

GOVERNMENT  
OF  
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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REGULAR PUBLIC HEARING

+ + + + +

WEDNESDAY

JULY 13, 2022

+ + + + +

The Regular Public Hearing of the District of Columbia Board of Zoning Adjustment convened via Videoconference, pursuant to notice at 10:00 a.m. EST, Frederick L. Hill, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

- FREDERICK L. HILL, Chairperson
- LORNA JOHN, Vice Chairperson
- CARL BLAKE, Board Member
- CHRISHAUN SMITH, Board Member (NCPC)

ZONING COMMISSION MEMBER PRESENT:

- ANTHONY HOOD, Chairman

OFFICE OF ZONING STAFF PRESENT:

- MARK HAMALA, Zoning Specialist
- PAUL YOUNG, Zoning Data Specialist

OFFICE OF PLANNING STAFF PRESENT:

- STEPHEN COCHRAN
- BRANDICE ELLIOTT
- STEPHEN MORDFIN
- KAREN THOMAS
- ELISA VITALE

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

SARAH BAJAJ, ESQ.  
MARY NAGELHOUT, ESQ.  
RYAN NICHOLAS, ESQ.

The transcript constitutes the minutes from  
the Regular Public Hearing held on July 13, 2022.

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

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(10:00 a.m.)

BZA CHAIR HILL: All right. Okay, Chairman Hood, welcome.

ZC CHAIR HOOD: Good morning.

BZA CHAIR HILL: Good morning. Good morning. Mr. Hamala. I have a hard time with it, is it Hamala, Hamala?

MR. HAMALA: Hamala, sir, but you're pretty close.

BZA CHAIR HILL: How do you say it?

MR. HAMALA: Hamala.

BZA CHAIR HILL: Hamala. Okay, I'll try again. Sorry. Okay, Hamala. Okay, Mr. Hamala, if you want to go ahead and call our first hearing case please.

MR. HAMALA: Yes, our first hearing case is Application 20752, 1719 and 1721 Wisconsin Avenue NW DC, LLC and as amended. This is a self-certified application for special exceptions pursuant to Subtitle X § 901.2.

The first special exception is to allow a food delivery service under Subtitle U, § 513.1(e) and the second and third special exceptions are pursuant to Subtitle C § 1506.1 and they from the closing vaults requirement of Subtitle C § 1503.1, and from the rooftop setback requirements of Subtitle C § 1504.1.

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1           The project is for a food delivery service in an  
2 existing two-story attached commercial building in the MU-  
3 4 zone. And the property is located at 1721 Wisconsin  
4 Avenue, NW, Square 2154, Lot 42.

5           And we do have two preliminary matters for this  
6 case. The first is by the applicant to proffer Jami  
7 Milanovich as an expert in transportation engineering.  
8 And she has been previously granted as per satisfied the  
9 Board. And we also have a request for parties that are in  
10 opposition from Daniel Overmyer.

11           BZA CHAIR HILL: Okay, great. Mr. Kadlecek, can  
12 you hear me?

13           MR. KADLECEK: Yes, good morning, Chairman Hill.

14           BZA CHAIR HILL: Are you presenting today, sir?

15           MR. KADLECEK: There's a few people from my team  
16 will be presenting.

17           BZA CHAIR HILL: Are you the lead?

18           MR. KADLECEK: Chuck Henry and Daniel Raisin and  
19 Jami Milanovich will all be speaking.

20           BZA CHAIR HILL: Got it. Are you the lead?

21           MR. KADLECEK: Yes.

22           BZA CHAIR HILL: Okay. Could you introduce  
23 yourself for the record, please?

24           MR. KADLECEK: Yes, good morning, Chairman Hill  
25 and members of the Board. My name is Cary Kadlecek from

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1 the law firm of Goulston & Storrs on behalf of the  
2 applicant.

3 BZA CHAIR HILL: Got it. Mr. Overmyer, can you  
4 hear me?

5 MR. OVERMYER: I can. Can you hear me?

6 BZA CHAIR HILL: Yes. Could you introduce  
7 yourself for the record please, sir?

8 MR. OVERMYER: Yes, I'm Dale Overmyer. I own and  
9 reside at 3264 S Street Northwest.

10 BZA CHAIR HILL: Okay. So, Mr. Overmyer, is your  
11 camera working? It doesn't matter. I just kind of wanted  
12 to know.

13 MR. OVERMYER: It is working. How about now?

14 BZA CHAIR HILL: Nope.

15 MR. OVERMYER: Let's see, access to camera.

16 BZA CHAIR HILL: You can take your time.

17 MR. OVERMYER: How about now?

18 BZA CHAIR HILL: Yes, perfect. Great. Let me  
19 just look up something in the record real quick please.  
20 Okay. All right. So this is what I'd like to try, Mr.  
21 Overmyer, maybe if everybody can mute their line if you're  
22 not talking.

23 It might be you, Mr. Overmyer, we're not sure.  
24 Okay, what I'd like to do is with my phone, Board Members  
25 kind of the discuss the party status issue first. And

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1 then see what happens after that.

2           So I've read Mr. Overmyer's request for party  
3 status and also why it is late. I actually, I'm not a  
4 big, I take being late pretty seriously. However, in this  
5 particular case, I am -- that Mr. Overmyer's directly  
6 across from the alley and his points that he's put forward  
7 as to why he should be getting party status, I'm  
8 comfortable with his and I'll let, you know, everybody  
9 have their opinion here.

10           I'm comfortable with his being allowed party  
11 status. And what I'm going to try to do is explain to Mr.  
12 Overmyer what that actually means and how the process,  
13 Overmyer, if party status is approved by my Board members.

14           And, yes, see what happens with that. And then  
15 maybe we might well anyway, well it's good since we might  
16 actually, I might try to explain to Mr. Overmyer what's  
17 going on.

18           And then we might hear a case just so Mr.  
19 Overmyer does understand and then we'll bring this one  
20 right back up again. I won't stick it to the end of the  
21 day because we've got a pretty big team here.

22           Mr. Kadlecek, before I turn around to my Board  
23 Members, do you have anything you'd like to add?

24           MR. KADLECEK: Yes, good morning again. We did  
25 file our response to the party status request and our

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1 opposition to granting it based on timeliness. I don't  
2 know if the Board had a chance to review that.

3 BZA CHAIR HILL: Yes, which exhibit was it again,  
4 Mr. Kadlecek, do you know?

5 MR. KADLECEK: Exhibit 43.

6 BZA CHAIR HILL: Right. I don't know. Maybe I  
7 missed that one. Sorry. Okay, so anyway, so you're  
8 opposed and it's basically timeliness, is that what your  
9 opposition is, Mr. Kadlecek?

10 MR. KADLECEK: Yes. And I won't recite the whole  
11 thing, but basically I think in this case while, you know,  
12 certainly we can sympathize with Mr. Overmyer's situation  
13 at his house, I think the facts are pretty clear that he's  
14 had notice of this case for quite a long time starting  
15 back in April when he had a conversation with someone from  
16 the applicant team and had a follow-up email  
17 correspondence.

18 He was served two notices from the Office of  
19 Zoning about the hearing, one in April, one in May. And  
20 then he attended a public meeting on June 7th about this  
21 application in which the application was discussed.

22 That -- there's a link to the BZA hearing record,  
23 so he's had notice of this for a long time and I don't  
24 think the facts really demonstrate a situation where  
25 someone couldn't have filed a timely party status request.

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1           BZA CHAIR HILL:   Okay, so that's Mr. Kadlecek's  
2 comment. Mr. Overmyer, do you have anything you'd like to  
3 say before I turn to my Board Members to hear what they  
4 have to say? About your --

5           MR. OVERMYER:   Yes, I would just say --

6           BZA CHAIR HILL:   -- it's about your timeliness,  
7 Mr. Overmyer.

8           MR. OVERMYER:   Right. The generally, when it was  
9 first introduced, it was minimal in terms of detail and it  
10 wasn't until June that I was able to dig in and really  
11 understand.

12           It's really about the operations of this and to  
13 understand in detail of that and then to do my own  
14 studies. And I'm very careful and I also said well at  
15 first I was quite open minded about a business there.

16           The more I looked into this, the worse it gets  
17 and I really only recently came to a place of fully  
18 understanding how they were going to operate and then it  
19 became clearer that I needed to object to it.

20           And so there's been a transition basically due to  
21 really digging in and trying to understand what's going on  
22 here.

23           BZA CHAIR HILL:   Okay. Anyway, you're not there.  
24 Right, Mr. Overmyer?

25           MR. OVERMYER:   There?

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1 BZA CHAIR HILL: At home. Are you living at your

2 --

3 MR. OVERMYER: No, there was a -- somebody broke  
4 in and burned the house and so we're in the process of  
5 fixing it up, but I live one block away temporarily.  
6 We're getting close to being finished with our  
7 reconstruction and I'm onsite every single day, once or  
8 twice a day.

9 BZA CHAIR HILL: Yes, I was just --

10 MR. OVERMYER: And I'm just a block away.

11 BZA CHAIR HILL: -- I was just trying to  
12 understand again in terms of the timeliness issue. But  
13 that --

14 MR. OVERMYER: Yes.

15 BZA CHAIR HILL: -- that's okay. I think I  
16 understand what you're saying.

17 MR. OVERMYER: So we didn't actually receive a  
18 formal notice, you know, I was minimally aware of it and  
19 then as I became more aware of it and was able to really  
20 understand the details of it and to do my own study on the  
21 impact --.

22 BZA CHAIR HILL: Okay. Okay, Mr. Overmyer, I got  
23 you. I'm just trying, but thank you. Okay, I'm turning  
24 to my Board Members now. We're just talking about, well  
25 we're talking about party status and timeliness really.

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1 I guess the timeliness is first the part and then  
2 if you all think he should get party status or not. Can I  
3 start with you, Mr. Smith?

4 MEMBER SMITH: Well I'll say that we have  
5 typically provided party status to individuals that in  
6 such situations I think too terribly about party status  
7 for residents that have bought some of these types of  
8 projects, these restaurant type projects and they have  
9 concerns about inter-workings in the Order.

10 So I recognize that he did submit on July 6th,  
11 but I'm comfortable with giving him party status on this.

12 BZA CHAIR HILL: Okay. Let's see. Mr. Blake?

13 MEMBER BLAKE: In terms of his location I  
14 definitely think that he, as an abutting neighbor, has the  
15 cause, the right for a party status. As far as the late  
16 tardiness, I think it's reasonable to believe that as you  
17 peel back the onion, you do discover some more evidence  
18 which would cause you to have a different opinion from the  
19 initial information provided.

20 So for that reason I do think that the timeliness  
21 issue I think I feel comfortable giving the timeliness  
22 issue some breath. So in this case, I would be in favor  
23 of party status.

24 BZA CHAIR HILL: All right. Chairman Hood?

25 ZC CHAIR HOOD: Where does it say in party status

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1 and sometimes it takes tenants or residents in this city  
2 deserve that and attending to this, I feel, I hear Mr.  
3 Kadlecek and I understand, but sometimes I'm not sure if  
4 this goes on every week or every day.

5 I'm sure it doesn't so I think that sometimes it  
6 would really serve that he would do exactly what he says  
7 so I'm in favor of giving him party status. Thank you.

8 BZA CHAIR HILL: Okay. Vice Chair John?

9 VICE CHAIR JOHN: So I agree that we ordinarily  
10 grant party status to the adjacent neighbor if the request  
11 is timely. In this case Mr. Overmyer initially said that  
12 he didn't have notice because of the unfortunate situation  
13 with his house and the applicant now provides evidence  
14 that he had ample notice.

15 But unbalanced I think that I'm going to go ahead  
16 and agree that, agree with Commissioner Hood that  
17 sometimes it's difficult to know what the issues are and  
18 to understand precisely what is happening and so I am  
19 going to overlook, you know, the tardiness in this case  
20 and allow party status.

21 BZA CHAIR HILL: Okay. It's fine. And I, again,  
22 I'm looking at my phone at Board Members. Like, I am  
23 really uncomfortable with the timeliness thing actually.  
24 Now that, you know, I mean I'm going to do it.

25 Or I should say I'm going to vote for it, but you

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1 know, we really -- it's a tough one. It's a tough one  
2 I've got to say. For me, it's a tough one. Right?  
3 Because it was July 6th and there is an argument made that  
4 Mr. Overmyer knew.

5 And so and this is one where oftentimes we deny  
6 the party status because of timeliness. Like, in fact,  
7 this is probably one of the only times where we've not  
8 done that. Or very infrequent.

9 But again, in this particular case I think we  
10 have spoken to -- and if anybody can mute their line,  
11 whoever is like not muted, that would be helpful. Thank  
12 you. And then so anyway, so I'm going to make a motion to  
13 approve the party status of Mr. Overmyer and waive the  
14 timeliness issue and ask for a second, Ms. John?

15 VICE CHAIR JOHN: Second.

16 BZA CHAIR HILL: Mr. Hamala, if you could please  
17 take a roll call.

18 MR. HAMALA: Yes, Mr. Chair. When I call your  
19 name, please respond with a yes, nor or abstain. Chairman  
20 Hill?

21 BZA CHAIR HILL: Yes.

22 MR. HAMALA: Vice Chair John?

23 VICE CHAIR JOHN: Yes.

24 MR. HAMALA: Mr. Blake?

25 MEMBER BLAKE: Yes.

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1 MR. HAMALA: Mr. Smith? Mr. Hood?

2 ZC CHAIR HOOD: Yes.

3 MR. HAMALA: Staff will record the vote as 5 to 0  
4 to approve the motion with motion made by Mr. Hill, second  
5 by Vice Chair John with support from Mr. Blake, Mr. Smith  
6 and Mr. Hood in support of the motion.

7 BZA CHAIR HILL: Okay, great. Thanks. As far as  
8 Ms. Milanovich being admitted as an expert, she is with us  
9 all the time as an expert so I appreciate keeping the  
10 record or making the record full, but we're going to go  
11 ahead and approve her as being an expert unless my fellow  
12 Board Members have an issue. And if so, please speak up.  
13 Okay. All right. Mr. Overmyer, can you hear me?

14 MR. OVERMYER: Yes.

15 BZA CHAIR HILL: So what this means is now the  
16 applicant's going to give their presentation as to why  
17 they believe their meeting the zoning criteria for us to  
18 grant the relief requested. Right?

19 Then you will have an opportunity to ask  
20 questions of them, then you will have an opportunity to  
21 give your presentation and you will also have roughly the  
22 same amount of time that the applicant has to give their  
23 presentation so you can give your understanding as to why  
24 they're not meeting the zoning criteria.

25 And you're not a zoning lawyer or an expert so I

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1 don't think that you'll just, you know, we'd like to hear  
2 your thoughts really. Okay? And then we'll let you know  
3 whether you're crossing into non-zoning area and/or  
4 whatever we end up trying to see that we can do. Right?

5 Then there's going to be the Office of Planning's  
6 report. The Office of Planning will give their testimony.  
7 Everyone will have an opportunity to ask questions of  
8 them. Then the applicant will come back and have rebuttal  
9 meaning they'll have an opportunity to, you know, sit and  
10 rebut anything that was said during the testimony.

11 And then they'll get a conclusion and during the  
12 course of all of that, the Board will ask questions. So  
13 what I'm going to do is I'm going to go ahead and pause  
14 this case and hear the next case.

15 And then we're going to come back and hear this  
16 case again so you have a little bit of time to understand  
17 what's going to be put before you, et cetera, and so  
18 forth. Do you have any questions, Mr. Overmyer?

19 MR. OVERMYER: No.

20 BZA CHAIR HILL: Okay. Mr. Kadlecek, do you have  
21 any questions?

22 MR. KADLECEK: No, thank you.

23 BZA CHAIR HILL: Okay. All right. Then Mr.  
24 Hamala, let's go ahead and pause this or I'm going to go  
25 ahead and close the hearing for a moment while we go ahead

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1 and hear the next case. And then we'll come back and hear  
2 this case. Okay?

3 MR. HAMALA: All right.

4 BZA CHAIR HILL: Okay, guys. It might take 20  
5 minutes. I'm hoping maybe. I don't know really so we'll  
6 see you all in a little bit. Thank you. Mr. Young, if  
7 you could please excuse this group.

8 MR. HAMALA: All right. Our next application is  
9 number 20765 of 2727 Fairlawn Avenue SE Trustee, LLC.  
10 This is a self-certified application pursuant to Subtitle  
11 X, § 901.2 for a special exception under Subtitle U § 421  
12 to allow new or the natural development of the project is  
13 to add four two-bedroom apartment dwelling units in the  
14 cellar of an existing three-story apartment house in the  
15 RA-1 Zone.

16 And the property is located at 2727 Fairlawn  
17 Avenue, SE, Square 5554, Lot 29. And there are no  
18 preliminary matters for this application.

19 BZA CHAIR HILL: Okay, thanks, Mr. Hamala. Okay,  
20 give me one moment while I pull up the records please.  
21 And it does, these get pulled in. Mr. Brown, can you hear  
22 me? Mr. Brown? Mr. Brown? You're on mute maybe, Mr.  
23 Brown.

24 I also can't see you. If your camera --.

25 MR. BROWN: All right. Mr. Hill?

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1 BZA CHAIR HILL: Yes, can you hear me? Kind of.

2 MR. BROWN: I have appeared. Good morning,  
3 Chairman Hill. Can you hear me?

4 BZA CHAIR HILL: Yes. Can you introduce yourself  
5 for the record please.

6 MR. BROWN: Patrick Brown from Greenstein,  
7 DeLorme & Luchs on behalf of the applicant.

8 BZA CHAIR HILL: Great. Mr. Brown, who is here  
9 with you today?

10 MR. BROWN: I have Ms. Sandy Felty. She is the  
11 Property Manager, onsite Property Manager for this  
12 property. And I have my architect, Emilie Rottman.

13 BZA CHAIR HILL: Got it. Okay. Commissioner,  
14 can you hear me? Could you introduce yourself for the  
15 record please?

16 MR. SWANSON: Thank you. My name is Commissioner  
17 Travis Swanson representing ANC 7B-03 which 2727 Fairlawn  
18 Avenue is inside of.

19 BZA CHAIR HILL: Great. Thank you, Commissioner.  
20 I forget, did you say, are you the SMD?

21 MR. SWANSON: Yes.

22 BZA CHAIR HILL: Okay, great. Wonderful. Well,  
23 welcome. All right. Let's see, so Mr. Brown, if you want  
24 to go ahead and walk us through your applicant's  
25 presentation and why you believe they're meeting the

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1 criteria for us to grant the relief requested.

2 And then we're just going to kind of go from  
3 there. As you know, I'm going to put 15 minutes on the  
4 clock just so I know where we are. And you can begin  
5 whenever you like.

6 MR. BROWN: Chairman Hill, perhaps some further  
7 guidance from you. I think the record is full. We're  
8 prepared to go through a full presentation or something  
9 less than that in the interest of preserving the Board's  
10 time.

11 BZA CHAIR HILL: Yes, sure. Go, I mean, Mr.  
12 Brown, go ahead. And I see your slide deck. You can  
13 guide and go ahead and walk us through whatever you want  
14 to walk through in terms of I guess you could at least  
15 highlight the project and also, you know, highlight the  
16 regulation as to why you believe that, you know, your  
17 client is meeting the criteria.

18 There's opposition and we have the Commissioner  
19 here so there's going to be, you know, more discussion.  
20 But you can give whatever type of presentation you'd like  
21 to and we'll see where we get.

22 MR. BROWN: Okay. If I could just to kind of put  
23 this in context, this is a very discreet project. Four  
24 new units in the lower level of an existing building, no  
25 expansion of the footprint. This building has been there

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1 since 1953.

2 I'll let Ms. Felty tell you a little bit more  
3 about the building. But one reference to the OP report  
4 which I think is full in its analysis as well as what  
5 we've provided in meeting the test which I'll get to at  
6 the end.

7 But both from the ANC and some of the tenants a  
8 number of issues have been raised which I want to address  
9 up front and we'll talk about during the presentation.  
10 But number one, the laundry facilities at this building  
11 which were just replaced recently with new equipment will  
12 be maintained.

13 There will be no loss of the laundry facilities.  
14 Two, those tenants who have storage, who partly have and  
15 use storage, will retain their storage. So there will be  
16 no impact and I will allow Ms. Rottman to address the ADA  
17 question that was raised in the Letter of Protest from the  
18 ANC.

19 With that, Ms. Felty, if you could quickly walk  
20 us through your role in the building and the kind of the  
21 unique nature of this building and its tenants.

22 BZA CHAIR HILL: Ms. Felty, before you do, could  
23 you also introduce yourself for the record please? Ms.  
24 Felty, you still may be on mute. Oh, I'm sorry, Ms.  
25 Rottman is on, Ms. Rottman? How do you say Felty? Say it

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1 again.

2 MR. BROWN: Felty.

3 MS. ROTTMAN: Ms. Felty is speaking first.

4 BZA CHAIR HILL: Where is Ms. Felty?

5 MS. FELTY: I'm on the line. Can you hear me?

6 BZA CHAIR HILL: Yes, could you introduce  
7 yourself for the record?

8 MS. FELTY: Yes, my name is Sandra Felty. I'm  
9 the Property Manager with the AG Management for 2727  
10 Fairlawn Avenue.

11 BZA CHAIR HILL: Okay. I'm sorry, Mr. Brown,  
12 what was the -- you wanted Ms. Felty to do what now?

13 MR. BROWN: Well introduce her role in the  
14 building, the duration and some of the unique features of  
15 this building that are, should be considered by the Board.

16 MS. FELTY: Yes, I've been the onsite Manager for  
17 31 years. There are 39 units in the building as Mr. Brown  
18 stated. The property was built in 1953. We have several  
19 long-term tenants here. One has been here 53 years.

20 The building is rent controlled. We have 22 off-  
21 street parking spaces. There is access to the building  
22 from Fairlawn and public alleys. The building's clean and  
23 well maintained.

24 We do have an officer onsite so we do have  
25 security. And we are currently looking to put solar

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1 panels to enhance the -- to be installed before the end of  
2 the year. Can you hear me?

3 MR. BROWN: Ms. Felty, just confirm what I said  
4 that the laundry facilities will be maintained and those  
5 tenants who have storage will continue to have storage.

6 MS. FELTY: That's correct. The laundry  
7 facilities will still remain onsite and anyone who has had  
8 storage will not lose their storage space.

9 MR. BROWN: Any questions from the Board? If  
10 not, I'd like to move on and ask Mr. Young to pull up our  
11 slide presentation.

12 BZA CHAIR HILL: Does the Board have any  
13 questions? If so, speak up. Okay, go ahead, Mr. Brown.

14 MEMBER SMITH: I do. I have one.

15 BZA CHAIR HILL: Okay.

16 MEMBER SMITH: How many tenants are using, that  
17 have storage units?

18 BZA CHAIR HILL: Is that for -- Ms. Felty, can  
19 you answer that question?

20 MS. FELTY: I don't have an exact number at this  
21 point in time, but it would somewhere between 12 and 18.

22 MEMBER SMITH: So you're saying that when moves  
23 the unit, so are you moving the units and shrinking the  
24 size of it?

25 MS. FELTY: Ms. Emilie will be able to address

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1 that.

2 MEMBER SMITH: Okay. Is she addressing it in the  
3 presentation?

4 MR. BROWN: She can. Or, Ms. Rottman, do you  
5 want to respond now?

6 MS. ROTTMAN: I'll be happy to point it out  
7 during the presentation, but there are two areas that we  
8 can relocate the storage units to be within the laundry  
9 room and a room that's in kind of the laundry room. So I  
10 can point those out on the slides.

11 MEMBER SMITH: Okay, that will be great.

12 MR. BROWN: If we could proceed and in the  
13 presentation, I would just like to run through the  
14 pictures before Ms. Rottman begins hers and I think that  
15 will, if we go to Page like 6, Mr. Young.

16 VICE CHAIR JOHN: Mr. Chairman, I just have one  
17 question. If we could have a presentation on how the  
18 application meets the criteria for relief.

19 BZA CHAIR HILL: Mr. Brown, as you kind of go  
20 through, would you just highlight the regulations as well?

21 MR. BROWN: Okay, I was planning to do that at  
22 the end, but --.

23 BZA CHAIR HILL: That's fine. You can do it at  
24 the end, Mr. Brown.

25 VICE CHAIR JOHN: That's fine. Whenever. It

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1 didn't seem like you were going to do that.

2 BZA CHAIR HILL: That's fine if you get there,  
3 Mr. Brown.

4 MR. BROWN: If I could just to give some context,  
5 a couple of photos and then turn it over to Ms. Rottman  
6 and walk you through the plans. This photo and then the  
7 next one, Mr. Young.

8 You can see that the building's well maintained,  
9 some mature trees. Next picture. Next picture. It's the  
10 rear of the building. Next picture. The parking that  
11 surrounds the building. You'll notice empty spaces.

12 One point, Ms. Rottman can confirm, but and I  
13 think this is relevant to the ADA discussion, there is no  
14 elevator in this building. Next slide, please. This is  
15 the basement area where the units will be located off.  
16 Next slide.

17 This is the area that's going to be repurposed  
18 for the units. This is back of the house, landlord  
19 storage. It is not tenant storage. Next picture. Again,  
20 back of the house, landlord storage not tenant storage.  
21 Next picture please. The same. And next picture.

22 The old laundry equipment, laundry machine  
23 graveyard. Next picture. Okay. And turn it over to Ms.  
24 Rottman to walk through the plans which are the following  
25 slide.

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1 MS. ROTTMAN: Thank you very much, Mr. Brown.  
2 Good morning, everyone. And thank you for having us here  
3 today. Just as it's shown on the Board plan here, we're  
4 proposing to add four additional units to an existing  
5 three-story building.

6 You can note on this elevation that the four  
7 units are accessed through a stairwell at each end of the  
8 common corridor. We're not making any changes to the  
9 circulation of the building to be able to do those  
10 improvements.

11 The level of alteration that we're doing is  
12 minimized to be just to the units. And we are also to  
13 make the common corridor here more visually in line with  
14 the rest of the building.

15 We'll be putting the drop ceiling with proper  
16 lighting and that sort of thing. But each unit is two  
17 bedrooms. Most are two bathrooms. One is just one  
18 bathroom. And if you note in the middle upper space that  
19 feeds sustained laundry room, we relocated the entry so  
20 that we could build the unit that's being proposed to the  
21 right of it.

22 And that very large rectangle that is facing the  
23 common corridor will be the new storage area and if  
24 additional storage was necessary, the space to the left of  
25 the door in the laundry room could also be utilized as

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1 additional storage. Next slide.

2           These are just showing the reflected ceiling  
3 plans for, again, the same proposed units. Next slide.  
4 And this is showing we're not making changes significantly  
5 to the exterior, we are putting in window wells to provide  
6 natural light and access to the four proposed units.

7           And to keep everything in line with the building  
8 we're just going to be carrying the same window patterns  
9 down as what's illustrated above. So we are intentional  
10 in aligning the window sizes and window placements to  
11 carry the character of different elevations. Next slide.

12           And you can see that is the same proposed  
13 intention as located here. Next slide. I believe this  
14 will be going back to Mr. Brown, but I -- just to clarify  
15 the concerns regarding ADA, it's technically infeasible  
16 for us to accommodate because the four units are accessed  
17 through a staircase and there is no elevator in the  
18 building that's existing.

19           Also access to the building as shown in the  
20 images provided at the beginning are also accessed by a  
21 staircase. So we aren't accommodating, we are not doing  
22 additional renovations and it's not, it's not feasible to  
23 be able to accommodate accessibility with those changes  
24 that are being made. So I'll return it to Mr. Brown.  
25 Thank you.

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1 MR. BROWN: Could I, Ms. Rottman, if I could ask  
2 you, the nature of this building project is limited.  
3 Could you expand on that?

4 MS. ROTTMAN: Yes.

5 MR. BROWN: Just a few --

6 MS. ROTTMAN: Sure. I apologize on that. The  
7 proposed changes are very limited. We are working with an  
8 existing space. There's no underpinning being proposed.  
9 The only real excavation is, again, just to provide the  
10 light wells to have light and air into the spaces.

11 And so all of the construction will be minimized  
12 to just within those units as well as just the very  
13 minimal finishes being added to the common corridor.

14 MR. BROWN: And as a result of that construction,  
15 you don't anticipate utility or other outages or  
16 disruptions?

17 MS. ROTTMAN: These were already proposing to be  
18 replacing the utilities with this portion as part of it.  
19 So the existing utilities are sort of at the end of their  
20 lifeline anyway.

21 So it would be, it's not something that we have  
22 an interference in connection to any of the units. It  
23 would just be a meter upgrade that would be occurring in  
24 the utility room.

25 But we're not touching the location of where any

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1 of those are. Everything's just remaining in place and is  
2 sort of very easy swap in, swap out.

3 MR. BROWN: Thank you.

4 MS. ROTTMAN: Thank you.

5 MR. BROWN: Before I proceed to lay out, the  
6 test, any questions from the Board?

7 VICE CHAIR JOHN: So one question about the  
8 storage. Will these, the tenants who have storage now  
9 have the same amount of storage?

10 MS. ROTTMAN: I personally haven't laid anything  
11 out yet, but I believe we would be able to accommodate  
12 that with the available area they have.

13 VICE CHAIR JOHN: Ma'am, that's not a yes or a  
14 no. What, the tenants are concerned that they will lose  
15 the storage they have so if they have, you know, a certain  
16 square footage now, will those tenants have the same  
17 square footage?

18 MS. ROTTMAN: My hope would be yes. As I said, I  
19 haven't yet laid it out. But it would certainly be my  
20 goal to accommodate the same square footage.

21 VICE CHAIR JOHN: Well either you have the square  
22 footage or not?

23 MS. ROTTMAN: I, it's not, I have not personally  
24 measured this size of the existing lockers as a  
25 comparison. And so I have, I'm not able to answer that

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1 question specifically.

2 But my goal would be to take the same size  
3 lockers that are there now and provide the same size  
4 lockers in the two spaces that we had illustrated. And I  
5 believe that's enough area to accommodate it.

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

7 BZA CHAIR HILL: Okay. Yes, go ahead, Mr. --

8 ZC CHAIR HOOD: I just want to say, I've been  
9 listening to this conversation, you know, Vice Chair  
10 John's questions and Board Member Blake. I figured I'd  
11 ask a question. I'm not sure if they're ready to be  
12 before us. Because there's no predictability and, you  
13 know, I'm looking in the record and there's a lot of I'm  
14 not sure.

15 And I just want you to know that's where I'm  
16 coming from. I'm not sure either so I'm just concerned  
17 that our questions and some of the stuff we trying to get  
18 to is not being answered. So those are my comments.  
19 Thank you.

20 BZA CHAIR HILL: Okay, Chairman Hood. Okay, Mr.  
21 Brown, do you want to keep going?

22 MR. BROWN: Oh, okay. Yes, Chairman Hill. And  
23 we've laid out in writing and it dovetails very well with  
24 the Office of Planning report, but I'll go through the  
25 standard that the Board is required to review. One, no or

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1 minimal impact on the public schools.

2 I'll note the OP report, the low to very low  
3 utilization of the surrounding public schools so there are  
4 plenty of seats available. Again, we're only talking  
5 about four new units. No impact on the public streets.

6 This building has got almost twice the level of  
7 required parking. Good parking, very good public street  
8 and public alley access. I do take exception to the DDOT  
9 report. This is from a traffic perspective.

10 This is a non-event adding approximately ten  
11 percent of the number of units to the building in a well-  
12 located, well-parked accessible site so I don't think  
13 DDOT'S recommendation of a TDM Plan is appropriate or  
14 warranted here.

15 As I laid out in my statement and OP as well,  
16 this is an area by location and proximity very well served  
17 by recreational facilities and the demand on those  
18 facilities will only be minimally impacted by four new  
19 units.

20 Absolutely no impact on light and air to any  
21 adjoining building. You can see that this building stands  
22 by itself. There's no expansion of the building itself so  
23 no change in light and air affected by the site.

24 This is an apartment building in an RA-1 Zone.  
25 The building itself isn't getting bigger. But four units

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1 are being added which is certainly in harmony with the  
2 regulations and zoning.

3 And in the city that is desirous of additional  
4 housing in a well-clean, well-maintained, clean building,  
5 this is a plus to be, to the neighborhood and to the city.  
6 As we've laid out, no impact on neighboring properties.

7 This is all an internal event without any real  
8 external impacts and certainly no conditions whether they  
9 be DDOT through a TDM or other conditions have been  
10 proposed or I believe are warranted in this case.

11 With that, I open it up to the Board questions.  
12 I would note and the report by ANC 7B and we had two good  
13 meetings with the ANC. We were there once and asked to  
14 return again. Their quote, Letter of Protest, raises an  
15 important issue which we've tried to respond to.

16 But one, it's outside the scope of the Board's  
17 purview and two, doesn't raise the kind of objections that  
18 would be warranted as part of the great wait afforded to  
19 ANC. Not taking anything away from their process and  
20 comments, but again, focused on what the standard is here.  
21 Thank you, Mr. Chairman.

22 BZA CHAIR HILL: Okay. Let's see now. Go ahead,  
23 Mr. Blake. I assume --

24 MEMBER BLAKE: I have just one quick question  
25 just to follow up on the storage space issue. Is there a

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1 charge currently assessed for that storage space or is it  
2 just free? And if so, if you did create new spaces would  
3 the charge be essentially the same or would there be  
4 potentially some difference there?

5 BZA CHAIR HILL: Ms. Felty?

6 MS. FELTY: There is currently no charge.

7 MEMBER BLAKE: Okay.

8 MS. FELTY: Well, there's, thank you.

9 VICE CHAIR JOHN: So does, can I follow up? Does  
10 the lease mention storage?

11 MS. FELTY: The older leases, yes, they do.

12 VICE CHAIR JOHN: Okay. Thank you.

13 BZA CHAIR HILL: Okay, let me do this.  
14 Commissioner, can you hear me? Great. Would you give us  
15 your testimony please, Commissioner?

16 MR. SWANSON: Sure. So first I just wanted to  
17 start by thanking the Board for holding today's hearing.  
18 As I said, my name is Travis Swanson. I am the  
19 Commissioner who has the honor and privilege of  
20 representing ANC 7B which includes part of Dupont Park,  
21 Fairlawn, Randall Highlands entwining neighborhoods in  
22 Ward 7 and the property being discussed right now.

23 2727 Fairlawn Avenue is located in single member  
24 District 7B 03. So I'm here today to express my  
25 opposition to this case and at a properly noticed special

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1 meeting on July 7th, 2022, ANC 7B did unanimously vote to  
2 protest this application on the grounds of ADA concerns.

3           Since the project would effectively be converting  
4 this building from three residential floors to a four  
5 residential floor building. And ANC 7B does believe that  
6 a shift of this magnitude should have stronger ADA  
7 considerations in the written plans before moving forward.

8           I am going to shift a little bit in my testimony  
9 and say on July 2nd, 2022, the tenants of 2727 Fairlawn  
10 Avenue held a building-wide meeting which they invited me  
11 to attend so I could learn more about their perspectives  
12 on the proposed project.

13           At this meeting which was attended by about half  
14 of the tenants in the building, I had some tenants tell me  
15 that this proposal would remove all of their storage that  
16 they were promised to them, some of them in their leases.

17           And some say they wouldn't lose all of their  
18 storage, but it would be scaled back significantly or  
19 would become first come, first serve. And there wouldn't  
20 be enough for everybody.

21           And some tenants would end up losing their  
22 storage that they had in the past. Looking at the plans  
23 as well as communicating with the developer and I  
24 definitely thank Mr. Brown for being here again and for  
25 engaging with our ANC because I believe that process is

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1 very important.

2           It does not appear that there are plans to remove  
3 the laundry facilities though some residents had heard  
4 that was the case too. But it does look like the storage  
5 would be scaled back as we heard today in Ms. Rottman's  
6 testimony that we don't, it sounds like that's just kind  
7 of unknown at this point.

8           From my perspective, there seems to be a lot of  
9 miscommunication between the developer who wants to do  
10 this project and the tenants in this building. The  
11 tenants in this building have been loyal to the building.

12           While I was there, I met several people who have  
13 been there for a long time. As Ms. Sandy testified, one  
14 resident has been there for over 50 years. While many  
15 apartment buildings in D.C. tend to be more transient, the  
16 residents of this building at 2727 Fairlawn Avenue, many  
17 of them seem to measure their time in decades rather than  
18 years which is very unique for apartment buildings in D.C.  
19 from my experience.

20           I've met people who have lived in the building  
21 for, several of them who have been there for more than a  
22 decade including one person who said that she moved in  
23 when her daughter was just five years old and her daughter  
24 is now in her 50s.

25           In addition to voicing their concerns to me at

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1 this meeting, around ten tenants or so have copied me on  
2 testimony, written testimony to you today that you all  
3 should have received.

4 And of whom have opposed this proposal for  
5 various reasons. I would hate to see the relationship  
6 between the landlords and tenants of this building soured  
7 especially in a building that has so many long-term  
8 tenants.

9 And since so many tenants are hearing different  
10 things about the impacts of this project on their building  
11 and their day-to-day life, my recommendation would be that  
12 this Board delay taking action on this request until the  
13 developer and the architects can set up a meeting with the  
14 tenants of the building to kind of just level set and get  
15 everybody on the same page.

16 It seems like several tenants are hearing  
17 different things and that has sown a level of distrust in  
18 the process. I believe if the process was just more open  
19 and communication was better between both parties, that it  
20 could be entirely possible that an agreement could be  
21 reached where the tenants and the landlord would both find  
22 this project to be beneficially mutual to them.

23 So I think a meeting like that would be  
24 important. I would be, I would love to attend that  
25 meeting if either side would have me there. Lastly, I

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1 just want to close by saying that I appreciate the passion  
2 of the tenants in this building and respect the developer  
3 for coming to the ANC to present the plans and for being  
4 here today.

5 But as several Board Members have noted during  
6 the presentation, it just seems like there's some  
7 unanswered questions. So I believe before the Board  
8 approves this application, that more time should just be  
9 given for there to be a community level set with the  
10 people who would be most impacted by this proposal.

11 I just want to say thank you again for your time  
12 and I hope that you will decide to just delay this  
13 application until such meeting can be held. Thank you,  
14 again, and I welcome any questions from the Board.

15 BZA CHAIR HILL: Okay. Thanks Commissioner.  
16 Does the Board have any questions of the Commissioner and  
17 if so, raise your hand and then I'll go around to you.  
18 Sure, Chairman Hood?

19 ZC CHAIR HOOD: Commissioner Swanson, I  
20 appreciate your testimony and I think you're right on  
21 target with that request. I'm not sure where Board's  
22 going to go, but I know, you know, excuse the noise in the  
23 background.

24 But I know that in my position, I believe that's  
25 the way to go. Let me ask you this though, Commissioner

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1 Swanson. Fairlawn I've known has been a very stable  
2 community over the years, with knowing Jackson for years  
3 so I am very well aware of Fairlawn.

4 But let me ask you, do you think that this, if  
5 the Board decides to maybe fill in the gaps that I see or  
6 do you think that would be beneficial to the residents who  
7 live there and also to the community?

8 I heard your request and I'm kind of in line with  
9 you, but I'm just trying to figure out how much I want to  
10 push to do that because I think that's very important.

11 MR. SWANSON: I'm sorry, could you just repeat, I  
12 don't know that I fully understood the question and I want  
13 to make sure I answer it correctly.

14 ZC CHAIR HOOD: The question is, do you think it,  
15 let me just be very short with it. Do you think it will  
16 be beneficial that this Board allows more time?

17 MR. SWANSON: I do think it would be beneficial  
18 because as I stated, there are many residents who have  
19 lived in this building. Some of them for several decades  
20 since long before I was even born.

21 So I do think that it would just be beneficial to  
22 maintain that level of trust between the landlord  
23 developer and the tenants of this building who have been  
24 loyal to this building for many decades.

25 So I do think there would be a community benefit

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1 to a level set establishing a meeting since there just  
2 seems to be a lot of misinformation. You know, a lot of  
3 tenants are hearing different things and like we all know  
4 how rumors work. Right?

5 Like they can kind of start and snowball and I  
6 feel like just a level set meeting would be very  
7 beneficial for the building, for both parties involved to  
8 be honest.

9 ZC CHAIR HOOD: Okay, thank you. I would  
10 appreciate it. We could get more predictability so thank  
11 you, Commissioner. All right?

12 MR. SWANSON: Thank you.

13 BZA CHAIR HILL: Okay. Anyone else for the  
14 Commissioner? All right. We're going to run through all  
15 of this and see where we get. Okay? So I'm going to turn  
16 to the Office of Planning.

17 MS. ELLIOT: Hi, Members of the Board. I am  
18 Brandice Elliot representing the Office of Planning and I  
19 am filling in for Matt Jesick on BZA Case 20765. The  
20 Office of Planning is recommending approval of the relief  
21 that's been requested that would allow the addition of  
22 four units in the basement of an existing apartment house.

23 Overall we found that the impacts of those units  
24 would be minimal and are, you know, fairly consistent with  
25 the special exception criteria. The criteria does focus

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1 on exterior impacts.

2 You know, we, our review doesn't necessarily  
3 include amenities to the residents like the storage and  
4 the laundry room. We are happy to hear that the applicant  
5 has confirmed that the laundry room will continue to be  
6 provided to residents and that some level of storage will  
7 be provided.

8 We do encourage them to continue working with the  
9 residents and come to some sort of resolution on that, but  
10 we don't feel like that's part of the criteria for the  
11 special exception and we are continuing to recommend  
12 approval. I'm happy to answer any questions you have.

13 BZA CHAIR HILL: Okay, great. Does anybody have  
14 any questions for the Office of Planning? Mr. Brown, you  
15 got any questions for the Office of Planning?

16 MR. BROWN: No, I do not. Thanking them and Mr.  
17 Jesick in his absence.

18 BZA CHAIR HILL: Got it. Mr. Young, is there  
19 anyone here wishing to testify?

20 MR. YOUNG: We have two witnesses signed up.

21 BZA CHAIR HILL: Okay, can you bring them in  
22 please and give me their names?

23 MR. YOUNG: Andrea Rucker and Nancy Holt-Nelson.

24 BZA CHAIR HILL: Okay, and Ms. Rucker, can you  
25 hear me?

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1 MS. RUCKER: I can. Can you hear me?

2 BZA CHAIR HILL: Yes, ma'am. Could you introduce  
3 yourself for the record?

4 MS. RUCKER: Yes, hi. My name is Andrea Rucker.  
5 I'm at 2727 Fairlawn Lane, Apartment 203.

6 BZA CHAIR HILL: Great. Ms. Rucker, you'll have  
7 three minutes to give your testimony as part of the  
8 public. And you can begin whenever you like.

9 MS. RUCKER: Okay well I was unclear exactly what  
10 the proposal was for the residents. And you have a lot of  
11 seniors in our building. A lot of them are on fixed  
12 incomes and they really don't understand exactly what's  
13 going on of, you know, the procedure with the building.

14 So we was trying to get some clarification on it  
15 and today, Mr. Brown did inform us of, you know, I got a  
16 clear understanding of what he was trying to do with the  
17 building.

18 At first, we didn't have no understanding about  
19 it. So from my understanding, he already informed us that  
20 we will keep our storage bins in our apartment. So I kind  
21 of like have a better understanding of what he's trying to  
22 do with the building.

23 But I hope you take in consideration that you  
24 have a lot of senior citizens in our building. And if he  
25 choose to make changes just to make it more clarifying,

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1 you know, just come across as the communication needs to  
2 be much better.

3 BZA CHAIR HILL: Okay, thanks, Ms. Rucker. Don't  
4 go anywhere, Ms. Rucker. Ms. Holt-Nelson, can you hear  
5 me?

6 MS. HOLT-NELSON: Yes.

7 BZA CHAIR HILL: Great. Could you please  
8 introduce yourself for the record, please?

9 MS. HOLD-NELSON: Yes, my name is Nancy Holt-  
10 Nelson. I'm at 2727 Fairlawn Avenue and I have been a  
11 resident, as Commissioner said, for over several decades.  
12 I am opposed to the four units that they are going to  
13 build. And the reason for that is because some people  
14 were promised storage and it was taken back and I've heard  
15 several tenants say that to me. So that's one of the  
16 reasons why I'm here to testify against the four units  
17 that have been proposed by the management.

18 BZA CHAIR HILL: Okay, got it. Thanks, Ms. Holt-  
19 Nelson. Does the Board have questions for either witness?  
20 Okay. All right, Mr. Young, if you could please excuse  
21 the witnesses. Thank you both for coming and testifying.  
22 Okay, Mr. Brown, can you hear me? Let me make sure --

23 MR. BROWN: Yes, I can, Chairman Hill.

24 BZA CHAIR HILL: Okay, great. So, Mr. Brown,  
25 what I am a little -- I just want to make sure I

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1 understand. You guys are trying to put in four units in  
2 the basement. Right? Or your applicant is, your client  
3 is.

4 And those also would be rent controlled. Is that  
5 correct or at least market?

6 MR. BROWN: The new units would be not subject to  
7 rent control. They would be market.

8 BZA CHAIR HILL: Okay, but they're, given its  
9 location, they're -- I mean they're -- I would think the  
10 market is somewhat reasonable or you don't, I mean, I  
11 don't know what I'm trying to say. Whatever. They're  
12 market rate. They're market rate. Right?

13 They're four, basement units in the market at  
14 market rate. Right? And so it seems as though. I guess  
15 I'm trying to get at and I'm following along with these  
16 lines of Chairman Hood a little bit, is it like, you know,  
17 it seems that you kind of have a good project and I'm a  
18 little confused as to how you guys kind of got to this  
19 point.

20 I shouldn't say confused. I understand how you  
21 all get to these points. Right? Like the ANC is  
22 currently opposed. So therefore, you know, you're going  
23 to get a full order rather than a summary order. Right?

24 And it sounds as though, at least from the  
25 testimony that you're given, the community isn't getting

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1 any, I mean, forget about the zoning regulations for a  
2 second. I'm just talking about the facts of the case that  
3 are your problem right now. Right?

4 Is that the community, I guess, it seems as  
5 though they're not actually missing out on anything or  
6 losing anything. Storage is just getting moved from one  
7 location to another location.

8 At least that's kind of been the testimony.  
9 Maybe there's a little bit of square footage that's being  
10 changed, but it seems that you're changing apples for  
11 applies. So I don't really understand where you guys,  
12 except for communication issues, you might be having a  
13 problem.

14 I, there's a question in here somewhere. Ms.  
15 Rottman, can you hear me? Is that what your testimony, is  
16 the square footage more or less the same? The storage,  
17 just in different places of the building?

18 MS. ROTTMAN: I haven't surveyed the actual size  
19 of the storage specifically, but when we did survey, as  
20 you saw from the pictures shown, a majority of the space  
21 that's being reallocated wasn't utilized for tenant  
22 storage.

23 And so the area that was utilized for tenant  
24 storage I believe would fit in those two other areas, but  
25 I -- upon my --

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1 BZA CHAIR HILL: That's fine. So whatever. You  
2 think maybe. You think maybe --

3 MS. ROTTMAN: Yes.

4 BZA CHAIR HILL: -- that it's going to be the  
5 same. Right?

6 MS. ROTTMAN: Yes.

7 BZA CHAIR HILL: So if that were the case, then  
8 it would seem to me that you guys could give your  
9 presentation to the ANC and the ANC wouldn't have any  
10 issues necessarily with it and you might actually get a  
11 vote of support. Right?

12 So I mean, I don't, I can see what my fellow  
13 Board Members want to do. I mean, I don't, I think it's  
14 at least even from an applicant standpoint, meaning you,  
15 Mr. Brown, it might be worth a shot going back, you know,  
16 clarifying your nation as to what the project is so that  
17 the tenants are more comfortable with what's going on and  
18 present to the ANC and see what may happen.

19 But let me see what my fellow Board Members have  
20 to say about all that. Okay? I know where Commission,  
21 I'm sorry, I know where Chairman Hood is. So I don't  
22 know, I'll go backwards. Mr. Smith?

23 MEMBER SMITH: I'm exactly where Chairman Hood  
24 is. I think it's premature for them to be here before the  
25 Board without presenting a clear plan to us on how they

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1 propose to keep storage space, the size of the storage  
2 space to allay the concerns of the residents that have  
3 spoken today.

4 So I think we need to give them some additional  
5 time to come back with a plan to show the storage space  
6 and also the laundry units so that, you know, honestly,  
7 they can keep their promise to the tenants there.

8 BZA CHAIR HILL: Okay, Mr. Blake?

9 MR. BLAKE: Yes, I agree with Mr. Smith. I'd  
10 like to see not only the existing square footage count,  
11 but also the proposed space in the plans and showing that  
12 there's sufficient space to accommodate that.

13 And I'd also like to know the terms and  
14 conditions that those facilities will be provided to the  
15 tenants.

16 BZA CHAIR HILL: Okay, Ms. Rottman, part of that  
17 is on you. All right. I love the thumbs up. Ms. John?

18 VICE CHAIR JOHN: I'm in agreement with the  
19 recommendation so far. I don't see, I was looking through  
20 the file to see if there is a diagram of the existing  
21 conditions, but I don't see one.

22 So that's why it's hard to figure out what's  
23 being moved to where. So that would be my comment. I  
24 just had one question for Mr. Brown. Mr. Brown, is this a  
25 new owner?

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1 MR. BROWN: I don't, I guess I don't know the  
2 answer to that question.

3 VICE CHAIR JOHN: Oh, so who would have the  
4 answer to that?

5 MR. BROWN: I'll have to check.

6 VICE CHAIR JOHN: Let's see. Does Ms., looking  
7 at my witness list, Ms. Rottman?

8 MR. BROWN: I don't think Ms. Rottman would know.

9 VICE CHAIR JOHN: Is Ms. ---

10 MR. BROWN: Let me --

11 VICE CHAIR JOHN: Ms. Felty is the applicant, is  
12 she here? Is Ms. Felty on the line? Okay, so perhaps I  
13 could --

14 MR. BROWN: We can provide that information.

15 VICE CHAIR JOHN: Okay, thank you, Mr. Brown.

16 MR. SWANSON: But in case it's helpful, in the  
17 meeting I had with the tenants, I believe they said that a  
18 new owner took over the building in the last couple of  
19 years.

20 VICE CHAIR JOHN: Okay. Thank you.

21 BZA CHAIR HILL: Okay. All right. Let's see.  
22 So oh, Chairman Hood, you -- I mean, do you have anything  
23 to add?

24 ZC CHAIR HOOD: What I got to add you don't want  
25 to hear so I appreciate you taking up for me, Mr.

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1 Chairman, so because all of these unanswered questions.  
2 What I want to add, you don't want to hear so I will  
3 follow the leader of the Board.

4 BZA CHAIR HILL: Okay. All right. So, Mr.  
5 Brown, I guess what, where we are at here, is like we'd  
6 like to, Mr. Blake had asked for a couple of things. He  
7 wants the square footage of what the new, you know,  
8 where's the new storage, is the square footage apples for  
9 apples?

10 And then, you know, what are the charges for the,  
11 if any, for the storage. Right? And then, and actually  
12 to add on to that, like what is the way it is now versus  
13 what it's going to be in terms of the pricing. Right?

14 For the storage. Right? And so that's one  
15 thing. I mean, sounds to me like you got it, like this  
16 should be okay. Like I'm a little confused as to why  
17 again this is being somewhat problematic in that it does  
18 seem as though it was a communication situation at least  
19 to me.

20 So if that were the case, Mr. Brown, do you have  
21 any -- so anyway, we're going to send you back to the  
22 building to the ANC. Give us some information and then I  
23 guess we'll do a continued hearing.

24 Is that what's happening with us people? I guess  
25 I'm leading man? Mr. Brown, do you have any questions,

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1 comments, thoughts?

2 MR. BROWN: I'm hearing the Board and Chairman  
3 Hood loud and clear. It is obviously of interest, but  
4 just note that it is as Ms. Brandice noted outside the  
5 scope of the regulations.

6 Having said that, we'll obviously cooperate.  
7 Timing is and to put it in background, a year ago, this  
8 project was a matter of right. And interpretation of the  
9 regulations after the Yates appeal changed that so that  
10 we're now here which is the way the system works.

11 But we'd like to expedite this as much as  
12 possible for everybody's benefit quite frankly.

13 BZA CHAIR HILL: That or am I, let me just  
14 interrupt you on a couple of things. As far as like  
15 outside of our purview, there's a lot of things that are  
16 inside of our purview. Right?

17 And there's a lot of ways that I can clarify why  
18 exactly this is within our purview. Right? So I'm not  
19 necessarily going to go into that area right now. I mean,  
20 as I said before, I think this is a pretty simple thing.

21 I think you guys just need to get your  
22 communication on the same page with, so that you have your  
23 things more tidy here for your client. Right? You can  
24 explain to your client, summary order versus full order.  
25 Right?

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1           And I'm sure they would understand the difference  
2 and it's worth going to the ANC. If you're changing  
3 apples for apples, I don't know why you guys are having  
4 such a problem. Right?

5           You're trying to provide four units. They're in  
6 the basement of a building. Right? So maybe four more  
7 people would have housing that wouldn't have housing. And  
8 it's not some luxurious housing that's going to be crazy  
9 expensive. It's in the basement. Right?

10          So what I'm trying to say is it actually might be  
11 affordable and so, you know, generally speaking, it might  
12 be affordable. So I think everybody wants this to happen.  
13 Right? If you all can make the seniors feel more  
14 comfortable and any time you get seniors involved,  
15 particularly with this Board, as we all are, we're very  
16 concerned about the seniors that have been there.

17          People have been in this building for over, for  
18 decades, 30 plus years. Right? And so, you know, you can  
19 talk to a new owner and say, you know, how this thing  
20 normally works.

21          If the new owner is a D.C. owner, then they  
22 should understand. If the new owner's from somewhere  
23 else, you might as well start to explain how things work  
24 in D.C. So okay, there you go. Go ahead Commissioner, I  
25 mean --

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1 MR. BROWN: Can I ask Mr., Commissioner Rottman,  
2 can I ask Commissioner Rottman when the next ANC meeting  
3 is?

4 MS. ROTTMAN: I believe you mean the Commissioner  
5 for the ANC and not --

6 MR. BROWN: I mean Commissioner Travis Swanson.  
7 I'm sorry. You were promoted, Emilie. I'm sorry.

8 MR. SWANSON: We definitely welcome you. We're  
9 going to have, we have two new districts coming up after  
10 we get though --

11 MS. ROTTMAN: I'll be happy to join when I live  
12 in a different district and the, well in a different ward  
13 than the District of Columbia. But anyway, I'll turn it  
14 over to you.

15 MR. SWANSON: Thank you and thank you, Mr. Brown,  
16 for that question. So our next scheduled meeting is the  
17 21st, so next week Thursday is our regular meeting.

18 MR. BROWN: And Emilie?

19 MS. ROTTMAN: Yes.

20 MR. BROWN: Chairman Hill, apologies for talking  
21 out of turn with my --

22 BZA CHAIR HILL: That's all right. I think it,  
23 no, go ahead. Commissioner, they're trying to get on your  
24 agenda. Can you get them on your agenda?

25 MR. SWANSON: I can definitely speak to our

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1 Chairwoman. I don't think that should be an issue. We  
2 have a lighter meeting this month.

3 BZA CHAIR HILL: Okay, remember the --

4 MR. BROWN: The question is then can we come up  
5 with the information requested?

6 MS. ROTTMAN: So I'm going to need some, not that  
7 everyone needs to hear my vacation schedule, but I'm out  
8 from this afternoon through next Tuesday so I'll need  
9 someone else in my office to survey which we'll figure out  
10 how to do that, but we'll get the updated information to  
11 you.

12 BZA CHAIR HILL: Okay, so you're going to figure  
13 out, I'm going to let Chairman Hood have the last word  
14 because I can see he's trying to say something. So, but  
15 give me --

16 ZC CHAIR HOOD: I just wanted to respond to Mr.  
17 Brown. Mr. Brown, I really appreciate you telling us  
18 what's in our jurisdiction and what's not. I represent  
19 the Zoning Commission on this Board and as you've known  
20 from the case, the court cases, that's a lot within our  
21 jurisdiction.

22 And I'm just basically repeating what Mr. Hill  
23 said so let's get to the point and stop trying to tell us  
24 what's in our jurisdiction and what's not. We'll make  
25 that decision.

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1           We're going to go by the regulations and what's  
2 required. But as has already been stated, you all are  
3 asking questions here. You don't know who own the place,  
4 you don't know who's, you're figuring out vacation  
5 schedules and I think this is, I think you all have come  
6 here prematurely because your case is half baked. So  
7 thank you, Mr. Chairman.

8           BZA CHAIR HILL: All right, Chairman Hood. So,  
9 Mr. Brown, anyway -- just real quick, so you guys are  
10 going to go to, unfortunately now you're getting kicked  
11 into, well anyway I shouldn't say unfortunately.

12           I'm going to try to help. But we are jammed up.  
13 Right? So if you guys get in front of the ANC on the  
14 27th. Right?

15           MR. BROWN: Twenty-first.

16           BZA CHAIR HILL: Sorry. Oh, it's the 21st.  
17 Great.

18           MR. BROWN: Is that right, Commissioner Swanson?

19           BZA CHAIR HILL: Okay, the 21st. Right? So I  
20 don't know, I mean I don't see, you know, --

21           MR. BROWN: We'll make ourselves available.

22           BZA CHAIR HILL: No, I appreciate that, Mr.  
23 Brown.

24           MR. BROWN: Whenever.

25           BZA CHAIR HILL: Mr. Brown, the 27th, I don't see

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1 how that's even going to be possible. What, how many  
2 cases we got, Mr. Hamala, on the 27th?

3 MR. HAMALA: The total, with one withdrawal so  
4 potentially as of right now ten cases on July 27th.

5 BZA CHAIR HILL: Yes, that's not going to work.  
6 Okay. So what do we got, what do we got on, can you run  
7 through September for me and give me the numbers, we're  
8 back on the 14th. Right?

9 MR. HAMALA: We're back on the 14th as is  
10 Chairman Hood. That day there are eight total cases.

11 BZA CHAIR HILL: Okay. Chairman Hood's back on  
12 the 14th?

13 MR. HAMALA: Back on the 14th.

14 BZA CHAIR HILL: The only reason why I'm laughing  
15 is he's with us through this month so he doesn't get a  
16 break at all. Like I mean, he's a new member.

17 ZC CHAIR HOOD: Mr. Brown, I'm trying to figure  
18 all that out myself.

19 BZA CHAIR HILL: Right. Exactly. Like what you  
20 talking about, you know, somebody's organized, man. You  
21 got, like you're with us now for forever. All right. So  
22 I tell you what, Mr. Brown, we'll bring you back on the  
23 14th. Okay?

24 MR. BROWN: Of September?

25 BZA CHAIR HILL: Of September. Okay.

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1 MR. BROWN: As a continued hearing?

2 BZA CHAIR HILL: As a continued hearing. Okay?  
3 And so like and by the way, like a lot of people have been  
4 trying to get on that date. The reason why we're giving  
5 you that date and you can tell your client this, is that  
6 Chairman Hood's going to be back.

7 And so since he's already heard this case, I  
8 don't have to bring him back again. Right?

9 MR. BROWN: I understand.

10 BZA CHAIR HILL: So that means that if you guys  
11 go and present to the, I mean like I think you have all of  
12 August then to figure this out. Right? Like I would go  
13 ahead and, you know, present to the ANC on the 21st.

14 Commissioner, do you guys meet in August? You do  
15 not probably. Correct?

16 MR. SWANSON: This will be our first year of  
17 taking an August recess.

18 BZA CHAIR HILL: Okay, well congratulations.  
19 Good for you. Let's see. So then if you guys hear them  
20 on the 21st, and then Mr. Brown, if you want to kind of  
21 like, I don't know, I'd go ahead and work with the  
22 community in August if I were you. Right?

23 And give us something then, if you want to give  
24 us something by August 31st, August 31st, Mr. Brown?  
25 Whatever you want to give us by August 31st. Okay? And

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1 then that gives the ANC until September 7th to give us any  
2 response from the August 31st stuff that you give us.

3 Then we'll be back here for a continued hearing  
4 on the 14th. Mr. Hamala, does that sound fine with you  
5 and, Mr. Brown, do you have any questions?

6 MR. BROWN: I have no questions.

7 BZA CHAIR HILL: Okay. Great. Then sounds like  
8 a plan.

9 MR. HAMALA: Well, Mr. Chair, if I could, was the  
10 Board's expectation from the, to help provide the diagram  
11 showing where the new storage is so I can clarify whether  
12 the storage will be the same size or different and  
13 whether, what the price of storage is now and what it will  
14 be?

15 BZA CHAIR HILL: Yes.

16 MR. HAMALA: Okay.

17 MR. BROWN: That's our understanding as well.

18 BZA CHAIR HILL: Then great, and so we'll get all  
19 of that by the 31st of August. Then they'll have until  
20 the 7th of September meaning the parties, the ANC to give  
21 us any additional information if you do, Commissioner, or  
22 not and then we'll be back here for a continued hearing on  
23 the 14th. Okay.

24 MR. BROWN: Thank you.

25 BZA CHAIR HILL: Okay. Great. All right, well

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1 you all have a nice August. Mr. Brown, you --

2 MR. BROWN: Yes, you too, Chairman Hill and Board  
3 Members, Mr. Hood.

4 BZA CHAIR HILL: Hold on a second, Mr. Brown.  
5 Vice Chair John had a question.

6 MR. BROWN: Oh, yes.

7 VICE CHAIR JOHN: Yes, Mr. Brown, there's a  
8 matter of DDOT. Were you planning to follow up with DDOT  
9 now that you have additional time?

10 MR. BROWN: I was not planning to.

11 VICE CHAIR JOHN: I see.

12 MR. BROWN: And so, I mean, Ms. John, I, as I  
13 said earlier, I take exception to their conclusion and the  
14 requirement of TDM in this very specific case. We've got  
15 a ten percent increase in this, in the number of units in  
16 a building in a unique location.

17 It just doesn't warrant TDM. Particularly  
18 outdoor bicycle racks which are ill advised at this  
19 location.

20 BZA CHAIR HILL: Why are the bike racks ill  
21 advised, Mr. Brown? I'm just curious?

22 MR. BROWN: They're not secure.

23 BZA CHAIR HILL: Okay. All right.

24 VICE CHAIR JOHNS: Is there room in the basement?

25 MR. BROWN: I have no idea.

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1           VICE CHAIR JOHNS: Normally it, normally they're  
2 put in the basement if there's no room outside. Anyway,  
3 Mr. Brown, I'm just mentioning to you that there's the  
4 matter of the DDOT report and the Board has to consider  
5 DDOT's recommendations and do something with it. So I'm  
6 just mentioning that to you.

7           MR. BROWN: I understand, Ms. John.

8           VICE CHAIR JOHN: Okay.

9           BZA CHAIR HILL: Yes, Mr. Brown, if you get,  
10 actually I kind of don't disagree with you, Mr. Brown.  
11 I'm a little surprised that four more units, DDOT wanting  
12 a TDM plan and, you know.

13           I mean I understand bike racks because they like  
14 more at bike racks, but if you can, if you want to see if  
15 you can get anything from DDOT, fine. Otherwise, we're  
16 going to have to have that discussion again on the 14th of  
17 September. September?

18           MR. BROWN: Yes, it is September. I will follow  
19 up on that issue as well.

20           BZA CHAIR HILL: Okay, great. All right.  
21 Anybody got anything else before I let us all go? And if  
22 so, raise your hand. Okay, all right. Thank you. See  
23 you all later. Bye, bye.

24           MR. BROWN: Thank you. Happy summer.

25           MS. ROTTMAN: Thank you.

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1 VICE CHAIR JOHN: All right, thank you.

2 BZA CHAIR HILL: Bye. Okay, let's take a break  
3 if that's all right. Boy, it's already 11:00. Let's take  
4 a break and then we'll come back for that other hearing.  
5 The case that we put off. Okay. Thank you. Bye.

6 (Whereupon, the above-entitled matter went off  
7 the record at 11:11 a.m. and resumed at 11:22 a.m.)

8 BZA CHAIR HILL: Mr. Overmyer, can you hear me?

9 MR. OVERMYER: Yes.

10 BZA CHAIR HILL: Thanks. Can you introduce  
11 yourself for the record and try to get your camera going?

12 MR. OVERMYER: Yes. Good morning, I'm Dale  
13 Overmyer of 3264 S Street NW.

14 BZA CHAIR HILL: Great, thank you. All right,  
15 Mr. Kadlecek, I'm going to go ahead and let you kind of  
16 walk us through your application and why you believe your  
17 client is meeting the criteria for us to grant the relief  
18 requested.

19 I'm going to put 15 minutes on the clock just so  
20 I know where we are. And you can begin whenever you like.

21 MR. KADLECEK: Okay. Mr. Young, if you could  
22 pull up our presentation, please. Great, thank you. Good  
23 morning, Chairman Hill and Members of the Board again.

24 BZA CHAIR HILL: Mr. Kadlecek, I'm sorry, do you  
25 know which exhibit that's in?

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1 MR. KADLECEK: It is Exhibit 46.

2 BZA CHAIR HILL: I got you, 46. Great, thank  
3 you. Sorry. Okay, go ahead. Sorry.

4 MR. KADLECEK: No problem. Again, I'm Cary  
5 Kadlecek. Good morning, Chairman Hill, Members of the  
6 Board. We're here to present the application for special  
7 exception relief for food delivery service and for rooftop  
8 structure requirements at an existing two-story building  
9 in the MU-4 zone in upper Georgetown.

10 As you will hear, the applicant is experienced in  
11 running the proposed well-orchestrated, carefully planned  
12 and community serving business that will help under  
13 resource to entrepreneurs.

14 This is not a fly-by-night operation or one  
15 that's going to be unchecked in the way it operates. As  
16 such, the applicant is mindful and knowledgeable about  
17 mitigating any adverse impacts that it could have  
18 particularly with regard to traffic.

19 This is why the applicant's team has collaborated  
20 for months with DDOT, Georgetown Main Street and the ANC  
21 to devise and commit to plans and conditions pertaining to  
22 business improvement, building improvement rather, pickups  
23 and drop-off, deliveries, trash storage collection, road  
24 and mitigation and others.

25 We're pleased to have the support of the Office

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1 of Planning, DDOT and ANC 2E and with that, I'm going to  
2 turn it over to Chuck Henry from the applicant's team to  
3 more describing the operations of the proposed use.

4 MR. HENRY: Chuck Henry. When you're ready,  
5 could you please go to the next slide. So the subject  
6 property is located mid-block on the East side of  
7 Wisconsin Ave. between S and R Streets.

8 It has about 42 feet of frontage, store front  
9 frontage, along Wisconsin Ave. as well as the rear facade  
10 on the public alley running south from S Street. Next  
11 slide, please.

12 The existing condition of this building is very  
13 poor today. You can see here on the left at the back of  
14 the building where the masonry is deteriorating. And it  
15 requires significant improvement.

16 You can see on the right some of the lower roof  
17 area where you've got junk both down below and up above as  
18 well as some dilapidated mechanicals and an eroded plywood  
19 canopy.

20 As for the interior structure, it's a patchwork  
21 of temporary structural fixes which has resulted in a lot  
22 of damage from things like water intrusion and you can see  
23 the bowing of the first floor ceiling resulting from lack  
24 of structural integrity.

25 Our plan is to make significant economic

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1 investment in this to bring it up to code and make it more  
2 visually appealing and running as a good facility. Next.

3 MR. RAISIN: Hello, my name is Daniel Raisin.  
4 I'm also with the applicant. To give you a brief overview  
5 of the proposed site, it's going to be a commissary  
6 kitchen facility with 16 individually demised kitchens.

7 Those kitchens are going to be licensed out to  
8 kitchen operators and food entrepreneurs. And it's a  
9 fantastic opportunity for entrepreneurs in the food space  
10 to have a low-barrier to entry into the restaurant  
11 industry that would otherwise not be possible with a very  
12 high and cost prohibitive reality of opening a traditional  
13 brick and mortar restaurant today.

14 To get a bit into the other benefits of  
15 consolidating kitchens in one space, it's an opportunity  
16 to leverage multiple distribution channels accommodation  
17 via accommodation of online ordering platforms and direct  
18 customer ordering onsite as well as potential catering and  
19 commissary services.

20 In addition, when supplies or anything else is  
21 needed in these kitchens are ordered because there are up  
22 to 16 operators ordering from one place, that can be  
23 leveraged for economy to scale for making it much more  
24 cost effective and affordable, excuse me, for food  
25 entrepreneurs to enter into this space.

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1           In particular, that's been a massive benefit to  
2 emerging small businesses, local restaurant operators,  
3 entrepreneurs and that's primarily comprised of minority  
4 and women-owned business enterprises who aren't  
5 traditionally have the means to get into the restaurant  
6 space. Next slide, please.

7           MR. HENRY: So with regards to the physical plan,  
8 the site plan shown here will be effectively the same as  
9 what exists today. You'll have two entrances on  
10 Wisconsin, both of which exist, one for customers and one  
11 for staff.

12           We'll have the existing rear entrances. One  
13 thing of note is we'll be moving all of the trash inside  
14 to a dedicated interior trash room which is about 265  
15 square feet and on the front and back alley per  
16 discussions with DDOT.

17           And based on their direction we'll have bike  
18 parking both in the front and the back for customers and  
19 facilities there respectively. Next slide, please. In  
20 terms of the actual interior program, in the front we'll  
21 have a lobby and dining area with a pickup station.

22           On the other side of that pickup station will be  
23 the facility staff office where they'll handle orders and  
24 process incoming and outgoing goods. We'll also have a  
25 dedicated public restroom off the lobby which will be

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1 available for, you know, anyone ordering from the facility  
2 or coming in off the street.

3 Behind that there will be a couple of food prep  
4 areas as well as shared storage by the back stairwell.  
5 And then finally in the rear, the dedicated interior trash  
6 room reference in the bar slide. Next slide, please.

7 The second floor will be primarily food  
8 preparation areas along with some ancillary storage for  
9 operators up there. Next slide, please. In terms of the  
10 rooftop plan, this has been designed and firmed up in  
11 conjunction with the direction of the Old Georgetown Board  
12 as part of their conceptional approval process.

13 The majority of the mechanical systems will be  
14 clustered at the center of the rooftop thereby maximizing  
15 space from the street frontage and minimizing the visual  
16 impact the two dedicated outdoor systems.

17 The HVAC units have been located based on OGB's  
18 direction. One on the upper roof will be pushed up  
19 against the adjacent building which will provide a visual  
20 screen. The second one will be on the lower roof and for  
21 that one, we'll have a nine-foot metal mechanical screen  
22 which will provide both the visual barrier as well as  
23 sound continuation.

24 And that will sort of blend in that area with the  
25 surrounding masonry facade. Next slide, please. In terms

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1 of the actual look of the facility, the front facade will  
2 stay substantially the same or almost entirely the same as  
3 it is today again based on the direction and precision of  
4 the Old Georgetown Board.

5 We'll simply be giving them a refresh with some  
6 re-appointing and clean up to give it, you know, a fresh  
7 look but with canopies that exist today over the two  
8 entrances. And we'll be maintaining the existing windows  
9 on the storefront which will provide good connection with  
10 the street activity in the front of the facility. Next  
11 slide, please.

12 Regarding the interior front of house, we'll have  
13 the lobby and dining area with a pickup station, tablets  
14 for onsite ordering, the dedicated public restroom to the  
15 left of the pickup area as well as the seating for  
16 customers and pick up couriers. Next slide, please.

17 In terms of the rear, this will be the most  
18 material improvement to the building. We'll be  
19 effectively repairing and rebuilding the rear facade which  
20 today is more or less falling down.

21 We'll be moving all the trash inside which will  
22 substantially clean up the alleyway so we are noting the  
23 alley will not be used for incoming deliveries. We've  
24 made that decision definitely.

25 It will only be used for taking out the trash

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1 from the trash room previously referenced and as far as  
2 the lower roof mechanical, it will be screened by  
3 something akin to what's being shown here in order to  
4 create consistency with the masonry facade that we'll be  
5 repairing. Next slide, please.

6 MR. RAISIN: To give you a little bit of a feel  
7 of the management of the facility, we'll have two to three  
8 staff onsite during operating hours to make sure that the  
9 facility is run efficiently.

10 As Chuck mentioned on the previous slide, we have  
11 a dedicated interior trash room to make sure that trash is  
12 housed inside and onsite. And that's through trash  
13 receptacles that will be in that area.

14 Trash collection will happen at least three times  
15 per week. And this is something that we have discretion  
16 over that we can increase to the extent that it's needed  
17 and that's organized and facilitated by our central  
18 facilities staff.

19 In addition, with respect to any kind of concerns  
20 that might be around vermin or pests in the area, we will  
21 have, at least we provide an exterminator visits to make  
22 sure that the facility is operating to the standard that  
23 we expect it to.

24 And lastly, we've got a daily janitorial service  
25 that we offer as a service to the operators that are in

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1 our facility to make sure that their spaces are being  
2 cleaned nightly. Next slide, please.

3 To get, to shift a bit, I would like to talk a  
4 little bit about the order management. What this relates  
5 to is basically the delivery drivers that will be coming  
6 onsite to pick up food to take off-site.

7 I think everyone's probably familiar today with  
8 how this works in a traditional brick and mortar  
9 restaurant where you have Uber Eats or DoorDash drivers,  
10 for example, that will come onsite to pick up food and  
11 take it off site.

12 And this is something that the restaurant  
13 industry in particular is focusing on not only through  
14 COVID, but as another revenue strain frankly for their  
15 survival. What's different about food delivery that  
16 happens out of our facility is we have the technology to  
17 speak directly with drivers.

18 And the maximum advantage of that which  
19 traditional brick and mortars don't have is that we can  
20 time and organize when delivery drivers come onsite to  
21 pick up food, direct them exactly where to go to make sure  
22 that they are parking and loading in the right areas and  
23 to minimize the time where they're parking and coming  
24 onsite to pick up food and then leave it.

25 We've got two to three staff members that will be

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1 onsite to coordinate that hand off to make sure that it's  
2 done as efficiently as possible and the real evidence of  
3 that is statistically we've seen that drivers will come to  
4 our site on average for a couple of minutes, around 120 or  
5 180 seconds. Next slide, please.

6 MR. HENRY: Just in terms of the process that's  
7 brought us here today, we've been engaged in various forms  
8 of outreach with neighbors in the community at large over  
9 the last six-plus months really beginning in January of  
10 2022.

11 This has included both ANC Commissioners as well  
12 as local business groups reaching out directly to the  
13 adjacent neighbors on either side as well as behind the  
14 facility. Location, we've had a, you know, voluntary  
15 presentation and Q&A session that was sponsored by the ANC  
16 and Georgetown Main Street.

17 Additionally, you know, we've obviously gone  
18 through the formal ANC process as well as the Old  
19 Georgetown Board is part of this review process at large.  
20 Next slide, please.

21 MS. MILANOVICH: My name is Jami Milanovich with  
22 Wells & Associates. We're the transportation consultant  
23 for the project. You see on this slide before you the  
24 anticipated trip generation for the proposed project.

25 The top row of the table shows the total number

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1 of trips that we anticipate to be generated during each of  
2 the peak hours. That is the a.m. and p.m. weekday peak  
3 hours as well as the Saturday peak hour.

4 We do not expect that all trips will be made by  
5 automobiles. The applicant anticipates that the customer  
6 base will be within roughly two miles of the site. So we  
7 do anticipate that some trips will be made on foot,  
8 particularly carry out trips.

9 And we also anticipate some trips will be made by  
10 bicycle and you can see here we've taken some modest  
11 percentages to account for walking and biking trips. The  
12 bottom row of the table then shows the vehicular trips or  
13 the automobile trips that we anticipate during the peak  
14 hours.

15 And I would note during the a.m. peak hour, this  
16 equates to approximately one car every twelve minutes on  
17 average. During the p.m. peak hour it's roughly one car  
18 every seven minutes on average.

19 And during the Saturday peak hour, it's roughly  
20 one car every ten minutes on average. Next slide, please.  
21 I think it's important to understand that the trip  
22 generation estimates that I presented are based on real  
23 data.

24 It's data that were collected from five similar  
25 food delivery operations in urban settings. We reviewed

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1 the hourly traffic volumes throughout the day at each of  
2 those facilities to determine the busiest a.m. and the  
3 busiest p.m. peak hours.

4 So the number of peak hour trips that I presented  
5 are the peak hour for the facility, not the conventional  
6 commuter peak hour or the peak hour on Wisconsin Avenue.  
7 For example, the a.m. peak hour is expected to occur  
8 between 11:00 a.m. and noon which is well after the  
9 morning rush hour on Wisconsin Avenue.

10 The p.m. peak hour is expected to occur either  
11 between noon and 1:00 or after 6:00 p.m. Again, based on  
12 the real world data that we use to develop the trip  
13 generation rates.

14 We did not have trip generation numbers for  
15 Saturday, but we did have sales data for Saturday and when  
16 we compared Saturday peak hours sales data to weekday peak  
17 hours sales data, we found that Saturday orders were 16  
18 percent higher than the weekday.

19 And so we used that adjustment factor to estimate  
20 the trips for the Saturday peak hour. Next slide, please.  
21 We have worked over the last several months with DDOT. We  
22 had a number of meetings with both the development review  
23 team and the curbside management team at DDOT to develop  
24 this pick-up/drop-off plan.

25 So the applicant in coordination with DDOT

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1 proposes to establish a pick-up/drop-off zone either along  
2 the site frontage on Wisconsin Avenue or S Street West of,  
3 I should say public alley, not private alley.

4 Our preference is to have the pick-up/drop-off  
5 zone on Wisconsin Avenue. The food service delivery  
6 drivers may also use the existing commercial loading zone  
7 on Wisconsin Avenue when it's not in use by commercial  
8 vehicles.

9 As you heard previously, the applicant will  
10 provide directions and can communicate directly with the  
11 food service delivery drivers that will provide directions  
12 to the pick-up/drop-off location via the online food order  
13 and website.

14 And the applicant is proposing eight short-term  
15 bicycle parking spaces along the frontage on Wisconsin  
16 Avenue to help facilitate bicycle trips to and from the  
17 site. Next slide, please.

18 You can see here the proposed pick-up,/drop-off  
19 zone, our site is bordered with the red dash line, the  
20 dark blue 40-foot zone would be the pick-up/drop-off zone.  
21 DDOT has indicated that 40 feet would be the maximum pick-  
22 up/drop-off zone length.

23 When you lay out the remaining space, we end up  
24 with an extra five feet of curb side space and since 40  
25 feet was the maximum pick-up/drop-off zone, we anticipate

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1 giving that extra five feet to the commercial loading zone  
2 increasing that from 53 feet to 58 feet.

3 And you can see at the top of the graphic in  
4 light blue, the 40 foot pick-up/drop-off zone. That's our  
5 second option should DDOT decide not to do a pick-up/drop-  
6 off zone on Wisconsin Avenue.

7 You can see the pick-up/drop-off zone on S Street  
8 there in the light blue. Next slide, please. We also  
9 work with DDOT on developing a loading management plan.  
10 You can see the components of that indicated here.

11 I do want to note that last item that's  
12 underlined in red, the original loading management plan  
13 allowed for 20-foot vans or smaller vehicles to use the  
14 public alley at the rear of the property because there was  
15 sufficient room for them to turn around.

16 However, based on concerns raised by neighbors,  
17 we have agreed to eliminate that from the loading  
18 management plan and require those vans and smaller  
19 vehicles to also use the commercial loading zone on  
20 Wisconsin Avenue.

21 So the only traffic using the alley associated  
22 with this project will be the trash pickup which is  
23 already happening in the alley as well as bicycle traffic,  
24 you know, employees who choose to bike to work that are  
25 making use of the bike parking that's proposed to the rear

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1 of the building. Next slide, please.

2 We also worked with DDOT on a transportation  
3 management plan. Again, you can see the strategies listed  
4 here. And these strategies were developed to help reduce  
5 the amount of vehicular traffic generated by employees or  
6 staff of the site. Next slide, please.

7 So, to conclude, I just want to reiterate that  
8 the applicant has agreed to all of the conditions listed  
9 in DDOT's report to mitigate the impacts of the project  
10 with the one caveat being the additional restriction on  
11 the loading management plan so we're making it actually  
12 more restrictive than what DDOT had requested.

13 And we find that with the implementation of the  
14 pick-up/drop-off plan, the loading management plan, and  
15 the transportation management plan, the traffic generated  
16 by the project would be well managed and no significant or  
17 adverse impact would be anticipated.

18 And with that, I'll turn it over to Cary to wrap  
19 things up.

20 MR. KADLECEK: Thank you, Jamie.

21 BZA CHAIR HILL: Ms. Milanovich, hey, just real  
22 quick. That one you're referencing the new DDOT report.  
23 Right? In Exhibit, is that the one in 34?

24 MS. MILANOVICH: So the new DDOT report simply  
25 clarified a discrepancy in the length of the pick-up/drop-

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1 off zone. The caveat that I was referring to was that the  
2 original loading management plan would have allowed the  
3 applicant to have vans deliver via the alley to the rear  
4 of the property.

5 But because of concerns raised by neighbors,  
6 they've agreed to require those vans to use the commercial  
7 loading zone on Wisconsin Avenue rather than the rear  
8 alley.

9 BZA CHAIR HILL: Right so where is --

10 MS. MILANOVICH: It was trying to limit the  
11 amount of traffic in the alley.

12 BZA CHAIR HILL: I got you. So where is that  
13 mentioned? What he just said? Like that, I'm just trying  
14 to understand. Like you've changed DDOT's --

15 MS. MILANOVICH: Right, so this just came up  
16 within the last day or so. So that's not documented in  
17 the DDOT report or in any of our filings.

18 BZA CHAIR HILL: Got it. Okay. All right.  
19 Thanks. Okay, please continue, Mr. Kadlecek.

20 MR. KADLECEK: Sure. I just want to wrap up  
21 quickly with respect to the satisfaction of the standards  
22 just for the record. So I want to just describe briefly  
23 how the application satisfies the standards first for the  
24 use as set forth in U 513.1E.

25 Sections 1., Subsections 1.3 are not applicable

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1 in this situation under Subsection 4 for the reason that  
2 you heard about the inference to the building, the  
3 extensive coordinated conditions committed to by the  
4 applicant, the proposed use will not become objectionable  
5 with regard to noise, sounds or light and hours of  
6 operation.

7 And I just want to underscore that. That, you  
8 know, certainly there's no standard that there's zero  
9 impact from this. What we're proffering is that the  
10 operations and the conditions will mitigate any adverse  
11 impacts so as to not become objectionable.

12 As similarly with Subsections 5 and 6 as  
13 described in particular around Ms. Milanovich. There's  
14 been extensive study and analysis with respect to the  
15 parking and then working with DDOT to come up with a plan  
16 that will manage parking and delivery operations as  
17 efficiently as possible.

18 I want to underscore what Mr. Raisin said about,  
19 first about deliveries of supplies to the site that are  
20 together. It's not 16 individual businesses operating.  
21 They're all operating under the umbrella of this one  
22 organization so deliveries to the site are all being  
23 consolidated so that they're all getting off at the same  
24 time.

25 And similarly, as Mr. Raisin described, the

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1 pickup and deliveries are also being consolidated and  
2 batched sufficiently so that there's a limited number of  
3 drivers who are coming to the site. So again, I wanted to  
4 be clear, this is not 16 individual restaurants.

5           It is one operation that is well organized and  
6 well-coordinated so that all adverse impacts with respect  
7 to parking and loading are minimized to a significant  
8 amount. Finally, with respect to the conditions, those  
9 are the ones that we've committed to both that are  
10 proffered by DDOT and OP.

11           Plus the addition that Ms. Milanovich just spoke  
12 of which is no deliveries will occur in the alley so I  
13 want to underscore that again. There will be no activity  
14 in the alley, other than trash pickup which is already  
15 occurring for the other businesses and the residences on  
16 the alley.

17           And then finally, with regard to the special  
18 exception standards, as the Board knows, the food delivery  
19 service is deemed compatible with the zone given that it  
20 is a special exception provided the standards are met  
21 which we just articulated.

22           And then finally, with respect -- to the next  
23 slide, please. I just want to briefly overview the  
24 rooftop structure relief and setback requirement relief  
25 just for the record.

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1           As Mr. Henry explained, the roof plan satisfies  
2 the standards for relief here because of the OGB process,  
3 the roof plan has resulted in one that's less visually  
4 intrusive and less impactful by splitting them and not  
5 having a conforming condition.

6           So with that, we conclude our presentation and we  
7 are available to answer questions. Mr. Young, you can  
8 just go to the last slide. Thank you.

9           BZA CHAIR HILL: Okay. Actually, Mr. Young, if  
10 you want to just go ahead and drop the slide, okay, you're  
11 doing that. All right. Does anybody have, let me do this  
12 and if it's okay with the Board, I'm going to, we have  
13 kind of a really long day.

14           I'm just realizing again so I'm going to try to  
15 work through this a little bit. Let me hold our questions  
16 until kind of the end and then kind of figure it out with  
17 everybody.

18           Mr. Overmyer, do you have any questions of the  
19 applicant and, or would you like to maybe give your  
20 presentation? What would you like to do?

21           MR. OVERMYER: I have no questions for the  
22 applicant, but I am prepared to give a presentation.

23           BZA CHAIR HILL: Okay, great. Go ahead, Mr.  
24 Overmyer.

25           MR. OVERMYER: All right. Well, first of all, I

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1 want to thank you and the Board for granting party status  
2 and sorry about the lateness on it, but I do appreciate  
3 that. Mr. Young, is it possible to put forward the first  
4 image? I believe we have the same images.

5 BZA CHAIR HILL: What do you got there, Mr.  
6 Overmyer? Is there a particular exhibit?

7 MR. OVERMYER: Yes, we just have the one. And I  
8 think there were about a dozen images.

9 BZA CHAIR HILL: Mr. Young, you know which  
10 exhibit that is? In fact, --

11 MR. OVERMYER: No, it's not that one, it's the  
12 other package. Not that one.

13 MR. YOUNG: Sir, I think it may be Exhibit 47B.

14 BZA CHAIR HILL: 47B?

15 MR. YOUNG: Yes, Mr. Chair. That would be the  
16 exhibit with --

17 BZA CHAIR HILL: No, no, no, that's great. I  
18 think that's right.

19 MR. OVERMYER: Starts with a map and the second  
20 picture is a picture of a house.

21 MR. YOUNG: Yes, that's 47B.

22 BZA CHAIR HILL: I got it pulled up. It's a cute  
23 house, Mr. Overmyer. Did it burn down? It burned down?

24 MR. OVERMYER: It did and we've been rebuilding  
25 it. Yes.

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1 BZA CHAIR HILL: All right, well, okay. All  
2 right.

3 MR. OVERMYER: All right. Okay, so.

4 BZA CHAIR HILL: Well I guess they're still  
5 pulling it up.

6 MR. OVERMYER: Okay.

7 BZA CHAIR HILL: It's all right. Mr. Young, can  
8 you --?

9 MR. YOUNG: Yes, I've got it. Sorry.

10 BZA CHAIR HILL: Oh, that's all right. I just  
11 didn't, I didn't know if I lost you.

12 MR. OVERMYER: Yes.

13 BZA CHAIR HILL: All right, Mr. Overmyer, you can  
14 go ahead and walk us through.

15 MR. OVERMYER: All right. Thank you for that.  
16 Appreciate it. So I'm Dale Overmyer. I live at 3264 S  
17 Street NW which is the residential property that's  
18 immediately behind 1721 across a six-foot alley.

19 I've lived there for seven years with my family.  
20 Slide number 2 please. Shows our house. We've done a lot  
21 of building there, made a big investment. Had a big fire,  
22 are reinvesting in it so we are very invested there. Next  
23 slide, please.

24 All right. Here is the rear of our house and you  
25 can see just across the alley is the subject property.

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1 When we opened our gate to the alley, we see the back of  
2 1721. When I first heard about this, I was optimistic  
3 about a new business that the only does pizza site and  
4 I've really carefully considered this.

5 And while I remain hopeful that a new business  
6 can thrive there, the more I study this proposed use, the  
7 more reasons I find to object. As the applicant  
8 mentioned, there are standards and the standards reference  
9 that this should be designed and operated so as not to  
10 become objectionable to the neighboring properties because  
11 of noise, sounds, odors, lights and hours of operation.

12 Those are all things that are going to matter and  
13 that are going to be greatly compromised by this.  
14 Currently, I tell people that after 9:30 p.m. when the  
15 lights go off at the Jelleff field across the street, our  
16 block becomes the quietest in Georgetown, both  
17 acoustically and visually.

18 The local restaurants shut down at 10:00 p.m.  
19 Commuter traffic fades and the alley behind us disappears  
20 into the dark. But now, that all could change. They're  
21 proposing replacing a restaurant with an industrial 16  
22 commercial kitchen complex servicing hundreds of  
23 deliveries an hour, operating at least until 2:00 a.m.  
24 Image 4 please.

25 I have no doubt that this will mean unprecedented

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1 new activity in the alley including a constant stream of  
2 lights, noise from people, bikes, motorbikes, cars and  
3 trucks into the wee hours of not just some nights, but  
4 every night until 2:00 a.m.

5           Then every morning, because with 16 different  
6 kitchens, there's potentially no down time, the service  
7 deliveries will begin. And despite what's been  
8 represented, there's a relentless amount of garbage  
9 potential that could be delivered, they said at least  
10 three times a week.

11           It could be delivered much more often. And what  
12 about all of the deliveries that serve the restaurants,  
13 the fresh food, all of those things that come in. Given  
14 that there's no room to turn around in the alley, we're  
15 going to have to listen to the beeping of all those trucks  
16 as they reverse their way out of the alley.

17           I should also point out that my garage is located  
18 immediately opposite 1721 and it only takes one vehicle in  
19 that alley to completely clog up our ability to exit and  
20 enter that garage.

21           Shifting a little bit more to the public area  
22 around it and how not just I'm affected, but how everybody  
23 else is affected, I want to focus on the traffic problem,  
24 the problem that already exists and how this is going to  
25 get much worse.

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1           It's important to remember that for this business  
2 to remain viable, hundreds of deliveries an hour have to  
3 happen over many long hours. They presented a graphic  
4 that suggested 25 deliveries an hour during peak use and  
5 I'm wondering if, is that per 16, for each restaurant?

6           So is that multiplied by 16? It's hard to  
7 imagine that 16 vendors could only, could deliver less  
8 than two deliveries an hour so I'm thinking that it's 16  
9 times 25 which is 400.

10           That's, at any rate, I can't imagine this is  
11 going to happen with less than hundreds of deliveries  
12 during the prime times. One important question to ask  
13 yourself as the Board is, who's going to bear the burden  
14 when a large-scale delivery operation doesn't have a  
15 single parking space?

16           They, it just referencing again the standards for  
17 food delivery services under the special exception. It  
18 says that the use shall provide sufficient off street  
19 parking. This property doesn't have any off-street  
20 parking whatsoever.

21           And I'm not sure what the requirement is on that,  
22 but that's another serious question that I have. If it  
23 says here that it's supposed to provided sufficient off-  
24 street parking, where is it?

25           The solution has been presented to you requires a

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1 pick-up and a drop-off zone. Actually, two of those  
2 zones, each 40 feet. So that's a total of 80 feet that's  
3 going to be subtracted from public use for the specific  
4 use of this one vendor.

5 I don't think that the surrounding businesses are  
6 aware of this and I wasn't aware of this until just now.  
7 You know, me and my guests park on the street as well and  
8 that's a big subtraction from where these, what's already  
9 considered public parking.

10 So let's talk about bicycle parking. That would  
11 be Slide No. 5. So I want to point out that the sidewalk  
12 along this part of Wisconsin Avenue narrows down from 16  
13 feet wide a block north to only 10 feet wide.

14 Sixteen feet wide is the standard of even all of  
15 the residential streets in Georgetown. We know that it's  
16 a busy pedestrian thoroughfare here. It's only ten feet  
17 wide and this is where they're proposing to put bicycles.

18 There's some architectural features, there's a  
19 parking ticket kiosk, there's a tree planter which is five  
20 feet wide that yields only five feet of remaining space.  
21 So this is already a crowded area immediately in front of  
22 the venue.

23 And they're proposing to load a bunch more parked  
24 cars there which is only going to further compound what's  
25 already a pinch point on the sidewalk. Then we get to

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1 delivered cars and trucks which pose a much greater  
2 problem to even more people.

3 Those big vehicles have only one designated  
4 commercial loadings area. Image No. 6 please. It's 54  
5 feet long, just enough for two cars and one large truck.  
6 Image No. 7 please.

7 All right, as you can see, there aren't any other  
8 commercial loading zones in the immediate vicinity.  
9 That's the one and only. And while it's conveniently  
10 located just in front of the applicant, what's not so  
11 convenient is that at 4:00 p.m., the beginning of when I  
12 imagine the peak food delivery business would begin, the  
13 loading zone disappears for the rest of the day. Image  
14 No. 8 please.

15 And, in fact, there's no parking or standing  
16 allowed along that entire side of Wisconsin Avenue for the  
17 next two and a half hours until 6:30 p.m. which nullifies  
18 vehicle pickups during dinner time.

19 And that's, that part in front of 1721, that  
20 whole stretch between 4:00 and 6:30 p.m. shuts down that  
21 lane so that Wisconsin Avenue rush hour traffic can move  
22 up the hill with two lanes.

23 So no parking happens there during that time for  
24 delivery or anything. There's no parking, no standing.  
25 After 6:30 p.m. delivery vehicles still have to compete

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1 for parking spots along that entire stretch.

2 And again, they can propose a pick-up/drop-off  
3 zone, but I'm not sure about the process of that, but I  
4 can imagine there'd be a lot of push back from a lot of  
5 different people.

6 Maybe they'll get lucky and find a parking space  
7 after 6:30 and maybe they won't. The Board should note  
8 that when parking is allowed after 6:30 p.m., there's only  
9 one remaining lane northbound on Wisconsin Avenue.

10 So any double-parked delivery car would stop all  
11 northbound traffic. And I just want to point out one of  
12 the very important parts of their business involves  
13 hundreds of separate free agent delivery people.

14 While they may have a process for communicating  
15 with some of those people, they don't have a process for  
16 controlling or truly managing these free agents. And it's  
17 not so much what's happening in the building, it's what's  
18 happening outside the building that is the greatest  
19 concern because that's not something that's under the  
20 direct control of the occupant and owner of this business.

21 So one of the suggestions to help that the  
22 applicant has made is to create more parking and more use  
23 of S Street right around the corner. You can imagine a  
24 car coming up Wisconsin Avenue not finding parking and  
25 having to turn the corner right onto S Street.

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1           The diagram shown that I'm showing here is  
2 showing in orange where there's already designated parking  
3 at which point many cars are often parked all the time.  
4 The little triangles show a series of intersections or  
5 places where there's either, you know, a curb cut of some  
6 kind.

7           Those are areas where you certainly wouldn't want  
8 to have a car parked even temporarily as it would create a  
9 lot of issue.

10           BZA CHAIR HILL: Hey, Mr. Overmyer?

11           MR. OVERMYER: Yes.

12           BZA CHAIR HILL: Just so I'm, just so you know, I  
13 mean, you're getting kind of close to, excuse me, you're  
14 getting kind of close to the 15 minutes.

15           MR. OVERMYER: Okay.

16           BZA CHAIR HILL: And then we're going to, I know  
17 you've got a couple of more slides left.

18           MR. OVERMYER: Okay.

19           BZA CHAIR HILL: And I know we're going to talk  
20 about a lot of stuff.

21           MR. OVERMYER: Okay.

22           BZA CHAIR HILL: So I'm just letting you know.

23           MR. OVERMYER: All right. Let's race through  
24 those. Basically, I looked at the traffic thing. It's  
25 important to note that S Street, R Street, Q Street and P

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1 Street are cut-throughs to get across the P and Q Street  
2 sides.

3 S Street is absolutely unique in that it's one of  
4 the narrow streets at three feet wide. And it has parking  
5 on both sides of the street. It's very vulnerable and  
6 there are many little traffic jams every day.

7 R Street is five feet wide. Q Street and P  
8 Street have parking only on one side of the Street. So S  
9 Street incredibly vulnerable. And this is only going to  
10 create more issues there. Next slide, please.

11 Something that everybody should know about is  
12 that there are three large new projects and institutions  
13 that are going to increase while there's only half a dozen  
14 residences on S Street, the opposite side of the street is  
15 going to have a large new commercial condominium building  
16 on the corner with 40 residences and 20 parking places.

17 Jelleff is about to expand with a \$28 million  
18 expansion with, they're already at 60 cars. Dumbarton  
19 Oaks is looking at 63 parking places and an expansion of  
20 15,000 square feet new.

21 All three of these projects are coming along and  
22 there's going to be a tremendous amount of construction  
23 going on this block over the next two to three years. I  
24 want to just say that because of Jelleff, we've got a lot  
25 of children scurrying to and from Jelleff to Anna Banana's

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1 Art School which is there right around the corner on S  
2 Street and to the Corner Bakery. Add in a few hundred  
3 delivery drivers looking for swift parking spots and  
4 you've got a dangerous environment. It will happen every  
5 day. Just want to say that Georgetown's a historic  
6 village best explored on foot.

7 It's a place with attractive shops, interesting  
8 restaurants, galleries and experience behind each facade.  
9 The proposal before you suggests a change of use exchange  
10 as a restaurant for basically a faceless food factory.

11 This is an unfortunate trade off that may have  
12 seemed acceptable during COVID, but even the local  
13 president of the Glover Park Ghost Kitchen, Ghostline,  
14 proves otherwise. It's a very similar business  
15 enterprise.

16 The Ghostline could not find its footing even in  
17 a time when most restaurants were nonfunctioning. And it  
18 closed last summer almost as quickly as it opened. In  
19 conclusion, I do remain open minded that there may be a  
20 good place for commercial delivery kitchen concept, but  
21 1721 Wisconsin Avenue is not that place.

22 This is a business that relies on a super  
23 concentration of kitchens and deliveries. Normally,  
24 that's spread out with one kitchen behind each store  
25 front, but here they're concentrating that 16 fold into

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1 one spot and they're relying on the surrounding  
2 neighborhood to absorb all their parking and delivery  
3 problems for them.

4 It's not just what's inside the building, it's  
5 what happens outside that's out of their control that  
6 concerns us the most. I would request that the Board deny  
7 the special exception or at the very least, consider  
8 significant adjustments to the use and operation of this  
9 venture. Thank you.

10 BZA CHAIR HILL: All right. Thanks, Mr.  
11 Overmyer. If you could drop the slide deck, Mr. Young.  
12 Okay, let me do this again. Just because I'm trying to,  
13 if I could just hear from the Office of Planning next.

14 And then we'll take questions and everything and,  
15 Mr. Kadlecek, you as well and, Mr. Overmyer.

16 MS. VITALE: Yes. Good afternoon, Mr. Chair and  
17 Members of the Board. Elisa Vitale with the Office of  
18 Planning. The Office of Planning is recommending approval  
19 of the requested special exception relief for a food  
20 delivery service use pursuant to 513.1E and Subtitle U.

21 And OP is also recommending approval of the  
22 requested special exception relief from the penthouse at  
23 rooftop structure requirements. This would be both for  
24 the relief from the requirement for both items to be in  
25 one enclosure and then also for relief from the setback

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1 requirements.

2           The Office of Planning did recommend conditions  
3 that were consistent with the applicant's proposal that  
4 would, you know, restrict the hours of operation to those  
5 proposed which were 11:00 a.m. to 2:00 a.m. daily, that  
6 garbage or end recycling would be collected a minimum of  
7 three days per week and that deliveries should be limited  
8 to a window of 7:00 a.m. to 3:00 p.m.

9           With respect to the particular review criteria  
10 for the special exception use, the fast food or food  
11 delivery service used the first criteria as that it's in a  
12 single tenant detached building which is not applicable  
13 since this a row building.

14           The second item is that a refuse dumpster would  
15 be housed in a three-sided enclosure. As you've heard  
16 from the applicant, they are proposing to store all refuse  
17 within the building so they would not be using an exterior  
18 dumpster so criteria two would not be applicable.

19           Criteria three relates to a drive through. And  
20 again, the applicant's not proposing a drive through.  
21 Criteria number four is the one that I think we've heard  
22 the most about today.

23           And that is that the use shall be designed and  
24 operated so as not to become objectionable to neighboring  
25 properties because of noise, sounds, odors, lights, hours

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1 of operation.

2 Under other conditions, this is a commercial  
3 block on Wisconsin Avenue. This is a mixed use zoned  
4 property. There are other certainly restaurant uses in  
5 the area. There are other uses that are open for extended  
6 hours including the Safeway Storage just to the north.

7 The applicant is proposing improvements to the  
8 building including new, you know, mechanical equipment  
9 that should hopefully reduce noise and odor impacts to  
10 adjoining properties.

11 The applicant is proposing to limit the lighting.  
12 It would be downlighting on the front facade and then any  
13 lighting along the rear facade at the alley would also be  
14 directed downward, and would be minimal, really, just to  
15 provide elimination for that rear alley door.

16 You know, we did recommend conditions related to  
17 trash collection and deliveries. Again, that should  
18 mitigate any potential impacts with respect to, you know,  
19 odors or other conditions that could be potentially  
20 objectionable to neighboring properties.

21 Criteria number five has to do with off-street  
22 parking. The use has to provide the required parking per  
23 Subtitle C, Chapter 7. This property is not required to  
24 provide any off-street parking.

25 So the applicant, has of course, proposed bike

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1 parking and there is an extensive District Department of  
2 Transportation memo that OP would rely on with respect to  
3 traffic and parking impacts.

4 They are proposing conditions that you've heard  
5 from the applicant. They agree to that include a  
6 transportation demand management plan for the property as  
7 well as a loading management plan.

8 Criteria number six, you know, again has to do  
9 with dangerous or otherwise objectionable traffic  
10 conditions. As you've heard, the applicant has been  
11 working with DDOT and DDOT is recommending very specific  
12 TDM and loading management plan language in its memo that  
13 the applicant has agreed to.

14 Criteria number seven, this relates to potential  
15 conditions that the Board could recommend or require of  
16 the applicant. Again, OP had indicated that it would be  
17 appropriate to limit the hours of operation, require  
18 regular trash collection, and then limit the delivery  
19 window for the property.

20 That, that's the analysis of the criteria that  
21 relates specifically to the special exception for the food  
22 deliveries. The relief from the penthouse requirements  
23 generally I can run through these in detail or keep it  
24 short.

25 I know you have a long day today. The applicant

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1 is proposing air intake units on the roof. There are two  
2 roof levels as you saw in the applicant's presentation and  
3 as outlined in the plans provided in the record.

4 On the upper roof, the applicant is proposing to  
5 not enclose beyond rooftop mechanicals. On the lower  
6 roof, the applicant is proposing to enclose and screen the  
7 rooftop mechanicals and that screening would be at the  
8 rear edge of the building so it does not need the setback.

9 Basically relief is available from the penthouse  
10 requirements if it results, there are a number of  
11 criteria. You just have to meet one. In this instance,  
12 the applicant indicates that it would result in a better  
13 design.

14 And so we believe they meet that criteria. The  
15 solution for the rooftop screening and location of units  
16 was arrived at through conversations with Old Georgetown  
17 Board. So we believe that from a design perspective, that  
18 the, you know, overall massing and appearance of the  
19 rooftop structures would be minimized based on the  
20 proposed solution and that based on, you know, just the  
21 size of the building and limits in terms of overall  
22 rooftop area.

23 It makes sense to push that screening to the rear  
24 wall. And, with that, I will speak briefly to the general  
25 special exception criteria and then I'll conclude my

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1 report. Again as stated, this is a mixed-use zone.

2 It anticipates a mix of uses providing facilities  
3 for shopping and business needs. It would serve the  
4 surrounding neighborhood. The food delivery service use  
5 is contemplated as a special exception.

6 We believe the applicant has met the criteria of  
7 U 513.1. Again, for the penthouse and rooftop structure  
8 relief that as well as the special exception, we believe  
9 that the proposed design would reduce the visibility,  
10 result in a visually more pleasing solution and believe  
11 that the special exception request would be in harmony  
12 with the purpose and intent of the zoning regulations.

13 Criteria B has to do with adverse impacts. And  
14 again, based on the proposed conditions, the  
15 recommendations of DDOT with respect to TDM measures and  
16 the loading management plan, we believe that the relief  
17 requested if granted, should not adversely affect the  
18 neighboring properties.

19 And with that, I will stop there. That concludes  
20 my report. Sorry for the lengthy testimony.

21 BZA CHAIR HILL: No, thanks, Ms. Vitale. I  
22 didn't know where to stop you. I also wanted to hear.

23 MS. VITALE: Sorry.

24 BZA CHAIR HILL: It's okay.

25 MS. VITALE: I just kept going.

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1           BZA CHAIR HILL: No, there's a lot of stuff in  
2 the report. And so, okay, all right. Let me do this now.  
3 I'm going to look at my -- I'm going to work backward.  
4 Mr. Kadlecek, do you have any questions for the Office of  
5 Planning or the party in opposition?

6           MR. KADLECEK: No questions, thank you.

7           CHAIR HILL: Got it. Mr. Overmyer, do you have  
8 any questions for the Office of Planning?

9           MR. OVERMYER: I'm curious about the process  
10 for the pick-up/drop-off. But that's perhaps a procedural  
11 thing. How do they, you know, how likely is it that they  
12 can even get this allowance.

13          CHAIR HILL: That's okay. Mr. Overmyer, what's  
14 your question? I don't mind, I'm just trying to  
15 understand.

16          MR. OVERMYER: The question is, do they have 80  
17 feet designated for parking or not? And if not, what's  
18 the process for that to happen?

19          CHAIR HILL: Ms. Vitale, do you know or is that  
20 not you guys?

21          MS. VITALE: That would not be an Office of  
22 Planning issue. That would be District Department of  
23 Transportation and I know DDOT does manage designation of  
24 PUDOs, you know, pick-up/drop-off areas and the signing  
25 for that. I know the DDOT memo indicates that, you know,

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1 there would be additional refinements through any public  
2 space review process that would also have to occur as part  
3 of the, you know, the permitting and review of this  
4 project. But I would certainly defer to DDOT on the  
5 specifics of --

6 CHAIR HILL: Okay. Okay. Okay.

7 MS. VITALE: -- space of the --

8 CHAIR HILL: Mr. Overmyer, have you got another  
9 one for Office of Planning?

10 MR. OVERMYER: No further questions, thanks.

11 CHAIR HILL: Okay. Thanks, Mr. Overmyer. I  
12 mean, Mr. Overmyer we understand what your concerns are  
13 and obviously trying to figure it out, you know, what  
14 we're going to do about it, I guess.

15 Let's see, does the Board -- now I'm turning to  
16 the Board. Who would like to ask anything of anybody?  
17 And just raise your hand and I'll start going through it.

18 I've got, okay, first -- I'm sorry, I saw Vice  
19 Chair John first. So, Vice Chair John?

20 VICE CHAIR JOHN: This is for the applicants.  
21 So how will pick-up and drop-off be handled during rush  
22 hour on Wisconsin Avenue assuming that that's where the  
23 pick-up and drop-off is located?

24 MR. RAISIN: Thank you for the question. The  
25 benefit that we have with respect to the drop-offs of any

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1 kind of supplies to the operators in the facility is it  
2 can be intentionally and purposefully scheduled around  
3 rush hour. We do not have to make any drop-offs of  
4 supplies during rush hour at all and it will be designed  
5 that way to make sure we minimize any kind of impact on  
6 traffic during rush hour.

7 VICE CHAIR JOHN: So I was speaking in  
8 particular about the Uber, not Uber, Uber Eats and the  
9 delivery services. Where would they park to pick up their  
10 orders during rush hour?

11 MR. RAISIN: So it might make most sense to  
12 show that illustration again where it designated the areas  
13 in the front of Wisconsin. But rush hour, as it's  
14 described as 4:30 to 6:30, where there's no drop-off  
15 allowed on Wisconsin, that's not our peak rush hour. Our  
16 peak rush hour is actually after that time, so they don't  
17 coincide together.

18 VICE CHAIR JOHN: Okay. So I'm very familiar  
19 with that block. There is no parking and, you know, it's  
20 really very easy to get a ticket there even with a Zone 2  
21 parking permit. So that's what my main question is. I  
22 believe there's no parking after either three or four  
23 o'clock. So I just don't know how that part of it would  
24 work.

25 And so my following question is, have you

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1 considered maybe leasing space close-by for your, you  
2 know, delivery, well for pick-up? Temporary parking just  
3 to pick up orders.

4 MR. RAISIN: What I'd like to do is just  
5 introduce Jami to speak to that specific question about  
6 parking at those hours. Jami, I believe -- can you chime  
7 in with respect to when parking would be allowed at the  
8 hours that Ms. John is speaking to?

9 MS. MILANOVICH: Sure. So yes, you're  
10 absolutely correct. Wisconsin Avenue is a rush hour  
11 street which means parking is not permitted between 4:00  
12 p.m. and 6:30 p.m. We actually had originally proposed  
13 two pick-up/drop-off zones, one on Wisconsin Avenue and  
14 then one on S Street just from 4:00 to 6:30 p.m. DDOT  
15 actually advised us that we could not have both.

16 So we envision that during the 4:00 to 6:30  
17 window, those food delivery pick-ups would occur just like  
18 typical ride hailing pick-ups occur all along Wisconsin  
19 Avenue and throughout the city today. The difference  
20 being that here, because of the management aspect that you  
21 heard Chuck and Daniel speak to in our presentation  
22 earlier, they really are able to manage those in an  
23 efficient operation so that the dwell time is very short,  
24 shorter than a typical traditional ride hailing service.  
25 So those dwell times are about a minute and a half.

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1           Also keep in mind, you know, when we look at  
2 the data from those other five similar sights. When we  
3 look at that 4:00 to 6:30 window, we're talking about an  
4 average one car every eight and a half minutes. So it's a  
5 very infrequent type of pick-up and the dwell times are  
6 very short.

7           I'll let the applicant speak to their efforts  
8 on looking at potential off-site parking nearby.

9           VICE CHAIR JOHN:       So there's just one more  
10 follow-up question. I believe someone mentioned, maybe  
11 Mr. Overmyer wanted to know if the expectation that there  
12 will be, I believe, one delivery or one pick-up per  
13 kitchen. So would it be 16 pick-ups per hour in peak rush  
14 hour? And I'll just give you an example of my local  
15 Sweetgreen, that the traffic that goes through there is  
16 just amazing. And so I really don't understand how this  
17 will work on Wisconsin Avenue or even with that area on S  
18 Street which will be, as Mr. Overmyer testified, another  
19 complication because of Jelleff and all of that.

20           I don't think Safeway factors into this because  
21 Safeway is a way off, and they have their own private  
22 parking. So those are my reservations. If anyone can  
23 answer them, that would be great.

24           MS. MILANOVICH: Yeah, so --

25           MR. KADLECEK: Can you speak just to the

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1 batching nature of that? Because it seems like there's  
2 some confusion about the notion of the 16 versus how many  
3 deliveries are happening. So can you maybe help clarify  
4 exactly why there aren't actually that many pick-ups  
5 because of the nature of your operation? Is that  
6 different from something like Sweetgreen?

7 MR. RAISIN: I'd be happy to. So to take a  
8 step back and look at it just from the numbers, and then  
9 I'll answer that directly. When our slide said that  
10 during peak hour, which again is not during traditional  
11 rush hour, but during our peak hour, there's going to be  
12 25 orders or trips out per hour. That is accurate, it's  
13 not multiplied by 16. That number is as it stands.

14 And the reason for that is a few different  
15 factors. The most important one though, that Cary  
16 mentioned is what our technology allows us to do is to  
17 coordinate the pick-up of the orders. So in a traditional  
18 brick and mortar, Ms. John as you describe, is like a  
19 Sweetgreen. When you have a delivery driver pulling up to  
20 a Sweetgreen, that delivery driver will pull up, walk  
21 inside, pick-up one order and leave. Because Sweetgreen  
22 doesn't have the technology, first of all, to tell the  
23 driver when to come. So the driver's parking and standing  
24 around until the order is ready. And then when he picks  
25 up, or she picks up the order, they leave.

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1           What's different about our facility is if, for  
2 example, there are two or three or four orders that are  
3 ready when a delivery driver pulls up, what we are able to  
4 do, is to batch those orders together and hand-off four  
5 orders to one driver, essentially making it four-times  
6 more efficient than one driver that's going to a  
7 traditional brick and mortar. So the result of that is  
8 the massive efficiency you get with less drivers in  
9 actually dealing with more volume.

10           Now the interesting kind of, compounded effect  
11 of that is that we are also able to tell that driver  
12 exactly when to come. So that driver can pull up when  
13 those orders are ready to be collected, get out of his or  
14 her car, we have a staff-member that picks up those four  
15 bags, hands it the driver, and that's what allows for a  
16 one to two minute waiting period.

17           So at the end of the day, it's incomparable to  
18 what traditional brick and mortar is doing with delivery.  
19 That's also why we're an attractive proposition to food  
20 operators because frankly that's not working very well.  
21 We've developed a business and technology that maximizes  
22 the efficiency of food delivery. To make sure that one  
23 driver can actually accomplish four, five times more than  
24 what a driver can in a traditional brick and mortar  
25 setting.

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1 VICE CHAIR JOHN: Okay. I'll pause and let my  
2 other Board members ask their questions.

3 MR. RAISIN: Thank you.

4 CHAIR HILL: Mr. Blake.

5 MEMBER BLAKE: You asked me to clarify what  
6 you're saying. So essentially during the rush hour  
7 period, you'll just block the street is what you're  
8 saying. I think that's -- it's not that -- there's no  
9 actual plan, you'll just block the street a little bit for  
10 a minute or so is what you're saying, right?

11 MR. RAISIN: That's not exactly what we're  
12 saying, but I may not be answering it clearly. So Jami,  
13 do you mind just -- because perhaps you can provide a bit  
14 more of a crisp response there?

15 MS. MILANOVICH: There's parking available, or  
16 space available at the curb during that window, that's  
17 where the drivers would park. You know, they've got both  
18 sides of Wisconsin Avenue with parking, S Street has  
19 parking. So, you know, again, I, you know, compare it to,  
20 sort of, the typical ride hailing trips where, you know,  
21 they don't usually block the traveling, if they can find a  
22 spot on the curb to pull off that's what they do. And so  
23 that's how we envision the 4:00 to 6:30.

24 MEMBER BLAKE: And during rush hour though, I  
25 thought Wisconsin Avenue was, there was not -- the parking

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1 area was not available. You're saying it is?

2 MS. MILANOVICH: I'm sorry. On our side of the  
3 street, parking is not available on our side of the  
4 street. On the opposite side of the street it is, and on  
5 S Street.

6 MEMBER BLAKE: So they would be required to go  
7 to the other side of the street and locate parking to come  
8 in and get the -- excuse me?

9 MR. RAISIN: I don't mean to interrupt you. I  
10 just want to make something perfectly clear. In no way  
11 are we going to have our drivers being blocking streets or  
12 parking on the curb when they're not allowed to.

13 What's going to happen, is during the times  
14 where parking on Wisconsin during rush hour on our side of  
15 the street is not allowed, that will be part of the  
16 message that goes out from our facility to the driver  
17 making sure that they're aware of where they're allowed to  
18 park and where they're not allowed to park. And they will  
19 only be directed to park in those areas on the other side  
20 of Wisconsin and S Street that they can park during rush  
21 hour.

22 Something we're incredibly sensitive to and  
23 that's the effort and the technology that we have to  
24 communicate with the drivers that frankly other  
25 restaurants and traditional brick and mortar do not.

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1           MEMBER BLAKE:    Okay.    Thank you for answering  
2 that question.    I have some others, but I'll wait my turn  
3 in queue.

4           VICE CHAIR JOHN:    I just wanted to follow-up.  
5 Have you considered trying to lease space for your drivers  
6 to pull up in and pick up orders?    And the other part of  
7 that is, for the individual public, for members of the  
8 public who will order, I assume that you can order online  
9 and do a pick-up individually.    And where would those  
10 people park?    Let's say you're wildly successful.

11          MR. RAISIN:        Yeah.        Thank you for the  
12 questions.    To your second question, it is possible for --  
13 it is possible for individuals to place orders online  
14 themselves and go pick up their own order.    They would be  
15 expected to abide by the traffic laws and parking laws as  
16 everyone else is expected to do.

17                    To your first question, we did explore the  
18 option of looking for offsite parking in the area.    That  
19 is not available at this time.    There is no offsite  
20 parking that we would be able to secure outside of our  
21 site.

22          VICE CHAIR JOHN:    Would you be able to tell us  
23 where you looked?    Did you perhaps talk to the Safeway and  
24 are they too far away?

25          MR. RAISIN:        Yeah.        So we spoke to every owner

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1 of every property within 500 feet of our facility to see  
2 if there's available parking to secure and that's not  
3 available.

4 VICE CHAIR JOHN: Okay. Thank you.

5 CHAIR HILL: Okay. Anybody else -- and by the  
6 way, we're going to be here through dinner at this point.  
7 Go ahead, Mr. Smith.

8 MEMBER SMITH: So this is probably to Ms.  
9 Milanovich. You spoke to these comparison properties that  
10 you used to extrapolate the numbers. What are those  
11 comparison properties? Are they businesses that are  
12 exactly this kind of use and nature? Are they commissary  
13 kitchens in the district?

14 MS. MILANOVICH: They're not located in the  
15 district; they're located throughout the country in cities  
16 throughout the country. And I could provide a list of  
17 those cities if you would like, and I can let the  
18 applicant speak to more details. But they are the same  
19 concept, the commissary kitchen concept is the facility.

20 MEMBER SMITH: Okay. Yeah. It would be great  
21 to see those, where they are located. You know, are they  
22 in similar cities as the district? Do they have, you  
23 know, similar restrictions where those particular sites  
24 don't have any onsite parking?

25 To Ms. John's point about looking at additional

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1 sites, it's great to hear that the applicant has some type  
2 of -- built in to their operation, a way to control  
3 parking at the pick-up and drop-off site. But I don't  
4 think your system addresses queueing.

5           If a person gets to the site before the pick-up  
6 and drop-off location is available, where are they going  
7 to park? Where are they going to be located? They may be  
8 queueing on a side street or something of that typical  
9 nature that I think would have some type of impact on the  
10 neighborhood. Especially if you're wildly successful.

11           So I would, you know, just consider Ms. John's  
12 point. I understand that you may have not been able to  
13 find additional parking, but that is a concern, it sounds  
14 like, of me and the rest of the Board, being this site  
15 would not have any type of parking. I think that's the  
16 only question I have for now.

17           MEMBER BLAKE:       Just to follow-up, it is a  
18 relatively interesting concept, sounds very good. And it  
19 is very new to the district. I would just like to ask a  
20 few questions to help, just to clarify some things on the  
21 operating model in terms of operations of, for example, I  
22 know there's 16 kitchens and two or three people on-site  
23 from the operator. Could you give me a sense of what you  
24 actually think the staffing will be based on the  
25 experience you've had in these other locations as to how

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1 many people will actually be staffing each kitchen? Will  
2 it be two or three people per kitchen?

3 And in terms of hours of operation, I want to  
4 talk a little bit about how you chose to do the two hours  
5 of operation up until 2:00 a.m., excuse me, for operation.  
6 How significant is that to your business? First question.

7 MR. RAISIN: Yes. I'll answer those questions  
8 in order. With respect to the first question, these  
9 kitchen spaces, average size is about 200 square feet. So  
10 you would see generally one to two staff in each kitchen.  
11 Of the 16 kitchens, that's also the maximum number. You  
12 can have operators who choose to take more than one  
13 kitchen. There's a vacancy factor there. I mean, it's  
14 not often that all the kitchens are occupied at one time.  
15 So, you know that vacancy factor tends to be at about 75  
16 or 80 percent.

17 And then not all kitchen operators are  
18 operating at the same time. You have some that specialize  
19 in breakfast and lunch, some at lunch and dinner. So  
20 although 16 is the max number, the reality is there's more  
21 like eight kitchens operating at any one time and about  
22 one to two employees per kitchen when it is operating --  
23 or staff per kitchen when it's operating.

24 MEMBER BLAKE: How many would you expect to be  
25 operating at 2:00 a.m.?

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1 MR. RAISIN: In our experience, not many. And  
2 I can get to that question about the hours of operation.  
3 You know, from our perspective we have -- two of our  
4 biggest interests are the neighborhood and our community  
5 members who are ultimately our customers. To make sure  
6 that we're operating in a way that's completely symbiotic  
7 with the area that we're in.

8 The second is our restaurant partners. In an  
9 industry where restaurants are getting absolutely killed  
10 by increasing costs combined with the COVID environment  
11 where restaurants are going under at numbers that we've  
12 never really seen before. What we're trying to do from an  
13 operating hours standpoint, is to give restaurants the  
14 flexibility that they need to find a business and business  
15 hours that really allow them to operate and survive.

16 And some of them find more success at late  
17 hours and some of them don't. But for us to afford that  
18 flexibility to our restaurant partners and to say to them,  
19 you guys do what you have to do to be able to find a  
20 business model and mold a business that works in this  
21 area, is a promise that we're making to you in affording  
22 you as much flexibility as we can.

23 MEMBER BLAKE: Okay. So from a practical  
24 matter then, what would be 16 kitchens operating until  
25 2:00 a.m. every day would be something -- that's the

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1 maximum amount and it could be much fewer than that  
2 actually operating at that hour of the night, or --

3 MR. RAISIN: Yeah, as a good rule of thumb  
4 there, I would say there would probably be one or two at  
5 that hour.

6 MEMBER BLAKE: Okay. That's very helpful.  
7 Because it suggests there won't be that much traffic.

8 What in particular makes this particular  
9 location so attractive for this business model?

10 MR. RAISIN: DC --

11 MEMBER BLAKE: What aspects?

12 MR. RAISIN: Yeah. DC is an incredible market.  
13 We're excited to be a part of it. We're looking forward  
14 to serving the community that's immediately surrounding  
15 our facility. There is some statistics that go into  
16 locating the best place to be. That has to do more or  
17 less with the number of people that are around the  
18 facility and the makeup of those people.

19 Of course, the size of the building is  
20 important, and our ability to identify an opportunity like  
21 we have one here that's a site that's basically been  
22 abandoned and is in terrible shape and invested a  
23 tremendous amount of money in it to create something that  
24 we think is going to offer tremendous value to the area.  
25 And this site checked all of those boxes.

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1           MEMBER BLAKE:   What percentage of the business  
2 actually comes from like a one or two mile radius, in  
3 general for your current operations?   And what would you  
4 expect here?

5           MR. HENRY:   Yeah.   I can answer that.

6           MR. RAISIN:   Sure.

7           MR. HENRY:   The vast majority, like 80 percent,  
8 would typically come from within 1.5 miles.   And that's  
9 actually very consistent, you know, in different urban  
10 areas.   It's not like a large radius.

11          MEMBER BLAKE:   I'd be curious then, given that  
12 statistic, why you wouldn't, with your software, be able  
13 to direct more traffic to bicycle service.   Because in  
14 that proximity bicycle service is very effective of  
15 serving people very quickly.   I mean, I think you can go  
16 from one -- from that particular distance, one and a half,  
17 two miles, very quickly with a bicycle.   So I'd be curious  
18 to know why you would not be able to emphasize bicycle  
19 delivery to some of that, even during peak hours.

20          MR. HENRY:   Yeah.   On the contrary, we actually  
21 completely agree with you.   We're doing everything we can  
22 to influence the DoorDashes, GrubHubs, Uber Eats of the  
23 world to maximize bike delivery and that's a conversation  
24 that's ongoing.   So any opportunity that we have to stress  
25 that and include that, we're all for and of course, we've

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1 included bike racks in our development plan to make that,  
2 to accommodate that as much as we can.

3 MEMBER BLAKE: Switching gears, this will be my  
4 last question, Mr. Chair.

5 Ms. Milanovich, I was looking at your TDM plan,  
6 or the proposed TDM plan and I noticed there will be a lot  
7 of employees working at this facility, now about 32-ish  
8 plus or minus, maybe 35 plus or minus, periodically.  
9 Those outdoor bike racks may not be sufficient to get  
10 everybody home at two o'clock in the morning. Can you  
11 give me some sense of how you anticipate meeting the needs  
12 of the employee base?

13 MS. MILANOVICH: -- bike racks, the applicant  
14 is also committed to providing SmarTrip cards and Capital  
15 Bikeshare coupons for employees, for new employees. So  
16 that gives them an alternative. Capital Bikeshare, I  
17 guess, is similar to the private bike racks that we're  
18 providing.

19 But the SmarTrip card is intended for people  
20 who would take Metro bus. We are on a high priority Metro  
21 bus route there on Wisconsin Avenue and so we would  
22 envision that a number of employees would use Metro bus as  
23 well. So, you know, we've tried to provide, sort of, a  
24 full complement for people who choose different modes of  
25 transportation.

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1           We also have some requirements in there to help  
2 assist employees with carpool matching to the extent that  
3 they're working the same shifts. And COG also runs a  
4 carpool matching service that wouldn't just limit it to  
5 this particular facility but would open it up to others  
6 who work in the Georgetown area. So we've tried to  
7 provide a compliment of all alternative modes of  
8 transportation to try to incentivize them to use a variety  
9 of modes.

10           MEMBER BLAKE: I like the idea of the public  
11 transportation. I'm just concerned at 2:00 a.m., it will  
12 be difficult to get home.

13           MS. MILANOVICH: Sure.

14           MEMBER BLAKE: Given the fact that there's no  
15 parking. In that context, have you considered parking for  
16 the -- and they're not really employees, they're licensee  
17 people -- for them to -- how are you instructing them to  
18 handle that parking issue if they decide to pool or drive  
19 to the site or what have you?

20           MS. MILANOVICH: So as of right now, they would  
21 be required to find offsite parking if they did choose to  
22 drive. You know, Wisconsin Avenue is metered parking, so  
23 I'm not sure that's a viable option. On the residential  
24 streets, you're limited to two-hours a day if you don't  
25 have the residential parking permit, obviously up until a

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1 certain time.

2           So I think to the extent that employees want to  
3 drive, again, they'd be required to find some offsite  
4 parking in order to do that.

5           MEMBER BLAKE: Okay, thank you. Thank you.

6           MR. HENRY: And given the very low operating  
7 number of operators we would anticipate being operating at  
8 late-night hours, that we would not have 32 facility  
9 workers. We would have a much lower amount, like three to  
10 five.

11          CHAIR HILL: Chairman Hood, I saw your hand up.

12          MEMBER BLAKE: Mr. Chairman, if I could.

13          CHAIR HILL: I'm sorry, go ahead Mr. Blake.

14          MEMBER BLAKE: I meant to ask the question  
15 earlier.

16                When you say they leave at 2:00, because you  
17 did mention earlier, you did mention there would be clean-  
18 up staff and so forth. Is everything shut down at two or  
19 the deliveries shut down at two and then there's a staff  
20 there throughout the rest of the night cleaning and stuff  
21 like that?

22          MR. RAISIN: It's the shut-down of the kitchen  
23 spaces will happen well in advance of two, so that the  
24 facility is no longer open at two. So deliveries, for  
25 example, will not go until 2:00 a.m., to be clear.

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1           VICE CHAIR JOHN:    So it's not clear.    So the  
2 delivery, ordering, would shut down maybe at 11:00 like  
3 the other restaurants in the neighborhood?    As I  
4 understand it, I believe during this hearing that somebody  
5 mentioned that the typical closing time in Georgetown is  
6 about 11:00 at night?

7           MR. RAISIN:    So I apologize if I wasn't clear.  
8 So if the facility is to close at two, because there's a  
9 wrap-up and a cleaning period that's associated with each  
10 kitchen, the kitchen would have to essentially stop  
11 cooking well in advance of 2:00 a.m. in order to actually  
12 close at two.    And when I mean close, I mean there's no  
13 one in the building anymore.

14           VICE CHAIR JOHN:    Okay.

15           MR. RAISIN:    So that --

16           VICE CHAIR JOHN:    So for me, that's what I  
17 would like to know.    What your hours of operation when  
18 you're open to the public.    Because as it stands now, my  
19 understanding is that you'd be open to the public until  
20 two.    And this is tied to Mr. Blake's question.    Because  
21 the Metro shuts down, I believe, at 12:00.    On the  
22 weekends, I don't really know.    But it would close long  
23 before that.

24                            And the question is, how will your employees  
25 get home?    Where are these employees coming from?    And

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1 that implicates parking. So for me, I would like further  
2 clarification on the hours you would be open to the  
3 public. Because that implicates ordering and employee  
4 parking.

5 MR. RAISIN: Understood.

6 VICE CHAIR JOHN: All right.

7 MR. RAISIN: To be clear, as we're proposing  
8 it, I would say that the ordering would stop about 1:00  
9 a.m. in order for the facility to close at 2:00 a.m.

10 VICE CHAIR JOHN: Okay. Thank you.

11 CHAIR HILL: Chairman Hood.

12 CHAIR HOOD: Mr. Raisin, let me ask a question.  
13 And I don't think this is a new business model. I think  
14 this business model has been out here about 30 years. I  
15 think what it has done is extend it.

16 The reason I know, because at Capitol Hill, I  
17 worked at one. And every time I went back there, nobody  
18 was there but me to pick up sandwiches. So I think this  
19 is not nothing new and it's also being done in other  
20 industries.

21 But I do have a few questions for you. And I  
22 think it's also a great business model for the different  
23 chefs. It also, I believe, cuts back on costs which we  
24 need to do as much possible here in the city. So I  
25 understand the business model, I understand the role, and

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1 I understand what we're trying to achieve.

2 But unless I misread, I thought this was just  
3 delivery only, so I won't be able to walk in and get  
4 anything. Is that -- did I misunderstand that?

5 MR. RAISIN: So you do have the opportunity to  
6 come onsite and order onsite. That is part of the model.

7 CHAIR HOOD: Okay. So that's -- is that a  
8 deviation? Because most of them don't let you come  
9 onsite, but anyway I don't want to compare you to others  
10 that I know that may be coming online in the city or that  
11 are going in other areas.

12 The other question I had is, as far as the  
13 timing. Maybe this is just my -- this goes to some of the  
14 other -- I have to ask it my way, so I can understand it.  
15 And I think that Board Member Blake will mention that as  
16 well as Vice Chair John. Ms. Vitale let's talk about the  
17 -- no, Mr. Raisin, let's talk about the business hours  
18 again.

19 If you're talking about breakfast, unless I'm  
20 reading too much into what I see here about the hours.  
21 11:00 a.m. to 2:00 a.m. and I reading that -- am I  
22 misreading that? As proposed, we would operate from 11:00  
23 a.m. to 2:00 a.m. I don't get that. I don't get that.  
24 So you won't start fixing food until 11:00 a.m.? Or am I  
25 missing something?

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1 MR. RAISIN: It is 11:00 a.m. that we would  
2 open. Breakfast delivery is not an extremely popular --  
3 there's not a tremendous amount of demand for that at this  
4 time. But yes, it would -- the hours of operation would  
5 run from 11:00 a.m. to 2:00 a.m.

6 CHAIR HOOD: So I know Mr. Overmyer might not  
7 appreciate me saying this, because that's the problem I  
8 have is some people do eat breakfast. But I guess you  
9 know the data, and if you're going to start at 11:00 a.m.,  
10 I'm like, hey, breakfast is over man. So anyway.

11 I just want to make sure I understand those  
12 hours, but I get it, you've already done -- you have a  
13 track record, you know that 11:00 a.m. -- I would just  
14 always ask for just would always encourage our applicants  
15 to ask for more than what you really need. But if that's  
16 what you believe, then that's what we're going to stick  
17 with.

18 I think that this is, the business model  
19 request, I think this is going while -- and it's over my -  
20 - let me just go to you. I read your submission. I used  
21 to hear a lot of this. Sometimes you have to be careful  
22 what you ask for. I would love to have this in my  
23 neighborhood. I had transfer stations in my neighborhood.  
24 I would love to have a food delivery in my neighborhood.  
25 So be careful what you ask for. When I read the last

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1 paragraph of your submission, if this is not the  
2 appropriate place, it can go somewhere else. And that  
3 takes me back to what we say over here, not in my  
4 backyard. So we want to be careful of what we ask for.

5 I don't have any other questions. I know this  
6 is a business model. I think some of the other things  
7 that my Board members, I think, are very in line with to  
8 fine tune. But again, I recognize that this is the way of  
9 the future, so hopefully -- and I do know that this city  
10 will adapt. And I'll leave it at that. Thank you, Mr.  
11 Chairman.

12 CHAIR HILL: Okay. Thanks, Mr. Hood. Okay.  
13 Mr. Kadlecek, I just got a couple of quick questions, I  
14 hope they're quick.

15 You guys went to the ANC, Mr. Kadlecek and you  
16 got a vote of approval. You got one, what's it called,  
17 you got one "no" and one "no vote." Right?

18 MR. KADLECEK: Yeah.

19 CHAIR HILL: Did you go to the ANC, MR.  
20 Kadlecek?

21 MR. KADLECEK: I did. Yes.

22 CHAIR HILL: So how did that go? What was the  
23 big discussion about it all?

24 MR. KADLECEK: You know, I don't want to speak  
25 for the ANC, but essentially the applicant has worked

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1 extensively and very deliberately with the SMD, who is a  
2 big advocate for this project and was a big proponent of  
3 the project. I don't want to speak for the two who didn't  
4 vote in favor, but they had their concerns I believe about  
5 traffic. I can't really say more than that, to be honest,  
6 because it wasn't really very clear to me what their  
7 concerns were.

8 CHAIR HILL: That's fine. That's fine. That's  
9 okay. So that's number one.

10 Number two, Ms. Vitale, you can hear me, right?

11 Did I lose Ms. Vitale? Ms. Vitale? All right,  
12 well maybe Ms. Vitale comes back. Maybe she doesn't. Ms.  
13 Vitale?

14 MS. VITALE: Yes?

15 CHAIR HILL: Oh, cool. Great. Thank you.

16 Just again, this relief, this goes with the  
17 property, right? So if these guys fail there would be --  
18 no offense to you guys -- if these guys fail, then this  
19 would still be there, but it would be as again, delivery  
20 food service, right? So like, what else could it kind of  
21 be?

22 MS. VITALE: I actually would defer to OZLD  
23 with respect to that. I believe the relief is tied to  
24 this applicant and they would need to get a certificate of  
25 occupancy and that would all fit together as one package

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1 and that if this --

2 CHAIR HILL: Got it. Got it.

3 MS. VITALE: -- business did not continue to  
4 operate that the use would not continue.

5 CHAIR HILL: Ms. Nagelhout, is that right?

6 MS. NAGELHOUT: -- to the applicant. But I  
7 think if the use is established, it can continue with this  
8 particular applicant or anybody else who wants to operate  
9 the same use subject to the same conditions.

10 CHAIR HILL: Got it. And Mr. Kadlecek, you're  
11 going to say, "correct," yes?

12 MR. KADLECEK: The key point there is the  
13 conditions also. The use conveys, but also the condition.  
14 So it's not like, you know, they can --

15 CHAIR HILL: I got you. I got you. Okay.

16 I mean, again, we're -- Mr. Overmyer is  
17 somebody who has been given party status. Mr. Overmyer  
18 lives close by and we're talking a lot about things that  
19 have -- there's a lot of people who -- oh, Mr. Young, is  
20 there people wishing to testify?

21 Okay. How many have you got?

22 MR. YOUNG: Three.

23 CHAIR HILL: Okay. Let's go ahead and hear  
24 them then. Could you bring them in?

25 MR. YOUNG: Yes. The first is Melissa

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1 Overmyer.

2 CHAIR HILL: Okay.

3 MR. YOUNG: And then we have Kenny Pouch and  
4 Janice Pouch. I believe they are together.

5 CHAIR HILL: Okay.

6 Ms. Overmyer, can you hear me?

7 MS. POUCH: Should I go first?

8 CHAIR HILL: Yeah, can you hear me?

9 MS. POUCH: Yeah.

10 CHAIR HILL: You'll be --

11 MS. POUCH: My name --

12 CHAIR HILL: Who -- what's your name? I'm  
13 sorry.

14 MS. POUCH: This is Janice Pouch.

15 CHAIR HILL: Oh, okay. Go ahead Janice.  
16 Introduce yourself for the record please.

17 MS. POUCH: My name is Janice Pouch. I live at  
18 3318 R. Street. I live -- it's just on the other side of  
19 Wisconsin Avenue.

20 CHAIR HILL: Okay.

21 MS. POUCH: I live here --

22 CHAIR HILL: Ms. Pouch, sorry to interrupt.  
23 You'll have three minutes to give your testimony. You can  
24 begin whenever you like.

25 MS. POUCH: Okay. So I guess I'm just not sure

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1 why this business is coming to a neighborhood where, you  
2 know, traffic is already quite difficult for several  
3 reasons that existed, you know, came out of the pandemic.  
4 I do understand one of the Board members' statements  
5 regarding Mr. Overmyer's statement that this business  
6 doesn't belong here.

7           And I would actually consider that when we  
8 moved to this neighborhood, we moved here because it's a  
9 residential neighborhood with some retail and commercial.  
10 And this business changes that dramatically. It seems to  
11 me like it's more of a business that needs to be operated  
12 in like, in a warehouse somewhere.

13           So I don't take it as he's saying, you know,  
14 this is not here. It's not here just because it's not the  
15 right fit. Many of the businesses and restaurants that  
16 are in Georgetown are family, you know, accommodate  
17 families and small children. My children, you know, will  
18 be taking the public bus to school next year.

19           And I'm actually concerned about the traffic.  
20 I'm concerned about the rats. This is a neighborhood  
21 where people walk their dogs, the kids walk over to  
22 Jelleff, and there's quite a bit of traffic on S Street  
23 from that as well. I just really want to make the point  
24 that this is just not going to be safe and it's not going  
25 to be sanitary.

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1           And I appreciate the applicant stating that,  
2 | you know, there will be oversight. And that all sounds  
3 | really great in theory. But I'm also hearing that the  
4 | mechanics of the building "hopefully" will reduce the  
5 | noise and sound. And that the technology "should" reduce  
6 | any concerns about traffic. Who's going to be here to vet  
7 | that? Who's going to be here if and actually when  
8 | somebody gets hit by one of these cars?

9           Because it's going to happen. We are already  
10 | so congested at that intersection, it's frightening. I  
11 | can't allow my children to walk there now, and the thought  
12 | of more businesses coming, this is not New York, right.  
13 | This is not Manhattan. This is a residential neighborhood  
14 | that has some retail and some commercial. And the  
15 | businesses that are here are tied to the community. This  
16 | does not seem like a business that would be tied to the  
17 | community.

18           And I hope that the applicant is truthful in  
19 | saying that there will be oversight. If there's not, I  
20 | can guarantee that the neighbors and the community will be  
21 | overseeing and making sure -- if the Board does not deny  
22 | the applicant this opportunity -- I can guarantee that the  
23 | neighborhood and its citizens will be very vigilant of  
24 | what's happening there and trying to make sure that our  
25 | neighborhood remains safe.

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1           This is a historic neighborhood and the  
2 selection of businesses come here support that historic  
3 status. This is not one of them and it's not anything  
4 against the, you know, kitchen staff or the potential  
5 restaurateurs. It's not -- it has nothing to do with it.  
6 It's about safety and it's about concern for our children  
7 and sanitary concerns. And I'd like to believe that what  
8 the applicant is saying is going to happen and it sounds  
9 really good on paper. But I've seen it go down and I just  
10 down. And I just don't see it being as supervised as he's  
11 saying it is.

12           CHAIR HILL: Okay. Okay. Thanks, Ms. Pouch.

13           Ms. --

14           MR. YOUNG: Mr. Chairman?

15           CHAIR HILL: Yes.

16           MR. YOUNG: You also have Laird Reed. He asked  
17 if he could go next because he has to leave.

18           CHAIR HILL: Got it. Mr. Reed, can you hear  
19 me?

20           MR. REED: Yes. Can you guys hear me?

21           CHAIR HILL: Yep. Could you introduce yourself  
22 for the record please?

23           MR. REED: Sure. Laird Reed and we live  
24 adjacent to the Overmyer's on S Street, directly across  
25 the street from what is Jelleff.

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1 CHAIR HILL: Got it. Okay. You have three  
2 minutes also, and you can begin whenever you like.

3 MR. REED: Great. Thanks. Like I say, we  
4 live directly across the street from Jelleff. I think  
5 Janice raised a lot of good points associated with the  
6 safety. My children go back and forth across S Street  
7 several times a day. Lots of other children go back and  
8 forth across S Street at all hours for soccer events.

9 I mean, this factors in two different ways, one  
10 of which is safety. Those people rip up and down S  
11 Street. They go 40, 50 miles an hour. And if you think  
12 I'm lying, by all means, take a radar gun out there and  
13 you'll see. People fly up and down that road. Right.  
14 Not only that, but there's also enormous traffic jams.  
15 Whenever there's an event at Jelleff or a changeover of  
16 games every 30 minutes or something, on game days and some  
17 days of the week.

18 There is an unbelievable traffic jam, right?  
19 And this, by the way, is before the enormous building that  
20 is going in on the corner above the paint store gets added  
21 with however many units and however many cars are going to  
22 be added to that new building.

23 So adding in, then, a bunch of drivers, all of  
24 whom are on the clock and trying to earn a living. And I  
25 was a driver as well and I know how you wait around for

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1 orders and then you get it, and you just, you can't drop  
2 it off fast enough and go on to the next one. You are on  
3 the clock. You're moving quickly, you're double parking,  
4 you park in alleys, you'll be blocking driveways. This is  
5 already happening, right?

6 Before the take-out building, before the take-  
7 out proposed restaurant building, and before the brand new  
8 residential building gets added. So this is going to be a  
9 perfect storm of a traffic nightmare, guaranteed. I don't  
10 care what technology you're using, it's going to be a  
11 disaster, a complete disaster. And God knows, I hope no  
12 one gets hurt, but there are a bunch of kids running back  
13 and forth in that area all the time.

14 Second thing, hygiene. It's also going to be a  
15 rat farm. There's no other way to say it. We already  
16 have restaurants. Georgetown is known for its rat  
17 problem. This is going to exacerbate that.

18 And the last thing and is probably closest to  
19 my own heart, although I imagine the Overmyer's are more  
20 concerned, is the noise. Like having a fully operating  
21 commercial kitchen with ducted fans running, blowing smoke  
22 out at 2:00 a.m., and delivery trucks backing in, going  
23 beep, beep, beep, dropping off pallets, you know, shouting  
24 at each other at 2:00 a.m. in a residential neighborhood.  
25 It's just not suitable, right? It's not the right place

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1 for it.

2 We love restaurants, we patronize all of the  
3 local restaurants. We would love to see a restaurant  
4 operating in normal hours under normal circumstances. And  
5 I think that's it for me. I thank you for your  
6 consideration.

7 CHAIR HILL: Thanks, Mr. Reed.

8 Ms. Overmyer, are you there?

9 MS. OVERMYER: I'm here. Can you hear me?

10 CHAIR HILL: Yeah. Would you introduce  
11 yourself for the record?

12 MS. OVERMYER: Yes, hi. I'm Melissa Overmyer  
13 and I live at 3264 S Street which is the property directly  
14 behind the proposed building -- restaurant at --

15 CHAIR HILL: Are you related to Mr. Overmyer?

16 MS. OVERMYER: Luckily, I am.

17 CHAIR HILL: You guys already had party status.

18 MS. OVERMYER: I know.

19 CHAIR HILL: Ms. Overmyer, what are you going  
20 to tell me that Mr. Overmyer didn't already say? Okay.  
21 Go ahead. Go ahead. It's okay. Go ahead and give your  
22 three minutes.

23 MS. OVERMYER: Okay. I have some photos. So  
24 if he could just load up the photos, they kind of tell  
25 more than I can say. So can Paul Young hit the photo --

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1 CHAIR HILL: What photo. Okay. All right Ms.  
2 -- You guys are killing me. I got to be here until  
3 midnight now.

4 Okay. Go ahead, Ms. Overmyer.

5 MS. OVERMYER: Okay. So this is what the  
6 traffic looks like on S Street at any given moment. And  
7 the proposed area that they want to add a loading area on  
8 S Street is right here where the Street Eatery is. So  
9 this is adjacent to the alleyway. This is what their  
10 secondary loading zone area that they want to get. And  
11 that's the only parking that goes to Anna Banana.

12 So this is where all the little, tiny children,  
13 age two to five get out of their cars. And they want to  
14 take that and make that their food delivery. And this is  
15 what the traffic looks like. You can only get one car in  
16 anyway. So just imagine this with also trucks. All  
17 right. So next slide.

18 This is what our house looked like 18 months  
19 ago. We have spent the last 18 months rebuilding it.  
20 We're poised to move back in and then we get this  
21 disastrous news that this giant conglomeration of 16  
22 kitchens is going to be operating out of one space. Next  
23 slide.

24 This is the children -- this is where they have  
25 to cross. This alleyway is actually part of the sidewalk.

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1 And this is Anna Banana right here, and the children cross  
2 from Jelleff, they walk across this alleyway, they go to  
3 Anna Banana, and they go to the Fresh Baguette on the  
4 corner. And this is where they're proposing to add all of  
5 these cars.

6 You don't think they're going to turn in there  
7 and back up and try to make their turnaround right here?  
8 Yes, they will. And this is where all the trash trucks  
9 are going to have to go back and forth with a tiny, babies  
10 that walk into Anna Banana from this -- they park here,  
11 they park here, and they go in here. Next Slide.

12 All right. This is the 45-unit condo. This is  
13 where they're going to do the underground parking. Guess  
14 where it's located? Directly across from the alleyway and  
15 their proposed new loading zone area. This is going to  
16 have 20-something new cars coming in and out directly in  
17 front of where they're proposing to put their new stuff.  
18 And this is Jelleff and they, guess what, their exit is  
19 right here. Sixty cars, several times a day coming and  
20 going. Next slide.

21 This is already what's happening at Dumbarton  
22 Oaks. You can see they've already started the  
23 construction. They're adding 60-something parking spots  
24 which are going to be coming in and out of guess what,  
25 only a few feet of what I've just showed you. Next slide.

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1           This is what the street already looks like.  
2 It's buckling under the pressure of what's there. Next  
3 slide.

4           This is what happened to a car trying to exit  
5 out of the Jelleff parking lot. It ran up on this bump  
6 and it flipped completely over due to all the traffic it  
7 was trying to manage around. This is what happened to the  
8 car coming out of the Jelleff parking lot. Next slide.

9           This is our house. This is where we want to  
10 move back in. We've lived in the neighborhood for 36  
11 years. We are heavily invested, and I don't just mean  
12 financially. I mean with our heart and our soul. I ran a  
13 mentoring business, not business, just a volunteer group  
14 that mentored the kids at Jelleff. The Anna Banana kids  
15 come, and they sit in my yard and draw on the flowers.

16           CHAIR HILL: Ms. Overmyer. Ms. Overmyer. Ms.  
17 Overmyer. I'm just letting you know, you're over time.

18           MS. OVERMYER: Okay. I love the neighborhood.  
19 I want a good business. If they're a good business, I'd  
20 love to have them, but they're not a good business for our  
21 neighborhood because of all the things I've just shown you  
22 and I wish the best of luck. But this is not a good  
23 location for them. Thank you.

24           CHAIR HILL: All right. Mr. Young, is there  
25 anyone else? Okay. Does anybody have any questions for

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1 the witnesses?

2 All right. You all, thank you very much for  
3 your testimony. If you could excuse yourselves, please,  
4 or Mr. Young, if you could excuse everybody.

5 Okay. All right. Okay. I mean, we're going  
6 to have to take a break here in a minute and then wrap  
7 this up a little bit.

8 I understand, what I'm trying to get my head  
9 around a little bit is, again, we have all of the  
10 testimony. And I'm just speaking to my fellow Board  
11 members. I don't know what you guys want to do. And Mr.  
12 Kadlecek will get a chance for rebuttal as well as a  
13 conclusion. And, in fact, let's take -- can we all just -  
14 take a quick three-to five-minute break? And we'll come  
15 right back. Okay? Yes. A quick, quick break. Thank  
16 you.

17 (Whereupon, the above-entitled matter went off  
18 the record at 1:03 p.m. and resumed at 1:09 p.m.)

19 CHAIR HILL: I've got my Board members, so I  
20 can start.

21 Mr. Kadlecek, are you there?

22 MR. KADLECEK: Yes, I'm here.

23 CHAIR HILL: Okay. Great. Mr. Kadlecek, do  
24 you want to give me any rebuttal if you have any and then  
25 a conclusion?

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1 MR. KADLECEK: Yes. We just have two points of  
2 rebuttal that I want to have clarified because there seems  
3 to be some confusion that came out of the opposition  
4 testimony.

5 Ms. Milanovich, can you please clarify for the  
6 Board just one last time the nature of the delivery  
7 operation, and the delivery and the drop-off, and the  
8 locations, just so that's clear. Because it seems like  
9 the testimony that we heard was confused about that.

10 MS. MILANOVICH: Sure. So in terms of incoming  
11 deliveries to the site, delivering supplies. The  
12 applicant has agreed to restrict those so they can only  
13 use the commercial loading zone on Wisconsin Avenue.

14 As recommended in the Office of Planning  
15 report, those deliveries would be restricted to the hours  
16 of 7:00 a.m. to 3:00 p.m. The only traffic using the  
17 alley to the rear of the property, would be the trash  
18 trucks who are already using the alley for trash pick-up  
19 currently.

20 In terms of the pick-up truck off of -- so the  
21 food service deliveries that are picking up food  
22 deliveries to deliver to people's homes. We hear the  
23 concerns with the S Street location. We will take that  
24 off the table and propose the pick-up/drop-off zone on  
25 Wisconsin Avenue. We have had several meetings with DDOT

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1 including their curbside management team and they are  
2 supportive of that pick-up/drop-off zone.

3 In respect to the 4:00 to 6:30 window, as you  
4 heard Daniel testify to earlier, they will ensure that the  
5 delivery drivers in that window know that they are  
6 required to find a legal parking space in order to do  
7 that. And the applicant has also indicated that the  
8 onsite staff that they have onsite will be available and  
9 can help manage traffic, essentially to ensure that no one  
10 is stopping illegally in the curb lane during that 4:00 to  
11 6:30 window. So that onsite staff can be outside, making  
12 sure that the delivery drivers are following directions  
13 and parking in legal spaces during that 4:00 to 6:30  
14 window.

15 MR. KADLECEK: Thank you. And then one last  
16 point. Mr. Raisin, can you explain for clarity's sake,  
17 the nature of who these business are and where they come  
18 from? Because it seems that there's some confusion about  
19 them being not local or small entrepreneurs. So can you  
20 describe that a little bit more please?

21 MR. RAISIN: Yeah, sure. The majority of the  
22 licensees what will come into the facility are locally  
23 owned businesses. Either you have other, kind of, local  
24 successful restaurateurs that want expand in the area and  
25 perhaps take a second or third location at our facility.

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1 Or you've got local entrepreneurs that otherwise haven't  
2 had the opportunity to launch a food concept because of  
3 the high barriers to entry from a cost perspective of  
4 doing that in a traditional brick and mortar location and  
5 have found that opportunity with us.

6 MR. KADLECEK: Thank you. So Mr. Hill, I'm  
7 just going to give a brief closing remark and that will  
8 conclude our presentation and what we have to say in the  
9 hearing.

10 So I just want to conclude by saying, I think  
11 it's been made quite clear that this is a well-organized  
12 and highly thought out operation. This is not a fly-by-  
13 night operation. They have experience doing it. They  
14 know how to do it. They have the technology to do it.  
15 They will be able to limit, to the greatest extent  
16 possible, any of the adverse impacts that might occur from  
17 this.

18 There seems to be some sort of panacea notion  
19 from some of the opponents that a brick and mortars  
20 operation might somehow be better. But remember, with the  
21 operation that is being proposed here, there's a multiple  
22 of conditions, there's all sort of operational controls.  
23 There's all sorts of oversight to how this will happen so  
24 that you know the way it will operate. A brick and mortar  
25 restaurant that operates without any of this in theory

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1 could be much worse. There would be no control over  
2 deliveries, how they are handled, communication with the  
3 drivers, none of the batching would happen, deliveries  
4 could happen at any location at any time of the day.

5 That is not the case with what is being  
6 proposed here. What's being proposed here is a highly-  
7 organized and well-organized machine to ensure that the  
8 business operates successfully. And I want to add, and  
9 land on the final point which is, as Mr. Raising alluded  
10 to earlier, this is a business that will serve the  
11 community.

12 It is in their best interest to make sure that  
13 the community likes them so that people order from them.  
14 It is in their best interest to make sure that trash is  
15 picked up, that rodents are abated, and that traffic  
16 impacts are minimized because they want to make sure that  
17 the community within a mile and a half of this facility is  
18 ordering from them. So they have every incentive to make  
19 sure that it's the best possible neighbor. And based on  
20 all the information that's been proposed and the  
21 description of how it will operate, I think you can rest  
22 assured that that's the type of operation that will occur  
23 in this facility. So with that, I'll conclude my  
24 presentation and we're also happy to answer any questions  
25 if need be.

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1 CHAIR HILL: All right. I had one more also,  
2 but I think Mr. Blake, you had a question?

3 MEMBER BLAKE: Sure. This is for the  
4 applicant. To the extent that we were to impose a term  
5 limit on this activity, how would that impact your  
6 business and could you -- I just want to know, is this a  
7 lease or is this a purchase? And then how would this  
8 impact your business? If so, what is the term of the  
9 lease et cetera?

10 MR. RAISIN: Yeah, so we are purchasing,  
11 acquiring the property. We are under contract to do so.  
12 If there were a term requirement put on the use, because  
13 of the massive investment that's made on the front-end  
14 from the development standpoint to develop the property, I  
15 don't see how that could be feasible. It would render  
16 this development, most likely, unfeasible.

17 MEMBER BLAKE: A term limit would simply mean  
18 that we evaluate what's taken place and perhaps fine-tune  
19 it so that it meets the requirements. It wouldn't mean it  
20 wouldn't happen. I would see as a lessee that may be a  
21 big issue, but as an owner of the property to improve it,  
22 I missed that argument a little bit. Maybe you can just  
23 clarify that for me?

24 MR. RAISIN: And I might be misunderstanding  
25 what you mean by term limit. What I assumed you meant is

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1 that we would be granted approval for our use for a  
2 certain term. Is that not what you mean?

3 CHAIR HILL: That's what he means. And  
4 actually now, Mr. Raisin and again, Mr. Kadlecek, that was  
5 my question. And I knew you weren't like, you know, I  
6 mean -- again, and I can summarize a lot of stuff that's  
7 going on. I think you guys have put a good case together.  
8 I think you have a lot of conditions that you were -- you  
9 know, and maybe this is just punting because it's kind of  
10 like long in the day, and we can kind of figure this out,  
11 and put it off, and have a discussion. I don't know.

12 But if you had a five-year term limit or  
13 whatever it is, the term limit right exactly means that.  
14 You have to come back in five years and re-apply to the  
15 BZA for this special exception. And so that is what -- so  
16 the question, I guess is -- I mean, nobody wants to do it.  
17 But the question is, you know, and Mr. Kadlecek, maybe you  
18 can have an answer for him, or a better answer for what  
19 we're trying to find out, is what does it do to your  
20 client?

21 MR. RAISIN: Well, I can maybe -- and I don't  
22 mean to --

23 CHAIR HILL: Sure. Go ahead. That's all  
24 right.

25 MR. RAISIN: Yeah. I think it's incredibly

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1 difficult from a forecasting perspective of how you're  
2 going to be able to recover your investment. But I think  
3 actually what's more important, is what that -- the  
4 unpredictability of what that means for the kitchen  
5 operators in the space. Because what we do is we develop  
6 the facility and then offer it to local entrepreneurs and  
7 businesses to develop their business there. If they don't  
8 have the certainty of operations on a go forward basis,  
9 then they are also going to be reticent to make the  
10 investment for their own business there. So I think it  
11 would be extremely problematic.

12 MEMBER BLAKE: To the extent that you're at, at  
13 your existing -- of your experience that you have with  
14 other facilities. What's the typical term of one of these  
15 entrepreneurial chefs? Because it would seem like they  
16 would evolve beyond this as an incubator almost, to go to  
17 a full-service restaurant. What's the typical term that  
18 they're there?

19 MR. RAISIN: Yeah, it can vary from one year to  
20 three years to potentially more. We try to keep it short-  
21 term in the beginning to minimize the financial commitment  
22 to allow them to see if the concept works. We try to do  
23 that to help our kitchen operators succeed. But we are  
24 seeing now that sometimes the term can run for longer at  
25 the request of the operators.

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1           MEMBER BLAKE:    So that suggests to me though,  
2 that if you were to put a term-limit on, it wouldn't  
3 necessarily affect the near-term licensees or operators  
4 because they would be come and gone long before the term  
5 ended.

6           MR. RAISIN:    Yeah.    But it, I mean, it would  
7 depend on what time those operators signed on, right?  I  
8 mean, if you had an operator that came in at year three or  
9 four and we have a term of five, and they want two years,  
10 you could see how it would be very difficult to sequence  
11 that to work at all perfectly.

12           MEMBER BLAKE:   Thank you.

13           CHAIR HILL:    Okay.    All right.    Okay.    We're  
14 done.    Oh, sorry.    Ms. John?    You're on mute, Ms. John.

15           VICE CHAIR JOHN:  -- question.    So who does the  
16 build-out for the restaurant?    Do the individual  
17 businesses do that or is it like plug and play, the  
18 restaurant or the kitchen is already built out and the  
19 operator just comes in and cooks?

20           MR. RAISIN:    Yeah.    We do, I would say 80  
21 percent of the build out to 90 percent.    Each operator  
22 will have equipment that's potentially customizable for  
23 what they do.    So they will complete a build out or bring  
24 in equipment to the extent that they need it.    But we do,  
25 by far, the lion's share of that.

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1 VICE CHAIR JOHN: Okay. Thank you.

2 MR. RAISIN: Sure.

3 CHAIR HILL: Okay. All right. Okay. Let me  
4 see, all right. I guess I've got to close the hearing for  
5 the record and then we'll see where we go. I mean, Mr.  
6 Kadlecek I'm looking just for a second. Because I, you  
7 know, this has gone, again, this has gone on way longer  
8 than I thought it was going to go on. And I know Mr.  
9 Kadlecek, that you do this for a living, so you see us,  
10 and you know that we've taken, kind of, a tremendous  
11 amount of time to, kind of, go through this.

12 And for the public, you know, we're all just  
13 member of the public also. Like, we're just trying to  
14 help, right? And so, you know, we're basically  
15 volunteers. However we take very seriously looking at the  
16 regulations and determining what we're supposed to do.

17 Long story of all this, Mr. Kadlecek, you know,  
18 if there were a term-limit, I think it would probably be  
19 pretty easy for the Board to just go ahead and like vote  
20 on it. We still might end up voting on it. It might get  
21 passed; it might not get passed. I don't know. I don't  
22 know what exactly I'm looking for from you, Mr. Kadlecek  
23 in this comment, other than that it was a punt.

24 You know, and so I don't really want an answer.  
25 It's okay. I don't want an answer. I'm going to leave

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1 you -- let you guys go. You all stick in the background.  
2 Don't leave. If we have to come back and ask you a  
3 question or not. Okay. But for now, I'm going to close  
4 the hearing and the record. Thank you all very much.  
5 You've done a good job. Bye-bye.

6 Okay. All right. I'm looking at you guys.  
7 It's up to you guys what you want to do. Like, this is my  
8 thought real quick. I'll somewhat deliberate now, and you  
9 can tell me what you think. All right?

10 I've re-read, while this has all been going on,  
11 I've been able to basically re-read the record, right? So  
12 I re-read the record, I re-read the Office of Planning's  
13 report. I've re-read the ANC's report, I've re-read  
14 everything they sent. I mean, basically again, if this  
15 thing weren't going to cause a problem, nobody would care.  
16 Right? The problem is we don't know. Right? Okay?

17 And so people are concerned about things that  
18 they don't know about, right? Meaning -- and so, they,  
19 this group -- I mean nothing's perfect, right? They, this  
20 group, there's a lot of things that they've put forward in  
21 terms of how they plan on working out the deliveries of  
22 all this. Right? I mean, again, is it a perfect thing?  
23 I don't know. I mean, they make it sound like it's just  
24 going to work smoothly, obviously.

25 They do have a track record. They were at

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1 least willing to do -- it seems like they're trying to do  
2 everything they can to appease the community as best as  
3 they can. And obviously they want the community to be  
4 their clients, right? And by the way, again, to make  
5 jokes about what could be there. I lived next to a club  
6 for the longest time. Like, I mean, a club that goes on  
7 until 2:00 in the morning is a hell of a lot worse than  
8 like, you know, a delivery service.

9 So, and Chairman Hood can give -- we can all  
10 give our sad stories of what we've lived next to. Right?  
11 So again, the concern is that it's not going to work.  
12 Right? So they have a long list of things from DDOT, from  
13 the Office of Planning. And also, they've gone through  
14 the ANC. The ANC voted to approve. So this process has  
15 been going on and we're the last step in it.

16 In terms of the regulations, I believe they're  
17 meeting the criteria. I believe that the Office of  
18 Planning's report gives, very clearly, how they're meeting  
19 the regulations for the, I'm sorry, the criteria for us to  
20 approve this. The one that, again, the Office of Planning  
21 did point out again, was number 4, which was, you know,  
22 not to become objectionable to neighborhood properties,  
23 noise, odors, outdoor lights, operations, other  
24 conditions.

25 And again, adversely. Right? This is a

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1 commercial zone. So anything that's going to be there  
2 could potentially have some kind of an impact. But I'm  
3 ready to vote on it, I guess is what I'm trying to say. I  
4 think they -- it is -- and for the record again, I will  
5 state that I also, as a member of the public, I would be  
6 concerned about something new that's coming next to my  
7 neighborhood.

8           However, this is a lovely area that has a lot  
9 of retail there, which is part of the benefit of living in  
10 such an area. And so it seems as though they are doing  
11 their best to mitigate these issues. But those are my  
12 opinions. And if you want to, we can postpone a decision.  
13 We can bring people back in. Whatever you all want to do.

14           And I'm going to start with Mr. Smith and go  
15 around the horn.

16           MEMBER SMITH: I don't think we have to  
17 postpone it. I'm prepared to make a decision on this  
18 today. I do largely agree with the Office of Planning's  
19 analysis on this particular case. I do have some concerns  
20 about when it comes down basically about U.513.14. I do.  
21 I am one of those people who is concerned about parking  
22 and traffic impacts as it relates to this particular  
23 facility.

24           It seems to me that everything that they're  
25 proposing to occur would largely occur in this pick-up and

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1 drop-off zone. And that includes the delivery of supplies  
2 that would be occurring at the same times as it would be  
3 coming to pick up their foods.

4 I do believe the applicant has attempted to  
5 mitigate it as much as possible, these delivery conflicts.  
6 But I don't believe that they can control for the curing  
7 that will occur in the neighborhood streets, along S  
8 Street. Especially during rush hour when Wisconsin -- you  
9 can't park on Wisconsin.

10 And even on the other side of the street in  
11 this area. Even non-rush hour, parking's tight. So I do  
12 have some concerns about that. I understand that they do  
13 not have to have a parking requirement. But I do think  
14 that this site or this project would benefit from having  
15 some type of parking arrangement. Secured parking  
16 somewhere for people to be able to sit in queue and wait  
17 for them to be called to access that pick-up and drop-off  
18 zone.

19 What I heard from the applicant was that  
20 potentially they wouldn't have 16 restauranters at any  
21 given time. They could become wildly popular. And I do  
22 believe in the planning of this project should account for  
23 a full build-out and usage of these spaces. And I'm not  
24 comfortable that they have really addressed that for me to  
25 be comfortable. So for me to be comfortable, I would be

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1 in favor of a five-year sunset special exception on this  
2 project to largely hold the applicant accountable to  
3 ensure that they would address any concern that the  
4 neighborhood would have, or the community would have  
5 about, you know, parking concerns or pick-up and drop-off  
6 concerns. And if there aren't any concerns within five  
7 years, the sunset can go away. We remove sunsets in the  
8 past, you know, couple years that I've sat on this Board  
9 for restaurants, because they have demonstrated that the  
10 sunset isn't needed.

11 So I am prepared to support it with a sunset.

12 CHAIR HILL: Mr. Blake.

13 MEMBER BLAKE: Yeah. I would agree with Member  
14 Smith's observations. I think this is a very good concept  
15 and I think it would be a welcome addition to the  
16 community overall. I like the idea of concentrating  
17 everything in the U4 Zone. I mean, one of the issues that  
18 Mr. Overmyer has falls from the fact that his residence is  
19 actually in an R Zone which abuts this zone. And we often  
20 have problems with properties that abut the N4 Zone  
21 because it's a totally different level of operation. That  
22 is the case here.

23 I do think that a lot of the mitigating factors  
24 that they've -- mitigating actions that they've taken do a  
25 lot of good things. For example, the noise, the odors,

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1 the lighting. All those things have a positive impact.  
2 The most significant one I saw today, that came out today,  
3 was the fact that they would not have the delivery trucks,  
4 those 20-foot trucks going into the alley. I think that  
5 was a very significant adjustment which is value added to  
6 the adjacent zone and those people in that block.

7 I do think that it's important that they do,  
8 the trash being inside and being removed regularly I think  
9 is a very valuable issue actually that will help deal with  
10 the rat issue. And this building looks to me, based on  
11 the pictures I saw, to be a complete eyesore at this  
12 point. And if it's good enough for a restaurant, I don't  
13 know. But the ones that were there failed, so I don't  
14 know. Maybe this is the right solution for this  
15 particular property.

16 I do think that the change around of the zones  
17 for parking may have some implications for the businesses  
18 in the area, the other businesses. I don't know. That's  
19 an unknown. But I do agree with you that there are a lot  
20 of unknowns here that we would love to have answered.  
21 Because this model is relatively new for us and our  
22 community. For that reason, I would agree with Mr. Smith  
23 about perhaps having a sunset to allow -- to see if this  
24 thing is working well and to try and tune and keep a  
25 little bit of a stick to the applicant to make sure

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1 they've got to make it work well.

2           Because they can fine-tune this whole process  
3 throughout to make sure the parking's not a problem. To  
4 all these things, to make sure it's not a problem. So  
5 It's not -- this is a dynamic situation and the platforms  
6 there for them to make it work. So that's what I would  
7 say on that.

8           CHAIR HILL: Chairman Hood.

9           MEMBER BLAKE: I support it.

10          CHAIR HILL: Mr. Blake, you're supportive with  
11 the sunset?

12          MEMBER BLAKE: That's correct.

13          CHAIR HILL: Chairman Hood.

14          CHAIR HOOD: Thank you, Mr. Chairman. I  
15 actually am not supportive for the five-year sunset. And  
16 when I first came on the commission, I used to look at  
17 sunsets and I've been here long enough to see them set.  
18 And I will tell you that actually nothing happens. They  
19 continue to go. They continue to proceed on. It's never  
20 -- we have never, and I can stand to be corrected, we have  
21 never done away with one because it caused a problem in  
22 sunset.

23               Now I do understand what we're trying to  
24 achieve, and I have another option I can throw out there  
25 to my colleagues. Because when I look at a five-year

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1 sunset of an investment versus predictability. And  
2 that's, you know, people that are putting money up need to  
3 have some predictability. If I'm looking at a sunset, I'm  
4 looking at 10 years. Which has been actually, if you look  
5 at the history, actually the ones that have worked.

6 Now as far as us being able to -- someone being  
7 able to evaluate what goes on, I know on the commission we  
8 do this a lot. We have a condition, or we have a way for  
9 them to report to the ANC. So that's a conduit for Mr.  
10 Overmyer and others to be able to work out some of those -  
11 - or sometimes we even put groups in place, and I don't  
12 know how far the BZA goes, I'm throwing this out there.

13 So I'm looking at a five-year sunset versus the  
14 community being able to have a dialog or being able to  
15 have a group that works with somebody on the applicants  
16 team or somebody who's on the proposal of delivery service  
17 to be able to iron out some of those problems because I  
18 can guarantee they will adapt. But when I look at the  
19 regulations, when you talk about the rooftop setbacks, I  
20 think they definitely meet the requirements. I think the  
21 record is for.

22 But I'm just concerned about a five-year sunset  
23 because most of the time it takes four years to get up and  
24 started and get your investment. So I would like for us  
25 to re-look at that. And also, if you look at the history,

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1 like I stated, what have we ever really done with sunsets  
2 that were five-years? Thank you, Mr. Chairman.

3 CHAIR HILL: Sure. Vice Chair John?

4 VICE CHAIR JOHN: So I support the application  
5 because I believe that it is really a good concept. And  
6 it could really be successful. The issue I'm having is  
7 with respect to the parking as I discussed, and the  
8 traffic. And I believe the applicant addressed this in  
9 their rebuttal to the extent that they're, you know,  
10 they're conditions that can be put in place that might  
11 help to lessen the potential impact.

12 So I think that the clarification of the hours  
13 when the business would be open would be 11:00 to 2:00 as  
14 I understand it. The fact that there would be no, only  
15 trash pick-up in the alley and no deliveries or parking in  
16 the alley.

17 I would also like to highlight that the  
18 restaurant itself is not in a residential zone, so it is  
19 allowed in that location. I liked the proposal that the  
20 delivery drivers, or pick-up drivers would not be allowed  
21 to stop illegally on Wisconsin Avenue between 4:00 and  
22 6:30 p.m. and they would be directed in that regard.

23 I would also add to that, S street. I'm  
24 concerned about the potential parking on S Street as I  
25 believe Ms. Overmyer testified -- Melissa Overmyer

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1 testified to. I do know that location and it's -- the  
2 traffic there can be really very bad. So I would also  
3 support no illegal stops on S Street or between the hours  
4 of 4:00 to 6:30 p.m. on Wisconsin Avenue.

5 I like the idea that there will be someone to  
6 monitor the traffic to make sure that these conditions are  
7 being met. Somebody from the business will do that. I  
8 agree with the applicant that a brick and mortar  
9 restaurant could be even more disruptive and as we have  
10 seen from the photographs, the conditions there in terms  
11 of trash are just pretty bad.

12 I don't support the sunset provision because of  
13 the financial conditions that the applicant described. It  
14 takes a lot of money to build out a restaurant and I think  
15 that there would be too much unpredictability to have a  
16 sunset provision.

17 But I agree with Commissioner Hood that we  
18 could impose a condition that the applicant report to the  
19 ANC. I don't know how often, but I believe that the  
20 neighbors are clearly able to monitor the conditions and  
21 to work with the ANC which is in support of the  
22 application. And so those are my thoughts. I'm sorry to  
23 go on so long but I think my concerns have been addressed  
24 with the conditions that the applicant suggested in the  
25 rebuttal. And so I would be in support.

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1 CHAIR HILL: Okay. So Chairman Hood. So if  
2 there is -- I'm just trying to see where we're at. I've  
3 got two five-years. So that's five-years. One 10-year,  
4 and then I've got maybe the committee. Or not committee,  
5 you know, maybe a liaison.

6 VICE CHAIR JOHN: Liaison, yes.

7 CHAIR HILL: Liaison. Right. And so if there  
8 were a liaison assigned, would you still want the 10-year  
9 sunset, Chairman Hood?

10 CHAIR HOOD: Mr. Chairman, I just say that  
11 five-years is definitely out of the question for me  
12 because I've been around to see that it actually doesn't  
13 do anything for the Board. But if we want to do  
14 something, we not put people in the promised land. And I  
15 understand what we're trying to get to, to have a safe  
16 haven for people to -- but I would agree with Vice Chair  
17 John.

18 The liaison group, I can't remember. When you  
19 go from the zoning commission to these, I can't remember  
20 what we can and cannot do. So I would agree with the  
21 liaison group. I think that is important because that's  
22 actual real-time. That would work for Mr. Overmyer and  
23 those who had concerns in real time. That's where I am.  
24 If that answers your question.

25 CHAIR HILL: It did.

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1 Ms. Nagelhout are we able to -- I mean, I guess  
2 I can bring the applicant in and see if he agrees to a  
3 liaison. I don't see why he wouldn't. But are we able to  
4 condition a liaison? I don't actually remember.

5 MS. NAGELHOUT: It would require the applicant  
6 to appoint somebody to be a liaison to the community or  
7 the ANC, something along those lines. You cannot compel  
8 meetings.

9 CHAIR HILL: I got you. Okay. All right.  
10 I'm going to bring back everybody in the -- and on and on.  
11 Before -- I mean, you guys, Mr. Smith and Mr. Blake. I  
12 mean, I'm not also -- I mean, I'm also not 1000 percent  
13 comfortable with all of this but I don't know a better way  
14 to do this than what we're currently doing.

15 Mr. Blake, you have your hand up?

16 MEMBER BLAKE: Yeah. I mean, my issue is this.  
17 I'd like to make sure that this is fine tuned to the point  
18 where it does work in the community. And since we don't  
19 have experience with it, my idea of having -- my agreement  
20 to have the term was an incentive to make it work.

21 I think that having them interact with the  
22 community, the ANC would be great just to make sure  
23 there's a checks and balances. If there's a problem, how  
24 do they -- I want them to be able fix it and fine tune it  
25 and make it work. So that was the incentive for the term.

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1 Now a 10-year term is great. I just want to make sure  
2 there's some incentive for interaction. And I think  
3 having the liaison would do that.

4 But I do want to have some feedback. It's  
5 jammed up, let's fix it as opposed to just, it is what it  
6 is. I would like some dynamic event.

7 CHAIR HILL: Got you.

8 Mr. Smith?

9 MEMBER SMITH: Mr. Blake, I'm fine if we want  
10 to add some level of liaison but I'm going to be honest  
11 with you. Just there being liaisons, it's great if they  
12 talk. But there's stronger action on the part of an  
13 applicant if there is a sunset on it and I'm not -- it  
14 doesn't have to be five. It can be 10, I'm comfortable  
15 with that. But I haven't, you know I --

16 CHAIR HILL: Okay. I got you. I got you.

17 MEMBER SMITH: Liaisons I haven't seen that  
18 they've always worked out. Just -- we just had a  
19 condition where they --

20 CHAIR HILL: Mr. Young, has anybody got -- I'm  
21 going to bring everybody back in. Anybody's got for us to  
22 talk about real quick? Because I'm also -- I'm more also  
23 leaning towards the 10-year also myself, just so there's  
24 some kind of teeth to it. But --

25 CHAIR HILL: So let me say this, Mr. Chairman.

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1 And that goes with what -- I can name some cases where the  
2 liaison group really works well. And I know the BZA  
3 probably doesn't see as many as we do. And I mean, it  
4 really works well. Actually, one of them works so great I  
5 was sorry they didn't invite me to it. But anyway, I will  
6 just tell you that I think it's important that we have  
7 people do stuff in real time.

8           10 years from now, I want them to meet. I want  
9 Mr. Overmyer and the neighbors that have concerns to meet.  
10 As soon as we get off this call, they can start meeting.  
11 But if we wait for 10 years, guess what. They show up in  
12 10 years, when they come back with all due respect to my  
13 colleagues -- when they come back in 10 years, well, I  
14 guess the only person would be here is Board Member Blake.

15           But when they come back in 10 years, what's  
16 going to happen? You're going to look at it and then what  
17 you're going to do is you're going to continue to say,  
18 okay well we tweak it, or we worked it out or whatever.  
19 And it's probably going to still proceed.

20           I'm just trying to, as Vice Chair Jones  
21 mentioned, I'm just trying to get the applicant some --  
22 this is new, I'm just trying to get the applicant some  
23 predictability. I know what we're trying to achieve here.  
24 I get that and I won't belabor it. I'll leave it alone.

25           CHAIR HILL: Okay. I'm just getting so -- I've

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1 got to tell you; I'm getting a little tired to where I  
2 want to go have lunch to the point that I don't even --  
3 I'm going to -- we're going to see what happens with the  
4 applicant now and the party in opposition.

5 Mr. Young, can you bring in Mr. Kadlecek and  
6 Mr. Overmyer again?

7 MR. YOUNG: Overmyer.

8 CHAIR HILL: Mr. Kadlecek, can you hear me?  
9 Okay. So you can talk to your client if you want to. I  
10 mean, I'm sure you've watched all this.

11 MR. KADLECEK: Yes.

12 CHAIR HILL: So I mean, I'm pausing because I -  
13 - this is all I'm going to be able to do today. It's a  
14 pretty long day and I'm going to have to like to put this  
15 off if we're not going to do this now. So you know, it  
16 seems as though what, you know, a liaison, I don't see why  
17 your client wouldn't agree to that, correct?

18 MR. KADLECEK: That's right. And to echo Mr.  
19 Hood's point, I've certainly worked on other cases where  
20 that's been a condition and it's worked fine. And I've  
21 been communicating with my client. They're happy to do  
22 that. They're also happy to do regular reporting to the  
23 ANC.

24 As I said, they want to be a good neighbor  
25 because they're business depends on it.

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1 CHAIR HILL: I know. I mean, Mr. Kadlecek, and  
2 this is a point that I don't want any of us to forget. If  
3 this works out well, nobody cares.

4 MR. KADLECEK: Yeah. Right.

5 CHAIR HILL: That's the part that we have to  
6 always remember. Everybody who's listening on this call,  
7 if this works out well, nobody cares. You're going to get  
8 something nice in the community, okay? So my big concern  
9 right now that I'm trying to figure out is the 10-year  
10 sunset. Right?

11 Mr. Kadlecek, do you have any -- I mean nobody  
12 --your client doesn't want it. But if you could get an  
13 approval now with the 10-year sunset, and today we get to  
14 move forward or we have to chew on this a little bit more,  
15 do you know what your client might think?

16 MR. KADLECEK: I don't know that exact  
17 proposition. I mean they're watching. But I know that  
18 there's a strong resistance, understandably, to a sunset  
19 because of the big investment and the reasons that Mr.  
20 Raisin explained.

21 CHAIR HILL: Okay. Let me do this. Let me do  
22 this. You -- why don't you just check with your client  
23 real quick. Because I'll tell you what's going to happen,  
24 at least as far as I know. And you all can do what you  
25 want, my Board members. I'm not comfortable doing this

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1 right now in the hurry that we're doing this without the  
2 10-year. Okay? That's just me, right?

3 And I don't know what's going to happen with  
4 the rest of the Board members. That means that we're  
5 going to put this off and vote later and I might change my  
6 mind about the 10-year. I really don't know. And it is  
7 possible. So, and I don't know what everyone else is  
8 going to do either, Mr. Kadlecek. I'm just trying to let  
9 you know that your client should at least understand  
10 what's going on.

11 And I'm going to give you a quick -- and then  
12 we're going to take lunch. And I'm sorry, my fellow Board  
13 members, I'm just trying to get something done today also,  
14 one way or the other. And so, Mr. Kadlecek, do you have  
15 an answer, or do you need three minutes?

16 MR. KADLECEK: Probably three minutes.

17 CHAIR HILL: Okay. And I'm going to let Mr.  
18 Overmyer talk also in a second.

19 MR. KADLECEK: Okay. Sorry, we just -- I need  
20 like five minutes to confirm real-time with them.

21 CHAIR HILL: Yeah, yeah, yeah.

22 MR. KADLECEK: So I don't know how you want to  
23 handle that.

24 CHAIR HILL: Actually, I'll tell you what.  
25 Let's just take lunch. Yeah. Let's take lunch. Okay.

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1 MR. KADLECEK: Okay.

2 CHAIR HILL: Look at that, everybody's throwing  
3 up their hands.

4 Mr. Overmyer, you don't have to stick around if  
5 you don't want to, but you can. But do you have -- do you  
6 understand what's going on? We're now trying to -- and  
7 I'm sure, Mr. Overmyer you understand that if you have a  
8 nice, wonderful business in your backyard, that's better  
9 than a club, right? And so, you know, you're also just  
10 trying to look out for yourself and the neighborhood. I  
11 totally get it.

12 And by the way, again, we all get it. We all  
13 want what's best for the neighborhood. So you understand  
14 the 10-year time limit thing and the liaison that we're  
15 talking about, correct? Do you have an opinion on either  
16 one?

17 MR. OVERMYER: I think both is good. Some  
18 accountability is always good. It think our biggest  
19 concern at this point is time. This is 2:00 a.m. that  
20 businesses that are there, including this and the three  
21 restaurants within 100 feet all close at 9:30 or 10:00  
22 p.m. So going past that, if there is some way to resolve  
23 that, that's really important for us.

24 CHAIR HILL: So you, meaning you. You're the  
25 party status person. So you meaning you. You're trying

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1 to -- and now I'm even working on a different thing. I  
2 don't necessarily. What is it you're trying to achieve  
3 with your time-limit thing? What time do you like?

4 MR. OVERMYER: I like 10:00 p.m. Everybody  
5 else.

6 CHAIR HILL: Mr. Overmyer, you live on  
7 Wisconsin Avenue, like 10:00 p.m., who else, you know, so  
8 --

9 MR. OVERMYER: Nobody stays open past 10:00 on  
10 Wisconsin Avenue in that area. It -- the four restaurants  
11 that operate, and they've been there for decades, have all  
12 realized there's no business after 10:00.

13 CHAIR HILL: Okay. All right. So, okay. So  
14 that's --

15 MR. OVERMYER: And we love those businesses,  
16 and we frequent them and so does everybody else.

17 CHAIR HILL: But Mr. Overmyer, by the way,  
18 everybody on this call loves your neighborhood. Okay.  
19 So, right? So, okay. All right. Anyway, the reason why  
20 I was trying to pause that was that if there was some way,  
21 Mr. Overmyer, you could come to some agreement with Mr.  
22 Kadlecek that was something that they would be able to  
23 work with, they would be happy to get you to withdraw your  
24 party status.

25 But I don't know if 10 -- I don't even know if

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1 there's a discussion going on at 10:00 p.m. so that's why  
2 I'm not going to even bother with this, okay? If --

3 So, Mr. Kadlecek. You guys, Mr. Kadlecek, by  
4 the way, do you have Mr. Overmyer's number?

5 MR. KADLECEK: We do. And in fact, we have  
6 tried to contact him over the last couple days to talk  
7 about his concerns.

8 CHAIR HILL: Okay. Do you, well, you guys have  
9 got lunch. Okay? If you can figure out something.  
10 You've got your ANC, you've got your -- you've already got  
11 the Board now. I think the Board is still uncomfortable  
12 with stuff. It has nothing to do with Mr. Overmyer. So  
13 we're going to take lunch. We're going to come back.  
14 This is still going to go on. It's 1:45.

15 (Whereupon, the above-entitled matter went off  
16 the record at 1:45 p.m. and resumed at 2:33 p.m.)

17 MR. HAMALA: The Board is back in session after  
18 quick recess at around 2:33 p.m. And our next case is  
19 Application No. 20753, Donald S. Pashayan. This  
20 application is a self-certified application for a special  
21 exception pursuant to Subtitle E 5201 and Subtitle X  
22 901.2, and is from the lot occupant's requirements of  
23 Subtitle E 44.1.

24 The proposal is for a rear deck addition to an  
25 existing three-story attached residential flat in the RF-2

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1 zone. And the property is located at 1443 S Street NW,  
2 Square 206, Lot 16.

3 BZA CHAIR HILL: Okay, great. Mr. Sullivan,  
4 can you hear me? And if so, can you introduce yourself  
5 for the record?

6 MR. SULLIVAN: Yes, I can. Thank you, Mr.  
7 Chair, and members of the Board. Marty Sullivan with  
8 Sullivan and Barros on behalf of the applicant.

9 BZA CHAIR HILL: Okay. Mr. Sullivan, I don't  
10 have a whole lot of questions about this one. If you want  
11 to go ahead and walk us through the application, why you  
12 believe your client meets the criteria for us to grant the  
13 relief in question.

14 I am pulling up your slide deck here and am  
15 going to put 15 minutes on the clock, so I know where we  
16 are. And you can begin whenever you like.

17 MR. SULLIVAN: Thank you, Mr. Chair. And I'll  
18 be as brief as you like. The architect is here with us if  
19 you have questions.

20 But I think I won't bother having her present.  
21 I'll go through the planned pages that I think you might  
22 want to see.

23 BZA CHAIR HILL: Yes, please. Thank you.

24 MR. SULLIVAN: So, this is, when the  
25 presentation comes up we'll go to slide 2, it's the RF 2

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1 zone, which is RF in the Dupont Circle area.

2           Asking for special exception relief for lot  
3 occupancy to go to 67 percent because of a deck addition.  
4 So there's no addition to the building. Next slide,  
5 please.

6           We have unanimous support from the Dupont  
7 Circle ANC. We have, in support of occupant's planning,  
8 we have eight letters of support, including all the  
9 adjacent neighbors. Next slide, please.

10           This shows you a photo of the yard. There's no  
11 garage here. And there will continue not to be. Those  
12 stairs will be altered that exist now and then there will  
13 be a deck.

14           If we could go down two slides to slide six,  
15 and you'll see a site plan showing the existing area  
16 versus the proposed area with the deck. I'm looking to  
17 see if there's any other slides.

18           Slide 11 is a rear elevation showing the deck.  
19 And then also, if we go back to slide four, when you look  
20 at the photo again, you'll see that there's already a  
21 relatively high fence there, that this deck will be a  
22 little bit under that fence.

23           And all the neighbors already have elevated  
24 deck space. Not all of the neighbors, but the two to the  
25 left. And they're in support anyway.

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1           So, for that reason, there's no impact on light  
2 in there, no impact on privacy or character scaling  
3 pattern.

4           I have slides on that at the end if you wanted  
5 to read those. I won't bother going into them beyond  
6 that. I think it's pretty straightforward.

7           So, if you have any questions for me or for the  
8 architect -

9           BZA CHAIR HILL: No, that's fine. I'm looking  
10 through your slide deck. Let me turn to the Office of  
11 Planning proprietary to my colleagues. Office of  
12 Planning, Ms. Elliot?

13           BE: Thank you, Mr. Chair, and members of the  
14 Board. I'm Brandice Elliot, representing the Office of  
15 Planning and filling in for Crystal Meyers. I'm  
16 substitute planner today.

17           Office of Planning is recommending approval of  
18 the lot occupancy relief that's been requested for this  
19 deck.

20           I'm going to go ahead and stand on the record  
21 of OP's report, because you have a very long day. But I'm  
22 happy to answer any questions that you have.

23           BZA CHAIR HILL: Okay. Does anybody have any  
24 questions for the Office of Planning? Does anybody have  
25 any questions for the applicant? Mr. Young, is there

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1 anyone here wishing to speak?

2 MR. YOUNG: We do not.

3 BZA CHAIR HILL: Okay. Mr. Sullivan, do you  
4 have anything at the end?

5 MR. SULLIVAN: No, thank you.

6 BZA CHAIR HILL: Okay, I'm going to close the  
7 hearing and the record. Based upon the record, I thought  
8 this was pretty straightforward.

9 I would agree with the analysis of the Office  
10 of Planning as well as that of the ANC. It's nice to see  
11 that the neighbors were in support.

12 And I didn't have any issues or concerns. I  
13 will be voting in favor. Mr. Smith, do you have anything  
14 to add?

15 MEMBER SMITH: I agree with your analysis.

16 BZA CHAIR HILL: Mr. Blake?

17 MR. BLAKE: Yes, sir. I have nothing to add.  
18 I agree with your analysis. I'll be voting in support as  
19 well.

20 BZA CHAIR HILL: Chairman Hood?

21 ZC CHAIR HOOD: Everything's been said.

22 BZA CHAIR HILL: Vice Chair John?

23 VICE CHAIR JOHN: I'm in support and I agree  
24 with your analysis.

25 BZA CHAIR HILL: All right. I'm going to make

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1 a motion to approve that application, number 20753, as  
2 captured by the secretary, and ask for a second. Ms.  
3 John?

4 VICE CHAIR JOHN: Second.

5 BZA CHAIR HILL: Motion is made and seconded.  
6 Mr. Hamala, if you can take a roll call.

7 MR. HAMALA: Please respond with a yes, no, or  
8 abstain. Sherman Hill?

9 MR. HILL: Yes.

10 MR. HAMALA: Vice Chair John?

11 VICE CHAIR JOHN: Yes.

12 MR. HAMALA: Mr. Blake? Mr. Smith?

13 MEMBER SMITH: Yes.

14 MR. HAMALA: And Mr. Hood? Staff would report  
15 the vote as 5-0-0 to approve the application with a motion  
16 made by Chairman Hill and second by Vice Chair John and  
17 with support of Mr. Blake, Mr. Smith, and Mr. Hood in  
18 support of the motion.

19 BZA CHAIR HILL: Great, thank you, Mr. Hamala.  
20 You can call the next case when you get a chance.

21 MR. HAMALA: Our next application is number  
22 20756, 6616 Kenyon Street, LLC. This is a self-certified  
23 application pursuant to Subtitle X 91.2 for special  
24 exceptions.

25 The first is under Subtitle E 5201 from the

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1 side yard requirements of Subtitle E 2010.3, and the  
2 second is under Subtitle U 320.2 to allow the conversion  
3 of an existing residential building to a three-unit  
4 apartment house.

5 And the proposal is for a third story and  
6 three-story rear addition, elevating the existing site to  
7 an abutting alley and to enlarge a two-story principal  
8 dwelling in the RF 1 zone.

9 And this property is located at 6616 Kenyon  
10 Street NW. That's square 3047, Lot 78.

11 BZA CHAIR HILL: Mr. Bello, if you can hear me,  
12 could you introduce yourself for the record, please?

13 MR. BELLO: Good afternoon, Mr. Chair and Board  
14 members. Toye Bello, 1917 Bannon Road. Representing the  
15 applicant.

16 BZA CHAIR HILL: Thank you, Mr. Bello. Hold  
17 on, Mr. Hamala says somebody's not been sworn in perhaps.

18 MR. HAMALA: Apologies, Mr. Chair. We do have  
19 two preliminary matters. One is for two late filings.  
20 The first is for the applicant's PowerPoint and two is to  
21 allow the applicant information into the record.

22 BZA CHAIR HILL: Okay. Unless the Board has  
23 any questions or concerns, I'd like to see both of those.  
24 If the staff could please drop them into the record.

25 And then also, I guess, Mr. Young, I think you

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1 have the PowerPoint, hopefully. So, if you could bring  
2 that up.

3 Mr. Bello, if you could walk us through why you  
4 believe your client is meeting the criteria for us to  
5 grant the relief in question. And we're going to put 15  
6 minutes on the clock. And you can begin when you like.

7 MR. BELLO: Thank you. Next slide, please.  
8 So, the applicant is requesting two reliefs, both special  
9 exception.

10 One is to eliminate an existing non-conforming  
11 side yard under Subtitle E 207.3. And the conditions for  
12 that relief is under Subtitle E 5201.1B. And the second  
13 is a special exception to establish the use of an  
14 apartment house, which is a building containing three  
15 units as a special exception under Subtitle U 320.2,  
16 subject to the conditions set forth under Chapter 3  
17 321.2A-C. Next slide, please.

18 So, applicant proposes, and this is just a  
19 project summary, applicant proposes to convert an existing  
20 single-family single detached structure into a three-unit  
21 apartment building.

22 The proposed project includes interior  
23 reconfiguration, the elimination of an existing non-  
24 conforming side yard, and both a horizontal and vertical  
25 addition to the existing footprint, and a modest third-

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1 floor addition. Next slide, please.

2 This is compliance with the burden of proof for  
3 the general criteria of the special exception under  
4 901.2A.

5 The application will be in general proposal and  
6 intents of the zoning regulations. The applicant proposes  
7 a conversion here that is permitted under state of  
8 condition.

9 One of those conditions is that the building  
10 being converted be in existence prior to May 12, 1958.  
11 This building complies with that requirement.

12 The second is that the building would feature  
13 900 square feet for each unit of conversion. So for a  
14 three-unit building, ordinarily 2,700 square feet of lot  
15 area will be required.

16 This property has 2,756 square feet of lot  
17 area, so it complies with that. The criteria for B is not  
18 applicable for this project because we are not converting  
19 up to four units. Next slide, please. Next slide,  
20 please. I think I pretty much covered this stage.

21 The general proposal and intent of the zoning  
22 regulations for the RF zone district as set forth under  
23 Subtitle E, Chapter One, Sections 100.1-100.4, which  
24 stipulate that the RF 1 zones, as residential zones, are  
25 developed primarily for road dwellings with limited

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1 conversions into more than three dwelling units or have  
2 occurred and are distinguished by a maximum number of  
3 dwelling units of two, three, and four per lot.

4 This project complies with that because it  
5 would have three units per lot. Next slide, please.

6 B, will not tend to affect adversely the use of  
7 neighboring property in accordance with the zoning  
8 regulations and maps.

9 All adjoining properties in proximity of  
10 subject property are similarly zoned RF 1. And they all  
11 have in common development standards applicable to subject  
12 property.

13 The neighborhood is characterized by a mix of  
14 two to three unit dwelling buildings, including low-rise  
15 walk-up apartment buildings.

16 The subject property is located at the end of a  
17 road of dwellings and share a common lot line of division  
18 with only one adjacent property west of the property.

19 Subject property is otherwise separated by two  
20 public alleys, a 10-foot alley and a 20-foot alley, east  
21 and south, respectively.

22 The building adjacent to the subject property  
23 on its east land and is separated by the 10-foot alley  
24 does not interfere with any openings.

25 Of the buildings located across the 20-foot

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1 alley are further separated by the rail lines, and run  
2 perpendicular to the rear property low line of the subject  
3 property. Next slide, please.

4 This is essentially just a plat showing the  
5 building location and the subject property lot size. Next  
6 slide, please.

7 Will meet such special conditions as may be  
8 specified in this title. Special conditions stipulated  
9 for the general area of the special exception to establish  
10 a proposed use, including the stipulation that the  
11 building be a residential use and that the building exist  
12 on the lot prior to May 12, 1958.

13 We've already testified to compliance of this  
14 property with that requirement. applicant refers to  
15 PowerPoint slide number four and five, compliance with the  
16 specific provisions to which building being converted was  
17 in existence prior to May 12, 1958.

18 It was constructed in 1908. The building to be  
19 converted would be in existence at the time the D.C. area  
20 accepts as completing the application to convert the  
21 existing building.

22 The building is proposed to be converted into  
23 three dwelling units, so Subtitle 302.B is inapplicable.  
24 The subject property complies with and exceeds the minimum  
25 lot area compliance for the proposed conversion. Next

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1 slide, please.

2 This will be the special exception criteria for  
3 the conditions for granting the side yard elimination  
4 request.

5 5201.4, an application for special exception  
6 relief under this section shall demonstrate that the  
7 proposed addition, new building, or accessory structure  
8 shall not have a substantially adverse effect on the use  
9 and enjoyment of any abutting or adjacent dwelling or  
10 property, specifically, A, the light and air available to  
11 the neighboring property shall not be unduly affected.

12 As aforementioned, the property only shares on  
13 lot line with one structure west of it. It's a similar  
14 two-story structure with no roof assembly.

15 The subject property is located at the end of  
16 the row of structures and abuts a 10-foot alley, a public  
17 alley, separating from adjacent building east of the side  
18 of the subject property.

19 So, the light and air of any property is not  
20 affected. And the only property that this property  
21 adjoins to the west, both do not feature any openings on  
22 the load bearing walls. Next slide, please.

23 B, the privacy of use and enjoyment of  
24 neighboring property shall not be unduly compromised.  
25 Subject property being at the end of the road within the

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1 block of location are separated by a 10-foot alley to the  
2 next adjoining building with no openings east of the side  
3 lot line and 20 feet of the rear would not unduly affect  
4 the use and enjoyment of any property.

5 applicant contends that the privacy of use and  
6 enjoyment of this neighboring property is not unduly  
7 compromised because the expansion of footprint is in  
8 compliance with the 10-foot restriction set forth under  
9 Subtitle E, Chapter 2, 205.5.

10 Further, the proposed third-floor addition does  
11 not exceed the number of stories permitted in the  
12 underlying zone.

13 And it is recessed back from the building front  
14 wall to temper any intrusion to the architectural fabric  
15 of the existing buildings in the neighborhood. Next  
16 slide, please.

17 C, the proposed addition of accessory  
18 structures together with the original building or the  
19 proposed new building as viewed from the street, alley,  
20 and other public ways shall not substantially visually  
21 intrude upon the character, scale, and pattern of houses  
22 along the street alley frontage.

23 applicant contends that the proposed  
24 alterations of the existing building does not  
25 substantially intrude upon character, scale, or patterns

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1 of houses along the street and alley frontage.

2 As aforementioned, the proposed third floor  
3 addition is recessed back from the building façade and the  
4 front wall in respect to the character, scale, and pattern  
5 of houses along the street.

6 The proposed project is in compliance of the  
7 prescribed height, number of stories, limitations for its  
8 underlying zone within which the subject property is  
9 located.

10 Proposed project retains rooftop architectural  
11 embellishment by setting back the third-floor addition to  
12 minimize the visual impact of the proposed third-floor  
13 addition. Next slide, please.

14 In demonstrating compliance with paragraphs A  
15 and B and C of this subsection, the applicant shows  
16 graphical representations such as plans, photographs, and  
17 elevation sections, and new building and cursory  
18 structures.

19 The applicant believes that the record is full  
20 of those information. And I will have the architect walk  
21 through the plans if the Board has specific questions  
22 about the design plans. Next slide, please.

23 5201.5, the Board of Zoning Adjustment may  
24 require special treatment in the way of design, screening,  
25 exterior or interior lights, and building materials, or

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1 other features for the protection of adjacent and nearby  
2 properties.

3 applicant is not adverse to any special  
4 treatment that the Board deems fit. applicant notes,  
5 however, that OP in its recommendation of approval does  
6 not recommend any special design treatment, Exhibit 20.  
7 Next slide, please.

8 5201.6, this section shall not be used to  
9 commit the introduction of expansion of a non-conforming  
10 use, lot occupancy beyond what is authorized in this  
11 section, height, and number of stories.

12 As a special exception, the withstanding  
13 application does not propose the expansion of a non-  
14 conforming use and will comply with lot occupancy in  
15 development standards. Next slide, please.

16 5201.7, when an application requires relief  
17 from an alley line, this provision is not applicable to  
18 this application. Next slide, please.

19 The Advisory Neighborhood Commission supports  
20 this project. I believe they filed a resolution of  
21 support in respect to that. In response to a concern  
22 raised by the ANC about the narrowness of the alley and  
23 the possibility of trucks hitting the edges of the wall  
24 right next to the 10-foot alley, applicant has  
25 incorporated steel plates at the edge of the front of the

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1 wall, which I think is reflected on the next slide,  
2 please.

3 And these are the front and rear elevations and  
4 renderings of the property. And the small yellow and  
5 black plates are the steel plates that are being  
6 incorporated into the design, based on the concern  
7 expressed by the ANC. Next slide, please.

8 This just shows neighborhood character photos  
9 in context. Next slide, please. The applicant submits  
10 that the instant application complies with all the  
11 conditions of the granting of the relief requested and  
12 respectfully requests that the reliefs be approved by the  
13 Board.

14 That will be our presentation unless the Board  
15 has questions either for me or for the architect who is --

16 BZA CHAIR HILL: Yes, Mr. Bello, thanks. Go  
17 ahead and drop that. Let me turn to the Office of  
18 Planning and then I'll turn back to my Board members, if  
19 that's okay.

20 MS. THOMAS: Good afternoon, Mr. Chair, members  
21 of the Board. Karen Thomas with the Office of Planning  
22 for application 20756.

23 And the Office of Planning is recommending  
24 approval of this special exception request to allow this  
25 conversion of the rural dwelling for three-units apartment

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1 building and the related third floor and three-story  
2 addition, which will utilize the existing side yard  
3 located along the side of the property abutting the alley.

4 We see that the addition would not extend  
5 beyond the permitted 10 feet beyond the only abutting  
6 neighbor's rear wall.

7 And we don't believe that requested relief  
8 shall harm the purpose and intent of the regulations.  
9 This is a large lot.

10 Any regulations anticipate conversion on a lot  
11 this size in the RF 1 zone. And we believe the requested  
12 side yard relief should not be inconsistent with the form  
13 and character of the buildings in this zone.

14 So overall, we do not anticipate an adverse  
15 impact to the light and air to neighboring property. And  
16 we are recommending approval of relief as evaluated in our  
17 report. Thank you.

18 BZA CHAIR HILL: Thank you, Ms. Thomas. Does  
19 the Board have any questions for the Office of Planning or  
20 the applicant?

21 Mr. Young, is there anyone here wishing to  
22 speak? Mr. Bello, is there anything you would like to add  
23 at the end?

24 MR. BELLO: We'll just rest on the record, Mr.  
25 Chair.

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1 BZA CHAIR HILL: Thank you. Mr. Young, I'm  
2 going to close the hearing and the record and excuse  
3 everyone.

4 I usually pick on Mr. Smith, but would anyone  
5 else like to start the deliberation, as I am getting a  
6 little tired? Mr. Blake.

7 MEMBER BLAKE: Certainly, Mr. Chair. I'll be  
8 voting in favor of this relatively straightforward  
9 application.

10 I've reviewed the record, including the  
11 applicant's statement, OP's report, the architectural  
12 drawings, and based on the testimony received today, I  
13 believe the applicant has met the burden of proof of  
14 relief for the side yard requirements of Subtitle E,  
15 pursuant to E 5201 and X 501.2.

16 Likewise, I believe the applicant has met the  
17 burden of proof to allow for the conversion of an existing  
18 semi-attached principal dwelling to a three-unit apartment  
19 house pursuant to Subtitle U 320, also pursuant to the  
20 general standards of X 501.2.

21 Rather than going into the specifics, I will  
22 say that I agree with the Office of Planning's analysis  
23 about how the applicant has met the criteria for relief.

24 I give great weight to the Office of Planning's  
25 recommendation for approval. Note that DDOT has no

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1 objection.

2 And ANC is support, although they raised some  
3 concerns with regard to the possible need to reinforce the  
4 corner.

5 The applicant has incorporated that into their  
6 plans. With all that said, I will be voting in favor of  
7 the application.

8 BZA CHAIR HILL: Thank you, Mr. Blake. Mr.  
9 Smith?

10 MEMBER SMITH: I have nothing more to add. I  
11 agree with Mr. Blake's analysis and support the applicant.

12 BZA CHAIR HILL: Thank you. Vice Chair John?  
13 I'm sorry, yes, Vice Chair John?

14 VICE CHAIR JOHN: I agree with the comments so  
15 far and I'm in support of the application.

16 BZA CHAIR HILL: Thank you. Chairman Hood?

17 ZC CHAIR HOOD: Nothing to add. I'm also in  
18 support.

19 BZA CHAIR HILL: Okay, I have nothing to add  
20 also. I'm going to make a motion to approve application  
21 number 20756 as captioned and read by the secretary. I'll  
22 ask for a second, Ms. John?

23 VICE CHAIR JOHN: Second.

24 BZA CHAIR HILL: The motion made and seconded.  
25 Mr. Hamal, if you could take a roll call, please?

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1 MR. HAMALA: Please respond with a yes, no, or  
2 abstain. Chairman Hill?

3 BZA CHAIR HILL: Yes.

4 MR. HAMALA: Vice Chair John?

5 VICE CHAIR JOHN: Yes.

6 MR. HAMALA: Mr. Blake?

7 MEMBER BLAKE: Yes.

8 MR. HAMALA: Mr. Smith? Mr. Hood?

9 ZC CHAIR HOOD: Yes.

10 MR. HAMALA: Staff would record the vote as 5-  
11 0-0 to approve the application with the motion made by  
12 Chairman Hill and seconded by Vice Chair John with the  
13 support of Mr. Blake, Mr. Smith, and Mr. Hood in support  
14 of the motion.

15 BZA CHAIR HILL: Okay, great. Thank you, Mr.  
16 Hamala. If you could call the next case, please.

17 MR. HAMALA: Yes. Our next application is  
18 number 20759 of Core Investments, LLC. And this is a  
19 self-certified application pursuant to Subtitle X 901.2  
20 for a special exception under Subtitle U 421 to allow a  
21 new residential development.

22 And the proposal is for a new three-story with  
23 penthouse and roof deck, 11-unit apartment house, in the  
24 RA 1 zone.

25 The property is located at 22401 12<sup>th</sup> Street NE,

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1 Square 39, Lot 30. And there are a few preliminary  
2 matters before the Board.

3 The first is an email request from Raymond  
4 Chandler to postpone the hearing until November. Then we  
5 have a couple more from the applicant.

6 We have two late filings, one for the affidavit  
7 posting and second for the affidavit maintenance. And  
8 then we also have a request from ANC 5C to leave the  
9 record open in order to submit a report.

10 And I would note that the ANC is on recess  
11 through August, next meeting on September 21.

12 BZA CHAIR HILL: Okay. Let me see. I was  
13 having a hard time pulling this up. Got it. Mr. Cross,  
14 can you hear me? If so, can you introduce yourself for  
15 the record?

16 MR. CROSS: Yes, Michael Cross, architect on  
17 behalf of the owner. 401 12<sup>th</sup> Street Northeast.

18 BZA CHAIR HILL: Got it. Okay. Unless my  
19 fellow Board members have any objection, I'd like to go  
20 ahead and allow the late filing into the record.

21 So, please, go ahead and do so. I guess I'm -  
22 and now I'm looking to my fellow Board members - I was a  
23 little confused by the request for postponement.

24 I mean, it coming from basically a member of  
25 the public, although it was someone who was an ANC

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1 commissioner and the fact we've, I think, seen  
2 Commissioner Chandler here before us as well.

3 But it seems as though the postpone was more or  
4 less to allow more time, at least in the request, to allow  
5 more time for residents to voice their concerns.

6 I guess if you haven't - Mr. Cross, I'm not - I  
7 don't know where November is coming from. So, I'm not  
8 interested in November.

9 I don't know exactly. I mean, they're - it  
10 sounds as though the ANC, and I'm talking, well, I'm  
11 talking to everybody at the same time.

12 I'll come back to my Board members. I'm  
13 talking to Mr. Cross right now, which to say it seems as  
14 though the ANC wants to leave the record open to hear from  
15 them. Mr. Cross, does that mean you haven't presented to  
16 the ANC yet?

17 MR. CROSS: Yes, that's exactly correct. We've  
18 been trying to get a chance to present since May 15 and  
19 have received no response from SMD Commissioner at ANC, or  
20 SMD 5C05 since that time.

21 We tried going directly to the ANC and was told  
22 that we could not be heard at the ANC until we met with  
23 the SMD.

24 And so I think we're just here today to  
25 hopefully have an opportunity to actually present our

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1 project to the public and would anticipate that  
2 potentially a decision hearing would have to be sometime  
3 in the future.

4 But having been given no other opportunity to  
5 present, we would appreciate the opportunity to present  
6 today.

7 BZA CHAIR HILL: Okay. I don't - I guess I'm  
8 looking to my Board members. I don't think that - I mean,  
9 I would want to hear from the ANC.

10 Now I'm looking at my Board members. I would  
11 want to hear from the ANC. So, I don't mind hearing the  
12 presentation and then leaving the record open for the ANC.  
13 And if there was an issue from the ANC that we needed to  
14 reopen the record to have a continued hearing, we can do  
15 so.

16 Or we could wait to see what we get from the  
17 ANC after their September 21 meeting and see whether we  
18 could or could not make a decision.

19 I mean, we should be able to kind of figure it  
20 out just based on the regulations after the presentation  
21 here from the applicant.

22 However, I would be interested in hearing from  
23 the ANC. So that being the case, I'm comfortable going  
24 ahead and hearing the application.

25 Because even as the person who had asked for

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1 the postponement, that person would have an opportunity to  
2 also now go to the ANC meeting on the 21<sup>st</sup> and also give  
3 their testimony there.

4 And this is again, what seems to be the request  
5 for the postponement is so that more impacted residents  
6 would have an opportunity.

7 So that being the case, I'm leaning towards  
8 just going ahead and hearing it today and then leaving the  
9 record open for the ANC.

10 And then if we wanted to reopen the record  
11 based upon what we hear from the ANC, we could do so after  
12 their meeting.

13 Or we can postpone it until after the ANC  
14 meeting. But it seems like it might not be as efficient  
15 as doing it now. Mr. Smith, do you have an opinion?

16 MEMBER SMITH:: I support your position on  
17 this. I would welcome hearing this particular case,  
18 especially as we're pushing up against some hard things on  
19 the calendar here. Let's hear it and let's leave it open  
20 for the ANC.

21 BZA CHAIR HILL: Okay, I got one there. Mr.  
22 Blake?

23 MEMBER BLAKE: I can support that position.

24 BZA CHAIR HILL: Okay, Chairman Hood?

25 ZC CHAIR HOOD: I actually, I'm not biased, but

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1 this is my ANC. I'm kind of taken aback by what Mr. Cross  
2 is saying of Ms. Oliver.

3 Some of your nuances, Ms. Oliver is not  
4 responding. I'm not sure if you reached out to  
5 Chairperson Manning who I think is very responsive.

6 And I do agree with Mr. Chandler's request,  
7 because Mr. Chandler preceded Ms. Oliver. Even beyond all  
8 that, what my issue is, I never like to do things over and  
9 over again. I would like to have it full baked.

10 The ANC hasn't weighed in. I also want to make  
11 sure they have an opportunity to cross-examine. And I  
12 would do this with any ANC.

13 I just think that we set ourselves up to have  
14 to duplicate stuff. So if the majority wants to move  
15 forward, I'm fine with it.

16 But I think we just get it better when it's all  
17 baked. And at least then we know that Chairperson Manning  
18 has not responded, her ANC has not responded, which I  
19 doubt that that's the course they would take.

20 I'm not sure what happened. Let me ask you  
21 this, though, Mr. Cross. Did you reach out to Chairperson  
22 Manning if you were not able to get in touch with Ms.  
23 Oliver?

24 MR. CROSS: We did, yes. And it was actually  
25 Chairperson Manning who responded, as you suggested, quite

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1 promptly back at the beginning of June, suggesting that we  
2 would not be afforded the opportunity to present at the  
3 ANC level until we presented at the SMD level.

4 And again, all emails and phone calls to Ms.  
5 Oliver at the 5C05 email and phone number have gone  
6 unresponded to since May 15.

7 ZC CHAIR HOOD: Okay. Well, Mr. Chairman, if  
8 you all decide to move forward, that's fine. I just think  
9 that it's just unfortunate that's a missed opportunity.  
10 Thank you.

11 BZA CHAIR HILL: Okay. Chairman Hood, I guess  
12 what I - I respectfully - the reason why I'm leaning this  
13 way is just because of how jammed up we are with our  
14 schedule overall.

15 And that if they, the ANC, would like us to  
16 reopen the record, I'm sorry, if they would like us to  
17 reopen the hearing, we're more than welcome, we're more  
18 than happy to reopen the hearing, to have them come back  
19 and participate.

20 That's what at least would be my thoughts at  
21 this moment. Yes?

22 MR. YOUNG: I just wanted to know, I just let  
23 Ms. Oliver in. She's calling in on the phone.

24 BZA CHAIR HILL: Okay. All right. Before I  
25 get to Commissioner Oliver, Vice Chair John, did you have

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1 a thought? You're on mute, Vice Chair John.

2 VICE CHAIR JOHN: Mr. Chairman, I'm inclined to  
3 hear the application when the ANC is present, if they plan  
4 to be, which would give them the best opportunity to  
5 intervene. So -

6 BZA CHAIR HILL: Okay. All right. Okay, Ms.  
7 Oliver, are you there? Or Commissioner Oliver?  
8 Commissioner Oliver? Hi, can you hear me, Commissioner?

9 MS. OLIVER: Can you hear me?

10 BZA CHAIR HILL: Yes, can you hear me?

11 MS. OLIVER: Yes, sir.

12 BZA CHAIR HILL: Can you introduce -

13 MS. OLIVER: I'm sorry. And I'm walking, I'm  
14 sorry.

15 BZA CHAIR HILL: No problem. Could you  
16 introduce yourself for the record?

17 MS. OLIVER: Yes, Commissioner Darlene Oliver,  
18 5C-05.

19 BZA CHAIR HILL: Okay. Commissioner Oliver,  
20 they, the applicant is here before us. I believe they are  
21 meeting with you on the 21<sup>st</sup> of September.

22 MS. OLIVER: Yes.

23 BZA CHAIR HILL: Are you aware of this one?

24 MS. OLIVER: Yes, sir.

25 BZA CHAIR HILL: Okay. And then what we're

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1 kind of just talking about is either having the - I mean,  
2 my Board is going to deliberate as to whether we go one  
3 way or the other.

4 The question right now is to whether hear - is  
5 to either hear this and leave the record open for your ANC  
6 to obviously participate.

7 And if you wanted us to reopen the record for a  
8 continued hearing, do so. Or would you rather just us  
9 wait?

10 And I don't know what's going to happen with  
11 the Board. But or would you just rather us wait until  
12 after you've gone through this process?

13 MS. OLIVER: I'd rather you wait, sir.

14 BZA CHAIR HILL: Okay. All right. Okay,  
15 thanks, Ms. Oliver. Actually, well, does anybody have any  
16 questions for Commissioner Oliver?

17 VICE CHAIR JOHN: Yes. Oh, go ahead,  
18 Commissioner Hood.

19 ZC CHAIR HOOD: After you, Vice Chair. I'll go  
20 after you.

21 VICE CHAIR JOHN: Well, you might be asking my  
22 question. The question, Ms. Oliver, was whether or not  
23 the applicant would be able to get on the full ANC  
24 commission, I mean calendar, in a short time period.

25 MS. OLIVER: Well, we're on vacation right now.

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1 VICE CHAIR JOHN: Yes.

2 MS. OLIVER: So, we should be back in about  
3 another week or so. And it won't be - it won't be a  
4 problem.

5 VICE CHAIR JOHN: Okay. So the full commission  
6 could hear the application before the Board gets back in  
7 September. Is that what you're saying? The Board  
8 reconvenes after the break on September 14.

9 MS. OLIVER: Okay. I'm sorry, I'm outside.  
10 Could you speak a little bit louder?

11 VICE CHAIR JOHN: Okay. The Board will be on  
12 break during the month of August and will reconvene on  
13 September 14.

14 So, the question is, would the ANC be able to  
15 hear from this applicant before the Board reconvenes on  
16 September 14?

17 MS. OLIVER: Yes, ma'am.

18 VICE CHAIR JOHN: Okay. All right. Thank you.  
19 There you go, Mr. Chairman.

20 BZA CHAIR HILL: Okay. Just to clarify -

21 ZC CHAIR HOOD: Mr. Chandler? Mr. Chandler,  
22 can I just add something?

23 BZA CHAIR HILL: Yes, go ahead.

24 ZC CHAIR HOOD: I'm not sure, Ms. Oliver,  
25 Commissioner Oliver, can you hear me?

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1 MS. OLIVER: Barely, but go ahead.

2 ZC CHAIR HOOD: Okay, this is Anthony Hood. So  
3 you're letting us know now that ANC 5C will be meeting in  
4 August?

5 MS. OLIVER: Okay, I'm sorry, sir. I'm  
6 outside, but say it again.

7 ZC CHAIR HOOD: Are you saying to this Board  
8 that ANC 5C will be meeting in August?

9 MS. OLIVER: Yes, sir. I don't have the exact  
10 date, but we will be meeting in August.

11 ZC CHAIR HOOD: Okay. All right. Thank you.

12 MS. OLIVER: You're welcome.

13 BZA CHAIR HILL: Okay. Now, Commissioner  
14 Oliver, I am confused. And I just want to make sure I'm  
15 certain.

16 What I thought was that your next hearing is on  
17 the 21<sup>st</sup> of September. You're now saying, which is fine,  
18 you're now saying that the full ANC will get to hear this  
19 case in August sometime? Question.

20 MS. OLIVER: Okay, I'm sorry, I was moving  
21 around and I could barely hear you. Okay, you're asking  
22 me if the ANC will be available in August or September?

23 BZA CHAIR HILL: I'm asking you, as I  
24 understand, your next ANC meeting is when, question?

25 MS. OLIVER: Okay, I don't, like I said, I

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1 don't have the calendar in front of me. But we can always  
2 have a special meeting.

3 BZA CHAIR HILL: No, I don't think - hold on,  
4 Mr. Cross. I don't think - we're not asking you for a  
5 special meeting.

6 I'm just trying to understand when your next  
7 full ANC meeting is. And when I thought it was, was on  
8 the 21<sup>st</sup> of September.

9 MS. OLIVER: Yes.

10 BZA CHAIR HILL: Okay.

11 MS. OLIVER: It is the 21<sup>st</sup> of September. I'm  
12 sorry, I'm outside.

13 BZA CHAIR HILL: That's all right. No problem,  
14 Commissioner. Give me one second, Commissioner. Mr.  
15 Cross, you had - it's not what you thought?

16 MR. CROSS: My understanding is they meet on  
17 the third Thursday of the month, which would be the 21<sup>st</sup> of  
18 July -

19 MS. OLIVER: 21<sup>st</sup>.

20 MR. CROSS: -- or the 15<sup>th</sup> of September. Is  
21 that incorrect?

22 BZA CHAIR HILL: Oh, I'm sorry, I got lost.  
23 So, Commissioner, your next full ANC meeting is the 21<sup>st</sup> of  
24 July, which is next week?

25 MS. OLIVER: Okay.

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1           BZA CHAIR HILL: So, my question to you is,  
2 will this application be heard at that ANC meeting? Do  
3 you know?

4           MS. OLIVER: No, sir, I doubt it would be heard  
5 that fast.

6           BZA CHAIR HILL: Okay. So, if it's not heard  
7 on the 21<sup>st</sup> of July, then you're off the month of August,  
8 correct?

9           MS. OLIVER: No, we're off now.

10          BZA CHAIR HILL: Oh. So, then you think that  
11 this applicant would be able to be heard at the August ANC  
12 meeting, correct?

13          MS. OLIVER: Yes.

14          BZA CHAIR HILL: Okay. All right. So if they  
15 hear - if you hear them at the full ANC meeting in August,  
16 then we would be able to hear them in September.

17          MS. OLIVER: That sounds right, sir.

18          BZA CHAIR HILL: Okay. So, I'm just trying to  
19 find out - I don't know what's going to happen with my  
20 Board.

21                 It seems three of the members, or at least two  
22 of the members, want to wait. And so, but you can stay on  
23 the line, Commissioner.

24                 I just want to make sure I understand that you  
25 think you can get - anyway, you just said that they can

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1 present to you in August. Okay. Great. Mr. Hamala?

2 MR. HAMALA: To clarify, since Chairwoman  
3 Manning emailed us earlier today saying that the ANC was  
4 not meeting in July or in August.

5 So, I just want to get that right. My  
6 understanding is that the next meeting for the full ANC is  
7 September 21.

8 ZC CHAIR HOOD: Is it the 21<sup>st</sup>? Because that's  
9 my ANC. So, I don't want to interfere with Commissioner  
10 Oliver.

11 But they meet on Wednesdays because I attend  
12 those meetings. I'll leave it alone. I'm not going to  
13 get into that.

14 MR. HAMALA: September 21 would be a Wednesday.

15 BZA CHAIR HILL: Commissioner Oliver? Hold on  
16 a second. All right. So, I'm going - I'm looking back to  
17 my Board members, okay?

18 I'm still in my original vote. That's okay.  
19 So I've got one original vote, which is to hear it, leave  
20 the record - I don't - I mean, either way, we're waiting  
21 until we hear from the ANC.

22 And it seems like the ANC meeting, to me, was  
23 going to be on the 21<sup>st</sup> of September. Commissioner Oliver,  
24 if you wouldn't mind muting your line.

25 MS. OLIVER: Okay, hold on.

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1 BZA CHAIR HILL: Yes, no problem. That means  
2 that if they're - yes, the 21<sup>st</sup> of September is a  
3 Wednesday.

4 And so, if they met on the 21<sup>st</sup> of September,  
5 then we could come back here on the 28<sup>th</sup> of September and  
6 either have a full hearing, which is what at least two of  
7 my members seem to want to do, or have the record open.

8 I mean, this is taking longer, have the record  
9 open for the ANC and then reopen the record if they want  
10 us to and have a hearing.

11 But now, I'm so tired, now I'm just ready to go  
12 ahead and wait until September. Now, I'm voting for  
13 September now, myself. I'm getting tired. Mr. Smith?

14 MEMBER SMITH: Let's move this to September.

15 BZA CHAIR HILL: Okay. I'm sorry, Mr. Cross.  
16 I mean, either way you weren't going to get a vote today.  
17 So, Mr. Cross, you can make your final point because it  
18 seems like you want to try to make a point here.

19 Because either way, you weren't going to get a  
20 vote until then.

21 MR. CROSS: Understood. And we didn't have  
22 intention of getting a vote today. Our intention is to  
23 have the opportunity to present to the public.

24 We have not been afforded that opportunity to  
25 date, as you can see. It has been difficult to get that

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1 opportunity.

2           And I felt that this would allow us to have  
3 that opportunity to present to the public that's hear  
4 today, on the record for the public to refer to, should we  
5 not be able to coordinate this schedule to present.

6           To date, the lack of opportunity to present, as  
7 well as the preemptive requests postponed without any  
8 feedback, any comments about what we need to do to improve  
9 the project for the public, makes me feel that all of this  
10 is just trying to delay the project.

11           And we're just trying to get our due process  
12 here.

13           BZA CHAIR HILL: Okay. I mean, the problem  
14 that I - and I also am not - I'm trying to - I'm also not  
15 taking this lightly, Mr. Cross, because we go into recess  
16 in August.

17           Like, I don't like pushing things off for  
18 months, as you know. But the vote wouldn't happen. I  
19 mean, again, the 28<sup>th</sup>, we're now in July 13<sup>th</sup>, one month, so  
20 that's like - that's like seven weeks away.

21           So, my concern to my Board members, again, is  
22 that I don't know if it would be more - anyway, I'll take  
23 one more crack at this.

24           I don't know if it's more expeditious for us as  
25 a Board, and I don't even know if Chairman Hood's going to

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1 be on this case then, now that I actually think about it  
2 when it comes back because he'll just kick it - he'll just  
3 kick it to somebody else, right?

4 So, whether us -- I'm not even looking at  
5 Chairman Hood now because I know he's not going to be  
6 here. So, if you all want to -- you all decide, okay?  
7 I'll do either way, and I'm happy waiting. So, do we want  
8 to wait or do we want to hear it? And does anybody want  
9 to start?

10 VICE CHAIR JOHN: Mr. Chairman, I would suggest  
11 we put it off until it's been heard before the ANC because  
12 if we hear it today, we're going to have to review the  
13 case again over the break and we'll be - we're doing this  
14 twice.

15 BZA CHAIR HILL: Okay.

16 VICE CHAIR JOHN: The staff and everybody will  
17 be doing this twice.

18 BZA CHAIR HILL: Okay.

19 VICE CHAIR JOHN: So, I hear you, Mr. Cross.  
20 And maybe your objective has been achieved because now we  
21 have a firm date for you to meet with the ANC. So, when  
22 you get back here, everybody should have heard what your  
23 project is and we'll all be ready to decide.

24 And maybe Mr. Hamala can put you at the front  
25 of the schedule when we get back.

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1 BZA CHAIR HILL: Okay, that's great. Mr.  
2 Hamala, I mean, so try to make a note of that. Or, Mr.  
3 Cross, if you remember, great, to make a note of it.

4 And I forget, it's just the way it goes, okay?  
5 So, and I'll get back to you, Mr. Cross. So,  
6 unfortunately, Mr. Hamala, how many cases do we have on  
7 the 28<sup>th</sup>?

8 MR. HAMALA: Cases on the 28<sup>th</sup>.

9 BZA CHAIR HILL: Okay. All right. Whatever.  
10 Let's put it on the 28<sup>th</sup>. Commissioner Oliver, can you  
11 hear me?

12 Sorry, I asked you to mute your line, so it  
13 might be - I wish I had knew - I think it's star some  
14 number to mute and unmute it.

15 MS. OLIVER: Can you hear me, sir?

16 BZA CHAIR HILL: Yes, yes. Can you hear me,  
17 Commissioner?

18 MS. OLIVER: Yes, I can.

19 BZA CHAIR HILL: Can you do me a favor? If you  
20 can, can you get us your report by the 23<sup>rd</sup> of September?

21 MS. OLIVER: Yes.

22 BZA CHAIR HILL: Okay.

23 MS. OLIVER: Hold on, I've got to write it.  
24 You want me to have a report by the 23<sup>rd</sup> of September?

25 BZA CHAIR HILL: Yes. They're going to present

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1 to you on the 21<sup>st</sup> of September.

2 MS. OLIVER: I'm sorry, sir. Say it again.

3 BZA CHAIR HILL: They, this applicant, as per  
4 what you're telling me, is going to present to your ANC on  
5 the 21<sup>st</sup> of September.

6 MS. OLIVER: Oh, yes, yes.

7 BZA CHAIR HILL: If you could please give us  
8 your thoughts by the 23<sup>rd</sup> of September, okay?

9 MS. OLIVER: Okay. Okay.

10 BZA CHAIR HILL: Okay, great. All right, thank  
11 you.

12 MS. OLIVER: Thank you so much. Have a good  
13 day.

14 BZA CHAIR HILL: You, too, now.

15 MS. OLIVER: Bye-bye.

16 BZA CHAIR HILL: And Mr. Hamala, can you hear  
17 me?

18 MR. HAMALA: Yes, sir.

19 BZA CHAIR HILL: If they give - so, we're  
20 waiting - so the ANC is going to meet with these guys on  
21 the 23<sup>rd</sup>, I'm sorry, 21<sup>st</sup> of September.

22 We're going to then get the report on the 23<sup>rd</sup>.  
23 And then we'll meet back here on the 28<sup>th</sup> with them. Okay?

24 MR. HAMALA: Got it.

25 BZA CHAIR HILL: Okay. And we'll put them

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1 first if they - if you can remember.

2 MR. HAMALA: All right.

3 BZA CHAIR HILL: Okay. Mr. Cross, you were  
4 going to say something?

5 MR. CROSS: Thank you for your time and  
6 consideration and no special considerations needed on the  
7 28<sup>th</sup>. We're just glad to have the opportunity to present.

8 BZA CHAIR HILL: Okay. All right, well, we'll  
9 see what happens anyway. Okay. All right. Thank you.

10 I'm going to close the hearing on the record  
11 until the 28<sup>th</sup>. And I'm wondering who's going to be there.  
12 It's not going to be Chairman Hood, probably.

13 Chairman Hood's doing duty all the way until -  
14 he might be on there until the 28<sup>th</sup>. He's with us all this  
15 month and the first one.

16 I don't want to know who it is, Mr. Hamala.  
17 We're not supposed to tell people. All right. Okay.  
18 Let's try to hear another one and then maybe we'll take a  
19 break. I don't know. All right. You can call the next  
20 one when you can.

21 MR. HAMALA: The next application is number  
22 20763 of Mr. H Street Capitol, LLC. And this is a self-  
23 certified application for an area variance pursuant to  
24 Subtitle X 1002 from the area yard requirements of  
25 Subtitle I 205.1.

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1           And the project is to construct a new 11-story  
2 apartment house with ground floor retail, low-rate  
3 parking, and a penthouse in the D5 R Zone.

4           The property is located at 613-617 H Street  
5 Northwest, Square 453, Lots 847 and 848. And we do have  
6 one preliminary matter for the Board.

7           BZA CHAIR HILL: Okay, and what is that,  
8 please, sir?

9           MR. HAMALA: That is a motion to waive the 21-  
10 day filing deadline in order to proffer Steven Staff as an  
11 expert in architecture. And this is a property in the  
12 record under Exhibit 33.

13           BZA CHAIR HILL: Okay. All right. Ms.  
14 Bloomfield, can you hear me? And if so, could you  
15 introduce yourself for the record?

16           MS. BLOOMFIELD: Yes, can you hear me?

17           BZA CHAIR HILL: Yes.

18           MS. BLOOMFIELD: Great. Jessica Bloomfield  
19 with the law firm of Holland & Knight. And I also have in  
20 the room with me Christine Shiker and John Oliver.

21           BZA CHAIR HILL: Hello.

22           MS. SCHEITNER: Hello.

23           BZA CHAIR HILL: Okay, great. Let's see. The  
24 person you're proffering for an expert again, I'm just  
25 kind of - is that not in the record?

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1 MS. BLOOMFIELD: It is in the record. Our  
2 original expert in architecture had a late scheduling  
3 conflict so we replaced him with a different architect.

4 This architect has been practicing for many  
5 years. His resume is at 33. He has not previously been  
6 proffered as an expert in front of the BZA before, though.

7 BZA CHAIR HILL: Okay. Give me a second.  
8 Okay. All right. I don't - I don't - you don't - you  
9 don't have any - well, I don't think - you didn't get the  
10 architect this time so you're not going to get a lot of  
11 architect questions.

12 I don't have any problems with that, Mr. Staff  
13 being introduced as an expert in architecture. He went to  
14 Catholic University, which is - which is great.

15 And so, does anybody have any issue? If so,  
16 we'll admit as an expert. Okay, go ahead and please admit  
17 him as an expert.

18 Mr. Hamala, put him into our book. Ms.  
19 Bloomfield, if you want to go ahead and walk us through  
20 your client's application and why you believe that you are  
21 meeting the criteria for us to grant the relief requested.

22 I'm going to put 15 minutes on the clock just  
23 so I know where we are. And you can begin whenever you  
24 like.

25 MS. BLOOMFIELD: Great, thank you so much.

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1 Good afternoon, members of the Board. Again, for the  
2 record, I'm Jessica Bloomfield with the law firm of  
3 Holland & Knight. I'm here with Christine Shiker and John  
4 Oliver, also with Holland & Knight. And Josh Olsen and  
5 Killian O'Brien. They are of Monument Realty, the  
6 applicant in this case. And Steven Staff is our  
7 architect. I'm going to quickly go through our  
8 presentation and you can stop me at any point or ask  
9 questions at the end to myself or to anyone on our team.

10 We're here -- thank you so much for pulling  
11 that up - to discuss property located on the 600 block of  
12 H Street Northwest, which we are proposing to develop with  
13 a residential building with ground floor retail. Next  
14 slide, please.

15 The zoning release requested is from the rear  
16 yard depth requirements, which for this project is 22 ½  
17 feet, whereas a rear yard of only 15 feet is being  
18 provided.

19 We have worked with the Office of Planning and  
20 DDOT on the application. And we are pleased to have  
21 support from both of those agencies.

22 We've also presented the project to ANC 2C and  
23 have received a resolution in support from the ANC with no  
24 issues or concerns. Next slide, please.

25 As shown on the screen, the property is located

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1 on the north side of H Street Northwest in the heart of  
2 Chinatown. The property is D5 R. Next slide, please.

3 The site is presently improved with an existing  
4 three-story building on the western portion of the site  
5 and surface parking on the east portion.

6 The existing building is not historic but  
7 through discussions with the D.C. Preservation League, we  
8 have agreed to retain the existing façade up to a depth of  
9 15 feet and not build on top of it. Next slide, please.

10 By way of background, in 2017, the BZA reviewed  
11 and approved development of this exact same site as an  
12 office building.

13 The relief requested was the exact same rear  
14 yard relief we are requesting today, plus loading relief,  
15 which we no longer need.

16 Importantly, the design and mapping of the  
17 proposed building is essentially identical to what the  
18 Board approved for this site in 2017.

19 The applicant filed a building permit for the -  
20 building permit application for the office building within  
21 the required timeframes and a building permit was issued.

22 However, the permit ended up expiring in 2021  
23 due to market conditions associated with COVID. The  
24 applicant reevaluated development at this site, and as you  
25 know, is now proposing a residential building at the

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1 property.

2 In addition to that, in 2016, the Board  
3 approved development of a residential building, also owned  
4 by Monument, located across the alley from the subject  
5 site and fronting on I Street.

6 That BZA approval is still active. And  
7 Monument expects to move forward with construction before  
8 the end of this year.

9 And if you go to the next slide, that is the  
10 condition we're talking about. The property of this  
11 subject BZA case is the one on the south fronting on H  
12 Street and the I Street project is the one to the north on  
13 I Street.

14 And as you can see, the east-west public alley  
15 located between the two properties was officially closed  
16 in 2017 such that the two sites now share a lot line and  
17 will be connected below grade. Next slide, please.

18 Here you can see - no - we are - okay, so  
19 here's the subject property. You can see in the image on  
20 the screen, we are proposing to construct a mixed-use  
21 property with approximately 65-80 residential units and  
22 ground floor retail.

23 As we noted in our application and prehearing  
24 submissions, the retail uses may include any of the  
25 commercial uses identified for buildings located on

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1 designated primary street segments, which H Street  
2 Northwest is.

3 And some of the residential units may be rented  
4 for terms that are less than 30 days. The building will  
5 have a maximum height of 110 feet and 11 stories. Next  
6 slide, please.

7 This is the ground floor, which will contain  
8 the retail and residential amenities space and access.  
9 You can see at the top of the slide the 15-foot rear  
10 guards that backup's being provided. Next slide, please.

11 This plan shows the below grade space, which is  
12 where the bike parking will be located. I will note that  
13 this plan has been updated in a very minor way since  
14 filing the prehearing submission to incorporate a small  
15 amount of additional excavated space for mechanical  
16 equipment.

17 It's practically unnoticeable, but I wanted to  
18 point it out. I would also note that vehicular parking,  
19 which is not required for the property, but the materials  
20 in the case record have indicated consistently that up to  
21 10 parking spaces may be provided in this below grade  
22 level, which would be accessed from I Street. Next slide,  
23 please.

24 Here are some typical floor plans showing the  
25 approximate layouts of the residential units. Next slide,

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1 please.

2           Some more floor plans. Here, you can see how  
3 we have an open court at the front of the property on the  
4 west side, as we are not building above the non-historic  
5 building.

6           You can also see that the building steps back  
7 from H Street at the 9<sup>th</sup> through 11<sup>th</sup> floors. Next slide,  
8 please.

9           This is the penthouse showing both the  
10 residential units and residential amenities space. Next  
11 slide.

12           Here is the H Street elevation, showing how the  
13 existing building will be incorporated into the new  
14 construction. Next slide.

15           These are the 3D images of the building. The  
16 façade includes brick cast stone and a window wall system  
17 with metal panels.

18           I'll note again that the elevation on the prior  
19 slide and these two renderings have also been updated to  
20 include very minor adjustments to the façade treatment  
21 based on a meeting that we had with the D.C. Preservation  
22 League last week.

23           To the extent it is necessary, I would just  
24 mention that we would request that these slides plus the  
25 lower-level plan which follows them have been updated in a

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1 very minor way.

2 We included as the quote unquote final BZA  
3 plans if this case is approved. Next slide, please.

4 As we set forth in detail in our application,  
5 the project meets the variance test. Next slide. The  
6 property is exceptionally small and narrow and is situated  
7 mid-block, bounded on three sides by private property.

8 On top of that, we have voluntarily agreed to  
9 preserve the existing non-historic building on the site  
10 and have also agreed to not build above it, which  
11 sacrifices construction and incorporates additional non-  
12 required setbacks at the front of the site.

13 Unlike the office building previously approved,  
14 the residential use also requires an interior court to  
15 provide light and air to the dwelling units.

16 This configuration creates an exceptional  
17 condition that constrains development of the property and  
18 creates a practical difficulty in providing the minimum  
19 required rear yard depth. Next slide, please.

20 For the second prong of the variance test, as I  
21 previously mentioned, a 22 ½ rear yard is required,  
22 whereas 15 feet is being provided.

23 In that case, we would have to remove 7 ½ feet  
24 of the building in order to adhere to the minimum  
25 requirements.

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1           The practical difficulty is largely due to the  
2 property's size and configuration. If we cut off 7 ½ feet  
3 at the rear, it would eliminate approximately a quarter of  
4 the square footage of all of the units located at the rear  
5 of the building on each floor, which would result in  
6 smaller units and/or fewer units, which is inconsistent  
7 with the District's goals of providing more housing  
8 including larger sized units.

9           When taken up through the building, this would  
10 impact about 30 units. Cutting off 7 ½ feet of the  
11 building would also shrink the distance between the rear  
12 of the building and the interior, which would result in an  
13 inadequate lip to accommodate rear-facing units and court-  
14 facing units plus corridor space.

15           Finally, if we cut off 7 ½ feet of the  
16 building, our penthouse would no longer be able to meet  
17 the setback requirements, at least as it is currently  
18 designed.

19           If we shrunk the penthouse to comply with the  
20 setbacks, the contribution to the Housing Production Trust  
21 Fund would be reduced or potentially eliminated, which is  
22 also inconsistent with the District's goals of providing  
23 house and affordable housing. Next slide, please.

24           Finally, the requested variance can be granted  
25 without harm to the public better zone plan. As shown on

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1 this slide, the rear building wall will line up with all  
2 of the existing building walls on the block, which will  
3 preserve the status quo condition in the alley.

4 The project also provides significant other  
5 setbacks on the property as described to ensure that  
6 adequate light and air are provided to building residents.

7 Moreover, I would note that the property's rear  
8 lot line only abuts to the I Street property, which is  
9 also owned by the applicant.

10 Due to the width of the alley and the  
11 associated public easement over the alley to preserve  
12 vehicular movement, the building's rear wall will have a  
13 minimum distance of 30 feet from the rear wall of the  
14 building on I Street plus additional setbacks that are  
15 provided at the upper levels.

16 Accordingly, adequate light and air will be  
17 preserved at the rear of the site such that there will be  
18 no harm to the public good as a result of this variance.

19 Next slide, please.

20 That concludes my presentation. I will turn it  
21 back over to the Board to see if there is any questions  
22 for anyone on our team. Thank you.

23 BZA CHAIR HILL: Ms. Bloomfield, part of the  
24 argument that you're having with the test is that the  
25 District's goals, and you mentioned kind of larger units.

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1 Where are the larger units?

2 MS. BLOOMFIELD: My point was that if we had to  
3 reduce the - if we had to increase the rear yard, which  
4 would result in a reduction of the pieces of the building,  
5 the units would have to be rearranged at a minimum, which  
6 would reduce the number of units, or they would have to  
7 reduce in size.

8 So, I'm happy to turn it over to the architect  
9 to go over that if we want to pull up the floor plans on  
10 the PowerPoint.

11 BZA CHAIR HILL: That's all right, that's all  
12 right, that's all right. I was just curious. So, are  
13 there - I was looking through your plans - are there - I'm  
14 just - are there three-bedroom units in the building?  
15 Maybe the architect knows?

16 MS. BLOOMFIELD: I'm not sure if they've been  
17 designed at this point. Our plans that we filed don't  
18 have a unit mix, but I'm happy to turn it over to the  
19 architect, to Josh from Monument Realty.

20 MR. OLSEN: Yes, I'm happy to address that. I  
21 don't believe there are any three-bedroom units. There  
22 are actually a fair number of two-bedroom units in the  
23 building as it is currently anticipated.

24 BZA CHAIR HILL: Okay. All right. Does the  
25 Board have any questions of the applicant?

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1                   VICE CHAIR JOHN:  If you did not set back the  
2 building, how many feet from the front are you - are you  
3 setting back the building, maybe?  Was it seven feet or 10  
4 feet?

5                   MS. BLOOMFIELD:  From the front of the  
6 building?

7                   VICE CHAIR JOHN:  From the front of the  
8 building, yes.

9                   MS. BLOOMFIELD:  There's a court at the - at  
10 the corner, on the western corner, that is set back 15  
11 feet.  So, the court is 15 feet at the front.

12                  VICE CHAIR JOHN:  Right.  So -

13                  MS. BLOOMFIELD:  Do you want to open up the  
14 PowerPoint again?

15                  VICE CHAIR JOHN:  Mr. Young, could you please  
16 pull up the PowerPoint?  I'm trying to see if you did not  
17 have that setback if you would have enough room for the  
18 rear yard.

19                  MS. BLOOMFIELD:  Scroll up.  Up.  Up.  Go to  
20 the floor plans, please.  Let me see.  Yes, so you can see  
21 the condition here.

22                                It's in the western corner, the southwest  
23 corner of the site.  This is the setback that we're  
24 talking about here.

25                                You can't see my mouse.  That's the court at

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1 the front. There's also a court in the center on the west  
2 side.

3 And then the rear yard is in the back. And the  
4 point about the units being cut off is if you cut off 7 ½  
5 feet at the rear, that would allow for a compliant rear  
6 yard, but it would cut into the size of those units at the  
7 back, making smaller units or rearranged layout, and  
8 therefore, fewer units.

9 VICE CHAIR JOHN: And so, my question, I go  
10 back to the question. Maybe the architect can help me  
11 because I don't know what I'm missing.

12 So, if you did not set back the building so far  
13 to preserve the front, could you have enough room for the  
14 - for the rear yard?

15 And related to that, can you preserve the front  
16 of the building without having to set back?

17 MR. OLSEN: There's an existing two-story  
18 building there, and we were required to set back the  
19 building 15 feet from the sidewalk.

20 So that was something that was set forth in the  
21 conditions. And we can't pull that out any further. And  
22 then, we were also - go up eight stories for the tower,  
23 and then we were - part of the conditions was to set the  
24 building back from that eight-story tower.

25 So, the building is stepping in the process and

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1 it's breaking the mass up and pulling it away from H  
2 Street.

3 VICE CHAIR JOHN: Who set the conditions?

4 MR. OLSEN: These were the original office  
5 design that we did, was these were the conditions that  
6 were not in code but were agreed upon with the city.

7 MS. BLOOMFIELD: I think maybe what you're  
8 asking is the reason that we're set back above the  
9 building is through negotiations with the D.C. Historic  
10 Preservation League, DCPL.

11 MR. OLSEN: That, as well.

12 MS. BLOOMFIELD: And so that's the reason why  
13 we are setting back above this building at the front of  
14 the property.

15 I believe your question might be if we didn't  
16 have that setback, would we gain back some space in the  
17 building that we could therefore cut at the back of the  
18 building and provide the compliant rear yard. Is that  
19 what you're trying to get at?

20 VICE CHAIR JOHN: That's what I'm trying to get  
21 at, and why does it have to be 15? Why can't it be 7.5  
22 feet, so you'd have a near-compliant rear yard?

23 MS. BLOOMFIELD: The setback at the front is 15  
24 feet I think because that's the depth of the existing  
25 building.

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1 15 feet at the back is what we are providing.

2 So, there is a 15-foot rear yard being provided on the  
3 site. It's 22.5 feet required.

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

6 BZA CHAIR HILL: Okay, thank you, Ms. John.  
7 All right, anyone else? Sure, Mr. Smith?

8 MEMBER SMITH: What you're saying is the reason  
9 why you're requesting this 15-foot setback is to align  
10 with the existing rear of the building that already exists  
11 there?

12 MS. BLOOMFIELD: That's part of the argument,  
13 right. That's part of the reason why we would not have  
14 any negative impact is because all the other buildings on  
15 the block are already at the setback that we are proposing  
16 to do. They already go all the way to the lot line.

17 MEMBER SMITH: Another question. Was there any  
18 - were there plans that you drafted that show you not  
19 requesting - what would be the range - what would be the  
20 arrangement if you did not request this variance?

21 So, what would be the unit deal that you would  
22 expect to see if you didn't request the variance?

23 MS. BLOOMFIELD: I might turn that back over to  
24 the architect, but essentially, we would have fewer units  
25 or smaller units because we would have 7 ½ feet depth of

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1 the building would get cut off.

2 So that would go all the way up the building  
3 and it would just be a shorter building, result in a  
4 smaller square footage.

5 I don't know if we calculated the number of  
6 units that would result because there's a variety of  
7 different ways you could lay out those units.

8 MEMBER SMITH: Okay, I really need that  
9 expanded a little bit. Just because it's a smaller unit  
10 doesn't mean it's a practical difficulty.

11 It's just a small unit. So, I just need  
12 somebody to break that down to me.

13 MS. BLOOMFIELD: Mr. Staff, do you have a  
14 better answer for that?

15 MR. STAFF: I mean, it's a combination of a  
16 bunch of things. You have two elevators and then you have  
17 to have separation of the stairs.

18 So that gives you a certain distance. You have  
19 the hallways going out. And then in order to make the  
20 courts work with some units on the inside and then on the  
21 outside, you have to have a certain amount of depth on  
22 either side of the corridor.

23 MEMBER SMITH: Hold on one second, Mr. Staff.  
24 Can I get Mr. Young to pull back up the PowerPoint to show  
25 me the floor plan?

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1           And can you walk through what you're saying to  
2 me? Can you walk through it using the graphic?

3           MS. BLOOMFIELD: You go to sheet 10 and 11 of  
4 the PDF, the PowerPoint PDF, please.

5           MR. STAFF: Okay. So, you can see you have the  
6 courtyard in the middle of the building, and you have on  
7 the east side, you have the elevator cores, two elevator  
8 cores.

9           And then you have the staircases that are on  
10 either side. So, there's a distance of these doors on the  
11 staircase, would be this whole floor is set.

12           You can't have it any shorter. Then you have  
13 the corridors coming off of that. So, you have to, if you  
14 pull the building back, you would basically have the units  
15 on the inside off the corridor almost come down to be  
16 studio apartments rather than bedrooms.

17           And on the outside, if you look at it, the  
18 corridors going into those units, what would happen is you  
19 would basically take anything that's a viable one-bedroom  
20 and two-bedroom, which have to be on the exterior wall,  
21 and the living rooms, and then the bathrooms have to be in  
22 the back.

23           You pull it back seven feet and all of a  
24 sudden, you don't have a usable unit. So, it's really set  
25 by a combination of things.

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1           So, we have to really - it's very fine balance  
2 to lay all these units out and make them work.

3           MEMBER SMITH: So, I'll be honest with you, I'm  
4 not seeing how it impacts the corridors or the back of  
5 house elements.

6           Are you - are you saying that this is more from  
7 the economic part of it because you couldn't get a one- or  
8 two-bedroom in?

9           MR. STAFF: No. I mean, it's a combination of  
10 multiple things. It's not, I mean, there is an economic  
11 component to it, but we still have to have a certain depth  
12 for the units to work.

13           So, if we pull it seven feet in, then you're  
14 pulling - you've got your kitchens and your dining room  
15 areas that all come off the corridor.

16           Then you have to have a certain distance from  
17 those areas to the exterior wall. So, if you pull those  
18 things in, then you don't have units that would work very  
19 well anymore. You're getting a unit that's not really  
20 viable anymore.

21           MEMBER SMITH: It's hard for me to visualize  
22 that and I'm trying to understand how you even visualize  
23 that when you've shown floorplans that have the bedroom  
24 and the kitchen and all that.

25           MR. STAFF: I wish we had the layouts of the

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1 units and then you could really visualize it. But if you  
2 think about a living room and a bedroom all on the  
3 exteriors, whether they're on the alley side or they're on  
4 the side facing H Street, and you pulled seven feet in,  
5 then you're basically taking - you need a certain amount  
6 of depth for a bedroom and a living room, then behind  
7 that, a closet and a bathroom.

8           When you pull that in and all of a sudden you  
9 don't have a usable unit anymore, given all the issues  
10 we're dealing with, not only with the distance that the  
11 stairs have to be apart and the elevators in the middle  
12 and then the corridors off that, you're compressing the  
13 building in such a way that the units are starting to  
14 become not viable as one- or two-bedroom units.

15           MEMBER SMITH: Well, I still stand behind, not  
16 that I'm confused, it's that it would have been great to  
17 have a more thorough explanation if you had shown the  
18 series of floor plans of how meeting the rear yard  
19 requirement would render those three units that you're  
20 proposing too small for one to be a type of viable unit.

21           So, it would be great to have some additional  
22 detail and information. So, I'll just leave it at that.  
23 Thank you.

24           VICE CHAIR JOHN: So, I still don't have an  
25 explanation why the building could not be pulled forward,

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1 which would not require you to chop off the back.

2           That's the part I'm having difficulty with  
3 because we see designs in here all the time where the  
4 façade is preserved for historical purposes.

5           And this is not - this is not - this is not a  
6 protected building where you cannot change the core. So,  
7 I don't know why the building can't be moved forward.

8           MS. BLOOMFIELD: If I could respond to that  
9 again, I'm sorry. Mr. Young, if you could pull up one of  
10 the floor plans again, please.

11           The building is all the way to the front  
12 property line, so, the majority of the front of the  
13 building.

14           So, we are not setting back from the property  
15 line. Scroll down just a little bit, please. So, you can  
16 see here, levels two and three, the property line is right  
17 where that image ends.

18           So, we are all the way up the property line up  
19 through the third floor. The fourth floor and above, we  
20 are only setting back in this very small space in the  
21 corner where the existing building is. Everything else is  
22 all the way up to the front property line.

23           VICE CHAIR JOHN: Okay, that's what - that's  
24 what was confusing me. So, this, do you - do you have  
25 something else that shows me that the building goes all

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1 the right up - all the way up to the front.

2 I thought that's what you started off by  
3 saying, it was part of your exceptional condition.

4 MS. BLOOMFIELD: What I was - and I'm sorry if  
5 I didn't say it clearly. If you can scroll to Page 6,  
6 please, you can see the whole property again.

7 The entire building goes up to the front  
8 property line except in that corner where the existing  
9 building is located.

10 So here you can see where it says 615, the  
11 property line is right where the pink ends and the white  
12 begins. The white is the existing sidewalk.

13 So that, the building, is as far towards the  
14 front property line as possible. And you can see in the  
15 back where the pink ends and the white begins.

16 And you can see all the other gray on either  
17 side. The building will match identically the condition  
18 in the alley where all the other buildings are located.

19 VICE CHAIR JOHN: Yes. I'm not concerned about  
20 the alley right now. I am thankful for the explanation.  
21 But let's go back to your statement of exceptional  
22 conditions and let me see what I missed.

23 Because I clearly missed something. I thought  
24 you said that because of the agreement with the D.C.  
25 Preservation Office that you had to set the building, the

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1 front of the building back.

2 MS. BLOOMFIELD: Yes, just in that very small  
3 location above the building. The building is not the  
4 whole site. The site is two lots.

5 Currently, it will be one lot. And the  
6 building is only on a very small portion of one of the  
7 lots.

8 It's just where that rectangle is and the other  
9 images we were just looking at.

10 VICE CHAIR JOHN: Okay. So, for the new, the  
11 undeveloped lot, that one will go all the way up to H  
12 Street, the property line on H Street?

13 MS. BLOOMFIELD: Everything will. If you go to  
14 slide 13, please.

15 VICE CHAIR JOHN: Yes, I'm looking at it.

16 MS. BLOOMFIELD: This is showing what's  
17 happening. On the left, there's a three-story red brick  
18 building. That's what's existing.

19 That is at the property line now today. What's  
20 to the right of it is new construction that will also be  
21 at the property line along H Street.

22 And everything above and - above it is the  
23 glass, and that will be at the property line also, except  
24 for the very top floors where it steps back to provide a  
25 little bit more light and air along H Street.

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1 VICE CHAIR JOHN: Okay. All right. Thank you.

2 BZA CHAIR HILL: Ms. Bloomfield, where is the  
3 ANC letter?

4 MS. BLOOMFIELD: The ANC letter is Exhibit 21.

5 BZA CHAIR HILL: Okay. Sorry. Okay. Anyone  
6 else? All right. Over to the Office of Planning.

7 MR. COCHRAN: Okay. I think OP had plans to  
8 stand on the record, but it seems like that would be  
9 unwise given the context now.

10 Let me address a couple of things. First off,  
11 it wasn't the D.C. Historic Preservation Office that  
12 brokered this agreement.

13 That was the last time Ms. Bloomfield just made  
14 a slip of the tongue and referred to the Preservation  
15 Office rather than the Preservation League.

16 The Preservation League is a private group.  
17 Had it been - had this building been declared a  
18 contributing structure to a historic district or historic  
19 on its own, then the Preservation Office would have been  
20 involved.

21 And given their past practices, it's very  
22 possible that they would have required even a greater  
23 setback than even 15 feet.

24 15 feet is a fairly minimal setback for a  
25 building that is historic. So, this building does have

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1 the exceptional condition of getting pressured on all  
2 sides.

3 It's a relatively narrow lot for a downtown  
4 site. It has to fit a lot of retail space on the first  
5 floor because it's on a primary street in the Chinatown  
6 subarea, and there are lots of retail requirements and  
7 very specific retail requirements in that area.

8 Then, because it's in an apartment building, it  
9 does have to have an open court, excuse me, at least a  
10 court, so that someone could have a window that opens out  
11 to some modicum of light.

12 Finally, and this isn't really exceptional,  
13 practical, exceptional, that it does have buildings on  
14 either side of it that line up with what the applicant is  
15 proposing.

16 That may weigh into more that there is no  
17 substantial detriment to the public good. But we do feel  
18 that there are a number of conditions that just pressure  
19 the building, such that they would be able to provide a  
20 little more than micro units in the rear, which is not  
21 necessarily what we want in a downtown that's so  
22 struggling as it is right now.

23 And with respect to the detriment to the public  
24 good, that's, it's in a report. There would be no shadow  
25 cast.

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1           The buildings on both sides are right at the  
2 same rear lot line that the applicant's building would be  
3 as they've currently designed it.

4           And a substantial harm to the zoning  
5 regulations, again, that maintenance of the common law in  
6 the back allows them to not have a negative impact on the  
7 adjacent properties, which is one of the objectives, to  
8 avoid that kind of impact is one of the objectives of the  
9 regulations.

10           And the rear yard relief would also allow the  
11 flexibility as we know to do more for the short  
12 preservation than they're required to do by the city.  
13 That gives an overview. Of course, happy to answer any  
14 questions.

15           BZA CHAIR HILL: Okay. Does anybody have any  
16 questions for the Office of Planning? Okay, I'll let you  
17 guys think about it. All right. Mr. Young, is there  
18 anyone here wishing to speak?

19           MR. YOUNG: Yes, we have one witness stand up.

20           BZA CHAIR HILL: Okay.

21           MR. YOUNG: That is Stephanie Cheng.

22           BZA CHAIR HILL: Okay. Will you bring that  
23 person forward, please? Ms. Cheng, can you hear me? Ms.  
24 Cheng, can you hear me? Ms. Cheng? Hi, can you hear me?

25           MS. CHENG: I'm sorry about the technical

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1 difficulties. My apologies. I was trying to unmute  
2 myself.

3 BZA CHAIR HILL: No problem. No problem.  
4 Could you introduce yourself for the record, please?

5 MS. CHENG: Yes, hi, my name is Stephanie  
6 Cheng.

7 BZA CHAIR HILL: Okay. Could you - you have  
8 three minutes as a member of the public to give your  
9 testimony. And you can begin whenever you like.

10 MS. CHENG: Okay. Good afternoon, Chairman  
11 Hill and members of the Board. My name is Stephanie  
12 Cheng.

13 My father, Tony Cheng, is the owner of Tony  
14 Cheng's Mongolian Restaurant and Tony Cheng's Seafood  
15 Restaurant, located at 619 H Street, immediately adjacent  
16 to the proposed project.

17 Thank you for allowing me the opportunity to  
18 speak on behalf of my family. I did want you to know that  
19 my father is also logged into the meeting as a participant  
20 under D. Evans, but I am testifying on behalf of the  
21 family due to language barrier.

22 So, my father and his restaurants have been  
23 part of the Chinatown community for over 40 years. I've  
24 helped run these restaurants over the years and currently  
25 serve as chair of the Chinatown Community - sorry,

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1 Chinatown Steering Committee, which works with Office of  
2 Planning staff in reviewing the developments and proposals  
3 in Chinatown.

4 We both care deeply about this community and  
5 want to ensure that any new development will sustain  
6 Chinatown's culture and character as well as be harmonious  
7 with it and help it retain - and help it remain vibrant.

8 We would like to bring the following concerns  
9 to the Board's attention. Number one, future development  
10 of our property.

11 We want to ensure that the proposed development  
12 will not prevent us from developing our property in the  
13 future, located at 619 H Street, or the windows shown on  
14 the western façade of the proposed building at risk,  
15 meaning they'll have to go away if we build higher on our  
16 site.

17 Will they require us to incorporate step backs  
18 or setbacks on our property? We want to protect our right  
19 to develop our property in the future, consistent with  
20 what the applicant is now proposing on their site.

21 Number two, construction impacts on our  
22 business. What measures will be taken to ensure that  
23 noise and traffic from the construction site will not  
24 overly burden our property?

25 Our restaurants are enjoyed by locals and

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1 residents and tourists alike, so we want to ensure that  
2 access to them will not be blocked by construction  
3 vehicles or equipment, and that noise impacts will be  
4 minimized to the extent possible.

5 This concern is greater than ever, given the  
6 impact of COVID and that has on travel to Chinatown and  
7 area offices and occupancy rates.

8 Number three, structural impacts. What  
9 measures will be taken to ensure that there will not be  
10 any negative structural impacts on our building?

11 Again, we are immediately adjacent to the  
12 proposed development, so we are concerned that the  
13 construction could damage our foundation or building,  
14 particularly given its age.

15 Number four, lack of consultation with the  
16 Chinatown Steering Committee. As I mentioned, I serve as  
17 Chair of the Chinatown Steering Committee.

18 Our group is typically consulted on new  
19 proposed developments like this one. However, that did  
20 not occur in this case.

21 Again, we are generally supportive of the  
22 projects. But our community would like a voice in  
23 ensuring that it would be keeping with the cultural  
24 heritage and design standards of Chinatown.

25 Thank you for listening to our concerns. And

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1 we are happy to answer any questions.

2 BZA CHAIR HILL: Okay, great. Well, thanks,  
3 Ms. Cheng. First of all, it's nice to have you here.  
4 Your family and father's restaurants really are a staple  
5 that has been there forever.

6 And it's just amazing that you guys have stayed  
7 there as long as you have and have been there from the  
8 beginning when - for the record, again, I just recently  
9 moved but I was in that ANC for 13 years and I'm from this  
10 area.

11 And I went to high school with Linda Lee's son.  
12 So, Chinatown, I'm very familiar with that area and  
13 everything that's going on.

14 So, congratulations in being there. Let's see.  
15 Did you go to your ANC meeting? Did you go the ANC? You  
16 haven't talked to anybody?

17 MS. CHENG: We did not attend the ANC meeting.  
18 We were not aware that they were on the ANC agenda at the  
19 time.

20 BZA CHAIR HILL: Okay. So, you haven't had any  
21 communication with the applicant?

22 MS. CHENG: No.

23 BZA CHAIR HILL: Okay. All right. Okay. Let  
24 me just think about it for a second. Let me just see if  
25 the Board has any questions for the witness. Does the

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1 Board have any questions for the witness?

2 VICE CHAIR JOHN: I guess the question I wanted  
3 to ask is, has the applicant reached out to you at all,  
4 being the adjacent neighbor?

5 MS. CHENG: No.

6 VICE CHAIR JOHN: Okay, thank you.

7 MR. OLSEN: Has the applicant -

8 BZA CHAIR HILL: Yeah, sure, we'll talk. We're  
9 going to figure this out. Is that Mr. Olsen?

10 MR. OLSEN: Yes.

11 BZA CHAIR HILL: Yes, go ahead, Mr. Olsen.

12 MR. OLSEN: So, we actually have had multiple  
13 communication with emissaries from your father, Stephanie.  
14 And you and I have known each other for going on 12 years  
15 right now.

16 So, we're - we have definitely been in touch  
17 with you. And then with respect to the BZA variance,  
18 we've talked with a Mr. Thorpe who reached out on behalf  
19 of your father in May asking about the variance.

20 And we explained the variance to him and  
21 explained that we'd be happy to meet directly with your  
22 father or with you if that would be helpful.

23 I am in regular contact with Jim Persocino and  
24 have talked to him about the variance. He's a broker  
25 representing your father.

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1           And I've conveyed to Mr. Persocino that I'd be  
2 more than happy to meet directly with your father. And  
3 I've explained the variance being the relief being sought  
4 here.

5           And then more recently, a Mr. Session reached  
6 out to Holland and Knight, to Jessica's firm, asking about  
7 this, and she explained the relief being sought.

8           So, I mean, we've been in multiple - in contact  
9 with multiple representatives of your father on this  
10 matter.

11           MS. CHENG: May I respond?

12           BZA CHAIR HILL: Yes, hold on a second, Ms.  
13 Cheng, before you respond. I just want to think for a  
14 second.

15           Okay. I don't want to get - okay. Okay, I  
16 just need to take a breath. Okay, go ahead, Ms. Cheng.

17           MS. CHENG: So, I mean, recently we did hear  
18 about this variance and the zoning hearing before the  
19 Board.

20           So that, Mr. Sessions, I believe, reached out  
21 to you. Previously, my father indicated we had never  
22 heard from you all about this and we heard about this  
23 hearing.

24           And that's why I'm participating in it today.  
25 So, obviously, we did hear about it recently. And that's

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1 why I'm here today.

2 But previously, there was no indication, at  
3 least to my father, that he had been contacted about this.

4 MR. OLSEN: But the Mr. Thorpe that reached out  
5 to both me and Holland and Knight did so at the behest of  
6 your father.

7 I mean, he did. So, this was back in May. And  
8 he contacted us regarding the variance. So, I mean, there  
9 clearly was some communication happening regarding the  
10 variance back in May. And we responded to that  
11 communication.

12 MS. CHENG: Okay, so I'm not familiar with  
13 that. I would have to speak with my father, who's not in  
14 the same room as me.

15 But, I know that the communication has been  
16 very limited, if any at all.

17 BZA CHAIR HILL: Okay, either way, that's fine.  
18 Because the questions, Mr. Olsen, that Ms. Cheng is  
19 asking, are pretty basic questions.

20 I mean, windows at risk, what kind - and also,  
21 Ms. Cheng, like as far as you guys talking to a zoning  
22 attorney yourself, obviously, to find out what things may  
23 or may - I don't - I don't have the answers handily  
24 available as to what this project may or may not do to the  
25 rights moving forward to your building.

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1           It should. I mean, you should still be able to  
2 do everything that you're able to do with your property.  
3 But I don't have some of those answers.

4           And the reason why, again, Ms. Chang, we're  
5 spending more time, or not more time, you guys are the  
6 adjacent property.

7           So, like, you could have had party status had  
8 you known about it and wanted to and all these things.  
9 And so, I'm trying to understand a little bit more about  
10 kind of this communication as to what has happened.

11           And I know that by the way, Holland and Knight  
12 is a very reputable firm that's been before us many times  
13 and they do a lot of work within the city.

14           So, they're also from D.C. And so what I'm  
15 trying to say is like they're trying - I'm sure everyone  
16 would like to make sure that communication is done well,  
17 particularly with - particularly with an establishment  
18 that has such a longstanding there in Chinatown.

19           Let's see. So, I don't know what's going to  
20 happen yet, Ms. Cheng, so just hang on.

21           So, does anybody have any other questions? I'm  
22 not going to let Ms. Cheng go. Does anybody have any  
23 other questions? Go ahead, Chairman Hood.

24           ZC CHAIR HOOD: Ms. Cheng, you called out a lot  
25 of names, Mr. Sessions. I think, Mr. Olsen, you mentioned

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1 Thorpe and some other, some people very reputable  
2 themselves and doing work in this city who are very well  
3 respected.

4 I just want to ask, and I heard some of the  
5 questions and concerns and I think legitimate, especially  
6 if you are right there at the - with the zone that's being  
7 proposed.

8 Let me ask this. Through all of this, I heard  
9 the Chairman's dialogue, I'm just curious, through all of  
10 this, and I know the Board may not always like this or  
11 think - sometimes, we have a little more time to have  
12 discussion.

13 We're all on notice now. So, I think a  
14 discussion could be had. You might have known, and I said  
15 this earlier on another case, some things evolve as things  
16 get closer to these hearings.

17 Do you think more time or discussion, or just  
18 as the Chairman has mentioned, communication, will help  
19 the situation out?

20 CS: No, I do believe additional communication  
21 and additional time to discuss the proposed project would  
22 help and also address our concerns as a longstanding  
23 business in Chinatown.

24 And we're concerned about our building itself  
25 and the effect on the business as well. Thank you.

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1                   ZC CHAIR HOOD: Okay. Well understood. And  
2 thank you, thank you, Mr. Chairman.

3                   BZA CHAIR HILL: Okay. All right. Mr. Young,  
4 is there anyone else here wishing to speak? Okay. All  
5 right, Ms. Bloomfield, what I'd like - what I'd like to  
6 see is I guess some kind of - I don't know, I'm just  
7 trying to think what I'm trying to say.

8                   I mean, I know that you guys want to work well  
9 with Tony Cheng. Because Tony Cheng's in Chinatown, okay?  
10 And so, I know you guys want to - I just want to get a - I  
11 just want some kind of communication that you guys have  
12 talked.

13                   I mean, everyone's been in D.C. a very long  
14 time. I know all the names that you all mentioned, too.  
15 So, let's - I just kind of want to get something in the  
16 record that you all have talked, and that Ms. Cheng and  
17 her father understand what is going on.

18                   I don't think that there's anything really  
19 problematic here. I just think that a little bit more  
20 communication might be helpful, considering that we're now  
21 here, right?

22                   And again, that, A, this is an adjacent  
23 property owner, and B, this is Tony Cheng from Chinatown.  
24 Okay?

25                   And so, I mean, it's a historic building,

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1 right? I don't know what it is. I mean, if they try to  
2 do it, I don't know what they could do with theirs.

3 But so, that's my proposal. I don't know now.  
4 I'm kind of - I want to see something and then we can come  
5 back and make a decision, I guess.

6 Unless you all want something else. I'm  
7 looking at my fellow Board members and I'm going to - and  
8 I see - actually, you guys had a bunch of questions, also,  
9 even for the variance issues.

10 And so, let me see what my fellow Board members  
11 have to say about what they may want to see in order for  
12 us to get to a decision. And did somebody want to raise  
13 their hand first?

14 VICE CHAIR JOHN: Yes.

15 BZA CHAIR HILL: Mr. Smith? Mr. Smith raised  
16 his hand, Ms. John. You raised your voice. I didn't see  
17 your hand. So, Mr. Smith is right there. Okay.

18 MEMBER SMITH: I'll defer to Ms. John if she  
19 wants to go.

20 MS. JOHN: My question is really not  
21 complicated. I don't remember if there were at-risk  
22 windows on the side facing 619 H Street. So that's an  
23 easy question to answer.

24 MR. OLSEN: Yes, there are some at-risk windows  
25 on that side of the property. And we acknowledge that

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1 they are at-risk.

2 So should the Chengs or any other owner of that  
3 property develop it, then those windows would be blocked.

4 VICE CHAIR JOHN: Okay, so do you understand  
5 that, Ms. Cheng?

6 MS. CHENG: In fact, we would have to record a  
7 covenant with DCRA stating the land records that we would  
8 have to cover up those windows if you build on your  
9 property.

10 VICE CHAIR JOHN: Okay. And then the next  
11 question, I'm sorry, there was another one, have you all  
12 discussed a construction management agreement that would -  
13 because this is a really significant project right next to  
14 619 H Street - have you all gotten to the point where you  
15 have discussed a construction agreement, Ms. Bloomfield?  
16 Or whoever?

17 MS. BLOOMFIELD: Josh, can you answer that?

18 MR. OLSEN: We're certainly happy to work with  
19 our neighbors. I mean, Ms. Cheng did not mention the fact  
20 that we actually have an existing contract between us  
21 regarding another piece of property in the same block.

22 And that contract, I believe, has provisions  
23 for cooperation on construction. So, certainly, the  
24 framework for working together is there, beyond the fact  
25 that we would want to work with our neighbors anyway.

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1 I will point out, you saw the basement level  
2 plans that were presented. We've actually pulled the  
3 basement basically as far away from the 609 property as  
4 possible.

5 So, in terms of impacts there, they should be  
6 relatively minimal. And that's usually where most of the  
7 construction impact happens is below grade, dealing with  
8 foundations.

9 I mean, we will still have columns coming down  
10 and that sort of thing, but the actual subterranean space  
11 is pushed to the east side of the property, away from the  
12 Chengs' property.

13 VICE CHAIR JOHN: Okay. Thank you very much.

14 BZA CHAIR HILL: Smith?

15 MEMBER SMITH: Well, one of mine was the  
16 construction management, so thank you, Ms. John. The  
17 other one is that, just to go back to what I was saying  
18 before, it would have been great to have some details to  
19 show the usability of those rear units.

20 So, we're not making a decision - I don't know  
21 if we're making a decision today. I think - right. So, I  
22 would like to see some additional information, some  
23 additional architectural plans that show what this  
24 building, I mean, what that rear would have looked like  
25 without that additional seven feet that you're requesting,

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1 to me, to back up your argument that you'd have a  
2 practical difficulty to be able to use those rear units.

3 BZA CHAIR HILL: Okay. Mr. Blake, you need  
4 anything?

5 MR. BLAKE: Nothing I would ask for. Thank  
6 you.

7 BZA CHAIR HILL: Chairman Hood, you need  
8 anything?

9 ZC CHAIR HOOD: No. From a zoning perspective,  
10 I would echo Board Member Smith. I don't take as much  
11 concern about the rear yard, but I would ask that the  
12 communication happen sometime.

13 I know that's not necessarily a zoning issue,  
14 but I think that's what I call a good neighbor or a good  
15 business policy, whatever the case may be. So, thank you,  
16 Mr. Chair.

17 BZA CHAIR HILL: Okay, thanks.

18 MS. BLOOMFIELD: Mr. Chair, may I add one  
19 thing?

20 BZA CHAIR HILL: Sure.

21 MS. BLOOMFIELD: We would love to respond to  
22 everything that everyone has said and we look forward to  
23 doing so.

24 It sounds like you're not going to make a  
25 decision today. The only thing I would ask for is, all of

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1 these things sound like something we can respond to very  
2 quickly and get something into the record, and if it would  
3 be in the interest, of our interest, given that this  
4 project was already approved at this exact same rear yard  
5 relief, we are really ready to move forward with  
6 permitting, submitting for permit, very quickly.

7 And if the Board could take this up again at a  
8 meeting prior to your August recess, we would respectfully  
9 request that at this point.

10 BZA CHAIR HILL: I got it, Ms. Bloomfield.  
11 I'll tell you what, Ms. Bloomfield. If you can do what I  
12 think we would like to see happen before, in a very - I  
13 mean, like I said - well, actually, I didn't say it - like  
14 I said, I know the project.

15 I know the area. It's a big project. It's not  
16 a small project. All of the people that are involved seem  
17 to be all of the people that know the area and know the  
18 players.

19 So, if you can get everybody on the same page  
20 and get it to a point that we can have a discussion on it  
21 before the end of the month, that's fine.

22 I'll try to get you back here, okay? And  
23 you're doing a good job for your client by asking because,  
24 yes, August is coming up soon and I wish it were here  
25 tomorrow.

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1           So, let's see, I would go ahead, yes. So, get  
2 a construction management agreement of some kind that we  
3 can take a look at, okay?

4           Just because it's something the Board is  
5 interested in looking at, okay? I guess, again, Mr. Smith  
6 wants some kind of further argument as to the practical  
7 difficulty in terms of why you guys can't - why you don't  
8 need the back, the 7 ½ feet in the rear.

9           So that needs to bolster your argument. I'd  
10 like some kind of a correspondence letter from the Chengs  
11 in terms of - sorry, the Chengs in terms of  
12 correspondence, whatever, right?

13           Just something. Whatever you can tidy up that  
14 shows me that the Chengs have seen and understand and have  
15 their questions answered.

16           Something that's been signed, whatever, right?  
17 Because a lot of that stuff is pretty straightforward,  
18 right?

19           The windows are at risk. They know their risk,  
20 fine, right? Whatever the questions are, they've been  
21 answered.

22           And now that's tidied up and we can deliberate.  
23 Do you have any questions, Ms. Bloomfield?

24           MS. BLOOMFIELD: We do not. Thank you very  
25 much.

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1 BZA CHAIR HILL: Okay. Ms. Cheng, do you have  
2 any questions? Yep. Ms. Bloomfield, did you want - you  
3 want rebuttal or conclusion or something?

4 MS. BLOOMFIELD: I would love to if you'd give  
5 me a couple of minutes.

6 BZA CHAIR HILL: Sure. Go ahead.

7 MS. BLOOMFIELD: Thank you. We appreciate Ms.  
8 Cheng's comments, and we really do, because she is the  
9 next-door neighbor and it's really important to us.

10 I will mention a couple of things in response  
11 to her four points. We're not going to be doing anything  
12 that will prevent development on your property.

13 We are completely within our lot line. And as  
14 Mr. Olsen mentioned, below grade, we have pushed as far  
15 as possible away from that property line.

16 We do have windows on that elevation. They are  
17 at risk. As I mentioned, we will have a covenant in the  
18 land records that says if the Chengs or anyone ever builds  
19 on that property next to us that those windows will be  
20 covered.

21 And the building has been designed such that  
22 they can be covered, and all of the units would continue  
23 to comply with building code.

24 Construction noise and traffic and access,  
25 structural impacts, those were your items two and three,

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1 those will all be addressed in a construction management  
2 agreement, which we've talked about just now, and which,  
3 quite frankly, are not - is not really the issues that  
4 we're here, not really in front of the BZA.

5 Construction is not a BZA issue, but we are  
6 obviously, as next-door neighbor, would love to talk about  
7 those things with you and will do so as instructed by the  
8 chair just now as well.

9 And then the fourth item was not brought up  
10 again, but which is also very important, is the Chinatown  
11 Steering Committee review of this project.

12 As you recall, this project was approved just a  
13 couple of years ago and it was approved also by the  
14 Chinatown Review Committee, which is coordinated by the  
15 Office of Planning.

16 We have no changes to that approval. We have  
17 reached out to the Office of Planning anyway and said,  
18 this is a different building but it's the same Chinatown  
19 designs.

20 Would you like our -- would you like to review  
21 it again? We have done that outreach. They have not  
22 gotten back to us yet.

23 So, we are very much in that process and are  
24 not ignoring it and will comply with whatever it is that  
25 they ask of us in the future.

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1           So, thank you for bringing that up. We didn't  
2 bring it up, but it was a very good point. I will just  
3 reiterate what Mr. Olsen said.

4           We have talked with multiple representatives of  
5 Tony Cheng since filing this BZA application. They have  
6 contacted us.

7           We have said, thank you for reaching out. We  
8 are more than happy to have any conversations necessary,  
9 including talking to Mr. Tony Cheng directly.

10           His representatives, at least three of them,  
11 have said - have not taken us up on that. So, we really,  
12 we are absolutely open to communicating with our next-door  
13 neighbor.

14           We understand the history. And I know that  
15 Monument has had a long history of engaging with Tony  
16 Cheng over the years.

17           So, it's not something that we take lightly or  
18 took lightly, not to mention the fact that he was notified  
19 by mail and the property has been posted in accordance  
20 with all of the public notice requirements and the zoning  
21 regulations.

22           So, I understand we have, it looks like three  
23 items that we need to submit to the record, and we can do  
24 that as quickly as the Board is asking of us so that we  
25 could have this put back on your meeting agenda before

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1 August.

2 And with that, I will say thank you for giving  
3 us the opportunity to give a presentation. And I will  
4 stop there. Thank you.

5 BZA CHAIR HILL: Okay. Do you have, Ms.  
6 Bloomfield, do you have Ms. Cheng's contact information?  
7 Or does somebody?

8 MS. BLOOMFIELD: I personally don't. Josh, do  
9 you have that? Or how do you want to do it?

10 MR. OLSEN: Ms. Cheng, you have my contact  
11 info, so if you want to send me your info or -

12 BZA CHAIR HILL: Yes, don't say anything on the  
13 record here. But Ms. Cheng, you know how to get in touch  
14 with Mr. Olsen? Okay, great.

15 This is the part that's going to hold you up,  
16 Ms. Bloomfield. I want something from Ms. Cheng, okay?  
17 Not that - I'm not trying to like - I'm not trying to -  
18 I'm just trying to say, in order to get back here by the  
19 27th, you all have to have had your communication.

20 So, Ms. Cheng, if you would be so kind as to,  
21 again, reach out to Mr. Olsen, because he's trying to get  
22 this done.

23 And what they're saying before, and I do kind  
24 of believe them, is that they're not trying to do anything  
25 disrespectful to anyone.

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1           It sounds as though they're trying. But for  
2 whatever reason, there's been some miscommunication. And  
3 that this project had gone through the system at one point  
4 before.

5           And maybe that's why it didn't go through some  
6 of the committees there in Chinatown. Not terribly sure.  
7 But I'll give them a little bit of the benefit of the  
8 doubt.

9           But you all are here now, okay? So, reach out  
10 to Mr. Olsen. And then - and then - yes, and, Ms. Cheng,  
11 I mean, if it doesn't happen by the 27<sup>th</sup>, and it doesn't  
12 happen by the 27<sup>th</sup>.

13           You all have to get your answers - you all have  
14 to get your questions answered, okay? And so, but if  
15 that's the case, then I'd like to get back from you, Ms.  
16 Bloomfield, I guess if you can get, I mean, unfortunately,  
17 it's really tight.

18           Oh, wow. Gosh, wow, there's only two left.  
19 It's really tight. And that means that you guys are going  
20 to have to talk, get everything ready, and get it all to  
21 us by like the 22<sup>nd</sup>, Friday the 22<sup>nd</sup>.

22           MS. BLOOMFIELD: Yes, we can do that.

23           BZA CHAIR HILL: Okay. So, if you guys get  
24 everything to us by Friday the 22<sup>nd</sup>, then we'll put this on  
25 for decision on July 27<sup>th</sup>. Okay? Does anybody have any

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1 questions?

2 VICE CHAIR JOHN: I think it would be helpful  
3 to discuss why the Board requests the parties to  
4 communicate and come up with construction agreements.

5 Because these major projects can create havoc  
6 to a next-door neighbor and to the neighbors. We don't  
7 make them a condition of the order, but we like to see  
8 that those agreements are executed, or at least draft  
9 agreements are prepared, and the neighbors are  
10 communicating.

11 Because this is sometimes the last stop for the  
12 community. And so, that's the reason we ask for them. We  
13 know what our zoning issues are.

14 And the zoning issues relate to adverse  
15 impacts. Because of the - because of the difficulty that  
16 adjacent neighbors have, the Board, as Mr. - as  
17 Commissioner Hood likes to call it, insists on a good  
18 neighbor policy where these agreements are signed.

19 And the playing field is not always even. So,  
20 I'll just leave it at that. And the Board likes to see  
21 these agreements done. So that's all I would say.

22 BZA CHAIR HILL: Okay. Thank you, Vice Chair  
23 John. Well said. Thank you. All right. So, okay,  
24 everybody knows. Anybody have any questions? Okay, Mr.  
25 Hamala?

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1 MR. HAMALA: Yes, Mr. Chair. What would the  
2 due date be for Ms. Cheng to respond?

3 BZA CHAIR HILL: Yes, well, I was hopeful -  
4 see, Ms. Cheng is not technically a party, and so I want  
5 to see something on the 22<sup>nd</sup> that - and Ms. Bloomfield I  
6 think is smart enough to know that whatever it is we see  
7 on the 22<sup>nd</sup> means that Ms. Cheng has signed off on it and  
8 there's some proof that Ms. Cheng has signed off on it.

9 Whatever the communication is, that the  
10 communication has happened. If by the 27<sup>th</sup> we start taking  
11 - we start to deliberate and we're not satisfied that  
12 communication has happened, then I don't see how we're  
13 going to have a decision on the 27<sup>th</sup>.

14 And I am looking at Ms. Bloomfield right now.  
15 And so, there is nothing that I need from Ms. Cheng. I  
16 guess, Ms. Change, actually, now that Mr. Hamala has  
17 mentioned this, if you would like to submit something to  
18 the record by the 22<sup>nd</sup>, that's also fine, okay?

19 But I would coordinate that with Ms. Bloomfield  
20 so that it's just not something that confuses the Board so  
21 that you all seem to be on the same page by the 22<sup>nd</sup>.  
22 Okay?

23 Okay. I got a nod. Okay. All right. Okay,  
24 I'm getting nods. Okay, good. All right. Mr. Olsen, you  
25 want to nod, too? Okay. All right. There we go.

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1           Okay. I know, Mr. Olsen, you're the developer.

2 | I know. All right. Okay. I'm just having fun. Okay.

3 | All right. Does anybody have anything else?

4           Okay. Thank you all very much. We'll see you  
5 | on - well, we won't see you anymore. We'll talk on the  
6 | 27th. Okay, thank you.

7           MS. BLOOMFIELD: Thank you.

8           BZA CHAIR HILL: Bye-bye.

9           VICE CHAIR JOHN: Bye.

10          BZA CHAIR HILL: Okay. All right. So, we got  
11 | - we got two more. I lost it. We have two more. I know  
12 | I need - I know I want to take a break before our last  
13 | one.

14          Oh, no, wait, shoot. We've got a bunch of  
15 | stuff. Let me - give me one second. Okay, Mr. Hamala, we  
16 | just did 20763, right? Yes. Correct? You're nodding.

17          All right. So that's decision on 7/27. Okay.  
18 | Then, I'm just looking and seeing the rest of the day.  
19 | Give me one second. Okay.

20          Can you all - can you all hold out? Can we try  
21 | to do one more and then take a break or do you want to  
22 | take a break? Nobody's saying anything.

23          ZC CHAIR HOOD: I'll say, let's keep pushing.

24          BZA CHAIR HILL: Okay.

25          ZC CHAIR HOOD: I usually give it to the Board,

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1 but since nobody said anything, let's keep pushing.

2 BZA CHAIR HILL: Okay. That's why - that's why  
3 I asked. Okay. Go ahead, Mr. Hamala, and call our next  
4 one.

5 MR. HAMALA: All right. Our next application  
6 is number 20764 of Sukhmohinder Mutneja.

7 And this is a self-certified application for a  
8 special exception pursuant to Subtitle E 205.5, Subtitle E  
9 5201, and Subtitle X 901.2 for the rear addition  
10 requirements of Subtitle E 25.4.

11 The proposal is an enlargement of an existing  
12 two-story attached single dwelling unit with a third story  
13 addition and a three-story rear addition for conversion to  
14 a flat.

15 It would be two units connected by an enclosed  
16 passage across a court in the RF 1 zone. This property is  
17 located at 3224 Sherman Avenue Northwest, Square 2845, Lot  
18 809. And there is one preliminary matter before the  
19 Board.

20 BZA CHAIR HILL: Okay. Go ahead, Mr. Hamala.  
21 What's the preliminary matter?

22 MR. HAMALA: It is a late submission within 24  
23 hours of the hearing. And the submission is expanded sun  
24 study videos.

25 BZA CHAIR HILL: Okay. I'm having trouble just

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1 pulling up the record. Mr. Dupont, are you there?

2 MR. DUPONT: Good day, Mr. Hill.

3 BZA CHAIR HILL: Hello. Could you introduce  
4 yourself for the record, please?

5 MR. DUPONT: My name is Stephen Dupont. I'm  
6 the architect for the project at 3224 Sherman Avenue  
7 Northwest.

8 BZA CHAIR HILL: Okay, great. For some reason,  
9 I'm having a hard time pulling it up on the system. Okay.  
10 Okay. Commissioner, can you introduce yourself for the  
11 record?

12 MR. WRAY: Good afternoon, everyone. Michael  
13 Wray for ANC 1A.

14 BZA CHAIR HILL: Great. Thank you. Mr.  
15 Dupont, you still don't have a report from the Office of  
16 Planning. Is that correct?

17 MR. DUPONT: I think we do. The reason you  
18 have the expanded sun study is at the request of the  
19 Office of Planning yesterday.

20 BZA CHAIR HILL: Yes, I don't know if I - and I  
21 can't pull up - last time I reviewed it, you didn't have a  
22 report so that's why I'm having a hard time. Let me - let  
23 me jump around a little bit.

24 MR. DUPONT: I know they had supported.

25 BZA CHAIR HILL: Yes.

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1 MR. DUPONT: And Mr. Mordfin can tell you.

2 BZA CHAIR HILL: Got you, Mr. Dupont. Mr.  
3 Dupont, are you not - it's okay if you're not - are you  
4 not using your camera?

5 MR. DUPONT: I can. Yes, please. Start video,  
6 is that -

7 BZA CHAIR HILL: Yes, that's it.

8 MR. DUPONT: There I am.

9 BZA CHAIR HILL: Great. Perfect. Thank you.  
10 Okay. Mr. - sorry, Mr. Hamala?

11 MR. HAMALA: Chairman Hill, the ANC did request  
12 to leave the record open so they could submit their  
13 report.

14 I believe the applicant is meeting with the ANC  
15 today, if the Commissioner could confirm that.

16 BZA CHAIR HILL: Yes. Okay. Commissioner, can  
17 you confirm that?

18 MR. WRAY: The applicant is on the agenda for  
19 this evening. The timing of when everything was ready  
20 just didn't work out for this hearing and our previous  
21 meetings.

22 BZA CHAIR HILL: Okay.

23 MR. DUPONT: We met with the Zoning Committee  
24 earlier, but their regular meeting is tonight.

25 BZA CHAIR HILL: Okay. All right. Okay. All

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1 right, whatever. All right. Mr. Dupont, why don't you go  
2 ahead and walk us through the application and why you  
3 believe your client is meeting the request - I'm sorry,  
4 why your client is meeting the criteria for us to grant  
5 the requested relief?

6 And we'll kind of work through this and see  
7 where we get.

8 MR. DUPONT: I don't have a slide deck like  
9 everybody else was intelligent enough to do. But the  
10 burden of proof letter, which is Exhibit --

11 BZA CHAIR HILL: 27.

12 MR. DUPONT: Updated number 13.

13 BZA CHAIR HILL: I think it's 27. No?

14 MR. DUPONT: 27, is it?

15 BZA CHAIR HILL: At least that's what I think  
16 it is.

17 MR. DUPONT: It may be.

18 BZA CHAIR HILL: But regardless, go ahead.

19 MR. DUPONT: I'm sorry. Go ahead. Yes, 27.  
20 Okay, there it is. Updated. All right. So, essentially,  
21 we know we have this - it's an RF 1 zone, and rather than  
22 stacking one house on top of the other, we've put one  
23 behind the other at 60 percent lawn occupancy.

24 There's a closed court between them and a  
25 cellar level walkthrough so that each house has connection

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1 to the street and also to the alley.

2           There's a reasonably decent sized backyard  
3 remaining. The lot is 120 feet deep. Although this lot  
4 and the two to the north have taken over a 10-foot alley  
5 and the two to the north still have access to their  
6 garages.

7           So really, it's 110 feet of useful garden. The  
8 house to the south is a brick house, deeper than this one.  
9 Substantially deeper than this one. And newer.

10           This house is quite an old timber frame, wood  
11 frame house with a cornice that could be mid-19<sup>th</sup> century.  
12 It matches some other mid-19<sup>th</sup> century cornices I have in  
13 other projects.

14           There are three of these. And then the corner  
15 lot. So, this project, our goal is to preserve the front  
16 façade, to preserve the cornice.

17           The drawings that have been submitted are not  
18 quite the same as the sun studies. In the sun studies, we  
19 have set back out from Sherman Avenue behind that cornice  
20 several feet in order not to mash it into a new front  
21 wall.

22           And we've matched the same setback at the back  
23 house away from the alley. So, the top floors are set  
24 back from the floors below.

25           And we have to shift the window heights around

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1 a little bit, but it doesn't affect the cornice. So, the  
2 cornice will remain exactly where it is.

3 The houses are difficult, being wood frame from  
4 that age. And we're going to run into fire construction  
5 problems at the party walls.

6 We don't quite know how those are going to work  
7 out. But those are technicalities. By putting the house  
8 behind the house instead of one on top, the two dwellings  
9 in the RF 1 zone have, both of them have a much better  
10 situation.

11 They're not - they're not - they don't have  
12 floors between them. Fire hazards are different. Access  
13 to your home is different.

14 It's much more like a home situation than an  
15 apartment. We have addressed the chimneys on both  
16 properties that are abutting.

17 And the property to the north has provided a  
18 letter in support for our special exception, which is to  
19 go more than 10 feet beyond his property line, his rear  
20 wall.

21 BZA CHAIR HILL: And what about the one to the  
22 south?

23 MR. DUPONT: The one to the south, there's a  
24 row of trees there now, some of which will be removed.  
25 And he has a shed right there also.

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1 He has a gap between his house and then he has  
2 a shed, about a 12-foot shed. And then his parking pad.  
3 The impact will be real, but he's on the south so it won't  
4 be a sun impact, a light and air.

5 And we do not have any letter from him  
6 regarding the 10-foot rule.

7 BZA CHAIR HILL: He didn't have an opinion? Or  
8 she didn't have an opinion?

9 MR. DUPONT: It really was my clients working  
10 with his neighbors, and I just don't have such a letter  
11 from him.

12 So, I guess they didn't get one. They did get  
13 the chimney letter, but they didn't get the 10-foot. And  
14 I don't - I don't know how that conversation went.

15 BZA CHAIR HILL: Go ahead, Mr. Dupont.

16 MR. DUPONT: Really, that's about it. I've  
17 been working with Mr. Mordfin. I've been doing a lot of  
18 sun studies.

19 And I'm sorry that they can't be uploaded. So,  
20 Mr. V. was good enough to provide them for you. I don't  
21 really have much more to say than that. If you have  
22 questions, happy to answer.

23 BZA CHAIR HILL: Yes. Where's Mr. - I'm just  
24 looking at - we just updated - we just updated your sun  
25 studies?

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1 MR. DUPONT: Yes.

2 BZA CHAIR HILL: Right. Okay. There they are.  
3 Okay. Does the Board - does the Board have any questions  
4 for the applicant? Commissioner Wray?

5 First of all, welcome back, welcome back.  
6 Thanks for hanging out with us all freaking day.

7 MR. WRAY: I've got about 25 photos to show  
8 you. Is that okay? Just kidding.

9 BZA CHAIR HILL: Let's see. Do you want to  
10 give us your testimony, Commissioner?

11 MR. WRAY: So, of course, the ANC does not  
12 currently hold a position, as I mentioned. By the time  
13 the applicant had all of their materials together we were  
14 between meetings.

15 We have sort of seen this in draft. We are  
16 encouraged by the fact that the neighbor to the north has  
17 signed a letter of support because the shadowing, of  
18 course, would have been most significant on their  
19 property.

20 We had originally, you'll see in the letter,  
21 that I had a question about the number of stories but  
22 thankfully the Office of Planning was very helpful in  
23 helping us to understand that.

24 So, that's no longer a concern. So, really, at  
25 this point, all I can say is that if the - if the BZA can

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1 leave the case open so that we can submit our final report  
2 from this evening's meeting, then I can give you what our  
3 final dealing is on the - on the matter.

4 But I am at least encouraged that the one area  
5 of relief, the 10-foot rule, does seem to have the support  
6 of the neighbors. And I would think would get the support  
7 of the ANC.

8 BZA CHAIR HILL: Did your committee, your  
9 subcommittee, already hear this?

10 MR. WRAY: Yes, we did.

11 BZA CHAIR HILL: So, I forget how your ANC  
12 works. Does your subcommittee make a recommendation?

13 MR. WRAY: Yes, which was we would do exactly  
14 what I've done here, that we would hear the case when we  
15 could and that I would show up here today to say that we  
16 were - that things were moving in a very positive  
17 direction, but that the ANC would just not have an  
18 opportunity to fully vote until after.

19 BZA CHAIR HILL: No, I got it. I'm just  
20 curious. You guys don't make a public recommendation to  
21 the - meaning -

22 MR. WRAY: Yes, we do. That's what I'm saying.  
23 Our recommendation to the full ANC would be to support the  
24 10-foot rule.

25 There was no question about that. But then, we

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1 had this open question about the number of stories.

2 | Because what Mr. - what the applicant is doing is he's  
3 | lowering the first floor in order to get it to be a cellar  
4 | instead of a basement.

5 | It's currently a basement. He's making it into  
6 | a cellar. I wasn't sure if that was allowed in the RF 1  
7 | zone, but Mr. Mordfin has explained that that is. And I  
8 | have some documentation on that now.

9 | BZA CHAIR HILL: Okay, great. Okay. All  
10 | right. Does anybody have any questions for the  
11 | Commissioner? Okay. Could I turn to the Office of  
12 | Planning?

13 | MR. MORDFIN: Good afternoon. I'm Stephen  
14 | Mordfin with the Office of Planning. And we were working  
15 | with the applicant to complete his application.

16 | And he did submit the sun studies that he has  
17 | mentioned and also provided information that's also shown  
18 | on those sun studies.

19 | You look at the building showing what the  
20 | proposed siding would be. We wanted to make sure there  
21 | was something on there since it does extend back 35 feet  
22 | approximately on the north side.

23 | So, we wanted to make sure there was an  
24 | acceptable façade on the sides of that building. But  
25 | initially, we submitted a report saying we couldn't yet

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1 make a recommendation because we didn't receive the  
2 additional information from Mr. Dupont.

3 We found that it did meet the criteria - it  
4 does not meet the criteria for a special exception to go  
5 back more than 10 feet, and therefore, we do recommend  
6 approval of the application now.

7 I can go through the application if you would  
8 like. Okay.

9 BZA CHAIR HILL: That's okay, Mr. Mordfin.  
10 Okay. I have a quick question. Mr. Dupont, if you're  
11 facing the front door of your applicant, is the north the  
12 right? The unit to the right?

13 MR. DUPONT: Yes.

14 BZA CHAIR HILL: Yes, correct?

15 MR. DUPONT: Yes. The three units, if you look  
16 at the base map, you'll see as one of the exhibits, you'll  
17 see the three tiny units that are very old. Ours is the  
18 one more down sheet. Down sheet is south.

19 BZA CHAIR HILL: Okay. All right. Okay.

20 MR. DUPONT: So, those three tiny units, one of  
21 the reasons I suspect the neighbor to the north is  
22 supporting is that he and his neighbor further north are  
23 both going to end up needing to do this same kind of  
24 thing.

25 BZA CHAIR HILL: Yes, yes, they're all going to

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1 do it. I mean, it's like, it's a giant wall, and that's  
2 what I'm trying -

3 MR. DUPONT: The whole block is expanding.

4 BZA CHAIR HILL: Yes. Our very first argument,  
5 we had an argument, or not argument, our very first  
6 discussion was about going past the 10 feet, and it didn't  
7 look anything like this. And we had a long discussion  
8 about it.

9 MR. DUPONT: I heard it.

10 BZA CHAIR HILL: And Commissioner Wray has -  
11 there is - ANC has been very active. A lot of things have  
12 been going on.

13 And so, I'm always fascinated by why it goes  
14 one way or the other. And it makes sense to me if  
15 somebody else is going to come before us in another couple  
16 months with the same kind of thing. So anyway, all right.  
17 Okay.

18 MR. DUPONT: We have also offered and have done  
19 specialty sidings for clients who are in that position, if  
20 they need a lattice or something like that, or whatever,  
21 we can do that.

22 BZA CHAIR HILL: No, that's great. I don't  
23 think - I don't think - I think that wall's going to be  
24 covered up soon enough.

25 So, you don't have to worry about it. Okay.

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1 Does anybody have any other questions of anybody? Okay.

2 VICE CHAIR JOHN: I had a question. I had a  
3 question about the court between the two buildings. How  
4 wide is that area?

5 MR. DUPONT: It's about eight feet wide. It's  
6 a closed court and it does not count in lot occupancy. I  
7 can make it wider or narrower as needed. But that seemed  
8 about the appropriate width.

9 VICE CHAIR JOHN: Well, I was just thinking in  
10 terms of light to the neighboring property, to the  
11 property at the north end.

12 MR. DUPONT: It doesn't overlap by much. If  
13 you look in the sun studies, you'll see it doesn't overlap  
14 much at all at the second floor.

15 VICE CHAIR JOHN: That's the thing, I couldn't  
16 pull up the video. The videos don't help me at all.

17 MR. DUPONT: Oh, I'm sorry.

18 VICE CHAIR JOHN: Yes.

19 MR. DUPONT: The rearward building is only  
20 about a foot and a half past the second floor of the  
21 neighbor to the north.

22 VICE CHAIR JOHN: Okay.

23 MR. DUPONT: I mean, if you - if you think it's  
24 important, I can push it even further back. But that just  
25 expands the 10-foot rule waiver.

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1 VICE CHAIR JOHN: Okay. All right. So that  
2 was my question. And in lowering the floor to create the  
3 cellar, what's the new building height?

4 MR. DUPONT: Well, it's within the 35 feet.

5 VICE CHAIR JOHN: Okay. All right. That was  
6 it. And for both buildings it's 35?

7 MR. DUPONT: Absolutely. Yes.

8 VICE CHAIR JOHN: All right. That was my  
9 question.

10 BZA CHAIR HILL: All right. Thank you, Vice  
11 Chair John. Okay, so, Commissioner, if you guys hear them  
12 tonight, today is the 13<sup>th</sup>. Is today the 13<sup>th</sup>? Yes, today  
13 is the 13<sup>th</sup>.

14 Do you think you could get us something by  
15 Friday the 15<sup>th</sup>? Okay, wonderful. Then Mr. Hamala, can  
16 you hear me?

17 I'm just not trying to jam everything on the  
18 27<sup>th</sup>. What's on the 20<sup>th</sup>? I mean, how many do we have on  
19 the 20<sup>th</sup>?

20 MR. HAMALA: There are nine right now but there  
21 are four applications that have a postpone request.

22 BZA CHAIR HILL: Oh, yes, okay. So let's put  
23 this on for decision on the 27<sup>th</sup>. We'll wait. We'll keep  
24 the record open for the ANC for the 15<sup>th</sup> and then we'll  
25 come back here for decision on the 20<sup>th</sup>.

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1                   Okay. Mr. Dupont, do you have anything you'd  
2 like to add at the end?

3                   MR. DUPONT: Just thank you very much --

4                   BZA CHAIR HILL: Okay.

5                   MR. DUPONT: -- for your flexibility.

6                   BZA CHAIR HILL: Okay. Yes. This is somebody  
7 - oh, God, goodness, I can't believe it.

8                   MR. YOUNG: I don't think you asked for public  
9 testimony but there is no one to testify.

10                  BZA CHAIR HILL: Thank you. It's late in the  
11 day.

12                  VICE CHAIR JOHN: Thank you.

13                  BZA CHAIR HILL: Ms. John?

14                  VICE CHAIR JOHN: Just for Mr. Dupont to  
15 clarify what drawings are the final drawings? Because I  
16 believe he said that there were some changes.

17                  MR. DUPONT: I did forget to upload but I will  
18 give them to you -

19                  VICE CHAIR JOHN: Okay.

20                  MR. DUPONT: By tomorrow morning.

21                  VICE CHAIR JOHN: Thank you.

22                  MR. DUPONT: Yes. Thank you, Mr. Ray. So what  
23 time is the ANC? 7:00?

24                  MR. WRAY: We will probably not get to you  
25 until much later so don't feel pressured to be there right

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1 at 7:00 o'clock.

2 MR. DUPONT: I'll start drinking around 5:00  
3 then.

4 BZA CHAIR HILL: Oh, Commissioner Wray. I love  
5 it. It's a long day for the city. Okay. All right,  
6 Commissioner. Enjoy your ANC meeting.

7 MR. DUPONT: Thank you all very much.

8 VICE CHAIR JOHN: Bye.

9 BZA CHAIR HILL: Bye-bye. Okay, so we got  
10 that. So, what I'd like to do is, okay, this is - if you  
11 all - oh, wait, we're going to lose somebody maybe.

12 We might lose - oh, we'll see. Okay, we have  
13 two things left. I want to go back to that other case  
14 first and then do the last case last, because the last  
15 case actually, it's going to take a little bit of brain  
16 power.

17 Not that the other one's not. So, we can  
18 either take a quick break now or we can bring that case  
19 back.

20 VICE CHAIR JOHN: Let's bring that case back.

21 BZA CHAIR HILL: Okay, let's bring that case  
22 back. Then we're going to take a break. And then we'll  
23 conclude. So, Mr. Hamala, if you could bring back 20752.

24 MR. HAMALA: So, next up is application number  
25 20742 of 1719-1721 Wisconsin Avenue Northwest, DCLLC.

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1 BZA CHAIR HILL: Okay, Mr. Kadlecek, can you  
2 hear me? And if so, could you reintroduce yourself for  
3 the record?

4 MR. KADLECEK: Yes, I can hear you. Thank you,  
5 Chairman Hill. Again, for the record, Cary Kadlecek from  
6 Goulston & Storrs, on behalf of the applicant.

7 BZA CHAIR HILL: Great. Mr. Overmyer, can you  
8 hear me? And if so, could you reintroduce yourself for  
9 the record, please?

10 MR. OVERMYER: Overmyer, 3264 S Street  
11 Northwest.

12 BZA CHAIR HILL: Okay, great. Mr. Kadlecek,  
13 what the Board had asked of you was to speak with your  
14 client. Can you tell me what happened from the discussion  
15 with your client?

16 MR. KADLECEK: Yes, so in the intervening  
17 hours, we have spoken with Mr. Overmyer and we've come to  
18 an agreement we believe with him.

19 And also taken into consideration some of the  
20 other matters that the Board discussed. So, in terms of  
21 what we talked about with Mr. Overmyer, we agreed to the  
22 request that he had.

23 So, we're going to put forth some additional  
24 conditions in response to all the requests that he had of  
25 us. And I can read those now or wait.

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1           And then in addition to that, in lieu of the  
2 sunset term, we are in agreement to the liaison, the  
3 designated liaison for the community to hold meetings  
4 regularly for the community.

5           So, if you like, I can read the additional  
6 conditions that we've agreed to for the benefit of Mr.  
7 Overmyer.

8           And we've agreed to these in exchange for him  
9 withdrawing his party status.

10           The first new condition that we will agree to  
11 is, number one, after 10:00 o'clock p.m., no one will be  
12 permitted to enter or exit the building from the rear.

13           Any bicycles parked at the rear of the building  
14 will be brought inside or to the front before 10:00 p.m.

15           Number two, downlighting fixtures on the rear  
16 of the building shall be specified to limit the projection  
17 of light to below a horizontal plane of six feet above the  
18 ally ground plane and they shall be on timers to default  
19 to turn off at 10:00 p.m. with only a one-minute motion  
20 sensor activation after 10:00 p.m.

21           Number three, trash pickup will be limited to  
22 occur only between 9 a.m. and 5 p.m. And then the last  
23 two are conditions that we already agreed to at the  
24 hearing, but I'll just restate them for clarity of the  
25 record.

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1 All deliveries of supplies and equipment to the  
2 building will occur from Wisconsin Avenue. So, we're  
3 withdrawing the previous condition that deliveries could  
4 happen in the alley.

5 And then also restating what Ms. Milanovich  
6 said, which was we will no longer request a pick-up/drop-  
7 off zone on S Street. We will request only a pick-  
8 up/drop-off zone on Wisconsin Avenue.

9 BZA CHAIR HILL: Okay.

10 MR. KADLECEK: And then finally the condition  
11 about the designated liaison.

12 BZA CHAIR HILL: Okay. So, Mr. Kadlecek, what  
13 - and I'll let my fellow Board members speak up on what  
14 their thoughts were for the designated liaison.

15 When you say designated liaison, Mr. Kadlecek,  
16 what it is that you were thinking?

17 MR. KADLECEK: What we're thinking of is it's a  
18 person whose contact information, nearby residents will  
19 have and will be disseminated to, whether through the ANC  
20 or through another channel.

21 That person will be the direct line of contact  
22 for whether - for how people want to - if they have  
23 concerns about the operations of the building.

24 And then what I know is common in these types  
25 of situations, that I've worked on other cases, is that

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1 then person usually will host some sort of regular  
2 community meeting open to nearby residents.

3 That gives them an opportunity to discuss any  
4 concerns or issues they have. So, it's meant to be more  
5 of a real-time ability to respond to the community rather  
6 than a sunset provision, which is sort of like nothing up  
7 until the sunset.

8 So, I think we find that this is a more  
9 preferable way to real-time address issues.

10 BZA CHAIR HILL: And then they go, and they  
11 present at the ANC? I forget what - or I shouldn't say I  
12 forget - like -

13 MR. KADLECEK: They work differently in my  
14 experience.

15 BZA CHAIR HILL: They work differently.

16 MR. KADLECEK: So, we can just have the meeting  
17 occur once a year or whatever. And we can or cannot -

18 BZA CHAIR HILL: No, no, I mean, I've seen the  
19 liaison stuff put forward as you have in a variety of  
20 different ways, right?

21 And so, I'm just trying to - I think in  
22 addition to everything you've said, maybe something that  
23 the - that the liaison will go and at least participate in  
24 an ANC meeting every quarter. Or just be available to the  
25 ANC every quarter.

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1           And I'll let my fellow Board members - because  
2 I don't know what their thoughts may be on this. There's  
3 a lot of things that have been said and I'd like to see  
4 something in the record by even, if possible, the 15<sup>th</sup>,  
5 which is Friday, or Monday, that kind of just gives me one  
6 page where all this - like, for example, there's Exhibit  
7 27 that has DDOT stuff.

8           I'm sorry, OP stuff, right? There's Exhibit 34  
9 that has DDOT stuff. And you guys changed it somehow,  
10 right? Then you also now have the pick-up and drop-offs  
11 are only on Wisconsin Avenue from this 4:00-6:30 window  
12 and you specified it in some way, right?

13           And so, if you could just have that all in one  
14 exhibit that you could put in there that we could take a  
15 look at, would you be able to do that?

16           MR. KADLECEK: Yes, I mean, we can - we can do  
17 that quickly.

18           BZA CHAIR HILL: Yes, I mean, quick -

19           MR. KADLECEK: We didn't really want to have to  
20 wait until next week for that, but -

21           BZA CHAIR HILL: Well, the reason why also I  
22 want to be tidy is that I'd also like to see whatever it  
23 is that you did.

24           I mean, it doesn't - again, from a zoning  
25 perspective, some of this doesn't necessarily tie off. I

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1 can't even think of the words I'm trying to say properly  
2 at this point.

3 But I want it to all be cleaning, meaning that  
4 I'd like to see in the record whatever you're doing with  
5 Mr. Overmyer has been taken care of.

6 And Mr. Overmyer, if he's going to pull his  
7 party status, pull his party status, and the record is  
8 clean on Friday so that I can go ahead and we can have a  
9 deliberation on - I mean, I'm getting you right back here  
10 again because this is all crazy, right?

11 It's the end of the season. So, I'm going to  
12 get you back here on the 20th. I'm actually okay with  
13 everything you're kind of talking about.

14 I don't know where my fellow Board members are,  
15 okay? And so, before I turn it over to my fellow Board  
16 members, and I'll let you all talk, my - I'm more  
17 comfortable now with everything that's being discussed  
18 rather than a sunset because of finances, commitment to  
19 this incubator, which is for small businesses that are  
20 restaurants.

21 And this virtual thing is a weird thing to talk  
22 to all at the same time, I know. And then also, I do feel  
23 comfortable with the liaison and that the ANC has already,  
24 in their opinion, has - they meet the criteria, as had the  
25 Office of Planning.

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1           So those are my thoughts in general. Mr.  
2 Smith, do you have anything else you'd like to add or see  
3 from the applicant before we could deliberate next  
4 Wednesday?

5           MEMBER SMITH: No, I don't have any additional  
6 information I would need. I still stand by I believe a  
7 10-year sunset would provide some additional teeth. But I  
8 count the votes. So, it is what it is.

9           BZA CHAIR HILL: Okay. Well, you don't know  
10 what the votes are yet, but Mr. Blake, and I'll let Mr.  
11 Kadlecek try to - I am a little bit - Mr. Kadlecek, you  
12 can give one last pitch in terms of how the finances and  
13 the commitments and all that for the 10-year sunset - I  
14 mean, 10 years is a long time.

15           But still at the same time, I don't want to  
16 screw up a small business in Georgetown, either. Mr.  
17 Blake, do you need anything else from the applicant?

18           MR. BLAKE: No, Mr. Chair, I don't. Other than  
19 I would like to see more specificity with regard to the  
20 liaison relationship because we know there are a lot of  
21 different ways that could be accomplished.

22           So I'd like to be very clear, not just to  
23 describe it, to be a little bit more specific in terms of  
24 they will be meeting with the ANC and how frequent.

25           I'm not sure what is reasonable. But at least

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1 in the early stages of it, I do think it would be very  
2 helpful for them to meet with the ANC more frequently than  
3 not.

4 Then over time, that could phase out. But I do  
5 think I'd like to have more specificity with regard to how  
6 that liaison relationship will work.

7 BZA CHAIR HILL: Do you have any questions for  
8 Mr. Kadlecek or how you can direct them a little bit more?  
9 Is that enough, do you think, for him, Mr. Blake?

10 MR. BLAKE: I think so.

11 BZA CHAIR HILL: Okay. Chairman Hood?

12 ZC CHAIR HOOD: That's everything. I would  
13 agree with Board Member Blake, Mr. Kadlecek. And I think  
14 you remember the Georgetown University motto.

15 One of the mottos is, you're fine tuning that  
16 liaison, how it works as a victory of the community and an  
17 organization or institution coming together.

18 And I'm going to do my friend, who I have a lot  
19 of respect for, Board Member Smith, a favor. I'm going to  
20 ask the Office of Planning at a - at a zoning commission  
21 meeting to give me the analysis on sunset provisions and  
22 also what the outcomes were.

23 Just because I actually am interested because  
24 we are having this discussion. And another thing, Mr.  
25 Chairman, the 10 years, I threw that out there because I

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1 knew it was better than the five years.

2           So, I'm not saying that's a hard fast rule. I  
3 just threw that out there. It goes back to the point that  
4 you and the Vice Chair and I made about this is  
5 unpredictable in the District of Columbia. So that's all  
6 I have. Thank you, Mr. Chairman.

7           BZA CHAIR HILL: Thank you. Vice Chair John,  
8 do you need anything else by Friday?

9           VICE CHAIR JOHN: No.

10          BZA CHAIR HILL: No? Okay. Mr. Kadlecek,  
11 you're good? You understand? I'll get you, Mr. Hamala.

12          MR. KADLECEK: Yes, I understand. So, we'll  
13 file essentially a consolidated list of conditions by  
14 Friday and then this will be taken up at a public meeting  
15 a week from today.

16          BZA CHAIR HILL: Yes. Consolidated list of  
17 conditions. Specify the thing about the liaison, to Mr.  
18 Blake's thoughts, right?

19                 If you want to again, I guess I would - you're  
20 welcome to give us a little bit of an argument as to why a  
21 10-year sunset is not feasible, right?

22                 Okay. And then also whatever you have done  
23 with Mr. Overmyer and if he - if he is withdrawing his  
24 party status, then have that all tied up in a bow for us  
25 to then deliberate on the 20<sup>th</sup>. Okay? Okay.

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1 MR. KADLECEK: Right, so, and just to be clear,  
2 is there a time - well, never mind. Got it. I just want  
3 to make sure that Mr. Overmyer is also submitting his  
4 withdrawal in a way that it coordinates with everything.

5 BZA CHAIR HILL: Well, I think you guys should  
6 probably work that out yourselves. That's not really my  
7 business.

8 MR. KADLECEK: Got it.

9 BZA CHAIR HILL: So, okay. Mr. Hamala, are you  
10 there? You had a thought?

11 MR. HAMALA: I did, but you and Mr. Kadlecek  
12 have answered my question.

13 BZA CHAIR HILL: Okay, great. All right. Then  
14 we'll put this back on for decision. We'll get what we  
15 need by Friday the 15<sup>th</sup>.

16 And we'll put this back on decision for 7/20.  
17 Yes, 7/20. Okay? All right. Thank you, guys, very much.  
18 You all have a nice evening.

19 MR. KADLECEK: Thank you.

20 BZA CHAIR HILL: The hearing is closed except  
21 for what we requested. Okay. All right. Let's take a  
22 break, okay? And then we'll come back for the last case.  
23 Okay? Thank you.

24 VICE CHAIR JOHN: How long a break?

25 BZA CHAIR HILL: I don't know, 10 minutes?

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1 MEMBER SMITH: 10 minutes.

2 (Whereupon, the above-entitled matter went off  
3 the record at 4:59 p.m. and resumed at 5:15 p.m.)

4 MR. HAMALA: The following case is Application  
5 No. 20760 of SC Holdings Peabody, LLC. This is a self-  
6 certified application pursuant to Subtitle X 901.2 for a  
7 special exception under Subtitle U 421, to allow a new  
8 residential development, specifically one new apartment in  
9 a third story addition.

10 The note, the addition is already completed.  
11 And I clearly support the additional unit. And this was  
12 in the RA 1 Zone. And the property is located 5912 9th  
13 Street NW, Square 2986, Lot 25. And there are a few  
14 preliminary matters before the Board.

15 BZA CHAIR HILL: Okay. Go ahead.

16 MR. HAMALA: First, within the 24 hour  
17 submission deadline there is the affidavit of posting, and  
18 affidavit of posting, and affidavit of maintenance from  
19 the applicant.

20 And then second, one of the owners of the  
21 condominium units has alleged that the applicant does not  
22 have authority to file the application, because the  
23 application, because the applicant is not the majority  
24 owner of the property, and was not authorized by the  
25 condominium's owners association.

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1 BZA CHAIR HILL: Okay, great. As far as the  
2 first preliminary matter, unless the Board has any  
3 objection I want to go ahead and allow that information  
4 into the record. If you have any objection, please raise  
5 your hand. Seeing none. Okay, Mr. Hamala, if you'd  
6 please allow that into the record.

7 As for the other issue, we're going to kind of  
8 work that through first as a threshold matter. Mr.  
9 Carballo, could you please introduce yourself for the  
10 record?

11 MR. CARBALLO: Yes, sir. My name is Adam  
12 Carballo. I'm an architect and representing the owner,  
13 excuse me, my client the applicant, SC Holdings Peabody,  
14 LLC.

15 BZA CHAIR HILL: Got it.

16 MR. CARBALLO: I also have two other parties  
17 joining me, Mr. Steve Snyder. And he is part of SC  
18 Holdings Peabody, LLC, as well as Hannah Breedlove, who's  
19 on my team.

20 BZA CHAIR HILL: Okay. Got it. All right.  
21 Well, I guess, so Mr. Carballo, I mean, you've been before  
22 us before. And so, you know, we're trying to figure out -  
23 - First we have this threshold issue as to whether or not  
24 you guys are the people that can make this application.  
25 Okay.

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1           So, if you could please explain to me what the  
2 situation is, and why you believe you're the people who  
3 get to make this application. And then I guess the Board  
4 might have some questions.

5           MR. CARBALLO: Certainly. I will do my best to  
6 explain, and Mr. Steve Snyder might also provide some  
7 additional description to that.

8           This property, as Mr. Hamala explained, was  
9 constructed or renovated previously. Based on public  
10 record we see between 2015 and 2017 this property was  
11 renovated. And addition was built, third floor addition  
12 was built. And five condominium units were constructed.

13           Four of those condominium units were sold. The  
14 fifth unit was then obtained by our client, SC Holdings  
15 Peabody, LLC by way of foreclosure. Peabody, LLC was the  
16 financier of the property. They were not the developer.

17           We personally as Carballo Architects, we were  
18 not the architect on the original construction. We were  
19 engaged by Mr. Snyder and his team, because the, after the  
20 foreclosure, and after, you know, possession was taken of  
21 that fifth unit, it was discovered that the use and  
22 occupancy was never obtained for that unit.

23           We have simply been engaged by Mr. Snyder and  
24 his team to obtain a legal use and occupancy for this  
25 already constructed unit. There are a number of, say

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1 issues that the four existing condominium owners have.

2 I believe this is misguided towards my client,  
3 Mr. Snyder and his group. We're simply trying to obtain  
4 the use and occupancy for an already constructed unit so  
5 that it is, becomes a, you know, occupied contributing  
6 member of that structure. Currently 20 percent of the  
7 building is vacant, because there's not a legal use and  
8 occupancy.

9 BZA CHAIR HILL: Right. And this is the one  
10 that's on the top unit?

11 MR. CARBALLO: Yes, sir.

12 BZA CHAIR HILL: Okay.

13 MR. CARBALLO: On the, it occupies the third  
14 floor.

15 BZA CHAIR HILL: Ms. Nagelhout, just so you  
16 know we might end up taking an emergency closed meeting to  
17 discuss this further with Legal. But we'll see. But I'm  
18 going to go ahead and turn some questions over to my  
19 fellow Board Members to see how they might like to process  
20 this. In no particular order, whoever might want to raise  
21 their hand first. Sure, Vice Chair John. You're on mute,  
22 Vice Chair John.

23 VICE CHAIR JOHN: All day. So, is there an HOA  
24 association, Mr. Carballo?

25 MR. CARBALLO: I believe so. Mr. Snyder can

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1 confirm.

2 VICE CHAIR JOHN: Mr. Snyder.

3 MR. SNYDER: I'm sorry, what was the question?

4 VICE CHAIR JOHN: Is there an HOA association?

5 MR. SNYDER: Yes, there is.

6 VICE CHAIR JOHN: Okay. And as a member, as a  
7 fifth member was there a resolution taken to file this  
8 application?

9 MR. SNYDER: Not that I'm aware of.

10 VICE CHAIR JOHN: Okay. And so, how are you  
11 authorized to file this application on behalf of the A2A?

12 MR. SNYDER: I don't think, I did not file it  
13 on behalf of the HOA. I filed it on behalf of SC Holdings  
14 Peabody, LLC, which is the entity that acquired the unit  
15 at a foreclosure sale.

16 VICE CHAIR JOHN: Okay. And remind me who you  
17 are again? I thought, so you're representing which  
18 entity?

19 MR. SNYDER: I am a part owner of SC Holdings  
20 Peabody, LLC, the entity that owns Unit 5, which was  
21 acquired at a foreclosure sale a few years ago.

22 VICE CHAIR JOHN: Okay. So, if all five units  
23 have been sold, the five people who bought those units are  
24 now the owner of the building, right?

25 MR. SNYDER: Collectively, yes.

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1                   VICE CHAIR JOHN: Yes. So, how is the original  
2 developer's interest continued? The developer owns only  
3 one unit.

4                   MR. SNYDER: Well, no, ma'am. The developer  
5 has left the jurisdiction.

6                   VICE CHAIR JOHN: Okay.

7                   MR. SNYDER: I don't believe the developer owns  
8 any units. There are four owners that acquired units from  
9 the original developer. And my entity acquired the fifth  
10 unit at a foreclosure sale.

11                  VICE CHAIR JOHN: Okay. And your entity is the  
12 financier?

13                  MR. SNYDER: In a separate company we financed  
14 the acquisition and renovation. The developer defaulted,  
15 left town. He had already sold four apartment units. We  
16 were left with the fifth unit. And we foreclosed on that  
17 unit and took title in the name of Peabody, LLC.

18                  VICE CHAIR JOHN: Okay. This time, Mr.  
19 Chairman, I don't have any more questions.

20                  BZA CHAIR HILL: Okay. Now I'm back to  
21 questions. Now I'm confused. So, Mr. Snyder, again, so  
22 you guys, let me try to understand. Because we got to  
23 figure it out, right. There's five units in the building,  
24 right?

25                  MR. SNYDER: Yes.

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1 BZA CHAIR HILL: There was a developer.

2 MR. SNYDER: Yes.

3 BZA CHAIR HILL: You guys financed the original  
4 development?

5 MR. SNYDER: Yes.

6 BZA CHAIR HILL: Okay. So, you guys financed  
7 the original development, the original developer, right.

8 MR. SNYDER: Yes.

9 BZA CHAIR HILL: So, you were just the finance  
10 team? You had nothing to do with the project?

11 MR. SNYDER: That's correct.

12 BZA CHAIR HILL: Okay. So then, the developer  
13 left, right. And you all were stuck with that fifth unit,  
14 which was illegal?

15 MR. SNYDER: Yes.

16 BZA CHAIR HILL: Correct? So, you were stuck  
17 with a fifth illegal unit that you then whatever, took  
18 possession of through foreclosure. But you were the  
19 financier anyway, right. But I mean, you took possession  
20 of it, correct?

21 MR. SNYDER: We acquired title, yes.

22 BZA CHAIR HILL: Acquired title. I don't know,  
23 Mr. Blake can help me out maybe with this one better than  
24 me. So like, so you acquired title, right. Okay. But  
25 you were somehow involved with it. But it's not your

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1 fault supposedly, right. Meaning, they left.

2 MR. SNYDER: Yes.

3 BZA CHAIR HILL: And now you're just trying to  
4 somehow make this fifth unit legal. Is that more or less  
5 correct?

6 MR. SNYDER: That's well stated, yes.

7 BZA CHAIR HILL: Are you, well stated. Are you  
8 in the association currently, or no?

9 MR. SNYDER: I've never attended anything with  
10 the association. All we have is title. And my view has  
11 been I don't want to be involved with an association or  
12 anything until we figured out what's going on with the,  
13 you know, permitting and C of O with respect to this unit.

14 BZA CHAIR HILL: No, I got you. So technically  
15 now what I'm saying is, you're not part of the HOA because  
16 you technically don't have possession of the fifth unit.

17 MR. SNYDER: Correct.

18 BZA CHAIR HILL: Okay. All right, Mr. Blake.

19 MEMBER BLAKE: I'm sorry. What exactly did you  
20 acquire title of?

21 MR. SNYDER: The Unit 5 in that building.

22 MEMBER BLAKE: Okay. You could acquire it even  
23 though it wasn't a unit? You acquired what the, what  
24 exactly did you acquire?

25 MR. SNYDER: You've raised a very good

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1 question. There was a legal unit for real estate  
2 purposes. Simply it wasn't, as I now understand, properly  
3 permitted for, you know, purposes of DCRA. However, there  
4 was a separate tax lot and there was a condominium plat  
5 which showed the fifth unit as existing.

6 VICE CHAIR JOHN: Is that in the record?

7 MEMBER BLAKE: Is that information in the  
8 record?

9 MR. CARBALLO: I believe so, yes.

10 BZA CHAIR HILL: The record, Mr. Carballo?

11 MEMBER BLAKE: While you look, I didn't see it.

12 MS. BREEDLOVE: Yes. I'm not positive that  
13 that's actually submitted within the IZIZ system. But I'm  
14 sure that we can provide that.

15 BZA CHAIR HILL: Can you repeat again what  
16 specifically you're going to provide? I got lost there at  
17 the beginning.

18 MS. BREEDLOVE: Sure, yes. It sounds like  
19 we'll be providing information showing that separate tax  
20 law and condo plat for documentation. Is that correct,  
21 Mr. Snyder?

22 MR. SNYDER: Would you repeat that, please?

23 MS. BREEDLOVE: Sure. I want to make sure that  
24 we get that separate tax law and condo plat admitted into  
25 the record to BZA. So, if we could get that put in that

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1 would be great.

2 MR. SNYDER: Not a problem.

3 MS. BREEDLOVE: Thank you.

4 BZA CHAIR HILL: Chairman Hood, you had your  
5 hand up?

6 ZC CHAIR HOOD: Actually I waving bye to  
7 somebody.

8 BZA CHAIR HILL: Oh. There you go. You can  
9 keep waving to them then. The, we can come back to you  
10 anyway. Okay. So, Ms. Nagelhout, can you hear me?

11 MS. NAGELHOUT: I can.

12 BZA CHAIR HILL: We might have a question for  
13 you in a minute. But I just want to make sure that we've  
14 asked any kind of question that you might want answered  
15 before we have a little discussion amongst ourselves. And  
16 before I ask you if we, I've missed anything I'm going to  
17 keep going around the table here. Mr. Smith, do you have  
18 any questions? Okay. Chairman Hood?

19 ZC CHAIR HOOD: I was trying to absorb all this  
20 after being thoroughly confused, trying to figure out  
21 what's going on here. But I'm just trying to figure out,  
22 I know why you're here in front of the BZA. But some of  
23 these logistics for me should have been resolved before we  
24 got here.

25 I do know about developers leaving and somebody

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1 coming in and taking over. I get all that. But I'm just  
2 trying to figure out, how did the BZA get into, how do we  
3 get into this? Because technically we're not the subject  
4 matter experts.

5 I really, you know, whether you have the right  
6 to be before us or not is still open to question for me.  
7 And I heard the discussion. I was waiting to get the  
8 nugget that I needed to help me kind of try to iron this  
9 out. And frankly, Mr. Chairman, I have got, not gotten  
10 that nugget to help me iron it out.

11 BZA CHAIR HILL: Okay. I'm --

12 ZC CHAIR HOOD: So, that's it.

13 BZA CHAIR HILL: I see Mr. Blake. My, and Mr.  
14 Blake, I'm going to get to you in a minute. I'm going to  
15 call for an emergency closed meeting with Legal. We're  
16 going to do that to figure out whether we're on the right  
17 track to understand this. We have to get past this issue.  
18 Mr. Blake.

19 MEMBER BLAKE: Sorry. Did you acquire the  
20 property through foreclosure before or after all the units  
21 were sold?

22 MR. SNYDER: We acquired it after the four  
23 units had been sold.

24 MEMBER BLAKE: Okay. Thank you.

25 BZA CHAIR HILL: Okay. And then, Ms.

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1 Nagelhout, something that I, well I'll ask it later. Ms.  
2 Nagelhout, am I missing anything before I ask for a closed  
3 meeting? Okay. All right. Then, you guys, I'm going to  
4 have a, I'm going to ask for a closed meeting from the  
5 Board. We're going to close it and go talk to Legal, and  
6 come back. Okay.

7 So, as Chairperson of the Board of Zoning  
8 Adjustments require me in accordance with Section 407 of  
9 the District of Columbia Meeting Procedures Act, I move  
10 that the Board of Zoning Adjustment hold a closed  
11 emergency meeting on 7/13/2022 for the purposes of seeking  
12 legal counsel on 20760, deliberate upon but not vote on  
13 Case number 20760, for reasons cited in D.C. Official Code  
14 2-575B13. Is there a second, Ms. John?

15 VICE CHAIR JOHN: Second.

16 BZA CHAIR HILL: Mr. Hamala, the motion's been  
17 made and seconded. If you could please take a roll call?

18 MR. HAMALA: When you hear your name please  
19 respond with a yes, no, or abstain. Chairman Hill.

20 BZA CHAIR HILL: Yes.

21 MR. HAMALA: Vice Chair John.

22 VICE CHAIR JOHN: Yes.

23 MR. HAMALA: Mr. Blake.

24 BZA CHAIR HILL: Mr. Blake, you're on mute.

25 MEMBER BLAKE: Yes.

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1 MR. HAMALA: Mr. Smith. Mr. Hood.

2 ZC CHAIR HOOD: Yes.

3 MR. HAMALA: Staff would record the vote as  
4 five to zero to zero. The motion passes, sir.

5 BZA CHAIR HILL: As Chair to the Board of  
6 Zoning Adjustment, we'll recess this proceeding on this  
7 date, I'm sorry, 7/13/2022 at 5:31 p.m. to call a closed  
8 emergency meeting pursuant to D.C. Administrative  
9 Procedures Act. A written copy of this notice will be  
10 posted in the Jerrily R. Kress Memorial Hearing Room at  
11 this time.

12 Okay, guys, we'll come back in a minute or two.

13 (Whereupon, the above-entitled matter went off  
14 the record at 5:31 p.m. and resumed at 5:52 p.m.)

15 BZA CHAIR HILL: All right. Okay. I'm going  
16 to call us back in. The Board of Zoning Adjustment's back  
17 in session. The time is now 5:53 p.m. And we're here on  
18 Case 20760.

19 Okay. Mr. Snyder are you still there? Okay.  
20 So, we've been trying to figure out, I mean, Mr. Snyder,  
21 what's happening here is that the regulations are pretty  
22 clear in that we can only take an application from who is  
23 supposed to be, the person who's supposed to be authorized  
24 to give the, to bring the application before us, right.

25 As near as we can tell, and you can, well, let

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1 me, hear me. As near as we can tell what needs to happen  
2 is, currently the building is owned by the HOA, right. Or  
3 there's the four unit HOA members, right.

4 So, we have to look at this as if that fifth  
5 unit weren't there, right. So, we're actually looking at  
6 this as if you're trying to expand that building of four  
7 units with a fifth unit.

8 So, in order to do that the building would have  
9 been here, and would have been asking for this relief.  
10 So, we either need something from, and you have to go talk  
11 to your attorneys, or whatever you need to do. I'm just  
12 telling you where we are right now.

13 You either have to get some kind of letter from  
14 the HOA saying that you are authorized to act as the  
15 property owner, as the building, to apply for this relief.  
16 And/or you have to submit something to the Board that  
17 argues why you think you're the person who is the  
18 authorized representative for the property to ask for this  
19 relief. Did that make sense to you?

20 MR. SNYDER: Yes. So, it's either the HOA  
21 agrees to submit before you, or I need something to  
22 demonstrate why I'm the correct person to do it,  
23 presumably without the HOA.

24 BZA CHAIR HILL: Yes. I mean, if you get a  
25 letter from the HOA President saying that, you know,

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1 we're, that you're the authorized representative, then you  
2 can be here before us.

3 MR. SNYDER: Okay.

4 BZA CHAIR HILL: Or you have to send in  
5 something else to us that says differently, how you now  
6 are the authorized representative for this fifth unit.

7 MR. SNYDER: Understood. So, if I may for just  
8 a moment, and I know it's late. But the history of this,  
9 as I've noted, is that one of my companies was the lender  
10 to facilitate the purchase and renovation of this  
11 building.

12 Four units were sold. The fifth one was left.  
13 We foreclosed on that unit and took title to it. It was a  
14 subdivided piece of real estate. It had its own tax lot  
15 number. And that entity that acquired it was this SC  
16 Holdings Peabody.

17 The issue that I'm now facing is, first we were  
18 told by the HOA two or three months ago, indirectly not  
19 directly, because there were contacts made with D.C. And  
20 the HOA said, you know, we need to discuss this with the  
21 fifth unit owner. And I got that.

22 I called the gentleman several times, never  
23 heard from him. I emailed him, never heard from him. And  
24 then lo and behold, this morning I did receive a call.  
25 And we've had an exchange of emails.

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1           Long and short of it is, what the HOA is not  
2 expecting, and it's in writing, is they claim there are  
3 structural issues at the property, okay. And they want my  
4 entity to pay to remedy those structural issues, or for my  
5 entity to fix them.

6           So basically, what the HOA is saying is, Mr.  
7 Snyder, we're happy to assist. We're happy to give the  
8 approval. But you're going to fix all the structural  
9 issues, even though you weren't the developer. And even  
10 though the developer, forgive the vernacular, screwed you  
11 as badly as he may have screwed us. So, I'm sort of left  
12 in a conundrum here.

13           BZA CHAIR HILL: I got you. No, I got you.  
14 And all of my fellow Board Members have that. I totally  
15 get you, Mr. Snyder. Unfortunately, I don't know what to  
16 do either, right.

17           Like, this is now where you have to I guess  
18 find another attorney, or figure out what you need to do.  
19 Because, I mean, it's a peculiar situation you're in.  
20 Again, that fifth unit isn't supposed to be there.

21           Like, if you were here, again anyway I'm  
22 repeating myself. But if that association were here and  
23 wanted to put on a fifth unit we'd get a letter from  
24 somebody saying that the property owner, the association,  
25 is applying for the fifth unit.

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1           If you get a letter that says you're the  
2 authorized representative, and to the people that are  
3 listening also, I'm sure they're listening. I don't know  
4 if you're going to get approved for your fifth unit or  
5 not, right. We haven't even gotten to the merits of the  
6 case yet, right.

7           Like, I mean, I know you've gone through maybe  
8 the Office of Planning. And you've gone through like, you  
9 know, a lot of, you know, I don't know whether you've gone  
10 through the ANC yet, or whether you've gotten some -- Have  
11 you gone to the ANC yet?

12           MR. SNYDER: Adam.

13           MR. CARBALLO: We have not gone to the ANC.

14           BZA CHAIR HILL: Okay.

15           MR. CARBALLO: Also, if I might add too, and I  
16 don't want to go too further into detail. However, the  
17 fifth unit, the construction that occurred sometime  
18 between 2015 and 2017, is in full compliance with RA-1.

19           Had, the only reason why we would even  
20 necessarily be before BZA is that in 2020 it went into  
21 effect that any additional dwelling unit in this zoning  
22 district with RA-1 would require BZA special exception.

23           Had this just gotten the original permit back  
24 in 2017, prior to that 2020 date, we would not even have  
25 to come to BZA, which is kind of the, you know, another

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1 frustration of this project is that, you know, we're in  
2 full compliance with FAR, height and area setbacks.

3           There is even five legal parking spaces  
4 associated with this lot. So, we don't even need a  
5 parking variance, you know. So, you know, we're in 100  
6 percent compliance with the exception of one item, which  
7 is there's an additional unit. But again, at the time of  
8 original, at the time of construction that did not warrant  
9 a special exception of BZA.

10           BZA CHAIR HILL: No, I got it, Mr. Carballo.  
11 And unfortunately that's where you kind of are now, right.  
12 And, I mean, I know that, I know that, I mean, we now see  
13 all this, when we weren't seeing it before, right.

14           And so, okay. So, I guess what I'll do is,  
15 I'll go ahead and let you go back, Mr. Carballo, and  
16 figure out what you're going to do. And then get back to  
17 Mr. Hamala when you think you're organized, right, or when  
18 you think you've figured this out, right.

19           And I guess since I have no idea when that's  
20 going to be, and since I need to put something on the  
21 calendar, because I don't want the record to be that  
22 vague, you know. When are you, Mr. Hamala, when have we  
23 started to schedule cases again? Oh, you don't know.

24           MR. HAMALA: Okay. Cases are now being  
25 scheduled for really November 16th, like 9th to the 16th

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1 and after.

2 BZA CHAIR HILL: Right. So, what I'm going to  
3 do for now, Mr. Carballo, because I'm just, I don't know  
4 where you guys are with this. I'm going to try to get you  
5 here a little bit sooner than that, in terms of, at least  
6 I can find out what's going on with you guys, right.

7 Like, if I, I mean, do you have a date you'd  
8 like to try to get back here, Mr. Carballo, or Mr. Snyder?

9 MR. SNYDER: I'm sorry. You're showing as Fred  
10 only. I don't want to call you Fred. What's your last  
11 name?

12 BZA CHAIR HILL: You can call me, sorry, my  
13 last name is Hill, H-I-L-L.

14 MR. SNYDER: Okay. I'm sorry. Mr. Hill, I  
15 think what we're talking about here is money. Can you  
16 give me just about three minutes to call the head of the  
17 HOA, and see how much he wants.

18 (Simultaneous speaking.)

19 BZA CHAIR HILL: No, no, no, no, no.

20 MR. SNYDER: All we're talking about is money.  
21 Every title of this cause is healthy, right.

22 BZA CHAIR HILL: I'm with you. It's okay. Mr.  
23 Snyder, regardless, I can't do it today. So, that's fine.  
24 So, I'll tell you what. You're not coming back here  
25 before, we're not coming back here before the break, okay.

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1 So, August is happening. You and Mr. Carballo still have  
2 to get to the ANC then, okay. Whatever you want me to  
3 straighten out, straighten out and get to the ANC.  
4 Because you got to get to the ANC, okay. So, that's going  
5 to take you, September. So, September's going to take you  
6 to get to the ANC. I don't even know if you've started to  
7 deal with the ANC yet, right. So, you're going to need to  
8 get something from the ANC. And then October 5th is the  
9 first day in October. Mr. Hamala, how many cases do we  
10 got on October 5th?

11 MR. HAMALA: We have six.

12 BZA CHAIR HILL: Okay, great. So, we'll go  
13 ahead and put you on October 5th, okay. Because I'm, and  
14 Mr. Carballo you can tell me if I'm wrong. I'm trying to  
15 help as best I can. You do get, you do have to get to the  
16 ANC. And so, you know, you, they're usually all off in  
17 September, I mean, I'm sorry, In August. So, September's  
18 your best shot, I think.

19 MR. CARBALLO: We'll continue to reach out. We  
20 have reached out in the past. But did not receive a  
21 response.

22 BZA CHAIR HILL: Okay. If you keep getting  
23 banged up against the ANC you have to put that into the  
24 record.

25 MR. CARBALLO: Okay.

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1 BZA CHAIR HILL: And make it very clear that  
2 you kept trying, and kept trying, and you're coming up  
3 with nothing. Because then when you come back before us  
4 you have something to say.

5 MR. CARBALLO: Okay. Fair enough.

6 BZA CHAIR HILL: So, I'll go ahead and leave  
7 the record open for whatever you want to give us by, I  
8 don't know, September 21st.

9 MR. CARBALLO: Okay. I think that gives us  
10 plenty of time.

11 BZA CHAIR HILL: Yes, September 21st. So see,  
12 why I'm doing that is because that means that, and Mr.  
13 Hamala, you can follow along here. We're going to leave  
14 the record open for whatever you want to give us by  
15 September 21st. That means that the ANC will have until  
16 the 28th to respond to anything you put in on the 21st.  
17 Okay. And then you'll be back before us by the 5th.

18 MR. CARBALLO: Okay.

19 BZA CHAIR HILL: Okay? Mr. Hamala, does that  
20 sound good?

21 MR. HAMALA: Yes, sir. That works for us.

22 BZA CHAIR HILL: Mr., Chairman Hood, you're not  
23 going to be on this again probably either.

24 ZC CHAIR HOOD: For the next I think three  
25 weeks, three --

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1           BZA CHAIR HILL: Actually, you might. You  
2 should come back for this one. You were here for all of  
3 it. You should come back for this one.

4           ZC CHAIR HOOD: Thank you. I'll take it under  
5 consideration.

6           BZA CHAIR HILL: All right. Okay. Mr.  
7 Carballo, do you have any questions?

8           MR. CARBALLO: I do not. I think we know what  
9 we need to put together for our second submission.

10          BZA CHAIR HILL: Okay. Mr. Snyder, do you have  
11 any questions?

12          MR. SNYDER: No, sir.

13          BZA CHAIR HILL: Okay. We're going to have a  
14 continued hearing then on 10/5. All right. You all have  
15 a nice summer. I'm going to close the hearing and the  
16 record, except for everything we talked about, and come  
17 back on 10/5. Bye-bye.

18                   (Whereupon, the above-entitled matter went off  
19 the record at 6:05 p.m.)

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C E R T I F I C A T E

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Date: 07-13-22

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