

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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REGULAR PUBLIC HEARING

+ + + + +

WEDNESDAY

SEPTEMBER 15, 2021

+ + + + +

The Regular Public Hearing of the District of Columbia Board of Zoning Adjustment convened via videoconference, pursuant to notice at 11:10 a.m. EDT, Frederick L. Hill, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

FREDERICK L. HILL, Chairperson
LORNA L JOHN, Vice Chairperson
CARL BLAKE, Board Member
CHRISHAUN SMITH, Board Member

ZONING COMMISSION MEMBER PRESENT:

PETER SHAPIRO, Commissioner

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY, Secretary
PAUL YOUNG, Zoning Data Specialist

OFFICE OF PLANNING STAFF PRESENT:

ANNE FOTHERGILL
MAXINE BROWN-ROBERTS
KAREN THOMAS

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BRANDICE ELLIOTT
JONATHAN KIRSCHENBAUM

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

JOHN K. RICE, Esquire
ALEXANDRA CAIN, Esquire

The transcript constitutes the minutes from the
Regular Public Hearing held on September 15, 2021

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

2 (11:10 a.m.)

3 CHAIRPERSON HILL: Mr. Moy, do you want to call us back
4 and call our first one of the new year?

5 MR. MOY: Yes, sir. After a quick recess the Board is
6 back in, which is now the hearing session. The time is at or
7 about 11:10 a.m.

8 The first case of the day is case application number
9 20339 of Lee, L-E-E, Street Development, LLC. This application is
10 for a special exception under the voluntary inclusionary
11 development requirements of Subtitle D, Section 302.2. This would
12 construct three principal dwellings with two accessory apartments.
13 This is an amendment now, in the R-2 Zone. The property is
14 located at 4404 Lee Street, Northeast, Square 5125, Lots 868 and
15 869.

16 Mr. Chairman, there is a quick preliminary matter in
17 that the Applicant is requesting to file, which is untimely, to
18 file a revised plan -- a revised plat, other drawings and the
19 Applicant's PowerPoint presentation.

20 CHAIRPERSON HILL: Okay. So unless the Board has an
21 issue, I'd like to allow it into the record. And so if you have
22 any issues, please raise your hand.

23 (No response.)

24 CHAIRPERSON HILL: All right.

25 MS. DOUGLAS: This is Commissioner Douglas. Can you

1 | hear me?

2 | CHAIRPERSON HILL: Yes, Mrs. Commissioner. And happy
3 | new year.

4 | MS. DOUGLAS: Yeah. I just wanted to be a part of this
5 | because I was -- didn't understand the process here. So I just
6 | want to get some clarification now that I'm on here. I appreciate
7 | that. I just wanted to know where I'm at with this point.
8 | Because we had already sent in a recommendation. So I just wanted
9 | to --

10 | CHAIRPERSON HILL: Gotcha.

11 | MS. DOUGLAS: Okay. Thank you.

12 | CHAIRPERSON HILL: Gotcha. Okay, Commissioner.
13 | Welcome.

14 | MS. DOUGLAS: Thank you. And happy new year.

15 | CHAIRPERSON HILL: Happy new year. Exactly. This is a
16 | new year.

17 | MS. DOUGLAS: Yes.

18 | CHAIRPERSON HILL: If I was Jewish it would be Rosh
19 | Hashanah, right? No, no.

20 | So, all right. Let's see, okay. So anyway, no one has
21 | any issues with that.

22 | So Mr. Bello, could you introduce yourself for the
23 | record, please?

24 | MR. BELLO: Good morning, Mr. Chairman and Board
25 | members. Toye Bello representing the Applicant, 1917 Benning

1 Road.

2 CHAIRPERSON HILL: Okay. And Is Mr. Sallah here with
3 you?

4 MR. BELLO: He should be on.

5 CHAIRPERSON HILL: Okay. All right, Commissioner
6 Douglas, can you introduce yourself for the record?

7 MS. DOUGLAS: Yes. I'm Commissioner Douglas, ANC 7D03,
8 in Ward 7.

9 CHAIRPERSON HILL: Okay.

10 MS. DOUGLAS: I represent the location that Mr. lee is
11 reference to at this hearing.

12 CHAIRPERSON HILL: Okay, great. Thank you,
13 Commissioner.

14 MS. DOUGLAS: Thank you.

15 CHAIRPERSON HILL: Mr. Sallah, can you hear me?

16 MR. SALLAH: Hello.

17 CHAIRPERSON HILL: Yes, can you hear me?

18 MR. SALLAH: Yes, I can hear you.

19 CHAIRPERSON HILL: I can barely hear you. But could you
20 introduce yourself for the record?

21 MR. SALLAH: Alex Sallah.

22 CHAIRPERSON HILL: Okay. All right, Mr. Sallah, we'll
23 see if we need to hear from you, because I can't hear you very
24 well. But Mr. Bello, can you tell us what happened since the last
25 time you were here, please? And you submitted -- you want to

1 submit a new PowerPoint; is that correct?

2 MR. BELLO: Yes, Mr. Chairman. At the last hearing the
3 Board had indicated that they needed some clarifications.

4 CHAIRPERSON HILL: Got it. Mr. Bello, I'm just going to
5 interrupt you. I'm sorry.

6 Mr. Young, do you have Mr. Bello's PowerPoint?

7 MR. YOUNG: I do.

8 CHAIRPERSON HILL: Could you pull it up, please?

9 MR. YOUNG: Sure.

10 CHAIRPERSON HILL: And could the staff please add it to
11 the record.

12 All right. Mr. Bello, as you go through this maybe you
13 can tell us what happened since the last time you were here.
14 Okay?

15 MR. BELLO: Okay. So Mr. Young, next page, please.

16 So the relief that the Applicant is looking for hasn't
17 changed from the last hearing, which is essentially the special
18 exception to modify the minimum lot dimensions for this property
19 to create three lots. One of the lots being the rear lot, faces
20 Minnesota Avenue, which is an unimproved portion but stil remains
21 a publis street. Next slide, please.

22 So one of the first requests of the Board was to clarify
23 whether this was for sale or rental property, given that the ANC
24 predicated their support on this being a for sale project. So the
25 owner has provided a letter to the record, which is exhibit 87,

1 affirming that the project is a for-sale project and not a rental
2 project. Next slide, please.

3 The Board requested some input from the fire and
4 emergency services, FEMS. So FEMS has submitted a letter, exhibit
5 90. And essentially that letter states that Lee Street can serve
6 as the fire access road for the rear lot, and that all emergency
7 necessities can be taken care of from Lee Street. That letter is
8 exhibit 90. And just late last night or last week we got a letter
9 that OAG about certain conditions that the FEMS wanted to be set
10 as part of the BZA order, should the Board approve this project.
11 The Applicant is not adverse to object to any of those conditions.
12 Next slide, please.

13 So this is essentially the same plat that has been
14 submitted from the very beginning, showing the configuration of
15 the subdivision request. The rear lot is that portion on
16 Minnesota Avenue that is unimproved. And the two buildings facing
17 Lee Street have street frontage.

18 MR. SHAPIRO: I'm sorry, Mr. Chair. Can we ask Mr.
19 Young to zoom in a little bit.

20 CHAIRPERSON HILL: And I think also, Mr. Bello, which --
21 I was looking at that plat earlier. It's in the record, right.
22 Do you know which one it's on?

23 MR. BELLO: The exhibit?

24 CHAIRPERSON HILL: Yeah. Where is -- yeah, exactly.

25 MR. BELLO: Let me see.

1 CHAIRPERSON HILL: I'm looking here. Or maybe one of my
2 fellow members can --

3 VICE CHAIR JOHN: I think it's 94.

4 CHAIRPERSON HILL: Ninety-four? Yeah. Got it. All
5 right. Commissioner Shapiro, also, just for your own -- it's
6 easier to see if you pull it. All right, Mr. Bello, you can
7 continue.

8 MR. BELLO: So each lot complies with all of the
9 development and for the underlying zone and seeks no other relief
10 from any of those provisions. Next slide, please

11 The Board had also raised the question about whether
12 this subdivision complied with Subtitle C, Section 303.1. And
13 303.1 just basically requires that only record lots shall have at
14 least one street, front line on a public street. The question is
15 whether Minnesota Avenue, being an unimproved part of Minnesota
16 Avenue, is and remains a public street. The Applicant has
17 provided to the record the zoning administrator determination,
18 which is exhibit 89, which in effect states that the subdivision
19 is in compliance with this provision, and that the zoning
20 regulation does not require that the street be an improved street,
21 not to be able to have comply with this statute.

22 The subject property is not an alley lot. So Section
23 306 is not applicable. And the rear lot meets the minimum lot
24 width requirement for voluntary and inclusionary development,
25 which is 25 feet. And this lot is 26.69 feet. Next slide,

1 please.

2 And this is the definition for a street from the zoning
3 regulations, Subtitle B, a public highway designated as a street,
4 avenue, or a road on the records of the surveyor of the District
5 of Columbia. So essentially, as long as the street is still
6 dedicated on the records of the surveyor, it is and remains. Next
7 slide, please.

8 These are the letters from the surveyor's office and the
9 zoning administrator, affirming that Minnesota Avenue remains a
10 highway and a designated street. Next slide, please.

11 This is the plans for the rear lot. The Board had
12 raised the question about the rear lot having the designated IZ
13 set aside. To the Applicant has revised the project such that it
14 isn't, and one of the lots on Lee Street will now serve that
15 purpose. This property would have an accessory apartment as
16 allowed by the zoning regulations. Next slide, please.

17 These are the plans for the Lee Street property. And
18 the side -- the property to the right would serve as the
19 designated IZ unit. The HCB communicated that they do not allow
20 accessory apartments in IZ dwellings, so the plans have been
21 altered to make it just a single-family dwelling without an
22 accessory apartment. Next slide, please.

23 These photographs are the existing condition of
24 Minnesota Avenue. As annotated, the photographs to the right
25 would be of what abuts the rear lot behind the fence. So that

1 condition is completely unimproved. And the photograph to the
2 left would be where Minnesota Avenue abuts the railroad tracks.
3 Next slide, please.

4 This is the GIS map, essentially showing that portion of
5 Minnesota Avenue to the point where it is improved. And the white
6 portion would be where those photographs are, which are
7 unimproved. And we see the two tax lots that are the subject of
8 this application at the end of that portion. Next slide, please.

9 So essentially, this itemizes the reasons the applicant
10 believes that this application meets approve, that it complies
11 with the modifications set forth (indiscernible) area 20612. And
12 the application will comply with the applicability provisions of
13 the inclusionary rezoning, like on the slide one of the properties
14 being designated as a IZ unit. The other property complies with
15 all other applicable provisions to the development standards
16 applicable to this project and seeks no other relief.

17 The project is exempt from providing any required
18 parking, and is not providing any parking. So that's the cited
19 section. The Office of Planning recommends approval of the
20 project. DDOT has no objections to the project, and FEMS does not
21 object to the project subject to the conditions that they
22 indicate. And that would be our presentation. Thank you.

23 CHAIRPERSON HILL: Okay. Mr. Bello, can you tell us a
24 little bit about your outreach to the ANC?

25 MR. BELLO: I think one of the owners should be online

1 to testify to that. Because they were responsible for contacting
2 the ANC and getting their feedback on the significantly reduced
3 application.

4 CHAIRPERSON HILL: That's okay, Mr. Bello. Because I
5 had a hard time with Mr. Sallah anyway. I couldn't hear him. So
6 I'll just hear from --

7 MS. DOUGLAS: Can I speak to that, Mr. Hill?

8 CHAIRPERSON HILL: Yes.

9 MS. DOUGLAS: We approved for the housing, the
10 townhouses. This is new to the commissioners what they're doing
11 now. This is called extension of Minnesota Avenue that was done
12 in 2007. This was not going to the ANC. This is a new issue. So
13 that means somebody's home is going to be missed. I'm on
14 Minnesota Avenue. They have houses there. In order for them to
15 extend to have the firehouse to come through there, you have
16 several homes that are there. We was not even made aware that
17 they had gone beyond this. We only approved for the houses. We
18 did not approve or have knowledge that they even done this
19 without the ANC commission.

20 I got a call from Mr. Johnson saying that he needed a
21 letter from me to prove something to whatever, but I never got the
22 information. This is the first time I have first seen this
23 information about, that they speaking on at this point. He has
24 not come before the ANC in regards to this matter. They're
25 talking about the extension of Minnesota Avenue. We have homes

1 back there that this probably will be missing. I know that the
2 fire department just came up recently that they knew they needed a
3 way to get out of Minnesota Avenue. Because right now it's
4 blocked. They can't go no other way. So I don't know the
5 conversation what they had with the fire department to extent that
6 Minnesota Avenue. This has not come before the ANC, and I am not
7 in support of it because this was done, I believe behind closed
8 doors, without our knowledge.

9 CHAIRPERSON HILL: So Commissioner, I'm a little
10 confused. Like, so the letter that I have from you guys was in
11 favor of the original plan; is that correct?

12 MS. DOUGLAS: Right. No. The letter was approved for
13 those homes that they have out there. Not for no roads or an
14 extension of no apartment or house -- I mean, roadway to extend
15 that. That was not a part of that. That was not -- and this is
16 new. This is not -- this is the first time I've seen this
17 information.

18 CHAIRPERSON HILL: Okay. Mr. Sallah, can you hear me?

19 MR. SALLAH: Yes, I can hear you.

20 CHAIRPERSON HILL: Did you present this design to the
21 ANC?

22 MR. SALLAH: Yes, we did. We did send out emails about
23 the change of the scope to change two units to one unit. And
24 also, may I say that we are not improving Minnesota.

25 MS. DOUGLAS: Hello.

1 MR. SALLAH: Minnesota has not changed.

2 CHAIRPERSON HILL: Ms. Douglas, I can hear you. I'm
3 trying to hear Mr. Sallah.

4 MR. SALLAH: Hello. Can you hear me?

5 CHAIRPERSON HILL: Yes.

6 MR. SALLAH: Yes. So the plan is not to improve
7 Minnesota. It will remain the way it is. Access to the property
8 would be from Lee Street.

9 CHAIRPERSON HILL: Yes. Okay. So you sent emails, you
10 didn't present the most recent --

11 MS. DOUGLAS: No, sir. They did not.

12 CHAIRPERSON HILL: Commissioner Douglas, I'm asking Mr.
13 Sallah.

14 MS. DOUGLAS: Oh, I'm sorry, sir. I apologize.

15 CHAIRPERSON HILL: That's all right. Mr. Sallah, you
16 didn't present this design or you did?

17 MR. SALLAH: The -- we sent the documents that are in the
18 record to the ANC. But there was no change to the original scope
19 of work. We are not touching Minnesota, improving it in any way.
20 That was the original design.

21 CHAIRPERSON HILL: I understand. You sent the change of
22 design.

23 MR. SALLAH: The only change is to change from two units
24 to a single-family homes.

25 CHAIRPERSON HILL: Right. Commissioner, can you hear

1 that?

2 MS. DOUGLAS: No, sir. He has not. I have only
3 received a call from Mr. Johnson. This is the first time I seen
4 this. He has not presented to the body of the commission at all.

5 No, I have not seen this. I haven't received this. I supposed
6 to be receiving some information to ask for a letter of support,
7 but this is the first that I've seen it. I have no reason to sit
8 here and be dishonest. I'm really surprised that this --

9 CHAIRPERSON HILL: He's not saying --

10 MS. DOUGLAS: I got an email that he claimed Mr.
11 Johnson was sending me something, but it never happened.

12 CHAIRPERSON HILL: Commissioner, he's not saying anybody
13 is dishonest. I'm just trying to clarify. He's saying that
14 they're not making any changes to Minnesota Avenue. And so --

15 MS. DOUGLAS: Well, he is making changes. Somebody
16 house -- when they extend the roadway for what they're talking to
17 go -- to come through there, the driveway, that mean they're
18 changing the structure of the community. Right now they're -- our
19 vote was for the houses.

20 CHAIRPERSON HILL: I understand. Just --

21 MS. DOUGLAS: Not changes to the Minnesota Avenue.

22 CHAIRPERSON HILL: I understand.

23 MS. DOUGLAS: (Audio interference) to 2017. I mean, 20
24 -- yeah, 2017. All of that came out and said that they was not
25 going to allow it to happen. I'm sorry, Mr. Chairman.

1 CHAIRPERSON HILL: That's all right, Commissioner. I'm
2 not trying to --

3 MS. DOUGLAS: I'm just --

4 CHAIRPERSON HILL: I'm sorry. I'm just trying to get on
5 the same page also, as well. What I understand is that they're not
6 changing Minnesota Avenue. And I'm going to get clarity on that
7 from the Office of Planning when we get to them. And so what I
8 understood that they changed is you guys were in agreement when
9 there was -- they've taken one unit away. So they're making it
10 less than it was before, when you all approved it. That's what
11 I'm trying to understand. But let me get some clarity from the
12 Office of Planning. Okay, Commissioner?

13 MS. DOUGLAS: Yes. Thank you.

14 CHAIRPERSON HILL: Okay. All right. Ms. Fothergill,
15 can you help me understand whether or not anything is happening at
16 Minnesota Avenue, and that the change was that there was one less
17 unit being proposed from the design that the ANC had approved? So
18 maybe you can help me out from that point. Thank you. And
19 welcome back, Ms. Fothergill.

20 MS. FOTHERGILL: Thank you. Good morning, everyone.
21 I'm Anne Fothergill, for the record, representing the Office of
22 Planning for BZA 20339. And since the last hearing, in the
23 initial application the site plan did show vehicular access from
24 the Minnesota Avenue right of way. And then at the public hearing
25 it was stated that that was, that was not going to happen. There

1 was not going to be vehicular access, and they were not going to
2 improve that section of the Minnesota Avenue right of way. So
3 then that caused some change to the plans and they needed to go
4 back to the drawing board.

5 So then since then the Applicant has revised the plan.
6 And that rear lot that they are proposing, the third lot. I'm
7 sorry if you can't show me. That rear lot will now be accessed by
8 a pedestrian easement from Lee Street. And FEMS has supported
9 that plan. The Office of the Surveyor has supported that plan,
10 and the Office of the Zoning Administrator has supported that
11 plan. The surveyor has also been consulted. So that is the plan
12 currently. That the third lot that is proposed does not have
13 vehicular access from the Minnesota Avenue right of way. The
14 Applicant is not proposing improvements to that right of way. The
15 initial plan did show that, but the current plan that is before
16 you does not.

17 The other significant change that has happened since the
18 earlier public hearing is that the -- this is a special exception
19 for voluntary IZ in order to get reduced lot, area and lot width.

20 That IZ unit initially was on the third rear lot, the one that
21 does not have vehicular access. The Applicant has relocated the
22 IZ unit to the second lot, the right lot, which is the street
23 facing lot on Lee Street. And DHCD has stated that the IZ unit
24 cannot have an accessory unit. So the Applicant has withdrawn the
25 proposal for an accessory unit in that building. The IZ unit will

1 be in a comparable size building and lot to the adjacent market
2 rate unit, which is also part of the regulations, and it does not
3 have an accessory unit. So that is the other significant change
4 since you saw it the last.

5 And based on all of that, OP recommends approval of the
6 special exception to have a voluntary inclusionary development in
7 the R-2 Zone, pursuant to Subtitle D, Section 5206. And I'm happy
8 to answer any questions.

9 CHAIRPERSON HILL: Okay. Give me one second,
10 Commissioner. Does the Board have any questions for the Office of
11 Planning?

12 (No response.)

13 CHAIRPERSON HILL: Okay. Does the Applicant have any
14 questions for the Office of Planning?

15 MR. BELLO: No, Mr. Chairman.

16 CHAIRPERSON HILL: Okay. Commissioner Douglas, can you
17 hear me?

18 MS. DOUGLAS: Yes.

19 CHAIRPERSON HILL: So they're saying that they're not
20 changing that Minnesota Avenue thing at all. The access is going
21 to be from a pedestrian walkway. And they had to -- they removed
22 one of the units, and they also put the IZ unit in the other
23 building. Do you have any questions for the Office of Planning?

24 MS. DOUGLAS: Yes. The Office of Planning never
25 notified me nor did all parties that's speaking now. We never

1 | got that information. I just got to talk to one of the churches,
2 | I think on our street is trying to make some changes. And even
3 | with the surveyor, you still have to come before the ANC any
4 | changes that you're trying to make. That did not happen because
5 | they're trying to close an alley. If they doing what they doing,
6 | they still have to come through the process all over again. Even
7 | if the builders are there. But they have not done that. I just
8 | got through talking with Ms. Diana with the -- in the survey
9 | office yesterday. When they're making those type of changes they
10 | still have to come before the ANC. They have not come and they
11 | have not notified us they changes that they're making for any
12 | increase or alley. So that's what I'm saying. They have to go
13 | through the same process. We had no knowledge.

14 | CHAIRPERSON HILL: No, I got ya. And Commissioner,
15 | what I'm confused about is, like, they're not changing the street
16 | or the alley. And that's what I'm understanding.

17 | MS. DOUGLAS: Well, if they want to have a way to come
18 | through, what's going to happen -- and I'm just saying, we have
19 | not seen this PowerPoint. The PowerPoint has not been presented
20 | to the ANC at all. This is the first I've heard -- I mean, I've
21 | heard about it. I haven't gotten any information to confirm what
22 | he was reference to. And we have not seen this information until
23 | today. So they still have to come back and go through the same
24 | process, and then come back to you all again to present this.
25 | They have not come to us with this.

1 CHAIRPERSON HILL: Okay.

2 MS. DOUGLAS: They didn't come before the ANC that this
3 is what they want to do to discuss this. They only came to use
4 before the housing, the homes that we are --

5 CHAIRPERSON HILL: I got you, Commissioner. I'm trying
6 to follow along also. Like, so what I'm trying to understand. I
7 mean you are one commissioner. You can't speak for the whole ANC.

8 MS. DOUGLAS: No, I'm not. But I'm just saying, I
9 can't speak for them. I'm saying to you -- I understand, Mr.
10 Hill. And no disrespect, but they have not come to the body of
11 the commission. I'm speaking on their behalf. I'm sharing that
12 with you that they have not. And according to the survey, they
13 still have to come to the body of the commission when those
14 changes are being made.

15 CHAIRPERSON HILL: I understand.

16 MS. DOUGLAS: Alleys or whatever the case may be. And
17 I got this information yesterday.

18 CHAIRPERSON HILL: I'm trying to understand,
19 Commissioner, is that you all approved something that had more
20 density, meaning more units. And now they're asking for one less
21 unit. Do you know whether the ANC -- I mean, you can't tell.
22 You're saying that the ANC wants to be presented to for that one
23 less unit; is that what you're trying to say?

24 MS. DOUGLAS: No, it's not the unit. I don't know
25 about no one less unit. I'm concerned about the streets, that

1 they want to open that street that they go by. That's what I'm
2 saying. In other words, how can I say it. They want to extend
3 the street. It can't be no plainer than that, Mr. Hill. They
4 want to extend that area and come back all the way to have the
5 driveway for the emergency fire department to come through. And
6 in order to do that, Mr. Hill, some homes gonna have to be taken.
7 And so I have not seen the information, nor has the commission,
8 what we're seeing right now.

CHAIRPERSON HILL: Okay.

9 Commissioner, give me a second. Ms. Fothergill, Can you help me
10 out? Like do you -- I'm a little lost.

11 MS. FOTHERGILL: Well, I think the Applicant is not
12 proposing changes to the Minnesota Avenue right of way or any
13 streets. And I think maybe that just needs to be said very
14 clearly. The site plan that the ANC initially saw actually showed
15 the Minnesota Avenue right of way being improved, and vehicular
16 access to that back lot. The current site plan does not show
17 that. They are not proposing changes to the Minnesota Avenue
18 right of way. They are proposing to access the third rear lot
19 from Lee Street. That is my understanding.

20 CHAIRPERSON HILL: Okay. I understand. Okay, great.
21 Okay. Commissioner Douglas, can you hear me?

22 (No response.)

23 CHAIRPERSON HILL: Commissioner Douglas, can you hear
24 me?

25 MS. DOUGLAS: Yes, sir.

1 CHAIRPERSON HILL: Do you have any questions for the
2 Office of Planning?

3 MS. DOUGLAS: I just want to -- I'd like to see the
4 documents be come before the commission to speak about this.
5 Because as I said, this is the first time we seen these documents.
6 And it's been brought to you all attention but not to ours. We
7 have not seen this evidence that they are presenting to you all.

8 CHAIRPERSON HILL: Okay. Okay. All right. Does the
9 Board have any questions for the commissioner?

10 (No response.)

11 CHAIRPERSON HILL: Okay. Does the Board have any
12 questions for the Applicant?

13 (No response.)

14 CHAIRPERSON HILL: Okay. Commissioner Douglas, do you
15 have any questions for anybody?

16 VICE CHAIR JOHN: Mr. Chairman, I do have --

17 MS. DOUGLAS: I (audio interference) given this
18 opportunity to see the points that's presented to you all that's
19 (audio interference) --

20 CHAIRPERSON HILL: Commissioner Douglas, can you hear
21 me?

22 MS. DOUGLAS: Yeah, I can hear you if they'd stop
23 calling. I think that Mr. Johnson keep calling me. But I just
24 want to say that this conversation (audio interference) before the
25 ANC. And that's my concern. And I want to make sure that this be

1 presented.

2 CHAIRPERSON HILL: Okay. Ms. John, you had a question?

3 VICE CHAIR JOHN: For the Applicant, Mr. Chairman. I
4 wanted to find out what dates they presented before the ANC, and
5 what did they look at. What did the ANC approve?

6 MR. BELLO: I can't find the email that we sent to the
7 ANC, but it was probably late August this year. The revised plans
8 and site plan were emailed to the ANC about the end of August.

9 VICE CHAIR JOHN: And so did you actually present, did
10 you go to an ANC meeting and discuss the plans and the changes?

11 MR. SALLAH: Okay. The owner of the property was
12 responsible for doing that. So we provided all the information
13 for them ANC and to them for them to read to the ANC.

14 VICE CHAIR JOHN: So you don't know if the owner
15 appeared before the ANC?

16 MR. SALLAH: No, I don't know. But the owner is
17 supposed to be online. So maybe he can answer that.

18 CHAIRPERSON HILL: That's all right. Mr. Sallah, who
19 are you now, again? You're not -- I thought you were one of the
20 owners.

21 MR. SALLAH: No. I'm an engineer.

22 CHAIRPERSON HILL: Oh, okay. All right. Commissioner
23 Douglas, can you hear me?

24 MS. DOUGLAS: Yes.

25 CHAIRPERSON HILL: When is your next ANC meeting?

1 MS. DOUGLAS: Well, our next meeting gonna be October
2 the 8th. Because we just had our ANC meeting last night. So --
3 and they would have to come process -- they will have to come to
4 the executive meeting to present all this evidence to the
5 commissioners and also have to get on the agenda. I would --
6 according to the process, they would have to do all those things.
7 And they have not with this new information.

8 CHAIRPERSON HILL: Your next meeting is October 8th?

9 MS. DOUGLAS: Eighth, yes.

10 CHAIRPERSON HILL: Are you the chair?

11 MS. DOUGLAS: Yes. It's October the 8th. It's on a
12 Tuesday, if I'm not mistaken.

13 CHAIRPERSON HILL: Okay.

14 MS. DOUGLAS: Before that, they haven't presented to the
15 ANC. We already have the 28th is our executive meeting. And
16 those meetings has already been scheduled for other projects
17 that's coming. And I think --

18 CHAIRPERSON HILL: Commissioner Douglas -- Commissioner
19 Douglas?

20 MS. DOUGLAS: Yes.

21 CHAIRPERSON HILL: Are you the chair?

22 MS. DOUGLAS: No, I'm not the chair. I'm the ANC 7
23 district.

24 CHAIRPERSON HILL: That's all right. I'm just asking.

25 MS. DOUGLAS: That's fine.

1 CHAIRPERSON HILL: Can you get them on the -- can you
2 get them -- I understand what your process is. What I'm trying to
3 understand is, again, we've already been through this a couple of
4 times. And so if you can get them on your agenda -- if you can
5 get them on for the 8th, okay. But I don't think -- they're not --
6 -- you're just asking for further clarification. And they're not
7 doing anything new. Right. They're not using that alley.
8 They're not -- I mean, sorry. They're not extending Minnesota
9 Avenue. And I guess you want more clarification on the new
10 design. But I don't want to hold them up for any longer than
11 they've already been held up because they've also kind of gone
12 through the process. And so if you think you can get them on the
13 agenda for the 8th, then maybe we can get them back right after
14 that. I'm going to talk to my colleagues about that. Can you
15 get them --

16 MS. DOUGLAS: Well, I'll talk to the -- once we get off
17 the phone -- once Mr. Johnson and sent all these new documents
18 that I'm first seeing today, so I can provide that to the
19 commission, because they wants to know, see these changes, then I
20 can tell you will they be able to get on the 8th.

21 CHAIRPERSON HILL: Okay.

22 MS. DOUGLAS: And we do -- the documents -- and the
23 documents that they presented to you all today.

24 CHAIRPERSON HILL: Okay. Well, this is what I'm going
25 to propose, Commissioner. I'm going to give you all time for them

1 to get before you on the 8th. Okay. And then we're going to come
2 back before and have a decision. Okay. And give you an
3 opportunity to give comments after the 8th.

4 MS. DOUGLAS: That's fine.

5 CHAIRPERSON HILL: Okay. So let's see, all right. Does
6 anybody have any questions for anybody? And then Mr. Bello, I'm
7 going to let you have an opportunity for a conclusion.

8 (No response.)

9 CHAIRPERSON HILL: Okay. Mr. Bello, do you want to give
10 your conclusion? Oh, hold on. I'm sorry. Mr. Young, is there
11 anyone here who wishes to testify?

12 MR. YOUNG: We do not.

13 CHAIRPERSON HILL: Okay. Mr. Bello, do you want to give
14 a conclusion?

15 MR. BELLO: We'll just rest on the record, Mr. Chairman.
16 Accept just to clarify again that there's no intention to extend
17 Minnesota Avenue or change any public right of way. The existing
18 structure that the ANC had approved, which also requested the use
19 variance has been reduced to special exception only. And there's
20 no parking that's provided for the rear lot. I'll just rest on
21 that and we'll go back to the ANC.

22 MS. DOUGLAS: Also, Mr. Bello, I spoke to Mr. Johnson
23 last month too in regards to some illegal dumping on one of his
24 lots. And so I asked him several times to make sure, because the
25 community is complaining about the debris that's in their yard,

1 the trash. So I hope that Mr. Johnson will resolve that and clean
2 up that lot. Thank you.

3 CHAIRPERSON HILL: Gotcha. Thanks, Commissioner. Mr.
4 Bello, please pass that along to the owner. Okay?

5 MR. BELLO: Yes.

6 CHAIRPERSON HILL: All right. So Commissioner, what I'm
7 trying to get here -- we're going to -- unless somebody has any
8 issue, this is kind of where I'm going. I mean, I can --
9 Commissioner, I could sit here and put a stay in the case for
10 them, but that's not my job, right. Which is that I can show you
11 why they're not extending Minnesota Avenue, and I can show you
12 everything they're doing. But I guess the reason why I'm now in
13 favor of this is because it seems like the ANC is a little
14 confused as to what it is that is before them. And so, you know,
15 we'll go ahead and I guess, Mr. Bello, I'm sorry that you didn't
16 get in front of the ANC, or at least get their sign off on the
17 change. Because, again, you're reducing. I understand why you
18 wouldn't be that concerned about it because you're reducing the
19 request, right? So there seems to be some confusion about
20 Minnesota Avenue. So go ahead and present to the ANC on October
21 8th. And Mr. Moy, we'll get them back in front of them for a
22 decision soon after, and give the ANC opportunity to give some
23 kind of testimony. Okay.

24 MS. DOUGLAS: I could take that. And also, I'd like to
25 have those PowerPoints that was shared with you all so I could

1 | share those with the commissioners.

2 | CHAIRPERSON HILL: Sure. Mr. Bello, why don't you make
3 | sure the commissioner gets that. And Commissioner, they're also
4 | in the record now. And they'll be in the record.

5 | MS. DOUGLAS: Thank you so much.

6 | CHAIRPERSON HILL: Okay, you're welcome. All right,
7 | Mr. Bello, you got anything at the end?

8 | MR. BELLO: That's it, Mr. Chairman.

9 | CHAIRPERSON HILL: Okay. So before everybody leaves,
10 | Mr. Moy, what are our dates now for when we're going to try to get
11 | back here for a decision?

12 | MR. SHAPIRO: Mr. Chair, can I ask a question?

13 | CHAIRPERSON HILL: Yes.

14 | MR. SHAPIRO: Are we having a continued public hearing?

15 | CHAIRPERSON HILL: No, not in my opinion. This is like,
16 | you know, the ANC is going to -- they're going to present in front
17 | of the ANC. The ANC -- unless we -- we can decide later if we
18 | want. This is just a decision. So what's going to happen is the
19 | Applicant is going to present to the ANC. The ANC will have an
20 | opportunity to provide some kind of testimony to us. And based
21 | upon that testimony, we'll make a decision or we'll decide to
22 | reopen the record.

23 | MR. SHAPIRO: Okay. Thank you, Mr. Chair.

24 | CHAIRPERSON HILL: Mr. Moy, you got me some dates?

25 | MR. MOY: Well, Mr. Chair, can I ask a quick question

1 for the dates? Is the Board allowing any more filings into the
2 record or not?

3 CHAIRPERSON HILL: The only thing I need, unless the
4 Board needs anything, I just need to hear something from the ANC.
5 Like they're going to go present to the ANC. The ANC is going to
6 give us some kind of something, right. And then that's all I
7 need. Does the Board need anything else? And if so, raise your
8 hand.

9 (No response.)

10 CHAIRPERSON HILL: Nobody is raising their hand. So,
11 Mr. Moy, no.

12 MR. MOY: Okay. So if the Board is not allowing any
13 responses from the ANC, then in that case --

14 CHAIRPERSON HILL: No, no, no. The Board is allowing
15 the ANC to give us some response after their presentation by the
16 Applicant on October 8.

17 MR. MOY: Yes. I got that part. But, I mean, are you
18 going to allow any responses? But I think I have my answer. So,
19 once again, the ANC is meeting on October the 8th. So the
20 earliest the Board can -- and then if you allow the ANC time to
21 submit a letter into the record, let's say -- October 8th is a
22 Friday. And the next Board meeting after October the 8th would be
23 October the 13th. So the earliest for a decision meeting could be
24 October the 13th if you allow the ANC to submit their letter by
25 Monday, October the 11th. If you think that's too soon for the

1 ANC to file, then the next decision date for it to get scheduled
2 would be October 20th.

3 CHAIRPERSON HILL: Okay. Commissioner Douglas, can you
4 hear me?

5 MS. DOUGLAS: Yes, sir.

6 CHAIRPERSON HILL: If you guys have a meeting on the
7 8th, can you get me something by the 11th?

8 MS. DOUGLAS: I'll do my best, once I talk to -- if I
9 get the information in, and share this with the commissioner, and
10 I can talk with them at our executive meeting and have this
11 conversation, I'm sure that we have all that data. It's possible
12 that we can have everything with the commissioners.

13 CHAIRPERSON HILL: Okay.

14 MS. DOUGLAS: And I'll do my best. All I need to do is
15 get the information to them so they can see these changes that's
16 made, so I can be clear on that. Because that's important.

17 CHAIRPERSON HILL: I got ya. I got ya. So Mr. Bello,
18 can you hear me?

19 MR. BELLO: Yes, Mr. Chairman

20 CHAIRPERSON HILL: Does it matter so much whether you
21 come back on the 13th or the 20th? The reason why I'm asking is
22 because, you know, just to make sure we get whatever we get from
23 the ANC so we can make a decision on the 20th.

24 MR. BELLO: No objection.

25 CHAIRPERSON HILL: Okay. So, Mr. Moy, why don't you go

1 ahead and they'll have the ANC meeting on the 8th. And why don't
2 you give them until, I don't know, the 13th.

3 MR. MOY: You could, you could give them a week.

4 CHAIRPERSON HILL: Yeah. Give them a week. Give them
5 until the 15th. So Commissioner, --

6 MS. DOUGLAS: I'm here.

7 CHAIRPERSON HILL: -- can you hear me? So you have to
8 give us something by the 15th of October, okay?

9 MS. DOUGLAS: Okay.

10 CHAIRPERSON HILL: Okay. And then we'll come back, Mr.
11 Moy, for a decision on October 20th.

12 MR. MOY: That's correct.

13 CHAIRPERSON HILL: Okay.

14 MS. DOUGLAS: Thank you so much.

15 CHAIRPERSON HILL: Okay, great. Mr. Moy, you got
16 anything?

17 MR. MOY: No.

18 CHAIRPERSON HILL: Okay. So I'm closing the hearing and
19 the record, except for the -- Ms. John?

20 VICE CHAIR JOHN: Just a point of clarification for the
21 commissioner. There's a letter of support from ANC at exhibit 48.
22 And so I think what the Board wants to know is, does the ANC stand
23 by that original decision?

24 CHAIRPERSON HILL: Yes. Do you still support the
25 application, Commissioner? Do you hear me? Do you understand?

1 MS. DOUGLAS: Oh, yes, yes, yes. Yes, it's just the
2 changes that we -- that I'm seeing today, I want some
3 clarification to what the changes are so I can have that in the
4 record that we had no knowledge about. That's all I'm saying, Mr.
5 Hill.

6 CHAIRPERSON HILL: No, I got you. So then just what we
7 need, Commissioner, is that something that says you are either
8 still in favor or you now object.

9 MS. DOUGLAS: Okay.

10 CHAIRPERSON HILL: Okay.

11 MS. DOUGLAS: Okay. I understand

12 CHAIRPERSON HILL: Okay, great. Okay. So then, all
13 right. We're closing the hearing and the record except for the
14 information that we requested from the Applicant. And that's it.
15 Mr. Bello, are you good?

16 MR. BELLO: (Nods head affirmatively.)

17 CHAIRPERSON HILL: Okay. All right. Thank you. Bye-
18 bye.

19 MS. DOUGLAS: Bye.

20 CHAIRPERSON HILL: Bye. Okay. All right. The next
21 hearing, Mr. Moy? By the way, we still haven't done anything
22 today.

23 MR. MOY: Thank you, Mr. Chairman. Sorry for the
24 delay. I was pulling up my notes. Okay. So the next case
25 application before the Board is case application number 20442 of

1 Paul DeYoung, D-E-Y-O-U-N-G. This is an application for a special
2 exception as amended from the lot occupancy requirement, Subtitle
3 E, Section 304.1 and just would construct a rear deck to an
4 existing, attached, two-story flat, RF-1 Zone. The property is
5 located at 78 R Street, Northwest, Square 3101, Lot 72.

6 And as to any preliminary matters, there is a request to
7 waive the filing deadline for submissions. I'm assuming that's
8 from the Applicant, for a number of documents, such as revised
9 plans, et cetera. So that's in the record. That's it, Mr.
10 Chairman.

11 CHAIRPERSON HILL: Okay. Mr. Bello, can you hear me?

12 MR. BELLO: Yes, Mr. Chairman.

13 CHAIRPERSON HILL: Can you introduce yourself for the
14 record, please?

15 MR. BELLO: Good afternoon, Board members. Toye Bello
16 representing the Applicant, 1917 Benning Road, Northeast.

17 CHAIRPERSON HILL: Okay. What are you trying to get
18 into the record again, Mr. Bello?

19 MR. BELLO: Those would be the revised plans as now
20 requesting just special exception, and the PowerPoint
21 presentation.

22 CHAIRPERSON HILL: So that's not the PowerPoint from
23 9/13?

24 MR. BELLO: Yes. That is in the record already.

25 CHAIRPERSON HILL: Okay. All right. Mr. Bello, do you

1 know why -- I mean, you're just trying to figure out what you're
2 going to do recently; is that correct, that's why it's a little
3 late?

4 MR. BELLO: We had quite an extensive consultation with
5 the Office of Planning to gauge what the Office of Planning would
6 be comfortable with supporting, given the background and context
7 from the last hearing. So we're essentially just reduced and
8 eliminated the other two relief requests that the Office of
9 Planning could not find to support the last application.

10 CHAIRPERSON HILL: Okay. Got it. Got it. Got it.
11 Okay, Mr. Bello. So unless the Board has any issues, I'm going to
12 go ahead and allow everything into the record. I see the
13 PowerPoint. Mr. Young, if you could go ahead and pull that up.

14 And then Mr. DeYoung, can you hear me?

15 MR. DEYOUNG: I can.

16 CHAIRPERSON HILL: Do you want to introduce yourself for
17 the record?

18 MR. DEYOUNG: Yes, sir. My name is Paul DeYoung. I am
19 one of the owners of the property in question.

20 MR. BELLO: Okay, great. All right, Mr. Bello you can
21 go ahead and begin.

22 MR. BELLO: Okay. So just to give a little background
23 on this application. This application has been heard and
24 presented before the Board, requesting three areas of relief of
25 special exception from the fence line provision, the rear yard,

1 and the lot occupancy at 90 percent, which we have a variance.
2 What this application has done is to eliminate the other two
3 relief requests, the center line relief and the rear yard, and
4 also reduce the percentage of lot occupancy to 70 percent. So
5 the only relief before the Board at this point is the special
6 exception to allow 70 percent lot occupancy, which, obviously,
7 would require that the applicant construct existing lot and use it
8 for the back.

9 So I'll just go through the PowerPoint very quickly.
10 That's essentially before the Board at this point. Mr. Young Next
11 slide, please.

12 So essentially, again, the application is a special
13 exception to allow percentage of lot occupancy to 70 percent in a
14 zone that limits that lot occupancy to 60 percent. Next slide,
15 please.

16 This plat essentially just illustrates how the applicant
17 reduced -- the deck used to be constructed up to 90 percent of the
18 lot, now it's going to be pulled back to the limit that allows 70
19 percent lot occupancy and also complies with the required rear
20 yard for the underlying zone. Next slide, please.

21 This essentially is a floor plan. And again, a set of
22 site plans that shows the reduction and the deck, the proposed
23 deck. There will also be a proposal to add garage that is set
24 back two feet to the property lot line. And that would be 12
25 foot set back from the center line of the alley. Next slide,

1 please.

2 This is a 3D graphic illustration of what is proposed
3 before the Board. Applicant notes the two adjacent properties
4 have similar or even greater density decks than this proposed for
5 this property. Next slide, please.

6 So the proposed deck does not change the character of
7 neighborhood, particularly those two properties that that are on
8 the particular application. Next slide, please.

9 These are -- I'll just run through these. These were
10 all presented in the course of the original application. Shows
11 how the Applicant complies with the conditions, the special
12 exception conditions of 5201.1(A) and other provisions applicable.
13 Next slide, please.

14 So these are the special conditions set forth for being
15 able to plat for special exception, which run through 5201.4
16 through 5201.7. Next slide, please.

17 Light and air available to neighboring properties. The
18 reduced deck is an open deck and is adjoined as the BZ drawing
19 illustrated. Both sides of the property actually feature decks
20 and accessory structures much like the one that is proposed. So
21 there's no net change to the light and air of the property next
22 door or adjacent to this property. Next slide, please.

23 "B," the privacy of use. Again, both -- all the
24 adjacent properties share similar, overlook on each property. And
25 this deck is less dense than the adjoining properties. So there's

1 no net change in the privacy and enjoyment of property. Next
2 slide, please.

3 Constructed deck is visible from the rear alley, but the
4 visibility is somewhat minimized by the existence of the roll up
5 door. So you couldn't really see it from the alley because it
6 will be affected by the (indiscernible). Next slide, please.

7 The Applicant has presented illustrations, graphic
8 illustrations in order for the Board to determine. Next slide,
9 please.

10 The Applicant is not adverse to any requirement the
11 Board deems fit. Office of Planning does not suggest any special
12 treatment. Next slide, please.

13 The Applicant does not seek special exception for lot
14 occupancy beyond 70 percent, as prescribed under 5201.1(A). Next
15 slide, please

16 This provision is not applicable. Next slide, please.

17 The Applicant submitted the application meets the burden
18 of proof for special exception. The affected ANC had actually
19 been support of a much denser application. I'll let the owner
20 speak to his engagement with the ANC with respect to the reduced
21 relief of his plan and recommends approval. And the application
22 complies with all the conditions, photographs and other special
23 exception. And that would be our presentation, Mr. Chairman.

24 CHAIRPERSON HILL: Thank you, Mr. Bello. Thank you so
25 much, Mr. Young.

1 Does the Board have any questions for Mr. Bello? If so,
2 raise your hand.

3 (No response.)

4 CHAIRPERSON HILL: And for the record, Mr. Blake is not
5 on this case. Can I turn to the Office of Planning?

6 MS. BROWN-ROBERTS: Good morning, Mr. Chairman and
7 members of BZA. This is Maxine Brown-Roberts of the Office of
8 Planning. Welcome back.

9 CHAIRPERSON HILL: Hey, Ms. Brown-Roberts. Welcome
10 back. I'm just smiling because you were one of the first people
11 that were around when I started. So welcome back yourself.

12 MS. BROWN-ROBERTS: Thanks. So good morning again.
13 And, for the record, this is Maxine Brown-Roberts for the Office
14 of Planning on BZ case 20442. As the Applicant said, they have
15 reduced the size of the deck. And so the only relief that they
16 would need is a special exception for the lot occupancy
17 requirements pursuant to Subtitle E, 5201, and also for the
18 general special exception on their Subtitle X 900.

19 I'm going to stand on the record. The analysis, I think
20 that Mr. Bello has just presented is similar to what we had in our
21 report. And, therefore, that it meets the -- would not be a
22 detriment or undue negatively on the light and air to the adjacent
23 property and also to the privacy. And so we recommend approval
24 For the lot occupancy. And we stand on the record. Any
25 questions, I'm available.

1 CHAIRPERSON HILL: Okay. Thank you, Ms. Brown-Roberts.
2 Does the Board have any questions for the Office of Planning? And
3 if so, raise your hand.

4 (No response.)

5 CHAIRPERSON HILL: Okay. Mr. Young, is there anyone
6 here wishing to speak?

7 MR. YOUNG: We do not.

8 CHAIRPERSON HILL: Okay. Mr. Bello, do you have
9 anything you'd like to add at the end?

10 MR. BELLO: No, Mr. Chairman.

11 CHAIRPERSON HILL: Okay. Does anyone have any final
12 questions before I release the Applicant?

13 MR. DEYOUNG: Quickly. Could I speak to the ANC's
14 request?

15 CHAIRPERSON HILL: Sure, Mr. DeYoung.

16 MR. DEYOUNG: Just briefly. I did have an opportunity
17 to speak with the ANC single member representative last week. She
18 was not able to attend here today. She does feel confident that
19 the full ANC will approve this request since they approved the
20 earlier request. However, she did ask for the opportunity to
21 present it to them. They would be meeting next week, on the 21st.
22 And so requested that the case be left open, at least until she
23 could file an amended report. That is all. Thank you.

24 CHAIRPERSON HILL: I'm just trying to --

25 MR. SHAPIRO: We might actually decide something, Mr.

1 Chairman.

2 CHAIRPERSON HILL: I know, Mr. Shapiro. So when are you
3 presenting, Mr. DeYoung, again?

4 MR. DEYOUNG: Next Tuesday, I believe the 21st.

5 CHAIRPERSON HILL: Mr. Rice, can you hear me?

6 MR. RICE: Yes, sir.

7 CHAIRPERSON HILL: Can we actually make a decision and
8 still leave something open for the record?

9 MR. RICE: No, sir. I mean, if it -- you can leave the
10 record open for the ANC to submit like a supplemental report. My
11 suggestion would be to come back to it later in the meeting, and
12 then just to affirm the Board's prior vote.

13 CHAIRPERSON HILL: Oh, I got it. And actually, if I'm
14 asking, I don't mean to be conflicting, Mr. Rice. But I know we've
15 done it before. But now I don't know whether I want to do it now.
16 I mean, I know the tidy of things. In fact, I know what I'm going
17 to do. Okay. I'll see what I'm going to do with the Board.
18 Okay. All right. I'm going to let everybody go. Thank you. I'm
19 going to close the hearing and the record. I'm going to close the
20 hearing and the record, except for a supplemental report provided
21 by the ANC, after you present to them, Mr. DeYoung. Okay. Okay.
22 Thank you.

23 All right. So just so the Board knows what I plan on
24 doing, and you all can tell me something different. I mean, we
25 always have the opportunity to reopen the record if we want to.

1 And so -- oh, then we have to rescind the vote. Anyway, okay. I
2 love it. So do you all want to wait or do you all want to
3 deliberate and then wait for the ANC. And then if there's
4 something that we really want to, we can rescind the vote and
5 reopen the record. And I'm asking the question. And I'm going to
6 start with you, Ms. John since you're the vice chair.

7 VICE CHAIR JOHN: Well, Mr. Chairman, thank you for the
8 opportunity. I think it's cleaner, since we do have a request
9 from the ANC, to close the record and schedule the case for
10 decision, and allow the ANC to submit a letter, either affirming
11 their earlier decision to support the application or changing
12 their position.

13 CHAIRPERSON HILL: Okay. Mr. Moy, can you hear me?

14 MR. MOY: Yes, sir.

15 CHAIRPERSON HILL: Did you catch when the ANC meeting
16 was? Or did anybody?

17 MR. MOY: It was -- the ANC meeting is September 21st,
18 one day before that Wednesday, September 22nd.

19 CHAIRPERSON HILL: Oh, next week? Next week? Mr. Rice,
20 is that what you heard?

21 MR. RICE: Yes, sir.

22 CHAIRPERSON HILL: Okay. So let's set this for decision
23 on the 29th. Okay. So we'll go ahead, we'll keep the record open
24 for the ANC's letter. And we'll set this for decision on
25 September 29th. Okay?

1 MR. MOY: Do you want to set a deadline for the ANC to
2 submit, sir? Or are you going to leave it open?

3 CHAIRPERSON HILL: They can -- I mean, if they're
4 meeting on the 21st, why don't we say the 24th, that Friday.

5 MR. MOY: Got it.

6 CHAIRPERSON HILL: Okay. Yes, we still havein't done
7 anything. Thank you.

8 All right. Okay. Let me see, the next one is -- okay.
9 All right. Let's do the next one, Mr. Moy.

10 MR. MOY: All right. Next up is case application
11 number 20490 of Jerry M. Carter. This is a request for special
12 exception relief from the lot occupancy restriction, Subtitle F,
13 Section 304.1, rear yard requirement, Subtitle F, Section 305.1.
14 This would construct a second-story rear deck to an existing
15 attached two-story principal dwelling unit, RA-1 Zone. Property
16 located at 3243 Fort Lincoln Drive, Northeast, Square 4325, Lot
17 1021.

18 CHAIRPERSON HILL: Thank you, Mr. Moy.

19 Mr. Young, can you find the Applicant?

20 MR. YOUNG: Yeah. He's calling in my phone. So I'll
21 unmute him now.

22 CHAIRPERSON HILL: Oh, gotcha.

23 MR. CARTER: I'm on the line now.

24 CHAIRPERSON HILL: Okay, great. Could you introduce
25 yourself for the record, please?

1 MR. CARTER: Yes. I'm Jerry Carter. I reside at 3243
2 Fort Lincoln Drive.

3 CHAIRPERSON HILL: Okay. Mr. Carter, I see that the ANC
4 is here, and I'll get to them in a minute. But could you just --
5 I don't really have a lot of questions about your project. Could
6 you briefly tell us about your project, please?

7 MR. CARTER: Yes, of course. I'm seeking a special
8 exception to build a new deck on the rear of my property at 3243.
9 The size is 18 feet by 10 feet in size. The deck floor will be
10 Trex composite flooring with a vinyl railing. the three windows
11 that are currently there will be removed and replaced by a French
12 door. Vinyl soffits will be installed under the deck.

13 The completed deck will be consistent with decks
14 previously approved via special exception by this body, for other
15 residents of the (indiscernible) as well as others in the general
16 community. So the project will comply with applicable
17 regulations. The project will not inhibit natural air or light to
18 adjacent properties. The deck will not intrude on the property of
19 adjacent property owners. The addition will not visually intrude
20 upon the character, scale or pattern along Fort Lincoln Drive.
21 The construction is standard with newly constructed homes within
22 the Dakota Crossing Community. I have received support from Ms.
23 Jacqueline Manning, ANC Commissioner, Mr. Donte Richardson, the
24 Dakota Crossing Homeowner's Association, the architectural Board
25 here. In addition, I have letters of support from Ms. Sonia

1 Raglan (phonetic) who lives to the left of me, and Ms. Sylvia
2 Bagley, who lives to the right of me, as well as Mr. Nicholas
3 Davis, another neighbor. That concludes my comments. I'll
4 entertain any questions that you might have.

5 CHAIRPERSON HILL: Does anybody have any questions for
6 the Applicant?

7 (No response.)

8 CHAIRPERSON HILL: Commissioner Montague, can you hear
9 me?

10 MR. MONTAGUE: Yes, I can. Can you hear me?

11 CHAIRPERSON HILL: Yes. How are you, sir?

12 MR. MONTAGUE: Well, I'm glad to be back. It's been a
13 while.

14 CHAIRPERSON HILL: Yeah, it's been a while.
15 Commissioner, do you have any testimony you'd like to give about
16 this hearing?

17 MR. MONTAGUE: No, sir. Commissioner May, who is the
18 chairman of ANC 5C, has submitted a letter of support. The only -
19 - I know that Commissioner Johns is going to ask for 129. But
20 when we heard this before the commission there were no objections.
21 So my understanding is that when Commissioner May talked to BZA
22 they said all she had to do was submit a letter. And that's where
23 we stand right now. So we have no objection to this project, as
24 it is similar to others that are currently within that community.

25 CHAIRPERSON HILL: Okay, great. Thank you,

1 Commissioner.

2 Does anybody have any questions for the commissioner?

3 (No response.)

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

6 MS. BROWN-ROBERTS: Good afternoon again, Mr. Chairman.
7 Again, Maxine Brown-Roberts from the Office of Planning on BZA
8 case 20490. The Applicant is proposing special exception from the
9 lot occupancy requirement and also from the rear yard under
10 Subtitle F, 5201, and also for the general special exception.
11 Again, the -- it's a deck, which is similar to others on the --
12 within the community. The deck will, because of the orientation,
13 will not affect the light and air of the adjacent properties.
14 Also, the privacy will not be affected. Again, it's an open deck.
15 And so any views from the -- into the adjacent properties will be
16 minimal. The deck also, we're not proposing any additional
17 screening. And it conforms with the -- the property conforms with
18 the height and stories in that zone.

19 Again, the deck will be in conformance with the zone,
20 RA-1, and will also not affect the light and air of the adjacent
21 properties or other neighbors. And, therefore, we recommend
22 approval. Thank you, Mr. Chairman. I'm here for questions.

23 CHAIRPERSON HILL: Thank you, Ms. Brown-Roberts.
24 Ms. Brown-Roberts, can you speak a little bit to X-901 in terms of
25 the general criteria?

1 MS. BROWN-ROBERTS: 901. The RA zone allow row
2 dwellings by special exception. And this was approved -- the RA-1
3 zone was approved some time ago by the BZA, and it was found to be
4 in harmony -- the units were found to be in harmony with
5 regulations and the zoning map. There was also discussions in
6 that RA-1 zone for adding, allowing the addition of decks. And so
7 I think that the proposal is in harmony with the general purpose
8 and intent of the zoning regulation. Again, the addition will not
9 be inconsistent with the size of decks that are proposed in the
10 RA-1 zone, and is part of this development, and are similar, and
11 is similar to other decks that is in the community, and will not
12 affect the light, and air and privacy of the adjacent neighbors.
13 Thank you, Mr. Chairman.

14 CHAIRPERSON HILL: Okay. Thank you, Ms. Brown-Roberts.
15 Does the Board have any questions for the Office of
16 Planning?

17 (No response.)

18 CHAIRPERSON HILL: Okay. Mr. Young, is there anyone
19 here wishing to speak?

20 MR. YOUNG: We do not.

21 CHAIRPERSON HILL: Okay, great. All right. Mr.
22 Carter, is there anything you'd like to add at the end?

23 MR. CARTER: No. Just to thank the body for considering
24 my application.

25 CHAIRPERSON HILL: All right. Thank you, Mr. Carter.

1 All right. I'm going to close the hearing and the record.
2 Commissioner Montague, nice to see you. Take care. Have a good
3 day. Everyone have a good day. Okay. I didn't have any
4 issue with this application. I would agree with the analysis
5 that was provided by the Office of Planning in terms of how
6 they're meeting the criteria for us to grant the application. I
7 would also agree with the, I guess comments from the ANC, and then
8 also DDOT. And, I mean, I didn't have any problem with the deck
9 and how they're meeting the criteria for us to grant relief
10 requested. So I'm going to be voting in favor. Commissioner
11 Shapiro?

12 MR. SHAPIRO: Thank you, Mr. Chairman. I have nothing
13 further to add. I agree. I have no concerns with this.

14 CHAIRPERSON HILL: Mr. Smith?

15 MR. SMITH: Yeah. I think, Chairman Hill, I have no
16 further comment. I do agree with you on this as well.

17 CHAIRPERSON HILL: Vice Chair John?

18 VICE CHAIR JOHN: I agree with all of the comments, Mr.
19 Chairman. I have nothing to add.

20 CHAIRPERSON HILL: Mr. Blake?

21 MR. BLAKE: I agree as well, Mr. Chairman. Thank you.

22 CHAIRPERSON HILL: All right. I'm going to make a
23 motion to approve application number 20490 as captioned and read
24 by the secretary and ask for a second, Ms. John?

25 VICE CHAIR JOHN: Second.

1 CHAIRPERSON HILL: Motion has been made and seconded.
2 Mr. Moy, would you take a vote, please?

3 MR. MOY: Thank you, Mr. Chairman. When I call each of
4 your names if you would please respond with a yes, no or abstain
5 to the motion made by Chairman Hill to approve the application
6 with the relief being requested. The motion was seconded by Vice
7 Chair John.

8 Zoning Commission Peter Shapiro?

9 MR. SHAPIRO: Yes.

10 MR. MOY: Mr. Smith?

11 MR. SMITH: Yes.

12 MR. MOY: Mr. Blake?

13 MR. BLAKE: Yes.

14 MR. MOY: Vice Chair John?

15 VICE CHAIR JOHN: Yes.

16 MR. MOY: Chairman Hill?

17 CHAIRPERSON HILL: Yes.

18 MR. MOY: The staff would record the vote as 5 to 0 to
19 0. This is on the motion made by Chairman Hill to approve. The
20 motion was seconded by Vice Chair John. Also in support of the
21 motion to approve was Zoning Commission Peter Shapiro, Mr. Smith
22 and Mr. Blake. The motion carries on a vote of 5 to 0 to 0.

23 CHAIRPERSON HILL: Okay. All right, Mr. Moy. Thank you.
24 I'm looking at my fellow Board members. So we have one, two,
25 three, four, five, six left. Do you want to do one more and then

1 do lunch, or do you just want to keep going and see what happens?
2 I'm looking at Mr. Smith because he's pointing. Mr. Smith, do you
3 have a comment?

4 MR. SMITH: Sorry. I was counting the cases. I'm fine
5 with doing one more and then go for a lunch break.

6 CHAIRPERSON HILL: Okay. All right. I'm sorry, did
7 anyone else have an objection?

8 (No response.)

9 CHAIRPERSON HILL: Okay. You know, we can just keep
10 powering through. We just don't have to have lunch.

11 Mr. Moy, do you want to go ahead and call our next case?

12 MR. MOY: Yes. Thank you, Mr. Chairman. So this would
13 be case application number 20491 of Tubman Elementary School.
14 This is a request for a special exception from the penthouse
15 enclosure requirement, Subtitle C, Section 1500.6, pursuant to
16 Subtitle C, Section 1504.1, and Subtitle X, Section 901.2,
17 penthouse setback requirement, Subtitle C, Section 1502.1©),
18 pursuant to Subtitle C, Section 1504.1, and Subtitle X, Section
19 901.2. This would construct four -- this has been amended to
20 construct four separate penthouse enclosures to an existing public
21 elementary school building in the RF-1 zone. The property is
22 located at 3101 13th Street, Northwest, Square 2847, Lot 866.

23 As a preliminary, Mr. Chairman, there is a request from
24 the applicant to waive notary requirements for posting
25

1 affidavit. That's under exhibit 52. That's it for me.

2 CHAIRPERSON HILL: All right. Thank you. Is it Mr.
3 Avitabile?

4 MR. AVITABILE: Yes. Yes, that's me. Hello, Chairman
5 Hill.

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

8 MR. AVITABILE: Absolutely. David Avitabile with
9 Goulston & Storrs, here on behalf of the Applicant.

10 CHAIRPERSON HILL: Okay. Mr. Avitable, is this your
11 first time with us?

12 MR. AVITABILE: No. I've been with you all, but not in
13 a long time. I spent most of my time with Mr. Shapiro in the
14 zoning commission the last couple of years. I think the last time
15 I was before the Board was in 2017 for the Meridian International
16 Center addition, where I faithfully told you it was going to be a
17 quick case, and it took three hours.

18 CHAIRPERSON HILL: Yeah. Yeah, I remember that. That
19 hasn't been done yet, right?

20 MR. AVITABILE: We're still waiting for the Court of
21 Appeals.

22 CHAIRPERSON HILL: Got it.

23 MR. AVITABILE: This is much simpler.

24 CHAIRPERSON HILL: Yeah, you said that the last time,
25 right.

1 MR. AVITABILE: Yeah.

2 CHAIRPERSON HILL: Okay. So, all right. Is Mr. -- is
3 it Mr. Ayazi?

4 MR. AYAZI: Yes.

5 MR. AVITABILE: Yes, he should be on as well.

6 CHAIRPERSON HILL: Okay. Mr. Avitable, that's all
7 right. Why don't you go ahead and present. Mr. Ayazi, could you
8 introduce yourself for the record, please?

9 MR. AYAZI: My name is Abdullah Ayazi. I'm with Global
10 Engineering Services.

11 CHAIRPERSON HILL: Okay, great. Welcome. All right. Mr.
12 Avitable, the first one I guess is the waiver. So can you tell
13 us, was everything posted correctly? And also, why do you need
14 the waiver?

15 MR. AVITABILE: My understanding is that everything was
16 posted correctly. It was posted well in advance of the normal
17 requirement of 15 days, and it was maintained. The waiver is
18 simply from the regulations require a notarized affidavit of
19 posting and of maintenance. And that's not possible right now, to
20 easily do, because the district hasn't put a remote notarization
21 in place. And with some people continuing to socially distance,
22 it's hard to find your way to a notary. So what we've been doing
23 in a whole handful of cases now, over the last 18 months, is doing
24 an affirmation, where we say, look, the posting was done. Here's
25 a letter a statement that that explains the posting was done

1 properly. And it's sort of a technical requirement for a waiver.
2 I believe (indiscernible) might have asked for similar waivers
3 from the Board.

4 CHAIRPERSON HILL: Yeah, yeah, yeah. I just need to
5 understanding. But correct. All right. I'm going to go ahead
6 and grant the waiver, unless the Board has any issues. And if so,
7 raise your hand.

8 (No response.)

9 CHAIRPERSON HILL: Okay. All right. Mr. Avitable,
10 please go ahead and give your presentation.

11 MR. AVITABILE: Certainly. So I'll give an overview of
12 where we are, and we can certainly do a presentation, but here's
13 where we are.

14 We're here for a request for penthouse relief to
15 accommodate new HVAC equipment at Tubman Elementary School. The
16 relief is needed for two things. One, multiple enclosures on a
17 room. We have four rather than one. And, two, for a setback
18 relief for one corner of one of the enclosures. As set forth in
19 our record, the burden of proof has been met. Briefly, you know,
20 a single enclosure here would be structurally infeasible, given
21 the existing structural grid of the elementary school. Also, a
22 single enclosure would fail to adequately serve this large
23 building that's spread over the course of an entire city block.
24 And finally, if we did construct enclosure walls to connect some
25 of these structures, we'd end up blocking windows into rooms in

1 the school, including the multipurpose room.

2 Finally, it would be less intrusive to -- it's less
3 intrusive to have these smaller enclosures rather than one large,
4 single enclosure.

5 As also noted, the setback requirements are met and
6 exceeded in most cases with the exception of one small corner, as
7 shown in the record, which is on the interior of the lot facing
8 the playground. This is consistent with the intent and purposes
9 of the regulations, which allow for such relief to be granted,
10 provided you meet the requirements, which we've talked about and
11 enumerated in the record. And the other thing I note, and
12 Commissioner Shapiro may be aware of this, the Zoning Commission
13 is currently considering changes to the penthouse regulations.
14 They've actually taken proposed action on them, and they're
15 scheduled for final action in a couple of weeks. And under those
16 proposed regulations none of this relief would be needed. The
17 proposed regulations allow multiple enclosures on a public school
18 building, and they also exempt medical equipment on public school
19 buildings from the setback requirements when it faces a yard or a
20 court. So this is relief that's only needed within a narrow
21 window here, based on the current regulations.

22 There's no adverse impact on any adjacent buildings.
23 We're surrounded by public streets and the playground to the east.

24 And I think finally, we are here with support from the
25 Office of Planning and the affected ANC. And there's no

1 opposition in the record.

2 So if the Board would like, we've got a brief
3 presentation where we can walk through the different enclosures,
4 talk about the areas of relief, or we're happy to stand on the
5 record and answer questions.

6 CHAIRPERSON HILL: Okay. Mr. Avitabile, thank you.
7 We've all reviewed the record. I don't think you need to go
8 through that extensive presentation at this moment. Does the
9 Board have any further questions of Mr. Avitable at this time?
10 Mr. Shapiro?

11 MR. SHAPIRO: Thank you, Mr. Chairman. Similar to the
12 previous case, this is just perhaps a technicality. But if I'm
13 reading this correctly, you did not address the general special
14 exception criteria, X901. And if you could just run through that
15 real quick to make sure that's included as well.

16 MR. AVITABILE: Sure. The standards are that we don't
17 adversely affect neighboring property, and it's generally
18 consistent with the intent and purposes of the regulations. I
19 think here the adverse affect, there is none. You know, again,
20 we're sitting on an island here. It's two city blocks that have
21 been combined to create the school compound. And the enclosures
22 are set back from all street facing frontages more than double
23 requirement. So, you know, they don't -- they're not particularly
24 visible. And furthermore, by providing multiple smaller
25 enclosures, it's actually less of a visual impact than there might

1 be if you had one large enclosure that might feel and look
2 inconsistent with the design of the building, which is sort of
3 this multi-tiered building with, you know, this first floor that's
4 the bulk of the sit. There's a second story for the multipurpose
5 room. And then the third story where the administrative offices
6 are. So I think that's the adverse impact. And then the intent
7 and purposes of the regulations, you know, I think, you know,
8 there is -- clearly here, the regulations allow you to ask for
9 relief from the penthouse requirement when there are difficulties
10 in meeting the requirements, and the regulations enumerate the
11 standards you need to meet. So this isn't like a variance where
12 we're asking you to do something that is not normally allowed.
13 The regulations anticipate that such relief could be granted as
14 long as you meet the prongs. And I think we've done so here.

15 And then I think the other piece of it is the fact that
16 the Zoning Commission is about to actually change the rules to
17 allow these things to happen without any relief. And so that
18 just, I think goes further to consistent with not just intent and
19 purposes of the regulations as they stand now, but the overall
20 direction that the Zoning Commission is taking.

21 MR. SHAPIRO: Thank you for completing the record. And
22 that's all I have, Mr. Chair.

23 CHAIRPERSON HILL: Thank you. Anyone else?

24 (No response.)

25 CHAIRPERSON HILL: I'll turn to the Office of Planning,

1 please? Oh, sorry. Ms. John?

2 VICE CHAIR JOHN: Yes. In anticipation of the Office
3 of Planning report, can you explain why you think you need the
4 relief with the setbacks requirements? Because I believe I read
5 the OP's report to state that no relief is required for that
6 setback.

7 MR. AVITABILE: So I don't know that -- I don't recall
8 reading the OP report in the same way. But I think in the case of
9 the setback, it's technically that one little corner, you're only
10 two feet from the edge of the exterior wall on which the penthouse
11 sits. And while there is then that chimney that sticks up -- this
12 is the type of area where in some cases what an applicant might do
13 is actually create sort of an extension of the roof wall to create
14 a compliant setback or do something else. But I think here the
15 design is what it is. I think there's an argument, it's a
16 judgment call either way you can make whether or not there's
17 technically a setback requirement, rather than argue that there
18 should be a setback requirement. We're here. We're asking for
19 relief just being, you know, conservative out of an abundance of
20 caution. But I think there is clearly an exterior wall that it's
21 not set back two feet from. So --

22 VICE CHAIR JOHN: Okay. Thank you.

23 CHAIRPERSON HILL: Can I hear from the Office of
24 Planning, please?

25 MS. FOTHERGILL: Good afternoon. I'm Anne Fothergill

1 from the Office of Planning, for BZA case 20491. And just to
2 clarify, Board member John, there was an initial appeal for, and a
3 supplemental for, there was a revised referral memo from the
4 zoning administrator, and the relief changed slightly. So in the
5 second OP report we do recognize that they are asking for setback
6 relief from that small section for enclosure number four. And we
7 did -- that met the review criteria and recommended approval of
8 that as well as the multiple enclosures.

9 So OP has recommended approval for both the penthouse
10 enclosure and setback relief that was requested pursuant to
11 Subtitle C, 1504.1, and we'll rest on the record in support of the
12 application.

13 CHAIRPERSON HILL: Okay. Great. Thank you. Does the
14 Board have any questions for the Office of Planning?

15 (No response.)

16 CHAIRPERSON HILL: Does the Applicant have any questions
17 of the Office of -- oh, I'm sorry. Ms. John?

18 VICE CHAIR JOHN: Yes. I agree. I did see -- I just
19 saw the supplemental report. So I withdraw my question. It's at
20 exhibit 51.

21 CHAIRPERSON HILL: Okay, great. Thank you, Ms. John.
22 Does the Applicant have any questions of the Office of
23 Planning?

24 MR. AVITABILE: No. No, thank you.

25 CHAIRPERSON HILL: Mr. Young, is there anyone here

1 wishing to speak?

2 MR. YOUNG: We do not.

3 CHAIRPERSON HILL: Okay. All right. Mr. Avitabile, --

4 MR. AVITABILE: You got it.

5 CHAIRPERSON HILL: Mr. Avitabile, do you have anything
6 you'd like to add at the end?

7 MR. AVITABILE: No, thank you.

8 CHAIRPERSON HILL: Okay.

9 MR. AVITABILE: Just that we request that the decision
10 as you're inclined. Thank you.

11 CHAIRPERSON HILL: Great. Thank you. Let's see, I'm
12 going to close the hearing and the record. Mr. Young, if you'd
13 please excuse everyone.

14 If someone lese wouldn't mind going first because I'm
15 just getting tired. Mr. Shapiro?

16 MR. SHAPIRO: Thank you, Mr. Chairman. I think this is
17 pretty straight forward, and I think that they pretty clearly meet
18 the burden. And to Vice Chair John's point, do see two types of
19 sections. I have no concerns with this at all. I'm in support.

20 CHAIRPERSON HILL: Mr. Smith?

21 MR. SMITH: I agree with Mr. Shapiro's analysis. I
22 believe this is fairly straight forward. I do believe based on the
23 information that was submitted in the record that they have met
24 the burden of proof as regarding the special exceptions being
25 requested by the Applicant. So with that, I would support the

1 application.

2 CHAIRPERSON HILL: Ms. John?

3 VICE CHAIR JOHN: I'm in support of the application. I
4 thought that both the Office of Planning and the Applicant did a
5 very good job of explaining how the application meets the criteria
6 for relief.

7 CHAIRPERSON HILL: Mr. Blake?

8 MR. BLAKE: I would agree that the straight forward
9 application meets the standards. Clearly, we got the support from
10 OP, no objection from DDOT, and the ANC has obviously not
11 identified any concerns or issues, and there's no neighbors that
12 have come forth with any concerns or anything like that. So I
13 would be comfortable supporting the request for relief.

14 CHAIRPERSON HILL: Okay. Thank you. I appreciate the
15 input from all of my colleagues. I don't have anything additional
16 to add. Thank you all for your thoughts. I'm going to go ahead
17 and make a motion to approve application number 20491 as captioned
18 and read by the secretary and ask for a second, Ms. John?

19 VICE CHAIR JOHN: Second.

20 CHAIRPERSON HILL: The motion has been made and
21 seconded. Mr. Moy, would you take a roll call, please?

22 MR. MOY: Thank you, Mr. Chairman. When I call each of
23 your names if you would please respond with a yes, no or abstain
24 to the motion made by Chairman Hill to approve the application for
25 the relief requested. The motion was seconded by Vice Chair John.

1 Zoning Commissioner Peter Shapiro?

2 MR. SHAPIRO: Yes.

3 MR. MOY: Mr. Smith?

4 MR. SMITH: Yes.

5 MR. MOY: Mr. Blake?

6 MR. BLAKE: Yes.

7 MR. MOY: Vice Chair John?

8 VICE CHAIR JOHN: Yes.

9 MR. MOY: Chairman Hill?

10 CHAIRPERSON HILL: Yes.

11 MR. MOY: The staff would record the vote as 5 to 0 to
12 0. And this is on the motion made by Chairman Hill to approve.
13 The motion was seconded by Vice Chair John. Also in support of
14 the motion to approve is Zoning Commissioner Peter Shapiro, Mr.
15 Smith and Mr. Blake. The motion carries on a vote of 5 to 0 to 0.

16 CHAIRPERSON HILL: Okay. Do you all want to do lunch or
17 do you want to do another case?

18 VICE CHAIR JOHN: Lunch.

19 CHAIRPERSON HILL: Okay. There you go. I only need one
20 vote. And by the way, I'm still in my, you know, golf shirt. You
21 all are like, you know, two of you are like, you know, moving on
22 to like fall and like, you know, dressing up. And so I'm talking
23 about Mr. Smith and Mr. Blake. So all right. Okay. So how about
24 1:30.

25 VICE CHAIR JOHN: Yes.

1 CHAIRPERSON HILL: Okay. See you.

2 (Whereupon, the above mentioned hearing was
3 recessed until 1:50 p.m.)

4 CHAIRPERSON HILL: Mr. Moy, could you go ahead and call
5 us back in.

6 MR. MOY: The Board is back in session after a lunch
7 recess. And the time is at or about 1:50 p.m.

8 The next case application in its public hearing session
9 is case application number 20493 of Peter Tremaglio. This is a
10 request for a special exception from the lot occupancy
11 requirement, Subtitle E, Section 304.1, and pursuant to Subtitle
12 E, Section 5201, and Subtitle X, Section 901.2. This would
13 construct a two-family flat from an existing semi-detached, two-
14 story with cellar principal dwelling unit, RF-1 Zone. The
15 property is located at 2304 North Capitol Street, Northwest,
16 Square 3124, Lot 153. And the applicant did file their, a timely
17 affidavit of maintenance under exhibit 36.

18 CHAIRPERSON HILL: All right. Great. Thank you, Mr.
19 Moy.

20 Mr. Teran, can you hear me?

21 MR. TERAN: Yes, sir.

22 CHAIRPERSON HILL: Okay.

23 CHAIRPERSON HILL: All right. Are you the only one here
24 today, Mr. Teran?

25 MR. TERAN: Yes. I'm going to speak on behalf of the

1 owners.

2 CHAIRPERSON HILL: All right. Mr. Teran, if you want to
3 go ahead and present your application to us. And you can begin
4 whenever you'd like.

5 MR. TERAN: Sure. Should I share my screen?

6 CHAIRPERSON HILL: I don't know. Mr. Young, can he
7 share his screen? Is there something in the record?

8 MR. YOUNG: I have a PowerPoint.

9 CHAIRPERSON HILL: Oh, you have the PowerPoint?

10 MR. YOUNG: Yes.

11 CHAIRPERSON HILL: Okay. Mr. Young, if you could pull
12 up his PowerPoint then. Is that in the record, Mr. Young or you
13 don't know.

14 MR. YOUNG: It should be.

15 MR. TERAN: Yeah, this is all -- this all is in the
16 record.

17 CHAIRPERSON HILL: Mr. Teran, do you know which exhibit
18 --

19 MR. SHAPIRO: It's exhibit 31.

20 CHAIRPERSON HILL: Thirty-one. Okay. Great. Thank
21 you. All right, Mr. Teran, you can go ahead and begin.

22 MR. TERAN: Good afternoon, Board. Thank you for
23 taking the time. Hopefully this is an easy one. We're basically
24 just asking the lot occupancy increase from 59.7 to 69.1. And
25 that's basically because we're adding a deck off of the back yard.

1 The reason is that the first level is higher -- it's a walk out
2 basement in the back. So the deck is being counted as lot
3 occupancy.

4 And as you'll see in the pictures, there is three or
5 four other homes with the exact same deck right next to this home.
6 So if we could go to the next page, please.

7 So this is lot 152. The diagonal hatching is the house.
8 And we're -- you can see it's a proposed deck. That's the deck
9 that's being proposed that will make it over the lot occupancy.
10 As you can see on the four houses, on lots, was it 150, 151, 149,
11 148, those all have existing decks that are a little bit bigger
12 than what we're proposing. So we're just going to be in line with
13 these other decks. Next, please.

14 So once again, this is the deck. The top is a floor
15 plan, and it shows the posts and the stairs. And the lower is the
16 first floor of the deck and the staircase coming down to grade.
17 Next, please.

18 This is just the second floor. Doesn't have anything to
19 do with it. Next, please.

20 Here you can see at the back, that's the deck that will
21 be protruding past the house. You can see the brick is original.
22 And then probably about 20 years ago I believe that part is where
23 siding was added. And now the new owners are proposing to do
24 this deck on the back, off the first level. Next, please.

25 Just some more images of the deck from, taken from the

1 rear. That's on the right side if you're standing in the alley.
2 And the left side if you're, you know, standing on the neighbors.
3 Next, please.

4 Is there anymore, or do we have the 3Dimages?

5 MR. YOUNG: That's all that I have.

6 MR. TERAN: Is there existing images, so that they can
7 see the other decks, or the site images?

8 MR. YOUNG: Do you know what exhibit number it is?

9 MR. TERAN: No. Not off the top of my head.

10 MR. SHAPIRO: Try exhibit 9.

11 MR. TERAN: These are images -- thank you for bringing
12 them up. Once again, there is a lot on the corner. And you can
13 see where we're proposing to do the deck. And we have three
14 images that you'll be able to see. So can we go to the next one,
15 please.

16 This is from the front of the house. These are the 3D
17 renderings. YOU can see the deck at the very back, right there.
18 This is an entrance to the alley. If you can go to the next,
19 please.

20 And this is -- the house on the right, this is what
21 we're proposing. And there are decks to the left, and what we
22 estimate their sizes to be. So as you can see, we're basically in
23 line with the rest of the houses. And we went to the ANC, and
24 were unanimously approved. And I think there was also historic I
25 think we went to, and we were approved as well over there. So we

1 haven't had any issues through here.

2 And if you can put up images, that would be great. The
3 site pictures. If not, I'm happy to answer any questions. I
4 mean, I think you get the idea. We're just aligning with the
5 decks in the rear yard.

6 MR. YOUNG: Exhibit 5 has the site images.

7 CHAIRPERSON HILL: sorry. What I was asking was that
8 before we take questions can I go ahead and turn to the Office of
9 Planning. I don't see the Office of Planning.

10 MR. YOUNG: I have on my list Mr. Mordfin from the
11 Office of Planning, but I don't see him on the list.

12 CHAIRPERSON HILL: Ms. Thomas is filling in.

13 MR. YOUNG: Oh, okay.

14 MS. THOMAS: Yeah. Good afternoon, Mr. Chairman and
15 members of the Board. I'm Karen Thomas with the Office of
16 Planning. The Office of Planning will stand on the record of our
17 report in support of the deck, that the proposed deck will not
18 obstruct light and air to any other residents, nor would it
19 require any other relief. And so it meets the intent of the
20 zoning regulations and map and should not have an adverse impact
21 on any other neighbor. Thank you.

22 CHAIRPERSON HILL: Okay. Does anybody have any questions
23 for the Office of Planning from the Board?

24 (No response.)

25 CHAIRPERSON HILL: Does the Applicant have any questions

1 for the Office of Planning? Oh, I'm sorry. Commissioner Shapiro?

2 MR. SHAPIRO: Thank you, Mr. Chair. Yeah, just -- in
3 similar, previous cases, if the Office of Planning could mention
4 that the Applicant didn't -- that the second prong of the general
5 special exception test wasn't specifically referred to to complete
6 the record. It might -- maybe perhaps it's just easier for OP to
7 note that it's in the report, or if not to comment. And this is,
8 again, for the general special exception.

9 MS. THOMAS: Yes. Again, with respect to the nature and
10 the intent of the zoning regulation, we do find that this is
11 consistent with the requirements of the RF-1 Zone that's
12 anticipated in row zones. Haven't met the rear yard. It does
13 not, you know, use up or diminish the rear yard to the extent that
14 it does not meet the rear yard requirements. And again, it will
15 not adversely impact light and air, being an open structure. To
16 that extent, it would not have a -- should not have an adverse
17 impact on its neighbor to the north. It is abutting an alley, so
18 there is no other impact to any other neighbors. Thank you.

19 MR. SHAPIRO: Thank you, Ms. Thomas, and thank you, Mr.
20 Chair.

21 CHAIRPERSON HILL: Sure. Of course. All right, Mr.
22 Young, is there anyone here wishing to testify?

23 MR. YOUNG: We do not.

24 CHAIRPERSON HILL: Okay. Mr. Teran, do you have any
25 questions for anybody at the end here?

1 MR. TERAN: No, I do not.

2 CHAIRPERSON HILL: Okay. I'm going to go ahead and
3 close the record and the hearing.

4 Okay. Again, this is for, was for a special exception
5 from the lot occupancy requirements. I believe they have met the
6 criteria for us to grant this application. I thought it was
7 actually quite straight forward. I didn't have any issues with
8 it. And I would also agree with the analysis that it was provided
9 by the Office of Planning as well as the support of the ANC and
10 DDOT. Again, it was an end unit there. So I would, again, agree
11 with the Office of Planning's report and rest on the record.

12 Does anyone have anything else to add? Commissioner
13 Shapiro?

14 MR. SHAPIRO: Nothing further than that, Mr. Chair.

15 CHAIRPERSON HILL: Mr. Smith?

16 MR. SMITH: Nothing further, other than the Applicant
17 has support from the property owners to the north, on North
18 Capitol Street, and the property owners to the south at 5 and 9
19 Adams Street.

20 CHAIRPERSON HILL: Ms. John, do you have anything to
21 add?

22 VICE CHAIR JOHN: No, Mr. Chairman. I agree with
23 everything said.

24 CHAIRPERSON HILL: Mr. Blake?

25 MR. BLAKE: No, Mr. Chairman. I have nothing else to

1 add. Thank you.

2 CHAIRPERSON HILL: Okay. I'll make a motion to approve
3 application number 20493 as captioned and read by the secretary
4 and ask for a second, Ms. John?

5 VICE CHAIR JOHN: Second.

6 CHAIRPERSON HILL: The motion was made and seconded.
7 Mr. Moy, could you take a roll call?

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

12 Zoning Commission Peter Shapiro?

13 MR. SHAPIRO: Yes.

14 MR. MOY: Mr. Smith?

15 MR. SMITH: Yes.

16 MR. MOY: Mr. Blake?

17 MR. BLAKE: Yes.

18 MR. MOY: Vice Chair John?

19 VICE CHAIR JOHN: Yes.

20 MR. MOY: Chairman Hill?

21 CHAIRPERSON HILL: Yes.

22 MR. MOY: Staff would record the vote as 5 to 0 to 0.

23 This is on the motion made by Chairman Hill to approve the motion.

24 The motion to approve was seconded by Vice Chair John. Also in
25 support of the motion to approve is Zoning Commissioner Peter

1 Shapiro, Mr. Smith and Mr. Blake. The motion carries 5 to 0 to 0.

2 CHAIRPERSON HILL: All right. Thank you, Mr. Moy. You
3 can call our next case when you get a chance.

4 MR. MOY: This would be case application number 20496 of
5 Jeremy Robinson. This is a request for a special exception from
6 the lot occupancy requirement, Subtitle D, Section 304.1, pursuant
7 to Subtitle D, Section 5201, and Subtitle X, Section 901.2. This
8 would construct a two-story side addition to an existing, semi-
9 detached, two-story with basement principal dwelling unit, R-3
10 Zone. The property is located at 2131 Observatory Place,
11 Northwest, Square 1301, Lot 1205. And that's all I have.

12 CHAIRPERSON HILL: All right, great. Mr. Robinson, are
13 you there?

14 MR. ROBINSON: Yeah, I'm here. This is Jeremy Robinson,
15 the applicant and homeowner speaking.

16 CHAIRPERSON HILL: Okay. And who is here with you
17 today, Mr. Robinson?

18 MR. ROBINSON: This is the architect for the project,
19 Ms. Kiechel.

20 MS. KIECHEL: Hi. I'm Victoria Kiechel.

21 CHAIRPERSON HILL: Okay, great. Who is going to be
22 presenting to us?

23 MS. KIECHEL: I can do it or, Jeremy, you can.

24 MR. ROBINSON: Yeah, it's fine. So the case, as sort of
25 introduced, we're in a R-3 Zone. It's a single-family home.

1 We're the end unit on the kind of row. So the lot is kind of a
2 unique shape, allowing us space to actually put the addition onto
3 the side. And so we're conforming to side yard and rear yard, but
4 are asking for lot occupancy.

5 So we have support from all of the interested parties.
6 We have letters of support from neighbors to the north and south,
7 from the ANC committee, from the Office of Planning and DDOT. In
8 hort, the -- we've shown that the basis for granting special
9 relief, since we're in an R-3 Zone, the relief sought is for lot
10 occupancy, is for a building with just one principal dwelling
11 unit. We've shown that the light and air available to the neighbor
12 will not be unduly affected. This is partly helped by the
13 property -- if you look at the surveyor's plat, you'll see, this
14 is a unique property in that there is a small sliver of W Street
15 which is between our property and the property to the north. So
16 this adds sort of an extra buffer that I think you usually don't
17 see between row houses. So there is no alley going between or
18 anything which allows us to have enough space for that.

19 So it's not anticipated there will be any unduly affect
20 to the light and air and should not unduly compromise the privacy
21 and use to other neighbors. I don't have any new information to
22 share on the exhibit numbers. I'm happy to take any questions if
23 there are any.

24 CHAIRPERSON HILL: Okay. Before we do questions,
25 instead of going to the Board, I want to go to the Office of

1 Planning first. Is there anyone from the Office of Planning?

2 MS. ELLIOTT: Hi. Good afternoon, Mr. Chairman and
3 members of the Board. I'm Brandice Elliott representing the
4 Office of Planning for BZA case 20496.

5 The Applicant is requesting lot occupancy relief. In
6 this zone, a maximum of 40 percent is permitted. The Applicant is
7 requesting 44.2 percent. Fifty percent is permitted with the
8 approval of a special exception.

9 The Office of Planning filed a report to the record
10 analyzing this relief against the special exception criteria. And
11 we found that the additional lot occupancy would not create an
12 undue adverse impact on light and air or privacy to adjacent
13 neighbors. And we also found that it would not substantially
14 visually intrude on the neighborhood character.

15 So with that, Office of Planning is recommending
16 approval of the requested relief. And I'm happy to answer any
17 questions you have.

18 CHAIRPERSON HILL: Okay. Ms. Elliott, could you also --
19 because Commissioner Shapiro also mention that it is appropriate,
20 could you kind of speak again to X901, just a little bit, please?

21 MS. ELLIOTT: Sure. So the first part of that test is
22 that the addition would be in harmony with the general purpose and
23 intent of the zoning regulations and zoning maps. This is a
24 residential zone. The addition is to a single-family dwelling,
25 would continue to be used for, you know, residential purposes.

1 And so it is consistent with the intent of the zone.

2 And the second part of that test is, would it adversely
3 affect the use of neighboring property. The criteria of 5201
4 covers that fairly thoroughly. And as indicated in our report, we
5 did not find that it would have an undue adverse impact on things
6 like light, air, privacy and character

7 CHAIRPERSON HILL: All right, great. Thank you, Ms.
8 Elliott. Does the Board have any questions of the Office of
9 Planning?

10 (No response.)

11 CHAIRPERSON HILL: Does the Applicant have any questions
12 for the Office of Planning, Mr. Robinson?

13 MR. ROBINSON: No.

14 CHAIRPERSON HILL: Mr. Young, is there anyone here
15 wishing to speak?

16 MR. YOUNG: We do not.

17 CHAIRPERSON HILL: Okay. All right, Mr. Robinson, is
18 there anything you'd like to add at the end?

19 MR. ROBINSON: No.

20 CHAIRPERSON HILL: Okay. All right, Mr. Robinson, I'm
21 going to go ahead and close the hearing. I just want to say, it
22 seems like a very interesting property if it passes. So good luck
23 to you.

24 MR. ROBINSON: Great. Thank you.

25 CHAIRPERSON HILL: All right. Go ahead and close the

1 hearing and the record. Thank you, Mr. Young.

2 Can somebody else start? Mr. Shapiro?

3 MR. SHAPIRO: This is a pretty straight forward case. I
4 think that I really don't have anything to add. I will be in
5 support of this.

6 CHAIRPERSON HILL: Okay. Mr. Smith?

7 MR. SMITH: I do believe that it is a fairly straight
8 forward case. I believe that the Applicant has sufficiently
9 demonstrated that they meet the special exception criteria. Based
10 on the staff report and the testimony today, I do believe that
11 this addition is fairly in keeping with the residential character
12 along Observatory Place, and it wouldn't be out of character with
13 the surroundings.

14 I believe that -- I rest on the OP staff report. I do
15 believe that they have met the criteria as specified in 5201.4,
16 and the general special exception criteria of 901.2 for us to be
17 able to grant the special exception. And I will also note that
18 the ANC is in support. So with that, I will also be in support of
19 the special exception.

20 CHAIRPERSON HILL: Ms. John?

21 VICE CHAIR JOHN: I think Mr. Smith did, and Mr.
22 Shapiro did a good job of summarizing how the application meets
23 the criteria for relief. And so I'm in support of the
24 application.

25 CHAIRPERSON HILL: Mr. Blake?

1 MR. BLAKE: Yes, I too would be in support. I think
2 everything is covered. I would also add though, the letters of
3 support from the abutting neighbors.

4 CHAIRPERSON HILL: Great. Thank you, Mr. Blake. All
5 right. I have nothing else to add from my colleagues. And I
6 thank you very much for your input. I'm going to make a motion to
7 approve application number 20496 as captioned and read by the
8 secretary and ask for a second, Ms. John?

9 VICE CHAIR JOHN: Second.

10 CHAIRPERSON HILL: Mr. Moy, if you could take a roll
11 call.

12 MR. MOY: When I call each your names if you would
13 please respond with a yes, no, or abstain to motion made by
14 Chairman Hill to approve the application for the relief requested.
15 The motion was seconded by Vice Chair John.

16 Zoning Commissioner Peter Shapiro?

17 MR. SHAPIRO: 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 CHAIRPERSON HILL: Yes.

1 MR. MOY: Staff would record the vote as 5 to 0 to 0.
2 And this is 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 Zoning Commissioner Peter
5 Shapiro, Mr. Smith and Mr. Blake. The motion carries 5 to 0 to 0.

6 CHAIRPERSON HILL: Great. Thank you, Mr. Moy.

7 Mr. Moy, you can call our next one when you get a
8 chance.

9 MR. MOY: The next case application before the Board is
10 application number 20500 of Triangle Communications Associates,
11 Inc., LPD DC LLC, and Evangeline Pedas, P-E-D-A-S. This is a
12 request for a special exceptions from the minimum court
13 requirements of Subtitle G, Section 202.1, lot occupancy
14 requirement of Subtitle G, Section 404.1, and the rear yard
15 requirement of Subtitle G, Section 405.2. This would construct a
16 four-story, rear addition to an existing five-story, semi-
17 detached, multi-use building in the MU-6 Zone. The property is
18 located at 2519 through 2525 Pennsylvania Avenue, Northwest,
19 Square 14, Lots 28 and 29.

20 CHAIRPERSON HILL: Okay. Thank you. Mr. Sullivan,
21 could you please introduce yourself for the record?

22 MR. SULLIVAN: Yes. Thank you, Mr. Chair. Marty
23 Sullivan on behalf of the Applicant.

24 CHAIRPERSON HILL: And who is here with you Mr.
25 Sullivan?

1 MR. SULLIVAN: We have the architect, Mazen Abdelhamid.
2 And Patrick Bloomfield, the representative of the owner should be
3 here. Perhaps he's an attendee rather than a panelist. But he's
4 available.

5 CHAIRPERSON HILL: All right. Let's see where we get,
6 Mr. Sullivan.

7 MR. SULLIVAN: Okay.

8 CHAIRPERSON HILL: Mr. Sullivan, welcome back. I hope
9 you had a nice summer.

10 MR. SULLIVAN: Thank you. I did.

11 CHAIRPERSON HILL: It wouldn't be the first day back
12 without Mr. Sullivan. I'm surprised we made it this long through
13 the day before we're seeing you.

14 MR. SULLIVAN: It's been a long time.

15 CHAIRPERSON HILL: Let's see, Mr. Sullivan, you can go
16 ahead and walk us through your presentation and why you believe
17 that the Applicant has met the standard for us to grant the relief
18 requested. And I'm going to put 15 minutes on the clock there.
19 If you could address, there is a letter of opposition that came in
20 in exhibit 44. If you could speak to that during your
21 presentation, that would be helpful. And you can begin whenever
22 you'd like.

23 MR. MOY: Mr. Chairman, I just want to remind you that
24 there's a revised PowerPoint presentation that was filed within
25 the 24-hour block, I believe.

1 CHAIRPERSON HILL: Is that in the -- it's not in the
2 record yet, correct, or it is?

3 MR. MOY: I think it is not. If it is, it was in by
4 mistake.

5 CHAIRPERSON HILL: Okay. Well, I like -- as always, we
6 like to see the PowerPoint. It's always better if we get them
7 within the 24 hours. But I don't have an issue waiving that time
8 requirement to let the PowerPoint into the record. And I do see
9 it there, actually. So unless the Board has an issue, and if so
10 raise your hand.

11 (No response.)

12 CHAIRPERSON HILL: All right. Then, Mr. Sullivan, you
13 can go ahead and begin whenever you'd like.

14 MR. SULLIVAN: Mr. Chair, if we could have the
15 PowerPoint, please.

16 Again, Marty Sullivan, with Sullivan & Barros, on
17 behalf of the Applicant. These properties are two --

18 CHAIRPERSON HILL: Mr. Sullivan, can I interrupt you one
19 second. Is this the one that's in exhibit 35, or is there a new
20 one. Because I don't see -- my front page is different from this
21 front page. I'm sorry, 46, exhibit 46. Can you go to the next
22 slide, Mr. Young.

23 VICE CHAIR JOHN: Mr. Chairman, there's more than 47.
24 There's an exhibit 47 revised PowerPoint presentation filed today.

25 CHAIRPERSON HILL: Got it. I don't have that one yet.

1 Okay. So that's that one. All right. I'll go ahead and keep
2 clicking through this. Mr. Sullivan, I'm sorry, you can go ahead
3 and begin again.

4 MR. SULLIVAN: Thank you. So this is 2519 and 2525
5 Pennsylvania Avenue, Northwest. Two separate lots, two attached
6 buildings. The proposal is to combine them into a single
7 building, mixed use, with commercial on the first floor and
8 residential units above. It would be 14 residential units in the
9 end. And -- I'm sorry, 15 residential units and about 2400 square
10 feet of commercial space. The overall building height is not
11 increasing, and the FAR limit is going to be 438, which is below
12 the permitted 6.0. The Office of Planning is in support, ANC 2A
13 is in support of the application. It has received approval,
14 concept approval from the Historic Preservation Review Board as
15 well.

16 Asking for three areas of relief. Lot occupancy is
17 proposed to be 85 percent on the residential floors. The maximum
18 permitted is 75 percent. Rear yard relief, there's a 15-foot rear
19 yard requirement. And then also court relief for the area that's
20 in between the rear addition and the addition to the existing part
21 of the building now, which you'll see in the plans. And that
22 requires court relief as well. All special exception. Next
23 slide, please.

24 And I'll turn it over to the architect to go through the
25 plans.

1 MR. ABDELHAMID: This is Mazen Abdelhamid. Can everyone
2 hear me?

3 MR. SULLIVAN: Yes.

4 VICE CHAIR JOHN: Yes.

5 CHAIRPERSON HILL: Yes. Sorry.

6 MR. ABDELHAMID: Yeah. This slide shows the two
7 properties. We are combining them to existing landmark historic,
8 located on Pennsylvania Avenue. And, you know, we are combining
9 them to be one new (indiscernible) retail on the first floor. And
10 then we are converting the units to be 12 units in the existing
11 building and three units on the condition carriage house at the
12 rear. Next slide, please.

13 This next shows location of the site from Pennsylvania
14 Avenue. Next one, please.

15 This is another view showing the site from Pennsylvania
16 Avenue. Next slide, please.

17 Yeah, this is from the rear side. Next slide, please.

18 Yeah. This is another street view taken from the left
19 side of the lot, from Pennsylvania Avenue, showing the two
20 buildings. Next slide, please.

21 This is the front angles from along Pennsylvania Avenue.
22 Next slide, please.

23 This is the rear of the historic, two existing
24 buildings. Next slide, please.

25 And here is another photo showing the retail space on

1 the first floor. Next slide, please.

2 This is a proposed work for this two existing buildings.
3 We are just adapting, kind of changing some of the store front on
4 the first floor. And we have been working with Historic
5 Preservation for this change, and we kept most of the existing as
6 it is. Next slide, please.

7 This is the front angle of the building. Next slide,
8 please.

9 This slide show that the addition carriage house on the
10 rear side. Next slide, please.

11 Yeah, this is the site plan, showing the site with
12 addition carriage house. Next slide, please.

13 This is a floor plan showing the existing building at
14 the front and court in the middle, and then we're having another
15 addition at the carriage house. This will provide one unit at the
16 rear side. The intention here was to keep existing building as
17 best to preserve all exterior wall and just adding the new part,
18 the new building at the rear side. First floor is showing the
19 retail area at the left, and the entrance for the residential
20 part. And we have three parking spaces at the back. And the
21 second floor showing three units and existing porch, and one unit
22 at the rear carriage house. Next slide, please.

23 This third and fourth floor, they are typical. We are
24 providing three units at the existing court and one unit at the
25 carriage house at the rear. Next slide, please.

1 Here is a fifth floor. We only had -- we extend the
2 fifth floor here to create another two units at the rear of the
3 existing building. And the carriage house itself is only four
4 stories. And the right room here showing the small amenity space
5 as a penthouse level. Next slide, please.

6 This is the alley side of the building, showing the
7 existing building and the first floor addition, and penthouse, and
8 the carriage house at the left. The only change here we have for
9 the existing part was adding the windows to provide light and air
10 to the units on those floors. Next slide, please.

11 Here is a rear elevation of the carriage house, north
12 side. Next slide, please.

13 Here is the front elevation of the building. Next
14 slide, please.

15 Here is the section show the existing porch. And we
16 have a connection between the existing building and the carriage
17 house at the first floor. And when the carriage house extend
18 three stories above. And the connection covered by courtyard.
19 Next slide, please.

20 Here is a perspective showing the existing building, and
21 the first floor addition of the penthouse, and the carriage house
22 at the rear side. Next slide, please.

23 This is a different view from the alley side. That is
24 from this angle from street. Next slide, please.

25 This is the front angle, showing the retail area. Next

1 | slide, please.

2 | There is a map showing the shadow of the adjacent
3 | building. Next slide, please.

4 | Here is where showing shadow study for different times
5 | during the day, and showing that the building is not adding any
6 | shadow to the neighbors. Actually, most of the shadows comes off
7 | the existing building. Next slide, please.

8 | This continues of shadow study at the different times.
9 | Next slide, please.

10 | Here is a study showing the shadow already casting even
11 | though the building not exist at all, and showing some of the same
12 | shadow. Next slide, please.

13 | MR. SULLIVAN: Thank you, Mazen.

14 | CHAIRPERSON HILL: Mr. Young, can you go back one slide.
15 | Mr. Sullivan, you've seen the letters in opposition, right?
16 | They're concerned about that condo building, what have you. Is
17 | there a way to kind of talk us through that a little bit. Have
18 | you had a chance to look at those letters?

19 | MR. SULLIVAN: Yeah. Sure. I've looked at the
20 | letters. I think a lot of what is in the letters -- well, one of
21 | them focuses a lot on stormwater management, which is not before
22 | the Board. The other letter does talk about some issues that are
23 | relevant, which we believe are handled as part of the shadow
24 | study. In particular, light and air.

25 | CHAIRPERSON HILL: Can you point it out on this one, or

1 no?

2 MR. SULLIVAN: No. The -- yeah, they're both from the
3 building to the left, the very large condo building, Westbridge.

4 CHAIRPERSON HILL: Got it.

5 MR. SULLIVAN: It's a nine-story, 90 feet high. I
6 think it's 90 feet high, if it's not 100, condo building that
7 takes up almost all of its lot as well. It more or less dwarfs
8 the subject building here. And because of that, the shadow
9 studies, you'll see, are very limited additional shadow as a
10 result of the relief that we're requesting.

11 CHAIRPERSON HILL: Got it. Okay. All right, we can talk
12 it through also. I mean, I'm at least familiar with the area.
13 So, okay, keep going, Mr. Sullivan. I'm sorry.

14 MR. SULLIVAN: Thank you. If we could go to slide 13.
15 I want to talk about one slide that shows -- there's one -- so for
16 the lot occupancy and the court relief, the only requirements are
17 the general special exception requirements. There are no specific
18 criteria beyond the general. And I'll go into that next.

19 There is a specific special exception requirement for
20 the rear yard relief. And the main requirement, or the only
21 relevant requirement is that the windows not be within 40 feet of
22 another residential building. And so what you're seeing here in
23 the blue area is the 40-foot viewing area from the windows in the
24 back of the building. So I wanted to show that. So if we could
25 go back then to slide, I think it's slide 26 or 27. And I'll go

1 over the general special exception criteria first. I'm sorry.

2 CHAIRPERSON HILL: It was 30 I think.

3 MR. SULLIVAN: Thank you. So the application will be
4 in harmony with the general purpose and intent of the MU zone, in
5 the zoning regulations and zoning maps. The Applicant is
6 proposing a creative and exciting, adaptive reuse of existing
7 space, for a total of 15 residential units. The subject property,
8 obviously, has access to main roadways and rapid transit stops,
9 including numerous bus stops on nearby Pennsylvania Avenue and New
10 Hampshire Avenue. The Foggy Bottom Metro is .3 miles away. The
11 neighboring properties include a mix of commercial, a low to
12 moderate density residential and high density, just across the
13 alley of course. And this is MU-6. It's a medium density
14 designation. We're proposing a height in density, significantly
15 lower than what's anticipated for this zone. And as the Office
16 of Planning put it, the design balances the zoning regulations and
17 historic preservation requirements, including additional housing
18 and maintaining integrity of the historic structure. Next slide,
19 please.

20 Will not tend to affect adversely the use of neighboring
21 properties, primarily because of the evidence shown on the shadow
22 studies of the lack of additional light and air impacted by the
23 proposed relief. And also, it's quite a -- it's a good solution
24 to historic preservation's concerns, and their concerns about
25 doing an addition directly under the rear of the building. So

1 what we are proposing is a court in between the rear addition and
2 the existing building. Next slide, please.

3 CHAIRPERSON HILL: Mr. Sullivan?

4 MR. SULLIVAN: Yes.

5 CHAIRPERSON HILL: I'm sorry, that court came because of
6 HPRB?

7 MR. SULLIVAN: Yes. They did not want to have an
8 addition to the back of the building. There's chimneys in the
9 back on the existing building, which has some historic
10 significance.

11 CHAIRPERSON HILL: Okay. Thank you.

12 MR. SULLIVAN: So those are retained, and then that
13 court is there. And then there's three units on the other side of
14 that, and the fourth story addition at the back. Next slide,
15 please.

16 So the specific conditions for the rear yard relief.
17 Again, there's no specific conditions for the lot occupancy or for
18 the ports. No apartment window shall be located within 40 feet
19 directly in front of another building. And that's what slide 13
20 shows, that that area clear and we meet that specific requirement.
21 Applicant is not proposing any office use, so requirement "B" is
22 not relevant. And in the buildings that are not parallel to the
23 adjacent buildings, the angle of sight lines and the distance of
24 penetration of sight lines into habitable rooms shall be
25 considered in determining distances between windows and

1 appropriate yards. The windows at the rear are located in such a
2 way to limit that penetration of sight lines, as was shown on
3 slide 13. Loading is not required for just 15 residential units.
4 And the amount of commercial space is well under the limit for
5 loading requirement as well.

6 And that's it. So if you have any other questions about
7 the letters or anything else. And I understand that the owner is
8 trying to get in, but they're having some problems getting in.
9 Thank you.

10 CHAIRPERSON HILL: All right. Mr. Sullivan, we'll see
11 what we get. All right. Does the Board have any questions for
12 the Applicant?

13 (No response.)

14 CHAIRPERSON HILL: Okay. Can I turn to the Office of
15 Planning, please.

16 MS. THOMAS: Good afternoon, Mr. Chair, members of the
17 Board. Karen Thomas with the Office of Planning. We are in
18 support of the application 2500, which is the base subject lot
19 structures and expanding of the residential units with a three-
20 story above a garage addition at the rear. So special exception
21 relief is necessary from the lot occupancy and the rear yard
22 requirements.

23 The Applicant's design was configured to abide by each
24 piece of the landmark structures which discouraged an attached
25 rear addition, which would have negatively impacted the character

1 defining elements of the landmarks. Therefore, the proposed
2 addition was suggested to be placed in the rear yard, with a
3 separation or court between the main and not obstruct any
4 addition. HP staff informed that when dealing with a historic
5 landmark outside any historic district, as in this case, the sole
6 question is the retention of the landmark and the compatibility of
7 alteration to the character of the landmark. It just so happens
8 that the rear of these buildings has some significance. And HP
9 staff to retain any rear walls, and even for contributing row
10 houses, like they did in Dupont Circle. So setting the addition
11 back reduces demolition of the landmark, a building that has
12 already been harmed by internal demolition and exterior
13 alterations.

14 Also, there is no rule that the rear of buildings do not
15 matter, does not matter. They review the entire property. HP
16 guidelines, however, do acknowledge that the rear of buildings are
17 often less important architecturally, and are typically suited to
18 more alteration. But the backs of buildings may have character
19 defining features. And each context is considered the own
20 features. The rear is almost always the appropriate plea for an
21 addition, and that is what is proposed. It is just that what is
22 proposed is calculated to minimize adverse impacts on the
23 landmark.

24 We acknowledge that this increases lot occupancy and
25 created a 10-foot wide court where 15 would be anticipated as a

1 matter of right. The relief request is an attempt to balance the
2 zoning regulations and historic preservation requirements,
3 including the provision of additional housing as anticipated by
4 the regulations, while maintaining the integrity of the historic
5 elements of the landmark structures. So OP thinks this satisfies
6 the intent of the regulations and maps, which is to support mixed
7 use, medium density, including residential use.

8 With respect to potential adverse impact for the use of
9 neighboring properties, the 20-foot wide alley would continue to
10 be accessible to existing uses. And the Applicant would provide
11 the three parking spaces in the garage structure, along with bike
12 parking in this area. Light and air should not be adversely
13 impacted. The larger street, nine-story apartment building to the
14 west currently casts a wide shadow to the east on the 50-foot tall
15 structure and others along the alley during the afternoon hours.
16 The applicant produced a light study. And OP is satisfied that
17 the shadows due to the rear addition would not be significantly
18 different from what exists. We are also satisfied that the roof
19 deck is proposed at the front of the building which should
20 maintain the (indiscernible) for residents during evening hours,
21 as well as to maintain privacy. And the Applicant has proposed
22 locating the windows to limit penetration of sight lines.

23 OP supports the initiative the Applicants have taken to
24 maintain privacy, not just for their residence but for the
25 neighbors as well. And I would just like to note that the

1 Applicant worked with the community for quite a while on this
2 project.

3 With respect to the rear yard, the criteria of G,
4 Section 405 were met. The alley and the court yard where the
5 building is only one story in height along the alley provides a
6 sense of openness anticipated by the regulations. The proposed
7 building should not adversely impact light and air to the
8 neighboring properties fronting on 25th Street or vehicle and
9 service truck access by the alley system at the rear of the
10 property.

11 Therefore, we believe the requested relief would be in
12 harmony with the general purpose of the regulations. And with
13 that, I would say the use of the adjoining property should not be
14 unduly affected. The relief of the proposed building should not
15 adversely impact light and air to the neighboring properties
16 fronting on 25th Street. And with that, I will be happy to take
17 any questions. Thank you.

18 CHAIRPERSON HILL: Thank you, Ms. Thomas. And, Ms.
19 Thomas, also welcome back.

20 MS. THOMAS: Thank you.

21 CHAIRPERSON HILL: I don't know if I've missed anybody in
22 my rush. Everyone, welcome back. Does anybody have any questions
23
24 for the Office of Planning?

25 (No response.)

1 CHAIRPERSON HILL: Okay. Mr. Sullivan, do you have any
2 questions for the Office of Planning?

3 MR. SULLIVAN: No, thank you.

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

6 MR. YOUNG: We do. I also have the ANC calling in by
7 phone. I'll let in the ANC, and then I can bring the one person
8 who signed up to testify.

9 CHAIRPERSON HILL: Oh, great. Let's do the ANC first.

10 MR. YOUNG: Okay.

11 MR. COZZI: Good afternoon, or good morning. This is
12 Joel Cozzi (phonetic). I'm the vice chair of ANC 2A. I'm also
13 the SMD over AO21.

14 CHAIRPERSON HILL: Okay, Commissioner, welcome. Thank
15 you for taking the time to call in.

16 MR. COZZI: Definitely.

17 CHAIRPERSON HILL: Just tell us about the project, what
18 you know. I mean, I'm familiar with the area, but go ahead.

19 MR. COZZI: So the ANC was engaged with this project
20 pretty heavily. We actually met with the constituents who
21 originally filed the original complaint about the rear structure.
22 I met with them personally multiple times. We held two ANC
23 meetings where we opened the floor for discussion. And we
24 actually asked the developer to get heavily engaged with
25 development from both sides. At which point in time we held

1 another meeting with the developer and the constituents where they
2 produced shadow studies and answered questions. The ANC voted on
3 this and unanimously approved, at the ANC level, for this to move
4 forward. We show that the row houses have sat vacant for a very
5 long time. When they were occupied with Papa John's they were
6 basically rat infested areas, and just a really bad part of our
7 neighborhood. We encourage and applaud the developer for coming in
8 and doing something with these. We wish they had taken all three
9 buildings instead of two, but we'll settle for two. But in short,
10 the general majority of our constituents are for this project and
11 we support it.

12 CHAIRPERSON HILL: Great. Commissioner, were you there
13 when the Bayou was there?

14 MR. COZZI: I was. In fact, I went to the Bayou many
15 times.

16 CHAIRPERSON HILL: Let's see, Mr. Sullivan, what did --
17 what was the feedback again from the third building, the property
18 to the east?

19 MR. SULLIVAN: I don't recall that. I'm not familiar
20 with that. I don't know. It's likely, I assume it wasn't
21 available or it wasn't --

22 CHAIRPERSON HILL: Oh, no, no. You haven't had any
23 feedback from the --

24 MR. SULLIVAN: No. And the developer was directly
25 involved. They had a -- in addition to the ANC meetings, had a

1 local community meeting as well. It was well attended. And so
2 he's done a lot of work around there.

3 CHAIRPERSON HILL: Maybe he wasn't able to contact that
4 building to the east.

5 MR. SULLIVAN: I don't know if he contacted him
6 specifically or not. I think --

7 MR. COZZI: I can speak to that.

8 CHAIRPERSON HILL: Commissioner, --

9 MR. COZZI: Yeah. I can speak to that. They did reach
10 out to the building. We did have people in attendance at that
11 meeting that we held. I'm sorry, the developer held. Their
12 general concern was what was going to go in this retail. That was
13 their biggest concern. And then, also, they were concerned about
14 moving trucks getting in and out of the lot, out of the alley.
15 And then the last one was fire trucks. We actually reached out to
16 the fire chief here, and they confirmed. And the Department of
17 Public Works, the fact that there would not be any obstructions
18 with fire trucks getting down the alley. In addition, their
19 concern was that was a building extended to the lot line, that
20 fire trucks couldn't make the curb. And the fire department
21 confirmed that they never use public -- or private property to
22 utilize fire trucks turning into an alley.

23 CHAIRPERSON HILL: Okay. All right. Thank you,
24 Commissioner.

25 All right. Does the Board have any questions of the

1 Commissioner or the Applicant?

2 (No response.)

3 CHAIRPERSON HILL: Okay. Mr. Young, could you please
4 ask the person from the public to enter. And is that Mr. Boyd?

5 MR. BOYD: Yes. I'm not from the public. I'm
6 actually on the development.

7 CHAIRPERSON HILL: Oh, where is the person from the
8 public, Mr. Young? That's who I thought was from the public. So
9 we don't have anyone.

10 CHAIRPERSON HILL: Oh, okay. All right. Does anybody
11 want to go first.

12 MR. SHAPIRO: Can we confirm that. Because I actually
13 thought I recognized one of the folks who wrote the letter, I
14 thought I recognized them in the participant list.

15 CHAIRPERSON HILL: What's the name? Do you know -- or
16 the first name?

17 MR. SHAPIRO: I thought it was Ann Frank.

18 CHAIRPERSON HILL: Mr. Young, do you see that name?

19 MR. YOUNG: I do see that name, but they weren't
20 signed up on my list. I can confirm with staff.

21 CHAIRPERSON HILL: Okay. Can you confirm with staff,
22 and we'll wait a minute?

23 MR. YOUNG: Staff has said that she has not signed up
24 to testify for this case.

25 CHAIRPERSON HILL: Okay. So does that mean that they --

1 and now I'm just asking Mr. Moy and/or -- oh, okay. So nobody has
2 signed -- so the person is just listening; is that, Mr. Moy, what
3 you think?

4 MR. MOY: That's my understanding.

5 CHAIRPERSON HILL: All right. If they didn't sign up to
6 testify, they didn't sign up to testify. That's what I'm just
7 trying to understand.

8 MR. MOY: That's correct.

9 CHAIRPERSON HILL: Okay. All right. Okay. All right,
10 then in that case, Mr. Sullivan, anything you'd like to add at the
11 end?

12 MR. SULLIVAN: No. Thank you.

13 CHAIRPERSON HILL: Okay. I'm going to go ahead and
14 close the hearing and the record and excuse everyone. Thank you
15 very much for attending.

16 I thought that this has been actually well vetted in
17 terms of just, first of all, in terms of just the community and
18 the way that they have gone about this project. I mean, the
19 project I think is a pretty interesting project. I think that
20 they do meet the criteria and the standards in order for us to
21 grant the application. I would think that -- I would also agree
22 with the analysis that was provided by the Office of Planning, as
23 well as that from the ANC. And the commissioner has just given
24 his testimony. Also, I would note that in terms of the objections
25 that seem to come from the few letters of support, they are coming

1 from that building to the west, which is a very large condominium
2 building that is, you know, basically, again, looming over the
3 other property, and that I don't think their shadows are going to
4 affect the other property, as was also shown during the shadow
5 study that was provided. So I'm comfortable in terms of the light
6 and air, and how that might be affected by the new property. So I
7 believe they've met the criteria, and I'm going to be voting in
8 favor of this application.

9 Commissioner Shapiro?

10 MR. SHAPIRO: I concur. I have nothing further to add.

11 CHAIRPERSON HILL: Mr. Smith?

12 MR. SMITH: I concur as well. Nothing further.

13 CHAIRPERSON HILL: Vice Chair John?

14 VICE CHAIR JOHN: I agree with your assessment, and I
15 believe that the Applicant's specifications (audio interference)
16 analysis demonstrate that the application meets the criteria also.
17 I'm in support.

18 CHAIRPERSON HILL: Mr. Blake?

19 MR. BLAKE: I'm in support as well.

20 CHAIRPERSON HILL: All right. If that's the case, I'm
21 going to make a motion to approve application number 20500 as
22 captioned and read by the secretary and ask for a second, Ms.
23 John?

24 VICE CHAIR JOHN: Second.

25 CHAIRPERSON HILL: The motion has been made and

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

2 MR. MOY: When I call each of your names, if you would
3 please respond with a yes, no or abstain to the motion made by
4 Chairman Hill to approve the application for the relief being
5 requested. The motion was seconded by Vice Chair John.

6 Peter Shapiro?

7 MR. SHAPIRO: Yes.

8 MR. MOY: Mr. Smith?

9 MR. SMITH: Yes.

10 MR. MOY: Mr. Blake?

11 MR. BLAKE: Yes.

12 MR. MOY: Vice Chair John?

13 VICE CHAIR JOHN: Yes.

14 MR. MOY: Chairman Hill?

15 CHAIRPERSON HILL: Yes.

16 MR. MOY: Staff would record the vote as 5 to 0 to 0.

17 And this is on the motion made by Chairman Hill to approve the
18 application. The motion was also seconded by Vice Chair John in
19 support. Also in support of the motion to approve is Zoning
20 Commissioner Peter Shapiro, Mr. Smith and Mr. Blake. The motion
21 carries on a vote of 5 to 0 to 0.

22 CHAIRPERSON HILL: Okay, great. Thank you, Mr. Moy.

23 Okay, guys, we have two cases left and they're both
24 connected. And then there is also someone who is coming from the
25 district in terms of helping us understand the solar. Can we just

1 take a quick five minutes, and then we'll come right back and hear
2 our last two cases. Commissioner Shapiro?

3 MR. SHAPIRO: Thank you, Mr. Chairman. I cannot remember,
4 based on our previous conversation, I thought I was not sitting on
5 the next two cases.

6 CHAIRPERSON HILL: I believe that's correct. I believe
7 that is correct.

8 MR. SHAPIRO: So then I think I'm done.

9 CHAIRPERSON HILL: Okay. And Mr. Moy, that is correct,
10 correct?

11 MR. MOY: Yes. It's up to the Board.

12 CHAIRPERSON HILL: Okay.

13 MR. MOY: We still have a quorum.

14 CHAIRPERSON HILL: Okay. All right. Mr. Shapiro, then
15 Commissioner, thank you so much for your time.

16 MR. SHAPIRO: Thank you.

17 CHAIRPERSON HILL: We'll see you next time. Is that all
18 right with you guys, just take a quick five minutes? Okay.
19 We'll be right back.

20 (Whereupon, at 2:52 p.m., there was a short
21 recess.)

22 CHAIRPERSON HILL: Mr. Moy, can you call our next case
23 please.

24 MR. MOY: Yes. Thank you, Mr. Chairman. So the next
25 case is case application number 20479 of 212 56th Place,

1 Northeast, LLC. The application is captioned and advertised as
2 amended for a special exception from the side yard requirement,
3 Subtitle D, Section 206.3. This would construct a new semi-
4 detached, two-story principal dwelling unit in the R-2 Zone. The
5 property is located at 212 56th Place, Northeast, Square 5249, Lot
6 21. And that's all I have for this application. If the Board
7 decided they wanted to discuss the next case, I would have to
8 call that case as well. But I'll leave that up to you.

9 CHAIRPERSON HILL: Yeah, we'll do them individually, Mr.
10 Moy.

11 MR. MOY: Sounds good.

12 CHAIRPERSON HILL: Is it Mr. Pigg, are you there?

13 MR. PIGG: Yes, sir, I am.

14 CHAIRPERSON HILL: You're the Applicant, Correct?

15 MR. PIGG: Yes.

16 CHAIRPERSON HILL: Okay. Could you introduce yourself
17 for the record, please?

18 MR. PIGG: Hello, everybody. My name is Joseph Pigg.
19 I am applying for the BZA variance for the side yard relief at 212
20 and 214 56th Place.

21 CHAIRPERSON HILL: Okay. And, Mr. Pigg, who is here
22 with you today?

23 MR. PIGG: Alex Sallah.

24 CHAIRPERSON HILL: Okay. Mr. Pigg, are you choosing not
25 to use your video? If you are, that's fine. I just want to know.

1 MR. PIGG: No, I just had it off. I mean, I could -- I
2 just had it off. No, I wasn't using it.

3 CHAIRPERSON HILL: Okay. All right. Let's see, all
4 right. Mr. Sallah, are you there?

5 (No response.)

6 CHAIRPERSON HILL: Okay. Is a Mr. Winston?

7 (No response.)

8 CHAIRPERSON HILL: Mr. Winston, can you hear me?

9 MR. WINSTON: yes, I can hear you, sir.

10 CHAIRPERSON HILL: Okay. Who are you, Mr. Winston?

11 MR. WINSTON: I am the solar coordinator at DCRA.

12 CHAIRPERSON HILL: Oh, great. Okay, Mr. Winston. Well,
13 welcome. All right. Let's see, Mr. Pigg, if you wouldn't mind --
14 unless you're -- unless there's some reason why you really don't
15 want to turn on your camera, if you could turn on your camera so I
16 can see you. Mr. Pigg, I think you're on mute.

17 MR. PIGG: Yes, sir. I'm trying to get the camera on so
18 you can see me.

19 CHAIRPERSON HILL: Sure.

20 MR. PIGG: Can you see me now?

21 CHAIRPERSON HILL: Yeah, it's good.

22 MR. PIGG: Okay.

23 CHAIRPERSON HILL: All right, Mr. Pigg, so you did not
24 present to us last time, because there was a bunch of stuff you
25 still needed to do. So could you go ahead and walk us through

1 your application and why you believe you're meeting the criteria
2 for the relief requested. I've got 15 minutes on the clock there.
3 And you can begin whenever you'd like.

4 MR. PIGG: Okay. Well, initially I was trying to build
5 two, three-level homes at the address. I understood that they had
6 solar panels on the homes. So I reduced them down to two levels
7 to, you know, make sure that it didn't inconvenience or bother the
8 neighbor's solar panels. And basically to make sure everything
9 went well, you know, so there wasn't any issue with any
10 obstruction to their solar panels to cause them any problems.

11 CHAIRPERSON HILL: Okay. I understand, Mr. Pigg. I'm
12 just looking through your burden of proof, Mr. Pigg. Okay. All
13 right. Because you had, you had a PowerPoint before.

14 MR. SALLAH: Hello, can you hear me, Mr. Chairman?

15 CHAIRPERSON HILL: Yes. Who is this?

16 MR. SALLAH: This is Alex Sallah.

17 CHAIRPERSON HILL: Mr. Sallah, are you presenting to us?

18 MR. SALLAH: Yes, sir.

19 CHAIRPERSON HILL: Oh, okay, great. Mr. Sallah, can you
20 turn on your camera?

21 MR. SALLAH: I don't know how, but it's not showing me.

22 CHAIRPERSON HILL: All right. Well, if you can't make
23 it work, you can't make it work. Is there a PowerPoint that you'd
24 like us to pull up?

25 MR. SALLAH: Yes. (Audio interference.)

1 CHAIRPERSON HILL: Mr. Sallah, I'm sorry. You're
2 breaking up. Is this the one in Exhibit 46?

3 MR. SALLAH: Yes, sir.

4 CHAIRPERSON HILL: Okay. Mr. Young, if you could pull
5 that up. Mr. Young, can you hear me?

6 MR. YOUNG: Yeah, I'm pulling it up now.

7 CHAIRPERSON HILL: Sorry. Just didn't know if you heard
8 me. All right. Mr. Sallah, can you see that?

9 MR. SALLAH: Yes, sir. I can see it.

10 CHAIRPERSON HILL: Okay. Don't turn your camera on,
11 because maybe that's slowing it down. And Mr. Pigg, you can turn
12 your camera off, because it's not particularly helpful. So it
13 doesn't matter. Okay. Go ahead, Mr. Sallah. Mr. Sallah, can
14 you hear me.

15 MR. SALLAH: Next slide, please. Can you hear me.

16 CHAIRPERSON HILL: Yes.

17 MR. SALLAH: Okay. Can I have the next slide? Oh, sorry.
18 I'm sorry. Okay. Please go back. Okay. So the project is to
19 construct two stories with no basement, semi-detached house, on
20 vacant lot with four feet of side yard. In this zone 18 is
21 required. Next slide, please.

22 Okay. The neighborhood consists of a mixture of two-
23 story and one-story buildings. Next slide, please.

24 This is the map of the property. And the property is
25 lots 21 and 23. Next slide, please.

1 Okay. The -- this plat shows the location of the
2 building, the first building, which is 212 56th Place, Northeast.
3 Next slide, please.

4 Okay. This slide shows the floor plan of the building.
5 It's two stories with, I believe three bedrooms. Next slide,
6 please.

7 This slide shows the elevation, the proposed elevation
8 of the building. The building to the left of 212 to the left of
9 the proposed building. The building to the left of the proposed
10 building is two stories with solar panel on the roof. And then --
11 okay. I'm not sure whether to discuss the second BZA case. But
12 if we're focusing on the first one, the only building that we
13 concern with will be the left side building. Okay. Next slide,
14 please.

15 CHAIRPERSON HILL: Mr. Sallah, we'll talk about the
16 right side building in the next case.

17 MR. SALLAH: Yes, sir. Okay. So in order to do this
18 project, we've applied for special exception D206.3, X901.2 and
19 D5201.4. Next slide, please.

20 So D206.3 requires eight feet side yard. We cannot
21 provide the eight feet side yard. So we can only provide four
22 feet of side yard. Next slide, please.

23 Okay. On this special exception condition, yeah. So
24 the building is two stories. It's in harmony with the
25 neighborhood. Four foot side is provided. Building is on crawl

1 space. The building of this project would not affect the building
2 on the left because we don't have a basement. Next slide, please.

3 On the D5201.4 we have provided four feet side yard.
4 The building will be two stories. Same height as the adjacent
5 building. It will be very minimal affects on light and air of
6 adjacent building. Shadow studies were done which show that the -
7 - there's no -- there's a very small affect on the solar panel on
8 the roof of the building on the left. There are no -- the
9 building on the left is a row house. It does not have any windows
10 on the side. But we do have windows on our left side. So there's
11 no privacy issue for this case. Next slide, please.

12 So in conclusion, I believe the Applicant has met the
13 burden of proof through this presentation. So the Applicant
14 respectfully requests that the special exception four foot side
15 yard be granted. Thank you.

16 CHAIRPERSON HILL: All right, Mr. Sallah. Can I hear
17 from the Office of Planning?

18 MR. KIRSCHENBAUM: Good afternoon, Chair Hill and
19 members of the Board of Zoning Adjustment. I am Jonathan
20 Kirschenbaum with the Office of Planning. The OP recommends
21 approval of the special exception for side yard relief, pursuant
22 to Subtitle D, Section 5201. We find that the proposal would not
23 unduly affect light and air available to neighboring properties,
24 and privacy and enjoyment of the adjoining properties. And the
25 proposal would not substantially visually intrude upon the

1 character, scale and pattern of houses along the street frontage.
2 And this concludes my brief report. Please let me know if you
3 have any questions. Thank you.

4 CHAIRPERSON HILL: Okay. Thanks, Mr. Kirschenbaum.
5 Welcome back as well.

6 MR. KIRSCHENBAUM: Thank You.

7 CHAIRPERSON HILL: Let'S see, I know we're interested in
8 hearing from solar. And so -- and then I'll turn to some
9 questions.

10 Mr. Winston, can you hear me?

11 MR. WINSTON: Yes, I can.

12 CHAIRPERSON HILL: Welcome, Mr. Winston.

13 MR. WINSTON: Thank you.

14 CHAIRPERSON HILL: Can you explain to us, because, you
15 know, this happens a lot now, like how one analyzes, you know, how
16 one quantifies the solar influence on these, you know, these
17 buildings, and whether -- and how they meet the five percent
18 criteria?

19 MR. WINSTON: Certainly. Sure. The -- you know, we're
20 a few years into enforcing these regulations at this point.
21 They've undergone some minor changes. And those changes have
22 actually (audio interference) members of the legislative history
23 of these regulations. But these are the solar access regulations
24 for DC. And they say that in solar -- they originally said a
25 solar -- I'm sorry, a new addition cannot impact a neighboring

1 solar, an existing solar system more than five percent. That five
2 percent was originally sort of a generic performance five percent.
3 That got changed to five percent shading because there's sort of
4 performance created -- basing it on performance, created some un -
5 - some indeterminants in the process that didn't play to the
6 analyses, and didn't detract from accuracy I don't believe.

7 So the idea that you -- the Applicants are required to
8 create a model, a 3D model, which is the only way to do thee kinds
9 of shading studies in these sort of close quarters. That includes
10 the addition, both before and after the addition. All right. So
11 you're looking at the condition of shading on the neighboring
12 solar system without the addition and with the addition. You're
13 calculating how much shading it is adding to the picture, and
14 determining that to be less than five percent. In order to
15 calculate how much shading, you are sort of generating images
16 three times a day, four days a year. So the spring and fall
17 solstice, the winter and summer -- I got that backwards. The
18 spring and fall equinox and -- anyway, the equinox and the
19 solstice sort of -- and the easiest analytical days of the year.
20 And on each of those days, which are three images from 9 a.m.,
21 noon and 2 p.m. This is because dependent on all kinds of
22 variables, shading can really dramatically change based on both
23 time of day and time of year and why I capture any of those
24 conditions. So this is why we sort of smeared it across the
25 entire year. Furthermore, then we specify a weighting to provide

1 a weighted average. So the summer is worth more than the winter
2 because in the summer the sun is stronger.

3 So when they crunch all those numbers, and it sounds a
4 little more than it really is. It's pretty straight forward, 12
5 numbers, take a weighted average. And that gives us this insight
6 into how much additional shading the addition has added from
7 whatever shading that may have been without the addition. And
8 that's the number we're looking for.

9 CHAIRPERSON HILL: And Mr. Winston, you provided this
10 analysis to the Office of Planning?

11 MR. WINSTON: Well, we don't provide it. The way that
12 works is the -- I'm sorry. I misspoke. The way that the shading
13 analysis that I just described is generated by actually anyone who
14 wants to generate it. But typically, either one or both of the
15 two involved parties. Either the solar owner or the developer.
16 And optionally, if the solar owner next door, or for really, you
17 know, wants to refute it and present another solar study that
18 says, no, they got it wrong. It's more than five percent.
19 They're welcome to do that, and we will compare the two. And part
20 of, in fact, our reason for standardizing this approach to solar
21 studies was so that we could compare the two. That's what we
22 got, standardized approach to studies that allow us to look at
23 two of them next to each other and be looking at apples and
24 apples.

25 If I were to answer your question verbatim, the analysis

1 I do is an analysis of those studies. And that is for the Office
2 of the Zoning Administrator, because of course they're the ones
3 who typically are responsible for enforcing these regulations onto
4 (indiscernible).

5 CHAIRPERSON HILL: So you don't give any -- and I'm
6 taking up some time of my colleagues, but you don't give any of
7 this feedback to the Office of Planning. This goes to the zoning
8 administrator?

9 MR. WINSTON: I would never hesitate to answer
10 questions from the Office of Planning. But, yes, typically, you
11 know, on a normal project-by-project basis it's something, you
12 know, a project is not seeking special exception or a variance,
13 you know, they're only going to get a normal zoning review by the
14 Office of the Zoning Administrator. And it is within that zoning
15 review that the solar access provisions is done. And although I
16 am not working for OZA, I am literally around the corner of their
17 building, and I am the solar expert in the building. So I help --
18 I work with them and I create, helped develop this approach that
19 tries to develop a, tries to provide an accurate, inexpensive,
20 quick, comparable, consistent approach to evaluating this.

21 CHAIRPERSON HILL: And, Mr. Winston, I'm sorry, which
22 department are you in?

23 MR. WINSTON: I work for the construction side. So I'm
24 on the permitting and operations division.

25 CHAIRPERSON HILL: So within BZRA?

1 MR. WINSTON: Yeah, exactly. So I do permitting, I do
2 a little bit of inspection stuff, yeah.

3 CHAIRPERSON HILL: Okay. All right. So your opinion,
4 again, is that they're within the five percent, or they're under
5 the five percent?

6 MR. WINSTON: Yeah, that's right.

7 CHAIRPERSON HILL: Okay. And so, Mr. Kirschenbaum, and
8 then I'll stop -- well, maybe I won't. So Mr. Kirschenbaum, you
9 guys don't get this feedback every time from Mr. Winston?

10 MR. KIRSCHENBAUM: So the regulation changed last year.
11 This is the first case that has -- we more or less kind of come
12 under this regulation. So when the Office of Zoning accepts the
13 application, the application or the proposal has had to -- the
14 proposal, when it's accepted by the Office of Zoning was to have
15 demonstrated or wasn't significant in terms according to Subtitle
16 D208. So, you know, at the time of the acceptance by the Office
17 of Zoning, the solar study, the calculations, all of that should
18 have been provided as part of the application. And that study,
19 per the zoning regulations, has to be a comparative solar shading
20 study which meets the minimum standard established by the zoning
21 administrator. That's where Keith comes in, because he does the
22 solar review. There's -- you know, this is -- they are not
23 requesting relief from this section. They don't have to because
24 they are not significantly preparing the solar. But as far as any
25 application, whether solar next door, the applicant is part of a

1 DCA, or a zoning commission application, has to demonstrate that
2 there's not going to be significant interference at the time the
3 application is accepted by the Office of Zoning.

4 CHAIRPERSON HILL: Right. So what I'm getting -- what
5 I'm getting at is the fact that it gets through the Office of
6 Zoning, we, the Board, are supposed to assume that it's under the
7 five percent?

8 MR. KIRSCHENBAUM: You know, again, this is the first
9 application. That is how I read the regulations, that this should
10 have -- this should be sort of vetted out to figure it out before
11 it gets to the Board.

12 CHAIRPERSON HILL: All right. And, Mr. Rice, this is
13 for discussion for later. I'm going to stop. Does anybody have
14 any questions for Mr. Winston? And I'm going to start with Mr.
15 Smith, because I'm going in reverse order.

16 MR. SMITH: No, I don't have any questions.

17 CHAIRPERSON HILL: Okay. Ms. John?

18 VICE CHAIR JOHN: Thank you. Mr. Winston, could you go
19 back over the weighted average and why that is done? And I'm --
20 is it a requirement of the regulation that, you know, the amount
21 of shadowing is weighted according to the time of year?

22 MR. WINSTON: Absolutely. Sure. Let me first note
23 that this is at, per the regulation, there's been really no
24 analogous regulation in the world. And this particular kind of
25 shading study is an unusual thing. People do solar shading

1 studies, but typically for very large solar installations, and
2 it's a very different things. For a small, you get small -- for
3 small posting situations, shading happens in small, very
4 significant manners. It's a funny kind of situation. So that
5 said, for any solar shading study that you find, seasonal
6 weighting is typical. Right. So in other words, they're mostly
7 by virtue of length of day.

8 The sun impact in the summer is significant and greater
9 than the winter and proportionately throughout the year. You can
10 see this. There are developed average insolation, how much sun
11 there is on a surface of developed across the entire United
12 States. So if I want to know how much, you know, summer is on,
13 you know, typically on June 23rd, in Reno, Nevada, I could look
14 that up. And so there's a differential amount of sun across the
15 seasons. And so weighting is trying to catch that. And any
16 approach to solar system assessment will do some version of
17 weighting.

18 What may be helpful for me to say out loud here is that
19 the weighting is one of the places where we spelled it out and
20 gave it to them. Because otherwise they were weighting it as they
21 chose. And that created studies that were no longer comparable to
22 each other. And furthermore, that often, the way they became sort
23 of a buried in the calculations in some manner that I couldn't
24 trust. I understood why they were doing it, and that they weren't
25 doing it for a negative reason. So by us giving away -- and by

1 the way, just to be clear, the weighting typically runs a rather
2 small difference, you know, probably less than five percent of the
3 difference. So that would be maybe five percent of five percent.
4 So, you know, figure it out. A small fraction of, you know, one
5 percent. So it's a total shading. So the weighting is a
6 relatively small affect, but by giving it to them I don't have to
7 worry, you don't have to worry about whether they manipulated the
8 weighting in some manner that plays to their favor.

9 In a case like this, by the way, I'll just say, in this
10 particular shading study there is -- which I believe they did a
11 fine job. That seems quite clear and apparent, partially just
12 because the situation, you know, actually, houses separated from
13 the other houses by four and maybe eight or 12 feet. So, you
14 know, the shadows all relate -- and the height, it's not a very
15 tall building. So because of all of that, it's actually a small
16 amount of shading. We average it at 1.2 percent or something like
17 1.3 percent, something like that. So they're pretty far away from
18 the five percent. The biggest challenge, to be honest, is when we
19 get a shading study that says, you know, 4.8 percent shading, or
20 6.1 percent shading, and now all of a sudden we're trying to, you
21 know, split the lines. And that's -- and it is those problems --
22 the problem becomes those kinds of comparisons that caused us to
23 standardize certain features of the shading study process. And
24 weighting was one of them.

25 VICE CHAIR JOHN: Okay. Thank you.

1 MR. WINSTON: Certainly.

2 CHAIRPERSON HILL: All right. Mr. Blake?

3 MR. BLAKE: Yeah. Could you tell me what exactly the
4 weighting is for each of the seasons?

5 MR. WINSTON: Absolutely. Yeah. We kept it simple.
6 So for summer it's 35 percent, for spring and fall it's 25
7 percent, and for winter it's 15 percent. And -- yeah.

8 MR. BLAKE: And when I measure the percentage how do I
9 look at that? I look at the footprint of the solar panel and then
10 apply a measurement to that; how do I do that? And from those
11 shadow studies how would I go and do the incremental study, or the
12 assessment of percentage?

13 MR. WINSTON: Yeah. If you were to look at the
14 calculations they provided in this case, that might help clarify
15 it. It's an excellent question, actually. Because here's the
16 problem. The shading studies literally provide a 3D, you know,
17 picture before and after, of the position and the shading it casts
18 on the solar panels. And so you can look at the solar panels,
19 just as is laid out. And say, oh, this one is shaded 10 percent,
20 that one is shaded 15 percent. The problem of course is that
21 actually you have to do that math manually. Right. You have to
22 look at that and how -- you know, there's going to be a number of
23 ways to do that. But it all comes down exactly to the same
24 feature. If I handed you a piece of paper with, you know, half of
25 it scribbled out and said, how much of this piece of paper is

1 scribbled out? You can do it 25 different ways, but you can ask
2 the question you're trying to answer. And sadly, there's not
3 really a quick cheat to it. You know, it depends on how you
4 approach it. The good news is that most of the time, because of
5 the sort of incremental way that this is done, right, it's broken
6 down and it's the one time that we get to look at, most of the
7 time with almost a glance you can know that they're in the right
8 region. You know if they're saying it's 25 percent shaded, and
9 you look at it, you can mostly generally say, oh, that's about 25
10 percent shading. The problem, once again, is now when all of that
11 is done and they come back with a 4.9 percent, or a 5.2 percent,
12 now you potentially have to go back and say, okay, now I'm going
13 to, I'm going to divide this thing into squares, or I'm going to
14 do the angles, or I'm going to figure out very precisely what that
15 shading is. Because that that can be the difference between 25
16 percent shading on March 22nd and 22 percent shading on March 22.
17 So, yeah, that could be done.

18 Most of the time it won't make a difference. Like in
19 this case it's -- I think the only shading that shows up at all is
20 on December -- two days, two times, on September -- apologies,
21 September, in September -- June, September, you know, the shading
22 study I have in front of me is mislabeled. That's disappointing.
23 But in any case, two days in September -- that's it. And that's
24 mislabeled. It should be December. We saw two days in September
25 it's supposed to be -- it's shaded. And in one case, based on a

1 20 percent coverage, in another case they call it a seven percent
2 coverage. And when you apply the weighted averages, and then
3 average that across the year, that, like I said, came out to I
4 think 1.3 percent. So if that seven percent were in fact 10
5 percent, and that 20 percent were in fact 30 percent, it would
6 still be far under two percent total shading for the year.

7 MR. BLAKE: And that percentage is the maximum
8 coverage of the day. Because leave those in and out. So it would
9 be the maximum is the number used?

10 MR. WINSTON: The way that it works on each of those
11 four days per year, right, so equinoxes and solstices, there are
12 three images provided for each of those days, one at 9 a.m., one
13 at noon, and one at 3 p.m. And for each of those we have an image
14 of how much shading there is. And those three are then averaged
15 across that day. So now, that takes, like I said earlier, you
16 know, the challenge to these sort of close in shading dynamics is
17 that shade moves quick and big in those kinds of quarters. And so
18 things that, you know, in one case you could have something with
19 shading dramatically at 9 a.m., and is unshaded by noon. It could
20 even be shaded again at 3. And another case, you know, it could
21 be just the adverse. So it's not perfect. Right. I mean, in
22 principal you would like to take a minute-by-minute, or second-by-
23 second, or millisecond-by millisecond. I mean, that's -- the
24 problem is you go down this hole. And what we originally started
25 having were people were giving us studies where they said here's

1 | our study. We did it with our proprietary software and it shows
2 | this. And I would say, well, I don't have access to your
3 | proprietary software. How do I know it shows that? And they say,
4 | trust us. You know, we did the weighting. We'll tell you how
5 | much the shading was. But it's already tabulated. You're not
6 | going to get any images. So, you know, you're not going to have a
7 | -- or it's going to be hard to have confidence. I have little
8 | confidence, especially when an expert opinion, and gave me their
9 | proprietary studies. And I had to hold these two next to each
10 | other and try to figure out why I believed either of them.

11 | MR. BLAKE: Thank you.

12 | CHAIRPERSON HILL: Okay. All right. Mr. Winston, that
13 | was very helpful. And I think there's something -- Mr. Rice, I'd
14 | like to talk a little bit with you later, and Mr. Moy, just kind
15 | of understand this process as to how it kind of gets to us, and
16 | how it gets through Mr. Winston, and knowing that it's at least
17 | gone through Mr. Winston before it gets to us.

18 | Mr. Winston, do you have another like, I don't know, 20
19 | minutes?

20 | MR. WINSTON: Yeah, sure.

21 | CHAIRPERSON HILL: Okay. I don't think we're going to
22 | go through all the same questions again. I'm going to refer
23 | people back to this case. But we'll just have you for the next
24 | one.

25 | All right. Mr. Sallah, do you have any questions for

1 anyone?

2 MR. SALLAH: Hello. I have no questions.

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

5 MR. YOUNG: We do not.

6 CHAIRPERSON HILL: Okay. All right. If anyone does
7 have any final questions if you would please raise your hand.

8 (No response.)

9 CHAIRPERSON HILL: All right. I'm going to go ahead and
10 close the record and the hearing. Mr. Young, if you could please
11 excuse everyone.

12 Okay. After -- I mean, this thing was before us a while
13 ago. And they weren't prepared. They didn't have all of the
14 reports. And I think that now the Applicant has given us all the
15 information we need with which to make a decision. Again, they're
16 here for the special exception from the side yard requirements for
17 the -- well, the two semi-detached, three-story principal
18 dwellings in R-2 Zone. I do believe they've met the criteria for
19 us to be able to grant the side yard relief that is being
20 required. I also was heartened to learn, I guess how the solar
21 study -- how the solar panel issue is affecting the neighbor, and
22 that they are falling within the regulations in terms of being
23 under the five percent that they are going to be affecting the
24 solar panels. And I also now agree with how the, I guess Mr.
25 Keith Winston put forward the information before us, as now we can

1 make a decision. So I'm comfortable with moving forward with this
2 and voting in favor of it.

3 Mr. Smith, do you have anything you'd like to add?

4 MR. SMITH: The only thing that I would add is just
5 based on the design of the structure, I do believe that it's in
6 keeping with the -- it's relatively the same height as the houses
7 to the south. And looking at the block, I do believe that the
8 proposed development is in character with the block and with the
9 area. With that, I agree with (audio interference.)

10 CHAIRPERSON HILL: Thank you. Ms. John?

11 VICE CHAIR JOHN: Thank you, Mr. Chairman. I agree
12 with Board member Smith, and I would give great weight to the
13 Office of Planning's analysis, as well as the testimony here
14 today.

15 CHAIRPERSON HILL: Thank you. Mr. Blake?

16 MR. BLAKE: Yes. I too agree with the testimony. I
17 believe the testimony today provided was very helpful. I do think
18 the test has been met for 5201.4 and 901.2, the general -- I would
19 be prepared to support this.

20 CHAIRPERSON HILL: Okay, great. Thank you. Mr. Rice,
21 can you hear me?

22 MR. RICE: Yes, sir.

23 CHAIRPERSON HILL: So if I were to -- we're about to do
24 the next one, which is the adjoining property, which has the
25 identical relief requested and the identical information. Is it

1 possible -- I mean, I'm going to refer at least anyone who has
2 questions about the solar study, when we're going through the
3 other case, and the other case is 20480. I'm going to refer them
4 back to this case, which is 20479. However, the testimony --
5 well, let's put it this way. I'm going to try to be expeditious
6 in the hearing on the next case. And you let me know if you have
7 any concerns. Okay.

8 MR. RICE: Yes, sir. I think you'd just be adopting the
9 testimony of the solar coordinator and FP in the following case.

10 CHAIRPERSON HILL: Okay, great. Then that being the
11 case, I'm going to go ahead and make a motion to approve
12 application number 20479 as captioned and read by the secretary
13 and ask for a second, Ms. John?

14 VICE CHAIR JOHN: Second.

15 CHAIRPERSON HILL: The motion has been made and
16 seconded. Mr. Moy, could you please take a roll call.

17 MR. MOY: When I call each of your names, if you would
18 please respond with a yes, no or abstain to the motion made by
19 Chairman Hill to approve the application for the relief amended,
20 that's being requested. The motion was seconded by Vice Chair
21 John.

22 Mr. Smith?

23 MR. SMITH: Yes.

24 MR. MOY: Mr. Blake?

25 MR. BLAKE: Yes.

1 MR. MOY: Vice Chair John?

2 VICE CHAIR JOHN: Yes.

3 MR. MOY: Chairman Hill?

4 CHAIRPERSON HILL: Yes.

5 MR. MOY: Staff would record the vote as 4to 0 to 1.
6 And this is on the motion made by Chairman Hill to approve. The
7 motion was seconded by Vice Chair John. Also in support of the
8 motion to approve is Mr. Smith and Mr. Blake. Staff would record
9 the vote as 4 to 0 to 1. No other members participating. Motion
10 carries.

11 CHAIRPERSON HILL: Thank you, Mr. Moy.

12 All right, Mr. Moy, you can call our last case when you
13 get an opportunity.

14 MR. MOY: All right. This would be case application
15 number 20480 of 214 56th Place, Northeast, LLC. This is captioned
16 and advertised as an amended as amended for special exception from
17 the side yard requirements, Subtitle D, Section 206.3. This would
18 construct a new semi-detached, two-story, principal dwelling unit
19 in the R-2 Zone. Property located at 214 56th Place, Northeast,
20 Square 5249, Lot 23. That's it, Mr. Chairman.

21 CHAIRPERSON HILL: Okay, great. Mr. Pigg, can you hear
22 me?

23 MR. PIGG: Yes, sir.

24 CHAIRPERSON HILL: Could you introduce yourself for the
25 record, please?

1 MR. PIGG: Joseph Pigg. Building a new construction at
2 214 56th Place, Northeast.

3 CHAIRPERSON HILL: Great. Mr. Sallah, can you hear me?
4 (No response.)

5 CHAIRPERSON HILL: Mr. Sallah, can you hear me?

6 MR. SALLAH: Yes, I can hear you.

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

9 MR. SALLAH: Alex Sallah. And I'm here on behalf of the
10 Applicant.

11 CHAIRPERSON HILL: All right. Let's see, Mr. Winston,
12 could you please introduce yourself for the record?

13 MR. WINSTON: Sure. I am -- yes, I'm Keith Winston
14 from DCRA, the solar coordinator at DCRA.

15 CHAIRPERSON HILL: Mr. Kirschenbaum, could you introduce
16 yourself for the record?

17 MR. KIRSCHENBAUM: I am Jonathan Kirschenbaum with the
18 Office of Planning.

19 CHAIRPERSON HILL: Okay. So for the record, we had had
20 a previous case that was identical to this case, which would be an
21 adjoining property to the adjacent to this property. And that was
22 application 20479. Once again, that was application 20479. If
23 anyone is watching and wants to refer to a more in depth
24 discussion and analysis of this case, which is the same criteria
25 as 20479, I would suggest going to look up 20479.

1 Mr. Pigg, your -- I'm sorry. Mr. Sallah, your testimony
2 on this case is the same as the testimony in the last case,
3 correct?

4 MR. SALLAH: Yes, it is similar. Except that in this
5 case the building is about 11 feet away from the adjacent
6 property.

7 CHAIRPERSON HILL: Okay. From the solar panel
8 property?

9 MR. SALLAH: Yes, sir.

10 CHAIRPERSON HILL: All right. So Mr. Sallah, now that
11 there is actually a little bit of a difference, why don't you at
12 least summarize a little bit your case as to why you believe we
13 could approve this?

14 MR. SALLAH: Okay. The only difference between the two
15 cases is that the building on the right of 214 is a one-story
16 building. It's a little bit lower than the proposed building.
17 And the solar studies that was done, the affect was on that roof
18 and not on the left building. So, but it's on the five percent.
19 So that is the only difference.

20 Okay. The other difference is also the -- right now
21 there are windows, there will be windows on both buildings. And
22 we've designed our buildings such that our windows are not in line
23 with the adjacent property.

24 CHAIRPERSON HILL: Okay. Mr. Kirchenbaum, would you
25 guys give us your analysis on this case?

1 MR. KIRSCHENBAUM: Sure. It's not too much different
2 than the other case. So good afternoon, Chairman Hill and members
3 of the Board of Zoning Adjustment. I am Jonathan Kirschenbaum
4 with the Office of Planning. The OP recommends approval of this
5 special exception for side yard relief pursuant to Subtitle D,
6 Section 5201. We find that the proposal will not unduly affect
7 light and air available to neighboring properties and privacy and
8 enjoyment of neighboring properties. Further, the proposal will
9 not substantially visually intrude upon the character, scale and
10 pattern of houses along the street. This concludes my report.
11 Please let me know if you have any questions. Thank you.

12 CHAIRPERSON HILL: Thank you, Mr. Kirschenbaum.

13 Mr. Winston, is there anything different you'd like to
14 note between this case and 20479?

15 MR. WINSTON: No. Substantially, no. I will say, the
16 net shading on this one is what I said earlier, 1.3 or so percent.
17 And in fact this is the one that is creating that shading. I sort
18 of mistakenly attributed that to the last case, where really it
19 is zero. But I don't -- that doesn't change any of the
20 conclusions. They did a single shading study for both cases, and
21 it didn't occur to me until we got into this one, but I probably
22 should have thought about it more granularly. But in both cases
23 it is well below the five percent maximum. And in the first case
24 it is actually zero, and in this case it is the 1.3 in my report.

25 CHAIRPERSON HILL: Okay, thank you. And for the Board

1 and record, I neglected to mention that the ANC 7C was in favor
2 of this application. And I got a little confused when we were
3 going through the whole solar discussion.

4 So does the Board have any questions of anyone for this
5 particular case? Ms. John?

6 VICE CHAIR JOHN: Mr. Chairman, there is a memorandum
7 of understanding in the record. That was filed yesterday, about
8 construction of the driveway and agreement on the boundaries. The
9 dimensions of the driveway. And perhaps Mr. Pigg can address
10 that.

11 CHAIRPERSON HILL: Mr. Pigg, can you speak to the MOU?

12 (No response.)

13 CHAIRPERSON HILL: Mr. Pigg?

14 MR. PIGG: Hello. Yes, sir. I met with the neighbor
15 yesterday, and we agreed to help her. And I was (audio
16 interference) that the building would not be in conflict with her
17 driveway, and that I would help her make, you know, for her
18 driveway to be -- any adjustments needed for her driveway to be
19 function.

20 CHAIRPERSON HILL: Okay. Mr. Pigg, that does not --
21 that's not relevant to your other building?

22 MR. PIGG: No. No.

23 CHAIRPERSON HILL: Okay. So I'll note that (audio
24 interference) thank you, Vice Chair John, that was an agreement
25 that was made between the property owner and the neighbor. And

1 that's something that I'm making note of, but it's not something
2 that is a condition of our order.

3 Let's see, I thought, Mr. Smith, did you have a question
4 also?

5 MR. SMITH: Yeah, I did. You know, just to kind of
6 expand on that line of questions about discussions with the
7 neighbor. So you had stated previously or in your testimony that
8 the windows of the proposed construct in this particular unit
9 would not align with the windows, I'm assuming, along the side
10 wall of 220. Is that some type of informal agreement between you
11 and that property owner?

12 (No response.)

13 MR. SMITH: Mr. Pigg?

14 MR. PIGG: No.

15 MR. SMITH: No, that's just you being courteous, is it
16 not?

17 MR. PIGG: Yes. Yeah.

18 MR. SMITH: Okay. All right. Thank you. That's the
19 only thing that -- that was the only question that I had.

20 CHAIRPERSON HILL: Okay. Thanks, Mr. Smith.

21 Anyone else? Mr. Blake, you got any questions?

22 MR. BLAKE: I do not.

23 CHAIRPERSON HILL: Ms. John?

24 VICE CHAIR JOHN: So I'm a little confused now, Mr.
25 Pigg. The owner at 220, where does Mr. (Audio interference).

1 MR. PIGG: I'm sorry, I couldn't hear you.

2 VICE CHAIR JOHN: Where does Mr. Hull live? Is he at
3 220? There's a --

4 MR. PIGG: Ms. Brownen is at 220.

5 VICE CHAIR JOHN: There's a letter in the file from Mr.
6 Hull. And he says he lives at 220 56th Place, Northeast. So is
7 that the same location --

8 MR. PIGG: No. Ms. Brownen is the new owner.

9 VICE CHAIR JOHN: Oh, okay. All right. That explains
10 it. Thank you.

11 CHAIRPERSON HILL: Okay. Anyone else?

12 (No response.)

13 CHAIRPERSON HILL: Okay. All right. Mr. Winston, thank
14 you for coming over. Mr. Kirschenbaum, thank you. Mr. Sallah,
15 thank you for your presentation, as well as Mr. Pigg. I'm going
16 to go ahead and close the hearing and the record.

17 Mr. Young, if you could please excuse everyone.

18 As I mentioned, if anyone is looking at this, I suggest
19 you also go back and look up case 20479 for further information
20 about both cases. In terms of 20840, I do believe that even
21 though it's slightly different, the cases were enough the same
22 that as of the previous case, I would agree with the information
23 that was presented by the Applicant as to how they're meeting the
24 standard for us to grant the relief requested concerning the side
25 yard relief for the three-story principal dwelling unit. And also

1 then, I'm glad that we had further clarification from Mr. Winston
2 about the solar and how that calculation is made. And again, if
3 anybody wants to get more detail on that, they can watch 20479. I
4 will also be in agreement with the Applicant, and the Office of
5 Planning, and the ANC, and will vote in favor of this application.
6 Mr. Smith, do you have anything to add?

7 MR. SMITH: No. I don't have anything to add.

8 CHAIRPERSON HILL: Ms. John?

9 VICE CHAIR JOHN: I have nothing to add, Mr. Chairman.

10 CHAIRPERSON HILL: Mr. Blake?

11 MR. BLAKE: No, sir. I have nothing to add to that.

12 CHAIRPERSON HILL: Okay. I'll go ahead and make a
13 motion to approve application number 20480 as captioned and read
14 by the secretary and ask for a second, Ms. John?

15 VICE CHAIR JOHN: Second.

16 CHAIRPERSON HILL: Motion has been made and seconded.

17 Mr. Moy, if can you take a roll call.

18 MR. MOY: When I call each of your names, if you would
19 please respond with a yes, no or abstain to the motion made by
20 Chairman Hill to approve the application for the amended relief
21 being requested. The motion was seconded by Vice Chair John.

22 Mr. Smith?

23 MR. SMITH: Yes.

24 MR. MOY: Mr. Blake?

25 MR. BLAKE: Yes.

1 MR. MOY: Vice Chair John?

2 VICE CHAIR JOHN: Yes.

3 MR. MOY: Chairman Hill?

4 CHAIRPERSON HILL: Yes.

5 MR. MOY: Staff would record the vote as 4 to 0 to 1.

6 This is on the motion made by Chairman Hill to approve. The

7 motion to approve was seconded by Vice Chair John. Also in

8 support of the motion is Mr. Smith and Mr. Blake. We have a Board

9 member not present. The motion carries on a vote of 4 to 0 to 1.

10 CHAIRPERSON HILL: All right. Thank you, Mr. Moy.

11 Mr. Moy is there anything else before the Board today?

12 MR. MOY: There is nothing from the staff, sir.

13 CHAIRPERSON HILL: Okay, great. Well, you all, it was

14 lovely to see you again. And let's do it again. Let's do it

15 every week.

16 (Whereupon, the above-entitled matter went off the

17 record at 3:52 p.m.)

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C E R T I F I C A T E

This is to certify that the foregoing transcript

In the matter of: Public Hearing

Before: DCBZA

Date: 09-15-21

Place: Teleconference

was duly recorded and accurately transcribed under my direction; further, that said transcript is a true and accurate record of the proceedings.



KATHLEEN A. COYLE