

GOVERNMENT OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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REGULAR PUBLIC HEARING

+ + + + +

WEDNESDAY

JUNE 9, 2021

+ + + + +

The Regular Public Hearing of the District of Columbia Board of Zoning Adjustment convened via WebEx, pursuant to notice at 9:36 a.m. EDT, Frederick L. Hill, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

- FREDERICK L. HILL, Chairperson
- LORNA JOHN, Vice-Chairperson
- CHRISHAUN SMITH, Board Member
- CARL BLAKE, Board Member
- CLIFFORD MOY, Secretary

ZONING COMMISSION MEMBERS PRESENT:

- ANTHONY J. HOOD, Chairman
- ROBERT MILLER, VICE CHAIRMAN, Chairman
- MICHAEL G. TURNBULL, Board Member

The transcript constitutes the minutes from the Regular Public Hearing held on June 9, 2021

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

(9:36 a.m.)

CHAIRMAN HILL: Good morning, everyone.

Okay, let's see, so we got everybody. There's Ms. John, Mr. Smith, are you with us?

MR. SMITH: I'm with you.

CHAIRMAN HILL: Okay, let's see. All right, so let me go ahead. Mr. Young, do you want to start the recording? Mr. Young, can you hear me?

MR. YOUNG: Yeah. I can hear you.

CHAIRMAN HILL: Is the recording started?

MR. YOUNG: I'll start it now.

CHAIRMAN HILL: Okay, thank you. Great.

All right. 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 June 9th, 2021 public hearing of the Board of Zoning and Adjustment, District of Columbia. My name is Fred Hill, chairperson. Joining me today is Lorna John, vice-chair, and board members, Carl Blake and Chrishaun Smith. And representing the Zoning Commission throughout the day will be Anthony Hood, Michael Turnbull, and Rob Miller.

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

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1 WebEx and YouTube Live. The webcast video will be available on
2 the Office of Zoning's website after today's hearing.
3 Accordingly, everyone who is listening on WebEx or by telephone,
4 will be muted during the hearing, and only persons who have signed
5 up to testify or participate testify will be unmuted at the
6 appropriate time.

7 Please state your name and home address before
8 providing oral testimony, or your presentation, oral
9 presentation, should be limited to a summary of your most
10 important points. When you're finished speaking, please mute
11 your audio so that your microphone is no longer picking up sound
12 or background noise.

13 If you're experiencing difficulty accessing WebEx, or
14 with your telephone call in, or if you have forgotten to sign up
15 24 hours prior to this hearing, please call our hotline number
16 at 202-727-5471 to sign up to testify and receive WebEx call in
17 or login instructions. All persons planning to testify, either
18 in favor or in opposition, should have signed up in advance.
19 They'll be called by name to testify.

20 This is an appeal. Only parties are allowed to testify.
21 By signing up to testify, all participants completed the oath or
22 affirmation as required by subtitle Y 408.7.

23 Request to enter evidence at the time of an online
24 virtual hearing, such as written testimony or additional
25 supporting documents other than live video, which may not be

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1 presented as part of the testimony, may be allowed pursuant to
2 subtitle Y 103.13, provided that the person is making the request
3 to enter an exhibit, and explain how the proposed exhibit is
4 relevant. The good cause justifies allowing the exhibit into the
5 record, including an explanation of why the requester did not
6 file the exhibit prior to the area pursuant to Y 206, and how
7 the proposed exhibit would not unreasonably prejudice any
8 parties.

9 (Indiscernible) procedures for special exceptions and
10 variances are pursuant to Y 409. The order procedures for appeal
11 applications are pursuant to Y 507.

12 At the conclusion of each case, an individual who is
13 unable to testify because of technical issues may file a request
14 for leave to file a written version of the plan testimony for
15 the record within 24 hours prior to the conclusion of public
16 testimony in the hearing.

17 If additional written testimony is accepted, then
18 parties will be allowed a reasonable time to respond, as
19 determined by the lawyer. The board will then make its decision
20 at its next meeting, but no earlier than 48 hours after the
21 hearing. Moreover, the board may request additional specific
22 information to complete the record.

23 The board and the staff will specify at the end of the
24 hearing exactly what is expected and the date when persons must
25 submit the evidence to the Office of Zoning. No other information

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1 shall be accepted by the board.

2 The board's agenda may include previous cases set for
3 decision after the board adjourns the hearing. The Office of
4 Zoning, in consultation with myself, will determine whether a
5 full or summary order may be issued. A full order is required
6 where the decision it contains is adverse to a party, including
7 (indiscernible). A full order may also be needed if the board's
8 decision differs from the Office of the Planning's
9 recommendations. Although (indiscernible) whenever possible, an
10 applicant may not request (indiscernible) such an order.

11 The District of Columbia Administrative Procedures Act
12 requires a public hearing on each case be held in the open before
13 the government. The government, pursuant to 405(b) and 406 of
14 that act, the board may, consistent with its rules of procedure
15 and the act, enter into close meeting on a case for purposes of
16 seeking legal counsel on a case, pursuant to DC official code
17 Section 2-575(d)(4), (indiscernible) pursuant to DC official code
18 Section 2-575(b)(13), but only after providing the necessary
19 public notice in the case (indiscernible) closed meeting after
20 taking a roll call vote.

21 Preliminary matters or those which relate to other
22 cases (indiscernible) heard today, such as request for a
23 postponement (indiscernible) the trial or that proper and
24 adequate notice has been given.

25 Mr. Secretary, do we have any preliminary matters

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1 today?

2 MR. MOY: Good morning, Mr. Chairman, members of the
3 board. We do. As is customary for the board, I will note the
4 preliminary matters when I call the specific case. Other than
5 that, Mr. Chairman, I'd like to take a moment to review for the
6 transcript record cases that were originally for today, but
7 they've been rescheduled.

8 First of all, case application number 20474 of
9 Christopher and Jennifer Leonardo, that has been administratively
10 rescheduled to a public meeting on June 30th, 2021.

11 We have two case applications that have been postponed
12 by the applicant. First is case number 20454, 4243 Benning LLC.
13 Actually, that has been postponed to June 23rd, 2021. The second
14 case is 20389, Samuel Medeiros and Jessica Ellis, postponed to
15 July 28, 2021.

16 We have five cases that have been administratively
17 rescheduled. The first two cases rescheduled to June 30th.,
18 2021. Those are 20473 of Michael W. Smith and 19616A, which is
19 the application of Thomas Jefferson Real Estate LLC.

20 We have three applications rescheduled to July 14th,
21 2021. They are 20475 of Amy Titus, T-I-T-U-S, 20476, the
22 application of the District Restoration Company LLC, and 20477,
23 application of Bentley Hamilton.

24 Finally, Mr. Chairman, and more importantly, is that
25 the case that was originally scheduled for a public meeting

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1 session today has been moved to the public hearing session for
2 today, and that is case application 20445 of 106 13th Street LLC.
3 That, of course, will be a continued hearing on the docket today.

4 And that's it for me, Mr. Chairman.

5 CHAIRMAN HILL: Okay, thank you, Mr. Moy.

6 Good morning, everyone. Good morning. Let's see, Mr.
7 Moy, if you wouldn't mind going ahead and calling our first case
8 when you have an opportunity.

9 MR. MOY: Yes, sir. Thank you. That would be case
10 application number 20361 of G3, L.L.C. This application is
11 advertised as zoning relief from area variances from the lot
12 subdivision requirements, Subtitle C, Section 302.1; minimum side
13 yard requirements, Subtitle D, Section 206.3; minimum lot
14 dimension requirements, Subtitle D, Section 302.1.

15 This would subdivide a vacant lot and construct two
16 semi-detached principal dwelling units in the R-2 zone. The
17 property is located at 5135 Lee Street, Northeast, square 5200,
18 lot 113.

19 Participating on this application is you, Mr. Chairman,
20 Vice Chair, John, Mr. Smith, and Zoning Commissioner, Anthony
21 Hood. The preliminary here is that there's a document that was
22 not submitted within the 24-hour period. So that would require
23 a waiver of the 21-day rule. And I believe that is a PowerPoint
24 presentation from the applicant.

25 CHAIRMAN HILL: Thank you. Okay, thank you.

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1 Good morning, Mr. Bello, can you hear me?

2 MR. BELLO: Clearly, sir. Good morning.

3 CHAIRMAN HILL: Could you introduce yourself for the
4 record, please, sir?

5 MR. BELLO: Toye Bello, representing the applicant in
6 this case.

7 CHAIRMAN HILL: Okay. And who's here with you, Mr.
8 Bello?

9 MR. BELLO: I believe the architect is and the owner
10 also is.

11 CHAIRMAN HILL: Okay. Is that Lauraline Gregory?

12 MR. BELLO: That will be the owner. That's correct.

13 CHAIRMAN HILL: Okay, Ms. Gregory, can you hear me?

14 MS. GREGORY: Yes, sir. Good morning.

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

17 MS. GREGORY: Yes. My name is Lauraline Gregory. My
18 address is 2621 Myrtle Avenue, Northeast, DC, 20018.

19 CHAIRMAN HILL: All right. Well, good morning, Ms.
20 Gregory. Welcome.

21 MS. GREGORY: Thank you. Good morning.

22 CHAIRMAN HILL: Mr. Bello, I don't see your architect.

23 Mr. Young: He is actually calling in on the phone, so
24 I can unmute him.

25 CHAIRMAN HILL: Okay, could you meet him, please, Mr.

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1 Young?

2 Can you hear me?

3 MR. SALEH: Yes, I can hear you.

4 CHAIRMAN HILL: Could you please introduce yourself for
5 the record, sir?

6 MR. SALEH: Okay. Alex Saleh, the project engineer.
7 8837 Western Hemlock Way, Lorton, Virginia 22079.

8 CHAIRMAN HILL: Okay, great. Unless the board has any
9 issues, Mr. Bello, you're trying to put your PowerPoint into the
10 record, is that correct?

11 MR. BELLO: That's correct, Mr. Chairman.

12 CHAIRMAN HILL: Okay. Mr. Moy, if you could please put
13 that into the record, unless any of the board members have an
14 objection. If you do, please raise your hand.

15 Okay, Mr. Moy, could you (indiscernible) that that is
16 added into the record, and then could you please let us know when
17 it's there?

18 MR. MOY: Yes, sir. I will do that.

19 CHAIRMAN HILL: Okay, great. Thank you.

20 I guess, Mr. Young, if you could pull the PowerPoint
21 for Mr. Bello. Mr. Bello, I mean, you know already that the
22 Office of Planning is still in denial of the order, or they don't
23 believe you're meeting the criteria to grant the application.
24 That doesn't mean that we can't do it. But you have a little
25 bit of an argument to make.

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1 And Mr. Young, I guess you could pull up Mr. Bello's
2 slides, and then, Mr. Bello, there's 15 minutes on the clock
3 there, and you can begin whenever you'd like.

4 MR. BELLO: Thank you, Chairman Hill. Next page, Mr.
5 Young.

6 So, as advertised, this application is seeking area
7 variance to subdivide the recorded lot into two record lots,
8 which would not comply with the lot width requirement, but each
9 lot would comply with and exceed the minimum lot area requirements
10 for the R-2 zone.

11 The proposal is to construct two semi-detached
12 dwellings, which would not meet the side yard requirement, and
13 we are asking for a second variance under Subtitle B, Section
14 206.1.

15 Next, please. The neighborhood consists of a mix of
16 residential types, including single family dwellings and medium
17 density apartment buildings. Most of the development in this
18 area are semi-detached dwellings with similar side yards.

19 Next slide, please. Compliance with the burden of
20 proof. For an area variance that this application seeks, the
21 applicant must show that there's an extraordinary condition or
22 exceptional situation or condition. The past zoning history of
23 this parcel is one of the extraordinary situation or conditional
24 property that the applicant claims.

25 Up until 1994, this property was actually to record

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1 lots, which we'll be recreating exactly -- nearly the same
2 dimensions that the applicant seeks relief for at this point.

3 And the board is -- the board is allowed to consider
4 the unique history of this property as an extraordinary
5 conditional property based on the cite of the -- this law.

6 Next slide, please. The applicant cites BZA No. 19834,
7 the application of 5132 Lee Street, Northeast, which is literally
8 across the street from this property, which the board approved
9 the same dimensions. The applicant also cites BZA No. 18430, and
10 (indiscernible) the basis for finding of exceptional situation
11 and the conclusion of law in that BZA order. And the exceptional
12 situation, this is of the (indiscernible) court. The lots have
13 an exceptionally long and narrow shape, 22 feet wide in width and
14 112 feet deep. They have also been vacant since the 1970s.

15 Subdividing the lots -- the two lots would create a
16 large lot that would be out of character with the neighborhood.
17 Although other properties in the area have similar lengths and
18 widths, the property is generally exceptional within a larger
19 geographic context.

20 Applicants submit that this argument can be made for
21 this same application. In fact, these two lots when subdivided
22 will be narrower than 22 feet wide. Each would be 20 feet, and
23 it will be much deeper than the application of the property in
24 this application. Property will be 171 feet deep.

25 And then the board does not find the ANC's

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1 recommendation. In this case, the ANC objected to the approval
2 of this application by suggesting that the property owner could
3 combine the two lots and build a single-family dwelling. And the
4 board was not persuaded by that argument, and indicated that a
5 single-family dwelling on such a large lot would be out of
6 character in that neighborhood.

7 Next slide, please. The subject property is affected
8 by a confluence of factors unique to it, and not to the general
9 neighborhood. Those are the facts of the subdivisional history
10 and that of the additional lots -- that generally lots and its
11 portion of square 5200.

12 In that portion of the square, which had 15, I believe
13 -- 17 lots prior to May 12, 1958, or the 15 lots on that property
14 were combined to a large lot, except for these two lots, which
15 eventually were combined in 1994.

16 The fact of the existence of the structurally degraded
17 foundation and grand plumbing were situated on the subject
18 property. Obviously in 2008 or '07 or thereabouts, there had
19 been an attempt to improve this property as a single-family
20 dwelling, and the foundation and ground plumbing work was
21 constructed.

22 That project was never completed, probably because of
23 market conditions, not supporting a single-family dwelling in
24 that zone in that neighborhood, where the predominant number of
25 properties, a single-family, semi-detached dwellings. The

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1 subject property is uniquely the only residential zoned property
2 adjacent to a large commercial facility not separated by a public
3 alley, and the only undeveloped lot in the square location.

4 Next slide, please. These slides basically show the
5 existing condition on the Baist map as of May 12, 1958, which
6 essentially shows what I just discussed about this portion of the
7 square, and how it existed as of May 12th, 1958, except for former
8 lots 76 and 77, which are the lots of our application. All other
9 lots were combined into one. And there's a nursing facility that
10 was constructed on that single lot.

11 And then the BZA also granted accessory parking
12 variance or special exception adjacent to these two lots.

13 Next slide, please. This is the evidence of the
14 consolidation of the two lots in 1994.

15 Next slide, please. Second (indiscernible) would
16 improve the (indiscernible) practical difficulties of
17 (indiscernible). Applicant essentially seeks reinstatement of
18 the previously existing lots of records in exact same
19 configuration prior to the consolidation. All opportunities to
20 acquire additional land to comply with lot width requirements
21 (indiscernible) is due to the subdivisional history of the square
22 location. All other lots east of the subject property, having
23 been combined into a single lot of record, and is a border to
24 the north, west, and south by public rights of way.

25 By Order No. 16194, the BZA approved special exception

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1 to allow accessory parking lot adjacent to the subject property.

2 Next slide, please. The location of a single family
3 detached dwelling immediately adjacent to a large parking lot and
4 a commercial facility presents a unique and peculiar market risk
5 (indiscernible). The subject property is currently encumbered
6 by an existing degraded foundation and plumbing ground works,
7 which cannot be made (indiscernible) and frustrates the
8 reinstatement subdivision requested and the construction of two
9 semi-detached one family dwellings.

10 Next slide, please. It's a substantial detriment to
11 the public good and substantially (indiscernible) zone plan.
12 Their request for relief from the subdivision provisions,
13 specifically the establishment of previously existing lot width,
14 is a reinstatement of conditions in existence until 1994. The
15 width is consistent with the prevailing condition of similar lots
16 in the general neighborhood. The zoning regulations deemed
17 substandard plans not in compliance with the lot density
18 dimensions for the underlying zone.

19 District (indiscernible) provided their existing
20 record lots prior to the effective dates of the (indiscernible)
21 of C.R. 16, subject property comprised two existing record lots
22 prior to the adoption of the 1958 zoning regulations
23 (indiscernible) 1994. The BZA has routinely granted side yard
24 variance relief (indiscernible) circumstances.

25 Next slide, please. This slide just shows basically

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1 the building location survey, and the subdivided lot, if
2 approved.

3 Next slide, please. Well, this is just basically
4 indicating that we have revised the drawings to make the buildings
5 17 feet wide, and I think previously they were 15 feet wide. The
6 proposed 3 feet side yards would not affect adversely the light,
7 air, or enjoyment of the use of neighborhood properties,
8 neighboring properties, because the lot to the east adjoins a
9 large open parking lot, and the existing commercial facility
10 building is separated in excess of 100 feet, and properties west
11 and south of the (indiscernible). Therefore, (indiscernible rear
12 yards, and separated by a 16-foot-wide public alley.

13 Most of the lot was separated by at least -- a minimum
14 of 60 feet in right of way width. The proposed use is
15 (indiscernible) as a mater of right. The future lot is not
16 designate subject property. Moderate density residential, which
17 applies to areas characterized by a mix of single-family houses,
18 two- to four-unit buildings, row houses, low rise apartment
19 buildings, which the proposed use of subject property is
20 compatible.

21 Next slide, please. The applicant submits that the
22 confluence of factors enumerated in this statement, which formed
23 the basis of the uniqueness of the property and also the
24 exceptional and extraordinary situation or condition of property,
25 aspire to impose peculiar and impractical difficulties on our

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1 property. Although the neighborhood is deemed (indiscernible)
2 due to a walk score of 49, the proposed project will comply with
3 the required parking, (indiscernible) good transit score of 59,
4 due to proximity to the Deanwood Metro Station, which is a 14-
5 minute walk to the orange line and is somewhat bikeable. The
6 neighborhood is also (indiscernible) Oxon Hill and the
7 (indiscernible) Recreation Centers.

8 For all the foregoing reasons, the applicant
9 respectfully requests that the relief be granted. I believe that
10 the next slides would be the drawings, if the architect wishes
11 to walk through those. That would be my submission, Mr. Chairman,
12 board members.

13 CHAIRMAN HILL: Okay, thanks, Mr. Bello. I don't think
14 we need the architect's -- I'm sorry, the architect right now.
15 If you want to go ahead and drop that slide deck, Mr. Young.

16 Great, thank you. I'll note for the record that Mr.
17 Blake is not on this case. Let's see, does the board have any
18 questions for the applicant at this time, Chairman Hood.

19 COMMISSIONER HOOD: Thank you. Good morning to
20 everyone.

21 Mr. Bello, I just had a quick question. In the Exhibit
22 37, that PowerPoint basically mirrors what you -- I mean, the
23 PowerPoint presentation you just presented, that was just entered
24 into the record mirrors that Exhibit 37, correct?

25 MR. BELLO: Except that it didn't cite those two BZA

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1 cases that I cite.

2 COMMISSIONER HOOD: And that's what I wanted to ask
3 you. I'm going to need some time, Mr. Chairman, to look at those
4 two BZA cases, what the board -- it looks like it was relatively
5 -- when I looked at the case, (indiscernible) relatively recent.
6 Am I correct or incorrect?

7 MR. BELLO: That's correct, sir. That's relatively
8 recent.

9 COMMISSIONER HOOD: So the crux of the case, Mr. Bello,
10 (indiscernible) opinion is, and I don't think I've seen this done
11 before. On your request, they were also asking to reinstate what
12 those lots were previously. Is that a fair assessment
13 (indiscernible) use the word reinstate?

14 MR. BELLO: Well, that's correct. No, I don't use that
15 term lightly. There's cooperation council opinion about the
16 existence of -- the coexistence of tax lots and record lots. And
17 as it is today, one may have a lox lot that appears that is a
18 single lot, but the underlying record lots are still valid.

19 So (indiscernible) with the zoning administrator.
20 Although we did check with the administrator in this instance,
21 and his determination is that because this -- there had been an
22 active consolidation of the lot into another (indiscernible),
23 those lots should not administratively be resuscitated.

24 COMMISSIONER HOOD: So let me ask you, having actually
25 sat there yourself, is that typically what happens in the -- have

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1 you seen that before?

2 MR. BELLO: The corporation council opinion dates back
3 to 1977. And my point is that what we're trying to create here,
4 it's not noble, it's not new. The only distinction being that
5 whether the order was in 1994 was probably compelled to combine
6 the two lots into one, in order to be able to get a building
7 permit to construct a single-family dwelling.

8 COMMISSIONER HOOD: Okay. Thank you, Mr. Bello. Mr.
9 Chairman, I have a number of other questions, but I'll wait and
10 hear what the discussion is. I do want to look at those two
11 previous BZA cases and see if there are apples to apples
12 comparison. So thank you, Mr. Chairman. Thank you, Mr. Bello.

13 CHAIRMAN HILL: Thank you, Chairman. Mr. Smith, do you
14 have any questions?

15 MR. SMITH: I don't have any questions.

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

17 VICE CHAIR JOHN: Just one quick question for Mr. Bello.
18 Are there other lots of this size in the square or is this the
19 only large lot in the square?

20 MR. BELLO: This is the only large lot in that square
21 of its size.

22 VICE CHAIR JOHN: Is there a diagram that shows that?

23 MR. BELLO: I think that if we go back to the slide
24 where we showed the zoning map, Mr. Young. I believe that's
25 slide seven.

1 So this will be -- this will be the large lot that
2 we're talking about. These are the lots that are commercially
3 zoned. So these are the lots that we're talking about here. And
4 most of these lots are 20 feet wide.

5 VICE CHAIR JOHN: Okay, thank you, Mr. Chairman.

6 CHAIRMAN HILL: Mr. Smith.

7 MR. SMITH: I have a follow-up question based on the
8 Vice-chair's question. The lots that you're proposing to
9 subdivide, what are the dimensions of those particular lots? Can
10 you just state that?

11 MR. BELLO: That, if approved, would be 20 feet wide
12 and approximately 171 feet deep. (Indiscernible).

13 MR. SMITH: So within that square, are there lots that
14 meet that character definition?

15 MR. BELLO: The lots across the street that the board
16 just granted variance to, are exactly the same dimensions, but
17 not as deep. They're actually smaller lots, but the same width.

18 MR. SMITH: Do the majority of the lots within the
19 square meet that size (indiscernible)?

20 MR. BELLO: That's correct. The majority of those lots
21 in that neighborhood are 20 feet wide.

22 MR. SMITH: Thank you. (Indiscernible).

23 VICE CHAIR JOHN: Mr. Chairman, and now I have a follow-
24 up question. So the lots to the to the side that front -- the
25 slide has gone away, are those lots 20 feet wide? The lots that

1 I can't see the name of the street.

2 UNIDENTIFIED SPEAKER: That would be Lee Street.

3 UNIDENTIFIED SPEAKER: The lots to the east.

4 VICE CHAIR JOHN: Yes, are they 20 feet wide?

5 MR. BELLO: These lots across the alley.

6 CHAIRMAN HILL: Yes.

7 VICE CHAIR JOHN: Thank you. There you go. Those two
8 lots.

9 MR. BELLO: (Indiscernible). Those lots appear to be
10 wider than 20 feet.

11 VICE CHAIR JOHN: Okay, thank you, Mr. Bello.

12 CHAIRMAN HILL: Okay, and turning to Ms. Vitale, or the
13 Office of Planning, I should say.

14 MS. VITALE: Good morning, Mr. Chair and members of the
15 board, Elisa Vitale with the Office of Planning. This is for
16 BZA Case 20361. The Office of Planning is recommending denial
17 of the requested area variance relief from the minimum lot width
18 and from the minimum required side yard.

19 In this instance, a conforming record lot was created
20 and could be developed as a matter of right with a detached,
21 single-household dwelling, and to now request for the board to
22 grant relief to create two non-conforming lots would be
23 inconsistent with the intent, purpose, and integrity of the
24 zoning regulations as the regulations discourage the creation of
25 non-conforming lots.

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1 Keep it brief. That concludes my report. I'm happy
2 to answer any questions that the board might have at this time.
3 Thank you.

4 CHAIRMAN HILL: Does anyone have any questions for the
5 Office of Planning? Chairman Hood?

6 COMMISSIONER HOOD: Ms. Vitale (indiscernible), and so
7 to get -- I'm going to say this in very simple terms
8 (indiscernible). To get to where we are, and (indiscernible) to
9 go back now to where we were, that makes sense. To go back
10 (indiscernible) conforming use (indiscernible) as written now say
11 -- are trying to get away from three non-conforming lots. Is
12 that basis for your analysis for your denial?

13 MS. VITALE: That's a portion of it, yes. I don't
14 believe in this instance the applicant has demonstrated an
15 extraordinary situation or condition. I think, you know, not to
16 go down the slippery slope of hypotheticals here, but if we had
17 these two non-conforming lots, and a conforming record lot had
18 not been created, that conforming record lot was created in 1994.

19 So there was the 1958 regulations had been in effect
20 for quite some time. The R-2 zone had established that a 30-
21 foot minimum lot width was required. So by combining those two
22 smaller pre-'58 lots, they were coming into compliance with the
23 zoning regulations, which is what we want. That's the desired
24 outcome for property in the district. We want things to be
25 conforming. We have the zoning regulations for a reason. We're

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1 establishing zone specific parameters in terms of lot width and
2 lot area.

3 So in 1994, when this record lot was created, it was
4 becoming more non-conforming. Yes, it's 40 feet -- 40 feet in
5 width, where 30 feet is required.

6 So we could not find a way to recommend approval of
7 creating two 20 foot lots in a zone where a 30-foot minimum lot
8 width is required. The applicant is proposing three-foot side
9 yards in a zone where an eight-foot side yard is required.

10 So by granting this relief, it's -- you know, it's
11 taking a step back. It's making two properties now that would
12 not be consistent with the development standards for the R-2
13 zone. Whereas what we have now on the books is a record lot that
14 was created post 1958 that provides sufficient width for a
15 detached home, which is perfectly acceptable form in the R-2
16 zone, and that would probably allow for ample side yards. It
17 would provide separation from the nursing home or medical
18 facility to the east. It wouldn't be inconsistent with the
19 surrounding development pattern of this community.

20 So that -- to us, in reviewing this, there was there
21 was no practical difficulty or unique situation here that led us
22 to believe that creating two non-conforming lots that would be
23 unable to provide even the required minimum side yard was
24 consistent with zoning and was the appropriate approach.

25 COMMISSIONER HOOD: Okay. Thank you, Ms. Vitale. Thank

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1 you, Mr. Chairman.

2 CHAIRMAN HILL: Sure, Chairman Hood. Mr. Smith, you
3 got any questions?

4 MR. SMITH: No questions, Mr. Chair.

5 CHAIRMAN HILL: Vice-chair John, do you have any
6 questions?

7 VICE CHAIR JOHN: No questions.

8 CHAIRMAN HILL: Ms. Vitale, the only question I have,
9 I guess, is I'm a little -- that lot that has the dialysis center
10 or what have you, to the west, and now it's kind of like a parking
11 lot or driveway area, it looks like. Can that -- could that
12 possibly become homes again? Like I mean, you're not -- you're
13 not concerned about the -- they're there on an alley on one side
14 and on the other side, they've got a parking lot. So, you know,
15 the alley is going to be the alley.

16 And was the Office of Planning concerned that somebody
17 could develop that driveway thing into a home at some point? And
18 so that's why you were worried about the side yard. I'm just
19 curious whether you took that into consideration at all, or
20 everything you just said. I understood everything you just said.
21 I'm just curious as to if that driveway area could be turned into
22 housing again, so that's why the Office of Planning wasn't against
23 that side yard?

24 MS. VITALE: No, I don't believe that was our rationale.
25 I think, you know, obviously, that property adjacent to the

1 subject property, I believe it may be split zoned. We didn't
2 analyze the development potential for that site. You know, I
3 think our issue with the side yards is certainly that the R-2
4 zone requires an eight-foot minimum side yard. The applicant is
5 now proposing three feet for a side yard. So that's, you know,
6 a good bit smaller than the zone required minimum. So -- that's
7 --

8 CHAIRMAN HILL: The only reason why I'm asking is that
9 one side is the alley and the other side is a parking lot.

10 MS. VITALE: We don't evaluate side yard relief in that
11 way. We certainly would look at impacts to light, and air, those
12 types of things. But -- and I guess we didn't even necessarily
13 get that far with this case, since we couldn't support the minimum
14 lot width of the subdivision.

15 CHAIRMAN HILL: Okay, okay. All right. Thank you.
16 Mr. Bello, do you have any questions for the Office of Planning?

17 MR. BELLO: I have just two. In the BZA case
18 (indiscernible) across the street, Office of Planning recommended
19 approval of that project with a similar width. And also a
20 variance from the side yard. Could you explain the distinction
21 of the difference between the position of OP between those two -
22 - this application and that?

23 MS. VITALE: Are you referring to case 18430?

24 CHAIRMAN HILL: Mr. Bello, you went on mute, I think.
25 We couldn't hear you.

1 MR. BELLO: I'm referring to the case just across the
2 street, 19834. That's the application of 5130 and 5132 Lee
3 Street. This application (indiscernible).

4 MS. VITALE: Yeah. I did take a look at those cases.
5 I would note that we review each application on its own merits.
6 19834 was a request for a side yard variance. Those two lots
7 predated zoning. And so those were existing record lots that
8 predated zoning. So I believe in OP's analysis of that relief
9 request, we believed that the existing record lots created a
10 situation. And I believe in that instance, those were 22-foot-
11 wide lots, not 20-foot lots. So there was a bit more width, and
12 they were existing pre-'58 lots. And there was not a situation
13 like we have before us today, where a conforming record lot that
14 met the zone required minimum lot width and lot area was in place.
15 So it was, it was a different situation there.

16 CHAIRMAN HILL: What's your other question, Mr. Bello?

17 MR. BELLO: Just one more question. ZR-16 allows
18 substandard record lots regardless of dimensions to be developed
19 as a matter of right, provided that they meet all of other
20 development standards. Did you consider that in the context of
21 this request?

22 MS. VITALE: Well, again, if --

23 MR. BELLO: In the context of the zoning district.
24 Sorry about that. Go ahead.

25 MS. VITALE: Well, I was going to say, I mean, again,

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1 in this instance where we're dealing with a conforming record
2 lot, so that I spoke to the zoning administrator, he is charged
3 with interpreting the regulations. In reviewing this case, he
4 also indicated that he sees no way to resuscitate, or resurrect,
5 or somehow bring back those two smaller pre-'58 lots.

6 The creation of the conforming record lot in 1994
7 essentially wipes out those underlying lots. So we're not --
8 we're not evaluating this case on the basis that there were these
9 two smaller pre-'58 lots. Those essentially go away, and we now
10 have a conforming record lot on the books, and that's what we're
11 evaluating.

12 MR. BELLO: Thank you. That would be it.

13 CHAIRMAN HILL: Okay. Mr. Young, is there anyone here
14 that wishes to testify?

15 MR. YOUNG: We do not.

16 CHAIRMAN HILL: Okay, all right. I'm going to speak
17 to my board members again. Is there anything that you all need?
18 I actually know where I am now. I wasn't exactly sure at the
19 beginning, but now I know where I am. So is there anything that
20 anybody needs? And if so, raise your hand.

21 Mr. Hood? Chairman Hood?

22 COMMISSIONER HOOD: What I'd really like to do, Mr.
23 Chairman, is for me to really feel comfortable in what I'm hearing
24 from OP, and make sure I've evaluated of everything Mr. Bollo has
25 bought, especially through this PowerPoint.

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1 And I know each case is on its own merit, but if this
2 was to go to court, they do reference other cases and case law.
3 So I want to look at the corporation counsel's, again, because I
4 didn't see it. I might have missed that ruling. I'd like to
5 look at all the I've heard, and then take it. And I think I am
6 here next week. If not, I'll come back. And if the board so
7 inclines, indulges me to make sure I have everything together
8 before I move forward in the decision making. If I have to move
9 today, I probably will -- well, anyway. I'll leave it at that.

10 CHAIRMAN HILL: Okay, no problem. Mr. Bello, do you
11 have anything you'd like to add at the end?

12 MR. BELLO: No, sir, Mr. Chairman.

13 CHAIRMAN HILL: Okay. All right, I'm going to go ahead
14 and close the hearing and the record. Thank you. We dismiss
15 everybody.

16 All right, so you guys, I guess Chairman Hood would
17 like to take a look at the record a little bit more, and I'm
18 comfortable with that.

19 Does anybody need anything else? Otherwise, can we
20 just put this on for decision for next week. Does that work?

21 COMMISSIONER HOOD: Can we make sure we have the
22 PowerPoint uploaded as well?

23 CHAIRMAN HILL: Sure, I think, Mr. Moy, did that get
24 put in the record?

25 MR. MOY: I believe so, sir. (Indiscernible) able to

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1 show this just now.

2 COMMISSIONER HOOD: (Indiscernible). But I don't see
3 it yet. I think by the time I review it --

4 CHAIRMAN HILL: You have to jump out and jump back in.
5 Ms. Cain, you wanted to add?

6 MS. CAIN: Just to follow up on Commissioner Hood's
7 request, I don't believe there's a copy of the opinion from the
8 corporation counsel in the record, either in the PowerPoint or
9 anywhere else. You may want to double check with Mr. Bello. But
10 if that is not in the record, that would be helpful to have that
11 uploaded as well.

12 CHAIRMAN HILL: The recommendation from where?

13 UNIDENTIFIED SPEAKER: Corporation counsel.

14 CHAIRMAN HILL: Okay. Mr. Moy, if you could check with
15 Mr. Bello, and we get that put in the record also.

16 MR. MOY: Yes, sir, I'll follow up with him.

17 CHAIRMAN HILL: Okay, great. Does anyone -- I mean,
18 is next week, I guess what -- Mr. Hood, you're back -- Chairman
19 Hood, you're back next week you think?

20 COMMISSIONER HOOD: I thought it was next week. It's
21 the 23rd, but I can come back next week if we delay this. But
22 if not, I'm back on the 23rd.

23 CHAIRMAN HILL: 23rd. Okay, well let's go ahead and
24 just doing it then. Okay. Okay, I'm supposed to be on -- okay.
25 But I'm going to be here. Let's just do a decision next week

1 then.

2 Okay? Is that all right with you other board members?
3 Okay. All right. Let's put on that decision next week, okay.

4 MR. MOY: Mr. Chairman, before we leave this case, do
5 you want to set a deadline for the applicant to submit his
6 supplemental information?

7 CHAIRMAN HILL: Sure. It was just that one item that
8 Ms. Cain mentioned, right? And so --

9 MR. MOY: That and during the course of her discussion,
10 I mean Chairman Hood mentioned to previous BZA --

11 CHAIRMAN HILL: No, he said he was going to look that
12 up on his own.

13 MR. MOY: Okay. All right.

14 CHAIRMAN HILL: But the 11th, Friday, then. Do it by
15 Friday. Ask Mr. Bello to add that by Friday. Okay?

16 MR. MOY: Okay.

17 COMMISSIONER HOOD: So Mr. Chairman, since they were
18 mentioned, those two cases (indiscernible), I think to complete
19 the record, I think that needs to be added to the record, even
20 though we don't basically look at what was conformed in those
21 cases, but those cases were mentioned. So I don't want to just
22 say I looked them up on my own. I want those to be part of the
23 record as well.

24 CHAIRMAN HILL: Okay, I just want to make sure, Mr.
25 Bello, that I haven't -- I mean, we can we can push the decision

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1 off to when you're back with us. I just want to make sure --
2 he's not in the room right now. So I don't know. I guess that's
3 easier to do than, Mr. Moy.

4 COMMISSIONER HOOD: Yeah. Yeah, we can get. Yeah,
5 that's easy.

6 CHAIRMAN HILL: Okay. All right, good. So then ask
7 Mr. Bello to add those to the record as well, Mr. Moy. So we're
8 going to keep the record open for the items that that were just
9 mentioned. Other than that, we'll close the record and everything
10 incoming by the 11th, and then we'll do a decision on the 16th.
11 Okay?

12 All right. Chairman Hood, is that it for you today?

13 COMMISSIONER HOOD: That's it for me. I thank everybody
14 for their indulgence. You all have a great day.

15 CHAIRMAN HILL: Thank you, you as well.

16 All right, so I guess now. Okay, we have one case with
17 Commissioner Turnbull.

18 Commissioner Miller, good morning. And then just to
19 let you all know, I don't know how realistic it is, but I know
20 that somebody has a hard stop at 1:30. So we're going to try
21 and shoot for that. So just to let you all know. And so let's
22 at least do one more before you take a break, if that's all right,
23 unless there's an issue.

24 All right. So, Mr. Moy, if you can call our next case,
25 please.

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1 MR. MOY: Yes, sir. Thank you, Mr. Chairman. So this
2 will be case number 20443 of Georgetown 29K Acquisitions, LLC.

3 This application is captioned to advertise and amended
4 for special exceptions from the loading berth requirements of
5 Subtitle C, Section 901.1 and (indiscernible) 1500.6, in-house
6 setback requirement Subtitle C, Section 1502.1 and the
7 (indiscernible) requirements, Subtitle C, Section 707.3(a)(2) and
8 (4), and this would convert an existing detached non-residential
9 building to a ten-story detached 70- to 72-unit residential
10 building with a parking garage and penthouse in the MU-13 zone.
11 The property is located 1051 through 1055 29th Street, Northwest,
12 square 1193, lots 45, 46, and 800 through 504.

13 That's it, Mr. Chairman.

14 CHAIRMAN HILL: Thank you. Mr. Kadlecek, could you
15 introduce yourself for the record please.

16 MR. KADLECEK: Yes. Hi. Good morning, Chairman Hill
17 and members of the board. Cary Kadlecek with the Law Firm of
18 Gouston & Storrs on behalf of the applicant.

19 CHAIRMAN HILL: Mr. Kadlecek, who's here with you
20 today.

21 MR. KADLECEK: I have a couple of people from the
22 development team, Pete Armstrong from the development team, Joe
23 Franchina from the architecture, and Erwin Andrews from Gorove
24 Slade, transportation consultant. I believe that's all we have.

25 CHAIRMAN HILL: Okay, I see a Charles Knapp?

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1 MR. KADLECEK: Yeah. Yeah. He's also from the
2 architecture team as well. I'm sorry.

3 CHAIRMAN HILL: That's all right. Knapp and Mr. Levy,
4 they're the architects?

5 MR. KADLECEK: Mr. Levy is from the development team.

6 CHAIRMAN HILL: Okay, can everybody just unmute their
7 camera for a minute so I can just get everybody to introduce
8 themselves?

9 MR. ARMSTRONG: Sure. So good morning. My name is
10 Peter Armstrong. I'm a senior vice president with the Georgetown
11 Company, and if Mr. Young can enable me to turn the camera on on
12 my phone. It's not letting me, but I've got audio.

13 CHAIRMAN HILL: That's okay. As long as you can hear
14 everybody. Mr. Franchina.

15 MR. FRANCHINA: Yeah. I'm Joe Franchina. I'm an
16 associate at Adjaye Associates, and we're the design architect
17 for this project.

18 CHAIRMAN HILL: Mr. Knapp?

19 MR. KNAPP: Hi. I'm Church Knapp. I'm with SLCE
20 Architects. We're the architects of record, working with Adjaye
21 Associates.

22 CHAIRMAN HILL: Okay, Mr. Levy, did I miss you?

23 MR. LEVY: I am here. I can't start my camera, but
24 it's Richard Levy. I am from the Levy Group, the joint venture
25 partner with the Georgetown Company for the redevelopment of the

1 (indiscernible).

2 CHAIRMAN HILL: Great. Thank you. And is it Mr.
3 Bridges?

4 MS. BRIDGES: It's Kelsey Bridges with the District
5 Department of Transportation.

6 CHAIRMAN HILL: Oh, you're with DDOT. Great. Thanks,
7 Ms. Bridges. (Indiscernible), believe it or not, it's hard --
8 even when there's just a name, it's hard to figure out sometimes
9 who's who also.

10 MR. ANDRES: Good morning, Chairman, Erwin Andres with
11 Gorove Slade.

12 CHAIRMAN HILL: Oh, great. Thank you, Mr. Andres. I'm
13 sorry. I didn't mean to miss you.

14 Mr. Kadlecek, okay, can you hear me?

15 MR. KADLECEK: Yes.

16 CHAIRMAN HILL: Okay, so I guess Mr. Kadlecek,
17 unfortunately, I just mentioned that I'm trying to get us done
18 by 1:30, and literally, like, I just wanted everybody to get a
19 chance to introduce themselves, because I could spend like an
20 hour on this project just because I just love to hear all about
21 it. I mean, I think we all know where it is, what it is, and
22 are just shocked that anything is actually going to get done
23 there maybe.

24 And so if you want to speak, I mean, I know you have
25 probably a really big presentation. You can pull up the deck

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1 and everything. But the thing I want to kind of talk about, I
2 guess, is some of the information that -- and we have DDOT on
3 the line here, but kind of some of the issues that DDOT had, and
4 some of the conditions that maybe you could speak to that.

5 Let's see. And then if you just want to kind of like
6 highlight the different relief you're requesting, right, and
7 asking for, like we don't need to get into the architectural
8 plans and all that. I mean, I'm just trying to do this as
9 efficiently as possible, meaning hit all of the requested relief
10 and why you believe you're meeting the requirements for the relief
11 that's being requested. Do you have a PowerPoint?

12 MR. KADLECEK: Yeah, it's -- if you could bring up
13 Exhibit 44, that's our presentation package.

14 CHAIRMAN HILL: All right, Mr. Young, if you could pull
15 up 44, please.

16 MR. KADLECEK: So, Mr. Chairman, if it's helpful and,
17 you know, our presentation is pretty short or, you know, we're
18 trying to keep it under ten minutes (indiscernible)?

19 CHAIRMAN HILL: No, that's okay. Whatever you -- if
20 your presentation is ten minutes, do your whole presentation,
21 because I'm sure the whole board would like to see it as well.

22 MR. KADLECEK: Yeah, well, we'll keep it really fast,
23 and I'll give a quick introduction.

24 Good morning again, Chairman Hill, members of the
25 board, I'm Cary Kadlecek, as mentioned. This application is for

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1 special exception relief to allow the conversion and renovation
2 of the former West Heating Plant in Georgetown into, as mentioned,
3 a residential building, a one-acre public park, and a parking
4 garage. We're seeking three special exceptions to allow the
5 construction of this exciting and transformative project.

6 First, we're requesting a special exception from the
7 penthouse setback and single enclosure requirements for elements
8 that are in the park, which is also technically the roof of the
9 garage. It's a pergola and two-elevator overruns.

10 Second, we're seeking special exception relief from the
11 loading berth and service delivery space requirements.

12 And then finally, as amended, we're also seeking a
13 special exception from the -- from two of the required mitigation
14 for excess parking requirements and providing an alternative
15 mitigation plan as agreed upon by DDOT.

16 DDOT's report in Exhibit 39 lays out the TDM and
17 mitigation plan. And as we submitted in Exhibit 41, we are in
18 agreement with that plan that's set forth in DDOT's report.

19 With that, I just want to mention, we're pleased to
20 have the support of ANC2E, the Office of Planning, and DDOT. So
21 with that, I will turn it over to Mr. Armstrong for just a brief
22 introduction of the project, and then we'll quickly go through
23 the slides to demonstrate compliance with the relief conditions.

24 MR. ARMSTRONG: Perfect. Thank you, Cary. So good
25 morning, Chairman Hill and the rest of the members of the board.

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1 My name is Peter Armstrong. I'm a senior vice president with
2 the Georgetown Company. Georgetown Company, along with our
3 partner, Richard Levy of the Levy Group, acquired this property
4 from the federal government in 2013, and we've embarked on a
5 multi-year effort that has touched just about every review agency
6 in the District of Columbia and in the region that brings us
7 before you today with this project.

8 So just a little bit of context, as the board is aware,
9 that this is a two-acre site on 29th Street, on the east end of
10 Georgetown. We have -- 29th street covers the west frontage. To
11 the north is the C&O Canal and the C&O Canal National Park. To
12 our east is Rock Creek. And to the south of us is the exit ramp
13 from the Rock Creek Parkway as well as K Street. So it's a tight
14 site with only one public street for ingress and egress.

15 So as I mentioned, our joint venture with Richard Levy
16 acquired this property at public auction from the federal
17 government all the way back in 2013. After closing on the
18 property, we discovered significant structural deficiencies, as
19 well as, as expected, environmental contamination. It was quite
20 significant within this structure.

21 As many are aware, it was a steam heat facility that
22 provided steam heat to federal buildings on the western side of
23 Washington. It was decommissioned in 1999, and then ultimately
24 disposed of 14 years later to our team.

25 So we assembled a world class design team to transform

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1 this property. The design effort has been led by Adjaye
2 Associates. We have -- proud to have the Ulman Studio (phonetic)
3 out of Philadelphia as the world-class landscape architect to
4 design this one-acre public park, and then a full complement of
5 technical experts, covering everything from structural design
6 through traffic and other elements.

7 So starting in 2013, we went through an exhaustive and
8 detailed entitlement review that culminated in a hearing before
9 the mayor's agent for historic preservation. So it started with
10 community outreach, and as Cary mentioned, we're really proud of
11 the support that we've garnered over the years from ANC2E, the
12 Citizens Association of Georgetown, and the Friends of the
13 Georgetown Waterfront Park, among other groups.

14 The conceptual design that has been approved was a
15 detailed, comprehensive, and collaborative approach between the
16 old Georgetown board, the United States Commission of Fine Arts,
17 HPO staff, the DC Historic Preservation Review Board, and then
18 ultimately the mayor's agent, the individual with the sole
19 authority under District law to approve the partial or complete
20 demolition of historic structures.

21 So that approval was finally received in early 2019.
22 We then, because it was federally owned, didn't have zoning. So
23 we were -- went through the (indiscernible) process to get a
24 zoning classification and, you know, we're just ultimately really
25 proud of the project that's before you today.

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1 The project has a couple of key components. It's about
2 72 condominium residences, that it's going to be within the
3 footprint of the existing structure to the south. We're taking
4 and transforming more than an acre of land that was used to store
5 coal, and transforming it into a one-acre public park. There's
6 going to be a walking and cycling path between Rock Creek and
7 our floodwall that protects the site from any flood activity
8 along Rock Creek and the C&O Canal. There's a pedestrian bridge
9 that will finally link this property with the road network so
10 that if you're biking through Rock Creek, you can zip down and
11 get to the Georgetown Waterfront Park.

12 Because of the nature of the site and its constraints,
13 we do have to have loading access along 29th Street. We worked
14 really carefully with all of the various review agencies,
15 including DDOT, to locate that access point. Originally, the
16 plan was to locate it directly across from an alley that's on
17 the west side of 29th Street. We did have to shift our loading
18 access point north a couple feet due to wanting to save a heritage
19 tree. There's a beautiful scarlet oak that we're going to save
20 and protect.

21 But due to the nature of the approval, which is now
22 fixed through the mayor's agent approval, there are several areas
23 of relief that we need to ensure that the project, as it's
24 proceeded through the historic review, fully complies with the
25 MU-13 zoning.

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1 So to walk through a couple areas of relief, I'll turn
2 it over to Joe Franchina with Adjaye Associates just to walk
3 through some of these elements within the park structure that
4 we'll need some relief in the underlying zoning.

5 So with that, Joe, I'll give it over to you.

6 MR. FRANCHINA: Sure. Thank you. Good morning,
7 Chairman, board members.

8 What you're seeing here on the screen is our proposal
9 for the site. And just a couple of items that Peter mentioned
10 earlier. Just some of our initial design elements, this large
11 beam that connects the site is trying to be part of a gesture to
12 kind of to reconnect with the industrial heritage of the site.

13 And part of that, with the (indiscernible) screen to
14 see on the south side of our building, as well as the pergola,
15 are all part -- components of this industrial heritage kind of
16 texture and character we're looking to bring to the site,
17 maintaining that large east -- west facade on 29th Street.

18 So what we're seeing now is 29th Street, we're seeing
19 the west facade, the entry, that large beam. And as you look
20 down to the right side, you see entry into the park underneath
21 the beam. And just for the very right, you see the first overrun
22 access into the park.

23 So this is our accessible access lift that takes people
24 from 29th Street up into the park. And if you can just move the
25 slide one forward.

1 These are the historic images of the site, so how the
2 site looks presently. So you can see the building, where the
3 oil tanks used to be, and just some views around the site. So
4 you can kind of get a sense from number one, up at the upper
5 left, kind of crossing the C&O Canal. Looking at the existing
6 heating plant and this is walking around, looking down at number
7 three, you can see the historic floodwall that we're kind of
8 looking to have an intervention in, and then coming down around
9 this site, seeing the oil tanks at number six, come around, you
10 know, seeing the path, the path along the Rock Creek.

11 So I'm sure you know these images, but we're just kind
12 of trying to set up the condition of where we are. Next slide,
13 please. So on the right, we have the existing facility, and on
14 the left we have a proposed project.

15 So we're trying to maintain the park to be as large as
16 possible. And we're also trying to protect the two-story houses
17 on the west side of 29th Street. So we're proposing a pergola
18 at that very western edge of our park. And that pergola, what
19 that does is it orients the park towards Rock Creek. So you
20 could see Rock Creek kind of comes up and moves off to the right,
21 and then it joins with the C&O Canal.

22 So what we're trying to do is have that long edge of
23 the park, that kind of diagonal, be the focus, the orientation
24 of the park while keeping the west side with the undulating bench
25 as a backdrop to the park, and not overlooking onto those small

1 terraced houses onto the west side.

2 On the upper north side, we have -- towards the
3 building, we have one access onto the park, kind of public access.
4 And at 29th Street, underneath the overpass, we have another
5 access to the park.

6 And we also as well, at the very north end, on the
7 upper right side, we have a stair access from the bike path --
8 bike and walking path into the park. So there are three points
9 of access to the park. But largely, we're trying to keep that
10 park a large open grass lawn, and stepping water feature down.
11 So people kind of sitting along the back of this undulating wall,
12 looking across the water feature, looking into the park, really
13 get a sense of this larger -- as large a park as possible.

14 Going forward, another slide. And so here you can see
15 what we think is the maximum size of the park. Like kind of
16 giving the community a larger green area, an open area as
17 possible, as well as kind of like picking up some of the cues we
18 have of the industrial kind of character and green of the building
19 into this wooden steel pergola, which will be kind of planted
20 with hanging vines, flowering vines to make it more amenable.

21 Then you can see in the pergola, we have the overruns
22 of the elevators kind of popping up through, and kind of work
23 with the pergola, and also add this -- more privacy to not
24 overlook any of the properties to the west.

25 Next slide. And so here you see a building elevation

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1 of our entire site. So from the far righthand side, you see the
2 highway overpass, and you see how our stair comes up underneath,
3 and enters into the park. And as you enter into the park, you
4 see our pergola on top of the wall, essentially. And then you
5 see beneath the pergola, you see that long beam that kind of
6 connects across the entire site. Inside that -- between that
7 beam and the pergola, there are two elevator overruns. One pops
8 up through the pergola on the left-hand side, and that is accessed
9 off of the entry on the north side, those stairs you see on the
10 north. And one in the center that's beneath the pergola. It's
11 a bit smaller. You can almost see, and that's of our proposed
12 loading entrance. So that's a freight lift, if you will, that
13 kind of exists beneath the pergola. It's tucked in there.

14 So we have that overrun -- the two overruns, kind of
15 working with the pergola. And we're trying to make that into a
16 composition that works well with the feeling of the park and
17 doesn't interrupt the park. It doesn't interrupt the character
18 of what we're trying to do esthetically on the street of 29th
19 Street.

20 Next slide. On this slide, you can see where we're
21 looking to put the park and have loading. So you can see on the
22 lowerish righthand side that loading with an arrow, and we're
23 proposing not to have a curb cut here, but having a walkway that
24 connects into our loading area through the floodwall.

25 So we were proposing to have offloading at the 29th

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1 street. Next slide.

2 And here you can see how that loading area starts to
3 work with that lower area, as well as you can start to see at
4 the entry in the north side of the park or parking garage where
5 the access is for the passenger lift up to the park from the
6 accessible access to the park. So it's really just off 29th
7 Street in this little plaza area by the stair.

8 Next slide. Next slide, please. So here you can see
9 there's a diagonal line coming through, right through our site,
10 and that's the setback required. So you could see our pergola
11 and our overrun of the accessible lift intrude into that viewshed.
12 So we're asking that to be reconsidered.

13 This is the first elevator lift that's actually closer
14 to the building, but it provides immediate access to wheelchairs
15 from 29th Street.

16 Next slide. One more slide.

17 MR. YOUNG: That's the last slide that I have.

18 MR. FRANCHINA: Okay. There should have been one more.
19 That's all right.

20 Yes, there should be two more slides.

21 CHAIRMAN HILL: That's also the last one that I have
22 in the exhibit.

23 MR. KADLECEK: What I think happened is we skipped over
24 one.

25 MR. FRANCHINA: Okay.

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1 MR. KADLECEK: Yeah. There should be one between them,
2 if you go back.

3 MR. FRANCHINA: That's the one. There we go. Thank
4 you for that.

5 So here you can see a (indiscernible) elevation to the
6 left of the loading entry, and you can see its relationship to
7 the street with an egress door. And then in the central drawing,
8 you can see there is the overrun to the left that sits underneath
9 the pergola. And you could see the diagonal line that kind of
10 cuts through that also has the pergola and the corner of that
11 lift intruding into the view shed.

12 And then the last one on the right shows the access
13 from 29th Street into that loading area that we have through the
14 floodwall.

15 And that's our presentation.

16 CHAIRMAN HILL: Okay, thank you. Does the board have
17 any questions for the applicant? And if so, please raise your
18 hand.

19 Okay, could I turn to the -- Commissioner Miller, go
20 ahead.

21 MR. MILLER: Thank you, Mr. Chairman. I'll be brief.

22 I just wanted to thank the applicant for the
23 presentation today and for their persistence in this project,
24 which you've had the site that you said for eight years, and it's
25 been vacant and unused for, I think over 21 years now.

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1 And we did the zoning for the site at MU-13 a year and
2 a half or two years ago. I think it was a year and a half ago
3 the final decision came out -- order came out, but we had a
4 hearing almost two years ago.

5 So and the MU-13 zoning, we realized at the time it was
6 as close to you as you could get to accommodate the historic
7 building. But it was obvious that there was probably going to
8 be a relief that would be required. Because of -- well, because
9 of historic building that has to be retained. And you know all
10 these DDOT conditions and (indiscernible) complying with them,
11 and I think that are great.

12 And I just had a question really unrelated to the
13 relief, but just because I wanted to see where it is. I know
14 the -- I think it was an order that requires the one-acre park,
15 which is great. That's half the site. And I think it was the
16 mayor's agent order in that special merit case which required
17 what maybe the applicant offered in that case. But it requires
18 a contribution to the housing production trust fund.

19 We know that the MU-13 zoning is exempt from the
20 inclusionary zoning requirements. This is one of the cases that
21 actually highlighted that a case that I think is pending before
22 us to remove that exemption, because there was an exemption and
23 because the mayor's agent case, it was a substantial contribution
24 that was going to be made to the housing production trust fund.

25 Can you just tell me where that is? I think in the

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1 millions of dollars, but is there a set dollar amount currently
2 in that? If so, I know that even though it's unrelated really
3 to the relief, I think it's just something I'm curious about.

4 MR. ARMSTRONG: Yeah. Sure. So happy to provide some
5 context. And you're absolutely right. So the affordable housing
6 component certainly is not directly related to the relief that
7 we're seeking today, but it's important just for additional
8 context so that the board is aware. You know, this project,
9 obviously, has been a long time coming. We've always wanted to
10 make some meaningful commitment to affordable housing as a part
11 of this project for the vast majority of the time, MU-13 and the
12 predecessor zoning didn't require IZ.

13 But be that as it may, as part of our special merit
14 case, we offer a substantial multi-million-dollar contribution
15 to the Housing Production Trust Fund. So it's a minimum
16 contribution of, I believe, \$2.4 million. And then there's an
17 additional component based on the financial performance of the
18 building that could earn out to the District, you know, just
19 above \$4 million dollars, just based on, you know, final sell out
20 value.

21 So somewhere between 2 to \$4 million will be
22 contributed to the Housing Production Trust Fund from this
23 project. And so a portion of the payments made at building permit
24 issuance, a portion of the payments made at CMO, and then the
25 balance will be trued up with the District when the final unit

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1 is sold.

2 And so we will very quickly engage with the Office of
3 Planning's Council, to just document that prior to a building
4 permit application. So that's the -- that's the project's
5 affordable housing component.

6 MR. MILLER: Well, thank you for taking the time to do
7 that.

8 Just a last question. So if you get this relief from
9 the BZA, if you get this relief from the BZA, is everything ready
10 to go for a building permit application? Are we almost at the
11 end of the line or the beginning of the line here?

12 MR. ARMSTRONG: Correct. So I would tell you now that
13 we're at BZA, I've finally hit DC entitlement bingo. I've touched
14 every single base in the District, but we are rapidly advancing
15 through design development documentation into CDs, and it's our
16 fervent desire to be in for permits later this year, and we're
17 trying to break ground as soon as we possibly can, sometime in
18 the fourth quarter or shortly after the 1st of the year.

19 But this is this is the last step on the process to
20 make sure that everything for documentation, for building permit
21 purposes is teed up and ready to go. Okay, thank you very much.
22 I appreciate all the effort that's been made here. Thank you.

23 MR. ARMSTRONG: Thank you.

24 CHAIRMAN HILL: Okay, anyone else have any questions?
25 Okay. Office of Planning?

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1 MS. FOTHERGILL: Good morning, Chairman Hill and
2 members of the board. I'm Anne Fothergill with the Office of
3 Planning for BZA case 20443. The Office of Planning filed two
4 reports for this case, in Exhibit 32 and exhibit 42, and in both
5 reports, we are recommending approval of the special exceptions
6 that were requested for loading, penthouse, and excess parking.
7 And I will rest on the record in support of the relief and I'm
8 happy to take any questions.

9 CHAIRMAN HILL: Okay, does the board have any questions
10 for the Office of Planning? Does the applicant have any questions
11 for the Office of Planning?

12 MR. KADLECEK: No, thank you.

13 CHAIRMAN HILL: Mr. Young, is there anyone here who
14 wishes to speak?

15 MR. YOUNG: They do. But did you want to go to DDOT
16 first?

17 CHAIRMAN HILL: (Indiscernible). I couldn't remember
18 why we asked DDOT to show, but Ms. Bridges, can you hear me?

19 MR. BRIDGES: Yes.

20 CHAIRMAN HILL: Do you want to go ahead and give us
21 your testimony?

22 MR. BRIDGES: Yes.

23 Good morning, members of the BZA. For the record, I'm
24 Kelsey Bridges with the District Department of Transportation.
25 DDOT is supportive of the applicant's proposal. As you heard in

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1 the presentation, the applicant has coordinated with DDOT and has
2 come to an agreement on a transportation demand management plan
3 to mitigate the project's impacts to the transportation system,
4 and to account for the TDM mitigations required for the over
5 parking addition.

6 The amount of off-street parking provided is considered
7 excessive. Under Subtitle C 707.3A, (indiscernible) TDM
8 mitigations for additional bike parking, street trees, car share
9 spaces, and electric vehicle charging stations.

10 The applicant has indicated that they cannot provide
11 the public access to their parking garage for the car share
12 spaces, as required by 707.3A(4). The applicant and DDOT
13 discussed moving the car share spaces out of the garage into a
14 curbside location on 29th Street NW. However, that has a policy
15 of only reserving curbside space for car-sharing vehicles if
16 requested by a ready and willing car share provider.

17 Regarding the additional street trees, the applicant
18 is able to provide these. However, DDOT's Urban Forestry Division
19 has indicated they do not have any available planting locations
20 in R-2. In lieu of the required additional car share spaces and
21 street trees, to address potential (indiscernible) traffic
22 generated by the over parking condition, the applicant has agreed
23 to a robust TDM plan in April 28th, 2021, Gorove Slade technical
24 memo, Exhibit 35A. And it's also included in the DDOT's report
25 as well.

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1 The applicant will be meeting the requirements for
2 extra bike parking and electric vehicle charging spaces. The
3 applicant is requesting loading relief from the zoning required
4 one 30-foot loading berth and one 20-foot delivery space, due to
5 the existing historic wall and proposed horizontal metal beam
6 supporting the building facade, which will result in a vertical
7 clearance height too low for trucks.

8 DDOT will work with the applicant during permitting on
9 the appropriate signage and curbside restrictions, including the
10 possibility of a no parking loading zone near the trash door.

11 There is also an existing 53-foot-long commercial
12 loading zone on the west side of 29th Street, directly across
13 from the site. Trucks to the site may use it, so long as they
14 meet the District regulations for size of truck, wanting
15 (indiscernible) foot minimum, pay the meter, display the ticket,
16 and time of use under two hours. And it's a first come, first
17 served basis.

18 The applicant has proposed a loading management plan
19 in the April 28th, 2021 Gorove Slade technical memo, which DDOT
20 finds acceptable. With agreed to TDM plan and loading management
21 plan included in the BZA order, as stated in our report, DDOT
22 has no objection to the approval of this application.

23 Thank you.

24 CHAIRMAN HILL: Thank you, Ms. Bridges.

25 Does the board have any questions for DDOT? Okay,

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1 thank you, Ms. Bridges.

2 All right, let's see Mr. Kadlecek, again, right, you
3 guys are in agreement with the TDM plan and the loading management
4 plan. Correct?

5 Okay. So you're (indiscernible) for the record. Okay,
6 great. Thank you.

7 Mr. Young, who's here ready to speak?

8 MR. YOUNG: I have Christina Vaughn.

9 CHAIRMAN HILL: Okay, great. Ms. Vaughn, can you hear
10 me?

11 MS. VAUGHN: Yes, I can (indiscernible). Hold on one
12 second.

13 Okay, starting. One second, please.

14 CHAIRMAN HILL: No problem.

15 MS. VAUGHN: Well, while the video activates, I'd like
16 to first --

17 CHAIRMAN HILL: That's okay. Can you could you first
18 introduce yourself for the record?

19 MS. VAUGHN: That is exactly my plan.

20 First, I'd like to thank Chairman Hood, you, Mr. Hill,
21 the members of the zoning board, the Levy Group, Richard Levy,
22 Peter Armstrong, all the interested parties that would include
23 the architects, developers, law firms, DDOT, planning office, et
24 cetera, et cetera, for taking the time to listen to the little
25 people in the neighborhood.

1 My name is Christina Vaughn. I am here to speak on
2 behalf of my property, which is 1016, 29th Street NW, which is
3 located on the far end or the southern side of the group of small
4 homes across from the development.

5 And my home is on the -- basically on the northern side
6 of the alley between the -- what used to be the Georgetown Suites
7 and what is now going to be apparently some other development.

8 I speak to what is lot 800, which is the loading berth
9 and trash pickup, which will stand directly across from my only
10 window, and where I sit every single day. And now today I have
11 a wall -- a very attractive historic wall, and now I'm going to
12 have basically a garage door, and the loading dock, and trash
13 pickup. Clearly that affects my property. I have spoken to Levy
14 Group, and they have been very kind in the time and the effort
15 they have put into trying to locate that door close to the alley.
16 I understand the dilemma with the Silver Oak, which does not
17 permit the Levy Group to move the access door to the loading
18 berth and the trash pickup entry to the south.

19 And my concern is -- or my question is that is there
20 any way in which we could invert the loading berth and the access
21 entry door, because that would (indiscernible) solve my problem
22 and the loading berth would be to the right or to the south of
23 the of the Silver Oak. And then the other door that they have
24 listed on your floor plan or going -- or architectural plans
25 would be moved to the northern side. I'm trying to come up with

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1 a solution so that I can look at something that is not a trash
2 dump or a loading berth.

3 Understanding the limitations of the flood line and
4 understanding the limitation -- but I'm seeing that there is a
5 flood wall that was incorporated into the architectural
6 development plans, which would -- addresses that issue.

7 So my question is, can they be inverted? And that
8 would actually solve my problem (indiscernible) and would not
9 affect my property adversely.

10 CHAIRMAN HILL: Okay, thank you, Ms. Vaughn. Does the
11 board have any questions for the witness? Okay, Mr. Kadlecek,
12 I'll go ahead --

13 MS. VAUGHN: I think I have lost connection.

14 CHAIRMAN HILL: I can hear you, Ms. Vaughn. Maybe Ms.
15 Vaughn, turn off your camera.

16 MS. VAUGHN: I'm not quite sure if anybody there can
17 hear me.

18 CHAIRMAN HILL: Can you turn off your camera? Ms.
19 Vaughn, can you turn off your camera? Ms. Vaughn. Okay, Mr.
20 Young. Can you hear me?

21 MR. YOUNG: Yes.

22 CHAIRMAN HILL: Can you go ahead and excuse Ms. Vaughn.
23 Let's see -- and just keep her in the side. But I mean, just if
24 you could excuse her a second, and hopefully she can hear this.

25 Mr. Kadlecek, can you hear me? So just on that question

1 that Ms. Vaughn had about moving --

2 MS. VAUGHN: I actually don't know if anybody is
3 listening to what I'm saying.

4 CHAIRMAN HILL: We can hear you, Ms. Vaughn. Can you
5 hear me?

6 MS. VAUGHN: I think the image is frozen.

7 CHAIRMAN HILL: Ms. Vaughn, can you hear me?

8 MS. VAUGHN: My property if I can find access --

9 CHAIRMAN HILL: Ms. Vaughn, can you hear me? Mr. Young,
10 can you hear me?

11 MR. YOUNG: Yeah. It looks like she actually just
12 dropped off, so she might be logging out and logging back in.

13 CHAIRMAN HILL: All right, let's see if she logs back
14 in.

15 MR. YOUNG: I'll keep an eye out for her.

16 CHAIRMAN HILL: Okay, sure. That'll be great.

17 Mr. Kadlecek, in terms of the suggestion to Ms. Vaughn,
18 can you tell me why that won't work?

19 MR. KADLECEK: Yeah, I'll let Mr. Armstrong answer
20 that. But a lot of consideration went into the placement of the
21 loading opening exactly.

22 CHAIRMAN HILL: Mr. Armstrong, can you tell me why you
23 can't move the door?

24 MR. ARMSTRONG: Absolutely. So the site sits in the
25 100 year flood plain, and pushing the loading access door, given

1 the dimensions, any further south presents two technical
2 challenges. One, significant issues related to the size of the
3 opening into the floodplain and then jeopardizing the integrity
4 of the elements that are within the garage. But two, it also
5 puts the loading entrance too close to K Street. And we, you
6 know, in the early, early discussions with DDOT many years ago,
7 going any further south than the alley opening on the west side
8 was the furthest south that they were comfortable having any sort
9 of loading access points.

10 So first and foremost, technical difficulties related
11 to flood and flood mitigation and flood proofing, and then two,
12 just the impact on the street network and road operations in
13 early discussions, you know, all the way back in 2013 and 2014
14 about how we were going to load the site.

15 You know, as you guys in the board knows, there's no
16 alley network and there's no place to access the street network
17 other than 29th Street.

18 CHAIRMAN HILL: Got it. Okay.

19 MS. VAUGHN: Okay, so I'm back again. I'm so sorry
20 that there was a, you know, technical issue during the most
21 important three minutes of my (indiscernible) life.

22 CHAIRMAN HILL: That's right, Ms. Vaughn. We heard
23 everything. We heard everything. And so, but I just wanted to
24 see if the board had any questions for you. And the board does
25 not have any questions for Ms. Vaughn. Correct?

1 Okay, so Ms. Vaughn, they have -- well, anyway, I just
2 asked a question that I guess you can go back and watch when the
3 recording is released, but due to the flood plain and certain
4 other issues, they are unable to move that door anywhere else.
5 And so have you been in touch with some -- like Mr. Kadlecek?
6 Mr. Kadlecek, have you been in -- has Ms. Vaughn been in touch
7 with you guys before?

8 MR. KADLECEK: Oh, yes. I know she has been in with
9 Mr. Levy. She's been in contact with Mr. Levy and Mr. Armstrong.

10 CHAIRMAN HILL: Okay, great. All right. Well, Ms.
11 Vaughn, thank you very much for your testimony. I'm going to go
12 ahead. You can still watch this, but I'm going to go ahead and
13 excuse you from the hearing room.

14 MS. VAUGHN: Okay, can I just ask one question quickly,
15 and that is that I spoke to the Levy Group and there seems to be
16 no alternative. Is there anything that can be done with reference
17 to that -- how this is going to affect my property?

18 CHAIRMAN HILL: I understand, Ms. Vaughn. I appreciate
19 you asking that question. Let me let me go ahead. Why don't -
20 - I'm going to excuse you from the hearing room, okay?

21 MS. VAUGHN: Thank you for listening.

22 CHAIRMAN HILL: And you can go ahead and watch the
23 hearing, okay?

24 MS. VAUGHN: Thank you.

25 CHAIRMAN HILL: Thank you.

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1 Mr. Young, could you excuse Ms. Vaughn, please? Thank
2 you.

3 All right, so right. So, Mr. Armstrong, I heard your
4 answer about the moving of the door. I assume you are in contact
5 with Ms. Vaughn, it sounds like, correct?

6 MR. ARMSTRONG: We are.

7 CHAIRMAN HILL: If there's any way you can make the
8 door more pretty or whatever you can do to make something, I
9 would appreciate at least continued conversation; is that fair?

10 MR. ARMSTRONG: Absolutely. It's totally fair and --

11 MR. LEVY: Mr. Chair, it's Richard levy here.

12 CHAIRMAN HILL: Hi, Mr. Levy.

13 MR. LEVY: And I have had several conversations with
14 Ms. Vaughn over the last couple of years, including two
15 conversations yesterday.

16 I have explained the situation to her very clearly, and
17 I told her we would do everything within our power to make the
18 door as innocuous as possible. So we have worked with her. And
19 I would further say, I mean, her argument is that we're hurting
20 her property value. I would contend that the development of this
21 site is going to enhance her property value, not diminish it.

22 Thank you.

23 CHAIRMAN HILL: Thank you, Mr. Levy. That's great.
24 Yeah, just that sounds -- that's wonderful, Mr. Levy. Just try
25 to -- whatever you can do, all right.

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1 Okay, does anybody have -- sorry? Does anybody have -
2 -

3 MR. LEVY: We are committed to doing so.

4 CHAIRMAN HILL: Gotcha. Thank you, Mr. Levy. Mr.
5 Levy, I can't see your face, so it's hard to kind of see if you're
6 talking. So I apologize for cutting you off.

7 MR. LEVY: I was unable to turn on my camera, for
8 whatever reason.

9 CHAIRMAN HILL: So this would have been a great --
10 well, this one, Commissioner Miller, this would have actually
11 been a fun one in the hearing room. You know, the whole parade
12 of everybody would have been there. You know, the giant, the
13 mammoth thing. Mr. Kadlecek, are we the last stop?

14 MR. KADLECEK: Yes. You are the last stop.

15 CHAIRMAN HILL: Wow. I think we should get some more
16 information, postpone for deliberation.

17 Okay, all right. Let's see. Yeah, that's it. Mr.
18 Kadlecek, do you have anything else you'd like to add at the end?

19 MR. KADLECEK: I have nothing further. Thank you.

20 CHAIRMAN HILL: Okay, I have a quick question. Is this
21 connected to the Four Seasons in some capacity?

22 MR. ARMSTRONG: They will be the management company.

23 CHAIRMAN HILL: But you can't walk over there.

24 MR. ARMSTRONG: No, no, no physical connection. So
25 Four Seasons will manage the residential building, and the

1 residential building will manage the park. But there's no
2 physical connection. There's a national park between us and the
3 hotel next door.

4 CHAIRMAN HILL: Okay.

5 MR. LEVY: If I may add, it will be known as the Four
6 Seasons Private Residences, Washington, D.C.

7 CHAIRMAN HILL: Great. That's great.

8 Ms. John, do you have anything you'd like to say, for
9 the record? This is going longer than I thought, so everybody
10 might as well say something on this historic project, if you want
11 to.

12 VICE CHAIR JOHN: No, Mr. Chairman, I thought the
13 presentation was really clear and clarified a lot of my questions.

14 CHAIRMAN HILL: Mr. Blake, you want to put anything on
15 the record?

16 MR. BLAKE: No, sir. Thank you.

17 CHAIRMAN HILL: Mr. Smith? Commissioner Miller, you
18 want to add anything at the end?

19 All right. Okay, there you go. All right, Mr.
20 Kadlecek, thank you so much. I've got to close the hearing then
21 the record.

22 Mr. Young, if you will excuse everybody. Okay, I'm
23 going to ask someone else to begin deliberation and go around the
24 table. Commissioner Miller, may I start with you?

25 COMMISSIONER MILLER: Okay, well, thank you, Mr.

1 Chairman. I'm in strong support of the application. I think
2 that the applicant has demonstrated in the Office of Planning and
3 DDOT reports confirmed that they are meeting the criteria for the
4 relief that is being requested as much as possible, given various
5 constraints that exist with this project.

6 So and the ANC2E is in strong support, the Georgetown
7 ANC is in strong support. So I'm ready to vote in favor of this
8 application should somebody make a motion and second it.

9 CHAIRMAN HILL: Okay, let's see, Mr. Smith.

10 MR. SMITH: I agree with Mr. Moore's assessment of this
11 particular project. I do believe that the project has -- meets
12 the merits (indiscernible) special exception. (Indiscernible)
13 with the consideration of DDOT's condition.

14 So with that, I'll support (indiscernible).

15 CHAIRMAN HILL: Thank you. Ms. John?

16 VICE CHAIR JOHN: Thank you, Mr. Chairman. I'm in
17 support of the application. I thought the presentation was very
18 clear in showing how the application meets the criteria for relief
19 and for each of the special exceptions. I was impressed by DDOT's
20 explanation of the relief for excess parking. And I thought that
21 by agreeing to implement the TDM plan that the project will
22 mitigate any potential adverse impacts.

23 I was also encouraged by the applicant's commitment to
24 working with Ms. Vaughn on any potential mitigation for that
25 loading, but I accept the applicant's explanation of the reasons

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1 for the applicant's inability to move the door -- so the loading
2 berth.

3 So I am in support of the application. I give great
4 weight to OP's analysis and appreciate ANC's approval of the
5 application.

6 So I'm in support.

7 CHAIRMAN HILL: Thank you, Ms. John. Mr. Blake?

8 MR. BLAKE: Yes. I, too, will be in support of the
9 comments made by Vice Chair John, and would give substantial
10 weight to a very thorough analysis and recommendation of the
11 Office of Planning.

12 CHAIRMAN HILL: Okay, great. Thank you.

13 I don't have anything to add. I appreciate all the
14 comments from my colleagues. I'm going to make a motion to
15 approve application number 20443, as captioned and read by the
16 secretary, including the condition of DDOT's for the TDM plan,
17 as well as loading management plan, and ask for a second, Ms.
18 John.

19 VICE CHAIR JOHN: Second.

20 CHAIRMAN HILL: The motion was made and seconded. Mr.
21 Moy, could you take a roll call, please.

22 MR. MOY: Thank you, Mr. Chairman. When I call your
23 name, if you would please respond with a yes, no, or abstain to
24 the motion made by Chairman Hill to approve the application for
25 the relief requested, along with, I believe, the Chairman cited,

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1 along with the conditions of the thing with the TDM plan and the
2 loading plan. The motion was seconded by Vice Chair John. Zoning
3 Commissioner Rob Miller.

4 MR. SMITH: Yes.

5 MR. MOY: Mr. Smith.

6 MR. SMITH: Yes.

7 MR. MOY: Mr. Blake.

8 MR. BLAKE: Yes.

9 MR. MOY: Vice Chair John.

10 VICE CHAIR JOHN: Yes.

11 MR. MOY: Chairman Hill.

12 CHAIRMAN HILL: Yes.

13 MR. MOY: Staff would record the vote as five to zero
14 to zero. And this is on the motion made by Chairman Hill to
15 approve, seconded by Vice Chair John, also in support of the
16 motion to approve is Mr. Blake, Mr. Smith, and zoning commissioner
17 Rob Miller. The motion carries, sir.

18 CHAIRMAN HILL: Thank you, Mr. Moy.

19 Okay, everybody. You want to take -- let's take a
20 quick ten-minute break, is that all right? And we'll come back.
21 Mr. Moy, you had a question?

22 MR. MOY: Yeah. Before you break, Mr. Chair, can I ask
23 of you to before we break to give a status of how the board is
24 going to move after you come back with -- from your break on the
25 remaining cases?

1 CHAIRMAN HILL: Sure, sure, sure. As I understand,
2 unless there is an issue, I know that Commissioner Turnbull is
3 waiting, but I think that we were trying to clear out some cases
4 before we got to Commissioner Turnbull's case.

5 So, again, it was going to be 20448, then 20446, then
6 we'll bring in Commissioner Turnbull, if he doesn't mind. I
7 don't think those two cases will go that -- we'll see how those
8 go. And then 20445, which is Commissioner Turnbull, then 20451,
9 and then 20450.

10 Is that correct?

11 MR. MOY: Yes, sir. Thank you, Mr. Chairman.

12 CHAIRMAN HILL: Okay. And as I mentioned, you guys,
13 I'm trying to do this as smoothly as possible today. But again,
14 that last case obviously was something that has been going through
15 many, many motions, as Commissioner Miller has been involved in
16 also. So. All right, let's take a quick ten-minute break, and
17 we'll come back.

18 Thank you.

19 (Break)

20 CHAIRMAN HILL: Okay, Mr. Moy, can you call our next
21 case, please?

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

23 The board is back in session, and the time is at or
24 about 11:28. And the case before the board is application number
25 20448 of Jonathan Gillespie. This application was captioned and

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1 advertised for special exception from the lot occupancy
2 restrictions of Subtitle D, Section 304.1. This would construct
3 a one-story rear deck addition to an existing two-story attached
4 principal dwelling unit in the R-3 zone. This property is located
5 at 2022 37th Street NW, Square 1301, Lot 840.

6 CHAIRMAN HILL: Okay, sorry, Mr. Gillespie, can you
7 hear me?

8 MR. GILLESPIE: I can. Yeah, can you hear me?

9 CHAIRMAN HILL: Okay. Yes. Could you please introduce
10 yourself for the record?

11 MR. GILLESPIE: My name is Jonathan Gillespie and I
12 live at 2022 37th Street Northwest.

13 CHAIRMAN HILL: Okay, Mr. Gillespie, could you just
14 tell us a little bit about your project? I think the record is
15 pretty full and clear. However, go ahead and tell us about your
16 project and why you believe that you're meeting the relief -- I'm
17 sorry, the standard for which we should grant the relief. And
18 you can begin whenever you like.

19 MR. GILLESPIE: Sure. So I bought this property in
20 November, and I've been undergoing renovations since then,
21 proposing to build a single-story deck off the rear of the
22 property. It meets the requirements for the exception, in my
23 opinion, because it doesn't impinge on either neighbors' access
24 to light or air. Both neighbors have opaque fences of the same
25 height as the base of the deck, and both neighbors have decks of

1 greater depth than what I am proposing to build, which makes it
2 in line with the character of the surrounding houses.

3 Yeah, it's a fairly simple deck condition. It requires
4 three percent of additional lot (indiscernible) beyond what
5 zoning allows, but the project has gotten approval from both
6 adjacent neighbors, the ANC, and the Office of Planning.

7 CHAIRMAN HILL: Okay. Great. Thank you, Mr. Gillespie.

8 Does the board have any questions for the applicant?
9 Okay, I'm going to turn to the Office of Planning. Mr. Mordfin,
10 can you hear me?

11 MR. MORDFIN: Yes, I can hear you. Sorry. I see where
12 you're working with the Office of Planning, the Office of Planning
13 is in support of this application and stands on the record, and
14 it's available for questions

15 CHAIRMAN HILL: Does anybody have any questions for the
16 Office of Planning?

17 Mr. Young, is there anyone here wishing to speak?

18 MR. YOUNG: We do not.

19 CHAIRMAN HILL: All right, Mr. Gillespie, is there
20 anything you'd like to add at the end?

21 MR. GILLESPIE: No, unless anyone has any questions.

22 CHAIRMAN HILL: Okay, I'm going to go ahead and close
23 the hearing and the record. Mr. Young, if you could excuse
24 everyone.

25 Okay, I didn't have any concerns with this application.

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1 I thought it was very straightforward as to how they're meeting
2 the criteria for us to grant the relief requested. I also agree
3 with the analysis of the Office of Planning, as well as that of
4 the ANC. And I'm going to be voting to approve.

5 Is there anything else you would like to add,
6 Commissioner Miller? No. Mr. Smith? No. Ms. John?

7 VICE CHAIR JOHN: No.

8 CHAIRMAN HILL: No. Mr. Blake? No.

9 All right, I'm going to go ahead and make a motion then
10 to approve application number 20448, as captioned and read by the
11 secretary and ask for a second, Ms. John.

12 VICE CHAIR JOHN: Second.

13 CHAIRMAN HILL: Motion made and seconded. Mr. Moy,
14 could you please take a roll call vote?

15 MR. MOY: Yes, sir. Thank you, Mr. Chairman. When I
16 call your name, if you would please respond with a yes, no, or
17 abstain to the motion made by Chairman Hill to approve the
18 application for the relief requested. The motion was seconded
19 by vice chair John. Zoning Commissioner Rob Miller.

20 COMMISSIONER MILLER: Yes.

21 MR. MOY: Mr. Smith.

22 MR. SMITH: Yes.

23 MR. MOY: Mr. Blake.

24 MR. BLAKE: Yes.

25 MR. MOY: Vice Chair John.

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1 VICE CHAIR JOHN: Yes.

2 MR. MOY: Chairman Hill?

3 CHAIRMAN HILL: Yes.

4 MR. MOY: Staff would record the vote as five to zero
5 to zero, and this is on the motion made by Chairman Hill to
6 approve. A motion was seconded by Vice Chair John, also in
7 support of the motion to approve is Mr. Blake, Mr. Smith, and
8 Zoning Commissioner Rob Miller. Motion carries, sir.

9 CHAIRMAN HILL: Thank you, Mr. Moy. When you get an
10 opportunity, Mr. Moy, you can call the next case.

11 MR. MOY: All right, the next case before the board is
12 application number 20466 of Dan Mickelson. This application was
13 captioned and advertised for special exception for the lot
14 occupancy requirements as subtitle F, Section 304.1. This would
15 construct a front porch roof to an existing semi-detached two-
16 story with basement principal dwelling unit. This is in the RA-
17 1 zone located at 113 Webster Street, Northwest, Square 3319, Lot
18 14.

19 CHAIRMAN HILL: Okay, great. Thank you.

20 Mr. Mickelson. Can you hear me?

21 MR. MICKELSON: Yeah. Good morning.

22 CHAIRMAN HILL: Good morning. Could you introduce
23 yourself for the record, please, sir?

24 MR. MICKELSON: Yeah. My name is Dan Mickelson. I'm
25 the home owner of 113 Webster Street in Northwest, and it's also

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1 my primary residence.

2 CHAIRMAN HILL: Okay, great.

3 Mr. Mickelson, if you could please go ahead and tell
4 us a little bit about your project and how you believe you are
5 meeting the standard for us to grant the relief requested. And
6 you can begin whenever you like.

7 MR. MICKELSON: Yeah, starting with a quick summary of
8 our project. We're just seeking to put a cover over the existing
9 slab that is our front porch. Ninety percent of homes on our
10 block, or four straight blocks have the cover. And we're just
11 looking to mimic what other folks have to provide some shade.

12 We believe we meet the criteria. The light and the air
13 available to neighboring properties shall not be affected. We
14 don't believe -- sorry, the privacy and use of enjoyment of
15 neighboring properties shall not be affected. And then we don't
16 believe the proposed build will visibly intrude upon the
17 character of the neighborhood.

18 I think that -- if there are questions, please let me
19 know.

20 CHAIRMAN HILL: Okay, well, I do have a question for
21 you. So, Mr. Mickelson, I guess you have -- the ANC had a bunch
22 of requests, and a lot of them are just kind of, I would say, a
23 good neighborly request. And so you don't have any issues with
24 those requests?

25 MR. MICKELSON: No, we understand the nature of their

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1 requests, and we plan to be here and make sure that those requests
2 are fulfilled.

3 CHAIRMAN HILL: Got it. Okay, great.

4 Does the board have any questions for the applicant?
5 And if so, raise your hand. All right. Good. Turning to the
6 Office of Planning.

7 MS. ELLIOTT: Good morning, Mr. Chairman, members of
8 the board, I'm Brandice Elliott, representing the Office of
9 Planning for BZA case 20466. The Office of Planning is
10 recommending approval for the lot occupancy relief that's been
11 requested to go to 54 percent. In the interest of time, I'll go
12 ahead and stand on the record of OP's report, but I am happy to
13 answer any questions that you have.

14 CHAIRMAN HILL: Thank you, Ms. Elliott. Does anybody
15 have any questions for the Office of Planning? No.

16 Mr. Young, is anybody here wishing to speak?

17 MR. YOUNG: We do. We have one witness.

18 CHAIRMAN HILL: Okay. And I'm sorry, sir, the only
19 thing it says is Timothy. Is that Timothy? Hello, can you hear
20 me? Timothy. Mr. Young, is it not working?

21 MR. YOUNG: It's Timothy Grandy, but it looks like he's
22 also following in on the phone. So I'm going to unmute.

23 CHAIRMAN HILL: Okay. Great.

24 MR. MICKELSON: Yeah, it's my neighbor.

25 MR. GRANDY: Hello?

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1 CHAIRMAN HILL: Mr. Grandy, can you hear me?

2 MR. GRANDY: Yes. Yes.

3 CHAIRMAN HILL: Okay. Mr. Grandy. Good morning. Could
4 you please introduce yourself for the record?

5 MR. GRANDY: Yes. My name is Timothy Grandy. And I
6 live at 115 Webster Street. It's on the opposite side of the
7 alley from Dan.

8 CHAIRMAN HILL: Okay. Great. So as a member of the
9 public, you have three minutes to give me your testimony and you
10 can -- there's a clock on the screen if you can see it. If you
11 can't see it, I'll let you know when the time is up. But you
12 can begin whenever you like.

13 MR. GRANDY: Okay, I in principle don't have a dispute
14 or anything against the building of a porch roof. My concerns
15 are that it would, and it may not, but it's just not proven in
16 the statutes, that it may obscure some of my views. If you looked
17 at the exhibits posted on the BZA application, Exhibit number 3,
18 which shows to my living room window -- I have a living room
19 window that faces the alley. And so my concern is that of light
20 and air basically.

21 113 Webster Street is a higher elevation, because we
22 are not a hill. And so my concern of the porch on 113 blocking
23 that, or decreasing that. The other concern is that should a
24 privacy shade cover screen on the side, which neighbors do, the
25 roof cover, then it would completely obscure my view out of that

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1 window up the hill. (Indiscernible) block. Further down the
2 line, although what Dan is proposing, they're proposing a sloped
3 roof, but should later on either of them or if they should sell
4 and someone else moves in, if that person should decide to, "Oh,
5 I'd like to do a walkout at the second floor." That brings noise
6 up to the second level.

7 So while Dan is -- they're not proposing to do anything
8 like that, it's just that I don't want to get the ball rolling,
9 say for it to be something else. To that end, if anything could
10 be put in, if the other criterias could be met, and something be
11 put in the zoning saying no walkout unless you go through the
12 process again, to allow it (indiscernible).

13 But primarily, it's just a light and air concern for
14 me. (Indiscernible) it's nice to have that light coming in from
15 the side of the house.

16 CHAIRMAN HILL: Okay, Mr. Grady, are you the house
17 directly to the to the right if you're facing the front.

18 MR. GRANDY: Yes. If you look at the exhibit number
19 3,

20 CHAIRMAN HILL: I'm sorry. Are you the house on the
21 other side of the alley?

22 MR. GRANDY: Yes. Directly on the other side of the
23 alley. My (indiscernible) actually is a mirror image of where
24 Dan's house is.

25 CHAIRMAN HILL: Got it. Right. But across the street.

1 Across the alley.

2 MR. GRANDY: Exactly. I'm at 115 and Dan is at 113.

3 CHAIRMAN HILL: I got you. Okay, all right. Let's
4 see. Does the board have any questions for the witness? Okay,
5 all right. Okay, thank you, Mr. Grandy, for your testimony. You
6 can go ahead and listen to us, and I'll excuse you from the
7 hearing room.

8 MR. GRANDY: Okay, thank you.

9 CHAIRMAN HILL: Thank you.

10 Ms. Cain, can you hear me?

11 MS. CAIN: Yes.

12 CHAIRMAN HILL: I know this is all hypothetical, and
13 we can't really think or talk about hypotheticals, but I am just
14 curious, and maybe Ms. Elliot, you can help me also, like, I
15 didn't understand the whole thing about the way the roof is now,
16 and if somebody wanted to -- I guess the -- and now I'm just
17 curious, then wanted to put a roof deck -- or I'm sorry, a deck
18 on top of that roof, they would have to come back before us again.
19 Correct? I don't know if anybody can answer it. Ms. Elliott?

20 MS. ELLIOTT: Mr. Chairman, I'm not sure that I could
21 answer definitively without actually seeing what the proposal
22 would entail. But if the lot occupancy remains the same, then
23 theoretically they would not need additional relief for lot
24 occupancy. If they're just putting a deck on top of the --

25 CHAIRMAN HILL: I got it. I got okay. Okay. All

1 right. Okay, Mr. Mickelson, that's not your plan anyway at this
2 point, correct?

3 MR. MICKELSON: No. And we plan to be in this house
4 for quite a while. And the pitched roof, which -- it's not our
5 plan. And one of the biggest reasons we don't want to do it is
6 we'd like the shade, which is why we're adding the cover. We
7 want to sit under the shade. And also my two young kids have
8 the front of the house. The last thing I want to do is give them
9 access to outdoor space that I can't control.

10 So to the extent my word is worth anything here, I
11 promise I would never build a second-tier access for communal
12 gathering or any gathering.

13 CHAIRMAN HILL: Okay. That's all right. I was just
14 curious. Anyway, at some point, I'm sure your children are going
15 to climb out the window and then sneak out of the house that way
16 anyway. So, all right.

17 Let's see, does anybody have any questions for the
18 applicant? I'm looking. No. All right, Mr. Mickelson, do you
19 have anything you'd like to add at the end?

20 MR. MICKELSON: Yeah, I just want to -- just to address
21 Timothy's point, and him and I have talked about this, so I'm
22 not surprised by his comments. The structure is designed to kind
23 of let as much light through as possible. We could have gone
24 with three pillars at the front, we chose to go with two.

25 So we're trying to be as neighborly and let as much

1 light and air through as possible here. There's also a big tree
2 in the front of the yard that also cuts off some of the light.
3 But that's nothing that we can control.

4 CHAIRMAN HILL: Okay, great. I mean, you know, to
5 quote my friend, Chairman Hood, you know, the good neighbor
6 policy, just continue to be a good neighbor, all right?

7 MR. MICKELSON: Absolutely.

8 CHAIRMAN HILL: Okay. All right. I'm going to go
9 ahead and close the hearing and the record. Mr. Young, if you
10 could please excuse everybody.

11 Okay, I'm going to let somebody else talk, if that's
12 all right. Commissioner Miller, do you mind going first?

13 COMMISSIONER MILLER: Thank you, Mr. Chairman. I
14 believe that the applicant has demonstrated that they meet the
15 criteria for the lot occupancy relief for this covering of the
16 porch, and the Office of Planning report summarizes that the
17 sides would still be open and would not impact air circulation,
18 should not impact the air circulation, or increase visibility
19 into the adjacent lots.

20 You pointed out that there's an alley even that
21 separates the adjacent neighbor who just testified. So there's
22 additional space there. The ANC, I think, in this case has
23 (indiscernible) voted to recommend approval. So I'm in support
24 of the application, Mr. Chairman.

25 CHAIRMAN HILL: All right. Thank you, Commissioner

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1 Miller. Mr. Smith.

2 MR. SMITH: I agree with Mr. Miller's -- I feel like
3 this is fairly straightforward. I do believe that the applicant
4 has met the merits and criteria (indiscernible) to be able to
5 construct this front porch. So I give great weight to OP's
6 (indiscernible) support of the application, (indiscernible).

7 CHAIRMAN HILL: Thank you, Vice Chair John.

8 VICE CHAIR JOHN: Thank you, Mr. Chairman. I agree
9 with all of the comments so far. I appreciate the testimony of
10 the witness. But based on the record, I don't find that there
11 is any impact to light and air or privacy. And I believe OP's
12 analysis of whether or not the applicant has met the burden for
13 us to grant relief is very clear, and I give great weight to OP's
14 analysis.

15 CHAIRMAN HILL: Thank you. Mr. Blake.

16 MR. BLAKE: Yes, I would concur with the comments of
17 the other board members, and would be (indiscernible) to support
18 this as well.

19 CHAIRMAN HILL: Okay, great. Thank you. I would agree
20 with all of the information from my colleagues. And as I made a
21 joke about climbing out that window, that roof actually does not
22 look like something you want to climb out on to. So I think the
23 slanting is (indiscernible).

24 All right. I'm going to go ahead and approve -- I'm
25 sorry, make a motion to approve application number 20466 as

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

3 VICE CHAIR JOHN: Second.

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

6 MR. MOY: Thank you, Mr. Chairman. When I call your
7 name, if you would please respond with a yes, no, or abstain to
8 the motion made by Chairman Hill to approve the application for
9 the relief -- for the amended relief requested. The second by
10 Vice Chair John. Zoning Commissioner Rob Miller?

11 COMMISSIONER MILLER: Yes.

12 MR. MOY: Mr. Smith.

13 MR. Smith: Yes.

14 MR. MOY: Mr. Blake.

15 MR. BLAKE: Yes.

16 MR. MOY: Vice Chair John.

17 VICE CHAIR JOHN: Yes.

18 MR. MOY: Chairman Hill.

19 CHAIRMAN HILL: Yes.

20 MR. MOY: (Indiscernible) vote is five to zero to zero.

21 And this is on the motion made by Chairman Hill to approve. The
22 motion is seconded by Vice Chair John. Also in support of the
23 motion to approve is zoning commissioner Rob Miller, Mr. Smith,
24 and Mr. Blake. The motion carries, Mr. Chairman.

25 CHAIRMAN HILL: Thank you, Mr. Moy. Mr. Young, do we

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1 have commissioner -- Commissioner Miller. I guess let me see,
2 if you could just hang on there for a second. Mr. Young, is
3 Commissioner Turnbull with us?

4 MR. YOUNG: Yeah, he is.

5 CHAIRMAN HILL: And is Mr. Sullivan with us?

6 MR. YOUNG: Yeah.

7 CHAIRMAN HILL: Okay, great. All right. Commissioner
8 Miller -- okay. Well, let me ask everybody something. So after
9 -- we have another case that has a different commissioner and
10 then we have two more cases. And I think somebody has to go at
11 1:30. I would suggest that we do this next case, take a very
12 short 20-minute lunch break, and then come back and finish up the
13 two cases. Does that sound amenable?

14 Okay, okay, great. All right, Commissioner Miller,
15 we're going to do one with Commissioner Turnbull. Then we'll
16 take a quick little lunch, and then we'll come back for the final
17 two cases.

18 Thank you, Commissioner Miller.

19 CHAIRMAN HILL: Mr. Moy, if you could call our next
20 case, please.

21 VICE CHAIR JOHN: Mr. Chairman, before we get started,
22 I'm not on this case.

23 CHAIRMAN HILL: All right, Ms. John. So you can take
24 an extended lunch then.

25 VICE CHAIR JOHN: Yes, thank you.

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1 CHAIRMAN HILL: Okay, so Ms. John?

2 VICE CHAIR JOHN: Yes.

3 CHAIRMAN HILL: We'll come back maybe around -- I mean,
4 I'll text you. I'll text you.

5 VICE CHAIR JOHN: Thank you.

6 CHAIRMAN HILL: Okay, thank you. Good morning,
7 Commissioner Turnbull.

8 COMMISSIONER TURNBULL: Good morning, Mr. Chair.

9 CHAIRMAN HILL: Mr. Moy, whenever anybody says that,
10 it does make me laugh. Mr. Moy, if you could please call our
11 next case.

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

13 So this would be Case Application No. 20445 of 106 13th
14 Street, LLC. This application has been amended to actually remove
15 the top floor of the building, along with its corresponding
16 variance relief. But for now, this -- before the board now is
17 the use variance from the use restrictions of Subtitle U, Section
18 301.

19 This would expand the existing non-conforming
20 restaurant use to the cellar level of a semi-detached two-story
21 commercial building in the RF-1 zone. And the property is located
22 at 106 13th Street, Southeast, Square 1036, Lot 60. And I think
23 that's all I have. Thank you.

24 CHAIRMAN HILL: Okay, thank you. Mr. Sullivan, could
25 you introduce yourself for the record, please?

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1 MR. SULLIVAN: Good morning, Mr. Chair, members of the
2 board, Marty Sullivan with Sullivan & Barros on behalf of the
3 applicant.

4 CHAIRMAN HILL: Good morning, Mr. Sullivan.

5 Okay, so I know, Mr. Sullivan, where you are, what you
6 did. And I understand all the changes, and I understand even
7 the arguments that you have given that are in the record for now,
8 the requested relief that does not include the second floor, but
9 has the first floor and the cellar for the restaurant.

10 I don't have any direct questions and I'm going to see
11 if my colleagues do. And then we'll go from that particular
12 spot. Let's see. Does the board or let me ask this. I mean,
13 what would the board like to hear from the applicant? Mr.
14 Turnbull, do you have anything you'd like to hear from the
15 applicant?

16 COMMISSIONER TURNBULL: No, I guess you could just for
17 the record, state the change, and the intended use, and what he's
18 doing to meet the requirements for that.

19 CHAIRMAN HILL: Okay. So, Mr. Sullivan, I guess if you
20 want to go ahead and give us a brief update.

21 MR. SULLIVAN: Sure, the -- well, the change from the
22 original application, of course, is the second story is removed
23 from the application. So the request now is to be able to use
24 the cellar space for a restaurant use, similar to what's already
25 approved on the first floor, and the hardship being that the

1 space is buried underground. And there's -- because of where
2 it's located on the alley and in the historic District, there's
3 no possibility to create any light wells to get sufficient light
4 in there, and certainly can't have a habitable space down there,
5 residential space, because of lack of ability to have an egress
6 window.

7 CHAIRMAN HILL: Okay, Mr. Blake, is there anything
8 further you'd like to ask the applicant?

9 MR. BLAKE: Sure. Two quick questions. What would be
10 the capacity of the restaurant with just the cellar?

11 MR. SULLIVAN: I'll turn that over to Mr. Gronning, the
12 architect, but the first floor is already approved, so it's going
13 to be the first floor and the cellar. The cellar is the only
14 one that needs relief. Eric, do you -- or Spiro, if you want to
15 answer that question, please.

16 CHAIRMAN HILL: Mr. Groaning? Mr. Groaning, you're the
17 architect, could you introduce yourself for the record, please?

18 MR. GRONNING: Yeah. Good afternoon. My name is Eric
19 Gronning. I'm the architect for the project. Good morning, Mr.
20 Chairman and board.

21 The first floor, we are calling out for 32 seats, and
22 the cellar, it would be 28 seats. So that's a total of 60 seats.

23 CHAIRMAN HILL: Mr. Blake, I'm sorry, your mike is
24 muted.

25 MR. BLAKE: What would be the intended use for the

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1 second floor at this point?

2 MR. GRONNING: The second floor, we have amended the
3 drawings to show it as vacant space. You know, I think the idea
4 of investing money into residential units that may or may not be
5 viable to rent, doesn't make sense to the owner? So the intended
6 use is nothing.

7 CHAIRMAN HILL: Okay, now I'm following up. So when
8 you say -- Mr. Sullivan, come on, help me out, right. So when
9 you say nothing, what are you going to do with that space? What's
10 going to happen to that space?

11 MR. SULLIVAN: I don't know. I imagine any permitted
12 use that's permissible may be found at some point. I think in
13 answer to the question of the instant intention, and I don't --
14 and I'll ask Spiro to weigh in, I imagine it's just an intention.
15 So I guess the current intention is to not invest in that space,
16 according to what Mr. Gronning said. But the only thing that
17 can be up there is a permitted use, which at this point would be
18 -- the most obvious one would be a residential use. I don't know
19 if, Spiro, if you wanted to add anything to that.

20 CHAIRMAN HILL: Mr. Blake?

21 MR. BLAKE: Yeah. Just one follow up. Could you take
22 a look at the floor plan for the second floor? From what I -- I
23 think you had some slides with that -- the updated slides. I
24 noticed that there is a staircase there. I wanted to kind of
25 figure out how that would be applied and used.

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1 CHAIRMAN HILL: Mr. -- and I'm sorry, Giodossis.

2 MR. GIODOSSIS: Yes. Giodossis.

3 CHAIRMAN HILL: Giodossis. Mr. Giodossis, could you
4 introduce yourself for the record, please.

5 MR. GIODOSSIS: Yes, Spiro Giodossis, owner of the
6 property of 106 13th Street.

7 CHAIRMAN HILL: So could you answer -- Mr. Blake, could
8 you repeat your question?

9 MR. BLAKE: Sure. I noticed that on the plans, the
10 revised plans, that there is a staircase from the first floor to
11 the second floor in the kitchen area. I'm trying to get a feel
12 for how does that -- how that played into the potential use.

13 MR. GIODOSSIS: That was an existing staircase. So I
14 don't understand your question. So how it's going to -- can you
15 repeat, please?

16 MR. BLAKE: Okay, so there's an existing staircase in
17 the front of the unit, and there is an existing staircase that -
18 - there's a staircase that comes through the kitchen area. When
19 you're done, will that be closed off or will that be -- continue
20 to exist?

21 MR. GIODOSSIS: Oh, yes, I'll be with a door -- closed
22 off with a door.

23 MR. BLAKE: Thank you.

24 CHAIRMAN HILL: Okay, Mr. Smith, did you have a
25 question, and Mr. Turnbull? Mr. Smith, go ahead, please.

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1 MR. SMITH: So I guess great minds think alike, because
2 that was my question -- the same question that Mr. Blake had, I
3 had. But I want to follow up on that.

4 Previously when we heard this case, it was of a
5 specially met (indiscern.) residential units on the second floor.
6 How did they access that space previously? Did they access it
7 via these stairs? That entered through a previous restaurant.

8 MR. GRONNING: I can answer that question, Mr. Smith.
9 The door, if you're facing the front of the building, the door
10 to the left had a separate vestibule that accessed that stair to
11 a unit above. So that it would specifically serve the units,
12 the door to the left.

13 MR. BLAKE: So in following up, being that you're
14 removing that vestibule, you're removing that separate access
15 where there was some legal -- a legal conforming use from the -
16 - the ability to access (indiscern.). If in the future, the
17 applicant wishes to put a legal conforming use on the upper floor,
18 this zone is residential, how would you separate that?

19 So I'm just going to be up front with the reason why
20 I'm bringing this up. It seems to me in this particular layout,
21 it's setting up another situation where it's going to create an
22 issue with (indiscern.). How do you propose to mitigate that?

23 MR. GRONNING: So the way the plan is now, there is the
24 -- the entrance to the restaurant is on the left-hand side, but
25 there is another door to the right. So the vestibule could be

1 reestablished on the left by simply walling off that vestibule
2 from the restaurant, and then using the door to the right as the
3 main entrance to the restaurant.

4 So it could be easily achieved. You know, it just --
5 it interrupts the flow when you lose seats in the restaurant if
6 you do that. But that would be the way to do it.

7 MR. BLAKE: Okay, thank you. You answered my question.

8 CHAIRMAN HILL: Commissioner Turnbull, you had a
9 question.

10 COMMISSIONER TURNBULL: Well, I think Commissioners
11 Black and Smith were kind of going down the road that I was
12 thinking. It sort of looks like, well, maybe we can get away
13 with using the second floor without actually getting approval.
14 That's sort of the negative view that I was looking. There is
15 no separation between the stairs going up and the restaurant. It
16 looks like you're all set to go right up and use it.

17 So I'm just questioning. You have no intent to try to
18 use that second floor as a restaurant, correct?

19 CHAIRMAN HILL: That's to you, Mr. Giodossis.

20 MR. GIODOSSIS: Oh, that's for me, okay. Can you hear
21 me?

22 CHAIRMAN HILL: Yes.

23 MR. GIODOSSIS: Okay. Yes, it is what it is. What
24 can I do? There's nothing I can do about it. If it's not
25 approved by you guys. That's what I have to do.

1 COMMISSIONER TURNBULL: Okay. All right, thank you.

2 CHAIRMAN HILL: All right. I'm going to turn to the
3 Office of Planning. Ms. Myers, can you hear me?

4 MS. MYERS: Yes, I can hear you. Can you hear me?

5 CHAIRMAN HILL: Yep.

6 MS. MYERS: Okay. Office of Planning continues to
7 recommend denial for the use -- for restaurant use on the second
8 floor. But I understand they have revised the application. So
9 Office of Planning is in support of the restaurant use in the
10 cellar. So the current application, the way they revised it, we
11 would be in support -- we are in support.

12 CHAIRMAN HILL: Okay. And Ms. Myers, you don't have
13 any -- we're having this long discussion about the way the
14 building is designed currently and the access that the restaurant
15 has to that second floor, both through the kitchen and through
16 the dining area. You don't have a concern about that?

17 MS. MYERS: It would have to be handled with DCRA. I
18 mean, this is a use variance case. So the use we are recommending
19 support of the use in the cellar, and we are not -- you know,
20 and we're not recommending the use on the 2nd floor. But how
21 that would have to be arranged when it comes to the layout on
22 the second floor to make sure that there is no restaurant use up
23 there, that would have to be handled with DCRA.

24 CHAIRMAN HILL: Okay. So it's a DCRA issue, is what
25 you're saying?

1 MS. MYERS: Yes. I mean, they would they would be in
2 violation of their permit if they did a restaurant use on the
3 second floor. So they have to ensure that they don't.

4 CHAIRMAN HILL: Okay.

5 MR. SMITH: Can I expand on that question?

6 CHAIRMAN HILL: Sure, Mr. Smith.

7 MR. SMITH: So, you know, previously there was a
8 discussion that the basement use was used for storage. So it
9 was some type of accessory use to the restaurant. So that's
10 where we're at now, where we're incorporating that basement space
11 into -- as part of this variance request.

12 The point of my question is, they wouldn't be able to
13 use that 3rd floor for storage or some type of accessory to the
14 restaurant, correct?

15 MS. MYERS: The whatever would be considered a
16 violation of the use. I think using it as storage space for the
17 restaurant would be considered a violation of the use, but you'd
18 have to check with DCRA to be sure about that. I'm just not
19 sure.

20 But what we're doing now is making it so that they can
21 officially use the cellar level for restaurant use, because I
22 believe they don't actually have a permit for restaurant use in
23 the cellar, even though I think unofficially they've been using
24 it as a storage space.

25 So for the main level and for the cellar level, that

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1 would have a permit. For the upper level, that would no longer
2 -- that would not have a permit. That would only be able to be
3 used for a matter of (indiscern.) purposes.

4 MR. SMITH: Okay. Now, that's the nature of my concern.
5 Because I don't want to be here in two years where there's a
6 request by the applicant to give a variance because of the nature
7 of having to redesign this -- the access to the space now on the
8 third floor. And in effect, they will say they're using the
9 space on the third floor for storage for the restaurant. So I
10 don't want to set up that situation. But I understand where
11 you're coming from.

12 MS. MYERS: And I just want to be clear, the reason why
13 we're supporting the cellar as a restaurant use is because of the
14 physical characteristics of it. So not just because they've
15 unofficially been using it as storage space, but because it
16 doesn't meet building code requirements for -- as a habitable
17 space. So that's part of that argument. Whereas for the upper
18 level, I don't think they could use -- they don't really have
19 arguments for turning it into a restaurant use. If they were to
20 unofficially use it for restaurant use, the physical layout is
21 still able to be done as residential. So they really wouldn't
22 have the argument.

23 MR. SMITH: Thank you for that.

24 CHAIRMAN HILL: Okay. Anyone else for the Office of
25 Planning? Mr. Sullivan, you look like you have something to say.

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1 No. All right. Is there anybody here who --

2 MR. SULLIVAN: I thought I might be able to -- I'm
3 sorry.

4 CHAIRMAN HILL: Sure. Go ahead, Mr. Sullivan.

5 MR. SULLIVAN: I just wanted to clarify. What's been
6 discussed with me, and maybe they don't -- the owner and architect
7 might not fully understand what's -- all the questions here, and
8 the purpose of them, but currently the building permit
9 application that's going forward is going to say vacant space,
10 because there's no == there's no intention right now of doing
11 that.

12 What has been discussed with me is if it is going to
13 be a residential space, it's likely a residential space for the
14 owner only, just like it was in the past. For the past restaurant
15 owner was the only one that used it as residential space, rather
16 than renting it out.

17 So and I agree, I don't think anything could be used
18 on the third story. I don't think it can be used for storage or
19 anything accessory to the restaurant. And that's never been
20 discussed among the three of us. It's only been discussed that
21 it can be residential. And if it's going to be residential, it's
22 probably for the use of the owner, unless economic situation
23 changes in the future.

24 But the plans right now show it vacant, because that's
25 the current plan. That's the building permit application that's

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1 going to go forward, because this needs to get done as soon as
2 possible.

3 So it wasn't meant to imply that it's going to somehow
4 be used in a non-compliant way in the future.

5 CHAIRMAN HILL: Okay. No, Mr. Sullivan. That's fair.
6 I mean, honestly, that makes me feel better anyway. I mean, that
7 actually makes sense that, you know, then if it's a -- if it's
8 habitable space for the owner, then obviously, however they get
9 up there through the kitchen or through the front, you know, it
10 just makes it easier for them anyway to access their business.

11 So, all right, let's see. Anyone else have any further
12 questions?

13 All right.

14 Is there anyone here wishing to testify, Mr. Young?

15 MR. YOUNG: We do not.

16 CHAIRMAN HILL: Okay, all right. Mr. Sullivan, is
17 there anything you'd like to add at the end?

18 MR. SULLIVAN: No, thank you.

19 CHAIRMAN HILL: Okay, so just -- I just wanted to
20 mention for the record, because I know -- I didn't think you guys
21 were going to be back here and we were actually going to talk to
22 you guys. I didn't think you all had the votes. Like you would
23 have just come back here. You would not have had the votes. We
24 would have had to kick you into -- no, I'm sorry, you might have
25 not been here until September or even October. I'm just stating

1 that for the record, like, I don't -- I know you didn't have the
2 votes. I don't think you had the votes for the variance on the
3 third floor.

4 So all right -- second floor, I mean. Okay. And the
5 restaurant looks beautiful, by the way. The food looks
6 outstanding. I mean, it looks delicious. I hope -- I wish
7 everybody the best, I really do. And Mr. Giodassis, really, I
8 wish you the best.

9 MR. GIODASSIS: Thank you very much. I appreciate it.
10 Thank you. I look forward to seeing you all at my restaurant
11 when it opens.

12 CHAIRMAN HILL: Very good. All right. Okay.

13 MR. GIODASSIS: I'll invite all of you on friends and
14 family -- friends and family.

15 CHAIRMAN HILL: I wish you could do that. You can
16 invite us. It would sound like a bribe. All right. Okay.

17 MR. GIODASSIS: No, no, no. You're going to pay. The
18 first customers have to pay.

19 CHAIRMAN HILL: All right. Wonderful. Wonderful. All
20 right. Okay, I'm going to close the hearing and the record. If
21 Mr. Young, if you can excuse everybody.

22 Okay, it's fine. I'm going to go and start, and I know
23 that there was a lot of neighborhood support for this, and I say
24 this again, the way you support the business is you go to the
25 business, you eat at the business, you take carry out from the

1 business. It's pizza. It's easy to take it home. Just support
2 the business.

3 Okay. All right. Let's see. I actually don't have -
4 - I agree with the analysis of the Office of Planning. I
5 understand how that cellar can't be turned into habitable space
6 and how they can't put in the light wells on the alley side. And
7 so I would agree with the analysis of the Office of Planning, as
8 how they're meeting the criteria for us to grant the relief that's
9 being requested.

10 I would also agree with the -- I mean, the ANC just
11 wants -- you know, they want the restaurant, which is great. And
12 so -- and also, I agree with the analysis of DDOT. So I don't
13 have anything to add further. And I'm going to be voting in
14 favor of the application. Commissioner Turnbull.

15 COMMISSIONER TURNBULL: Thank you, Mr. Chair. Going
16 back to the original OP report, Exhibit 35, OP was very much
17 against for us to not approve this, basically because they said
18 they failed the various tests, and was basically on the
19 residential use, not being used on the third -- on the second
20 floor, but trying to make it into a restaurant.

21 And OP was very -- and I'm not going to go back through
22 OP's arguments, but they are very good arguments for why it should
23 not be used. Now that that use has gone away, and that the owner
24 is only seeking restaurant use in the cellar, or the basement,
25 then OP is now in support.

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1 And I agree with you. I think now this is going to be
2 a very good use for the site, and I will be voting in favor of
3 it.

4 CHAIRMAN HILL: Great. Thank you. Mr. Smith.

5 MR. SMITH: I agree with both of your opinions, Chairman
6 Hill and Mr. Turnbull, regarding this particular case. The
7 (indiscern.) application for variance for the third-floor space
8 was a stretch to me, and I think you hit the nail on the head,
9 Chairman Hill, about if that wasn't removed, that particular case
10 I think may have went.

11 But I do agree with the arguments first raised by OP
12 that the cellar space, it would be fairly difficult for that
13 space to be used for anything going forward without of a variance.

14 So, the changed nature of this application, I do
15 believe it has sufficiently met the variance test criteria for
16 us to be able to grant this particular variance, and will be in
17 support of it.

18 CHAIRMAN HILL: Thank you, Mr. Blake.

19 MR. BLAKE: Yes, I would agree with the comments made.
20 My major concerns with this was how the second floor would be
21 used. And I think those questions were adequately addressed in
22 the testimony today.

23 So I would be prepared to support this.

24 CHAIRMAN HILL: Okay, thank you, Mr. Blake.

25 All right. Let's see. I'm going to go ahead and make

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1 a motion to approve Application No. 20445, as captioned and read
2 by the secretary and ask for a second, Mr. Blake.

3 MR. BLAKE: Second.

4 CHAIRMAN HILL: The motion being made and seconded.
5 Mr. Moy, can you please take a roll call.

6 MR. MOY: Yes, sir. When I call your name, if you
7 would please respond with a yes, no, or abstain to the motion
8 made by Chairman Hill to approve the application for the amended
9 relief requested. The motion was seconded by Mr. Blake. Zoning
10 Commissioner Michael Turnbull.

11 COMMISSIONER TURNBULL: Yes.

12 MR. MOY: Mr. Smith.

13 MR. SMITH: Yes.

14 MR. MOY: Mr. Blake.

15 MR. BLAKE: Yes.

16 MR. MOY: Chairman Hill.

17 CHAIRMAN HILL: Yes.

18 MR. MOY: Said would report the vote is four to zero
19 to one. And this is on the motion made by Chairman Hill to
20 approve. The motion is seconded by Mr. Blake. Also in support
21 of the motion to approve is Mr. Smith and Mr. Zoning Commissioner
22 Michael Turnbull. We have no other members participating. Again,
23 the motion carries on the vote of four to zero to one.

24 CHAIRMAN HILL: Okay, great. Thank you, Mr. Moy.

25 All right, everyone, if it's okay, I'll --

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1 Commissioner Turnbull, that's it for you, correct?

2 COMMISSIONER TURNBULL: Yes, correct. Have a good day.

3 CHAIRMAN HILL: You have a good day, sir.

4 All right, everyone else, why don't we try to come back
5 at 12:30. Is that cool? Just say -- okay, thank you.

6 (Break)

7 CHAIRMAN HILL: Mr. Moy, do you want to call our next
8 case when you get a chance?

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

10 The board is back in session after a quick lunch recess,
11 the time at or about 12:36.

12 So the next case before the board is Application No.
13 20451, Mount Vernon Development Group, LLC. The application is
14 captioned and advertised for a special exception under the
15 penthouse requirements of Subtitle C, Section 1500.3. This would
16 permit a restaurant use within the penthouse of a proposed
17 residential building constructed on an existing parking lot in
18 the D-4-R zone. The property is located at 950 3rd Street,
19 Northwest, Square 527, lots 866 and 865.

20 And as to preliminaries, I believe the applicant's
21 requesting to put into the record their presentation materials,
22 which did not meet the 21-day waiver rule. Yes.

23 CHAIRMAN HILL: Okay Ms. Shiker, are you there?

24 MS. SHIKER: I am. Good afternoon, Chairman.

25 CHAIRMAN HILL: Could you introduce yourself for the

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1 record please?

2 MS. SHIKER: Yes. Good afternoon. I'm Christine Shiker
3 with the law firm of Holland & Knight, and I'm representing the
4 applicant in this case.

5 CHAIRMAN HILL: Okay. Is Mr. Cohen with you?

6 MS. SHIKER: Mr. Cohen is with me. I see him there.

7 CHAIRMAN HILL: Are you starting or is he starting?

8 MS. SHIKER: I'm going to do the presentation.

9 CHAIRMAN HILL: Okay, great. Okay, Mr. Cohen, you want
10 to introduce yourself for the record, please?

11 MR. COHEN: Yes, sir, Mr. Chair. Hi. My name is
12 Christopher Cohen with the law firm of Holland & Knight, and also
13 representing the applicant.

14 CHAIRMAN HILL: I see a Mr. Balkema. Is that you, sir?
15 Could you introduce yourself for the record?

16 MR. BALKEMA: Sure. My name is Troy Balkema. I'm with
17 Quadrangle Development, the applicant and owner of the site.

18 CHAIRMAN HILL: Okay, is it Mr. Saville? Are you there?

19 MR. SAVILLE: Yep, I'm here.

20 CHAIRMAN HILL: Could you introduce yourself?

21 MR. SAVILLE: Yes. I'm Steve Saville. I am the
22 architect with Davis Carter Scott.

23 CHAIRMAN HILL: Okay. Unless the board has any issues,
24 I'd like to see the PowerPoint into the record. So, Mr. Moy, if
25 you could ask the staff to please add that into the record. Ms.

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1 Shiker, you can go ahead and walk us through your presentation
2 and how you believe your client is meeting the criteria for us
3 to grant the requested relief. There's 15 minutes on the clock
4 there, just so I know where we are, and you can begin whatever
5 you like.

6 MS. SHIKER: Mr. Chairman, we have requested that our
7 architect be identified as an expert witness. I just wanted to
8 make sure that preliminary matter was taken care of before we
9 move forward.

10 CHAIRMAN HILL: Mr. Saville, is his resume one of the
11 exhibits?

12 MS. SHIKER: It is. It is in Exhibit 32, which is the
13 applicant's pre-hearing submission. We did also upload it to the
14 portal for expert witnesses, but he is new to the BZA, so we
15 wanted to point that out.

16 CHAIRMAN HILL: Got it. Let me just look here. Mr.
17 Saville, if you wouldn't mind, as I'm scrolling through the
18 record, could you tell us about yourself and why you believe
19 you're an expert?

20 MR. SAVILLE: Sure. Steve Saville. I'm a registered
21 architect in Virginia. Work for Davis Carter Scott for 21 years.
22 I previously worked for several other firms in the Pittsburgh
23 area. I have my professional degree and my license. I am
24 (indiscern.). I am AIA. I am lead AP.

25 CHAIRMAN HILL: Mr. Saville, I've got it. I just -- I

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1 found your resume. I don't have any issue with Mr. Saville being
2 admitted as an expert in architecture. Does anyone else? And
3 if so, please raise your hand.

4 All right. Thank you, Ms. Shiker. We've gone ahead
5 and do that, and now Mr. Saville is in our book.

6 MS. SHIKER: Thank you.

7 CHAIRMAN HILL: And you can continue whatever you like.

8 MS. SHIKER: Yes. And Mr. Young, if you could please
9 pull up the PowerPoint, I believe it is in the record at Exhibit
10 41. Thank you.

11 CHAIRMAN HILL: Then it's already in there?

12 MS. SHIKER: We filed it more than 24 hours in advance.
13 But it wasn't part of our pre-hearing submission, although it
14 doesn't propose any new information than what we (indiscern.).

15 CHAIRMAN HILL: That's okay. But it's in there. This
16 is the one you're speaking of.

17 MS. SHIKER: That's correct. There isn't anything new.

18 CHAIRMAN HILL: Got it. Okay, great.

19 MS. SHIKER: All right. Great. Thank you so much
20 again.

21 Good afternoon. I'm Christine Shiker with the law firm
22 of Holland & Knight. This application we are presenting to you
23 today is for a special exception to permit the use of penthouse
24 habitable space as a residents-only cafe in a new residential
25 development at 953rd Street.

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1 Next slide, please. As you can see here, the site is
2 located fronting on 3rd Street NW. It is located between I and
3 K Street, and it is zoned D-4-R.

4 Next slide, please. This is the proposed penthouse
5 plan. So we are proposing approximately 1,600 square feet of
6 community amenity space, which will have in it a resident-only
7 cafe. The applicant envisions this as being something like a
8 juice bar, a sandwich shop, maybe a cafe that offers various
9 types of food and drink throughout the day to its residents. You
10 could use the communal space without purchasing something. So
11 it is not a traditional restaurant, but it is an operator coming
12 in, offering this as an attractive amenity, and distinguishing
13 amenity for the residents of this building.

14 Again, the only difference between normal community
15 amenity space and this is that you have an opportunity to purchase
16 from this operator the food, the drinks. You don't have to bring
17 your own food or coffee.

18 Next slide, please. So this relief is permitted as a
19 special exception in accordance with Section 1500.3. The only
20 requirements are to show that you meet the general special
21 exception standard. In this case, we do meet that standard. We
22 are consistent with the intent of the Zone District, which is
23 intended to promote high density residential use and mixed-use
24 neighborhoods there. There won't be any adverse impacts, because
25 the cafe will be exclusive to the residents. So it would operate

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1 very much in the same fashion as traditional amenity space.

2 Again, the roof will be used in similar fashions to
3 other residential buildings in the nearby area. And in fact, the
4 penthouse habitable space will generate a contribution to the
5 Housing Production Trust Fund in accordance with the zoning
6 regulations.

7 There are no specific conditions that are applicable
8 to this type of relief. And I will note that the penthouse does
9 meet all of the setback and other requirements that are set forth
10 in Chapter 15 of Subtitle C.

11 Next slide, please. We're very pleased to have support
12 for the application. The Office of Planning supports the
13 application with no conditions. DDOT also supports the
14 application. Initially, DDOT asked us for transportation demand
15 management plan. Upon further discussion with us and
16 clarification that the cafe is not a publicly accessible
17 restaurant, but rather a resident-only café, more of amenity
18 space, they did withdraw their request for the TDM. And so
19 therefore, no TDM is needed for this site.

20 We also have worked with the ANC very early on this
21 application, and we have unanimous support for the ANC -- or
22 excuse me, from the ANC. At this point, we presented the
23 application and how we meet the burden of proof. We do have
24 slides where we could walk through more of the project if you
25 are interested. But I think I'll go ahead and stop now and let

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1 the board ask any questions, and we can use any of the other
2 slides to answer those questions if needed. Thank you.

3 CHAIRMAN HILL: Thank you, Ms. Shiker. Okay, does the
4 board have any questions of the applicant, and if so, raise your
5 hand.

6 Commissioner Miller.

7 COMMISSIONER MILLER: Thank you, Mr. Chairman, and
8 thank you, Ms. Shiker, for your presentation. So, I mean, I
9 would I would agree that the -- your application and the Office
10 of Planning report supports the relief being requested that
11 you're in harmony with the special exception, general criteria.

12 Since you are representing that the cafe will only be
13 limited to residents and their, I suppose, and their guests.
14 It's their guests as well. So I -- and because that, I guess,
15 might have been part of why -- that TDM wasn't necessary, I guess
16 you said. And maybe is the reason why adjacent Mount Carmel
17 Baptist Church found it -- are in support of it as well, the ANC
18 is also in support of -- and it doesn't -- I don't recall it --
19 I'm looking at it right now, I don't see it referencing the
20 resident-only portion. So they may have been in favor of it,
21 ANC-6E, whether or not it was limited.

22 But do you have -- do you plan -- does the manager of
23 that space plan to offer alcohol, so they'll have to go before
24 the ABC board? Or is it not going to have alcohol?

25 MS. SHIKER: So at this point, that has to be

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1 determined, for sure, if it will have alcohol. But that is
2 exactly right. If they decide to serve any type of alcohol
3 beverage, they will go through the (indiscern.) process to get
4 that license.

5 This is kind of a newer concept that we're starting to
6 see more of in DC. There are a couple of cases I could point
7 you to that -- the BZA (indiscern.) zoning commission have
8 approved in -- sorry, there was a little bit of a (indiscern.),
9 I wasn't sure if that was them.

10 There have been a couple of cases where (indiscern.).
11 Those are specific (indiscern.), like an apartment wanting to be
12 able to happy hour for their guests, to have an operator to be
13 able to do it under a traditional (indiscern.) license as opposed
14 to a catering license.

15 So that's why we're actually here, is to give the
16 greatest amount of flexibility to the operator who comes in. I
17 think that the initial intent is probably more of like a light
18 faire cafe, coffee shop. But again, we wouldn't have the ability
19 to have the operator go seek an (indiscern.) license if they
20 choose to.

21 COMMISSIONER MILLER: And would you have any objection
22 if this board, and I'm not saying I necessarily am pushing for
23 this, but would you have an objective if this board included a
24 condition that limited the relief -- being -- the condition the
25 relief being approved on being limited, that space being limited

1 to residents and their guests. Or do you --

2 MS. SHIKER: No. We would not have a problem with
3 saying it's limited to residents and their guests.

4 I mean, the building is set up so that it would be very
5 difficult. It's not a terribly large building. It's only 96
6 units. It would be quite difficult to have a publicly accessible
7 access that's completely separate from the residents, as the way
8 the building is structured is that this would be, you know, a
9 resident, you know, brings his girlfriend or boyfriend or comes
10 in, and swipes in, and takes the person up there.

11 They could bring their own food if they wanted, or they
12 could buy it from here. We would not have an objection
13 (indiscern.) residents and their guests.

14 COMMISSIONER MILLER: Okay, thank you very much. I
15 appreciate that.

16 CHAIRMAN HILL: Okay, does anybody else have any
17 questions for the applicant? All right. I'm going to turn to
18 the Office of Planning.

19 MS. VITALE: Good afternoon, Mr. Chair and members of
20 the board, Elisa Vitale with the Office of Planning for BZA Case
21 20451. The Office of Planning is recommending approval of the
22 special exception request for the eating and drinking
23 establishment use in the penthouse at the subject property. We
24 will rest on the record of our staff report and I'm available to
25 answer any questions. Thank you.

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1 CHAIRMAN HILL: Okay. Does anybody have any questions
2 for the Office of Planning? Does the applicant have any questions
3 for the Office of Planning?

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

5 CHAIRMAN HILL: Mr. Young, is there anyone here wishing
6 to testify?

7 MR. YOUNG: We do not.

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

10 MS. SHIKER: No. We would just ask the board to take
11 this under consideration at its earliest convenience. Thank you.

12 CHAIRMAN HILL: Great. Vice Chair John, you had a
13 question.

14 VICE CHAIR JOHN: Yes, I have a follow up question for
15 the (indiscern.). I saw on the plans where the bike space will
16 be located, and it's Exhibit 41 on page 9. Now, where will the
17 short-term bicycles be located?

18 MS. SHIKER: The short-term bicycle parking spaces are
19 typically located in the public space outside of the building.
20 I see -- Mr. Balkema, I don't know if you know exactly where
21 these will be located, but they will be provided in compliance
22 with the zoning regulations, and subject to DDOT public spaces
23 of approval in the public space.

24 VICE CHAIR JOHN: Okay, and so are you saying you will
25 comply with the TDM plan, even though one is not required? I'm

1 a little confused about the TDM plan issued.

2 MS. SHIKER: So we are we are not proffering a TDM for
3 this use. We did not believe it was necessary. We initially
4 proffered it because we were trying to cooperate with DOT.
5 However, DDOT subsequently changed its mind and said that they
6 did not believe there would be any additional transportation
7 impacts for this use, because it is limited to the residents.
8 And so therefore, we are not proffering a TDM, and DDOT is not
9 requiring a TDM.

10 VICE CHAIR JOHN: Okay, thank you for that. And so the
11 bike space will be as shown on the diagram, which is in the garage
12 or -- there's a little box that says bikes.

13 MR. BALKEMA: Of course, the long-term bike storage is
14 on the ground floor, accessed from I street. The short-term bike
15 storage spaces are on 3rd Street outside of the main entrance in
16 public space adjacent to the sidewalk.

17 VICE CHAIR JOHN: Okay, thank you.

18 CHAIRMAN HILL: Okay, anybody have any final questions?

19 All right, I'm going to close the hearing and the
20 record. Mr. Young, if you could excuse everyone, please.

21 Commissioner Miller, if you wouldn't mind, I just --
22 if you want to start a little bit, I was unclear as to whether
23 or not -- and we can also proffer it for the board. I don't
24 really have an issue one way or the other, as neither did the
25 applicant, adding a condition that the restaurant will be used

1 only for residents and guests. But do you want to speak to your
2 thoughts?

3 COMMISSIONER MILLER: I'll defer to the other board
4 members. Since the applicant is representing that that's what
5 the intended use is, and that's why a TDM wasn't required. And
6 the adjacent church referenced it in their support letter, I
7 guess I would be supportive of including that limitation. I
8 think they probably could have made the case and added TDM that
9 showed that a regular restaurant (indiscern.). In fact, in that
10 particular downtown mixed-use neighborhood, which you're familiar
11 with downtown mixed-use neighborhoods, Mr. Chairman, that have
12 restaurants and residents co-existing, trying to co-exist.

13 Anyway, so that's where -- I think they've met the
14 special exception -- general special exception criteria to have
15 the restaurant used on the -- in the penthouse space, and would
16 be supportive of that with the limitation on it being limited to
17 residents and their guests, if that's where the majority of the
18 board is.

19 CHAIRMAN HILL: Okay, I'll go around -- let's go around
20 with this one item. I don't have an issue either way. I would
21 actually, I guess, be more in favor of the condition than not.
22 But Ms. John, do you have a thought?

23 VICE CHAIR JOHN: I agree with Commissioner Miller that
24 the approval should be limited to residents and their guests, and
25 I will note that that's how OP also analyzed the relief, and

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1 that's on page 2 of the OP report.

2 CHAIRMAN HILL: Okay, so unless anybody has an issue,
3 we'll go ahead and put that condition in there. And if somebody
4 has that, you can raise your hand no if you want to. All right.
5 So I'm just going to speak to the case. I believe that the
6 applicant has met the criteria for us to grant the relief
7 requested. I believe they're meeting the standards for us to do
8 so. I would also agree with the analysis that the Office of
9 Planning has provided, as well as that of the ANC and then again,
10 DDOT. And I'm going to be voting in favor of the application
11 with the condition that we spoke about -- about the restaurant
12 use being limited to the residents and their guests.

13 May I go around the table and start with you again,
14 Commissioner Miller? Do you have anything to add?

15 COMMISSIONER MILLER: No, I concur, Mr. Chairman.
16 Thank you very much.

17 CHAIRMAN HILL: Mr. Smith?

18 MR. SMITH: I concur with your opinion, as well as the
19 opinion -- and also the opinion of that condition.

20 CHAIRMAN HILL: Thank you. Vice chair John?

21 VICE CHAIR JOHN: So I agree with everything that's
22 been said, and I would include the condition as well that the
23 restaurant use be limited to residents and their guests.

24 CHAIRMAN HILL: Great. Thank you. Mr. Blake.

25 MR. BLAKE: Yes, I would agree with all the statements

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1 that have been made, and would appreciate that same approach.

2 CHAIRMAN HILL: Okay, I'm going to go ahead and make a
3 motion to approve Application No. 20451 as captioned and read by
4 the secretary, including the condition that the restaurant use
5 be limited to residents and their guests, and ask for a second,
6 Ms. John.

7 VICE CHAIR JOHN: Second.

8 CHAIRMAN HILL: The motion being made and seconded.
9 Mr. Moy, could you please take a roll call?

10 MR. MOY: Yes, thank you, Mr. Chairman. When I call
11 your name, if you would please respond with a yes, no, or abstain
12 to the motion made by Chairman Hill to approve the application
13 for the relief requested, along with the condition that they
14 would -- the use would be limited only for the residents and
15 their guests. Seconded the motion as Vice Chair John. Zoning
16 Commissioner Rob Miller.

17 COMMISSIONER MILLER: Yes.

18 MR. MOY: Mr. Smith.

19 MR. SMITH: Yes.

20 MR. MOY: Mr. Blake.

21 MR. BLAKE: Yes.

22 MR. MOY: Vice Chair John.

23 CHAIRMAN HILL: Yes.

24 MR. MOY: Chairman Hill.

25 CHAIRMAN HILL: Oh, yes.

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1 MR. MOY: Staff would record the vote --

2 CHAIRMAN HILL: Wait. Did Vice Chair John vote?

3 MR. MOY: I'm sorry.

4 CHAIRMAN HILL: I voted for Vice Chair John.

5 VICE CHAIR JOHN: Yes. Yes, I voted. But I'll do it
6 again. So it's clear for the record. Yes.

7 MR. MOY: Okay, I'm sorry if I skipped you, Vice Chair
8 John.

9 CHAIRMAN HILL: No. You said vice chair John, and I
10 answered for her.

11 MR. MOY: Oh, my goodness.

12 VICE CHAIR JOHN: He took my voice. Took my voice, Mr.
13 Moy.

14 MR. MOY: Yeah. He kind of jumped over you.

15 Okay. Nonetheless, I would -- the staff would record
16 the results as five to zero to zero. And this is on the motion
17 made by Chairman Hill to approve with the conditions as cited.
18 Seconding the motion to approve is Vice Chair John. Also in
19 support of the application to the motion to approve is Mr. Blake,
20 Mr. Smith, and Zoning Commissioner Rob Miller. The motion carries
21 on the vote of five to zero to zero.

22 CHAIRMAN HILL: All right. Great. Thank you, Mr. Moy.
23 Mr. Moy, you can call our last case when you get a chance.

24 MR. MOY: The last case would be Application No. 20450,
25 John and Katie Durcan. This is the advertised and captioned for

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1 special exception relief from the lot occupancy restrictions of
2 Subtitle E, Section 304.1, and the rear addition requirements of
3 Subtitle E, Section 205.4. This would construct a new three-
4 story with solar and roof deck rear addition to an existing two-
5 story with cellar semi-detached principal dwelling unit in the
6 RF-1 Zone. The property is located at 211 13th Street, Northeast,
7 Square 1033, Northwest, Lot 12.

8 That's it, Mr. Chairman.

9 CHAIRMAN HILL: Okay. Great. Thank you. Ms. Fowler,
10 could you please introduce yourself for the record?

11 MS. FOWLER: Good afternoon. I'm Jennifer Fowler with
12 Fowler Architects. I'm representing the homeowners.

13 CHAIRMAN HILL: Okay, great. Thank you. Ms. Fowler,
14 if you could go ahead and just walk us through your application.
15 Also, how you believe you're meeting the standard for us to grant
16 the relief requested. I'm going to put 15 minutes on the clock
17 there, and you can begin whenever you like.

18 MS. FOWLER: Okay, great. Just to clarify, the
19 addresses to 211 13th Street, Northeast. I think Mr. Moy
20 mentioned Northwest, but it is correct on the record.

21 So this is a proposal to expand the existing rear
22 dwelling. It is -- it's attached and it has an alley on the
23 side. It's not a semi-detached, but it has an alley running
24 along the north facade. We're hoping to expand this property for
25 a growing family, and who wants to -- who's been on the hill for

1 a while and wants to remain.

2 The proposal increases lot the occupancy from currently
3 60 percent, we're going up to 69.9 percent. And we're also asking
4 for the rear yard relief to extend beyond the ten feet setback.
5 On that, we're only asking for a ten-inch extension. So we're
6 extending ten feet ten inches beyond the allowed -- sorry, beyond
7 the adjacent neighbor.

8 The house at 211 and the adjacent property, the one
9 that's abutting, have two-story open porches that are
10 approximately 4.5 feet deep. So the ten foot -- the measurement
11 of the addition is from the neighbor's enclosed condition space.
12 So the ten feet, ten inches is beyond the brick wall. But we're
13 extending about six feet, three inches past the porch.

14 The porch at 211 will be removed and then replaced with
15 this rear addition. And just to note that the matter of right,
16 rear addition would be seven feet deep. So we're just going from
17 seven to ten feet, ten inches.

18 Regarding the massing of the property of the project,
19 we believe that we meet the standard, because we've set the front
20 wall of the third floor back 21 feet from the front facade. So
21 we don't believe it will be visible from across the street. There
22 will be some visibility via the side alley. We also -- we stacked
23 the stair on the interior, but we included a sloped roof over
24 the stacked stair so that we didn't have -- you know, basically
25 trying to minimize the visibility from the front.

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1 And this is something that the homeowners always wanted
2 to do. We're not in the historic District. So they kind of
3 chose to push the addition back, really hoping to maintain the
4 character of the front of the street frontage.

5 We also tried to kind of minimize the massing by having
6 a mansard roof at the third floor that kind of wraps the visible
7 facades, the three -- the front long alley and the rear. And
8 the mansard allows for kind of reduction in the massing because
9 it kind of slopes back, and it eliminates kind of the three-story
10 sheer wall effect that these three-story additions create.

11 Regarding privacy, we -- again, we have currently a
12 two-story open porch. So right now, there's pretty much
13 unobstructed views of all of the neighbors' yards and back
14 windows. There's -- including a second-floor deck currently. So
15 this proposal removes the deck and creates this enclosed space,
16 which will actually enhance the privacy of the neighboring
17 properties.

18 In addition to that, on the alley side, the long alley
19 side, we made sure all the new windows were at least at a five
20 or five-and-a-half foot sill height, so that -- because the
21 neighbors to the north are relatively close by, and they don't
22 have very deep backyards, we made sure that the privacy was not
23 going to be impacted.

24 And then -- so that's the privacy. The rear alley
25 facing windows -- facing towards the east are standard size, but

1 those houses across are -- have more of a buffer, because there's
2 kind of deeper backyards. There's an alley. And the houses on
3 Tennessee are actually at an angle, and it kind of angles away
4 from the house. So it kind of -- I think that it helps to enhance
5 the privacy that they enjoyed.

6 In terms of light and air, you know, all the shadows
7 will be cast to the north, which is along the alley. So most of
8 the impact will be to the alley in the rear yards of the houses
9 on (indiscern.) There will not be any impact to the sun available
10 to the house to the south.

11 And to sum up, we have a lot of support for this
12 project. We have eight letters of support from neighbors. My
13 clients did a lot of outreach, and we've -- including the most
14 affected neighbors and the abutting neighbor. The ANC has
15 supported the project unanimously, and then the CHRS has also
16 submitted a letter of support.

17 So, again, we feel like it is a large project, but I
18 think the impacts are minimal and not undue. And again, no one
19 has raised any concerns in the adjacent -- from the adjacent
20 properties. And I'll leave it open to questions. Thank you.

21 CHAIRMAN HILL: Okay, thank you, Mr. Fowler, for your
22 presentation. Does the board have any questions for the
23 applicant?

24 Mr. Blake?

25 MR. BLAKE: Sorry about that. I have an elaborate

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1 setup. It mentions in the report that you had a lot of input
2 from the community in terms of the esthetics in the project.
3 Could you talk a little bit about that process and some of the
4 esthetic changes that you made as a result of your communication
5 with the community?

6 MS. FOWLER: Yeah. Really, the main thing was the
7 height of the windows, which is less of an esthetic change, but
8 more of a practical change. And then we -- our original filings
9 had siding on the back façade, and they preferred the brick
10 facing. And so we discussed maybe -- and it wasn't a requirement
11 that they made, but it was also something my clients were
12 interested in.

13 So our revised filing included brick facing on the rear
14 and the alley facade. And there was also kind of a box window
15 design on the rear facade that we hadn't shown on the side
16 elevation. So I had some edits to the plans just to kind of get
17 it all coordinated. But generally, it was switching to the brick
18 facades.

19 MR. BLAKE: Thank you.

20 CHAIRMAN HILL: All right. I'm going to turn to the
21 Office of Planning.

22 MR. MORDFIN: Good afternoon, Chairman and members of
23 the board. I'm Stephen Mordfin. And the Office of Planning is
24 in support of this application and stands on the record, and I'm
25 available for any questions. Thank you.

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1 CHAIRMAN HILL: All right. Does the board have any
2 questions for the Office of Planning? Does the applicant have
3 any questions for the Office of Planning? I see you Ms. John.

4 UNIDENTIFIED SPEAKER: No, thank you.

5 CHAIRMAN HILL: Vice chair John?

6 VICE CHAIR JOHN: I just wanted to ask the Office of
7 Planning to address any shadowing on the neighbor to the south?

8 MR. MORDFIN: Okay. Let's see. One second. So the
9 neighbor to the south, as you go down the street, we didn't think
10 that there was going to be anything significant there because of
11 the way -- you know -- although this goes across the southern
12 sky, we felt that this extension is also only ten inches beyond
13 what could otherwise be constructed. And it's even less than
14 that when you consider that that adjoining property to the south
15 already has a screened porch on the back, which doesn't count for
16 the ten feet, because you count that from the building wall of
17 the house.

18 So because of all that, we didn't think that there was
19 anything significant that was going to result from this from this
20 proposal.

21 MS. SMITH: Thank you.

22 CHAIRMAN HILL: Okay, great. Anyone else? All right.
23 Mr. Young, is there anyone here wishing to speak?

24 MR. YOUNG: We do not.

25 CHAIRMAN HILL: Ms. Fowler, is there anything you'd

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1 like to add to the end?

2 MS. FOWLER: No. Thank you so much for your time.

3 CHAIRMAN HILL: Okay, I'm going to go ahead and close
4 the hearing and record. Mr. Young, if you could excuse everyone.

5 Okay, I didn't have any issues with the application.
6 I thought that the applicant has spoken through the standards
7 with which we can grant the application. I would agree with the
8 argument that has been made. I would also agree with the analysis
9 that the Office of Planning has provided, and how they believe
10 that they are meeting the criteria to grant the relief requested.

11 Also, the ANC is in support and DDOT has no objection.
12 So I'm going to be voting in favor. Commissioner Miller, is
13 there anything you'd like to add?

14 COMMISSIONER MILLER: No, thank you, Mr. Chairman. I
15 concur with everything you've said and appreciate the applicant's
16 thorough presentation and community engagement.

17 CHAIRMAN HILL: Thank you. Mr. Smith.

18 MR. SMITH: No, I don't have anything to add, Mr. Chair.
19 I agree with your analysis. And I'll also just note that one of
20 the letters of support is from the neighbor that's directly to
21 the south (indiscern.). But other than that, I am in support of
22 the special exception.

23 CHAIRMAN HILL: All right. Great. Thank you. Vice
24 Chair John.

25 VICE CHAIR JOHN: I agree with the comments so far, and

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1 I have nothing to add, and I support the application.

2 CHAIRMAN HILL: Okay. Great. Thank you. Mr. Blake.

3 MR. BLAKE: Yes, I too agree with the comments that
4 have been made, and prepared to support the special exception.

5 CHAIRMAN HILL: Okay, great. Let's see. So I'm going
6 to go ahead and make a motion then to approve Application No.
7 20450, as captioned and read by the secretary and ask for a
8 second, Ms. John.

9 VICE CHAIR JOHN: Second.

10 CHAIRMAN HILL: The motion is made and seconded, Mr.
11 Moy, could you take a roll call vote, please?

12 MR. MOY: Yes, thank you, Mr. Chairman. When I call
13 your name, if you would please respond with a yes, no, or abstain
14 to the motion made by Chairman Hill to approve the application
15 for the relief being requested. The motion to approve was
16 seconded by Vice Chair John. Zoning Commissioner Rob Miller.

17 COMMISSIONER MILLER: Yes.

18 MR. MOY: Mr. Smith.

19 MR. SMITH: Yes.

20 MR. MOY: Mr. Blake.

21 MR. BLAKE: Yes.

22 MR. MOY: Vice chair John.

23 VICE CHAIR JOHN: Yes.

24 MR. MOY: Chairman Hill.

25 CHAIRMAN HILL: Yes.

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1 MR. MOY: Staff would report the vote is five to zero
2 to zero on the motion made by Chairman Hill to approve. The
3 motion to approve was seconded by Vice Chair John. Also in
4 support of the motion to approve is Mr. Blake, Mr. Smith, and
5 Zoning Commissioner Rob Miller. The motion carries on a vote of
6 five to zero to zero.

7 CHAIRMAN HILL: Okay, thank you, Mr. Moy. Mr. Moy, is
8 there anything else before the board today?

9 MR. MOY: There's nothing from the staff, sir.

10 CHAIRMAN HILL: Okay. All right, everybody. Everybody
11 have a good day and we'll see you next time. We are adjourned.

12 (Meeting was concluded at 1:10 p.m.)

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