16 be a good idea just to go ahead and confirm it on the record at  
17 the hearing.

18 CHAIRPERSON HILL: Okay. So, Mr. Moy, that's correct,  
19 correct?

20 MR. MOY: Yeah, that's correct. I can also administer  
21 the oath again if --

22 CHAIRPERSON HILL: That's all right.

23 MR. MOY: -- if you (audio interference).

24 CHAIRPERSON HILL: That's all right. If it's correct --

25 MR. MOY: (audio interference) issue --

1 CHAIRPERSON HILL: Ms. Arnold knows she's under oath.

2 MS. ARNOLD: Yes.

3 MR. MOY: Okay.

4 CHAIRPERSON HILL: All right.

5 MR. MOY: I would also suggest, Mr. Chair, sorry to  
6 interrupt, that after today or at this hearing, that they submit a  
7 new letter authorizing that Ms. Arnold can represent so that I  
8 have a hard copy in the record as well.

9 MS. ARNOLD: You would like that on KD's Klubhouse  
10 letterhead and submitted?

11 MR. MOY: I think that's adequate.

12 MS. ARNOLD: Okay.

13 CHAIRPERSON HILL: Okay. All right.

14 First of all, does the Board have any questions for the  
15 Office of Planning and the applicant?

16 VICE CHAIR JOHN: Just for the applicant. I don't  
17 recall if there was anything on the landscaping in the record, Ms.  
18 Arnold. Are you familiar with that recommendation?

19 MS. ARNOLD: With the landscaping part, I will say that  
20 Ms. Douglas was working with -- when to provide that. I do not  
21 have the information, that information, I do not have.

22 VICE CHAIR JOHN: Ms. Douglas?

23 MS. DOUGLAS: Mr. (audio interference) was working on  
24 the landscaping. Unfortunately, his wife died last week to COVID  
25 and he has COVID now. So we have started the process. When we

1 sent the letter over to (audio interference) from DDOT, the letter  
2 was supposed to be uploaded so you guys can see it. So we are  
3 working on that piece. Due to COVID, however, testing positive as  
4 of last week, they (audio interference). But I did submit the  
5 letter. He submitted the letter as well, saying that we meet all  
6 of the requirements of DDOT.

7 CHAIRPERSON HILL: Okay. Let me -- let me pause one  
8 second. Mr. Young, is there anyone here wishing to testify?

9 MR. YOUNG: There is not.

10 CHAIRPERSON HILL: Okay. Ms. Douglas, if you could mute  
11 your phone.

12 Okay. I still don't see that we have some of the stuff  
13 that we need. And so I don't know how we're going to move forward  
14 at this point meaning, Ms. Arnold, first of all, Ms. Arnold, if  
15 you could go ahead and submit something into the record as Mr. Moy  
16 said that you are representing KD's Klubhouse, okay? That's  
17 number one, right.

18 Number two, I guess I'm still waiting for these pictures  
19 or where -- you know, we need the plan as to -- you know, we need  
20 actually a plan as to where the bike rack parking is, okay?

21 And then we also need a landscaping plan as recommended  
22 by -- is it the Office of Planning? No, no, DDOT. DDOT.

23 So DDOT had -- so the Office of Planning had some  
24 conditions that I'm pretty sure you're in agreement with, but I'm  
25 going to confirm on the record, Ms. Arnold, that you are.

1           You're going to enroll no more than a hundred and sixty  
2 children, ages six weeks to thirteen years of age. You're going  
3 to have no more than 40 staff and the hours will be limited to 23  
4 hours a day, Monday to Saturday. Is that a condition that you --  
5 your applicant is in favor of, Ms. Arnold?

6           You're on mute. I'm sorry.

7           MS. ARNOLD: Okay. Yes, that is true.

8           CHAIRPERSON HILL: Okay. So then DDOT wants you to  
9 implement a TDM plan, and is your TDM plan in the record? I see a  
10 transportation study.

11          MR. RICE: Mr. Chair, I believe the transportation study  
12 is the TDM plan and DDOT's adjustments are noted at Exhibit 36.

13          CHAIRPERSON HILL: Okay. So -- and I'm sorry, I'm kind  
14 of looking through the record.

15          The TDM plan is -- DDOT's changes in Exhibit 36 are  
16 their recommendations, I guess, a more comprehensive TDM plan; is  
17 that correct, Mr. Rice?

18          MR. RICE: Yes, sir.

19          CHAIRPERSON HILL: Okay.

20          MR. RICE: Do you see -- it's there (audio interference)  
21 adds to it.

22          CHAIRPERSON HILL: Pardon?

23          MR. RICE: DDOT takes their proposed TDM plan and just  
24 makes minor adjustments that are noted in the DDOT report.

25          CHAIRPERSON HILL: Got it. So, Ms. Arnold, you're aware

1 | of the -- the tweaks, if you will, that DDOT made to your TDM plan  
2 | in Exhibit 36 and you're comfortable with those, correct?

3 | MS. ARNOLD: Yes.

4 | CHAIRPERSON HILL: Okay. So then, Mr. Rice, just so you  
5 | can help me keep clear on this, whenever we get to a decision on  
6 | this, right?

7 | So the applicant has -- and you can write this up in  
8 | your report if you don't mind helping me.

9 | The applicant has approved the TDM -- has agreed to the  
10 | TDM plan in Exhibit 36.

11 | We are going to get something from Ms. Arnold stating  
12 | that Ms. Arnold is the representative.

13 | Ms. Douglas, we still need a landscaping plan that  
14 | provides landscape screening around surface lot within building  
15 | restriction line to screen parked vehicles from the street.

16 | That's something that DDOT had requested that we still  
17 | need to see.

18 | Ms. Douglas, are you aware of this?

19 | MS. DOUGLAS: I am aware. DDOT did receive it.

20 | CHAIRPERSON HILL: So you haven't submitted it to us  
21 | yet? That's a question.

22 | MS. DOUGLAS: I'm not sure why it wasn't received to you  
23 | guys. The only thing that was missing was the landscaping piece  
24 | and --

25 | CHAIRPERSON HILL: Okay.

1 MS. DOUGLAS: -- (audio interference) submitted because  
2 of the person that was working on it --

3 CHAIRPERSON HILL: I got you and I'm -- I'm really sorry  
4 about that. That's just awful.

5 MS. DOUGLAS: And again to date, Chairman, we -- we met  
6 all the terms and conditions before the hearing and, based off the  
7 (audio interference), you weren't up to par with everything that  
8 was going on and then it got postponed.

9 So we weren't aware of any of this up until the last  
10 hearing, which was about two weeks ago. All the other terms were  
11 met. Everything they asked for us to submit, we met all the  
12 guidelines and requirements.

13 I was unaware until two weeks ago that this was  
14 something that was needed.

15 Again, everything except for the landscaping is all that  
16 I'm missing. However, I'm trying to open up this location for  
17 essential parents. The location that I'm in, we are full to the  
18 capacity. So this is something that everybody knew for June. So  
19 now here we are in January and this is the last thing. So is it  
20 possible that you guys can still move on with the certificate of  
21 occupancy and I'll just make sure that the terms are being met  
22 within the next 30 days instead of having it being pushed back,  
23 because this is the only thing that's having me unable to receive  
24 my license.

25 CHAIRPERSON HILL: Ms. Douglas, I'm trying to help you

1 out. I really am. I mean, we -- we, the Board, have to see the  
2 things that we need to see in order to make a determination.

3 And so you know, I am where I am, right? Like so -- and  
4 I'm having, you know, anyway.

5 So if you can submit the landscaping plan, okay? And  
6 then because -- now the TDM plan is taken care of, okay? And --  
7 and I appreciate that the ANC has weighed in and it -- I mean, it  
8 sounds like a great facility.

9 But they haven't submitted something to us in the way  
10 that the regulations state in order for us to give it great  
11 weight.

12 I don't think you have to go back and get anything from  
13 them. I'm just trying to clear that up for you, so you  
14 understand.

15 The -- so if you can submit something that -- and I  
16 guess this is where I have to -- you know, we -- we can put this  
17 on for a decision next week, but I just have to see it, right?  
18 Unless the Board has some other suggestions and, if you do, please  
19 raise your hand.

20 I don't see you raising your hand.

21 MS. ARNOLD: But may I speak?

22 CHAIRPERSON HILL: Give me one second, Ms. Arnold. I  
23 just want to make sure I remember everything you need.

24 So you've already agreed to the TDM plan, right? We  
25 still haven't seen the landscaping plan that DDOT is looking for,

1 okay? And you have agreed to the Office of Planning's conditions.

2 So I -- do you have that -- Ms. Douglas, do you -- do  
3 you have the landscaping plan that you submitted to DDOT handy?

4 Or, Ms. Arnold, do you know what I'm talking about?

5 MS. ARNOLD: I'm not sure she has it. I'm not sure she  
6 put her phone -- I don't have possession of it, but I want to see  
7 if she has it.

8 CHAIRPERSON HILL: Okay. Okay. So we need to see that,  
9 okay? So --

10 MS. ARNOLD: Okay. So you need to see that to render  
11 the final decision; is that what we're understanding right now?

12 CHAIRPERSON HILL: Yes.

13 MS. ARNOLD: And then this landscaping plan, it is  
14 inclusive of showing how the parking and everything is to be  
15 situated for the building and for the facility use of the drop off  
16 and the pickup for the children? Is that the understanding of  
17 this?

18 CHAIRPERSON HILL: It says provide landscape screening  
19 around surface lot within building restriction line to screen  
20 parked vehicles from the street.

21 So we're looking for landscaping that's screening parked  
22 vehicles from the street. A landscaping plan.

23 MS. ARNOLD: Uh-huh.

24 CHAIRPERSON HILL: I could be wrong. I don't know --  
25 you know, it's not terribly complicated, but something that shows

1 us what your landscaping plan is to screen parked vehicles from  
2 the street.

3 MS. ARNOLD: Okay. I thought -- here's the issue and  
4 I'm glad that you stated that it can be drawn, because we were  
5 under the impression, this is why she was waiting for the  
6 gentleman and then this situation happened with him and his family  
7 -- we were under the impression that it had to be done by a  
8 professional or some architect or something like that.

9 Are you stating this is something that we can provide?

10 CHAIRPERSON HILL: Yeah.

11 MS. ARNOLD: Like taking pictures or --

12 CHAIRPERSON HILL: I understand. I'm just trying to --  
13 I'm also trying to work through this a little bit. Like we've --  
14 when we have been in the chambers together, it's easier for me to  
15 kind of send you to the Office of Planning and they can, you know,  
16 see what they might be able to help you with, right?

17 Ms. Brown-Roberts, I mean, we've had like landscaping  
18 plans that have been pretty basic, right? I mean, can you explain  
19 the landscaping plan a little bit to Ms. Arnold?

20 You're on mute. Oh, sorry.

21 MS. BROWN-ROBERTS: Yeah. Do you want me to say it now?

22 Well, the site plan -- I think there was a site plan in  
23 the -- in the record and I think all she had to do was -- is to  
24 show where trees would be and -- and, yeah, I think basically it's  
25 trees that would shield the -- the parking lot along the -- as

1 DDOT said, within the building restriction line. So --

2 CHAIRPERSON HILL: Can you -- Ms. Brown-Roberts, do you  
3 know where that site plan is? I'm trying to find it in the  
4 record.

5 VICE CHAIR JOHN: There's some plans at Exhibit 3.  
6 That's the architectural plans and renovations, I believe.

7 CHAIRPERSON HILL: Yeah. I'm just (audio interference)  
8 where the parking lot is, where they would put the landscaping.  
9 Okay. So, Ms. Arnold, do you know if DDOT has asked for some  
10 landscaping plan?

11 MS. ARNOLD: For some reason, you were receiving  
12 feedback. I didn't hear your entire question. What did you say?  
13 I'm sorry.

14 CHAIRPERSON HILL: It's okay. Do you know where DDOT is  
15 requesting you to put the landscaping on your plans? Do you  
16 understand that?

17 MS. ARNOLD: Now -- now it is clear. Originally, I must  
18 admit it was not clear because we've had drawings we've been  
19 submitting items since June. This has been worked on since June.

20 It's a little troubling that, you know, we get to the --  
21 to the end and then it seems as this -- like things keep  
22 appearing. We don't have any problem with representing it --  
23 presenting it but just need to understand everything that's needed  
24 because (audio interference) --

25 CHAIRPERSON HILL: Ms. Arnold, I'm letting -- I'm

1 | letting you know, I'm doing my best to get your through this.

2 | MS. ARNOLD: Uh-huh.

3 | CHAIRPERSON HILL: I really am. And so just bear with  
4 | me because I can't --

5 | MS. ARNOLD: Okay.

6 | CHAIRPERSON HILL: I can't skip things I'm supposed to  
7 | do, okay?

8 | MS. ARNOLD: Exactly. Exactly.

9 | CHAIRPERSON HILL: So --

10 | MS. ARNOLD: Understood.

11 | CHAIRPERSON HILL: So -- so why don't you do this, okay?  
12 | So I'm just going to be clear. And so the record still -- I still  
13 | -- I keep opening this record and I'm not seeing wherever the bike  
14 | is, right?

15 | So I guess -- I don't know if Ms. Brown -- again, Ms.  
16 | Brown-Roberts, if we were in the room, right, I would ask you to  
17 | go talk to Ms. Arnold, right?

18 | Are you -- are you able to talk to Ms. Arnold today?

19 | MS. BROWN-ROBERTS: Yes, Mr. Chairman. Yes. I can -- I  
20 | can talk to her and I'll also get in touch with DDOT and try to  
21 | explain to her exactly what's needed.

22 | CHAIRPERSON HILL: Okay.

23 | MS. BROWN-ROBERTS: Because the -- at the last hearing,  
24 | the transportation -- their transportation person had said that,  
25 | you know, he was going to work with her to provide that. So I'm

1 not sure -- but, yes, we -- we'd be willing to work with her  
2 today.

3 CHAIRPERSON HILL: Okay. So give me a second here.

4 So the -- the TDM plan, I just want to make sure I get  
5 -- the TDM plan -- now, which exhibit did I say? It was -- oh,  
6 36, 36, right? TDM, 36. And then -- and then supposedly, Mr.  
7 Moy, there is something about the bike racks that are being  
8 submitted into the record; is that what you said?

9 MR. MOY: Yeah. I think it's -- I believe it is a  
10 photograph, but I think it's in -- I think it's been uploaded now.

11 CHAIRPERSON HILL: Now, how do I do that? Do I have to  
12 -- I have to go back in again?

13 VICE CHAIR JOHN: While you're looking, Mr. Chairman, I  
14 did not see where the bicycle racks were on the plans. I see the  
15 photograph of what they would look like, but I didn't see anything  
16 on the plans themselves.

17 CHAIRPERSON HILL: Yeah. That's what I thought they  
18 were going to put in -- oh, yeah. It just says -- no back -- hold  
19 on. Something's in there now.

20 Okay. I see the -- I see the plans. I'm trying to zoom  
21 in here. I can't zoom in.

22 Can you all see -- and I'm asking my Board members, in  
23 Exhibit 44, can somebody see where that bike rack is, or even  
24 Office of Planning, can you see? I can't -- my computer won't  
25 allow me to zoom in.

1           And I'm asking the Office of Planning, Ms. Brown-  
2 Roberts, if that's sufficient, what you see in Exhibit 44?

3           You're on mute, Ms. Brown-Roberts.

4           MS. BROWN-ROBERTS: I'm sorry. In some of the southern  
5 part of the plan, it's -- there is -- where it says parking, and  
6 then in one of the spaces, it says bike rack.

7           CHAIRPERSON HILL: Right. So is that -- is that going  
8 to suffice for the DDOT requirement? I'm asking you, Ms. Brown-  
9 Roberts.

10          MS. BROWN-ROBERTS: I think so because with the picture  
11 that you submitted, also the location, I think that -- that would  
12 suffice, I think. So my only thing is the landscaping which I am  
13 not seeing.

14          CHAIRPERSON HILL: Okay. So, Ms. Brown-Roberts, I don't  
15 -- and this is a little bit outside of -- well actually I  
16 shouldn't say (audio interference) normally do but, again, I'm  
17 trying to think of when we normally were in the hearing room, like  
18 if you would reach out to Ms. Arnold. Ms. Arnold, do you -- Ms.  
19 Roberts, do you have Ms. Arnold's phone number?

20          MS. BROWN-ROBERTS: No, but I have Ms. Douglas.

21          CHAIRPERSON HILL: Okay. I don't want anybody to give  
22 any phone numbers over this thing right now.

23          So, Ms. Douglas, can you hear me?

24          MS. DOUGLAS: I'll make sure that Maxine Roberts gets  
25 Ms. Arnold's number.

1 CHAIRPERSON HILL: Right. So, Ms. Roberts is going to  
2 call you right now, okay? Is that all right, Ms. Brown-Roberts?

3 Okay. You just -- you nodded yes.

4 So she's going to call you right now, Ms. Douglas. You  
5 give her Ms. Arnold's phone number, okay?

6 Ms. Brown-Roberts and Ms. Arnold, if you two can talk.  
7 And Ms. Brown-Roberts, if you can figure out what Ms. Arnold might  
8 be able to do and if we can get that into the record, then we can  
9 finish -- we might be able to come back to this today if my Board  
10 members are willing because -- if my Board members are willing.

11 And, if you're willing -- if you're not willing, raise  
12 your hand.

13 Okay. So then go ahead, Ms. Brown-Roberts. We'll see  
14 what happens by the end of the day, today, okay? If we can get  
15 something into the record concerning the landscaping plan, okay?

16 MR. SMITH: (Audio interference).

17 CHAIRPERSON HILL: Yes, one second, please.

18 MS. ARNOLD: Thank you very much.

19 CHAIRPERSON HILL: go ahead, Mr. Smith.

20 MR. SMITH: I just have one additional clarification to  
21 ask the applicant and Ms. Brown-Roberts to clarify in their  
22 discussions. Can you hear me, Ms. Brown-Roberts?

23 MS. BROWN-ROBERTS: I -- yes. I'm hearing you now.

24 MR. SMITH: I'm sorry I didn't know (audio  
25 interference).

1           In Exhibit 44, what we were just talking about, the  
2 image of the bike rack, could you please clarify with applicant if  
3 they are proposing to place these bike racks in a parking space.

4           I'm looking at the aerial of the parking lot and I do  
5 see there's a hashed area for ADA compliance with the handicapped  
6 parking spaces. So could you confirm if they're putting those  
7 bike racks there. And, if so, then I guess it would be in  
8 compliance. But I just want to ensure that they're not removing  
9 an existing parking space.

10           MS. DOUGLAS: That's what -- we're not doing that, sir,  
11 at all.

12           MS. ARNOLD: We're not removing any parking spaces. I  
13 can answer that now.

14           MR. SMITH: Okay.

15           MS. BROWN-ROBERTS: Okay. I'll clarify that. I'll make  
16 sure that that's clarified.

17           MS. SMITH: Okay. Thank you.

18           CHAIRPERSON HILL: Okay. So when we come back, Ms.  
19 Brown-Roberts, if you can clarify Mr. Smith's question about the  
20 bike racks and, again, whether this would suffice for DDOT, okay?

21           And then also, if you can speak to Ms. Arnold and figure  
22 out if we can get something into the record about the landscaping  
23 plan. We'll come back to this at the end of the day, okay?

24           MS. ARNOLD: Thank you --

25           MS. BROWN-ROBERTS: Yes. Okay. Thank you.

1 CHAIRPERSON HILL: Okay. All right. Okay, you guys.  
2 (Audio interference) wait. So what do you think? All  
3 right. So I'm closing the hearing. I'm closing the hearing  
4 except for the information that I just asked for, which is a  
5 landscaping plan and clarification from the Office of Planning  
6 concerning the bike racks, and otherwise, the hearing is closed.  
7 And we're going to have a continued hearing at the end of the day  
8 today.

9 MR. RICE: Mr. Chair, I think you're waiting on  
10 authorization, too.

11 CHAIRPERSON HILL: Oh, authorization. Okay. Thanks.  
12 Yeah. One more thing, Ms. Arnold, if you can submit  
13 something, you know, that says that you're the representative of  
14 the applicant.

15 MR. ARNOLD: Where should I submit that to?

16 CHAIRPERSON HILL: Ms. Roberts can help you out.

17 MS. ARNOLD: Okay.

18 CHAIRPERSON HILL: Okay? Okay.

19 So letter from the applicant about authorization and all  
20 you have to do is -- it's -- as you just presented, you can put it  
21 on -- it doesn't even have to be on the letterhead, you know? It  
22 just has to say that you're authorized to be the representative,  
23 okay? So that -- authorization.

24 MS. ARNOLD: Yes.

25 CHAIRPERSON HILL: We're going to do the landscaping

1 plan and we're going to get some clarification from OP about the  
2 bike racks.

3 Other than that, this hearing is closed, and we will  
4 come back at the end of the day for these issues.

5 Does that sound good with everybody?

6 MS. DOUGLAS: Sounds great.

7 CHAIRPERSON HILL: Okay. All right. Then you all, good  
8 luck, and we'll see you at the end of the day.

9 MS. ARNOLD: Thank you.

10 CHAIRPERSON HILL: Okay? So this is again continuing to  
11 be an interesting day.

12 All right. End of the day.

13 So we've done nothing but put stuff back at the end of  
14 the day.

15 I mean, well, luckily, I can't go anywhere because it's  
16 all blocked off all around me. So there's nothing to do.

17 All right. Okay. Mr. Moy -- do we need a break or are  
18 we good? We'll do one more?

19 Okay. We'll do one more. All right.

20 I hope everyone's entertained. Okay. All right.

21 Mr. Moy, you can call our next one.

22 MR. MOY: Okay. Yes. Thank you, Mr. Chairman.

23 So this would be Case Application number 20 -- 20392 of  
24 Lamond-Riggs D.C. Public Library. Captioned and advertised for  
25 special exceptions under Subtitle C, Section 1610.2 from the lot

1 occupancy requirements of Subtitle C, Section 1603.4 and under  
2 Subtitle C, Section 703.2, from the minimum parking requirements  
3 of Subtitle C, Section 701.5.

4 This would raze, R-A-Z-E, the existing, two-story,  
5 detached public library building and to construct a new two-story,  
6 detached, public library in the R-2 Zone at premises 5401 South  
7 Dakota Avenue, N.E., Square 3761, Lot 804.

8 CHAIRPERSON HILL: Wait a minute. Which number did you  
9 say, Mr. Moy?

10 MR. MOY: I don't recall. I -- 20392. That's the case  
11 number.

12 CHAIRPERSON HILL: Okay. All right. Great. I just  
13 wanted to make sure I was on the same page.

14 Okay. Ms. Shiker, are you there?

15 MS. SHIKER: Yes. Good morning, Chairman Hill and  
16 members of the Board. Christine Shiker representing the applicant  
17 in this case.

18 CHAIRPERSON HILL: Great. Ms. Shiker, who is here with  
19 you?

20 MS. SHIKER: I have Jaspreet Pahwa from the D.C. Public  
21 Library. She's the interim director for Capital Planning and  
22 Construction.

23 I also have Peter Cook from HGA Architects. He is our  
24 proffered expert witness for this case.

25 CHAIRPERSON HILL: Okay. Ms. Shiker, you're a trained

1 professional zoning attorney, correct?

2 MS. SHIKER: Yes, I am.

3 CHAIRPERSON HILL: So you're going to actually present  
4 to us today, correct?

5 MS. SHIKER: That is correct.

6 CHAIRPERSON HILL: Okay. Wonderful. All right, Ms.  
7 Shiker.

8 I'm going to put 15 minutes on the clock. Happy New  
9 Year to you.

10 MS. SHIKER: Happy New Year to you as well and thank you  
11 for having us here today.

12 We are very pleased to bring forward the new public  
13 library for the Lamond-Riggs Public Library at 5401 -- 5401 South  
14 Dakota Avenue.

15 We are here today to request two special exceptions for  
16 this use. The first is a special exception for lot occupancy and  
17 the second is a special exception for a reduction in the required  
18 parking.

19 We have provided a very detailed statement in the record  
20 at Exhibit 31 setting forth how we meet the standard of proof for  
21 each of those.

22 We have had a long history of working with the community  
23 on this and we are very pleased to have support from ANC 5A, which  
24 is the ANC within which the property is located.

25 We also have support from ANC 4B, that is the -- an

1 affected ANC because they are -- their boundary is immediately  
2 across Kennedy Street to the north.

3 We've also worked closely with OP and have their  
4 support. We've worked with DDOT. They support the case subject  
5 to three transportation demand management elements. We have  
6 agreed to all of those and they are shown on the submitted plan in  
7 the record.

8 Finally, as a D.C. project, it does go before the  
9 Commission of Fine Arts, and CFA did review and approve the  
10 project back in April of 2020, and as a D.C. project there is  
11 advisory review from NCPC. That has been submitted and we've been  
12 informed that this will be a project exception noting that there  
13 are no objections to it at its February agenda.

14 With that, I'm going to ask Jaspreet to give just a very  
15 brief update on the project and then Mr. Cook can walk quickly  
16 through the two areas of special exception relief if you feel,  
17 Chairman Hill, that you need that.

18 I thank you -- and Mr. Young, I would ask that you pull  
19 up our Power Point presentation to assist with that and, with  
20 that, I'll ask Jaspreet to go ahead and start speaking.

21 Thank you.

22 MS. PAHWA: Thank you, Christine. Good morning, Mr.  
23 Chairman and members of the Board.

24 As Christine said, I am Jaspreet Pahwa and I lead the  
25 design and delivery for D.C. Public Library.

1 D.C. Public Library is committed to continually  
2 strengthening its legacy as a vital community institution to serve  
3 all its residents.

4 In keeping with the strategic plan, the library is  
5 committed to customizing its programs and services at each of the  
6 25 neighborhood branches.

7 With this as our guiding vision, the library solicited,  
8 and validated community needs and aspirations for the Lamond-Riggs  
9 community.

10 This engagement included focus groups, surveys and  
11 multiple open community meetings. During the engagement, the  
12 design team was brought onboard to contextualize a building  
13 program and design the new branch from inside out and to  
14 ultimately serve the community's needs via an adaptable and  
15 flexible special configuration.

16 Peter Cook, as Christine said, will present how the  
17 program (audio interference) aspirations translated into the  
18 proposed design and footprint of the building.

19 The project is fully funded, and the demolition started  
20 on January 4th.

21 That's all I have. Unless you have any questions for  
22 me, Peter, take it from here.

23 MR. COOK: Good morning, Mr. Chairman and members of the  
24 Board.

25 I thank you very much. If we could go to the next

1 slide, please. Appreciate it.

2           What you see here on the screen -- I'm assuming  
3 everybody can hear me. Also, I see hands waving there (audio  
4 interference).

5           What you see here on the screen is the site (audio  
6 interference) at the top of the screen in the red rectangle  
7 located on South Dakota Avenue between Kennedy Street and  
8 Jefferson Street. The red dash mark that you see there is the  
9 rough approximate walking distance and walking past towards the  
10 Fort Totten Metro rail station. So you can see that's about a  
11 five-minute walk, 1500 feet, plus or minus from the front door  
12 over to the Metro rail station.

13           Let's go to the next slide, please.

14           And this the current rendering of what we envision to be  
15 on the site, looking at the view from South Dakota Avenue. To the  
16 right is Jefferson Street and to the left, is Kennedy Street. And  
17 it's a little to the left is where we're really going to  
18 concentrate our thoughts today in terms of where the parking lot  
19 is located.

20           Next slide, please.

21           Just very briefly, to give you an idea of the layout of  
22 the building, this is a two-story structure that's being planned  
23 and designed and constructed.

24           Both floors are roughly speaking around 11,300 square  
25 feet, plus or minus. Again, this is on two levels where, if you

1 look right here, it's the ground level. The bottom left is where  
2 you enter the building through a vestibule. There's a large  
3 marketplace, an elevator directly in front of you. It opens to  
4 (audio interference) to the left, large media rooms are off to the  
5 far right. Those large media rooms and the marketplace can flow  
6 out to a porch that we have along South Dakota Avenue.

7 In the upper right, there a children's room and in the  
8 upper left is basically building support spaces, staff areas,  
9 (audio interference) rooms and the like.

10 If we go to the next slide, we can see that the layout  
11 is not dissimilar from that. Again, we have the elevator, the  
12 open staircase off to your left, a large open area stretching  
13 along South Dakota Avenue. That's bisected by a series of study  
14 rooms in the middle and then you have adult services, teen  
15 services are in the upper right. There is a nice balcony that's  
16 going to be a future -- allow the people to walk outside and look  
17 out over Jefferson Street. And again, like on the ground level,  
18 there is a -- basically support spaces in the upper left, staff  
19 (audio interference), lounges, toilet rooms and the like.

20 So if we go to the next slide. What you see here are  
21 some of the site constraints. Basically, you can see the curb  
22 lines are on there, but the big red dashed line is the property  
23 line.

24 There are, of course, side yard and rear yard setbacks,  
25 15 yards -- 15 feet on the side, 20 feet on the rear. So that is

1 the hashed area that you see around there.

2           What you see in the faint gray underneath it is the  
3 existing footprint of the existing building.

4           And what you see on top of that, in that blue  
5 parallelogram is basically the -- roughly speaking, the proposed  
6 footprint of the new Lamond-Riggs Library.

7           The bottom right is also the Heritage tree. That is  
8 something that we are having to preserve and that has helped to  
9 think about the overall strategy of how we layout (audio  
10 interference).

11           But then the dark gray area is where the off-street  
12 parking is. And we'll get into that.

13           So, next slide, please.

14           Briefly, this is the landscape -- it's site plan. Again  
15 this is a little more detailed layout of the footprint of the  
16 actual building. You can begin to see where number one is. You  
17 can see that's where that patio is or the porch.

18           Number six is where the storm water management area is.  
19 We expect that most people coming on foot will be approaching it  
20 probably from the corner of Kennedy and South Dakota. So you can  
21 see the pathway moving up in that direction.

22           But, of course, also we have the parking area located  
23 where we have 2.1 and 2.2. We'll show that in more detail.

24           Please, next slide.

25           So this is the current lot occupancy. Today, the

1 existing Lamond-Riggs Library. There's a ground floor that's just  
2 a shade under 11,000 square feet with maintaining all of the  
3 various setbacks and property lines and what have you.

4 The lot occupancy has, as it stood, was 47 percent. So  
5 that's 7 percent in excess of what is allowable on the site.  
6 That's the existing conditions, 47 percent.

7 So if you'd please go to the next slide.

8 You can see now the proposed lot occupancy here. So in  
9 order to accommodate the program that Jaspreet talked about, we're  
10 having a ground level of about 11,500 and the upper level is  
11 slightly less than that.

12 And what that results in is a lot occupancy of 49.5  
13 percent. So that's the rationale behind why we're now at 49  
14 percent as opposed to the 47 percent existing.

15 Please, next slide.

16 Now let's talk about the parking itself. This again is  
17 the existing parking layout.

18 Today there are 11 spaces on the (audio interference) 11  
19 asterisks next to that in the sense that yes, there are 11 spaces.  
20 One of them, at the top, number 11, is dubious, I'll say, in the  
21 sense that the access to that space is quite limited. There's a  
22 dumpster that is in front of that. So it's -- it's a kind of  
23 difficult space to actually maneuver.

24 At the bottom of your screen, you can see that there is  
25 a ADA space but that is temporarily non-compliant because it

1 doesn't have the -- the drop off space and what have you that is  
2 actually required.

3           The other thing I'll mention is that in the -- towards  
4 the left, you'll see non-compliant entry driveway number 2. That  
5 is non-compliant because it is within, I think about 50 feet of  
6 the intersection of South Dakota and Kennedy Street.

7           So if you go to the next slide, you can begin to see now  
8 the proposed layout.

9           I talked a moment ago just about the entry drive. What  
10 we've done now is we've expanded the entry drive, what's furthest  
11 away from the intersection of Kennedy and South Dakota. So  
12 instead of that being 15 feet, that is now 20 feet.

13           We are now showing nine legitimate spaces on here. You  
14 can see at the very top of the screen, there is a space that is  
15 allocated to allow access to the dumpster and recycle bins that  
16 are no longer front and center along Kennedy Street.

17           At the bottom of your screen, you can see that there is  
18 that accessible space and there is that access aisle that is  
19 adjacent to those and that is what's required. So now we have a  
20 true functioning accessible space that is located close to the  
21 (audio interference).

22           The other thing that I will mention also towards the  
23 entry, you can see at the bottom of the screen, short-term bike  
24 racks and repair station. That is a bike rack that will  
25 accommodate about six bikes and a repair station.

1           Also on the inside on the ground floor, very convenient  
2 to a staff entrance, is a long-term employee bike rack that is  
3 just inside that entryway (audio interference).

4           So if you go to the next slide, please.

5           So, just in summary, you can see that the -- what we're  
6 talking about for the lot, you can see is that the zone lot  
7 occupancy is 40 percent. The existing library was -- started at  
8 47 percent. Today our proposal is at 49.5 percent. So what we're  
9 looking at is a 2.5 percent increase from what was existing on the  
10 library lot prior to this.

11           If you go to the next slide. And now we're talking  
12 about the parking. Again zoning is requiring 11 spaces. Today  
13 there are 11 asterisk spaces as we talked about here, and we are  
14 proposing to provide nine legitimate spaces on the site which is a  
15 two-parking space deviation from the zoning requirements.

16           So that is what we have today and I'm happy to respond  
17 to any questions you might have.

18           MS. SHIKER: Thank you, Mr. Cook. I will just conclude  
19 by saying that as, you know, set forth in detail in our pre-  
20 hearing statement, there is no adverse impact that is related to  
21 these two special exceptions.

22           The layout of the building is dictated by the  
23 requirements for this library and for the desires of the community  
24 to be able to use this community facility and that is what  
25 dictates the size of the floorplate.

1           With respect to the parking, there is -- it's well  
2 situated to transit. The layout of the parking is the most  
3 efficient and compliant with zoning and with -- our work with  
4 DDOT. They had no objection to the reduction in accordance with  
5 the special exception so long as we provided the transportation  
6 demand management measures which are the four long-term bike  
7 parking spaces inside for staff and employees, the six outside --  
8 for short term parking as well as the bike repair station, again,  
9 all of those Mr. Cook walked you through where they are.

10           And, with that, we would be open to any questions that  
11 you have. We thank you.

12           CHAIRPERSON HILL: Okay. Thank you.

13           Ms. Shiker, the other thing I just want to -- to  
14 highlight is really just about the parking.

15           Like in terms of like X 901.2, no adverse impacts to  
16 neighboring property, C 703.3, C 703.2(e), C 703.2(d), what you  
17 all seem to be stating is that the two less parking spaces for a  
18 variety of reasons, one including that access to public  
19 transportation, is why you don't think it's a problem for the  
20 community to lose those two spots; is that correct, or could you  
21 clarify that?

22           MS. SHIKER: That is correct. I mean, the library is  
23 intended to be used by the immediate community and D.C. Public  
24 Library have libraries in different communities. So they do not  
25 anticipate people are going to be coming from long distances to

1 | this library. People use their community library.

2 |           To the extent people are coming from further away, we  
3 | have bike. We also have transit. We have -- we're on a high  
4 | priority bus route. We're within a very close distance of that.

5 |           And, in fact, if we were located across the street, we  
6 | would be permitted as a matter of right, a 50 percent reduction  
7 | because of our location's transit. It's just because we're in a  
8 | R-zone and not like across the street in an MU zone that you get  
9 | that automatic 50 percent reduction giving proximity.

10 |           I would also point out that the D.C. Public Library does  
11 | do things to ensure that the staff and the employees and the  
12 | volunteers come from the community. In fact, the manager of this  
13 | library lives within the community. And so they try to kind of do  
14 | smart placements to put people in their community libraries to  
15 | reduce the amount of traffic.

16 |           So with those -- with those kind of reasons, we don't  
17 | anticipate any traffic -- adverse traffic impact.

18 |           CHAIRPERSON HILL: Okay. Thank you.

19 |           Does the Board have any questions for the applicant and,  
20 | if so, please raise your hand.

21 |           Nobody has any questions? Okay. I'm going to turn to  
22 | the Office of Planning.

23 |           MR. JESICK: Thank you, Mr. Chairman and members of the  
24 | board.

25 |           My name is Matt Jesick. I'm filling in today for Mr.

1 Steve Cochran, who was called into another meeting.

2 The Office of Planning is very supportive of the new  
3 Lamond-Riggs Library and we can rest on the record in support of  
4 the requested relief.

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

6 CHAIRPERSON HILL: Does anybody have any questions for  
7 the Office of Planning?

8 Mr. Jesick, Happy New Year.

9 MR. JESICK: You, too, Mr. Chairman.

10 CHAIRPERSON HILL: You have less hair, Mr. Jesick, than  
11 Mr. Cochran.

12 (Laughter)

13 MR. JESICK: Mine isn't as gray.

14 CHAIRPERSON HILL: All right. Does the applicant have  
15 any questions for the Office of Planning?

16 MS. SHIKER: We do not. Thank you.

17 CHAIRPERSON HILL: Mr. Young, is there any here -- is  
18 there anyone here wishing to testify?

19 MR. YOUNG: Yes. We have one person signed up.

20 CHAIRPERSON HILL: Okay. Can you bring that person in,  
21 please?

22 Mr. Oliver, can you hear me?

23 MR. OLIVER: Yes, I can. Can you hear me?

24 CHAIRPERSON HILL: I can. Thank you. Welcome, Mr.  
25 Oliver.

1 MR. OLIVER: Thank you.

2 CHAIRPERSON HILL: You'll have three minutes to testify.  
3 Could you please first introduce yourself with your home address?

4 MR. OLIVER: Yes, I can. My name is Robert T. Oliver  
5 and I live at 614 Emerson Street, N.E.

6 CHAIRPERSON HILL: Okay.

7 MR. OLIVER: And I am calling as a proponent.

8 CHAIRPERSON HILL: Okay. Please go ahead, Mr. Oliver.

9 MR. OLIVER: Thank you. My name is Robert T. Oliver,  
10 and I am the President of the Lamond-Riggs Library Friends.

11 I support the D.C. Public Library request for special  
12 exceptions to the lot occupancy and the minimum parking  
13 requirements.

14 The local Advisory Neighborhood Commissions, ANC 4B and  
15 5A, also concur by providing letters of support.

16 The Lamond-Riggs Library is unique in that it is located  
17 on the Ward 4 and Ward 5 boundary. So we enjoy twice the council  
18 support and twice the scrutiny.

19 I want to thank you -- I want to thank both council  
20 persons, Brandon Todd and Kenyan McDuffie for all that they have  
21 done. Each has been a good friend to Lamond-Riggs Library, and I  
22 look forward to working with Ms. Janeese George, the new Ward 4  
23 council person in the future.

24 The new Lamond-Riggs Library, as conceived by HGA, has  
25 many of the amenities that the community had requested. For

1 | example, the community requested more reading space and has been  
2 | answered with a variety of conference and study rooms.

3 |           The proposed "anything/anytime room" addresses the need  
4 | for technology training, while a history wall has been conceived  
5 | to acknowledge the community's past.

6 |           The new library design provides patrons with a spacious  
7 | well conceived floor space layout.

8 |           The old library that opened in October of 1983 employed  
9 | the philosophy of that day. In that building, all public services  
10 | were on the first floor including adult and children's reading  
11 | rooms, a community reading room and stack area.

12 |           The second floor was occupied by additional stack areas  
13 | and staff offices. The result was a less than ideal space for  
14 | children, teens and adults since the needs of each differed.

15 |           The new Lamond-Riggs Library dedicates a separate floor  
16 | for children's activities and another to teens and adults.

17 |           The architects of HGA have designed a stunning new  
18 | Lamond-Riggs Library. HGA has taken care to blend the new library  
19 | with the existing residential community.

20 |           Additionally, the new library will enhance the street  
21 | scape by complementing the nearby family entertainment zone  
22 | currently under construction by the Cafritz Foundation.

23 |           In closing, I respectfully ask that the Board grant both  
24 | special exceptions. And I wanted to say that I skipped my last  
25 | paragraph basically because the prior testimony covered everything

1 that I had planned to say.

2 So I just want to thank everybody there for the great  
3 job that they have done. And that's it for me.

4 CHAIRPERSON HILL: Okay. Thank you, Mr. Oliver. Thank  
5 you for your community support and also for coming to testify  
6 today.

7 Does the Board have any questions for the witness?

8 Ms. Shiker, do you have any questions for the witness?

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

10 CHAIRPERSON HILL: Okay. Mr. Oliver, thank you. We're  
11 going to excuse you now from the hearing.

12 MR. OLIVER: Thank you.

13 CHAIRPERSON HILL: Okay. Does anybody have any final  
14 questions for the applicant? If so, please raise your hand.

15 Ms. Shiker, do you have anything you'd like to add at  
16 the end?

17 MS. SHIKER: No. We would just ask that the Board  
18 deliberate on this at their earliest convenience as the library is  
19 ready to move forward with construction. So, thank you.

20 CHAIRPERSON HILL: Okay. All right. And then Mr. Moy.

21 MR. MOY: Unless I missed it, Mr. Chairman, I just want  
22 to double-check for the record, had the Board addressed the  
23 request from Holland and Knight for expert status to architect  
24 Peter Cook?

25 CHAIRPERSON HILL: Oh, I'm sorry. I didn't see that.

1           Mr. Cook, you're not in our book; is that correct, and  
2 you're a registered architect?

3           MR. COOK: That is correct.

4           CHAIRPERSON HILL: Okay. I don't have -- are you  
5 registered in the city?

6           MR. COOK: I am, yes.

7           CHAIRPERSON HILL: Okay. I don't have any problem with  
8 Mr. Cook being offered as an expert witness unless someone from  
9 the Board does and, if so, please raise your hand.

10           Okay. Mr. Cook, we're going to allow you in as an  
11 expert witness.

12           With that, I'm going to go ahead and close the hearing  
13 and you all have a nice day.

14           (Pause)

15           CHAIRPERSON HILL: Okay. All right. I want to give --  
16 all right.

17           So -- so I'm going to start with Commissioner Miller, if  
18 we're ready to deliberate because I have been talking for an hour  
19 and a half.

20           COMMISSIONER MILLER: Okay. Thank you, Mr. Chairman.

21           I just wanted to commend the applicant, the D.C. Public  
22 Library for all their community engagement on this important  
23 neighborhood library project.

24           I know it's been a challenging time for everybody in  
25 neighborhoods and I think the library -- libraries are closed,

1 | although I think they provide certain kinds of book drop and other  
2 | health-conscious services.

3 |           But, anyway, I appreciate that ANC 4B and 5A and the  
4 | Friends of the Lamond-Riggs Library have all been meeting with the  
5 | library and the library has incorporated their suggestions into  
6 | the plans.

7 |           I think the relief that's being requested, to get to the  
8 | heart of the matter here, the special exceptions for parking and  
9 | lot occupancy, I think the applicant's case has been made. It's  
10 | really not that substantial amount of relief to begin with. But I  
11 | think the applicant has made their case in their Exhibit -- was  
12 | that 31? I can't remember.

13 |           But anyway, so I will be supportive of moving forward  
14 | today with this application, Mr. Chairman.

15 |           CHAIRPERSON HILL: Thank you, Commissioner Miller, for  
16 | your thoughtful words. Mr. Smith.

17 |           MR. SMITH: I'll echo Commissioner Miller's statements.  
18 | I again thank the D.C. public libraries for the outreach they  
19 | (audio interference) the design of the building, also the  
20 | placement of the building. On the matter of the two special  
21 | exceptions, I agree with Mr. Miller. I think it's fairly minor,  
22 | especially with regard to lot occupancy requirements. The main  
23 | thing I was most concerned about was the special exception in  
24 | relation to parking requirements. And I think that the applicant  
25 | has gone beyond and met the (audio interference) standards,

1 especially as elaborated with their PowerPoint and also within  
2 Exhibit 31, their reasoning why we can grant this relief.

3           It is located relatively adjacent to Fort Totten Metro  
4 station and also, they are providing a large amount of bike  
5 parking at the site. And the reason for the reduction is they had  
6 to meet the ADA requirements for a handicap parking space. So  
7 they had to have an ADA landing so that does reduce some of the --  
8 the space within the existing parking lot.

9           And also, they're trying to create a compliance dumpster  
10 area. So that would result in additional reductions in space  
11 within the parking lot. So that's where we lose those two parking  
12 spaces in order for them to meet the planning requirements for a  
13 handicap parking space and a dumpster area. So with that, I will  
14 support both special exceptions.

15           CHAIRPERSON HILL: Thank you, Mr. Smith. Vice Chair  
16 John.

17           VICE CHAIR JOHN: So I agree with everything that's been  
18 said so far. I just want to add that the applicant is only  
19 required to demonstrate one of the criteria in 703.2, and I think  
20 the applicant has done that by showing that there is sufficient  
21 transportation in the area with the Metro bus and that the patrons  
22 will typically walk to the building.

23           And so I think -- I think I'm able to support the  
24 application and I'll give great weight to the report from the  
25 Office of Planning in explaining how the parking requirement is

1 met.

2 I think in terms of the lot occupancy relief, I agree  
3 with Commissioner Miller that the relief is really minor, and it's  
4 driven by the programmatic requirements of the library and the  
5 fact that because of the particular layout of the parking and the  
6 need for the handicap space. So I agree that the application  
7 meets the criteria for relief.

8 CHAIRPERSON HILL: Okay. Thank you, Vice Chair John.

9 I will agree with all the comments my colleagues made.  
10 I don't really have anything additional to add. You know, it is  
11 nice to see all the community support as well as all of the  
12 outreach that they, the applicant, has moved forward with this  
13 project.

14 I'm going to make a motion to approve application number  
15 20392 as captioned and read by the Secretary, and ask for a  
16 second, Ms. John.

17 VICE CHAIR JOHN: Second.

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

20 You're on mute, Mr. Moy.

21 MR. MOY: All right. Thank you, Mr. Chairman. There's  
22 number one.

23 All right. So, when I call your name, if you would  
24 please respond with a yes, no, or abstain to the motion made by  
25 Chairman Hill to approve the application for the relief requested.

1 The motion was seconded by -- the motion was seconded by Vice  
2 Chair John.

3 Zoning Commissioner, Robert Miller.

4 COMMISSIONER MILLER: Yes.

5 MR. MOY: Mr. Smith.

6 MR. SMITH: Yes.

7 MR. MOY: Vice Chair John.

8 VICE CHAIR JOHN: Yes.

9 MR. MOY: Chairman Hill.

10 CHAIRPERSON HILL: Yes, to approve.

11 MR. MOY: The staff would record the vote as 4 to 0 to  
12 1. The one is a seat that's vacant. This is again 4 to 0 to 1 to  
13 approve the motion made by Chairman Hill to grant the relief  
14 requested by the applicant. Second the motion, Vice Chair John.  
15 Also in support of the motion is Mr. Smith and Zoning Commissioner  
16 Rob Miller, and I said there's a one seat vacant. So the motion  
17 carries, sir, 4 to 0 to 1.

18 CHAIRPERSON HILL: Okay. Great. Thank you.

19 You guys, I might move around a case and I'll let you  
20 guys know when we come back. Is it okay if we take a quick break?

21 Okay. So let's go ahead and say 11:30.

22 Okay. Thank you.

23 (Whereupon, there was a brief recess.)

24 MR. MOY: Thank you, Mr. Chairman. The public hearing  
25 is back in session and the time is at or about 11:39 a.m.

1 CHAIRPERSON HILL: Okay. Just real quick, for the  
2 record, the last case, which was 20392, I think it was the last  
3 one, when I made the approval, made the motion, I neglected to  
4 specify again that it was subject to DDOT's conditions and, you  
5 know, just confirming with everyone that that was, in fact, what  
6 everyone else thought and, you know, if so, just nod your head.  
7 That's correct. Okay. Very good. I see everyone nodding their  
8 head. All right.

9 So those conditions will be in the order as per what the  
10 applicant also agreed to.

11 Mr. Moy, the other thing is that I want to -- and if  
12 it's okay with the Board, I want to move the last -- I want to  
13 make the last case 20350 of Mary's House for Older Adults,  
14 Incorporated. So that would be -- I'm just moving it one back.  
15 So that would be my suggestion unless the Board has any issues. I  
16 don't see anyone raising their hand.

17 And then, Mr. Moy, you can call our next case which I  
18 think is 20344.

19 MR. MOY: Yes. Thank you, Mr. Chairman. All right.

20 Before the Board is case application number 20344 of  
21 Julie Straus Harris and Adam Harris, captioned and advertised for  
22 a special exception under Subtitle E, Section 5201 from the  
23 maximum lot occupancy of Subtitle E, Section 304.1. This would  
24 construct a partial third-story addition and a two-story rear  
25 addition to an existing attached principal dwelling unit, RF-1

1 zone at 1768 Kilbourne Place, N.W., Square 2600, Lot 90.

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

3 All right. Let's see. Ms. Wilson, could you introduce  
4 yourself, please?

5 MS. WILSON: Hi. Alexandra Wilson from Sullivan &  
6 Barros on behalf of the applicant.

7 CHAIRPERSON HILL: Okay. Happy New Year, Ms. Wilson.

8 MS. WILSON: You, too.

9 CHAIRPERSON HILL: Who is here with you today?

10 MS. WILSON: Julie Straus Harris and her husband, Adam  
11 Harris are here, as is Erik Hoffland, the project architect.

12 CHAIRPERSON HILL: Okay. Great. All right.

13 I guess, Ms. Wilson, if you could go ahead and walk us  
14 through your presentation and how you believe you're meeting the  
15 criteria for us to grant this application.

16 I'm going to put 15 minutes on the clock. The only  
17 thing if you could kind of highlight is the light and air to  
18 adjacent properties. It looks like we got a shadow study that did  
19 show a little bit how adjacent properties would be affected.  
20 Maybe you could just kind of highlight that in your presentation  
21 and you can begin whenever you like.

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

24 And as he's doing that, I'll give a little bit of an  
25 overview.

1           The property is currently improved with a row building  
2 and there is an existing first floor deck at the rear of the  
3 property. And, with the deck, the current first floor lot  
4 occupancy is 66 percent.

5           The applicant is proposing a small two-story rear  
6 addition which encloses a portion of the existing deck.

7           The footprint of the addition itself is limited to 60  
8 percent and would ordinarily be permitted as a matter of right  
9 since the lot occupancy is not increasing.

10          However, when Adam and Julie purchased the property,  
11 they were not aware that the existing deck was missing permits.

12          So even though the lot occupancy on the first floor is  
13 not being increased and the addition is limited to 60 percent,  
14 they must request relief for the first-floor lot occupancy in  
15 order to maintain the deck as part of the project.

16          So I do want to be clear that the addition itself is a  
17 matter of right footprint. It's that the deck was not originally  
18 permitted and it's at 66 percent.

19          So we're essentially here to make the deck legal as part  
20 of the project.

21          And, with that, I will turn it over to Mr. Hoffland and  
22 I believe his presentation begins on slide three. Thank you.

23          MR. HOFFLAND: Good morning, members of the Board and  
24 Chairman. Yes, I'll just run through a few slides here very  
25 briefly.

1           Here you see an overview, an aerial, of the block, the  
2 row. The 1700 Block of Kilbourne is all comprised of three and  
3 four story rowhouses and you can see where the applicants' project  
4 is towards the west end of the row.

5           Next slide.

6           Here is a view from the rear yard looking at the deck  
7 and the existing row home. You will notice that both adjacent  
8 neighbors, as well as other houses further down the row, have  
9 decks that extend beyond the 60 percent lot occupancy as well.

10          Next slide.

11          Here is a view from the deck looking down across the  
12 alley.

13          Next slide.

14          And, again, here is a view from the alley looking up.  
15 The rear yard is flush with the top of the garages you see and so  
16 the deck is a level above that.

17          And I'll just note at this point that Historic  
18 Preservation has already approved the permit drawings for this.  
19 So -- and, again, the issue here is with the deck and the deck is  
20 barely, if at all, visible from public space.

21          Next slide, please.

22          Here, you know, just on the plat, you can see where our  
23 addition is. It extends beyond the adjacent neighbor but, again,  
24 is within the 60 percent by right lot occupancy and does not  
25 extend beyond the 10 feet rule, beyond the adjacent neighbor's

1 house and you can also see here the footprint of the neighboring  
2 decks and how they also go past lot occupancy.

3 Next slide.

4 This is the -- just technical drawings but this is the  
5 existing condition. On the second drawing from the left, you can  
6 see the first floorplan where the deck is and, above it, the  
7 drawing, just to the right, shows where there is another deck  
8 above it on the second floor.

9 Next slide.

10 And here is just a way of showing the interior addition,  
11 the deck footprint remains as is and the addition is just taking  
12 over part of the existing deck and now enclosing it in, you know,  
13 interior space.

14 Next slide.

15 And again here is an existing and proposed elevation  
16 from the rear. You can see the deck is essentially the same.  
17 It's just the stairs had to be modified a little bit going down to  
18 grade.

19 Next slide.

20 And here is again a side section elevation showing that  
21 the deck is the same footprint. And then it shows how the rear  
22 addition extends into that deck footprint.

23 And, Chairman, to your point about air and -- air and  
24 light, and again the -- the addition which is by right is not  
25 really what's at issue here. It's the deck and the deck will not

1 | change any of the air and light to any of the neighbors'  
2 | properties since it's existing.

3 |           CHAIRPERSON HILL: Yeah. Mr. Hoffland, I thought if you  
4 | enclose it, that's going to increase the shadowing; is that not  
5 | correct?

6 |           MR. HOFFLAND: That is -- sorry. Well that is true that  
7 | it will especially -- well, to the -- to the adjacent neighbor to  
8 | the east, it would block some of their, you know, afternoon sun.  
9 | Certainly.

10 |           CHAIRPERSON HILL: Ms. Wilson.

11 |           MS. WILSON: If I'm right -- if I'm right, the addition  
12 | itself is limited to 60 percent lot occupancy. So the matter of  
13 | right option would be to eliminate the deck not reduce the  
14 | addition.

15 |           There would be no change in light and air to the  
16 | neighboring properties between matter of right addition what's  
17 | proposed. It would just be the deck. And as the deck is  
18 | existing, there would be no increase in light and air -- no  
19 | increase on any impacts in light and air to the neighboring  
20 | properties as a result of the requested relief.

21 |           MR. HOFFLAND: Correct.

22 |           CHAIRPERSON HILL: Go ahead, Mr. Hoffland. You can keep  
23 | going.

24 |           MR. HOFFLAND: Yeah. And I believe -- next slide.

25 |           But I believe that ends my portion. Yes. So I'll hand

1 | it back to Alexandra.

2 |           MS. WILSON: Right. Thank you.

3 |           The special exception will be in harmony with the zoning  
4 | regulations as the special exception relief for lot occupancy is  
5 | 70 percent or below. It's specifically enumerated.

6 |           The request will not adversely affect the use of  
7 | neighboring properties.

8 |           The addition itself was designed to meet the matter of  
9 | right criteria. It is limited to 60 percent lot occupancy and  
10 | meets the 10-foot rule.

11 |           And it would, in fact, be permitted as a matter of right  
12 | but for the existing deck which does not have permits.

13 |           So the adjacent properties also have decks and similar  
14 | rear structures, as Mr. Hoffland pointed out, as do a number of  
15 | properties on this block.

16 |           The applicant has obtained a letter in support from the  
17 | neighbor to the west. The neighbor to the east is aware of the  
18 | project and has not objected.

19 |           There is even an letter in support from a neighbor at  
20 | the end of the block.

21 |           We did see that letter in opposition and I'll just note  
22 | that neighbor lives at 1737 Kenyon which is five properties to the  
23 | east and across the alley from the subject property.

24 |           He noted opposition due to light and air, privacy, and  
25 | character concerns. I'll address those concerns as I walk through

1 the criteria in the next slides.

2 But, overall, as the subject property is significantly  
3 separated from that property and the deck already exists, the  
4 requested relief will have no impact on the use of his property or  
5 his light, air or privacy.

6 Next slide, please.

7 So, as we've noted, the addition itself would be  
8 permitted as a matter of right except for the existing deck. So  
9 the matter of right option would be to eliminate the deck and do  
10 the addition.

11 As the matter of right option would have the same impact  
12 on light and air, and as the deck already exists, the light and  
13 air to neighboring properties will not be unduly comprised by the  
14 request.

15 Next slide, please.

16 So the applicant is proposing one new window on the  
17 first-floor addition facing west but it will be separated by four  
18 and a half feet and has no direct views into any neighboring  
19 windows. The neighbor is in support, and again, the footprint is  
20 permitted as a matter of right and the deck already exists.

21 So the privacy and use of enjoyment of neighboring  
22 properties shall not be unduly compromised by the request.

23 Next slide, please.

24 Regarding character, the footprint of the addition is  
25 permitted as a matter of right. The applicant is not proposing

1 any alterations to the front façade and the applicant is  
2 requesting relief to maintain an existing deck.

3 The project was reviewed by HBRB and approved at the  
4 staff level last year. Any concerns about character are  
5 ultimately the purview of HBRB and this has been approved for  
6 almost a year at this point.

7 Next slide, please.

8 In conclusion, we have a letter in support from the  
9 next-door neighbor at 1770 Kilbourne and from a neighbor at 1706;  
10 ANC 1D unanimously supports the application. The Office of  
11 Planning is recommending approval. DDOT has no objection and HBRB  
12 has already approved.

13 And that concludes our presentation but we're happy to  
14 answer any questions.

15 CHAIRPERSON HILL: Okay. Does the Board have any  
16 questions for the applicant? Ms. -- Vice Chair John.

17 VICE CHAIR JOHN: Thank you. Ms. Wilson, what is the  
18 size of the deck after the addition?

19 MS. WILSON: Oh, the remaining deck footprint?

20 VICE CHAIR JOHN: Yes, uh-huh.

21 MS. WILSON: I'll let Mr. Hoffland answer that.

22 MR. HOFFLAND: Yeah. I can -- it is approximately 10  
23 feet by 10 feet. There is a portion of it which is covered by the  
24 second floor. So there's a part that's kind of a covered porch  
25 and then there's a part that's still exposed. But, in general,

1 and I'm not sure which side it is, but I can show you --

2 VICE CHAIR JOHN: So the deck's from the -- from the  
3 house, from the addition, to the back of the --

4 MR. HOFFLAND: Right. So --

5 VICE CHAIR JOHN: So it -- let me try for my question.

6 MR. HOFFLAND: Yeah.

7 VICE CHAIR JOHN: The addition is ten feet; is that  
8 correct?

9 MR. HOFFLAND: The addition is -- well, it depends on  
10 what you're -- where you're counting it from.

11 The addition beyond -- the existing back wall of the  
12 house, if you count from the existing back wall of the house, the  
13 first-floor addition is four and a half feet deep on one side and  
14 on the other side, it is ten feet.

15 But it -- we don't have a consistent wall across the  
16 rear of the house. It -- part of it is further (audio  
17 interference) than the other. It's an L-shaped addition.

18 VICE CHAIR JOHN: So --

19 MR. HOFFLAND: And then the deck is another five feet  
20 beyond that ten feet.

21 VICE CHAIR JOHN: Okay. That makes sense.

22 MR. HOFFLAND: So, yeah. The existing deck is 15 feet  
23 deep.

24 VICE CHAIR JOHN: Uh-huh.

25 MR. HOFFLAND: And the addition will be ten feet of that

1 deck and then the remaining deck is five feet.

2 VICE CHAIR JOHN: Okay. Thank you.

3 MR. HOFFLAND: Yes.

4 CHAIRPERSON HILL: Anyone else? All right. I'm going  
5 to turn it to the Office of Planning.

6 MS. ELLIOTT: Good morning, Mr. Chairman and members of  
7 the Board and Happy New Year.

8 I'm Brandice Elliott representing the Office of Planning  
9 for BZA Case 20344.

10 The Office of Planning is recommending approval for the  
11 lot occupancy relief. It increases the lot occupancy -- or it  
12 legitimizes the existing lot occupancy as 66 percent.

13 I'll go ahead and stand on the record of our report but  
14 I'm happy to answer any questions you have.

15 CHAIRPERSON HILL: Thank you, Ms. Elliott. Happy New  
16 Year to you, too.

17 Does the Board have any questions for the Office of  
18 Planning? No?

19 Does the applicant have any questions for the Office of  
20 Planning?

21 MS. WILSON: No, thank you.

22 CHAIRPERSON HILL: Mr. Young, is there anyone here  
23 wishing to testify?

24 MR. YOUNG: We do have one person who is calling in. So  
25 I will unmute him now. And that is Henry Lesansky.

1 MR. LESANSKY: Hello?

2 CHAIRPERSON HILL: Mr. -- hello. Can you hear me.

3 MR. LESANSKY: Yes, I can, Mr. Chairman. Thank you.  
4 Happy New year.

5 I was calling in originally to -- as a representative of  
6 Mary Alice Taylor at 1766 Kilbourne Place next door to the  
7 Harris's.

8 Hello there.

9 But in listening to the testimony so far, all of the  
10 questions that I was going to ask have been answered. So I don't  
11 really need to add to anything.

12 CHAIRPERSON HILL: Okay. All right. Well, thank you  
13 for taking the time to speak with us.

14 MR. LESANSKY: Okay.

15 CHAIRPERSON HILL: If -- did you have something else?

16 MR. LESANSKY: Yeah. Just the time frame. I just was  
17 interested as a matter of interest in the time frame. That was  
18 the only item I didn't -- didn't hear.

19 CHAIRPERSON HILL: In terms of construction?

20 MR. LESANSKY: Thank you. Yes, sir. Thank you.

21 CHAIRPERSON HILL: Okay. I don't know -- I mean, I  
22 don't mind. I mean, Ms. Wilson, do you know if this were to go  
23 through kind of how this whole thing was going to happen?

24 MS. WILSON: I'll turn that over to Mr. Hoffland.

25 CHAIRPERSON HILL: Mr. Hoffland.

1 MR. HOFFLAND: Yes. The project is currently in the  
2 permit phase with DCRA. So we are not entirely certain of the  
3 construction schedule, but I'm sure that myself and applicants,  
4 Julie and Adam Straus Harris would be happy to discuss that with  
5 your client.

6 CHAIRPERSON HILL: Okay. Mr. -- and I'm sorry, was it  
7 Kazinsky (ph)?

8 MR. LESANSKY: Lesansky.

9 CHAIRPERSON HILL: Lasansky.

10 MR. LESANSKY: Lesansky with a L-E-S-A-N-S-K-Y.

11 CHAIRPERSON HILL: Okay. Great. Thank you, Mr.  
12 Lesansky. I don't know if there's anything in the record and I  
13 don't need it right now that you're representing the next-door  
14 neighbor. But it sounds as though the Harris's would be happy to  
15 let you know or your -- I'm going to ask the Harris's actually to  
16 confirm this, but the Harris's will reach out to the next-door  
17 neighbor. I would assume both of them. And let them know what's  
18 going on.

19 So Mr. Lesansky, thank you so much for your testimony  
20 and I hope you have a nice day.

21 MR. LESANSKY: Same to you, and stay safe, and thank you  
22 very much. And talk to you later. Thank you.

23 CHAIRPERSON HILL: Stay safe as well. I agree.

24 Mr. Young, have we excused the witness?

25 MR. YOUNG: Yes, we have.

1 CHAIRPERSON HILL: Okay. Mr. and Ms. Harris, you're  
2 confirming you'll reach out to your neighbors and let them know if  
3 this were to move forward about construction schedules?

4 MR. HARRIS: Absolutely. We've talked to them right  
5 from the beginning of when we were thinking about this project,  
6 informed them every step of the way and as we have information, we  
7 will tell both Ms. Taylor and Mr. Kirby, on the other side.

8 CHAIRPERSON HILL: Okay. Great. All right.

9 Does the Board have any final questions for the  
10 applicant? No?

11 Ms. Wilson, do you have anything to add at the end?

12 MS. WILSON: No, thank you.

13 CHAIRPERSON HILL: Okay. And, Ms. Wilson, I know that  
14 like we are always concerned, and I ask a lot about matter of  
15 right and what is matter of right and matter of right but, again,  
16 if it were matter of right, you all wouldn't have to be here at  
17 all, you know?

18 But I understand the comparison and I 'm just -- I  
19 understand the comparison.

20 Let's see. Okay. So I'm going to go ahead and close  
21 the hearing and so excuse everyone, please. You all have a nice  
22 day.

23 And, again, stay safe. I guess that's what we'll use as  
24 the mantra.

25 All right. Is the Board ready to deliberate? And if --

1 | if someone else wouldn't mind going first. I'm going to start with  
2 | the Commissioner again, if that's all right, Commissioner Miller.

3 |           COMMISSIONER MILLER: Okay. That's fine, Mr. Chairman.

4 |           The applicant has I think presented a strong case, a  
5 | fairly straightforward case and it's got the Office of Planning's  
6 | recommendation of approval, the ANC 1D, I think it is, approval;  
7 | the -- one of the adjacent neighbor's approval and the other not  
8 | objecting and DDOT, no objection.

9 |           It's just to -- the addition itself would have been  
10 | matter of right but the deck that's there, that's been there for a  
11 | while, a long time apparently, is 60 percent lot occupancy versus  
12 | 60 percent maximum under the lot occupancy rules and so it's --  
13 | and it never was permitted apparently. So that -- the process is  
14 | triggered by legalizing an unpermitted deck from a long time ago.  
15 | That hasn't caused any problems apparently in the neighborhood.  
16 | So I am ready to move forward with this neighborhood -- with this  
17 | homeowner project.

18 |           CHAIRPERSON HILL: Mr. Smith.

19 |           MR. SMITH: I'll second everything that Mr. Miller  
20 | stated. And I do give great weight to the Office of Planning's  
21 | staff report.

22 |           This seems to me it is fairly straightforward. It  
23 | legitimizes the existing lot occupancy problem on the property.  
24 | I am fairly comfortable with the size of the addition and I don't  
25 | see that the size of the addition will have a major impact on

1 light and air to the adjacent property especially in light of the  
2 fact that we've got support from the adjacent property. So I will  
3 be in total support of it.

4 CHAIRPERSON HILL: Vice Chair John.

5 VICE CHAIR JOHN: Thank you, Mr. Chairman.

6 I agree with the comments so far, and I agree with your  
7 comments, Mr. Chairman, that even though it's a matter of right,  
8 the addition in -- because the addition does not extend more than  
9 ten feet that the Board still has to look at the impact to the  
10 adjacent neighbors. And there does not seem to be any undue  
11 impact. So I support the application. I'll also note that even  
12 though there are windows on one side, the windows don't look  
13 directly into the neighbor's -- any windows on the neighbor's  
14 side.

15 And so, I would give great weight to the report of the  
16 Office of Planning in explaining how the application meets the  
17 requirements of the regulation and especially that the deck is  
18 already existing. It would be shorter from the rear wall instead  
19 of being ten feet, it would be five feet and that there would not  
20 be any additional impact from retaining the deck. So I'm in favor  
21 of the application.

22 CHAIRPERSON HILL: Okay. Thank you, Ms. John.

23 I don't have anything to add. I appreciate all of the  
24 comments from my colleagues and would agree with the discussion.

25 I'm going to go ahead and make a motion to approve

1 Application Number 20344 as captioned and read by the secretary  
2 and ask for a second, Ms. John.

3 VICE CHAIR JOHN: Second.

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

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

7 When I call your name, if you would please respond with  
8 a yes, no, or abstain to the motion made by Chairman Hill to  
9 approve the application for the relief requested. The motion was  
10 seconded by Vice Chair John.

11 Zoning Commissioner Rob Miller.

12 COMMISSIONER MILLER: Yes.

13 MR. MOY: Mr. Smith.

14 MR. SMITH: Yes.

15 MR. MOY: Vice Chair John.

16 VICE CHAIR JOHN: Yes.

17 MR. MOY: Chairman Hill.

18 CHAIRPERSON HILL: Yes.

19 MR. MOY: We have a board seat vacant. The staff would  
20 record the vote as 4 to 0 to 1. And this is on the motion of  
21 Chairman Hill -- on the motion of Chairman Hill to approve the  
22 application, seconded by Vice Chair John. Also in support of the  
23 motion, Mr. Smith and Zoning Commissioner Rob Miller. We have a  
24 Board seat vacant. The staff would record the vote 4 to 0 to 1.  
25 Motion carries.

1 CHAIRPERSON HILL: Thank you, Mr. Moy. You may call our  
2 next case when you have an opportunity.

3 MR. MOY: All right. This is case application number  
4 20349 of Adrian Dungan and Nicole Aga, A-G-A. This application is  
5 captioned and advertised, as amended, for special exceptions under  
6 residential conversation requirements of Subtitle U, Section 320.2  
7 and under Subtitle E, Section 5201 from the rear addition  
8 requirements, Subtitle E, Section 205.4 and under Subtitles E,  
9 Section 206.4 and 5207 from the rooftop element requirements of  
10 Subtitle E, Section 206.1. This would convert an existing semi-  
11 detached, principal dwelling unit into a four-unit apartment house  
12 in the RF-1 zone. This is at premises 423 Quincy Street, N.W.,  
13 Square 3236, Lot 63.

14 CHAIRPERSON HILL: Okay. Great. Thank you, Mr. Moy.  
15 Mr. Cross, can you hear me?

16 MR. CROSS: I can. Thank you.

17 CHAIRPERSON HILL: Could you introduce yourself for the  
18 record, please?

19 MR. CROSS: Sure. My name is Michael Cross. I'm the  
20 architect of record for this project. I'm joined here by Matthew  
21 Lee, project architect, as well as the client, Adrian Dungan.

22 CHAIRPERSON HILL: Okay. Great. Thank you.

23 Mr. Cross, Happy New Year to you.

24 MR. CROSS: Same to you and the rest of the Board.  
25 Thank you.

1 CHAIRPERSON HILL: All right. If you want to go ahead  
2 and walk us through your presentation, Mr. Cross, and how you  
3 believe you're meeting the criteria for us to grant the relief  
4 requested. I have 15 minutes on the clock there so I know where we  
5 are, and you can begin whenever you like.

6 MR. CROSS: Very good. I believe Matthew Lee will be  
7 presenting for us today.

8 CHAIRPERSON HILL: Okay.

9 MR. LEE: Good morning. Thanks for having us. This is  
10 Matthew Lee with R. Michael Cross Design Group.

11 We're here today, as you've already mentioned in the  
12 outline of the application, we're seeking relief for three  
13 separate sections.

14 The first is to convert a single-family home into a four  
15 unit, multi family apartment in RF-1 zone. We believe we are  
16 adhering to all the regulations and -- by providing a one IZ unit  
17 as well as the four units, divided by the total lot area of the  
18 site, come out to be 906.25 which is just shy over the 900 square  
19 feet per unit allowed.

20 Additionally, we're seeking relief to extend more than  
21 10-feet past the adjoining structure at 425 Quincy, which is the  
22 attached property.

23 We believe that, you know, we're doing everything we can  
24 to seek this relief by facilitating a hot back strategy which is  
25 to say a one-story connection between the front and rear three-

1 story structures.

2           This, we believe, better emulates the original character  
3 of the city, breaking up the big blank wall with the adjacent  
4 neighbor and produces a volume that would allow the client and  
5 homeowner to add the additional units as well as a family-sized  
6 affordable housing unit.

7           For some of the details on this strategy, we do not  
8 think that light and air and privacy are unduly affected by this  
9 relief, by seeking this relief. As to the east of the property,  
10 421 Quincy, we are providing a five-foot side yard as well as a  
11 six-foot fence. And to the west, the attached side, 425 Quincy,  
12 the hot back, as I mentioned earlier, as well as lack of  
13 penetration on the party wall continues to allow for privacy and  
14 also limits the effect of light and air on the adjacent property  
15 because the majority of the rear structure really only casts a  
16 shadow on the 20-foot rear yard setback of the adjacent property.  
17 And there, the existing rear yard neighbor is more than 70 feet.

18           We're also using precedent. Both 429 and 431 Quincy  
19 have a very similar volume and shape and many of the properties on  
20 -- that share this alley with the proposed lot have rear  
21 structures that are -- face on rear lot line. So, it's a fairly  
22 dense block.

23           And, lastly, we are seeking relief to modify the  
24 architectural rooftop elements to allow this sort of unique  
25 project; this unique property to address the character, scale and

1 pattern or the adjacent structures emulating the original rhythm  
2 of this type of row, which is to say this property, the existing  
3 structure actually extends as well as its neighboring property at  
4 425, actually extend 18-feet beyond the east property for -- the  
5 east structure, 421 Quincy, such that any third-story addition,  
6 including a matter of right design, would be highly visible from  
7 the street.

8           And we believe that going with a -- what we're  
9 proposing, which is a extension of the existing architectural  
10 language, extension of that faux mansard, to a real mansard as  
11 well as a lengthening of the porch, the patio roof, all of which  
12 is going to replicate the existing language, as I've said, is a  
13 better end product viewed from the street than to see a box-like  
14 element sitting on top and set back given that the idea of the  
15 setback is so it's not visible. However, we are in a unique case  
16 where it's always going to be visible.

17           Otherwise, the project is conforming with all the  
18 requirements of the Code, including we are providing two parking  
19 spaces as required for the units we are seeking. I'd like to  
20 mention that our client currently resides in the address and plans  
21 to continue to do so moving forward occupying one of the units.

22           We have received support from the ANC as well as the  
23 Office of Planning.

24           We greatly appreciate your support for this application  
25 which allows for two additional family-sized units and, again, if

1 | you have any questions, please don't hesitate to ask.

2 |           Happy to go through the set of drawings or any of the  
3 | other additional information.

4 |           CHAIRPERSON HILL:   Okay.   Does the Board have any  
5 | questions for the applicant?  Ms. John?

6 |           VICE CHAIR JOHN:   So can you point to a particular slide  
7 | and maybe go over the issue of the architectural elements one more  
8 | time?

9 |           MR. LEE:   Sure.   And I believe that is Exhibit Number  
10 | 29.  If someone wouldn't mind pulling that up for us.

11 |           (Pause)

12 |           MR. LEE:   Let's see here.  I'm on my phone so I'm not  
13 | sure -- is it pulled up?  Can everyone see it?

14 |           CHAIRPERSON HILL:   Not yet.

15 |           MR. LEE:   Okay.

16 |           CHAIRPERSON HILL:   Which are you trying to pull up  
17 | again?

18 |           MR. LEE:   This would be, I believe, I'm looking the IZIS  
19 | dashboard, and I believe it is Exhibit Number 29, updated  
20 | architectural plans and elevations.

21 |           (Pause)

22 |           CHAIRPERSON HILL:   Mr. Young, can you pull up Exhibit  
23 | 29?

24 |           And also, I do have a question, Mr. Lee, as to what  
25 | specifically are you changing about the rooftop element?

1 MR. LEE: So the existing structure -- there we go. If  
2 you wouldn't mind, clicking to the next slide gives you two sort  
3 of perspectives: one from an aerial and one from a sidewalk.

4 So the existing condition -- sorry, again, we can  
5 actually see the existing condition on the next slide, slide  
6 number three, which is some photographs, is a two-story structure  
7 over a cellar with a what we've been calling a faux mansard roof,  
8 right? It is -- looks like a mansard from the street but actually  
9 gets back to a flat roof style at the rear.

10 What we're proposing is to extend that language, both up  
11 as a part of the third story rather than doing a matter of right  
12 kind of setback box, which is typical of these pop-ups, as well as  
13 enlarging the -- and lengthening the building's width, right?

14 So instead of having a two-bay window set on the second  
15 floor, you're looking at extending the structure to the east,  
16 which in that top left photo would be to the right.

17 So that mansard, the architectural rooftop element, is  
18 getting taller as well as wider and from our proposed perspective,  
19 from our proposed black and white renderings, we are suggesting to  
20 keep as much of that language as possible both in the patio roof  
21 as well as the mansard.

22 You can see the dentition and everything else like that  
23 in the previous slide, to provide a -- just what we believe is a  
24 much better product visually as well as just, in terms of the  
25 floor plan layouts.

1           CHAIRPERSON HILL: Did you -- Ms. John, did you get your  
2 question answered?

3           VICE CHAIR JOHN: So do you have a slide that shows the  
4 addition -- I'm sorry, the extension of the mansard roof in  
5 relationship to the house to the left and to the right?

6           MR. LEE: Yes. If you go back one slide, it gives you a  
7 good idea of the volume. I did my best to kind of model up the  
8 existing conditions, sort of those undetailed white blocks on  
9 either side.

10           You can see to the left of our site is the attached  
11 structure 425 and to the right is the detached adjacent neighbor,  
12 separated by a proposed five-foot side yard.

13           To give you an idea of the existing volume versus our  
14 proposed volume, 425 and 423 are matching -- are matching  
15 structures so you can get an idea based on the white building to  
16 the left, kind of what it is looking like and how we are  
17 increasing it in volume.

18           VICE CHAIR JOHN: So I looked at that slide and it --  
19 that didn't do it for me. I wanted to see something that looks  
20 like the photograph so I could see what the street would look  
21 like.

22           MR. LEE: The intent of detail number two -- of image  
23 number two, proposed perspective, is kind of our best shot going  
24 to the images, that bottom left image photo, south front from  
25 intersection. It's kind of hard to give an exact mirror

1 replication of like an existing photograph versus our proposed  
2 rendering because of sort of the tree line.

3 We could, if it is absolutely necessary, we could work  
4 on a straight on shot; that perspective that looks more like the  
5 top left photo on slide three.

6 There are also elevations towards the end of the set,  
7 but those elevations do not have adjacent context which is kind of  
8 why we're focusing on the perspectives right now in the first  
9 three slides.

10 VICE CHAIR JOHN: Well, where I am now, I am not able to  
11 understand how that section of the block would look. I don't know  
12 what my other Board members think but, right now, I think I would  
13 like to see more.

14 But I'll, you know, wait to see what my (audio  
15 interference).

16 MR. SMITH: Mr. Chairman.

17 CHAIRPERSON HILL: Yes. Go on.

18 MR. SMITH: I agree with Ms. John. It's hard for me to  
19 truly understand the impacts on the block. So I have a question  
20 for Mr. Lee again.

21 So are you preserving any of the existing rooftop  
22 elements or are you ignoring them in the expansion of the mansard  
23 roof. Are you keeping that tooth-like the (audio interference)  
24 keeping the -- the (audio interference) the foam (audio  
25 interference) same type structure? Are you keeping -- are you

1 preserving any of that?

2 MR. LEE: Yes.

3 MR. SMITH: Or (audio interference)?

4 MR. LEE: Absolutely. If you go back to the proposal,  
5 the proposed perspectives, the renderings, you can see we're doing  
6 just that. We are taking that language and repairing flash,  
7 extending flash, replicating it exactly as it is. That dentition  
8 that makes up the eave of the mansard is -- we're trying to make  
9 it exactly as it is, just longer. The faux party wall extension  
10 on the left-hand side as existing will remain, while the party  
11 wall extension on the right-hand side will, you know, because of  
12 the widening of the building will be demolished, but then remade  
13 in kind.

14 As you can see in our proposal here, it's an exact match  
15 of what was there just moved over to the right.

16 And we are intending on keeping it very, very similar,  
17 the kind of terracotta style, red shingles. It's our intent that  
18 those would be taken up as well, extended up.

19 MR. SMITH: Well, let me just -- just for clarification,  
20 you are removing the eaves. So this will be (audio interference)  
21 you're attempting to recreate the same windows (audio  
22 interference).

23 MR. LEE: Right. If we can maintain the eave, I keep  
24 referring to it as dentition --

25 MR. SMITH: Uh-huh.

1 MR. LEE: -- we will keep as much of it as we can, and  
2 they just replicate it as we extend the building to the right.

3 If it has to be removed because of damage or there's  
4 just no way during construction to save it, what will be replaced  
5 there will be exactly as it was, again, just longer because the  
6 building is now wider.

7 And the same goes for the patio roof below; that the  
8 profile of that -- the patio roof line, we're looking to replicate  
9 exactly as it is now, just extend it along with the widening of  
10 the building.

11 MR. SMITH: Okay. Thank you. Thank you for the  
12 clarification.

13 MR. LEE: Of course. Thanks for the question.

14 CHAIRPERSON HILL: Mr. Lee, can you show me where the --  
15 and I just have your plans up, where the IZ unit is?

16 MR. LEE: Yes. The IZ unit, if you go to slide number  
17 twelve, and this is a, I believe, a voluntary IZ unit that the  
18 client is including. It is unit number two which is -- takes --  
19 it is a duplex unit that occupies the cellar and first floor, and  
20 it has direct access onto the proposed courtyard, sort of in the  
21 center of the property. It is a two-bedroom, one and a half bath.  
22 It comes out to be 867 gross square feet.

23 CHAIRPERSON HILL: Okay. Thank you. Let's see.

24 Okay. Does anybody have any other questions of the  
25 applicant?

1 Oh, Commissioner Miller.

2 COMMISSIONER MILLER: Thank you, Mr. Chairman.

3 I had -- I appreciate the applicant's presentation.

4 I think the OP, Office of Planning, or our attorney,  
5 Alex Cain, can correct me if I'm wrong, I believe the fourth --  
6 that fourth dwelling unit is a requirement to be IZ not a  
7 voluntary IZ under the conversion zoning -- the regulations for  
8 conversions in the RF neighborhoods. But I can stand to be  
9 corrected by, as I said, OP or -- when we get to them or our -- by  
10 Ms. Cain.

11 But the question I had was on the -- I think the --  
12 somebody may have represented that the ANC supported it. I don't  
13 know if that's -- if I'm recalling correctly. But is there ANC --  
14 do we have something from the ANC in the record? I don't see it  
15 for some reason. If somebody could point me to that, if it  
16 exists; or, if it doesn't exist, just indicate what the average  
17 was to the ANC which --

18 CHAIRPERSON HILL: Mr. Lee, if you can mute your --  
19 whoever's typing --

20 MR. LEE: Oh, I apologize.

21 CHAIRPERSON HILL: -- because that's -- okay. And, Mr.  
22 Cross, I didn't see anything either from the ANC.

23 MR. CROSS: Yeah. I'm looking at the record now and I  
24 would agree that I don't see anything posted in the IZIS record.

25 I do know that we attended that ANC. I think I have the

1 | dates here, on the -- on December 9th and at that meeting there  
2 | were no objections. It was a unanimous approval with Mr. Goodman  
3 | making the initial motion. So I'm not sure if he's here today but  
4 | I'm sure that we can get that letter uploaded to IZIS.

5 |           COMMISSIONER MILLER: Okay. I think that would be  
6 | useful to have in the record if we can get it there hopefully --  
7 | maybe today.

8 |           That's the end of my question, Mr. Chairman. I think  
9 | the -- I'm satisfied with the -- I personally am satisfied with  
10 | the rendering and perspective in terms of how it relates to the  
11 | adjacent property, one of which I think supports one of the owners  
12 | supports -- we have something in the record that's supportive of  
13 | this.

14 |           So, anyway, I'm -- I thank the applicant for their  
15 | information.

16 |           CHAIRPERSON HILL: Okay. Anyone else for the applicant?

17 |           VICE CHAIR JOHN: To follow up on Mr. Miller's comment,  
18 | now is that the neighbor to the east, which is where I believe we  
19 | have a lot of windows? Do we have anything from that neighbor?

20 |           CHAIRPERSON HILL: Give me a second, Mr. Dungan. I'll  
21 | figure out how you pronounce it in a second.

22 |           Mr. Cross, do you know?

23 |           MR. CROSS: Again, I'm not seeing anything in the  
24 | record, right off. I do know that Mr. Dungan currently resides  
25 | there and has been doing the outreach. So he might have something

1 to --

2 CHAIRPERSON HILL: All right. Give me a second. Give  
3 me a second.

4 Mr. Dungan, can you hear me? Can you guys both  
5 introduce yourselves?

6 You have to unmute.

7 MR. DUNGAN: Hi there. My name is Adrian Dungan. Can  
8 you guys hear me?

9 CHAIRPERSON HILL: Yes. Yes.

10 MR. DUNGAN: Okay.

11 MS. AGA: I'm Nicole Aga, his wife.

12 MR. DUNGAN: To -- good morning or good afternoon,  
13 members of the Board and (audio interference) --

14 CHAIRPERSON HILL: The question is -- and I'm sorry.  
15 Just real quick.

16 The question is you guys went to -- did you go to the  
17 ANC meeting?

18 MR. DUNGAN: Yes. I did go to the ANC meeting.

19 CHAIRPERSON HILL: Did they take a vote?

20 MR. DUNGAN: Yes. They took a vote, and they supported  
21 our application.

22 CHAIRPERSON HILL: Did they support this design?

23 MR. DUNGAN: Yes, they did support this design.

24 CHAIRPERSON HILL: And the neighbor -- the neighbor to  
25 the left or whatever neighbor the Commissioner was asking about,

1 | did they submit something into the record?

2 |           MR. DUNGAN: Yes. I believe it -- Commissioner, I  
3 | believe -- was it Board Member John, that the 421 Quincy is the  
4 | property in question, and they are the ones that the semi-detached  
5 | windows will be looking out onto and their wall is on the lot  
6 | line. So they have no windows at all, and they also did submit a  
7 | letter of support to the record.

8 |           CHAIRPERSON HILL: Okay. All right. Did that answer  
9 | your question?

10 |           VICE CHAIR JOHN: Thank you.

11 |           CHAIRPERSON HILL: Okay. All right. Mr. Dungan, if you  
12 | could just mute your line there.

13 |           All right. Any more questions for the applicants from  
14 | the Board?

15 |           Okay. I'm going to turn to the Office of Planning.

16 |           MS. MYERS: Hello. Crystal Myers with the Office of  
17 | Planning, and Happy New Year.

18 |           Just to get started, Commissioner Miller had mentioned  
19 | the IZ unit. It is a requirement, and he is correct, it is  
20 | related to the U 320 section. So I just wanted to confirm on  
21 | that.

22 |           Otherwise, Office of Planning is recommending approval  
23 | and stands on the record of the staff report.

24 |           CHAIRPERSON HILL: Okay. Does anybody have any  
25 | questions for the Office of Planning?

1 Does the applicant have any questions for the Office of  
2 Planning?

3 MR. LEE: No, sir.

4 CHAIRPERSON HILL: Okay. Mr. Young, is there anyone  
5 wishing to speak in support or opposition?

6 MR. YOUNG: We do not.

7 CHAIRPERSON HILL: Okay. All right.

8 So, just to get back to the one question about the --  
9 and I'm speaking to my Board members, the rooftop element. I  
10 mean, I'm comfortable with what is currently in the record in  
11 terms of understanding that rooftop element change.

12 But if you all want to see something, or Ms. John or Ms.  
13 Smith -- Mr. Smith, we can do that because, I mean, I'm looking at  
14 kind of their architectural plans. I mean, I'm just kind of  
15 comfortable with what they're trying to do in terms of what  
16 they're keeping and what they're taking away.

17 But do you all want to see something? Ms. John?

18 VICE CHAIR JOHN: So if everyone is comfortable, I'm  
19 fine.

20 I was initially concerned with the perspective  
21 considering the houses on either side but, looking again at the  
22 development standards and the height is 35 feet, which meets the  
23 standards. So even though I might personally think it will stick  
24 out like a sore thumb, you know, it does meet the height  
25 requirement.

1           So I'm willing to not require additional information on  
2 the perspective in relationship to those two houses.

3           CHAIRPERSON HILL:   Okay.   Mr. Smith --

4           VICE CHAIR JOHN:   I think --

5           CHAIRPERSON HILL:   I'm sorry.   Ms. John, keep going.

6           VICE CHAIR JOHN:   I think that extending the mansard  
7 roof might mitigate some of that impact.   And, so, I'm willing to  
8 not insist on it.

9           CHAIRPERSON HILL:   Okay.   Ms. Smith, are you good?

10          MR. SMITH:   I'm good.   I share the same concern as Ms.  
11 John.   I'll just say the report would be great if we can get some  
12 additional detail on the (audio interference) from the applicant  
13 (audio interference) but also from the Office of Planning for us  
14 to be able to make an evaluation of whether these types of  
15 additions are in character with the adjacent properties.   We  
16 (audio interference) both to see that context (audio  
17 interference).

18          Like Ms. John said that (audio interference) the height  
19 (audio interference) I think the mansard roof would be some level  
20 of a setback (audio interference) would mitigate some of the  
21 (audio interference).

22          So I'm comfortable (audio interference).

23          CHAIRPERSON HILL:   Okay.   Let's see.   Mr. Cross, can you  
24 hear me?

25          MR. CROSS:   I can.

1 CHAIRPERSON HILL: So that -- this property again, the  
2 case that you guys cited, I mean, I was here when we approved it,  
3 it did get built. I think it's like three doors down, it looks  
4 like. And so -- and now that I'm kind of -- so you call it a hot  
5 back -- a hot back?

6 MR. CROSS: I don't know if we call it a hot back but  
7 that is a term that's been used amongst the community that's  
8 (audio interference) I guess --

9 CHAIRPERSON HILL: Okay.

10 MR. CROSS: -- that's similar to a pop-up --

11 CHAIRPERSON HILL: Okay.

12 MR. CROSS: -- or a hot back.

13 CHAIRPERSON HILL: That's all right. I just came -- I'm  
14 learning again. So the -- Mr. -- Commissioner Miller, in terms of  
15 the ANC, I know that we don't have anything in the record in order  
16 to actually give them great weight.

17 I am comfortable with the testimony that was given by  
18 the applicant as well as the homeowner concerning the vote and the  
19 only reason why that -- I'm saying that is ANC 4C, and I don't  
20 know if you guys do -- are -- or if you are around a lot with us,  
21 ANC 4C is very active and they're constantly pushing for the IZ  
22 stuff.

23 And so I would imagine that, you know, they got an IZ  
24 unit. So they, you know, if they had a problem with it, I would  
25 imagine we'd hear something about it.

1           And so I'm okay with it. But if you want to -- I mean,  
2 we can leave the record open for that -- the ANC.

3           COMMISSIONER MILLER: I agree with your assessment, Mr.  
4 Chairman.

5           CHAIRPERSON HILL: Okay. All right, then but we -- I  
6 guess, and I can talk to Mr. Moy about that later, if we do  
7 actually deliberate on this. They'll leave the record open for  
8 something from the ANC.

9           But actually I'm okay. I mean they're so -- the ANC --  
10 the 4C really particularly is very much involved in what's going  
11 on. And so I know that they would, you know, put something in the  
12 record.

13           COMMISSIONER MILLER: And I think if it was  
14 misrepresented what their position was, we'll hear from them very  
15 quickly.

16           CHAIRPERSON HILL: Yes. I agree. Let's see.

17           So, okay. That being the case, does anybody have any  
18 more questions for the applicant? Okay? Oh, Ms. John.

19           VICE CHAIR JOHN: So I'm not sure if this is a question  
20 or a comment but I believe the architect, Mr. Lee, mentioned that  
21 if there is a problem with the roof, you might change something in  
22 the roof or something?

23           But I just wanted to add that essentially what you can  
24 build is what's in the record and demonstrated on the plans.

25           So did you intend to say that or --

1           MR. LEE: Yes. To clarify, what I meant was that we are  
2 going to do our best to keep as much of the existing roof,  
3 architectural rooftop elements as we can.

4           If we cannot keep it, we will replicate it in kind. The  
5 finished product will -- we're hoping that if we do have to  
6 replace it, that you -- no one will be able to notice.

7           So that caveat was just to say that if there is damage  
8 that cannot allow for the existing elements to be kept, they will  
9 be replaced in kind.

10           We're not planning on changing the final product that  
11 you see in these images here.

12           VICE CHAIR JOHN: Okay. I think I understand that --  
13 what I get from that is whatever is depicted in this drawing is  
14 what you will build.

15           MR. LEE: Right.

16           VICE CHAIR JOHN: Otherwise, we'd return to the Board  
17 for permission to change what's represented in the diagrams.

18           MR. LEE: Agreed. That's right.

19           VICE CHAIR JOHN: Okay. All right. Thank you. That's  
20 fine.

21           CHAIRPERSON HILL: Okay. I only have one final question  
22 to Mr. Cross.

23           So again, like I'm just curious about the program. Like  
24 how did the -- your client come to you with this particular -- I'm  
25 just curious as to how you got to this.

1 MR. CROSS: I'm not sure if I fully understand the  
2 question. But it's a large lot. So like the lots down the way, it  
3 is eligible for four units. Many of our developer clients may  
4 question doing a fourth IZ unit on such a lot in the RF-1 zone,  
5 just because of the cost metrics.

6 This particular developer is committed to IZ and we  
7 worked with him to fit in four family-sized units and this  
8 solution seemed to afford the best opportunity to provide both  
9 four family-sized units while not providing -- well not producing  
10 a volume that was a huge kind of mega block in the middle of the  
11 row by breaking up the mass into more of a rowhouse, carriage  
12 house type mass.

13 CHAIRPERSON HILL: I got it. Mr. Cross, that -- I'm  
14 trying -- how to say it. The developer is Mr. and Ms. Dungan,  
15 correct?

16 MR. CROSS: That's correct.

17 CHAIRPERSON HILL: Right. So they came -- and also just  
18 -- I mean, as I said, two doors down, we approved something that's  
19 basically just like this, right?

20 And so, you know, now I understand the ANC has approved  
21 this and so -- and when I say that meaning they're the ones that  
22 are living with all this stuff, right? I know how deep the block  
23 is. So --

24 MR. CROSS: That's my question.

25 CHAIRPERSON HILL: Right. That they -- did they -- you

1 -- we have figured out this is the most value you could get out of  
2 the property. That's not -- I'm just trying to understand to a  
3 certain extent, I was just curious about it. You know, I was just  
4 curious as to how you got to this point.

5 And I guess Mr. Dungan, you can go ahead and respond to  
6 that because I'm just curious.

7 MR. DUNGAN: Sure. Thank you. I appreciate the  
8 opportunity.

9 I came to Michael Cross with this idea in mind and I  
10 originally came with I think a lot of what everybody has been  
11 saying that the IZ unit is required and it is not. It is a lot  
12 that is 3,625 square feet.

13 CHAIRPERSON HILL: Mr. Dungan, it's okay. I'm --

14 MR. DUNGAN: It is required --

15 CHAIRPERSON HILL: I'm just going to interrupt you. The  
16 fourth unit is required as an IZ. Like it doesn't matter. You're  
17 already --

18 MR. DUNGAN: If we -- if we do a fourth unit, if we  
19 choose to do a fourth unit, it is required to be IZ. But we could  
20 have proposed just three units like the other two projects at 429  
21 and 431 Quincy.

22 However, after talking with Commissioner Goodman, who is  
23 the ANC Commissioner for this one, we looked at the lot size and I  
24 said, you know, what? I want to go for it. I want to go for four  
25 because then we provide affordable housing.

1           And we will be living there with our children also. I  
2 just wanted to clarify that. So --

3           CHAIRPERSON HILL: The --

4           MR. DUNGAN: -- I just wanted to clarify that. So  
5 that's how we came up with it.

6           CHAIRPERSON HILL: Okay. That's great. All right.  
7 Okay.

8           Anyone else got anything? All right.

9           I'm going to go ahead and close the hearing then.

10          Thank you all very much for your participation and, Mr.  
11 Young, if you could excuse everyone.

12          Okay. If you guys are ready to deliberate, I am.

13          I can go ahead and start. I mean, again, just for  
14 clarification, I mean, the fourth unit is required as the IZ,  
15 right? That was the whole point that the Zoning Commission put  
16 forward.

17          And then even if they did the three-unit, they still  
18 would have been before us for, you know, what they were trying to  
19 do. But, nonetheless, I'm glad they're able to squeeze out the IZ  
20 unit and, you know, I'm just curious as to how this hot back thing  
21 kind of is evolving.

22          And, again, we -- and I don't know Commissioner Miller  
23 if you were one this, but I was for the one that was two doors  
24 down and how, you know, the meaningful connection stuff is  
25 actually playing out in these larger lots.

1           And so -- but, regardless of that, I was also  
2 comfortable with the rooftop element and how that change was  
3 taking place. I mean, I'm looking again at the plans right now  
4 and, to me, I think the design, you know, does work with the  
5 character of the neighborhood.

6           I can see how, in the future, we could possibly ask the  
7 Office of Planning for more -- because we don't really get  
8 necessarily how it looks within the whole context of the  
9 neighborhood as clearly on some cases as we do on others.

10           But I'm comfortable with the rooftop element being  
11 changed and I'm also comfortable with how they're meeting the rest  
12 of the standards for us to grant this particular relief that's  
13 being requested.

14           I don't -- I didn't have any problem with the Office of  
15 Planning's recommendation in terms of their report. I also didn't  
16 have any problem with DDOT.

17           There was, I guess -- and I just am kind of mentioning  
18 this for the record, but that it says something with DDOT that the  
19 applicant is going to have to contract with a private trash  
20 company and store trash at the rear of the property. That's  
21 something that was in the DDOT report and I'm sure that they do  
22 know about that.

23           So I am going to be able to vote in favor of this  
24 application in terms of how I believe they're meeting the standard  
25 for us to grant the relief requested.

1 I think that the ANC, as I now mentioned several times,  
2 I mean, ANC 4C is very much active and they -- and it even sounds  
3 like the applicant said they talked to the SMD there, and they  
4 were trying to talk about how to get affordable housing in that  
5 project. And it is, you know, commendable that the applicant was  
6 able to try to figure out how to get it done and that they're  
7 going to live there as well.

8 So I'm going to vote in favor. Commissioner Miller, may  
9 I ask you for your comments?

10 COMMISSIONER MILLER: Thank you, Mr. Chairman.

11 Yeah. I support the application and I think -- I agree  
12 with all -- I agree with all of your comments, Mr. Chairman.

13 I would commend the applicant for going -- for choosing  
14 to do the fourth -- the fourth required -- the fourth unit which  
15 triggered the IZ requirement and by -- and commend the applicant  
16 for doing family-sized units.

17 So not necessarily maximizing the value to them of this  
18 development but maximizing the value to the city and to the  
19 neighborhood of family-sized units and one of which would be --  
20 would be IZ.

21 And I think the -- I think you're -- you know, you're  
22 right that this is an interesting phenomenon about this one-story  
23 connection and the carriage -- more of the carriage house-type  
24 concept in the back.

25 It seems to work with deep lots if it's well designed

1 and the neighborhoods -- neighbors aren't objecting, which is -- a  
2 lot of this is about, adverse impacts upon the neighbors and if  
3 you don't have the objection, it makes our process -- or you have  
4 the support, in this case one of the neighbors and of the ANC,  
5 presumably, as represented. So I think that's all positive  
6 aspects of this project.

7 I understand what my fellow Board Member, Ms. John, was  
8 -- and Mr. Smith was saying how the addition does stand out from  
9 the street, that extra third -- that extra floor which is  
10 unavoidable. I think the design extending that mansard was a way,  
11 as others have commented, to mitigate that -- it sticking out. I  
12 don't think it sticks out as a sore thumb. It does stick out, but  
13 I think the thumb is not necessarily sore in this case.

14 So I'm ready to move forward and hear my other  
15 colleagues' comments.

16 CHAIRPERSON HILL: Mr. Smith.

17 MR. SMITH: I really have nothing additional to add, Mr.  
18 Chairman.

19 I'm -- I do support this (audio interference). I do  
20 commend the applicant for putting in an additional IZ unit.  
21 That's commendable especially where the entire region is (audio  
22 interference) affordable housing (audio interference). So every  
23 little bit helps.

24 I still, you know, get on my soapbox. I don't -- and I  
25 agree with Mr. -- with Commissioner Miller. I don't believe that

1 the addition stands out like a sore thumb.

2 I think my issue is that it would have been great to get  
3 some additional technical analysis done by OP on how it doesn't  
4 stand out like a sore thumb such as some additional (audio  
5 interference) and pictures along the block of the heights of those  
6 other houses on the block just so that we can -- just have some  
7 additional photos (audio interference) kind of that adjacent  
8 residents coming down (audio interference) project because (audio  
9 interference). It would be great to have some additional (audio  
10 interference) OP also stating that (audio interference) coming  
11 down to us making this particular decision.

12 So, to me, it was just (audio interference) a little bit  
13 more of a technical analysis from OP.

14 But I do agree with all the comments here. I don't  
15 believe it's going to (audio interference). I think it is in  
16 character in that the adjacent properties also have mansard roofs.  
17 They're just smaller because (audio interference) shorter height  
18 because (audio interference) adding an additional story.

19 But all in all, I would support this application.

20 CHAIRPERSON HILL: Thank you, Mr. Smith. Vice-Chair  
21 John.

22 VICE CHAIR JOHN: So let me say, at the outset, that I  
23 am in support of the application even though I stand on my sore  
24 thumb comments and I think it depends on who's thumb is being  
25 looked at.

1           Anyway, so I appreciate the IZ unit and I think -- I  
2 have difficulty with this hot back or whatever it's called because  
3 I think, and Commissioner Miller, this is your jurisdiction. I  
4 think it opens or has opened the door to these very tall accessory  
5 structures in the rear, you know, of the development.

6           And I am still not convinced that having 35-foot  
7 structures in the rear yard is, you know, is good in terms of its  
8 impact on light and air and shadowing.

9           But, in this particular case, I don't see any adverse  
10 impacts and I suppose we will just have to look at each case, you  
11 know, that comes before us.

12           But, as you said, Mr. Chairman, in these deep lots, I  
13 expect that we will see more of this.

14           Now they -- the project does have -- does meet the  
15 requirement for the side yard and the rear yard and -- I'm sorry,  
16 for the rear yard. So, in terms of light and air, that should  
17 meet the requirement. So, as I said, I will support the  
18 application.

19           CHAIRPERSON HILL: Okay. Thank you, Ms. John.

20           Yeah. And, Commissioner Miller, I mean, I'm looking at  
21 the neighborhood from just like Google Earth of whatever and so  
22 like it is interesting to me that -- I mean, the two properties to  
23 the south of this -- south, west, east -- which this is right on,  
24 whatever the next door neighbors, like that are in between the  
25 thing that we approved before, I'll be a little surprised if they

1 don't come to us and they're going to want to do the same thing,  
2 right?

3           Like, you know, the ones that have their -- they're just  
4 basically going to tear the whole thing. And to Ms. John's  
5 comments, I can't recall, off the top of my head, the one that we  
6 approved whether or not the additional structure was lower in the  
7 back. I want to say it was.

8           But, you know, in this particular -- I mean, it's just  
9 interesting to me that this is what's going -- and I don't think  
10 there's necessarily anything wrong with that. I mean, that's just  
11 what is kind of like being put forward because of the regulations  
12 of the Zoning Commission is kind of, you know, working with.

13           So, you know, the meaningful connection, I was here long  
14 enough when the meaningful connection like, you know, the trellis,  
15 you know? And that turned into, you know a long discussion about  
16 things, and I don't know whether Ms. John was or wasn't on the  
17 case that is two doors down, but it's very -- it's very  
18 interesting how this all planned.

19           I would like also to commend the applicant, again, for  
20 right the actual family-size, family-size, you know, IZ unit and  
21 that they were able to do it and they should be commended. And so  
22 I'm glad that they're able to do it.

23           So that all being the case, unless anybody has something  
24 else to add and, if so, please raise your hand.

25           I'm going to go ahead and make a motion to approve

1 application number 20349 as captioned by the secretary and ask for  
2 a second, Ms. John.

3 VICE CHAIR JOHN: Second.

4 CHAIRPERSON HILL: The motion being made and seconded,  
5 Mr. Moy, if you could please take a roll call vote.

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

7 When I call your name, if you would please respond with  
8 a yes, no or abstain, to the motion made by Chairman Hill to  
9 approve the application for the relief requested. The motion was  
10 seconded by Vice-Chair John.

11 Zoning Commissioner Rob Miller.

12 COMMISSIONER MILLER: Yes.

13 MR. MOY: Mr. Smith.

14 MR. SMITH: Yes.

15 MR. MOY: Vice Chair John.

16 VICE CHAIR JOHN: Yes.

17 MR. MOY: Mr. Hill. Chairman Hill.

18 CHAIRPERSON HILL: Yes.

19 MS. MOY: We have a board seat vacant. Staff would  
20 record the vote as 4 to 0 to 1 and this is on the motion made by  
21 Chairman Hill to approve. Seconded by Vice-Chair John, and also  
22 in support, Mr. Smith and Zoning Commissioner Rob Miller.

23 The vote is 4 to 0 to 1. The motion carries.

24 CHAIRPERSON HILL: Okay. Great. So this is my proposal  
25 to you guys, if you all think this is all right.

1 I'd like to take a quick break just to take a quick  
2 break and then come back and do 20353 and then we'll go to lunch.  
3 And then we'll come back and do all of the after lunch stuff with  
4 Chairman Hood. And then we'll do our final case of this -- I  
5 don't. Let's see what happens.

6 I don't know whether we're going to come back and do the  
7 thing that we postponed to the end of the day. But, anyway,  
8 that's my -- does that sound good? We'll take a little, quick  
9 mini break and then we'll come back and do one case and then have  
10 lunch? Does that sound good for everybody?

11 And I just want to make one little comment like I don't  
12 know about you all because like -- I mean, Mr. Smith, maybe not,  
13 and I'm not trying to age anybody, when you see young people like  
14 that, all of a sudden now, I'm feeling old, you know? Like I'm  
15 just like -- I actually literally am feeling old.

16 So, no comment. Just since I got the mic. Okay. All  
17 right.

18 We'll go to the restroom -- I mean, anyway, take a quick  
19 break. Come right back. Bye.

20 (Whereupon, there was a brief recess.)

21 MR. MOY: Mr. Chairman, the hearing's back in session  
22 after a very quick break. The time is at or about one o'clock  
23 p.m. And should I call the next case, sir?

24 CHAIRPERSON HILL: Yes, please. Is it 20353?

25 MR. MOY: Yes. So case application number 20353 of 1307

1 Longfellow Street, N.W., LLC, captioned and advertised for a  
2 special exception under the use provisions of Subtitle U, Section  
3 421.1. This would raze, R-A-Z-E, the existing principal dwelling  
4 and construct a 13-unit apartment building in the RA-1 zone at  
5 premises 1307 Longfellow Street, N.W., Square 2798, Lot 816.

6 And, here again, Mr. Chairman, there was a filing from  
7 the applicant within the 24-hour window prior to the hearing which  
8 includes the waiver of that requirement as well -- and separate  
9 documents, includes a cover letter, revised plans, revised plat,  
10 landscape plan.

11 So I have that -- the staff has that in hand for the  
12 Board to address and then we can take it from there, sir.

13 CHAIRPERSON HILL: Okay. Mr. Sullivan, could you  
14 introduce yourself, please?

15 MR. SULLIVAN: Yes. Thank you, Mr. Chair and members of  
16 the Board.

17 My name is Marty Sullivan with Sullivan & Barros on  
18 behalf of the applicant.

19 CHAIRPERSON HILL: Okay. Mr. Sullivan, Happy New Year.

20 MR. SULLIVAN: Happy New Year. Thank you.

21 CHAIRPERSON HILL: What is it that you guys are trying  
22 to get into the record again, please?

23 MR. SULLIVAN: So I believe it was a landscape plan. We  
24 received a request yesterday from discussions -- it was either  
25 discussions with the Board secretary or a comment from OAG asking

1 for an update -- it mentioned in the OP report that there was a  
2 green roof, and it may not have been shown on the plans.

3 And so --

4 CHAIRPERSON HILL: Okay.

5 MR. SULLIVAN: -- the plan was upgraded for that.

6 CHAIRPERSON HILL: Okay. So that's one thing. That --  
7 so landscape plan and then something about the green roof; is that  
8 what you just said?

9 MR. SULLIVAN: It's on the same plan.

10 CHAIRPERSON HILL: So it is one item?

11 MR. SULLIVAN: Yes.

12 CHAIRPERSON HILL: Okay. All right.

13 I'd like to see it if the Board would and so I'm just  
14 trying to figure out how to do this more quickly in the future,  
15 Mr. Moy. I guess can you upload it, Mr. Moy?

16 MR. MOY: Yes, sir. The staff can do that now.

17 CHAIRPERSON HILL: So I guess just give me a second  
18 because -- unless the Board has any objection, and if so, please  
19 raise your hand. No? Okay.

20 (Pause)

21 CHAIRPERSON HILL: So I guess we're waiting for that. I  
22 mean, I see the PowerPoint.

23 I guess, Mr. Sullivan, who is here with you?

24 MR. SULLIVAN: So with me is the owner, Amir Zare, and  
25 the architect, Adam Crain.

1 CHAIRPERSON HILL: Okay. Why don't you go ahead, Mr.  
2 Sullivan, and give us your presentation, go through your  
3 presentation, and we'll wait for this to be uploaded so we can  
4 take a look at it.

5 I don't know. Is it in your PowerPoint by any chance?

6 MR. SULLIVAN: I'm not sure. I don't think that it is.

7 CHAIRPERSON HILL: Okay.

8 MR. SULLIVAN: Because I think -- no.

9 CHAIRPERSON HILL: Okay.

10 MR. SULLIVAN: We submitted that before we knew about  
11 that plan.

12 CHAIRPERSON HILL: Okay. All right. Well, why don't  
13 you go ahead and walk us through your application, Mr. Sullivan,  
14 and we'll see where we get.

15 MR. SULLIVAN: Okay. Thank you.

16 I'll wait for the PowerPoint to load, please.

17 Okay. So the address is 1307 Longfellow Street, N.W.  
18 This is the RA-1 zone and we're asking for special exception  
19 relief under U 421. There's no other areas of relief in addition  
20 to that. It's just the special exception approval for an RA-1  
21 project.

22 It is a -- it is new construction. Next slide, please.

23 And it's 12 units. The notice, and I believe Mr. Moy  
24 stated it was 13. I'm not aware -- I don't know how it got to be  
25 noted as 13 units. I know Office of Planning reviewed it as 12

1 units and it is, in fact, 12 units. So I wanted to clear that up.

2 And then next slide, please, and I'll turn it over to  
3 Ms. Crain to present the project.

4 CHAIRPERSON HILL: Mr. Crain, you're on mute if you're  
5 trying to talk.

6 MR. CRAIN: Oh, sorry about that.

7 Would it be possible to pull up the plans? I think we  
8 have it as Exhibit 28. I can give a walk-through on those.

9 (Pause)

10 MR. CRAIN: And, for the record, my name's Adam Crain  
11 with 2Plys and I am the architect for the project.

12 MR. YOUNG: Are the plans not in this PowerPoint?  
13 Because if I need to pull up another Exhibit --

14 MR. SULLIVAN: Yes, they are.

15 MR. YOUNG: -- it's going to take --

16 MR. SULLIVAN: Yeah. Adam, I think you --

17 MR. CRAIN: Yeah.

18 MR. SULLIVAN: -- your plans were inserted into our  
19 PowerPoint.

20 MR. CRAIN: Yeah. They are. I would say if we want to  
21 go to page six of that PDF that would -- I'm looking for the site  
22 plan just to kind of point things out.

23 There we go. So what we're proposing here, there's an  
24 existing detached single-family house on the lot that it's  
25 intended to be razed. And, in its place, a new detached 12-unit

1 apartment building. It'll be three levels plus a penthouse over  
2 cellar.

3 We are utilizing the IZ bonus for the 1.08 FAR and there  
4 will be the voluntary IZ unit that'll be provided with that.

5 In the rear yard, at the top of this slide, you'll see  
6 that we've got four parking spaces across the back. It's one in  
7 excess of what's required by Code.

8 We will be providing long term biking -- bike spaces  
9 inside the building at the cellar level and short-term bike space  
10 -- bicycle parking spaces at the exterior of the building as  
11 required by zoning.

12 We are doing a pending of the housing fund with a  
13 penthouse contribution for the penthouse space.

14 If we want to continue to the next slide.

15 This a little clearer view of the site plan. As you can  
16 see, the kind of dashed area on the bottom, that is the existing  
17 -- I guess it's an attached home that sits on the property line.  
18 That's a solid brick wall for the adjacent house.

19 As you can see on the other side is a public alley. So  
20 this has a alley at the rear end on the side.

21 Across from that public alley is a large, three-level  
22 multi-family apartment building. It's also surrounded by others  
23 of the same size.

24 If you can go to the next slide.

25 So this is kind of a view on the cellar level. We have

1 | this split up kind of front to back with four units, you know, one  
2 | through four. You'll see that we have the required ADA accessible  
3 | type unit there at the rear.

4 |           The bike room is shown here in the middle, accessed  
5 | through the area way stairs, in the middle, towards the bottom.

6 |           Next slide.

7 |           On the first floor, this is the next four units. These  
8 | have internal stairs, some of them are bi-level units. So it's  
9 | five, six, seven and eight. These are all provided with exterior  
10 | access on both sides through the side yards and we took advantage  
11 | of that as it's fully detached.

12 |           The front of the house, as shown here, is aligned with  
13 | where the old front of the house is and also aligned with where  
14 | the adjacent house's front yard is, or front façade is.

15 |           Next slide.

16 |           This is looking at the second floor. These are the  
17 | upper portions of the units below, the bedroom levels. This also  
18 | has the stair access for the third floor.

19 |           Next slide.

20 |           So these are the top units and it's nine, ten, eleven  
21 | and twelve.

22 |           We actually have the option of either providing unit  
23 | nine or unit twelve as the IZ unit. They're the same size.  
24 | They're just mirrored, but they both comply.

25 |           Next slide.

1 CHAIRPERSON HILL: Which unit are you guys going to  
2 propose as the IZ unit?

3 MR. CRAIN: I'd say unit nine which is, on here, it's on  
4 the far right. It's a bi-level unit of the third floor and the  
5 penthouse level.

6 So you're looking at the top of it here towards the  
7 right-hand side.

8 CHAIRPERSON HILL: Okay. Thank you.

9 MR. CRAIN: Sure. You'll see that all of these units  
10 have walk-out conditions at the main bedrooms here.

11 Next slide.

12 This is just a roof plan. We separately submitted the  
13 green area ratio plan. Just to note, in this zone DOEE requires  
14 the green area ratio, I guess DOEE and zoning. So that is  
15 achieved with permeable pavers at the parking, various plantings  
16 around the site and a green roof here.

17 So it has to comply, or we couldn't get a permit.

18 Next slide.

19 These are 3D views of the rear and the front. So we  
20 provided ample outdoor terraces. We tried to get outdoor space,  
21 at least some walkout space, for every unit.

22 You'll see the stairs on the side that provide direct  
23 access to both the cellar level down and the first level coming  
24 up. It's kind of not visible in these views but similar to the  
25 front perspective. We had outdoor terraces facing that house, the

1 next-door house. Those were actually pulled in and made Juliet  
2 balconies so there is not walkout condition. That was in response  
3 to the neighbor's concerns over privacy on that side.

4 I do want to point out that they're also facing a brick  
5 wall. So, while I don't think it's the privacy through the  
6 windows, I think that mostly had to do with privacy in the back  
7 yard.

8 Next slide.

9 These are some other views. On the left, these were  
10 provided as additional views when the neighbors and the ANC  
11 meetings and I guess some of the offline meetings. One is just  
12 seeing better context with how this building sits with relation to  
13 the adjacent front façade.

14 As you note beyond, on the left-hand side, you see that  
15 big mass. The large existing three-unit apartment building, that  
16 actually sits forward of all of these houses, even though that is  
17 across the alley. While it's on the same block, it's across the  
18 alley.

19 Next slide.

20 These are just some elevations kind of clarifying; I  
21 think might have gotten jumbled up here on the right. I'm sorry  
22 about that.

23 But I did point out that the balconies were removed.  
24 They were -- they are shown on the right-hand side, but they were  
25 pulled off on the left-hand side in response to the neighbor.

1           Next slide.

2           Yeah. This didn't print off right and I apologize about  
3 this. That was -- I was pointing out that the balconies were  
4 removed and turned into Juliet balconies.

5           Next slide.

6           CHAIRPERSON HILL: So, Mr. Crain, removal of the Juliet  
7 balconies and the things that you have done, and Mr. Sullivan  
8 maybe you can also talk to this as you're going through it, like  
9 what things were done because of neighbors and what things were  
10 done because of the concern of ANC?

11           MR. CRAIN: The -- with the immediate neighbor, the  
12 privacy was -- and they -- we talked to them in request of the  
13 ANC. So that some of the Commissioners brought us on and we had  
14 our Zoom calls with the neighbors and the members of the ANC.

15           Their biggest concern was light, air -- I'm sorry,  
16 privacy on that side. So we thought the best way was to not make  
17 a walkout condition so we wouldn't have people basically hanging  
18 outside the building, looking down onto their property. So we  
19 removed those balconies.

20           They did mention though that the walkout condition at  
21 the penthouse level terraces, but there's a tall parapet there  
22 that would actually block direct view from those units down to the  
23 rear yard. So those weren't modified.

24           With regard to the ANC, the majority -- they didn't  
25 really ask for any modifications, but they were requesting payment

1 into -- or either payment of 5,000 per unit or additional IZ units  
2 beyond what was required for IZ. And those were not provided.

3 CHAIRPERSON HILL: Okay. No. I got you. That's all  
4 right. Mr. Sullivan, we can -- that's good enough for me for now.

5 Mr. Crain, please continue.

6 MR. CRAIN: I think that may be all I have. If anyone  
7 has any questions.

8 MR. SULLIVAN: Yeah. So I'll take it here from here.  
9 I'm going to back to page three, please, on the PowerPoint, Mr.  
10 Young.

11 I just wanted to let -- make sure the Board knew some  
12 context of the location of this as well. You can see the location  
13 there.

14 Next slide, please.

15 And you get a sense of the size of the apartment  
16 buildings across the alley.

17 Next slide, please.

18 And it should be a street view of the property itself.  
19 So that's all I have on that.

20 And, as a follow up, regarding the ANC, Mr. Chair, they  
21 did have a long list of conditions that they asked the applicant  
22 to agree to and they agreed to almost all of them except the  
23 payment for the contribution.

24 There's some discussion in there about a type of siding  
25 but I think that was just a general discussion. I don't know if

1 | the owner or the architect has any more input on that if the Board  
2 | wants to know about that.

3 |           And I believe the planting and shrubbery trees as a  
4 | screen -- Mr. Crain, maybe you could let us know; was that  
5 | provided on the updated landscape plan or was that not possible to  
6 | have that put in there?

7 |           MR. CRAIN: No. It could absolutely be possible. It's  
8 | not shown on this plan. I think there was going to be some kind  
9 | of agreement or communication between the applicant and the  
10 | neighbor that I don't think has been reached.

11 |           There is an existing fence that I believe belongs to the  
12 | neighbor that actually encroaches onto the subject property, but I  
13 | would think some kind of agreement in writing would need to be  
14 | put in place prior to planting anything that extends over to their  
15 | property line.

16 |           MR. SULLIVAN: No, that is not on the plans and is not  
17 | before the Board or is not being offered as part of this plan at  
18 | this point. So I believe that's all we have on that.

19 |           And then I'll go -- if you could go back to where we  
20 | were on the slides. I believe it's 17 -- 19, 18, I'm sorry.

21 |           And I'll go through the special exception requirements.  
22 | Of course, the general requirements that the granting a special  
23 | exception is in harmony with the purpose and intent of the regs  
24 | and will not tend to affect adversely the use of neighboring  
25 | property.

1           It's my understanding and Mr. Zare could speak more on  
2 this if the Board has questions, but they have had discussions  
3 with the immediate neighbor to the west and they -- while they did  
4 not wish to write a letter of support, they are working with them  
5 and are not opposed to the project.

6           They do have a solid wall. So -- and I'd note that  
7 there are side yards on each side of this building despite the  
8 relatively narrow lot size.

9           Next slide, please.

10          And, a clarification, Mr. Chair, the Juliet balconies  
11 were not removed. The Juliet balconies replaced full balconies as  
12 a response to the privacy concern so that they're not walkout  
13 balconies.

14          The specific special exception criteria, Section 421.2,  
15 BZA refers the application to the applicable agencies and on this,  
16 I think it's very helpful to refer to the Office of Planning  
17 report because it is the Office of Planning that effectively  
18 refers the application to the applicable agencies. And on  
19 schools, OP mentioned that there is adequate capacity for the  
20 twelve units and that on --

21          Next slide, please.

22          And on the question of public streets, recreation and  
23 other services, the Office of Planning has mentioned the Emery  
24 Heights Rec Center, Fort Stevens Park, that were pretty close to  
25 Georgia Avenue and those bus routes and that there are several

1 private daycare opportunities in the area.

2 Next slide, please.

3 And then 421.3, that the application is reviewed by the  
4 Office of Planning for these items; arrangement of building and  
5 structures, provisions of light, air, parking and recreation. And  
6 the Office of Planning is in support and noted in their report the  
7 reasons why. Some of the things I'll point out is the change in  
8 the Juliet balconies was helpful apparently for the Office of  
9 Planning and a 42-inch-high stockade fence along the property line  
10 provided additional screening.

11 And I'll note that -- I'm sorry, there was one other  
12 thing that we submitted as part of this plan yesterday. It was  
13 more information on the dumpster.

14 The Office of Planning notes that the dumpster wasn't  
15 shown. So we submitted a plan in response to that that does show  
16 the enclosed dumpster area.

17 And there was also a request to move the outdoor parking  
18 space to a more appropriate location and that was done and that's  
19 in the revised plan as well.

20 Next slide, please. And next slide, please.

21 So, again, DDOT has no objection. The Office of  
22 Planning is in support and ANC 4C, I don't know if they're on or  
23 not, but the applicant has worked with them and provided most of  
24 what they requested but the \$55,000 contribution, was not able to  
25 agree to that.

1 Thank you. So that's all we have.

2 CHAIRPERSON HILL: Okay. I'm just waiting for Mr. --  
3 okay. Perfect.

4 Does the Board -- do the Board members have any  
5 questions for the applicant? Ms. John.

6 VICE CHAIR JOHN: So, Mr. Sullivan, one more time.

7 MR. SULLIVAN: Sure.

8 VICE CHAIR JOHN: Can we go over what the current  
9 situation is with the fence, with the neighbor that you're still  
10 talking to?

11 MR. SULLIVAN: I can actually defer to Mr. Crain on  
12 that.

13 MR. CRAIN: Yeah. Sure. Amir, this might be a good one  
14 for you to hop on and explain where your conversation is. I do  
15 know, according to a topo survey we have, there is an existing  
16 fence between them in the rear yard that kind of crosses over the  
17 line a little bit; a little bit on the property, a little bit on  
18 this one.

19 Amir, have you come to any agreement with the neighbor  
20 on that?

21 MR. ZARE: Good afternoon, everyone. Sorry. I cannot  
22 turn on my camera. Unfortunately, I got -- while I'm in the  
23 house, and I don't fix it.

24 But, anyways, I talked to the neighbors before, I think,  
25 it wasn't -- if I'm not right, December or November and I met all

1 of them in person actually in their house and they're very more  
2 concerned about their privacy. I told them that we are going to  
3 -- that we have already removed all the balconies from the -- the  
4 walkout balcony from the side that is facing your property.

5 And also, they were asking me to send them the survey to  
6 exactly show where is the property line. And we already forward  
7 to them. They have it in hand.

8 And they were very concerned about the construction  
9 (audio interference) construction. I was talking to them and I,  
10 you know, promised them that when everything goes through, they  
11 have my phone number and everything.

12 I'm in a really good relationship with them right now  
13 and that's it.

14 MR. SULLIVAN: I don't know if that answers your  
15 question, Board Member John, or not or you might need additional  
16 information on that.

17 VICE CHAIR JOHN: Thank you, Mr. Sullivan. I do. I was  
18 looking at some of the ANC's issues and concerns and the ANC was  
19 requesting additional shrubbery and trees between 1307 and 1309  
20 and I think that's the side with the issue with the fence.

21 So the entire thing is not clear to me and I don't know  
22 if your plans show the shrubbery.

23 MR. CRAIN: No, ma'am. The plans currently do not show  
24 the shrubbery. I think that's contingent upon agreeing how that's  
25 going to be addressed with the neighbor.

1           So whether that's going to be a shrub, a tree, a fence,  
2 and exactly where it's going to be, has yet to be decided.

3           But what I think Amir was saying is that he's open and  
4 willing to do that. But just there's nothing in place as far as  
5 an agreement.

6           VICE CHAIR JOHN: Thank you.

7           CHAIRPERSON HILL: Does anyone have any questions? Mr.  
8 Smith or Commissioner Miller?

9           COMMISSIONER MILLER: Thank you, Mr. Chairman.

10          I appreciate the applicant's presentation. I think  
11 what's important to emphasize is this is a -- this is located in a  
12 RA-1 apartment zone. It's apartments that are being proposed  
13 here, even though a single-family structure is being replaced with  
14 the apartment building.

15          I think it was useful to see the context photograph that  
16 shows the other apartment buildings in this particular  
17 neighborhood to show that it's not out of context with the  
18 neighborhood even though I'm not sure that that is a particular  
19 requirement in the RA-1 zoning district. The Office of Planning  
20 can correct me if I'm wrong. It -- and maybe it should be, if it  
21 isn't, because we have other cases where there aren't -- it's the  
22 first apartment building that occurs in an RA-1 neighborhood,  
23 zoned neighborhood, that is all single family I think there may be  
24 a pending BZA case on that.

25          Anyway, in the presentation I thought you said that the

1 penthouse space -- is the penthouse -- how high is the penthouse  
2 space above the 40-foot height of the building or is that part of  
3 the 40-foot height of the building?

4 MR. CRAIN: It's actually part of it. We -- the reason  
5 being is -- I'm pulling up the section here to reference. So the  
6 entire building to the roof of the penthouse is 44 feet or 45  
7 feet; 44-11.

8 So there's this kind of a condition where the third-  
9 floor roof is a little above the penthouse floor. That's why the  
10 building we show is 39-11 or 40 feet to the roof.

11 So, it's not like the penthouse is sticking up beyond 45  
12 feet. That's somewhat obscured by the roof of the third floor  
13 below.

14 COMMISSIONER MILLER: Right. And are the third floor --  
15 those third floor below units extend into the -- they're either  
16 two- or three-bedroom units, I can't remember. Are they extend  
17 there -- they're extending -- the living space is extending into  
18 the penthouse, correct?

19 MR. CRAIN: Yes, sir. The one bedroom and the living  
20 area, living room, kitchen, dining would be on the third floor and  
21 above is the second bedroom for that unit. So it's a two-bedroom  
22 unit that are bi-level. Third floor and penthouse.

23 COMMISSIONER MILLER: And I should know this, but I  
24 can't remember, but somebody will know this who's in this  
25 Hollywood Squares presentation.

1           Does the habitable penthouse space trigger affordable  
2 housing requirement payment of something other -- beyond the  
3 normal IZ unit that you are providing the -- that space on the ten  
4 or more units that you are providing one of those units as IZ.  
5 But does the habitable penthouse --

6           MR. CRAIN: So, yes, sir, it does. And so we -- we'll  
7 be -- as far as the permit, we'll be submitting the affordable  
8 housing addendum and I think it's a contribution of \$48,000 to  
9 unlock that penthouse space.

10           COMMISSIONER MILLER: Okay. That was the next question  
11 I was going to ask, and you've answered it. So I appreciate  
12 seeing how that habitable penthouse triggering of affordable  
13 housing payment requirement is working.

14           Thank you very much.

15           CHAIRPERSON HILL: Okay. Anyone else? Then I'm going  
16 to turn to the Office of Planning.

17           MS. THOMAS: My name is Karen Thomas with the Office of  
18 Planning. Happy New Year to everyone.

19           The Office of Planning is standing on the record of  
20 approval of this application.

21           We believe that they've met all the requirements, the  
22 criteria in Section 421 and I'll be happy to answer any questions.

23           Thank you.

24           CHAIRPERSON HILL: Does anyone have any questions for  
25 the Office of Planning?

1 Ms. Thomas, Happy New Year to you as well.

2 I get a little -- to piggyback on to Commissioner  
3 Miller's questions, in terms of how the regulations are with --  
4 I'm always interested in what payments, or I shouldn't say I'm  
5 always, I'm now interested in what payments the developer is  
6 supposed to make to do things towards affordable housing in order  
7 to take advantage of some of the increased density? And, I don't  
8 know, you know, again to -- somebody might be able to answer this;  
9 there's what I understand is again if it's above -- I thought it  
10 was -- maybe it's the apartments are -- if the apartments are  
11 above ten units, you had to do a certain number of IZ units and  
12 then if -- I thought it was above four but maybe I'm getting  
13 confused with something else.

14 And then if -- I'm sorry, above three. But that's for  
15 the conversions.

16 If -- then there's the penthouse cost or contribution.  
17 Can you explain -- do you know what -- and maybe it's OAG or  
18 however, you know, what costs the developer needs to put forward  
19 in order to do some of these things?

20 And first, I'm going to start with OAG, and I know Mr.  
21 Sullivan knows the answer so I mean -- not really OAG, meaning  
22 Office of Planning.

23 MS. THOMAS: Am I going to take it first or --

24 CHAIRPERSON HILL: Oh, I don't know. I was going with  
25 you, Office of Planning. But I got OAG first. So whoever knows

1 the answer, raise your hand.

2           Okay, wait.

3           MS. THOMAS: The units required under IZ, other than the  
4 penthouse, have to be on site and that's ten percent of the unit  
5 but that's the -- we don't have, you know, like costs (audio  
6 interference) with respect to that.

7           The IZ requirement is if you're building above nine  
8 units, you have an IZ requirement.

9           CHAIRPERSON HILL: Okay. All right. So, Mr. Crain, you  
10 seemed to raise your hand. And, Mr. Sullivan, you don't need to.

11           MR. SULLIVAN: Yeah. So -- no. So, right what Ms.  
12 Thomas said. It's ten or more new units in new gross per area and  
13 this is a new building. So we became subject to mandatory -- and  
14 Mr. Crain may have said voluntary, but it's mandatory inclusionary  
15 zoning when we hit ten units.

16           And then the penthouse is a separate issue which you  
17 have the option of -- you get bonus space for that and you have  
18 the option to either incorporate it into the development and -- in  
19 your IZ calculation or you keep it separate and you pay the fee.  
20 And most people end up paying the fee and it's anywhere from  
21 20,000 to 100,000 or more. It's dependent on several factors and,  
22 as Mr. Crain stated, it's 48,000 in this case.

23           The four-unit thing is you -- you're right, it was the  
24 -- just the conversions in the RF are subject to IZ.

25           CHAIRPERSON HILL: Right. And so it's ten percent above

1 the ten units or is it ten percent above the nine units?

2 MR. SULLIVAN: Well, it's ten percent of your --  
3 generally speaking because it's an extremely complicated  
4 calculation. But it's about ten percent of your net livable area.

5 CHAIRPERSON HILL: After the nine units. After you go  
6 above nine units?

7 MR. SULLIVAN: Yes. Right.

8 CHAIRPERSON HILL: Okay.

9 MR. SULLIVAN: And it (audio interference) --

10 CHAIRPERSON HILL: That's good enough.

11 MR. SULLIVAN: -- one unit --

12 CHAIRPERSON HILL: That's good enough.

13 MR. SULLIVAN: Okay.

14 CHAIRPERSON HILL: That's good enough. Okay. Does  
15 anybody actually have more questions for the Office of Planning?

16 Okay. Mr. Sullivan, do you have any questions for the  
17 Office of Planning?

18 MR. SULLIVAN: No. Thank you.

19 CHAIRPERSON HILL: Mr. Young, is there anyone here  
20 wishing to testify?

21 MR. YOUNG: We do not.

22 CHAIRPERSON HILL: Okay. All right. Does anybody have  
23 any final questions?

24 Okay. I guess the only thing I -- oh, I'm sorry. The  
25 Office of Planning, did you get all your questions answered with

1 everything that now is in the record?

2 MS. THOMAS: Yes. We are satisfied that the applicant  
3 attempted the questions with respect to the dumpster and the --  
4 we did ask for the landscaping plan. Yes.

5 CHAIRPERSON HILL: Okay. So you're satisfied. All  
6 right. Okay. All right.

7 I don't have anything else. Mr. Sullivan, are you good?  
8 Anything else?

9 MR. SULLIVAN: No. Nothing further.

10 CHAIRPERSON HILL: You're good.

11 MR. SULLIVAN: Thank you.

12 CHAIRPERSON HILL: Okay. I'm going to close the hearing  
13 and, Mr. Young, if you'll excuse everyone, please.

14 (Pause)

15 CHAIRPERSON HILL: Okay. If we do make a motion on  
16 this, I've got to remember to read with the 12 units instead of  
17 the 13.

18 And then I guess I can start the deliberations.

19 I'm comfortable with how the applicant is meeting the  
20 criteria for us to grant this application. I think they're  
21 meeting the standards that we need go through in terms of the  
22 relief they're requesting or what they're trying to do, I should  
23 say.

24 I was also satisfied with what the Office of Planning  
25 has put forward in their report as well as DDOT as well as what

1 the Office of Planning had wanted and now, they have it in the  
2 record as do we and I've had a chance to look at it.

3 I'm disappointed that the ANC is in denial of this  
4 application and the fact that it's just too bad. It seemed like  
5 they -- everything was -- they were trying to do their best in  
6 terms of the developer to work with the community. But it looks  
7 like they're just couldn't get on the same page.

8 But I will be voting to approve.

9 Commissioner Miller, may I go to you next?

10 COMMISSIONER MILLER: Thank you, Mr. Chairman.

11 Yes, I support this application and, as I mentioned  
12 earlier, because it is in the RA-1 zone and meets the criteria in  
13 that zone and in the regulations. Generally, I think they -- the  
14 application did make an effort to satisfy many of the ANC's  
15 concerns but not all of -- they obviously didn't get all the way  
16 there. And I appreciate also that it's an apartment building that  
17 they propose is a combination I believe of three bedrooms and two  
18 bedrooms. So that's -- that helps with the housing need in the  
19 city as well.

20 So thank you, Mr. Chairman.

21 CHAIRPERSON HILL: I can -- Mr. Smith, I'm sorry.  
22 That's what I was trying to say.

23 MR. SMITH: I'll also (audio interference) would support  
24 this application. I think (audio interference) applicant, based on  
25 OP's report (audio interference) proposal (audio interference)

1 along the (audio interference) towards the left of the property.

2 But I believe that applicant has (audio interference)  
3 nineth percent of the (audio interference) wasn't on this (audio  
4 interference) stated.

5 So I believe it does meet the standards based on Section  
6 U 421 (audio interference) residential developments within the RA-  
7 1 zone for us to grant this relief. So (audio interference).

8 CHAIRPERSON HILL: Vice-Chair John.

9 VICE CHAIR JOHN: Thank you, Mr. Chairman.

10 So I support the application and I agree with everything  
11 that's been said so far.

12 I think it's fairly straightforward. I appreciate the  
13 provision of the IZ unit and the large family-size units.

14 I am still not -- troubled with the fact that there's no  
15 agreement concerning the shrubbery and screening because that goes  
16 to the privacy issues. And if we were to approve the application,  
17 I would suggest that we add that as a condition in the approval.

18 CHAIRPERSON HILL: Okay. A condition that what, Ms.  
19 John? I'm sorry.

20 VICE CHAIR JOHN: That the applicant will work with the  
21 neighbor to install screening and maybe OAG can help me with  
22 phrasing it; screening through using shrubbery and trees between  
23 1307 and 1309 Longfellow.

24 And it's difficult because there is already a fence.  
25 I'm not quite sure how the shrubbery would (audio interference)

1 fence and this is why it's a little disappointing to me that we  
2 didn't come with that, you know, agreement already worked out.

3 But I am willing to go ahead with the condition. So  
4 that would my suggestion.

5 CHAIRPERSON HILL: OAG, do you know how that can be put  
6 forth in a condition?

7 MR. RICE: Yes, sir. I think I'd try to find some  
8 screening language from the regs, and I'll incorporate into the  
9 order which will come back to you guys for approval.

10 CHAIRPERSON HILL: Okay. All right. Okay. Then, if  
11 that's the case, I'll go ahead -- so I have nothing more to add.

12 I'm going to go ahead and make a motion to approve  
13 application number 20353 of 1307 Longfellow Street, N.W., LLC,  
14 pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception  
15 under the use provisions of Subtitle U 421.1 to raze the existing  
16 principal dwelling and construct a 12-unit apartment building in  
17 the RA-1 zone at premises 1307 Longfellow Street, N.W., Square  
18 2798, Lot 816 and ask for a second, Ms. John.

19 VICE CHAIR JOHN: Second.

20 CHAIRPERSON HILL: The motion was made and seconded.  
21 Mr. Moy, could you please take a roll call?

22 MR. MOY: Thank you, Mr. Chairman. When I call your  
23 name, if you would please respond with a yes, or no, or abstain to  
24 the motion made by Chairman Hill to approve the application for  
25 the relief as advertised. The motion was seconded by Vice Chair

1 John. Also -- yeah, seconded by Vice Chair John. Zoning  
2 Commissioner Rob Miller.

3 COMMISSIONER MILLER: Yes, including the landscaping  
4 condition that Board Member John and Mr. Rice discussed. I assume  
5 that's -- was part of the motion.

6 MR. MOY: Yes.

7 CHAIRPERSON HILL: Yeah. I thank you, Commissioner  
8 Miller. I'm low on the blood sugar here today.

9 So again that motion would include the condition that  
10 Vice Chair John had put forward that OAG is going to include in  
11 the order that we will eventually get to approve.

12 Please continue, Mr. Moy.

13 MR. MOY: Okay, Mr. Smith.

14 MR. SMITH: Yes, with the condition.

15 MR. MOY: Vice Chair John.

16 VICE CHAIR JOHN: Yes.

17 MR. MOY: Chairman Hill.

18 CHAIRPERSON HILL: Yes, with the condition.

19 MR. MOY: With a board seat vacant, staff will record  
20 the vote as 4 to 0 to 1 and this is on the motion of Chairman Hill  
21 to approve the application with a condition that has been proposed  
22 with the motion. Seconded by Vice Chair John. Also in support of  
23 the motion Mr. Smith and Zoning Commissioner Rob Miller. We have  
24 a board seat vacant. The vote is 4 to 0 to 1. The motion  
25 carries.

1 CHAIRPERSON HILL: Okay. Thank you, Mr. Moy.

2 All right, my fellow Board members. So this is my  
3 proposal. We take lunch and then, Mr. Miller, I'm sorry to  
4 disrupt your day but if it's okay, we're going to come back and  
5 after lunch have the two decision cases with Chairman Hood, which  
6 is 20328 and 20290.

7 And then, Mr. Moy, let's go ahead and come back and if  
8 you could reach out to 20368 of KD Klubhouse at lunch and just see  
9 where they -- you know, where they stand and if they need more  
10 time and/or again we were looking for new things into the record.

11 Then we would go ahead and have that continued hearing  
12 again with them. And then we'll end with the 20350.

13 So if everybody's good with that -- okay. What do you  
14 want to say? Like, is 2:30 okay, forty-five minutes because then  
15 we can take a look at the record also?

16 Okay. All right. Sorry guys it's so late. Okay.

17 See you all at 2:30.

18 Bye-bye.

19 (Whereupon, the proceeding recessed at 1:45 p.m. and  
20 reconvened at 2:30 p.m.)

21 CHAIRPERSON HILL: Okay, you guys. All right. So, I  
22 don't know if you heard, Ms. John, but there is an applicant that  
23 we're trying to help out with and it's the one that's 20350, and  
24 so we're going to go ahead and do that next and then we'll see  
25 where we get and then work with Mr. Hood and the rest of the

1 | issues later than.

2 |           So Mr. Moy, if you're ready and if they happen to be  
3 | ready, even though they thought they were maybe at the end of the  
4 | day, you could call our next case, which is 20350.

5 |           MR. MOY: Thank you, Mr. Chairman.

6 |           The Board is back in session after a quick lunch recess  
7 | and the time is at or about 2:38, and back to the hearing case.

8 |           And we are calling case Application Number 20350 from  
9 | Mary's House for Older Adults, Inc., as amended, for a special  
10 | exception under the use provisions of Subtitle U § 203.1(g), and  
11 | pursuant to Subtitle X, Chapter 10, for a use variance from the  
12 | use requirements of Subtitle U § 203.1(g)(2), and area variances  
13 | from the driveway width requirements of Subtitle C § 711.6, the  
14 | side yard requirements of Subtitle D § 206.2, and from the lot  
15 | occupancy requirements of Subtitle D § 304.1, to replace an  
16 | existing principal dwelling unit with a continuing care retirement  
17 | community for 15 individuals in the R-3 Zone at premises 401  
18 | Anacostia Road, SE (Parcel 0203/0009).

19 |           CHAIRPERSON HILL: Okay. Great. Thank you.

20 |           Welcome, everyone.

21 |           Mr. Freeman, could you introduce yourself for the  
22 | record.

23 |           MR. FREEMAN: Good afternoon, Chairman Hill.

24 |           My name is Kryus Freeman. I'm an attorney with the law  
25 | firm of Holland & Knight, here on behalf of the applicant this

1 afternoon.

2 CHAIRPERSON HILL: Okay. Great.

3 I can hear you, thank you.

4 And Mr. Cohen, would you introduce yourself, please.

5 MR. COHEN: Yeah, Mr. Chair, good afternoon.

6 On behalf of the applicant, as well, my name is  
7 Christopher Cohen with Holland & Knight.

8 CHAIRPERSON HILL: Okay. And Mr. Freeman, are you going  
9 to be the lead on this right now?

10 MR. FREEMAN: Yes, Mr. Cohen is on assist, but I'll  
11 do --

12 CHAIRPERSON HILL: Okay. Who else is there with you?

13 MR. FREEMAN: So, we also have -- let me make sure I'm  
14 looking at who's on -- we also have Dr. Imani Woody on behalf of  
15 Mary's House, so hopefully you've let her on. We also have Mr.  
16 James Jordan of Millennium Design Architects, who is the project  
17 architect for the project. And I think Gina Merritt of Northern  
18 Real Estate Urban Ventures is either on or she might be running  
19 just a couple minutes late, given the reschedule, which we  
20 certainly appreciate and thank you for doing. So, Gina is  
21 available for questions.

22 We're ready to start if you're ready.

23 CHAIRPERSON HILL: Okay. So, Mr. Freeman, Happy New  
24 Year and Happy New Year to everybody.

25 I guess there's a variety of things with this case and

1 | so I'm going to try to summarize what I think I understand of it  
2 | right now and then we can see where we get, okay.

3 |           MR. FREEMAN: Sure.

4 |           CHAIRPERSON HILL: So, as I understand, this was an  
5 | application that had lapsed because they had at one time been  
6 | approved -- and this is where I might even need to get help from  
7 | OAG it and/or kind of understanding the Office of Planning. I'm  
8 | just going to set up what I understand, that this was a case that  
9 | was, at one time, approved for the 15 residents under the old  
10 | regulations and then it expired, and it expired quite some time  
11 | ago. It expired, I don't know if it was June or January, you  
12 | know, it's well after the expiration period.

13 |           And then you guys seem to be here, and I guess you're  
14 | going to argue for a use variance and the Office of Planning, if  
15 | I'm -- and this is where I'm going to ask the Office of Planning  
16 | to help me -- they seem to be in support, argue for an area  
17 | variance. So, I guess there has been some discussions that I've  
18 | had with the Office of the Attorney General, OAG, in terms of  
19 | different ways that -- again, it's your application. You're free  
20 | to argue whatever you want to argue. I'm just telling you what I  
21 | know and where I kind of am right now, that there was a couple of  
22 | different possibilities to how this issue might be resolved.

23 |           And I'll let you, Mr. Freeman, tell me what you think,  
24 | but there was some discussion with a map amendment. I understand  
25 | all the problems with all these different things, meaning a map

1 amendment, you have to go back to the Zoning Commission.

2           There is -- excuse me -- either side of this property  
3 is zoned so that you would be able to come back to us if you did  
4 get the map amendment for a special exception I think, for the 15  
5 resident, because right now you'd only get 8. That's one avenue.

6           And I guess that's kind of -- and then after that, the  
7 only other thing, I guess, I think you could go ahead and argue  
8 for the use variance, see where the Board might get with that  
9 argument, and/or then hear from the Office of Planning in terms of  
10 their area variance. So, that's what I understand where you are.

11           And, Mr. Freeman, you know you guys kind of came on --  
12 you weren't the original attorney. Now there's another attorney  
13 that's come on. You know, we realize this is a not-for-profit  
14 and, obviously, you know, I guess I can speak for the Board, that  
15 we think that what you're trying to do is commendable. We're just  
16 trying to understand the regulations and whether or not this is  
17 something that the Board would necessarily agree with in terms of  
18 the arguments.

19           So, Mr. Freeman, did you hear all that and do you have a  
20 thought?

21           MR. FREEMAN: I have a couple of thought. So, let me  
22 make sure I'm answering your question and try to talk through my  
23 understanding, as well. So, you're right, the project was  
24 initially approved in 2017. It expired inadvertently, and we now  
25 have financing in order to move forward with the project.

1           So, we filed a new application for essentially the same  
2 exact relief that the Board appraisal granted. The Board briefly  
3 granted a special exception to allow this use of continuing-care  
4 retirement community. It had 15 units. And we -- the Board also  
5 granted area variances for lot occupancy, driveway, and side yard.

6           So, subsequent to the BZA approval, the regulations  
7 changed to say that the use is still permitted, but the  
8 regulations changed in order to say a CCRC can only have eight  
9 units, although, other types of similar uses have no limitation on  
10 the number of units.

11           So, when we are asking for a variance, the variance  
12 isn't to allow the use. The CCRC is permitted by a special  
13 exception. So, there's no question about whether the CCRC is  
14 permitted. The question is (audio interference) 8 to 15 units.  
15 That change there, 8 to 15 units is a variance.

16           I did not see in OP's report where there was a question  
17 about whether that was an area variance or a use variance. So, I  
18 was not aware and that had not come up in any of our conversations  
19 with the Office of Planning.

20           We filed it as a use variance because we want more units  
21 than otherwise permitted; we want 15 units, instead of 8 units.  
22 Now, if it's OP's position and the Board's position and the OAG's  
23 position that that's an area variance, we're happy to argue it as  
24 an area variance. The three-part test is the same. The only  
25 difference is undue hardships for use variance versus practical

1 difficulty for area variance. But the facts are the same in terms  
2 of how we would meet that second prong for a variance test.

3 I heard there was a thought from the Office of the  
4 Attorney General about trying to put through a map amendment, but  
5 that is not something that we are looking to do at this point,  
6 because we think we clearly meet the variance test and, again, the  
7 Board felt that in their prior approval, because they granted the  
8 same exact relief, other than this new relief, which is the  
9 approval to get to the 15 units. And, again, the prior approved  
10 project had 15 units, so we're not increasing the number of units  
11 from the prior BZA approval.

12 CHAIRPERSON HILL: Okay. And that's not -- the sticking  
13 point that we're having, I guess, is the regulation changed from  
14 the 8 to 15.

15 MR. FREEMAN: Correct.

16 CHAIRPERSON HILL: And so, I'm going to start with the  
17 Office of Planning. I'm going to jump around a little bit because  
18 I know you all said you had a hard stop at four o'clock, so I want  
19 to make sure we're at least going to argue the right thing.

20 So, Ms. Brown-Roberts, are you there?

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

22 CHAIRPERSON HILL: Can you speak to if the Office of  
23 Planning is arguing -- or not arguing -- is in support of an area  
24 variance or a use variance.

25 MS. BROWN-ROBERTS: The Office of Planning is in support

1 of an area variance. I mean, I've never thought that it was a use  
2 variance. It didn't -- the exception in our report supports the  
3 area variance.

4 CHAIRPERSON HILL: Okay. Well, then, I would -- if we  
5 get through this next step, and I'm going to turn over to the  
6 board members and see if they have any questions before and/or if  
7 they want to hear from the OAG, which I don't want to hear from  
8 just yet, if they have some suggestions.

9 But my suggestion would then be for the applicant to  
10 argue for an area variance and see if that is something that we,  
11 the Board, believe they are meeting the criteria for and/or then  
12 we can get some clarification as to why or what OAG's opinion or  
13 concern might be for the area variance.

14 So, before I turn to anybody else, I want to look to my  
15 fellow board members if that sounds like a good plan moving  
16 forward, to hear the argument for the area variance.

17 And I guess I'll ask Commissioner Miller, since he's  
18 raising his hand.

19 COMMISSIONER MILLER: Thank you, Mr. Chairman.

20 And I'll look forward to further comments from my board  
21 members then from OAG and the applicant and other interested  
22 individuals.

23 The BZA has approved this project under pre-existing  
24 rules three years ago or more and that order expired, as the  
25 chairman has said. I may be misstating it, and OP or OAG can

1 correct me when they speak, but there was a series of technical  
2 correction that came before the Zoning Commission I think in 2017.

3 And one of them dealt with this CCRC issue.

4 And we actually delayed on my motion, I think, the  
5 adoption of a technical correction dealing with CCRCs, no as not  
6 to jeopardize this project, this very project, because the  
7 applicant and many of the folks in the neighborhood and other  
8 interested groups testified before the Zoning Commission, that  
9 this project should not be placed in jeopardy, that it has the  
10 support of the neighborhood and others, by changing the rules in  
11 the middle of the game.

12 So, we actually delayed clarifying or changing the CCRC  
13 rules so this project could move forward, and it did move forward  
14 under the pre-existing rules -- a pre-existing interpretation of a  
15 CCRC in this particular zone. All that is to say that the Zoning  
16 Commission did, then, change the rule, and as you've pointed out,  
17 Mr. Chairman, to clarify the standards for CCRCs in residential  
18 neighborhoods and including the limitation that didn't previously  
19 exist clearly, for CCRCs in this particular zone.

20 So, I think what's happened here, I mean, we didn't want  
21 this project to get caught up in a change of the rules the last  
22 time. The Zoning Commission didn't, and so it allowed the pre-  
23 existing rule to go forward. The BZA made its ruling in that pre-  
24 existing rule.

25 The Zoning Commission then changed the CCRC and now

1 their order expired, and they're caught in the same kind of  
2 "middle of the game" rule change, which we were trying to avoid  
3 last time.

4           So, I, personally, just based on my own recollection of  
5 what's happened here and what is happening here, I'm in favor of  
6 this project moving forward as expeditiously as it can under  
7 whatever procedure we come up with; whether it's the area  
8 variance, as applied for, and as the Office of Planning evaluated  
9 it under, or under a time extension of the previous order under  
10 the pre-existing rule, which this Board approved.

11           I can see how a map amendment from R-3 to, I think it's  
12 RA-1, would allow for this -- it might be the -- well, it would  
13 also allow for this project to move forward, but a map amendment  
14 would entail a lot more time than a time extension procedure if we  
15 can -- if that's available here or an evaluation under the area  
16 variance standard.

17           The use variance standard would be more difficult to  
18 approve and would present problems, I think -- not problems --  
19 challenges for the applicant, although, the applicant's attorney  
20 has said they're prepared to make that case if that's what the  
21 Board determines.

22           So, all that's to say I'm in favor of moving this  
23 project forward as quickly as this can. I'm sorry the order  
24 expired. I don't know why. We'll hear more about why it expired  
25 and wasn't able to go forward. I assume it had to do with

1 financing and other difficulties.

2           It's a project that has been long in the making that has  
3 great value for the community both, in that neighborhood and at  
4 large for the city. So, I would be supportive of whatever  
5 procedure that allows us to move forward.

6           And it wouldn't necessarily be a precedent for other  
7 cases. This is kind of an unusual case that now for a second  
8 time, has been caught in a rule change, which we were trying to  
9 avoid the first time. So, that's where I am, Mr. Chairman.

10           CHAIRPERSON HILL: All right. Commissioner Miller,  
11 thank you very much for your thoughts.

12           Then, I would still, then, stick with my original offer,  
13 which was to go ahead and hear the case as an area variance, have  
14 the applicant self-certify, you know, change their caption here  
15 from a use to an area. Since it's going from a higher burden to a  
16 lower burden, I don't think it's something that would be  
17 problematic to do now, and then we would go ahead and hear the  
18 area variance.

19           My only concern, again, I guess, Mr. Freeman, is that,  
20 you know, I just don't know what the whole Board is going to do,  
21 right, in terms of what they're going to vote, right. But I think  
22 that would, at least, be my suggestion.

23           And then I'm going to turn to Mr. Smith and then Vice-  
24 Chair John for their thoughts, again, on my suggestion.

25           Mr. Smith?

1           MEMBER SMITH: I agree with Mr. Miller, that I believe  
2 that this project has a very high use, especially within this  
3 neighborhood, especially for the context of this particular  
4 project, but I want to say that I wanted to proceed under the  
5 correct legal path. So, I will reserve any future comments. I  
6 would want to hear from the OAG on their (audio interference) how  
7 they saw this project, as required on the use variance, just so I  
8 can get some additional clarification.

9           CHAIRPERSON HILL: Just to be clear, I thought the OP's  
10 stand was that this was an area variance, correct, Ms. Brown-  
11 Roberts?

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

13           CHAIRPERSON HILL: Okay. So, Ms. John, what do you  
14 think of my suggestion?

15           (No verbal response)

16           CHAIRPERSON HILL: You're on mute, Ms. John.

17           VICE CHAIR JOHN: I guess my button's at the bottom.

18           So, there are no good options with this case. I would  
19 like to hear OP explain why this is an area variance and not a use  
20 variance if the particular use for 15 residents was changed in the  
21 regulation. So, that's my issue.

22           I agree with the applicant that to a certain extent, the  
23 facts might be the same, except for whether it's undue hardship or  
24 practical difficulty. For, whether or not it's an area variance  
25 or a use variance, there has to be some showing that there is some

1 unique or extraordinary condition affecting the property.

2           And I think what I hear Commissioner Miller saying is  
3 that because this was previously permitted as a special exception  
4 before the rule change, we could allow it to go forward as a  
5 special exception and we would not be on a slippery slope. So,  
6 that's a difficult argument for me because this sort of thing  
7 comes up before the Board all the time.

8           CHAIRPERSON HILL: One second, Mr. Freeman.

9           VICE CHAIR JOHN: So, I think the map amendment is the  
10 correct procedure and that we continue the case to today, but that  
11 said, I'm willing to hear all the arguments, because maybe I do  
12 not fully understand. So, I would reserve any decision.

13           CHAIRPERSON HILL: Okay. So, I mean, I remember Ms.  
14 Merritt over that. Ms. Merritt, you were with us, and I was on  
15 the Board when this was going on, so I also am -- we're all  
16 disappointed that this is the situation that you're in, but I'm on  
17 the side of Mr. Miller, Commissioner Miller right now, which is  
18 I'm trying to move this along as best as I can, however, I don't  
19 know if -- and, again, my board members, all of my board members,  
20 I don't think, you know, have any issues with the project; they're  
21 just stuck, right, as to what they think the proper path forward  
22 is.

23           And is, I still, I guess, would go ahead, then, and Mr.  
24 Freeman, ask you to argue -- and my board members can raise their  
25 hand if they think otherwise -- because if we end up back at the

1 end of this after this long process, after we hear everything or  
2 whatever and you end up with a map amendment, then I guess that's  
3 where it might end up -- I don't know, right -- but, that's not  
4 what we want to see -- well, that's not what we want to see  
5 happen. We just have to hear the argument, right.

6 And so, I guess now I'm just clarifying whether or not  
7 we're going to hear this as an area variance or a use variance,  
8 which would mean, again, the higher standard for undue hardship  
9 versus the practical difficulty.

10 And Mr. Freeman, you're saying you can argue either way  
11 you believe, correct?

12 MR. FREEMAN: Yes.

13 CHAIRPERSON HILL: So, I'm going to go back to OP --

14 MR. FREEMAN: So, I just want to be very clear.

15 CHAIRPERSON HILL: Sure.

16 MR. FREEMAN: That the difference between the area  
17 variance versus use variance only applies to the question of  
18 whether we have 8 units or 15 units. That's the only question  
19 that that applies to.

20 It's clear that the lot occupancy, drive aisle width,  
21 side yard, are all area variances and that's the exact same relief  
22 that the Board previously granted.

23 It's clear that the special exception to establish the  
24 use is a special exception and that is a special exception that,  
25 again, the Board previously granted.

1           So, really, the only thing new here is the fact that we  
2 need relief, again, because the number of units have been changed  
3 to go from 8 to 15 unit. So, I just want to be very clear for  
4 everyone that that's the only question as it relates to whether  
5 it's an area variance or a use variance.

6           I will add -- I'm not sure where this map amendment  
7 concept came from, but that, for us, that is not an option for a  
8 variety of reasons. All right. You've still got to rezone, but  
9 you still have a bunch of other requirements that change, as well.

10           So, we're not -- we think the application, as filed, is  
11 one that we meet the standards for approval.

12           CHAIRPERSON HILL: I understand, Mr. Freeman.

13           MR. FREEMAN: (Audio interference) OP, DDOT, and ANC  
14 support.

15           CHAIRPERSON HILL: Mr. Freeman, we're all on the same  
16 page. We understand the difference between the 8 and the 15,  
17 right.

18           So, I'm turning to the Office of Planning, again. Do  
19 you think that this is an area variance (audio interference)?

20           MS. BROWN-ROBERTS: We think it's an area variance  
21 because, as Mr. Freeman said, we're just changing the -- the  
22 request is to change from 8 to the 15.

23           CHAIRPERSON HILL: Okay. That's fine.

24           So, Mr. Freeman, I'm just going to check. An area  
25 variance is easier to argue than the use variance, right, so

1 that's what I'm trying to understand, right.

2           So, I guess we're going to move forward with hearing the  
3 argument for the area variance and we'll see whether or not my  
4 board members will agree, right.

5           So, OAG, you understand everything that I've said and  
6 that seems like the best route to go in. You understand what my  
7 process is, correct?

8           (No verbal response)

9           CHAIRPERSON HILL: Okay. All right.

10           Then, Mr. Freeman, go ahead and make your case for your  
11 application as an area -- you know, with at least all the other  
12 things that you're asking for, but also the area variance, rather  
13 than the use variance.

14           MR. FREEMAN: Well, thank you, again, for hearing us  
15 right after break. I know that was not the initial plan, so we do  
16 appreciate that. Thank you and the board members for the  
17 conversation at the beginning to kind of help set the stage. I  
18 appreciate that, as well.

19           So, I think what I want to make sure that the record is  
20 clear about what we're talking about here. We're talking about  
21 approval of BZA relief to allow a first of it kind of development  
22 in the District of Columbia. Specifically, and you'll hear Dr.  
23 Woody describe this in more detail in a second here, but,  
24 specifically, we're talking about a CCRC dedicated for folks that  
25 are 60 and older and identify as LGBTQ/SGL community and you will

1 | hear Dr. Woody describe kind of the importance for specialized  
2 | housing in this situation.

3 |           What's also important is that all of this -- so, I  
4 | watched the prior cases and I applaud affordable housing in some  
5 | of those cases, with what they were providing, but I think of all  
6 | of these units are affordable at less than 60 percent of AMI. So,  
7 | as Commissioner Miller kind of described at the out front -- and I  
8 | will just say Commissioner Miller is always right -- as  
9 | Commissioner Miller described at the out front, this is a very  
10 | critical and important project for the District and helps to meet  
11 | the District's goals.

12 |           So, what I'll do now is turn it over to Dr. Woody and  
13 | our architect James Jordan, and then I'll come back to go through  
14 | the elements of the variance test in more detail.

15 |           And Mr. Young, we have a slide presentation. If you  
16 | could pull our slide presentation up now, that would be helpful.  
17 | Once the slides come up, the next person you'll hear from is Dr.  
18 | Woody.

19 |           MS. WOODY: Thank you, Kryus.

20 |           MR. FREEMAN: Next slide.

21 |           MS. WOODY: Next slide.

22 |           MR. FREEMAN: Go ahead, Dr. Woody.

23 |           MS. WOODY: Thank you, Commissioner and Commission  
24 | Members for rehearing our case. We appreciate that.

25 |           The project, Mary's House for Older Adults was

1 incorporated in D.C. in September 2012. So, this has been a labor  
2 of love for many, many years. The project became a viable project  
3 of two situations. First, my father, an active citizen in the city  
4 had a stroke and he had to be placed in a nursing home. Being  
5 middle class he went to a good nursing retirement home in the  
6 city, even though he had me and my wife and other family members  
7 to look out and advocate for him, he went into the facility  
8 continent and came out incontinent.

9           It wasn't because the people didn't like him and/or it  
10 wasn't a good facility; it was just the culture of the facility.  
11 Actually, our family pulled him out. I wondered what would have  
12 happened to him had he been an out, gay old man or an old lesbian  
13 or a transgendered senior.

14           The second situation involved my learning of the death  
15 of a gay community member who died shortly after my father. He  
16 lived in an upscale community in Bethesda or Chevy Chase. He died  
17 alone and was found five days later.

18           These situations are still happening in our city and  
19 across the country. The research tells us that lesbian, gay,  
20 bisexual, transgender, queer, and same-gender loving, LGBTQ SGL  
21 seniors, like their mainstream counterparts, often live alone;  
22 however, unlike these counterparts, LGBTQ SGL seniors do not have  
23 children that traditionally care for parents.

24           Housing discrimination abounds in our city and across  
25 the country. After my dad died and left me this property -- this

1 is the house I grew up in -- I wanted to reuse the property in a  
2 way that was unique, that could serve the elders of my community  
3 and could provide additional, alternative, affordable housing that  
4 is so needed in our city.

5           The mission of Mary's House is to provide -- and we need  
6 to change slides, please. Thank you.

7           The mission of Mary's House is to provide safe and  
8 affordable housing environments, including brick-and-mortar  
9 structures. The residence on Anacostia Road will include 15 SRO  
10 units, communal areas, such as a kitchen, library, and great room,  
11 that will be described in more detail by Mr. Jordan, our  
12 architect. It will be the first communal housing of its kind in  
13 the United States for elders that identify LGBTQ SGL and the first  
14 in our city.

15           The vision of Mary's House is to create affordable,  
16 independent, communal housing for older adults that would  
17 eliminate the intense isolation experience because of aging and  
18 intolerance based on one's sexual identity and orientation.

19           From the beginning, this project as enjoyed the support  
20 and involvement of our city. The commissioner, you've alluded to  
21 that and Commissioner Miller --

22           MR. FREEMAN: Next slide.

23           MS. WOODY: When Mary's House was having challenges in  
24 obtaining its nonprofit status, Congresswoman Norton's office  
25 stepped in to assist and to support us.

1           Early in our process, we visited members of the City  
2 Council. It included then-mayor, Vincent Gray, and Councilmember  
3 Muriel Bowser, who listened to the viability of this alternative  
4 housing project and agreed to its importance to a special  
5 population of seniors in our city.

6           Councilmembers Muriel Bowser and Anita Bonds were among  
7 the first who supported us by eliminating possible (audio  
8 interference) within the city. Councilmember Robert White and  
9 others have since been supportive to this critical need for  
10 affordable housing, as well.

11           It is important for us to have an established  
12 relationship with the ANC in our community. We continually keep  
13 them in the loop of our updated plans, seek their input, and have  
14 obtained their solid support. Many on the Commission, in  
15 particular, the community, remember my family, my parents, in  
16 particular, sitting on the front porch and waving to passerbys.  
17 So, other community members are grateful to learn that there will  
18 be communal spaces that are culturally competent and affordable.  
19 Elders will be able to live in an affirming, affordable housing  
20 that will celebrate the whole person, and it includes a front  
21 porch.

22           And, finally, we're happy to report that support that  
23 we've garnered during the BZA case 19-482 that's been alluded to  
24 here, continues and has expanded locally and nationally. Thank  
25 you.

1 MR. FREEMAN: So, our next witness will be Mr. James  
2 Jordan, who will -- actually, I'll talk to these in a little bit,  
3 but what you can see here is not only has the project -- you'll  
4 see some examples of the support that Dr. Woody just described.

5 All right. Next slide.

6 So, is James Jordan still on?

7 (No verbal response)

8 MR. JORDAN: Oh, I'm sorry, I was on mute.

9 Can you all hear me now?

10 (A chorus of "yeses" resounds.)

11 MR. JORDAN: Thank you.

12 Again, good afternoon, Mr. Chairman, Members of the  
13 Board. Thank you so much for this opportunity to present this  
14 important case today. Of course, I'm going to speak -- for the  
15 record, James Jordan, Millennium Design Architects -- I'm going to  
16 speak about the architecture and the design and how we came to  
17 this point with what we're presenting today.

18 I do think it's critically important, a couple of things  
19 that Dr. Woody just stated. One, that this will be the only type  
20 of this facility not just locally, but nationally. And,  
21 certainly, the way that this community has been marginalized over  
22 time, this will be a safe place and certainly a place where  
23 there's an approach of community and togetherness.

24 So, the building, itself, the building area is a little  
25 over 14,000 square feet. It's three stories above grade and a

1 basement level. As has been stated, we've got 14, space for 14  
2 resident rooms and one for an on-site manager that will reside  
3 there, also.

4 One of the things that we think -- and we can move to  
5 the next slide, please. What you see here is the first-floor  
6 level, the main floor. And as Dr. Woody alluded to, on this first  
7 floor is very much a communal space. It's got a large great room,  
8 gathering space, a large living room. The kitchen is communal.  
9 This is going to be one aspect of this project that is very  
10 unique. These are not just apartments. These are not places  
11 where someone can just or is just going to stay in their room.  
12 The units do not have their own kitchens; they just have a small  
13 wet bar and cabinets.

14 So, this space, we want to create an environment where  
15 we have shared public spaces, which we have on all floors,  
16 including the roof, and we'll get to that, also. But in the  
17 basement level, the first-floor level, and even at the resident  
18 room levels, which we'll see momentarily, there are shared common  
19 spaces for people to interact with each other, to get to know each  
20 other, and to not just become isolated and confined.

21 Another aspect of this project is we wanted to design  
22 something that certainly was environmentally sensitive and energy  
23 efficient, and we believe that we have achieved those goals, given  
24 some of the materials that we're using and some of the tools that  
25 we're using in terms of the environment, stormwater, and et

1 cetera.

2           So, I wanted to also -- if we can go back up to the  
3 first slide, please -- is that possible -- no, I'm sorry, just the  
4 one that was just before. That one, yes.

5           I think it's important to talk about the architectural  
6 context of the building, itself, also, and the community. Just to  
7 the north of this property, directly to the north and adjacent to  
8 this property and to the east, directly across the street, there's  
9 a series of three- to four-story apartment buildings that are  
10 fully brick. We think that this building design is a bit more  
11 modern, but also, it acknowledges and captures a reflection to the  
12 existing property that is there. The existing home that is there  
13 is a wood-frame house. It has old clapboard siding, and it has  
14 just a masonry-based foundation wall.

15           We tried to acknowledge that architecture but reflect it  
16 in the use of more modern materials and give the same type of  
17 feeling, as this building will not be just a large apartment  
18 building like the others that surround us.

19           CHAIRPERSON HILL: Mr. Jordan?

20           MR. JORDAN: Yes.

21           CHAIRPERSON HILL: I'm sorry to interrupt you, but I  
22 guess I appreciate and I'm trying to understand what other things  
23 you might want to talk about right now. I mean, I guess I know  
24 that your attorney has to leave at four o'clock.

25           MR. JORDAN: Okay.

1 CHAIRPERSON HILL: Really, what I'm just trying to get  
2 at is really, I think, you know, we've all read the record and  
3 we've all gone through the record and for some of us, we've even  
4 been on this case before, right.

5 MR. JORDAN: Sure.

6 CHAIRPERSON HILL: And so, I'm trying to hear from Mr.  
7 Freeman again, really, how they're meeting that variance standard  
8 and that's what I think is going to be the big discussion. So, if  
9 we could have Mr. Freeman kind of hone in on that and then after  
10 that, you can talk about the other relief that you're asking for,  
11 as to why you're meeting that criteria, but it's the three prongs  
12 that we're going to be struggling with here.

13 MR. JORDAN: Let's do that.

14 MR. FREEMAN: Let's do this. Let's advance slides.  
15 Next slide. Next slide. Next slide. Next slide.

16 All right. Let's start with this. And I might get Mr.  
17 Jordan to come back, because some of the relates to the  
18 programmatic needs of the use, so that's why I wanted Mr. Jordan  
19 to go through that. But let's start with this.

20 I think it's well-documented, and we have a bunch of  
21 citations here, that there is a more flexible review standard for  
22 non-profit organizations, as outlined in Court of Appeals cases  
23 and the Board has applied that more flexible standard in a number  
24 of cases listed here.

25 I would suggest that in our case, we're a nonprofit. We

1 are a hundred percent affordable. We are entitled to that more  
2 flexible evaluation of the variance standards, as you look at our  
3 facts here.

4 Next slide.

5 So, we have here a list of cases in which the BZA  
6 granted use variances, some of which directly apply to more of a  
7 use than -- introduction of a use or more of a use than what was  
8 permitted. But we're past that, so next slide. Next slide.

9 So, I'll start with this. In our case, as the Board is  
10 aware, relief can be granted based on a confluence effect. So,  
11 here's my list. I'll just go through my list of factors in no  
12 particular order. I say all of this to say, our materials do it  
13 much more articulately than I'm about to, so anything that I miss,  
14 feel free to -- you will see that in our records.

15 So, one, I start with the nonprofit issue. Two, we are  
16 an exceptionally narrow lot, as compared to the lots to our north  
17 and south. To our immediate north is a huge lot that's improved  
18 with a huge apartment building and a huge 60-foot-plus garage,  
19 where it's surrounding by a huge church to the south. Unlike  
20 those other properties, we also don't have any alley access, so  
21 that's what necessitates the need for our driveway in its  
22 location.

23 Commissioner Miller did a great job with describing the  
24 fact that the regulations have changed since the Board last  
25 approved this project. The Court of Appeals and the Board of

1 Zoning Adjustment have recognized that a change in zoning  
2 regulations can create or be a basis for zoning relief.

3           So, again, our view is that the change in the zoning  
4 regulations contribute to us meeting the variance standard. In  
5 addition, as Mr. Miller mentioned, the Board granted the same  
6 exact project. So, the only thing -- again, the only thing that  
7 has changed is that the regulations have challenged, as Mr. Miller  
8 described. This was not intended to be -- that change was not  
9 intended in any way to stop this project from moving forward.

10           The Board has also recognized what I will call the  
11 institutional necessities of an applicant and in this case, I  
12 think you heard Dr. Woody -- I know you heard Dr. Woody describe  
13 in detail kind of the communal -- and you heard Mr. Jordan  
14 describe in detail, the communal nature of this project. So, as  
15 we were going through the floor plans, you would have seen --  
16 there's a lot of -- this isn't like an apartment building where  
17 every unit has its own space, but the cellar, the first floor, and  
18 the roof, also have a shared kitchen, shared laundry, a bunch of  
19 shared facilities in order to have people come and congregate  
20 together in these shared spaces. And by doing that,  
21 programmatically, that's what causes, for example, the need for  
22 some additional lot occupancy.

23           So, I can go back to the slide to show you, but if we  
24 were to reduce the lot occupancy and provide a 20-foot drive  
25 aisle, that would chop off a substantial portion of the ground

1 floor and, again, that square footage, that space is necessary to  
2 support the constitutional needs of the Mary's House and, again,  
3 the communal nature of the layout.

4 An additional, specific design requirement is that in  
5 this case, given that all of our units are affordable to seniors,  
6 the units are all on the second and third floor. They all have to  
7 be ADA accessible, which means our hallways are much larger than a  
8 "normal hallway." So, the need to make our hallways larger, also  
9 slightly extends our footprint to make a -- and, therefore,  
10 increase the lot occupancy requirement.

11 And last but not least, and this goes to the area  
12 variance versus the use variance, I think in this case, and I can  
13 share with you, our financing for this project is predicated on 15  
14 units. So, the approval of less than 15 units means there is no  
15 project. So, if that's not a practical difficulty or an undue  
16 hardship, I don't know what is.

17 I'm happy to read a portion of the DHCD award letter.  
18 It says congratulations -- this is from DHCD to Dr. Woody, and it  
19 references the fact:

20 "Congratulations, this letter is to advise you that the  
21 Mary's House proposal has been selected. Twenty-eight proposals  
22 were submitted for consideration. This proposals; i.e., the  
23 Mary's House proposal is one of the nine that were selected from a  
24 highly competitive process."

25 So, if this BZA relief is not approved, there is no

1 funding and no project to be built. We do not have any type of  
2 funding to build eight units.

3           And last, but not least, again, all of the units are  
4 affordable. We have units at 30 to 50 percent (audio  
5 interference). We actually have some units at 0 to 30 percent  
6 MFI. We have some units at 31 to 50 percent. And then we have  
7 some at 51 to 80. So, all of the units are affordable, which, in  
8 our view, might go to the third element: no adverse impact.

9           I can talk a little bit more about the site condition if  
10 you'd like, for example, we moved the driveway to the south end of  
11 the building instead of the north end of the building, because  
12 there's a 20-foot driveway at the north end of the building. But,  
13 again, at a very high level, which we go through in much more  
14 detail in our application statement, I think I just described like  
15 10 points that we think clearly indicate how we meet the standard  
16 of relief, and I would argue, which the Board found sufficient to  
17 grant the prior relief.

18           So, hopefully, Chairman Hill, that answers your  
19 questions, but I'm certainly happy to answer any other additional  
20 questions you might have.

21           CHAIRPERSON HILL: Okay. Mr. Young, can you drop that  
22 slide deck for a minute.

23           Okay. Ms. Brown-Roberts, can you hear me?

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

25           CHAIRPERSON HILL: Can you speak to your report.

1 MS. BROWN-ROBERTS: I didn't hear you.

2 CHAIRPERSON HILL: Could you please speak to your report  
3 (audio interference) the issue from 8 to 15 units.

4 MS. BROWN-ROBERTS: Okay. Good afternoon, Mr. Chairman.  
5 Let's see. As outlined in our report, the CCRC meets the special  
6 exception for the CCRC to exist, except for the 15 units in  
7 instead of 8, which is the requirement.

8 The applicant is presented with an extraordinary  
9 situation in that the property owner, which is Mary's House, is a  
10 nonprofit organization that provides additional housing. The  
11 population is highly underserved and would impose an undue  
12 hardship on the (audio interference) if the proposal was approved  
13 on (audio interference) just for 8 units.

14 Due to the funding circumstances, which is beyond its  
15 control, the applicant wasn't able to submit the building permit  
16 that would have vested the property and if they are not able to do  
17 the 15 units, then they will lose that funding for the property  
18 for the development.

19 There would not be a substantial detriment to the public  
20 good as the 15-person facility would be compatible with the  
21 adjacent residential users and it is not a vision to generate any  
22 excessive noise or sounds that would disturb adjacent properties.

23 It meets -- there's no substantial detriment to the zone  
24 plan as the R-3 zone permits a variety of residential uses by-  
25 right and with special exception.

1           With the CCRC, it would be a compatible use, as it meets  
2 all the requirements of subtitle -- of Section 203.1(g), which  
3 grants a special exception, and that was discussed before and,  
4 therefore, it would continue to meet these requirements, thereby  
5 maintaining the integrity of the zone.

6           And in relation to the driveway width, the lot has a  
7 width of 60 feet, which is unlike other (audio interference) and  
8 it is surrounded on all three sides by other properties without  
9 any access from the alley, which is an exceptional situation.

10           The lack of an alley and the requirement to place the  
11 parking spaces to the rear of the building necessitates that there  
12 is a drive aisle. Having to meet the side yard, in addition to  
13 the drive aisle would be a practical difficulty, as that would  
14 substantially lead to a smaller building, which would affect the  
15 use and make it not viable.

16           The drive aisle would provide access to four parking  
17 spaces in the rear. Again, if it were -- if the minimized drive  
18 aisle is not allowed, it could reduce in a reduction in the size  
19 of the building, which would result in a loss of units.

20           Granting the reduction of drive aisle would not cause  
21 any substantial impairment to the intended purpose (audio  
22 interference) zone plan, as a driveway would simply provided, it  
23 would be a less-narrow. The requirement allows for two cars to  
24 pass each other. In this case, it is just serving four units,  
25 and, therefore, it is not envisioned that vehicles would be

1 passing each other in this area.

2 With four spaces, that means that it won't be frequently  
3 traveled. So the drive aisle with reduction should have no impact  
4 on the purpose and the integrity of the zoning regulations.

5 Regarding the lot occupancy and the side yard, again,  
6 the plan is required to provide a larger floor (audio  
7 interference) in order to meet the ADA requirements on all the  
8 levels, which would result in the building occupancy that is  
9 larger than allowed. If the applicant were to meet the lot  
10 occupancy requirement, then in addition to the required side  
11 yards, the buildings would have to be significantly reduced and,  
12 again, this would make the project not viable.

13 The relief for the side yard and the lot occupancy would  
14 not be detrimental to the public good. It would allow the  
15 building, in relation to the other buildings are compatible and  
16 providing the side yard along the southern property line would  
17 provide some separation from the Kingdom Hall. So, having the net  
18 occupancy increase and not providing the two side yards would not  
19 be a substantial detriment to the purpose and integrity of the  
20 zoning regulations.

21 Thank you, Mr. Chairman. And I'm available for  
22 questions.

23 CHAIRPERSON HILL: Okay. Thank you, Ms. Brown-Roberts.

24 I mean, I understand the confluence of factors argument  
25 that the applicant is making and also your report.

1 Does the Board have some questions of the Office of  
2 Planning and if so, if you want to raise your hand.

3 (No verbal response)

4 CHAIRPERSON HILL: Okay. All right.

5 Let's see, then. Mr. Freeman, do you have any questions  
6 of the Office of Planning?

7 MR. FREEMAN: No, sir.

8 CHAIRPERSON HILL: Okay. Mr. Young, is there anyone  
9 here wishing to testify?

10 MR. YOUNG: We do not.

11 CHAIRPERSON HILL: Okay. Well, I didn't realize I was  
12 going to get to this part so fast. So, I guess -- so, Mr. Smith,  
13 do you have any questions for the Office of Planning?

14 MEMBER SMITH: No questions. You gave me clarification.

15 CHAIRPERSON HILL: Vice Chair John, do you have any  
16 questions of the Office of Planning?

17 VICE CHAIR JOHN: Well, I do, but I think I can discuss  
18 that when we deliberate. It's not really a question.

19 CHAIRPERSON HILL: Pardon me?

20 VICE CHAIR JOHN: It's not really a question.

21 CHAIRPERSON HILL: Okay. All right.

22 And Commissioner Miller, do you have any questions for  
23 the Office of Planning?

24 COMMISSIONER MILLER: I hesitate to ask a question I  
25 don't know the answer to, because it might not be the answer I

1 want to hear.

2 CHAIRPERSON HILL: Well, you're a wise man, Commissioner  
3 Miller. You might know -- you're an older guy now, you should  
4 know, right?

5 COMMISSIONER MILLER: I am an older guy, so I can relate  
6 to -- anyway.

7 So, part of the confluence of factors and the  
8 exceptional condition standard that you're arguing, Ms. Brown-  
9 Roberts, is part of that argument about its exceptional condition  
10 is the fact that this is a nonprofit that's providing affordable  
11 housing to an underserved, specialized community, in this case,  
12 LGBTQ SGL community? Is that part of the argument for meeting  
13 (audio interference), and if it is, I guess my follow-up question  
14 would be -- can we limit the variance to a nonprofit providing  
15 affordable housing to a specialized, underserved community as part  
16 of our zoning order?

17 MS. BROWN-ROBERTS: Yes.

18 COMMISSIONER MILLER: Okay.

19 CHAIRPERSON HILL: Can everyone mute their line if  
20 they're not talking. Okay. Thanks.

21 Then I guess we all got our questions answered.

22 Okay. Vice Chair John?

23 VICE CHAIR JOHN: So, I have a question for Ms. Brown-  
24 Roberts. So, can you describe the neighborhood again. So,  
25 looking at your report, this lot is sandwiched between the RA-1

1 Zone on three sides or two?

2           There's two sides and then the apartment building is on  
3 one side, right?

4           MS. BROWN-ROBERTS: Yes.

5           VICE CHAIR JOHN: You have it in your report  
6 somewhere -- it's page 2 -- and the street with the townhouses to  
7 the right, what's the name of that street?

8           MS. BROWN-ROBERTS: (Audio interference)?

9           VICE CHAIR JOHN: The townhouses to the (audio  
10 interference) -- but all I wanted to clarify was the zoning of the  
11 two large lots and the one across the street to what looks to be  
12 the south. I don't know.

13           MS. BROWN-ROBERTS: Okay. So, let's see. There's a  
14 property there. The apartments to the, I suppose that's the east,  
15 and then to the rear of that are some duplex, like, row houses.  
16 All of those, in addition to the property and going south, is an  
17 R-3 zone.

18           VICE CHAIR JOHN: Okay. So, I'm trying to -- as I  
19 understand this, the property is between two RA-1 zones. As I  
20 understand what I read, this lot is between two RA-1 zones.

21           I'm not hearing you.

22           CHAIRPERSON HILL: You're on mute, Ms. Brown-Roberts.  
23 Ms. Brown-Roberts, you're on mute.

24           MS. BROWN-ROBERTS: So, the properties to the east and  
25 the north are all in the RA-1 Zone. Then, from the property going

1 south and to the west, those are R-3.

2 VICE CHAIR JOHN: So, the large building -- I'm give or  
3 take to say to the left, because I really don't know what the  
4 direction is -- the large building to the left, it's bordered on  
5 two sides by a large lot.

6 Is that in the RA-1 Zone?

7 MR. FREEMAN: I wonder if it would be helpful to pull  
8 up -- I know in our application, we have a zoning map. So, why  
9 don't I pull -- get the exhibit up for you, so we can look  
10 specifically at the map, if you don't mind.

11 In our initial application, and I'm trying to find the  
12 exhibit number -- sorry, give me just a second -- 20350 -- in the  
13 case record, Exhibit Number -- the portion of the zoning map,  
14 Exhibit 11 is a zoning map which shows our -- it should show the  
15 zoning of our property, as well as that near us. Unfortunately,  
16 I'm not able to pull it up on my phone.

17 CHAIRPERSON HILL: I can see it, Mr. Freeman. It is  
18 Number 11.

19 MR. FREEMAN: Okay. Does that answer your question?

20 (No verbal response)

21 MR. FREEMAN: One thing that I would add as you look at  
22 that, just an additional kind of uniqueness for our site, although  
23 everything around our site is higher, more commercial zoning, this  
24 site was actually down-zoned. It was previously zoned R-5(a). It  
25 was down-zoned, pursuant to Zoning Commission ordered 0822. So,

1 the down-zoning combine was the prior BZA approval, in our view,  
2 contributes to the unique zoning history, and that's why when you  
3 look around, Ms. John, at everything else around us, everything  
4 else around us is much bigger and much more dense than this  
5 building would be.

6 VICE CHAIR JOHN: Okay.

7 CHAIRPERSON HILL: Ms. John, can you see that? I'm  
8 sorry. You can't see that Exhibit 11?

9 Mr. Young, if you could pull up Exhibit Number 11. It  
10 looks like the RA-1 Zone borders this lot or surrounds the lot on  
11 two sides.

12 VICE CHAIR JOHN: That was my understanding.

13 I was just trying to make sure that what I understand,  
14 you know, the situation is actually what it is. I thought that  
15 the property is practical surrounded by two RA-1 zones and there's  
16 also an apartment building in an area that might not be the RA-1  
17 Zone.

18 So, as I look at Ms. Brown-Roberts' map on the second  
19 page of her report, this one lot is sandwiched between the RA-1  
20 Zone and commercial properties with a bunch of townhouses, you  
21 know, to the north or northwest that are not connected to this  
22 property in any significant way.

23 So, that's what I was trying to understand.

24 CHAIRPERSON HILL: Mr. Young, I think -- never mind.

25 I think Ms. John is correct and has answered her

1 question. So, Mr. Young, we don't -- well, you can Zoom in you  
2 want to -- but, yes.

3 And so, Ms. Brown-Roberts, you would say yes to what Ms.  
4 John just said, correct?

5 You can unmute yourself, Ms. Brown-Roberts.

6 MS. BROWN-ROBERTS: Yes, I would say that the property  
7 to the north and to the east are in the RA-1 Zone.

8 CHAIRPERSON HILL: Okay. Thank you.

9 All right. Does anybody else have anything?

10 (No verbal response)

11 CHAIRPERSON HILL: All right. Then I guess we're going  
12 to see where we get.

13 Mr. Freeman, now you said you have to leave at four  
14 o'clock or somebody has to leave from your team at four o'clock,  
15 and so, I don't know where we're going to get, but just to be  
16 clear, if we were to actually vote on this, which I don't know  
17 what's going to happen, the -- you need to resubmit a self-cert  
18 that speaks to the fact that it's an area variance.

19 So, you understand, correct?

20 MR. FREEMAN: Sure. Absolutely.

21 And let me -- yes, I understand that.

22 CHAIRPERSON HILL: Okay. All right. And unless anybody  
23 has anything else, I'm going to close the record and we're just  
24 going to see what happens.

25 MR. FREEMAN: Can I say one last thing, because I know

1 | it's in the record -- I might have mentioned it -- I do want to  
2 | reference that we have the ANC's unanimous support, as well as a  
3 | DDOT report in support of the application, as well.

4 | CHAIRPERSON HILL: Okay. All right. Great.

5 | Okay. Then, I'm going to go ahead and close the hearing  
6 | unless anybody raises their hand. All right. I'm closing the  
7 | hearing.

8 | I'm going to excuse you guys. I'm going to take a quick  
9 | break so you all can get your thoughts together. I'm going to  
10 | take a very quick break, then I'll be right back.

11 | We can all take a quick -- let's take five minutes.  
12 | Let's take a five-minute break, okay, and then we'll be back.

13 | Okay. So, the hearing is closed. Okay. Thank you.

14 | (Recess taken)

15 | CHAIRPERSON HILL: Okay. Mr. Moy, are you there?

16 | MR. MOY: Yes.

17 | CHAIRPERSON HILL: Okay. I don't know if you have to  
18 | call us back in, but do you want to call us back in.

19 | MR. MOY: Oh, yeah, I enjoy doing that.

20 | Okay. The Board is back in session after a very, very,  
21 | very brief recess, and the time is about at or about 3:57.

22 | CHAIRPERSON HILL: Okay. Let me do this. Let's kind of  
23 | start our discussions. I'm going to start with Ms. John. If Vice  
24 | Chair John wouldn't mind?

25 | VICE CHAIR JOHN: No, Mr. Chairman, I'll start the

1 discussion and see where we are.

2           So, after listening to Commissioner Miller that it was  
3 never the intention of the Zoning Commission that this project  
4 should not go forward and the explanation of the changes, I looked  
5 again at where the lot was located in the square. And I think  
6 that the lot is unique because it is surrounded on two sides by  
7 two RA-1 zones and a huge apartment building.

8           And the only relationship to the R-3 zone would be those  
9 townhouses to what I call the northwest. I'm looking at the OP's  
10 report on the second page. And that's just a very limited  
11 relationship to the lot and, in fact, two sides of the lot are  
12 completely within the RA-1 Zone and the other RA-1 Zone is across  
13 the street if I understand it correctly.

14           So, as I see it, that factor, in addition to the fact  
15 that this project is dependent on public financing and that public  
16 financing caused that inability to obtain public financing delayed  
17 the project so that it was not able to take advantage of the  
18 limited -- or the special exception criteria approval that was  
19 approved previously, I think, creates a confluence of factors,  
20 which would allow us to find that the appropriate relief is for a  
21 use variance.

22           Because what the regulations do not allow is use of 15  
23 persons. So, I don't think it's an area variance. But because I  
24 think that it meets that first prong, which is the most difficult  
25 prong to satisfy, I'm prepared to move ahead with it and to look

1 at whether or not there's an exceptional condition affecting the  
2 property or whether there is an undue burden.

3 And I think under either the undue burden or the  
4 exceptional condition test, I think we can find that the applicant  
5 also meets that burden. And, again, I would look at the public  
6 interest standard, which would allow us to be a little bit more  
7 lenient in looking at how the applicant satisfies the burden --  
8 satisfies the criteria.

9 I also agree with the Office of Planning's analysis and  
10 the way OP has explained how the applicant meets all of the  
11 requirements so that the area variance, with respect to the  
12 driveway width and the lot occupancy and the side yard.

13 And so, that's how I would look at it, because I believe  
14 this location really is unique and so I would support it on the  
15 basis of the fact that it meets the standard for a use variance,  
16 which is, you know, the gate that opens the door to relief.

17 CHAIRPERSON HILL: Okay. So, again, and I'm comfortable  
18 with your deliberation.

19 Before I speak, I'm going to turn to Commissioner  
20 Miller, if that's okay, since Commissioner Miller, you are  
21 familiar with some aspects of this that we were not; however, just  
22 to be clear, what Vice Chair John has argued for is, again, what  
23 the applicant originally came here with, which was for a use  
24 variance from the 8 to 15 units and that's what Ms. John has just  
25 argued in favor of.

1           And so, I'm comfortable with going along with that  
2 argument. Then, I would not need to -- the applicant would not  
3 need to revise their self-cert; the application would be the way  
4 the application is captioned, because if we got to this point, Ms.  
5 John has argued that point.

6           Commissioner Miller, do you understand, and do you have  
7 anything to add?

8           COMMISSIONER MILLER: I think I understand. I  
9 appreciate Vice Chair John's comments and arguments. I actually  
10 didn't know that she was going to conclude them by saying that she  
11 supported a use variance. I think I made clear I supported  
12 whatever procedure was going to get us an outcome, because in this  
13 case, I think the confluence of factors that she cited, justify  
14 the project moving forward, in addition to the factors -- and she  
15 cited the change in zoning, the financing.

16           In fact, the change in zoning, as I pointed out earlier,  
17 was delayed to allow this project to go forward under its pre-  
18 existing special exception rule. So, it's not just that there was  
19 a change in zoning, but a change was delayed to allow this project  
20 to go forward, which the Board previously approved under pre-  
21 existing rules.

22           So, in addition to those confluence of factors, I think  
23 that I'd also -- a confluence of factors that supports us finding  
24 an exceptional condition, leading to a practical difficulty, I  
25 think the fact that I cited earlier about affordable housing

1 uniquely serving an underserved community is another factor.

2           So, I support -- I am in agreement with Ms. John's  
3 comments and I'm prepared to move forward.

4           CHAIRPERSON HILL: Okay. I'm going to give my thoughts  
5 and then, Mr. Smith, I'll conclude with you, if that's all right.

6           I'm in agreement with Ms. John and now Commissioner  
7 Miller in terms of how they're meeting -- I mean, I think there  
8 is -- this is a very unique situation. There is a confluence of  
9 factors beginning even with like, you know, I'd even go with the  
10 nonprofit and more of the flexibility that we're allowed to take  
11 into consideration that this was, again, a change in zoning  
12 regulations that has affected this property.

13           I think that this is such a -- I'm hoping that the order  
14 can be written in such a way that it is such a unique situation  
15 that, again, because of the institutional necessities, the  
16 communal nature of this house, and the shared facilities also  
17 would not make it, you know, an apartment house in the future,  
18 because this is something that has been designed for this. And  
19 then also the ADA and accessibility requirements that they were  
20 saying for the larger hallways.

21           I think that the finance issue is something that, again,  
22 makes this a unique situation wherein it was previously -- the  
23 unique situation (audio interference) and this is where I don't  
24 know how this will be discussed later on down the line, but that  
25 this was something that was approved, because of the financing,

1 they were unable -- there was a lapse in financing that then made  
2 it so that -- and also, then, the fact that, like, the attorneys  
3 changed over. And this is, again, a not-for-profit, not a  
4 developer who should have known what was going on, I guess, in  
5 terms of the order lapsing.

6 The (audio interference) that I thought was unique was  
7 that, you know, DHCD, this was a competitive process to get DHCD  
8 funding. They won the DHCD funding because they had 15 units.  
9 They need the 15 units in order to still do the financing,  
10 therefore, that's even a more unique situation.

11 I mean, I think I that I don't have any issues with the  
12 second or third prong of the test, and so I will be voting in  
13 favor of this as the applicant initially captioned and with the  
14 use variance for the 8 to 15 units, and that's where I am.

15 Mr. Smith, I'm going to turn to you.

16 MEMBER SMITH: So, I agree with Ms. John. I do believe  
17 that because (audio interference) does not an assisted-living  
18 facility -- what's the other criteria? -- a licensed (audio  
19 interference) a nursing-care facility, it only falls under the  
20 definition of (audio interference) community A (audio  
21 interference). By the own addition of the (audio interference) --

22 CHAIRPERSON HILL: Mr. Smith, I'm sorry, you're kind  
23 of -- you're difficult to hear. I don't know, maybe lean a little  
24 bit further in.

25 MEMBER SMITH: Okay. Sorry.

1           So, I do agree with Ms. John's analysis that this does  
2 have to have a use variance, because by the admission of the OP's  
3 staff report, the only type of continuing-care retirement facility  
4 is a dwelling for independent living, which does limit that to  
5 eight, per the zone. So, the request is for the use of (audio  
6 interference) variance.

7           And I agree with your analysis and Ms. John's analysis.  
8 I may be shocked to find that (audio interference) very  
9 restrictive when it comes down to use variances that I have seen  
10 since I've been on the Board, but I do agree with everyone's  
11 analysis and that this particular project was contingent upon  
12 public financing, which can be slow to procure. And in it being  
13 slow to procure, it, unfortunately, was caught up in the zoning  
14 changes approved by the Zoning Commission.

15           So, I think it's just an unfortunate situation that this  
16 particular project was put in. I do believe that it meets the  
17 area variance prongs for the other technical criteria and also it  
18 meets the second and third prong for a use variance, but also,  
19 based on the analysis that was conducted by my fellow board  
20 members, I do believe that it meets the first prong of the use  
21 variance, so I would support this request by the applicant.

22           CHAIRPERSON HILL: Okay. All right.

23           So, to be clear, Mr. Moy, I don't have to -- this  
24 caption is remaining the way it is. I'm just letting you know.

25           MR. MOY: That's great.

1 CHAIRPERSON HILL: Okay. So, I'm making a motion, then,  
2 to approve application Number 20 -- okay, hold on.

3 The one last thing, I guess, was -- and we didn't  
4 mention, I guess, but that there was a -- it wasn't a condition,  
5 per se. The ANC 7(f) had a condition from even their previous  
6 finding -- I'm sorry -- the previous order wherein they had asked  
7 the applicant to try to use construction companies up to a certain  
8 percentage for the project within the ANC, I think. And the ANC  
9 also stated that they understood that this would be something that  
10 would probably be outside of the Board's purview, which it is,  
11 and, therefore, it's really now between the ANC and the property  
12 owner to help fulfill what was discussed.

13 So, I'm just being clear that we've talked about it and  
14 that the property owner understands that they have excused with  
15 the ANC about what their hiring hopes were for the project. So,  
16 I'm not implementing that as a condition, I'm just mentioning that  
17 for the record.

18 Okay. So, I'm going to go ahead and make a motion to  
19 approve Application Number 20350, as captioned appeared and read  
20 by the secretary, and ask for a second, Ms. John.

21 VICE CHAIR JOHN: Second.

22 CHAIRPERSON HILL: The motion has been made and  
23 seconded.

24 Mr. Moy, could you take a roll call vote.

25 MR. MOY: When I call your name, if you would please

1 respond with a yes, no, or abstain to the motion made by Chairman  
2 Hill to approve the application as captioned and advertised.

3 The motion was seconded by Vice Chair John.

4 Zoning Commissioner Rob Miller?

5 COMMISSIONER MILLER: Yes.

6 MR. MOY: Mr. Smith?

7 MEMBER SMITH: Yes.

8 MR. MOY: Vice Chair John?

9 VICE CHAIR JOHN: Yes.

10 MR. MOY: Chairman Hill?

11 CHAIRPERSON HILL: Yes, to approve.

12 MR. MOY: We have a Board seat vacant.

13 Staff would record the vote as 4 to 0 to 1, and this is  
14 on the motion of Chairman Hill to approve and seconded by Vice  
15 Chair John, also in support of the motion, Mr. Smith, and Zoning  
16 Commissioner Rob Miller.

17 The motion carries, sir.

18 CHAIRPERSON HILL: Okay. Great. Thank you, Mr. Moy.

19 I guess what we'll try to do -- and I don't know --  
20 since maybe we can let Commissioner Miller off the hook, since  
21 Chairman Hood has been waiting around all day, but let me just see  
22 if there was -- there was that one thing, motion to set aside,  
23 with KD's Klubhouse that we started at the very beginning of the  
24 day and I don't know whether you've got any feedback from them as  
25 to whether they're ready to continue or not?

1 MR. MOY: No, I have not. I do not know yet.

2 Do you want me to read that first or do you want me to  
3 just go ahead and call the case?

4 CHAIRPERSON HILL: No --

5 MR. MOY: Mr. Young?

6 CHAIRPERSON HILL: No, I don't want you to call the case  
7 if you don't know.

8 MR. MOY: I don't know.

9 CHAIRPERSON HILL: Go ahead and reach out to them.

10 Mr. Miller, is it okay if we just keep chugging along  
11 here and see if we need you at the end?

12 COMMISSIONER MILLER: That's fine.

13 CHAIRPERSON HILL: All right. Then, Mr. Moy, why don't  
14 you go ahead and reached out to them while we go back into the  
15 meeting -- oh, sorry, go ahead.

16 MR. MOY: I just got a note from my staff that documents  
17 were just uploaded into the record. This is the KD's Klubhouse,  
18 so maybe you want to take a look at it first before we go any  
19 further, if you want to entertain them first, or do you just want  
20 to continue with your approach now and just go to the decision  
21 cases?

22 CHAIRPERSON HILL: No, no, we're going to have to take a  
23 look at it, I guess.

24 MR. MOY: Okay. We'll just good to the decisions, then.

25 CHAIRPERSON HILL: No, no, no. I mean, I can't look at

1 | it while we do the decisions, so we're either going to have to --  
2 | let me just -- I'll tell you what. Why don't we take, why don't  
3 | we all take like just five minutes here, take a look at the things  
4 | we're going to -- I'm going to turn off my camera and mute, take a  
5 | look at the things and then come back, okay.

6 |           Okay. Thanks.

7 |           (Recess taken)

8 |           CHAIRPERSON HILL: Okay. Mr. Moy, are you there?

9 |           MR. MOY: Yes, I'm back.

10 |           CHAIRPERSON HILL: Okay. Do you want to call us back  
11 | in.

12 |           MR. MOY: Okay. The Board is back in session and the  
13 | time is at or about 4:24 p.m.

14 |           CHAIRPERSON HILL: Okay. I need to clarify something  
15 | for the Board. So, on that previous case that we just discussed,  
16 | the 20350, the Mary's House for Older Adults, it got somewhat  
17 | caught up in -- while we were -- I got a little bit caught up in  
18 | the whole thing, but there was, like, some time limitation for the  
19 | applicant's attorneys and I was trying to get right to the point  
20 | of what I thought the crux of the case were.

21 |           There was one thing concerning -- there was a waiver  
22 | from the 40-day notice requirements. I believe that I don't have  
23 | an issue with waiving the notice from the 40-day requirements, and  
24 | OAG, you can tell me if I need to do anything different about how  
25 | I'm handling this, but I just wanted to clarify for the record,

1 and also the 21-day filing rule. I don't think it's going to  
2 prejudice any parties to waive those requirements.

3 The last thing I wanted to mention was that there was  
4 design flexibility that the applicant had asked for that we never  
5 got to and the Board never approves design flexibility. So, if --  
6 we would not be approving design flexibility. Like, however they  
7 have -- whatever the plans are now is how the plans need to be,  
8 and if they have to come back and get flexibility later, they can  
9 come back and get flexibility later. So, I'm just going to do  
10 this on consensus from my fellow board members.

11 If there's any opposition to any of the things that I  
12 just mentioned, please raise your right hand.

13 (No verbal response)

14 CHAIRPERSON HILL: Okay. I don't see any of you guys  
15 raising your hands, so that, hopefully, now, is cleared up.

16 Mr. Rice, are you clear on those?

17 MR. RICE: Yes, sir.

18 CHAIRPERSON HILL: Okay. Great.

19 I love the "sir," Mr. Rice. It's just great. And I'll  
20 tell you if my wife would just call me sir or, like, you know, or  
21 like, that would be -- no, that wouldn't work.

22 All right. So, that's that.

23 Okay. So, now we're back to KD's Klubhouse. So, Mr.  
24 Moy, if you want to call that and ask the people to come back.

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

1           For the case transcript, it's probably better if I  
2 restate the caption for easy read for the transcript. So, this is  
3 case application Number 20368 of KD's Klubhouse with a "K," and  
4 this is for a special exception under the R-use requirements of  
5 Subtitle U § 203.1(h) to permit the operation of a child  
6 development center for 160 children in the RF-1 Zone, at premises  
7 4025 9th Street SE (Square 6159, Lot 124).

8           CHAIRPERSON HILL: Okay. Great.

9           All right. Let's see, Ms. Arnold, could you introduce  
10 yourself for the record, again, please.

11          MS. ARNOLD: Good evening. Tracy Arnold.

12          Would you like me to provide my address again?

13          CHAIRPERSON HILL: Okay. Go ahead.

14          MS. ARNOLD: Okay. 9560 Marlboro Pike, suite 204, Upper  
15 Marlboro, Maryland.

16          CHAIRPERSON HILL: Okay. Thank you.

17          MS. ARNOLD: Representative of KD's Klubhouse.

18          CHAIRPERSON HILL: Okay. Great. Thank you.

19          Ms. Douglas, could you introduce yourself, please, the  
20 record.

21          MS. DOUGLAS: Katrina Douglas. Address 17 Brandywine  
22 Street SW, Washington, D.C., 20032.

23          CHAIRPERSON HILL: All right. Ms. Douglas, well,  
24 welcome. I guess the children have come home now?

25          MS. DOUGLAS: They're still here, but I don't have that

1 many.

2 CHAIRPERSON HILL: Okay. All right. There you go.

3 All right. Let's see, Ms. Brown-Roberts, are you there?

4 MS. BROWN-ROBERTS: Yes, Mr. Chairman. I am.

5 CHAIRPERSON HILL: Okay. So, what we were waiting for  
6 was a letter -- if you would mute yourself -- thank you.

7 We got your letter of authorization. We have actually  
8 something from DDOT saying that they're fine with your -- let me  
9 just see where I'm looking -- I had it a second ago. Your TDM --  
10 was it the TDM plan? What was it that comes from DDOT? Oh, no,  
11 the bike racks.

12 Oh, there it is.

13 VICE CHAIR JOHN: And the landscaping.

14 MS. ARNOLD: And the landscaping.

15 CHAIRPERSON HILL: Right. No, no, no, I'm just saying  
16 DDOT -- I got the thing from DDOT here about your diagram. So,  
17 they're fine with your diagram.

18 And then also, the landscaping -- right -- and the  
19 retaining wall, okay, and then the bike racks.

20 Okay. So, Ms. Brown-Roberts, do we have everything in  
21 the record now?

22 MS. BROWN-ROBERTS: Yes, Mr. Chairman, I think so.

23 CHAIRPERSON HILL: Okay. All right.

24 Do I need -- please mute yourself -- if everybody could  
25 mute themselves, thank you.

1           Mr. Rice, I did -- we did waive the 21-day filing  
2 deadline, right, for everything. And now I'm waiving the 21-day  
3 filing deadline for everything that we just put in the record now,  
4 because I believe the Board needed it, requested it, and it's not  
5 going to prejudice any parties.

6           So, unless the Board has any issues with anything in  
7 waiving anything, let me know. Raise your hand.

8           (No verbal response)

9           CHAIRPERSON HILL: Nope. Nobody is raising their hands,  
10 so that's okay.

11           Let's see. We did get, also, something from the ANC now  
12 that, as I understood it, would now allow us to give the ANC great  
13 weight.

14           Is that correct, Mr. Rice?

15           MR. RICE: That's correct.

16           CHAIRPERSON HILL: Okay. All right. Great.

17           Then, we have already kind of heard this case now, and  
18 Ms. Arnold has presented, as has Ms. Douglas, as has Ms. Brown-  
19 Roberts. We asked whether or not we were going to hear from  
20 anyone who was going to provide testimony, and no one was signed  
21 up at the time.

22           And, Mr. Young, that's still the case, correct?

23           MR. YOUNG: That's correct.

24           CHAIRPERSON HILL: All right. Then, I don't have any  
25 further questions about anything.

1 Does the Board have any questions of anyone, and if so,  
2 please right hand.

3 (No verbal response)

4 CHAIRPERSON HILL: Okay. All right.

5 Ms. Arnold, is there anything that you'd like to add in  
6 conclusion?

7 MS. ARNOLD: No, not at this time.

8 CHAIRPERSON HILL: Okay. All right.

9 Well, Ms. Douglas, if this goes through, you take care  
10 of all those children, all right.

11 Okay. Then I'm going to close the -- you're welcome. I  
12 think you said thank you, but --

13 MS. DOUGLAS: Yes.

14 CHAIRPERSON HILL: Okay. So, I'm going to go ahead and  
15 close the hearing. Thank you, guys, for hanging around all day  
16 and now you're excused.

17 I can go ahead and start deliberating. I didn't really  
18 have any problems with the application or the OP's conditions.  
19 And the OP's conditions, they agreed to, as did they agree to  
20 DDOT's conditions, which are now already provided for, so I don't  
21 think we have to go over those again.

22 I do believe they've met the criteria in order for us to  
23 grant the relief requested. I am also happy to see now that the  
24 ANC was able to get in the information over AD and the way that  
25 we're able to give them great weight.

1           And I do thank them, if the ANC is listening, that they  
2 were able to get that in. It does provide some information to the  
3 Board that we're actually able to give you great weight with. So  
4 thank you very much for taking the time to do that.

5           And I'm going to be voting in approval of this  
6 application.

7           Commissioner Miller, would you like to add anything?

8           COMMISSIONER MILLER: No, Mr. Chairman.

9           I would just like to thank the applicant for their  
10 patience as we review and we worked through our due diligence on  
11 the conditions from DDOT and thank the applicant for community  
12 engagement with the AD and providing a needed child development  
13 center in that neighborhood, and I'm prepared to move forward, as  
14 well.

15           CHAIRPERSON HILL: Okay. Great. Thank you.

16           Mr. Smith?

17           MEMBER SMITH: I don't have anything to add, Mr. Chair.  
18 I'm in support of this request.

19           CHAIRPERSON HILL: Vice Chair John?

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

21           CHAIRPERSON HILL: Okay. I'm going to go ahead and make  
22 a motion, then, to approve Application Number 20368, as captioned  
23 and read by the second, and ask for a second, Ms. John.

24           VICE CHAIR JOHN: Second.

25           CHAIRPERSON HILL: The motion has been made and

1 seconded, Mr. Moy.

2           Could you please take a roll call vote.

3           MR. MOY: Yes, thank you Mr. Chairman.

4           When I call your name, if you would please respond with  
5 a yes, no, or abstain to the motion made by Chairman Hill to  
6 approve the application for the relief requested. The motion was  
7 seconded by Vice Chair John.

8           Zoning Commissioner Rob Miller?

9           COMMISSIONER MILLER: Yes.

10          MR. MOY: Mr. Smith?

11          MEMBER SMITH: Yes.

12          MR. MOY: Vice Chair John?

13          VICE CHAIR JOHN: Yes.

14          MR. MOY: Chairman Hill?

15          CHAIRPERSON HILL: Yes.

16          MR. MOY: And we have a seat vacant.

17          Staff would record the vote as 4 to 0 to 1, and this is  
18 on the motion of Chairman Hill to approve the application, along  
19 with the conditions that was agreed to in the OP and the DDOT  
20 report, correct?

21          CHAIRPERSON HILL: Yes, Mr. Moy. Thank you.

22          I'm sorry, I'm forgetting all this stuff. Yes, the  
23 conditions that were in from the Office of Planning and the DDOT  
24 report that the applicant had agreed to and also fulfilled.

25          MR. MOY: Okay. And the motion was seconded by Vice

1 Chair John, and, again, the vote is 4 to 0 to 1.

2 The motion carries.

3 CHAIRPERSON HILL: Okay. Great.

4 Commissioner Miller, can you hear me?

5 COMMISSIONER MILLER: Yes, I can.

6 CHAIRPERSON HILL: Commissioner Miller, I would just  
7 like to say, because you're done with us now for the day, and Ms.  
8 John and Mr. Smith, it's nuts where I am right now, right, and so,  
9 I would just like to say, and it's kind of late in the day, so I  
10 get a little -- and you can get a little eh emotional, and I have  
11 this microphone on all the time, we did some good work today.  
12 There are awful things going on. We did some good work today.

13 And I thank you all for working with you and being part  
14 of this SFI and being part of this process, because I love this  
15 city and we did some good work today, okay:

16 COMMISSIONER MILLER: Good job, Mr. Chairman.

17 VICE CHAIR JOHN: Thank you, Mr. Chairman.

18 Are you back with us, Mr. Miller in two weeks?

19 COMMISSIONER MILLER: (Audio interference).

20 VICE CHAIR JOHN: We're off next week --

21 COMMISSIONER MILLER: Oh, okay.

22 VICE CHAIR JOHN: -- so, I was asking if you would be  
23 back in two weeks?

24 COMMISSIONER MILLER: No, I originally -- I think that's  
25 Chairman Hood's meeting. We originally were switching because I

1 was supposed to be in Florida this week and that obviously did not  
2 happen. So, I think Chairman Hood is on as the regular BZA  
3 person. I don't know if I have any cases to carry-forward, but I  
4 think Chairman Hood, who I can see, he can verify that he is the  
5 zoning commissioner in two weeks.

6 CHAIRMAN HOOD: I want to see if Ms. John is as excited  
7 as me being here on the 27th, as she was about you. That's what  
8 (audio interference).

9 (Laughter)

10 CHAIRPERSON HILL: All right. Well, Commissioner  
11 Miller, you enjoy the inaugural or whatever and stay safe.

12 COMMISSIONER MILLER: I will monitor your proceedings as  
13 I've been monitoring other proceedings, as well. Bye-bye.

14 CHAIRPERSON HILL: Bye-bye.

15 (Whereupon, the above-entitled matter went off the  
16 record.)

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C E R T I F I C A T E

This is to certify that the foregoing transcript

In the matter of: Public Hearing

Before: DCBZA

Date: 1-13-21

Place: Teleconference

was duly recorded and accurately transcribed under my  
direction; further, that said transcript is a true and  
accurate record of the proceedings.

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