

GOVERNMENT  
OF  
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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REGULAR PUBLIC MEETING

+ + + + +

WEDNESDAY

JANUARY 13, 2021

+ + + + +

The Regular Public Meeting of the District of Columbia Board of Zoning Adjustment convened via video-teleconference, pursuant to notice at 9:39 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

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D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

JOHN K. RICE, ESQUIRE  
ALEXANDRA CAIN, ESQUIRE

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

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

I. MOTIONS

Motion for Special Exceptions in Application No. 20313 of FHD, LLC . . . . .	6
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II. DECISIONS

Case No. 20290 - Application of Vitis Investments, LLC . . .	11
Case No. 20328 - Application of Madison Heights, LLC . . .	18

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

2 (9:38 a.m.)

3 CHAIRPERSON HILL: All right. This meeting will please  
4 come to order.

5 Good morning, ladies and gentlemen. We're convened and  
6 broadcasting this decision meeting by videoconference.

7 This is the January 13th, 2021 public meeting of the  
8 Board of Zoning Adjustment of the District of Columbia.

9 My name is Fred Hill, Chairperson. Joining me today is  
10 Lorna John, Vice Chair and Chrishaun Smith, Board Member.

11 Representing the Zoning Commission is Anthony Hood for a  
12 few cases; and Peter Shapiro for one case and then later we're  
13 going to have Rob Miller.

14 Today's meeting agenda is available to you on the Office  
15 of Zoning's website.

16 Please be advised that this proceeding is being recorded  
17 by a court reporter as well as webcast live via Webex and YouTube  
18 Live.

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

21 Accordingly, everyone who is listening on Webex by  
22 telephone will be muted during the meeting. We do not take any  
23 public testimony in our decision meetings.

24 If you're experiencing difficulty accessing Webex or  
25 your telephone call, please call our Hotline at 202-727-5471.

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1 | Once again ,202-727-5471 to received Webex login or call-in  
2 | instructions.

3 |           At the conclusion of this meeting session, I shall, in  
4 | consultation with the Office of Zoning, determine whether a full  
5 | or summary order may be issued. A full order is required when a  
6 | decision that contains is adverse to a party, included an affected  
7 | ANC.

8 |           A full order may also be needed if the Board's decision  
9 | differs from the Office of Planning's recommendation.

10 |           Although the Board favors the use of summary orders  
11 | whenever possible, an applicant may not request the Board to issue  
12 | such an order.

13 |           Preliminary matters are those which relate to other  
14 | cases which will be heard today such as requests for a  
15 | postponement, continuance of the trial or whether proper and  
16 | adequate notice has been given for the meeting.

17 |           Mr. Secretary, do we have any preliminary matters?

18 |           MR. MOY: Good morning, Mr. Chairman and members of the  
19 | Board. We do, but staff would suggest it would be more efficient  
20 | to address these preliminary matters when I call the -- when I  
21 | call the case in this meeting session.

22 |           CHAIRPERSON HILL: Okay. I agree. All right.

23 |           So, then, that being the case, the first one I have here  
24 | is 20313, I think, Mr. Moy and, if that's correct, if you could  
25 | read us into it.

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

2 So the first case application for decision is No. 20313  
3 of FHD, LLC.

4 This application was amended for a special exception  
5 under the RA-use requirements of Subtitle U, Section 421.1 and  
6 pursuant to Subtitle F, Section 5201 from the side yard  
7 requirements of Subtitle F, Section 306.2. This would construct a  
8 three-story rear addition and convert the semi-detached principal  
9 dwelling unit into a 5-unit apartment building in the RA-1 Zone at  
10 premises 4310 2nd Street, N.W., Square 3318, Lot 811.

11 This Board will recall this was last hear at its hearing  
12 on December 23rd, 2020, and the Board is aware that there are two  
13 preliminary matters to this case.

14 CHAIRPERSON HILL: What are those preliminary matters,  
15 Mr. Moy?

16 MR. MOY: Okay. One is there was a request to reopen to  
17 allow the request for a party status, I believe. And the other is  
18 the applicant's request for the Board to continue its decision to  
19 a future date.

20 CHAIRPERSON HILL: Okay. All right.

21 Okay. Why again do they want to continue? Let me look  
22 here. Okay. This is about the tax law at issue; is that correct,  
23 Mr. Moy?

24 MR. MOY: Yes. That's my belief and if -- and I believe  
25 the applicant needed additional time to confirm his --

1 CHAIRPERSON HILL: Okay.

2 MR. MOY: -- next steps for further information into the  
3 record.

4 CHAIRPERSON HILL: All right. So --

5 VICE CHAIR JOHN: Mr. Chairman, I believe that's  
6 correct.

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

8 I don't have an issue continuing this because we didn't  
9 get the stuff we necessarily ask for anyway, I don't think. And I  
10 guess there's still a little bit of discrepancy as to how this  
11 should necessarily proceed.

12 In terms of the party status, I guess we could reopen  
13 the record. And I'm just kind of talking this through with my  
14 colleagues; reopen the record and give until February 13th for the  
15 applicant to respond to the party status response; meaning  
16 February 13th.

17 And then we could hear the party status request on  
18 January 27th, and then I think this is -- Commissioner Shapiro is  
19 on this. And then we might go ahead and postpone the continued  
20 hearing until February 10th.

21 If everyone agrees with that, we could go ahead and go  
22 with that timeline. And then, my only thought on the party  
23 status, and I'll just of talk through it a little bit with  
24 everyone who's here now, is that it seems as though the person who  
25 had requested party status I think was the immediate next-door

1 neighbor and a lot of -- or not a lot, some of the issues that the  
2 person who has requested party status, I think we addressed at the  
3 hearing itself concerning -- you know, I think that there was a  
4 tree issue and there were some other concerns that the applicant  
5 had -- I'm sorry, that the opposition had. And I think we pretty  
6 much heard everything.

7 But I guess we can go ahead and discuss that party  
8 status request on the 13th -- I'm sorry, on the 27th and then  
9 after we hear what the applicant has to say about the party status  
10 on February 13th.

11 So does everyone agree with that timeline?

12 Mr. Shapiro?

13 COMMISSIONER SHAPIRO: I won't be available on January  
14 27th. I am available on the February date.

15 CHAIRPERSON HILL: Mr. Moy, is Commissioner Shapiro able  
16 to submit an absentee concerning the party status?

17 MR. MOY: (No audible response).

18 CHAIRPERSON HILL: You're on mute, Mr. Moy.

19 MR. MOY: Yeah. I would defer that to Mr. Rice because  
20 I think deliberating on a party status may involve some  
21 conversation with the Board and he would not be present to be able  
22 to do that.

23 In other words, there could be additional --

24 CHAIRPERSON HILL: I got it.

25 MR. MOY: Yeah.

1 CHAIRPERSON HILL: So, before we then -- we could  
2 deliberate on the 3rd, February 3rd. Mr. Shapiro, are you around  
3 February 3rd?

4 COMMISSIONER SHAPIRO: I am, Mr. Chair.

5 CHAIRMAN HILL: Okay. So then what about that? We go  
6 ahead and postpone the deliberations on the party status until the  
7 3rd, February 3rd, and then we would still keep the same deadline  
8 of -- well, wait a minute. Today's the 13th. I'm a little  
9 confused.

10 We could give the applicant time to respond to the party  
11 status by January 27th, Mr. Moy?

12 MR. MOY: Yeah. I think you can keep the original day  
13 as January 27. My only disconnect maybe, because I haven't had my  
14 second cup of coffee yet, but an earlier deadline for the  
15 applicant to respond to the neighbor's party status, you gave a  
16 date of January 13th, but then to continue the Board's decision on  
17 -- I mean, February 13th, but then the Board to continue its  
18 decision on February the 10th. The 10th is before the 13th, if I  
19 recall, unless I'm missing something. I would prefer to have your  
20 decision later than February 13th.

21 CHAIRPERSON HILL: Yeah. I'm sorry. I'm confused. I'm  
22 also looking at some notes here that I was trying to -- and you  
23 guys don't -- Mr. (audio interference) unless I'm wrong on this.

24 So what I'm proposing is we reopen the record only for  
25 the party status issue and then we allow the applicant until

1 January 27th to respond to the party status. And then we would  
2 deliberate about party status on February 3rd. And then we would  
3 have the continued hearing on February 10th.

4 MR. MOY: Okay. Okay. I think that timeline works.  
5 Yeah.

6 CHAIRPERSON HILL: Mr. Rice is trying to say something.

7 MR. RICE: I believe those dates would work. The only  
8 thing is it needs to be clear that you're opening the record so  
9 that the applicant -- I'm unclear whether you want to reopen the  
10 applicant for not only the applicant's response to the party  
11 status request as well as the applicant's submissions that were  
12 required at the prior hearing and the new submissions the  
13 applicant plans to present related to its new determination that  
14 amended relief (audio interference) out there.

15 CHAIRPERSON HILL: Right. So why don't we have all of  
16 the new filings from the applicant, including responses to the  
17 party status, by February 27th, okay? And then we can deliberate  
18 on the party status on February 3rd. And then we can have the  
19 continued hearing on February 10th.

20 MR. RICE: That seems to work. I defer to Mr. Moy on  
21 scheduling.

22 MR. MOY: Yeah. So what the staff will do, Mr.  
23 Chairman, is we'll put into black and white in an OZ memo that we  
24 will upload into the case record with this timeline.

25 CHAIRPERSON HILL: Okay. I'm writing this down myself.

1 CHAIRPERSON HILL: Okay. All right. So, Mr. Shapiro,  
2 you got those dates, Commissioner?

3 COMMISSIONER SHAPIRO: I do. February 3rd and February  
4 10th.

5 CHAIRPERSON HILL: Okay. And that's that. Commissioner  
6 Shapiro, is that it for you today?

7 COMMISSIONER SHAPIRO: That's it for me today.

8 CHAIRPERSON HILL: Okay. Well, go arm yourself.  
9 All right, Chairman Hood.

10 CHAIRMAN HOOD: Good morning. How's everyone?

11 CHAIRPERSON HILL: Good, thank you. How are you?

12 CHAIRMAN HOOD: I'm fine. Thank you.

13 CHAIRPERSON HILL: Okay. All right. Mr. Moy, the next  
14 one is, I think, 20290? And, if so, if you could call it.

15 MR. MOY: Yes. Thank you.

16 Before the Board is case application number 20290, Vitis  
17 Investments LLC, as amended, for a special exception under the  
18 residential conversion requirements of Subtitle U, Section 320.2.  
19 This would convert an existing detached principal dwelling unit to  
20 a 7-unit apartment house in in RF-1 Zone at premises 421 T Street,  
21 N.W., Square 3090, Lots 804, 805 and 807.

22 As the Board will recall, this was last heard at its  
23 hearing on December 23rd, 2020. Preliminary matters here as well.  
24 There were filings from the applicant yesterday evening, a request  
25 to reopen the record to allow additional supplemental information,

1 including revised plans.

2 So the staff has that and we're -- the Board can act on  
3 whether the Board will grant that request.

4 CHAIRPERSON HILL: Yeah. Okay. I'm sorry. I'm trying  
5 to find it now.

6 So I think the 20290 session, we did start to deliberate  
7 last week. We needed another person to come in here. And, Ms.  
8 John, I guess you have read into the record, correct?

9 VICE CHAIR JOHN: Yes, I've read into the record, Mr.  
10 Chairman.

11 CHAIRPERSON HILL: Okay. So, Mr. Moy, I'd like to see  
12 whatever it is that they're trying to put into the record here  
13 because I know we asked for a little bit more specific  
14 information, I think on at least the long-term bike plans. I  
15 think that's part of it.

16 Can you put that into the record, and can we take a look  
17 at it?

18 MR. MOY: Yes, sir. So the staff is listening. So will  
19 -- the staff is doing that now, uploading into the case record.

20 CHAIRPERSON HILL: Okay.

21 CHAIRMAN HOOD: Mr. Chair --

22 CHAIRPERSON HILL: I think the -- yes.

23 CHAIRMAN HOOD: If they're putting new -- if they're  
24 asking us to reopen the record and they're putting new information  
25 in there; I don't feel comfortable rushing through this. If it's

1 something that's substantive that we need to take our time and  
2 look at, it may take some different -- some differences and some  
3 consideration.

4           So that's just where I am. I don't know what others  
5 feel because I know where I am with this case, where it stands  
6 now. I'm not sure whatever they add, it could change my mind on  
7 this, but who knows?

8           So, you know, to look at it right now and to move  
9 forward, for me, unless it's not substantive, I don't have the  
10 advantage of having it. So I don't know what -- what they -- the  
11 time to look at it.

12           So I don't know what others feels about that. That's  
13 just where I am on that.

14           CHAIRPERSON HILL: Got it. I understand. I appreciate  
15 that and I don't necessarily disagree with your stand.

16           I guess the -- what they're putting in and I did -- I do  
17 have the fortune of at least having this in front of me now.

18           I don't -- and Chairman Hood, I'm sorry, I don't mean to  
19 push back on you a little bit here in that it seems to be about  
20 the bike rack stuff that we wanted more -- some more specificity  
21 to it.

22           I mean, perhaps, if -- and the only reason why I'm  
23 giving you a little pushback here is like I'm just jammed up  
24 between now and like the end of time. I mean, Easter is like  
25 when, you know, we're free again, you know?

1           And so I don't know if maybe -- if you have the time  
2 today, we can maybe postpone this until later at some point and  
3 you can take a look at everything. And then we could also come  
4 back to this like midday.

5           CHAIRMAN HOOD: No. I'll tell you what, Mr. Chairman,  
6 since you told me it's about the bike racks, that doesn't have  
7 anything to do with my issue. So I couldn't remember what all we  
8 asked for. That -- that is a very minor point. So we can go  
9 ahead and proceed.

10           CHAIRPERSON HILL: Thank you. I don't think -- no  
11 offense. I don't think it's going to change your position from  
12 last week.

13           CHAIRMAN HOOD: Yeah.

14           CHAIRPERSON HILL: But I do think that -- I don't know  
15 if my other colleagues have any other -- and I don't know if you  
16 all -- so you all can't take a look at it. Like, Mr. Hood, you --  
17 Chairman Hood, you can't see it now; is that correct?

18           CHAIRMAN HOOD: I have some equipment that's in the shop  
19 so I'm really working with a bad handicap, to be very honest,  
20 because I don't know when I might disappear.

21           CHAIRPERSON HILL: Got it. Got it.

22           Ms. John and/or Mr. Smith, can you see the exhibits?

23           VICE CHAIR JOHN: I have to pull it up. But my question  
24 to you since you can see the exhibits, Mr. Chairman, do you know  
25 if the bike racks were mentioned in the DDOT report (audio

1 interference)?

2 CHAIRPERSON HILL: Yes, I --

3 VICE CHAIR JOHN: Sorry.

4 CHAIRPERSON HILL: -- do believe so and so they do have  
5 their eight long-term spaces put in the plans now.

6 VICE CHAIR JOHN: Yes.

7 CHAIRMAN HOOD: (Audio interference).

8 VICE CHAIR JOHN: Pardon?

9 CHAIRPERSON HILL: I said, yeah, they do have --

10 MR. SMITH: (Audio interference).

11 CHAIRPERSON HILL: I'm talking to Ms. John.

12 VICE CHAIR JOHN: Okay. Thank you.

13 CHAIRPERSON HILL: Mr. Smith, do you have a question?

14 MR. SMITH: No. No. I was making reference to the  
15 long-term bike spaces that (audio interference) to the Board  
16 Exhibit (audio interference) 32-6 of the proposed plan.

17 CHAIRPERSON HILL: Yes. And, again, I don't mind, you  
18 know -- and again, this depends on whether or not we're going to  
19 have Chairman Hood with us for later. We can do this after lunch.  
20 Like, we could like, you know, take a little bit of time to look  
21 at -- I mean, for me, it's very clear. But I don't mind waiting  
22 until after lunch if you all want to wait until after lunch.

23 It depends really -- it really depends on Mr. Smith and  
24 Ms. John. I mean, I think that Mr. -- Chairman Hood had made his  
25 arguments last week as to his position on the proposal and so I

1 don't think that his arguments are necessarily going to change.

2 But it's really whether or not Ms. John and Mr. Smith  
3 want to take some time to look at the plans and then be able to  
4 deliberate after lunch and if Chairman Hood is available.

5 So let's do that first. Chairman Hood, are you  
6 available after lunch?

7 CHAIRMAN HOOD: I'm available and I would like to -- I  
8 guess after I hear from where my other colleagues are, I would  
9 like to still make my case again as well. I may be able to  
10 convince the three of you.

11 CHAIRPERSON HILL: Sure. No, that's understandable.

12 Ms. John, what do you want to do?

13 VICE CHAIR JOHN: I'm fine with deliberating after  
14 lunch.

15 CHAIRPERSON HILL: Okay. All right. Well, then let's  
16 go ahead and put this off until after lunch and we'll come back --

17 CHAIRMAN HOOD: Mr. Chairman, I'm just going to ask Mr.  
18 Moy if he could maybe give me a buzz, maybe about 30 minutes  
19 before you all are ready to do this; that would be very helpful.  
20 I will be -- I will be in some other things as well.

21 MR. MOY: Yes, sir. I can do that.

22 CHAIRMAN HOOD: Thank you.

23 MR. MOY: With pleasure.

24 CHAIRMAN HOOD: Thank you.

25 CHAIRPERSON HILL: Are you organizing some protests,

1 Chairman Hood? You got to kind of get that all together?

2 CHAIRMAN HOOD: No, Mr. Chairman. I actually do have a  
3 full-time job like all of us. So I have to do that, too.

4 CHAIRPERSON HILL: I forgot. You -- you're right. I  
5 mean, you know, Wednesday is my day not to have a full-time job  
6 even though people continue to bombard me with things.

7 But, yes, you are correct. We all have full time jobs.

8 Although, Mr. Smith, this is part of your job, you know,  
9 and so this doesn't really count for you, I don't think. You're  
10 -- I guess, Mr. Smith, you're actually getting --

11 MR. SMITH: (Audio interference).

12 CHAIRPERSON HILL: Mr. Smith, you're actually getting  
13 paid.

14 MR. SMITH: Uh-huh.

15 (Laughter)

16 MR. SMITH: I'm here when you need me.

17 CHAIRMAN HOOD: The rest of us do it because it's a  
18 labor of love.

19 CHAIRPERSON HILL: It is a labor of love. I mean, it  
20 has to be something of a labor of love if you signed up for this.

21 All right. So that's it then. We'll do that after  
22 lunch.

23 And those have been entered into the record.  
24 Everybody's good with that? I'm going to assume you are unless  
25 you raise your hand. No?

1           So we're going to let everything into the record. I'm  
2 going to close these.

3           All right. So this is an interesting meeting already, I  
4 can tell.

5           So then, Mr. Moy, we have one more, right?

6           MR. MOY: Yes, sir.

7           CHAIRPERSON HILL: The decision things. You want to go  
8 ahead and announce that.

9           MR. MOY: Yes, sir. Thank you. This is case  
10 application number 20328 of Madison Heights LLC, as amended, for  
11 special exceptions under the new residential development  
12 requirements of Subtitle U, Section 421.1, and under the Voluntary  
13 Inclusionary Zoning requirements pursuant to Subtitle F, Section  
14 5206.1. This would add eight additional units to an existing  
15 principal dwelling unit in the RA-1 Zone at premises 1214 Madison  
16 Street, N.W., Square 2934, Lot 35.

17           Again, this was last heard at the Board's hearing on  
18 December 23rd, 2020. Again, the preliminary matters; filings from  
19 the applicant last evening and, I believe, the filings include,  
20 just one, from the -- one from the counselor to the party --  
21 opposing party status to withdraw their party status. So that's  
22 one document.

23           And then there are other documents from the applicant  
24 regarding updating the -- or providing more clarity to the site  
25 plan and the surveyor's plat.

1           And I believe it goes to the issue of the -- confirming  
2 the height of the fence, I believe.

3           CHAIRPERSON HILL: Okay. So I'm going to go with let's  
4 -- well, so, as I recall, I mean, this one's been going on  
5 forever, right?

6           So, Chairman Hood, you weren't around for the appeal, I  
7 don't think.

8           So there was an appeal. Then there was, you know, hours  
9 and hours of testimony, and now I am in favor of reopening the  
10 record to allow the information concerning the request to withdraw  
11 the opposition by the person who had requested party status and  
12 then also take a look at the other exhibits. And then I would go  
13 ahead and just wait until after lunch again, you know, to take a  
14 look at -- because I still am interested in discussing any kind of  
15 conditions we might have and also then deliberate as to whether or  
16 not we think that this should be approved or not, because whether  
17 or not the party status person withdraws their opposition has  
18 nothing to do with whether or not we think this should be  
19 approved.

20           So does that sound like a plan still? We'll do it after  
21 lunch, or what do you all think? Chairman Hood.

22           CHAIRMAN HOOD: Mr. Chairman, I really appreciate the --  
23 especially the last part of your comments; wholeheartedly, a  
24 hundred percent.

25           I can go in that direction with waiting until after

1 lunch so we can have a chance to look. But I appreciate what you  
2 just said, because I've said this in other cases as well. Just  
3 because the opposition has went away or they now have come in some  
4 kind of agreement or whatever's going on does not mean that --  
5 that does not dismiss our due diligence. I really appreciate your  
6 comments and I just wanted to put that on the record as well.

7 So I agree with your path forward. Thanks.

8 CHAIRPERSON HILL: Ms. John, Mr. Smith, is that good  
9 with you guys?

10 VICE CHAIR JOHN: Yes, Mr. Chairman, that's fine.

11 MR. SMITH: Yes.

12 CHAIRPERSON HILL: Okay. All right. Then, Chairman  
13 Hood, you go back to your job. Do a good job. Get paid. And  
14 we'll see you after lunch.

15 CHAIRMAN HOOD: All right. See you all later.

16 CHAIRPERSON HILL: Okay. All right. So that was a big  
17 bust.

18 So, let's see. Now I'm going to go ahead and read into  
19 our hearing --

20 MR. MOY: Mr. Chairman --

21 CHAIRPERSON HILL: Yes.

22 MR. MOY: -- I just want to confirm so you allowed these  
23 filings, and you reopened the record to allow these filings into  
24 the record, or are you going to address that after lunch?

25 CHAIRPERSON HILL: No. I'm sorry if I wasn't clear.

1 Yeah. Please go ahead and everyone agreed to reopening the record  
2 to allow the filings. And so go ahead and reopen the record,  
3 allow the filings. Then we'll all take a look at it and then come  
4 back and deliberate as to whether or not we think this should be  
5 approved or not after lunch.

6 MR. MOY: All right. Thank you, sir.

7 (Whereupon, the above-entitled matter went off the  
8 record at 10:04 a.m. and reconvened at approximately 4:30 p.m.)

9 CHAIRPERSON HILL: All right. Do I need to read back  
10 in, Mr. Moy?

11 No, so we're just going to come back into the meeting  
12 session, right.

13 MR. MOY: Yes, that would be fine.

14 CHAIRPERSON HILL: All right. Which one are we doing  
15 first, Mr. Moy?

16 MR. MOY: Well, it's your choice. It's either the Vitis  
17 case, which is 20290 or Madison Heights, which is 2032(a);  
18 although, I do know that the Madison Heights, the attorney  
19 representing Michael Yates is available.

20 CHAIRPERSON HILL: Okay. Well, let's finish -- I want  
21 to do 20290 first anyway.

22 MR. MOY: Okay.

23 CHAIRPERSON HILL: So, you can read that in and --

24 MR. MOY: Yeah, I think I should re-read the caption.  
25 Like I said, it makes it easier to read when someone reads the

1 transcript.

2           So, the Board is resuming its decision-making on the  
3 application Number 20290 of Vitis, V-i-t-i-s, Investments, LLC,  
4 amended for a special exception under the residential conversion  
5 requirements of Subtitle U § 320.2, to convert an existing  
6 detached principal dwelling unit to a 7-unit apartment house in  
7 the RF-1 Zone at premises 421 T Street, N.W. (Square 3090, Lots  
8 804, 805, and 807).

9           CHAIRPERSON HILL: Okay. Are you all ready to talk  
10 about this? Did you guys get a chance to look at the new  
11 information? I'm assuming you did.

12           If you all wouldn't mind, I would rather, like, go  
13 around the table first. And, Chairman Hood, since you're the  
14 zoning commissioner, first, I'd start with you if that's all  
15 right.

16           CHAIRMAN HOOD: Mr. Chairman, I'll tell you, as we went  
17 through this the last time, you kind of know where I am. I think  
18 that's how we got to Ms. John even being able to read the record  
19 to begin with, but I can start, if that's what you're asking?

20           CHAIRPERSON HILL: Yeah. If you want -- yes, please, go  
21 ahead and begin, if you wouldn't mind.

22           CHAIRMAN HOOD: Okay. Let me just -- I had some  
23 thoughts. I think that the adverse impacts on the use and the  
24 neighboring properties, specifically, their opposition the other  
25 neighbors identified, adverse impacts of relief on the use of

1 neighboring properties due to the size and intensity of the use  
2 permitted by this relief and its effect of in shadowing and  
3 depriving neighborhood properties of sunlight.

4           Additionally, I don't think the applicant has done  
5 enough to mitigate -- this kind of goes along with what I  
6 mentioned previously -- the impacts of the increase in intensity  
7 permitted by relief that will place multiple families in positions  
8 to be able to peer down or look down onto neighboring properties  
9 from their windows and balconies and interfere with others'  
10 privacy and enjoyment of their property.

11           I will say also that the applicant has not provided  
12 enough evidence to me to prove that it was addressed neighboring  
13 properties' legitimate concerns and I think -- and I mentioned  
14 this previously -- the opposition, I thought brought up some very  
15 legitimate concerns of impacts; for example, the increase in trash  
16 caused by the increase of intensity, inadequacy of removing the  
17 trash in a manner that doesn't interfere with the use of  
18 neighboring properties.

19           Now, although I have considered and afforded weight to  
20 all the reports and all the analysis that we have been given from  
21 applicant's submissions, the opposition has introduced evidence  
22 that I just cannot ignore, and the applicant has not substantially  
23 altered its plans to mitigate these impacts. So, I must consider  
24 the plans for relief, I believe it's too large, intense, and  
25 intrusive to the use of the neighboring properties.

1 I will be voting against this application and I would  
2 encourage the support -- and I would encourage my colleagues and  
3 my board members to vote along with me. Thank you, Mr. Chairman.

4 CHAIRPERSON HILL: All right. Thank you, Chairman Hood.  
5 I mean, I can go -- and I respectfully appreciate your comments.  
6 Well, I'll go last.

7 Mr. Smith, if you wouldn't mind going.

8 MEMBER SMITH: Sure. If listening to the testimony back  
9 in December and also reading through the information that was just  
10 submitted into the record today, my position hasn't changed.  
11 (Audio interference) support this special exception.

12 Can you hear me?

13 CHAIRPERSON HILL: Yeah, you're a little choppy, but I  
14 don't know why.

15 MEMBER SMITH: My computer, the fan is just really loud.  
16 Did you want to -- let me see if I can troubleshoot it.

17 Can you hear me?

18 CHAIRPERSON HILL: I can hear you. You just have to  
19 lean in a little bit, but yeah.

20 MEMBER SMITH: Okay. So, I do believe that the  
21 applicant has demonstrated that it does meet the standards for the  
22 special exception relief. I do believe that the applicant has  
23 taken into consideration the neighborhood in redesigning the  
24 proposed addition to this house, but due to the scale of the new  
25 addition so that it's more in keeping with the design of a

1 historic home.

2 I also do believe that the number of units and the  
3 number of bedrooms within the additions is not out of character  
4 and I do believe that the applicant has attempted to address the  
5 neighbor's concerns about trash and those types of impacts. So, I  
6 will continue to support this special exception.

7 CHAIRPERSON HILL: Thank you, Mr. Smith.

8 Vice Chair John?

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

10 I read into the record and so I have a few thoughts.  
11 This is a special exception to convert an existing, attached,  
12 principal dwelling unit into a seven-unit building under U 320.2  
13 and I believe that the structure, including the addition, meets  
14 the development standards of U 320.2.

15 And in looking at the standards, the lot occupancy is  
16 below what is allowed, which is -- it's at 42 percent, where 60  
17 percent is allowed. The yard is 48 feet long after the addition  
18 and there are conforming side yards. There are more than the  
19 required number of spaces, I believe, or (audio interference) no  
20 relief from parking required. And the units are approximately  
21 1100 square feet per unit.

22 So, looking at the massing, I believe that the building  
23 is within the development standards and the existence of the side  
24 yards and the rear yard allow for appropriate lighting.

25 I don't agree with the applicant's claim that because

1 the application satisfies the special exception that no further  
2 analysis is required and I agree with OP's analysis that describes  
3 how the application meets Section X 901.2, and under that  
4 criteria, the Board has to look at any adverse impacts on the use  
5 of neighboring property.

6 Now, I reviewed the comments of the neighbors and I  
7 understand Chairman Hood's concerns, and so I looked particularly  
8 at the neighbor's comments. And I believe that with the reduction  
9 in the size of the structure, that some of those concerns have  
10 been mitigated.

11 I also think that, you know, the HBRB comments by the  
12 Board is not required to adopt them without question. I think the  
13 HBRB review does help the Board in evaluating how building fits  
14 into the neighborhood.

15 I was sensitive to the neighbor's comments that their  
16 views were limited by the structure, and there was -- I forget  
17 what exhibit it was -- but there was an exhibit that showed the  
18 line of sight between the rear yards of the neighbors, plus the  
19 space where the building would occupy. And while I'm sensitive to  
20 that, I don't believe that the regulations offer any protection  
21 for their views.

22 So, the issue is whether there is enough air, light and  
23 air available to those residents, and I believe that the structure  
24 is in the rear and there's a very large rear yard of 48 feet,  
25 which I mentioned earlier. So, while I would like to agree with

1 Mr. Hood, I think that because of all of the issues I have  
2 described, I believe I can support this application.

3           Also, I appreciate that there are, I believe, two IZ  
4 units -- I'm not quite sure if it's two or one -- I believe the  
5 applicant has satisfied the conditions regarding trash and the  
6 bicycle racks and DDOT also approves.

7           So, on balance, while I really do not like these large,  
8 you know, additions, the regulations allow them and so I think  
9 that's something that the Commission has to look at if, indeed  
10 we're not supposed to approve them. And so, I can support the  
11 application.

12           CHAIRPERSON HILL: Okay. All right. Thank you, Ms.  
13 John.

14           All right. My opinion hasn't changed since the last  
15 time we also deliberated. I do appreciate, Ms. John, that you did  
16 point out again, as Chairman Hood has pointed out, that we are  
17 supposed to be looking at light and air issues.

18           I also do not agree with the applicant's argument that  
19 that is not something we are supposed to be looking at or that the  
20 Zoning Commission had removed that criteria from what we are  
21 supposed to look at. As we pointed out before, the Zoning  
22 Commission was just clearing up duplicative language and so, we  
23 are actually supposed to take those into consideration.

24           I did that I can those into consideration, however, I do  
25 think that in this case, I would be able to vote in favor of the

1 application, as I stated during the last deliberations. I also  
2 wanted to point out that unless -- and we've already kind of  
3 gotten to this point, unless one of the board members has any  
4 issues, we did ask for materials to be put into the record by the  
5 applicant concerning the bike racks and other items. And so they  
6 had a motion to reopen the record so they could submit those  
7 filings, and so I would like to approve that motion and allow  
8 those filings into the record unless anyone has any issues with  
9 that?

10 (No verbal response)

11 CHAIRPERSON HILL: And I don't see anyone having any  
12 issues with that by raising their hands, so, therefore, we're  
13 going to go ahead and let that into the record.

14 Also, I do understand that what also confused me, I  
15 think, is that, you know, the ANC was in support of this  
16 application, as was the analysis provided by the Office of  
17 Planning and DDOT, not that those things necessarily mean that we  
18 will approve an application, but the ANC, who is there in the  
19 community, gave their opinion to the project; however, I  
20 definitely understand and appreciate and value the thoughts that  
21 Chairman Hood has put forward and understand why he is voting the  
22 way he is going to vote, and I'm just -- I just disagree at this  
23 point.

24 So, I'm going to go ahead and make a motion to approve  
25 application Number 20290, as captioned and read by the secretary,

1 and ask for a second, Ms. John.

2 VICE CHAIR JOHN: Second.

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

5 MR. MOY: Yes, thank you, Mr. Chairman.

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

10 Zoning Commission Chair Anthony Hood?

11 CHAIRMAN HOOD: No.

12 MR. MOY: Mr. Smith?

13 MEMBER SMITH: Yes.

14 MR. MOY: Vice Chair John?

15 VICE CHAIR JOHN: Yes.

16 MR. MOY: Chairman Hill?

17 CHAIRPERSON HILL: Yes.

18 MR. MOY: And we have a board seat vacant.

19 The staff would record the vote as 3 to 1 to 1. It is  
20 on the motion by Chairman Hill to approve, seconded by Vice Chair  
21 John, also in support of the motion, Mr. Smith.

22 Opposed to the motion to deny is Zoning Commission Chair  
23 Anthony Hood.

24 Seat vacant. Motion carries, 3 to 1 to 1.

25 CHAIRPERSON HILL: Okay. Thank you, Mr. Moy.

1 Give me one second, Mr. Moy. I just want to (audio  
2 interference) the filings, also.

3 (Pause)

4 CHAIRPERSON HILL: Okay. Do you want to call our last  
5 decision case of the day.

6 MR. MOY: Yes, sir.

7 This is the last decision-making case before the Board.  
8 It is application Number 20328 of Madison Heights, LLC, as  
9 amended, for special exceptions under the new residential  
10 development requirements of Subtitle U § 421.1, and under the  
11 Voluntary Inclusionary Zoning requirements pursuant to Subtitle F  
12 § 5206.1, to add 8 additional units to an existing principal  
13 dwelling unit in the RA-1 Zone at premises 1214 Madison Street  
14 N.W. (Square 2934, Lot 35).

15 CHAIRPERSON HILL: Okay. Did everybody get a chance to  
16 look at everything over the lunchtime or throughout the day?

17 (No verbal response)

18 CHAIRPERSON HILL: Okay. I think that I did make this  
19 statement, but I'm not sure, so just for it to be clear, I'm  
20 allowing everything into the record that we asked for and waiving  
21 the filing deadline so that we can take a look at everything that  
22 we asked for. And so, everything is no the record now, unless  
23 anyone has an issue and will raise their hand.

24 (No verbal response)

25 CHAIRPERSON HILL: No one is raising their hand, so

1 we're going to go ahead and allow everything into the record.

2 I can start deliberating on this. I mean, I guess it's  
3 kind of interesting. Again, what happened was there was -- this  
4 was something that was an appeal and then it came -- the appeal  
5 was upheld so that this was new construction that had to come  
6 before us. It came before us and, in fact, we reopened the record  
7 again now that I think about it because there were things that, it  
8 was, again, at the end of the day like it is now, where we -- I  
9 didn't have an opportunity to really (audio interference)  
10 mitigating factors in terms of the project.

11 In this case, I am going to be voting in support of the  
12 application for a variety of reasons. First of all, I do believe  
13 that it meets the standard for us to approve the application.  
14 Partially why I'm getting at that is that the massing is that -- I  
15 mean, matter-of-right doesn't necessarily always mean anything,  
16 and I'm not saying it does in this case, except for the fact that  
17 I'm not necessarily looking at the massing, as much as I'm looking  
18 at the additional -- the conversion -- not the conversion -- the  
19 adding the additional units to the neighborhood. And I didn't  
20 feel as though there was an adverse impact to those additional  
21 units in the neighborhood.

22 There's also, like, an apartment building, like,  
23 directly behind it. There's also quite a number of apartment  
24 buildings in that RA-1 Zone that are already there, and I didn't  
25 think this was going to cause, again, additional undue impact for

1 the community.

2 I guess I'll kind of leave it at that at this point and  
3 see where we get. I mean, I would like to, if we did move forward  
4 -- because I don't know where the votes are -- but if it did move  
5 forward, I am interested still in the conditions in the record  
6 that we're able to uphold in terms of the film screening that the  
7 applicant has put forward that they're going to put on the windows  
8 that are facing the person's property that was, at one time, in  
9 opposition, and then also the fencing, which I believe now is in  
10 the record in terms of what they're going to do with the fencing.

11 And I don't think we would be able to put a condition in  
12 there -- and I'll look to Mr. Rice, in terms of making sure I get  
13 the conditions that I think that we can put in there, and I'm  
14 going to look, I think it's Exhibit 61 that has the conditions  
15 that I spoke about. You know, them purchasing an alarm system or  
16 things like that for the next-door neighbor, I think that's  
17 something now that that's between the next-door neighbor and them.

18 Mine, again, would be the privacy film on the windows  
19 across from the party opponents, kitchen, large window, middles;  
20 the privacy film on the windows across from kitchen; smaller  
21 windows facing each other on both sides of the middle window;  
22 install a wood or similar-material fence to a height of six feet  
23 running the length of the side yard; and then the prohibition of  
24 installing any additional windows on the side of the subject  
25 building, facing 1261 Madison Street.

1           So, those are kind of the conditions that I was looking  
2 at as mitigating factors for the privacy issue. So, that's where  
3 I am.

4           And I guess maybe if I could go to Commissioner Hood  
5 next?

6           MR. RICE: Chairman Hill, there is an outstanding  
7 request to reopen the record from the opposition in this case of  
8 United States that were not previously requested by the Board.

9           MR. MOY: Okay. Maybe that (audio interference).

10          CHAIRPERSON HILL: Is that -- they're asking to include  
11 the request to withdraw the appeal -- I'm sorry -- the request to  
12 withdraw the opposition?

13          Right. So, I would agree with reopening the record to  
14 allow the statement that the party in opposition was withdrawing  
15 their opposition and unless the Board has any issues with that,  
16 we're going to go ahead and allow that into the record, because I  
17 do think that that has some merit as to what we're discussing,  
18 only that I want it to be in the record. It's not really whether  
19 or not there is or isn't a party in opposition as to whether or  
20 not we do or don't approve something.

21          We're approving something because we believe or don't  
22 believe that it meets the criteria for us to approve and so unless  
23 anybody has any issues with adding that into the record, if so,  
24 raise your hand.

25          (No verbal response)

1 CHAIRPERSON HILL: Okay. We'll go ahead and leave that  
2 in the record, then.

3 Mr. Rice, am I good with that?

4 MR. RICE: Yes, sir.

5 CHAIRPERSON HILL: Okay. Then, Chairman Hood, would you  
6 like to go next?

7 CHAIRMAN HOOD: Yeah, I will go. Let talk about the  
8 additional FAR based on the IZ requirements, because although I  
9 generally and (audio interference) support IZ, I find that the  
10 bonus density in this case will flow to the applicant in this  
11 instance.

12 Subsequently, it interferes with the use and enjoyment  
13 of neighboring properties, specifically, I believe that the added  
14 bonus density allows the applicant to increase the number of  
15 residents and units and would add 1,028 square feet to a  
16 development that already towers over neighboring properties. It  
17 unduly interferes with the neighbors' use, privacy, and enjoyment  
18 of the property.

19 Mr. Chairman, while the good thing about these Boards  
20 and Commissions, that's why we have, well, supposedly five of us  
21 or maybe in this case, four of us, because we bring different  
22 relevancy to the equation. One of the things I did ask for that I  
23 never got was the -- at least it never (audio interference) to me  
24 that it was in, if it was in the record, was about the different  
25 types of units that bind the neighborhood. Even though it's in

1 the neighborhood and even though they're there, the issue for me  
2 was the impact, adverse impact on the next-door neighbor. That's  
3 why I held (audio interference).

4 And I believe from the opposition (audio interference)  
5 and it doesn't take a rocket scientist to kind of understand where  
6 they're going, so, I don't know, maybe they just collected their  
7 losses and then tried to make a negotiation and move on. Because  
8 we kind of deliberated where we were previously in this case.

9 And, also, when we talk about the new multifamily,  
10 detached residential development, because I believe it  
11 unreasonably and adversely impacts the use of neighboring  
12 properties in this case. Specifically, I find that the proposed  
13 scale and intensity of the development would adversely impact the  
14 use of the neighboring property at 1216 Madison Street by  
15 interfering with one, placing multiple household windows in direct  
16 with the existing windows.

17 Now, I understand we're trying to do some mitigation,  
18 but to me, that doesn't cut it. Also, extending into the rear  
19 yard so far and high that residents can look into the neighboring  
20 properties' rear yard. Generally, the multifamily nature and the  
21 use, these effects are aggravated because it's not just one  
22 family, but multiple households that can look into and disturb  
23 neighboring properties.

24 I also believe that the supersize scale of the proposed  
25 development will interfere with the Natural Light and air

1 available to Mr. Yates' home and is inconsistent with the scale of  
2 other properties in this square.

3 I believe that these adverse impacts can only be  
4 mitigated by increasing the side yard, which (audio interference)  
5 the side yard is and decreasing the overall size and intensity of  
6 the development, particularly, the rear section that leans on Mr.  
7 Yates' rear yard.

8 Since the applicant has not substantially altered his  
9 proposed plans to mitigate these adverse impacts, I must consider  
10 the current plans that I believe are too large, intense, and  
11 intrusive. Because we have a right to build to 50 doesn't always  
12 mean we need to -- and I'm just using a scenario -- doesn't mean  
13 you need to build to 50. Because if you cut it back to 45 to  
14 lessen the impacts, then that's what our charge is.

15 So, that's why, Mr. Chairman, I'm pretty sure (audio  
16 interference) from the last deliberation, I don't think I have any  
17 support in this, but, again, I would encourage all my colleagues  
18 to look at my position and consider it heavily.

19 Thank you, Mr. Chairman.

20 CHAIRPERSON HILL: Thank you, Chairman Hood.

21 And if I could ask everybody to mute your mics unless  
22 they're talking, it would be helpful. Thank you.

23 Mr. Smith?

24 MEMBER SMITH: All right. So, I fall back in my  
25 analysis to the general special exception. We have to evaluate

1 for this type of request. And the development standards of the  
2 zone based on the design of this building, how many units they're  
3 proposing to put on each floor, only one side yard setback is  
4 required and based on that standard, I do believe that because  
5 there's only one side yard required, that, in essence, takes into  
6 account the question about light and air, because it has been  
7 deemed per the zoning regulations that one setback suffices for  
8 this size of building.

9           While I appreciate the argument that the scale of this  
10 building is out of character with the adjacent properties,  
11 however, the RA-1 Zone does allow for a mixture of single-family,  
12 two-family, and low-rise apartment buildings, of which this  
13 mixture of development densities is heavily prevalent within the  
14 surrounding environments.

15           This is demonstrated by the applicant's submission of  
16 Exhibit 53(a). You can go east OP Madison Street between Georgia  
17 Avenue, about the 900 block of Madison Street and you see this  
18 exact same development pattern. I actually just approved a  
19 project of this particular scale and type today within  
20 neighborhood within the RA-1 Zone that did allow a multifamily  
21 dwelling next to a single-family home.

22           So, during testimony by residents, there was some  
23 concern about bulk and density, but I would also reiterate that a  
24 single-family house of this bulk and height would be allowed by-  
25 right, per the RA-1 Zone.

1           So, I do share your opinion, Mr. Chairman, that I do  
2 believe that we can attempt to mitigate some of the concerns of  
3 the previous party in opposition as it relates to privacy, so I  
4 would be in support of adding the conditions that were listed in  
5 the amended documents that we received, that would add or require  
6 the applicant to erect a six-foot solid fence.

7           Let's take a look. Let me see here. The three other  
8 conditions that you referenced, let me see if I can -- wood or  
9 similar-material fence to a height of six feet running the length  
10 of the side yard. Prohibition on future windows on side of  
11 applicant's structure, facing opposition's residence.

12           And I don't know how we can measurably condition a  
13 motion sensor light and the security camera into the opposition's  
14 residence. That seems to me to be a civil matter between the  
15 former party in opposition and the applicant. And also privacy  
16 film on the windows facing the adjacent property.

17           So, with that, I would support this special exception  
18 with those conditions.

19           CHAIRPERSON HILL: Okay. I'd like to note, also, that  
20 the ANC was in support with some conditions that seemed to be  
21 general in nature, although, I guess we can talk about it some. I  
22 don't know -- provide exterior lighting on the rear extension to  
23 further illuminate the rear parking and alleyways behind these  
24 properties.

25           I don't know if you all want to take a look at that ANC

1 letter or not. I mean, I think that those are things that the  
2 applicant has agreed to and I don't remember any testimony that  
3 the applicant had agreed to, but we'll see where we get to with  
4 Ms. John's vote.

5 Ms. John, could you please let us know what you think.

6 VICE CHAIR JOHN: So, I agree, generally, with Mr.  
7 Smith's comments and to yours, I believe. I appreciate  
8 Commissioner Hood's thoughts, but I want to say that this case is  
9 less problematic to me than the one in the RF-1 zone that we  
10 looked at previously.

11 And, you know, the part, the RA-1 Zone, I believe it's  
12 RA-1, but it does allow apartment buildings, and so -- however, we  
13 still have to look at the adverse impact on the neighboring  
14 properties. And in this case, when we looked at the impact to the  
15 neighbor, Mr. Yates, I thought, as did others, that there was some  
16 impact and that it could be mitigated, and we looked at the  
17 windows, in particular.

18 So, my issue, in general, is that the regulations are  
19 somewhat broad in allowing these types of developments and so I  
20 would just leave it there, but I would support this application  
21 for all the reasons that have been expressed so far.

22 CHAIRPERSON HILL: Okay. So, I don't know if you all,  
23 whether you want to pull up the ANC's letter or not. It's in  
24 Exhibit 35 and they have some conditions and some of them, I  
25 think, are ones that we've approved in the past, such as: the

1 applicant will provide a point of contact phone or email that  
2 neighbors can contact with any questions or concerns about the  
3 development; provide name and contact information for the employed  
4 project manager; during building construction, developers have  
5 agreed not to block the public alley at any time; to perform  
6 construction only during permitted hours; to properly fix any  
7 damage caused to neighbors' property by the construction crew at  
8 the developer's expense; where possible, any dumpsters will be  
9 placed in the rear of the property; notice will be provided in  
10 advance to impact the neighbors of any plan to electrical or water  
11 shutoffs; test abatement on the property to be completed before  
12 any demolition work begins to mitigate any migration to, I guess,  
13 nearby properties.

14           The only one I actually kind of have a little bit of  
15 confusion about, and this is where, again, this was part of an  
16 appeal and then there was opposition, was provide exterior  
17 lighting on the rear extensions to further illuminate the rear  
18 parking and alleyways behind these properties.

19           I still don't know -- I can't recall, and I don't know  
20 if you all could help me remember, and/or what y'all's thoughts  
21 are, about that condition in that whether or not that might be  
22 something that -- and Commissioner Hood, you know more about  
23 lighting than I do given the Zoning Commission work, whether that  
24 actually turns out to be -- that's something that I would think  
25 could be talked about with the neighbors as to whether or not

1 exterior lighting -- that might be something that is more  
2 problematic for nearby properties than not. I don't know if  
3 anybody has any thoughts on that last item.

4 Ms. John?

5 VICE CHAIR JOHN: So, Mr. Chairman, I don't know if you  
6 recall, we've been discussing these types of issues for a while  
7 now, and I believe we had come to the decision that unless a  
8 condition really relates to a zoning issue, that we would not  
9 include it in the order. So, construction-related items, we would  
10 not include. And I see something like lighting as not related to  
11 the regulation; it's something that the parties can agree to if  
12 they want.

13 So, the issue of the point of contact and the  
14 construction coordination -- excuse me -- notice to neighbors,  
15 test abatement, replacing lead pipes, I would think that all of  
16 that relates to matters that would not -- that are not within the  
17 Board's purview. I think permeable pavers is sort of relevant,  
18 but the applicant has already agreed to that.

19 I agree with you that the three conditions that we  
20 should include would be, and these relate to privacy, would be the  
21 privacy film on the windows, and the wood fence, and the  
22 prohibition on future windows on the side of applicant's  
23 structure, facing opposition's residence. I think we are on firm  
24 legal ground with those, but I'm not sure about those in the ANC  
25 report. We can certainly mention them, but (audio interference) a

1 condition.

2 CHAIRPERSON HILL: Okay. Let me just mention -- I know,  
3 Chairman Hood, you're about to say something, just let me say one  
4 thing -- as I'm looking through the note, it does say that the  
5 applicant has agreed to the conditions that are below and I know  
6 that we can reference them in the order. That's something that we  
7 can do.

8 I just want to push back a little bit on you, Ms. John,  
9 in that we're going to be working -- we have been working together  
10 for a long time and I guess we're going to continue working at  
11 least, you know, until you re-up again, which is whenever that  
12 comes about.

13 VICE CHAIR JOHN: September 2021.

14 CHAIRPERSON HILL: September '21.

15 VICE CHAIR JOHN: I think it's this year.

16 CHAIRPERSON HILL: Right. Is that when you get your  
17 next three-year term? Is that what happens, Ms. John?

18 VICE CHAIR JOHN: (audio interference).

19 CHAIRPERSON HILL: So, I know that we have -- I am  
20 keeping the door open for future conditions in terms of, like, we  
21 have put forward conditions when we think it's going to mitigate  
22 adverse impact. And so, in this case, I'm not beginning to -- I'm  
23 just saying that in the future, I might say, yeah, I want -- think  
24 we should mitigate, and we can have that discussion when we have  
25 it, but I agree with everything that you've said.

1 Chairman Hood?

2 CHAIRMAN HOOD: Mr. Chairman, I'll just pull back my  
3 comments because I was going to comment on the lighting, because  
4 we on the Zoning Commission, we deal with it all and I know -- I  
5 believe on these, you have a narrow scope. So, I would just --  
6 even though I will be voting against this, I will just leave it at  
7 that and go along with what Ms. John said.

8 CHAIRPERSON HILL: Okay. All right.

9 Then, if that's the case, I'm going to go ahead and make  
10 a motion.

11 Does anybody have anything else before I made a motion?

12 (No verbal response)

13 CHAIRPERSON HILL: No? All right.

14 I'm going to make a motion to approve application Number  
15 20328, including the conditions that Vice Chair John put forth,  
16 which is that privacy film will be installed on all the windows  
17 facing 1216 Madison Street NW, as well as the installation of a  
18 six-foot-tall fence, wood fence or similar material, running the  
19 length of the side yard, as well as a prohibition on installing  
20 any additional windows on the side of the subject building facing  
21 1216 Madison Street NW.

22 And ask for a second, Ms. John?

23 VICE CHAIR JOHN: Second.

24 CHAIRPERSON HILL: The motion has been made and  
25 seconded.

1 Mr. Moy, could you please take a roll call vote?

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

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

7 Mr. Smith?

8 MEMBER SMITH: Yes.

9 MR. MOY: Zoning Commission Chair Anthony Hood?

10 CHAIRMAN HOOD: No.

11 MR. MOY: Vice Chair John?

12 VICE CHAIR JOHN: Yes.

13 MR. MOY: Chairman Hill?

14 CHAIRPERSON HILL: Yes.

15 MR. MOY: We have a board seat vacant.

16 Staff would record the vote as 3:1:1, and this is on the  
17 motion of Chairman Hill to approve the application with the three  
18 conditions as submitted in his motion, seconded by Vice Chair  
19 John. Also in support of the motion is Mr. Smith.

20 Opposed to the motion is Zoning Commission Chair Anthony  
21 Hood. We have a board seat vacant.

22 The motion carries on a vote of 3:1:1.

23 CHAIRPERSON HILL: Chairman Hood?

24 CHAIRMAN HOOD: I just want to say I really appreciate  
25 all the work that the Board of Zoning Adjustment does. As you

1 mentioned earlier, I heard you all have had a full day and I  
2 appreciate your work.

3           And just for the record, and I don't want nobody to be  
4 surprised, I am going to use this case as a textbook case. This  
5 and one or two others that I am going to be taking to the Zoning  
6 Commission. So, I wanted to put that out there. I didn't want  
7 anybody -- Board Member John kind of alluded to it, but I wanted  
8 to put that out there.

9           And I just want you to know that it's not any slight on  
10 anything that the Board does, because I appreciate the work, and I  
11 know this work is hard, but it's something that I believe that  
12 needs to be looked into. So, I just wanted to say that. I wanted  
13 you all to get it straight from me first. So, thank you.

14           CHAIRPERSON HILL: All right. Chairman Hood, well, as  
15 always, it's a pleasure working with you and you also do yeoman's  
16 work and I appreciate all the work that you do and thanks for  
17 hanging out with us all day just to -- I know you had a job and so  
18 you worked all day, I guess, but we appreciate you, as well, so  
19 thank you for your kind words.

20           Does anyone have anything that they would like to add  
21 before we adjourn?

22           Mr. Moy, you had something?

23           (No verbal response)

24           CHAIRPERSON HILL: You're on mute, Mr. Moy.

25           MR. MOY: Okay. Yeah, I want you to facilitate what you

1 needed with the Board before I have one administrative matter to  
2 share with the Board.

3 CHAIRPERSON HILL: Okay. Well, there was one other  
4 thing I think, Mr. Moy. There was something that we wanted to add  
5 into the record from that ANC?

6 MR. MOY: That's the one.

7 CHAIRPERSON HILL: Oh, okay.

8 MR. MOY: So, to tee it up for you, Mr. Chair, Case  
9 Number 20349 of Adrian Dungan and Nicole Aga, A-g-a, this  
10 afternoon, early afternoon, I did receive a -- I was going to say  
11 a personal -- but it was directed to me, email from ANC 4C  
12 Commissioner Jonah Goodman and he's requesting to include his ANC  
13 letter in the record. And this is a case where you already heard  
14 testimony, closed the record, and you voted.

15 He says in his email that he doesn't know what happened.  
16 He thought he had uploaded it into the IZIS case record. The ANC  
17 letter is dated December 9th. And you heard the testimony from  
18 the applicant today that they did meet with the ANC and that the  
19 ANC had voted to support the application. So, I'm teeing this up  
20 to you as to whether or not you want to reopen the record to  
21 include it in the case record or just to let it go.

22 I can send you the ANC letter --

23 CHAIRPERSON HILL: I remember the case and I remember  
24 what date. They were providing testimony that they went to the  
25 ANC. The ANC voted in support. So, please, yes, include it into

1 the record unless anyone here has any opposition to that, and if  
2 so, please right hand.

3 (No verbal response)

4 CHAIRPERSON HILL: Okay. So, we'll go ahead and include  
5 that into the record, Mr. Moy.

6 Mr. Moy, is there anything else that we need to do?

7 MR. MOY: No, sir. That's it for the staff.

8 CHAIRPERSON HILL: Okay. Well, then, you all my  
9 friends, go and enjoy some democracy this week.

10 Bye.

11 VICE CHAIR JOHN: Be safe, everybody.

12 CHAIRPERSON HILL: Thank you. You all, as well.

13 CHAIRMAN HOOD: Thanks, y'all. Be safe.

14 (Whereupon, the above-entitled matter went off the  
15 record at 5:21 p.m.)

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C E R T I F I C A T E

This is to certify that the foregoing transcript

In the matter of: Public Meeting

Before: DC BZA

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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