

GOVERNMENT OF  
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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REGULAR PUBLIC HEARING

+ + + + +

WEDNESDAY

SEPTEMBER 27, 2023

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The Public Hearing of the District of Columbia Board of Zoning Adjustment convened via teleconference, pursuant to notice at 9:30 a.m., EDT, Frederick D. Hill, Chairperson, presiding.

ZONING COMMISSION MEMBERS PRESENT:

FREDERICK D. HILL, Chairperson  
CHRISHAUN SMITH, Board Member  
ROBERT MILLER, Zoning Commissioner Vice Chair  
ANTHONY HOOD, Zoning Commissioner Chairperson

OFFICE OF ZONING ADJUSTMENT STAFF PRESENT:

CLIFFORD MOY, Secretary  
PAUL YOUNG, Data Specialist

OFFICE OF ZONING ADJUSTMENT LEGAL COUNSEL:

RYAN NICHOLAS, Esquire

The transcript constitutes the minutes from the Regular Public Hearing held on September 27, 2023.

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(9:30 a.m.)

CHAIRPERSON HILL: Good morning, ladies and gentlemen and the Board of Zoning Adjustment. Today's date is 09/27/2023. This public hearing will please come to order. My name is Fred Hill, Chairperson of the District of Columbia Board of Zoning Adjustment. Joining me today is Board Member Chrishaun Smith, and Zoning Commissioners Chairman Anthony Hood and Vice Chair Rob Miller.

Today's meeting and hearing agenda are available on the Office of Zoning's website. Please be advised that this proceeding is being recorded by a court reporter and is also webcast live via Webex and YouTube Live. The video of this webcast will be available on the Office of Zoning's website after today's hearing. Accordingly, everyone who is listening on Webex or by telephone will be muted during the hearing. Also please be advised we do not take any public testimony at our decision meeting sessions. If you're experiencing difficulty accessing Webex or with your call-in information, then please call our OZ hotline number 202-727-5471 to receive Webex call-in instructions.

At the conclusion of a decision meeting session, I shall, in consultation with the Office of Zoning, determine whether a full or summary order may be issued. A full order is required when the decision it contains is adverse to a party,

1 including an affected ANC. A full order may also be needed if  
2 the Board's decision differs from the Office of Planning's  
3 recommendation. Although the Board favors the use of summary  
4 orders whenever possible, an applicant may not request the Board  
5 to issue such an order.

6 In today's hearing session everyone who's listening on  
7 Webex or by telephone will be muted during the hearing, and only  
8 persons who have signed up to participate or testify will be  
9 unmuted at the appropriate time. Please state your name and home  
10 address before providing oral testimony or your presentation.  
11 Oral presentations should be limited to a summary of your most  
12 important points. When you're finished speaking, please mute  
13 your audio so that your microphone is no longer picking up sound  
14 or background noise.

15 All persons planning to testify either in favor or in  
16 opposition should have signed up in advance. They'll be called  
17 by name to testify. If this is an appeal, only parties are  
18 allowed to testify. By signing up to testify all participants  
19 completed the oath or affirmation as required by Subtitle Y 408.7.

20 Requests to enter evidence at the time of an online  
21 virtual hearing, such as written testimony or additional  
22 supporting documents other than live video, which may not be  
23 presented as part of the testimony, may be allowed pursuant to  
24 Subtitle Y 103.13, provided that the person making the request  
25 to enter an exhibit explain, A how the proposed exhibit is



1 relevant, B, the good cause that justifies allowing the exhibit  
2 into the record, including the explanation of why the requester  
3 did not file the exhibit prior to the hearing pursuant to Subtitle  
4 Y 206, and how the proposed exhibit would not unreasonably  
5 prejudice any parties. The order of procedures for special  
6 exceptions and variances are pursuant to Y 409.

7           At the conclusion of each case, any individual who was  
8 unable to testify because of technical issues may file a request  
9 for leave to file a written version of the planned testimony to  
10 the record within 24 hours following the conclusion of public  
11 testimony in the hearing. If additional written testimony is  
12 accepted, then parties will be allowed a reasonable time to  
13 respond as determined by the Board. The Board will then make  
14 its decision at its next meeting session, but no earlier than 48  
15 hours after the hearing. Moreover, the Board may request  
16 additional specific information to complete the record. The  
17 Board and the staff will specify at the end of the hearing exactly  
18 what is expected and the date when persons must submit the  
19 evidence to the Office of Zoning. No other information shall be  
20 accepted by the Board.

21           Finally, the District of Columbia Administrative  
22 Procedures Act requires that the public hearing on each case be  
23 held in the open before the public. However, pursuant to Section  
24 405(b) and 406 of that Act, the Board may, consistent with its  
25 rules of procedures and the Act, enter into closed meetings on a



1 case for purposes of seeking legal counsel on a case pursuant to  
2 D.C. Official Code Section 2-575(b)(4) and/or deliberating on a  
3 case pursuant to D.C. Official Code Section 2-575(b)(13), but  
4 only after providing the necessary public notice and in the case  
5 of an emergency closed meeting after taking a roll call vote.

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

7 MR. MOY: Good morning, Mr. Chairman and members of the  
8 Board. Happy Autumn by the way.

9 CHAIRPERSON HILL: Happy Autumn, Mr. Moy.

10 MR. MOY: I have a brief announcement regarding today's  
11 hearing docket. For the record and for our viewers, we have two  
12 cases that have been withdrawn by the applicant. These two cases  
13 are Application No. 20894 of Cornell Stone and Application No.  
14 20914 of 4019 9th Street, N.E., LLC.

15 We have two other cases that have been postponed and  
16 rescheduled. These two cases are Application No. 20946 of 4885  
17 MacArthur Boulevard, LLC, rescheduled to October 25th, 2023, and  
18 finally, Application No. 17963A of 4975 South Dakota Associates,  
19 Ltd. rescheduled to January 17, 2024.

20 Other preliminary matters, Mr. Chairman, I think it's  
21 best if I call that into the record when I call the case, and  
22 that's all I have, sir.

23 CHAIRPERSON HILL: Okay. Thank you. I guess for the  
24 audience and also for us, I guess we'll go ahead and do the  
25 meeting session cases first and I appreciate Commissioner Miller

1 just sitting in on them -- or with us, even though I don't think  
2 -- well, he's not on the first one, but he's on the se- -- on  
3 the expedited review, and then we'll go ahead and do the one that  
4 Chairman Hood is helping us with, which is 20898, and then we'll  
5 come back for the rest of the day with Vice Chair Miller.

6 So the first one I have, Mr. Moy, is 20940, if you  
7 wouldn't mind calling that one?

8 MR. MOY: Yes, sir. This is, as you said, Application  
9 No. 20940 of James Woodyard, and let's see, for the record if  
10 Mr. Miller can stay on screen, although participating in the  
11 decision making is you Chairman, Mr. Smith, and Dr. Imamura, whom  
12 I have an absentee ballot.

13 So anyways, for the record, this application is a self-  
14 certified application pursuant to Subtitle X, Section 901.2 for  
15 the following special exceptions: Subtitle C, Section 711.11  
16 from the requirements of Subtitle C, Section 711.7. This is in  
17 reference to the height of the vehicular entrance, as well as a  
18 12-foot setback from the alley center line; Subtitle E Section  
19 5201 from lot occupancy requirements; Subtitle E, Section 210,  
20 Subtitle E, Section 5004.18 to allow location of an accessory  
21 building in a required rear yard. The property is in the RF-1  
22 zone at 1832 Ontario Place, N.W., Square 2583, Lot 352.

23 As you'll recall, this was last heard by the Board on  
24 September 13th and scheduled for decision making to today,  
25 September 27th. Thank you, sir.



1           CHAIRPERSON HILL: Thank you. Okay. So we postponed  
2 the decision-making on this because of the notice requirements  
3 and they had posted during the meeting or earlier to the meeting,  
4 and now I do believe that enough time has gone by that the public  
5 has had an opportunity. We haven't had anything additional added  
6 to the record in order to keep it open for the posting.

7           So to go to the actual merits of the case, I would  
8 agree with the argument the Applicant has put forward concerning  
9 how they're meeting their requirements, and I'm referring also  
10 to everyone, I guess the slide deck that the Applicant put forward  
11 to the different general requirements and the specific  
12 requirements. And the only question I had at one point was how  
13 they couldn't meet the center line alley setback and the  
14 explanation was that if they pushed the garage back, then they'd  
15 have to ask for different relief and they'd still be before us  
16 for relief for the garage.

17           After going back and reviewing the record again, I  
18 would agree with the analysis of the Office of Planning and their  
19 recommendation. DDOT didn't have any issues. And I do appreciate  
20 the vehicle turning diagram that the Applicant had put forward.  
21 So I'm going to be comfortable voting in favor of the application.

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

23           COMMISSIONER SMITH: I don't have anything to add. I  
24 agree with your analysis of this particular case and will also  
25 vote in support.





1 CHAIRPERSON HILL: Okay. Then I will go ahead and make  
2 a motion to approve Application No. 20940 as captioned and read  
3 by the secretary and ask for a second, Mr. Smith?

4 COMMISSIONER SMITH: Second.

5 CHAIRPERSON HILL: Motion been made and seconded, Mr.  
6 Moy, if you can take a roll call and then let us know about the  
7 absentee vote?

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

9 When I call your name, if you'll please respond?

10 Mr. Smith?

11 COMMISSIONER SMITH: Yes.

12 MR. MOY: Chairman Hill?

13 CHAIRPERSON HILL: Yes.

14 MR. MOY: And the absentee ballot vote that we have  
15 from Dr. Imamura, his vote is to approve the application for the  
16 relief requested. So let's see, I'm sorry, my coffee is still  
17 kicking in, but so both Mr. Smith and Chairman Hill have voted  
18 to approve the application. I would record the vote as three to  
19 zero to two and this is on the motion made by Chairman Hill to  
20 approve the application for the special exception relief  
21 requested. The motion to approve was second by Mr. Smith. Voting  
22 to approve the application is Mr. Smith, Chairman Hill, and Dr.  
23 Imamura who voted by absentee ballot. So again, I'll record the  
24 vote as three to zero to two, two being no other members  
25 participating. Motion carries, sir.



1           CHAIRPERSON HILL: Thank you, Mr. Moy. If you want to  
2 call our expedited review, I think 20959.

3           You're on mute, Mr. Moy.

4           MR. MOY: Oh, man.

5           CHAIRPERSON HILL: Sorry.

6           MR. MOY: No, no, I'm the one that's sorry because I  
7 have to reread this. All right. So this is Application No.  
8 20959 of John and Susan Sedgewick. This is a self-certified  
9 application pursuant to Subtitle X, Section 901.2 for a special  
10 exception under Subtitle E, Section 5201, this is from the lot  
11 occupancy requirements of Subtitle E, Section 210.1. Property  
12 located in the RF-1 zone at 223 8th Street, S.W. -- rather S.E.,  
13 Square 900, Lot 35.

14           As you'll recall, the Board last -- no, this is the  
15 first time you're hearing this expedited review case. That's all  
16 I have, sir. Thank you.

17           CHAIRPERSON HILL: Okay. Thank you. So let me just  
18 pull this up real quick. Okay. So there was a request for some  
19 untimely filings for a correction of the street address on drawing  
20 sheets A1 and A5 and then a change of zoning code reference to E  
21 210.1 on form 135. They seem to be more procedural corrections,  
22 so I don't have an issue with granting the untimely filing.

23           In terms of the case itself, I read the record and I'd  
24 agree with the Office of Planning's report, the ANC, and that of  
25 CHRS. It all looks like they have done all of the community --

1 first of all, all the community outreach, and then the -- I  
2 thought it was generally a straightforward application that we  
3 are able to administer under expedited review. So I didn't have  
4 an issue with the application and I would be voting in favor.

5 Mr. Smith, do you have anything you like to add?

6 COMMISSIONER SMITH: No, I agree with that assessment  
7 of this case. I think -- it seems to me that this case is fairly  
8 straightforward and it meets the criteria for us to approve the  
9 expedited review, and I would support the application.

10 CHAIRPERSON HILL: Thank you.

11 Vice Chair Miller?

12 ZC VICE CHAIR MILLER: Thank you, Mr. Chairman. I  
13 agree with you and Board Member Smith that it's very  
14 straightforward, that this meets the special exception criteria  
15 for the rear addition, extending to 66 percent from existing 61.4  
16 percent. They're replacing the brick deck with a screen porch  
17 addition and they have the support, as you said, of ANC 6B and  
18 the Capitol Hill Restoration Society and adjacent neighbor and  
19 the Office of Planning, and I'm prepared to support it. Thank  
20 you.

21 CHAIRPERSON HILL: Thank you. All right. I'll go  
22 ahead and make a motion to approve Application No. 20959 as  
23 captioned and read by the secretary and ask for a second, Mr.  
24 Smith?

25 COMMISSIONER SMITH: Second.



1 CHAIRPERSON HILL: All right. Mr. Moy, if you'd take  
2 a roll call.

3 MR. MOY: Yes. Thank you, sir. When I call your name,  
4 if you'll please respond to the motion made by Chairman Hill to  
5 approve the application for the special exception relief.

6 Mr. Smith?

7 COMMISSIONER SMITH: Yes.

8 MR. MOY: Zoning Commissioner Rob Miller?

9 ZC VICE CHAIR MILLER: Yes.

10 MR. MOY: Chairman Hill?

11 CHAIRPERSON HILL: Yes.

12 MR. MOY: We have no other members participating. Staff  
13 would record the vote as three to zero to two and this is on the  
14 motion made by Chairman Hill to approve the application for the  
15 relief requested. The motion to approve was second by Mr. Smith.  
16 Voting to approve, Zoning Commissioner Rob Miller, of course Mr.  
17 Smith, and Chairman Hill. The motion carries on a vote of three  
18 to zero to two.

19 CHAIRPERSON HILL: Thank you, Mr. Moy. Let's see about  
20 the next one, which I think is 20998.

21 MR. MOY: You're great. Yes. Before the Board for  
22 decision-making is the final expedited review case, which is  
23 Application No. 20998 of Minna Williams, a self-certified  
24 application pursuant to Subtitle X, Section 901.2 for special  
25 exceptions under Subtitle E, Section 5201 for the -- or from the

1 rear yard requirements of Subtitle D, Section 207.1 and the  
2 accessory building rear yard requirements Subtitle D, Section  
3 5004.1. Property located in the R-1B zone at 1352 Locust Road.  
4 N.W., Square 2771, Lot 21. And I believe that's all I have for  
5 you, sir. Thank you.

6 CAIRPERSON HILL: Okay. Thank you. It looks like  
7 again there's a preliminary matter to waive the filing deadline  
8 in Exhibit 21. It seems again it is more of an administrative  
9 nature for the filing deadlines. It doesn't have anything to do  
10 with the argument nor the posting, and so I would have no problems  
11 waiving the filing deadline unless any of my fellow Board members  
12 do, and if so, please speak up.

13 As I go through or have gone through the application,  
14 there seems to be some argument that the Office of Planning is  
15 saying that they don't think that D 207.1 is necessary. I would  
16 agree with their analysis. However, they then further went on  
17 to speak to 5004.1, and I also would agree with that analysis  
18 from the Office of Planning. The ANC 4A submitted a report and  
19 I want to thank ANC 4A for their detailed report. I thought it  
20 was very helpful in hearing what they had to offer. It seems as  
21 though they took quite some time with this application. And then  
22 also I would refer to the solar studies that it seems as though  
23 the shadowing will fall more on the Applicant's property and that  
24 is not going to be of an issue. And so after reviewing the plans  
25 and the burden of proof from the Applicant, I would be voting to



1 approve for the relief from 5000.4 the accessory building rear  
2 yard requirements.

3           However, I'd like to hear what my fellow colleagues  
4 have to say and with that, I'll ask Mr. Smith.

5           COMMISSIONER SMITH: I have nothing to add, Chairman  
6 Hill. I by and large agree with your assessment of this case  
7 and the Office of Planning's assessment on the reasons for relief  
8 from the criteria in the heading. Yeah, I don't have too much  
9 to say. I completely agree with your analysis on this case and  
10 support the application.

11           CHAIRPERSON HILL: Thank you.

12           Vice Chair Miller?

13           ZC VICE CHAIR MILLER: Thank you, Mr. Chairman. Yes,  
14 I would agree that -- with the Office of Planning that the relief  
15 from -- well, this is a one-story rear addition to an existing  
16 detached principal dwelling which is for 14-foot height, less  
17 than the height of the actual dwelling, and no change to the  
18 accessory structure, existing accessory structure. Relief from,  
19 as you said, D 207.1, the rear yard relief requirement does not  
20 appear necessary because, as the Office of Planning said, the  
21 rear yard is measured from the dwelling to the rear lot minus 46  
22 feet existing and 34.25 feet proposed, where the minimum of 25  
23 feet is required. However, construction of the addition would  
24 cause the existing structure to occupy a portion of the required  
25 rear yard. So even though they're asking for relief from the

1 207.1, that doesn't appear to be necessary. But I'm prepared to  
2 support the application today. Thank you, Mr. Chairman.

3 CHAIRPERSON HILL: Thank you. All right. I'm going  
4 to make a motion to approve Application No. 20998 from the self-  
5 certified application pursuant to X 901.2 for a special exception  
6 under Subtitle D 5201.1 from the accessory building rear yard  
7 requirements of Subtitle D 5004.1, and ask for a second, Mr.  
8 Smith?

9 COMMISSIONER SMITH: Second.

10 CHAIRPERSON HILL: The motion's been made and second,  
11 Mr. Moy, if you'd take a roll call?

12 MR. MOY: Thank you, sir. When I call your name, if  
13 you'll please respond to the motion made by Chairman Hill to  
14 approve the application for the special exception relief  
15 requested. The motion was second by Mr. Smith.

16 Zoning Commissioner Rob Miller?

17 ZC VICE CHAIR MILLER: Yes.

18 MR. MOY: Mr. Smith?

19 COMMISSIONER SMITH: Yes.

20 MR. MOY: Chairman Hill?

21 CHAIRPERSON HILL: Yes.

22 MR. NICHOLAS: Excuse me, Commissioner. Chair Hill?

23 CHAIRPERSON HILL: Yep?

24 MR. NICHOLAS: The Board is required to make a  
25 determination on that 207 relief in addition to the other relief

1 that was requested.

2 CHAIRPERSON HILL: Yes. But if we decided that we  
3 don't think that it's necessary, what is it, I'm just dismissing  
4 the relief being requested.

5 MR. NICHOLAS: Okay. So if the Board were to dismiss  
6 the relief requested, the Board would need to take a vote on that  
7 as well.

8 CHAIRPERSON HILL: Okay. I make a motion to dismiss  
9 the relief requested of D 207.1 as I will agree with the analysis  
10 that the Office of Planning has put forward as well as that of  
11 my colleagues, including Vice Chair Miller who was kind enough  
12 to elaborate a little bit more, and ask for a second, Mr. Smith?

13 COMMISSIONER SMITH: Second.

14 CHAIRPERSON HILL: Motion been made and seconded.

15 ZC VICE CHAIR MILLER: Mr. Chairman?

16 CHAIRPERSON HILL: Yes.

17 ZC VICE CHAIR MILLER: I just had a question on the  
18 motion to dismiss which I support. Just for our counsel, that  
19 won't require any type of full order, would it? I mean, it  
20 wouldn't put a burden on the Applicant or our staff to write up  
21 this approval, just could you confirm or clarify that for the  
22 record?

23 CHAIRPERSON HILL: Sure. And I appreciate that. What  
24 I understood is it is going to have to be a full order. However,  
25 I believe that due to the nature of this it is something that



1 isn't going to be as burdensome as would otherwise be the case.  
2 Is that correct, Mr. Nicholas?

3 MR. NICHOLAS: So on this, if the Board were to dismiss  
4 any type of relief that would be adverse to the Applicant would  
5 require a full order. However, if the Board so chooses, the  
6 Board could also approve the application since it is a self-  
7 certified application. But if the Board were to dismiss anything,  
8 the Board would require a full order.

9 CHAIRPERSON HILL: Okay. So we're back to this. So  
10 I'm -- in terms of the procedure, and Commissioner Miller thank  
11 you, I sometimes am unclear as to the process. I would also be  
12 -- I don't know. I mean, Commissioner Miller, I'll get y'all's  
13 opinion if y'all want to -- it's a self-certified application.  
14 If it's, you know, we --

15 ZC VICE CHAIR MILLER: I have a suggestion.

16 CHAIRPERSON HILL: Sure. Go ahead.

17 ZC VICE CHAIR MILLER: Alternative suggestion. So I  
18 would suggest that either we approve the self-certified  
19 application and in the summary order note that we didn't think  
20 that the rear yard relief was necessary, but the other relief for  
21 putting the accessory -- for putting it in the rear yard --  
22 putting the addition in the rear yard, was necessary. So either  
23 approve the self-certified application and make that notation in  
24 our summary order or ask -- have our staff reach out to the  
25 Applicant between now and next week I guess, and ask them to



1 suggest that they withdraw that one area of relief that we and  
2 the Office of Planning do not think, and our counsel, do not  
3 think is necessary and then we can proceed with an expedited  
4 review next week.

5 So either way just to avoid the full order adverse  
6 decision to the Applicant's situation. So that's just a  
7 suggestion. I'm prepared to do whatever you want to do, Mr.  
8 Chairman.

9 CHAIRPERSON HILL: Vice Chair Miller, I appreciate all  
10 of your expertise and length of time that you've been serving in  
11 this capacity. My comfort level would then be, Mr. Moy, would  
12 you reach back out to the Applicant and see if the Applicant  
13 agrees with what the Office of Planning is putting forward and  
14 what the Board seems to be putting forward and see if they would  
15 like to change their self-certified application and we will put  
16 this back on for expedited review next week.

17 MR. MOY: Okay. I can do that, Mr. Chairman.

18 CHAIRPERSON HILL: Okay. Next week is 10/04.

19 MR. MOY: 10/04.

20 CHAIRPERSON HILL: All right. Thank you, Commissioner  
21 Miller.

22 All right. So I'm going to close that portion of the  
23 hearing and see where we are now. I think -- where's my clipboard  
24 now? Lost it.

25 Okay. So Commissioner Miller, we're going to lose you

1 for a minute and then we're going to ask for Chairman Hood to  
2 join us. Thank you, Commissioner.

3 Chairman Hood, welcome.

4 ZC CHAIRPERSON HOOD: Thank you. Good morning  
5 everyone.

6 CHAIRPERSON HILL: Good morning. Good morning. And  
7 we're going to go ahead and have our first public hearing meeting,  
8 Mr. Moy, with Chairman Hood and we're going to call for 20898.

9 MR. MOY: Great. Good. Thank you, sir. So in its  
10 public hearing session the case before the Board is Application  
11 No. 20898 of United General Contractors, Inc. This is an  
12 application as amended, self-certified application, pursuant to  
13 Subtitle X Section 901.2 for the following special exceptions to  
14 Subtitle U Section 421 to allow a new residential development,  
15 Subtitle C Section 703.2 from the minimum vehicle parking  
16 requirements, Subtitle C, Section 701.5. Property located in the  
17 RA-1 zone at 4915 Quarles Street, N.E., Square 5172, Lot 810.  
18 And finally, Mr. Chairman, as you'll recall, this was last heard  
19 by the Board at its hearing on July 26, and the Board heard some  
20 of the merits of the case and continued the case to today,  
21 September 27. Thank you, sir.

22 CHAIRPERSON HILL: Okay. If the Applicant could hear  
23 me, or can hear me, can they introduce themselves for the record?

24 MR. BELLO: Good morning, Mr. Chair and Board members.  
25 Toye Bello representing the Applicant.



1           CHAIRPERSON HILL: Okay. Great. Welcome, Mr. Bello.  
2 Just for the record, I was not originally on this hearing, but I  
3 have reviewed the record and watched the video so I'm prepared  
4 to participate. Mr. Bello, can you explain what happened since  
5 the last time you were with us?

6           MR. BELLO: Okay. So this case was continued to give  
7 the ANC the opportunity to deliberate on the relief from the  
8 parking requirement which the ANC says they were unaware prior  
9 to the July 26 hearing. So that's what we've done and we  
10 presented before the ANC executive committee and the  
11 recommendation of the ANC was that we resolve the parking impasse  
12 with DDOT, which to me I took the meaning the need to pave that  
13 unimproved public alley in order to be able to provide some parking  
14 on site. But I believe that the ANC has decided to rescind their  
15 prior support of the application and are now in opposition to,  
16 at minimum, a relief from the parking requirement. That's where  
17 we are.

18           CHAIRPERSON HILL: Okay.

19           MR. BELLO: Yes.

20           MR. MOY: Mr. Chairman?

21           CHAIRPERSON HILL: Yeah, go ahead.

22           MR. MOY: Mr. Chairman, let me interrupt for a second.  
23 This may help the Applicant. The Applicant filed within the 24-  
24 hour block the arborist's report and letter. So that's before  
25 you to address whether to allow that into the record.

1           CHAIRPERSON HILL: Okay. Yeah. Mr. Moy, if you could  
2 go ahead and ask the staff to please add that into the record,  
3 because the Board would like to see the information. Mr. Bello,  
4 did you get any information from DDOT or whomever as to paving  
5 that unimproved alley?

6           MR. BELLO: Yes. As we, the Applicant, agreed to even  
7 prior to the previous hearing, the complexity of what it will  
8 take to improve that alley, given the presence of an underground  
9 stream, it's subject that the Applicant has agreed to continue  
10 to talk to DDOT about, and also the Applicant believes that DOEE  
11 would have a role to play in that aspect of the application  
12 because the underground stream appears to be part of the Nash Run  
13 Stream. So there'll be some mitigation that has to occur.

14           We did communicate with DDOT. DDOT has not -- will  
15 continue not to object to the application and has provided no  
16 other supplemental submission other than their previous report.

17           CHAIRPERSON HILL: And the Applicant is in agreement  
18 with the TDM plan that was submitted by DDOT?

19           MR. BELLO: Yes, Mr. Chairman, yes, the Applicant is.

20           CHAIRPERSON HILL: Okay. And that curb cut, and I'm  
21 trying to remember, is there an existing curb cut that you guys  
22 are going to have to pave over?

23           MR. BELLO: Yes, that's the recommendation of DDOT.  
24 The curb cut exists. It appears that DDOT's design manual  
25 prohibits or discourages the construction of new curb cuts. But



1 | this is an existing curb cut. Be that as it may, DDOT's report  
2 | of support requires that the Applicant close the existing curb  
3 | cuts, so therefore foreclosing any other legal access onto the  
4 | property.

5 | CHAIRPERSON HILL: Okay. Does my fellow Board members  
6 | have questions for the Applicant?

7 | Chairman Hood?

8 | ZC CHAIRPERSON HOOD: Thank you, Mr. Chairman.

9 | Good morning, Mr. Bello. You all were not able to make  
10 | the general meeting September the 14th?

11 | MR. BELLO: No, we were not because the instruction  
12 | from the ANC was that we attend that meeting if we had resolved  
13 | the public alley paving issue with DDOT, which obviously we cannot  
14 | within the span of time.

15 | ZC CHAIRPERSON HOOD: So Mr. Bello, I'm trying to follow  
16 | this. First of all, I'm trying to figure why we even continued  
17 | it. I'm sure -- I'm trying to remember. But anyway, it was to  
18 | give the ANC a chance. So the ANC is contingent on what DDOT  
19 | and DDOEE, discussions with them, and actually worked with them,  
20 | you all have done that, but then when I read their letter it says  
21 | the Applicant did not appear at the commission's general meeting  
22 | on September the 14th to present their updated project  
23 | information. The very next sentence says, therefore ANC 7C  
24 | opposed the application.

25 | Now, they're opposing the application contingent on

1 | your discussion with DDOT and DOEE. You all have continued to  
2 | do that. So I don't understand the nexus because something's not  
3 | making sense to me. And DDOT recommends approval.

4 |           MR. BELLO: Right. DDOT recommends the conditional  
5 | approval based on the Applicant agreeing to the TDM which we  
6 | already had prior to the previous hearing. The instructions of  
7 | the ANC at the Applicant's presentation at the executive meeting  
8 | was very clear that they were not inclined to support the  
9 | application unless we resolved the issue with DDOT. In essence,  
10 | the ANC believed that the adverse impact of having a 36-unit  
11 | building without any parking would be too great for them to be  
12 | able to support such an application.

13 |           So I read that to mean that the only way the ANC would  
14 | support this if we had had resolution about the paving of that  
15 | alley. And as the Applicant has presented, the Applicant is not  
16 | inclined to commit to paving that alley at their own expense  
17 | because it is likely to be prohibited and there are a lot of  
18 | unknown circumstances that would require that.

19 |           ZC CHAIRPERSON HOOD: And that's a public alley, right?

20 |           MR. BELLO: It is a public alley.

21 |           ZC CHAIRPERSON HOOD: Yeah, that's a Capitol  
22 | improvement. So that's the kind of understanding I think that  
23 | the ANC and we need to understand because certain things have to  
24 | be done by public money and that's a Capitol improvement.

25 |           So anyway, that's all I have, Mr. Chairman. It's just



1 | unfortunate that -- I'm really not clear, the last two paragraphs,  
2 | I'm not clear on the ANC. I really -- I would like to -- well,  
3 | anyway, let me see how it goes. Thank you, Mr. Chairman.

4 | CHAIRPERSON HILL: Okay. Thank you, Chairman Hood.

5 | Mr. Smith, do you have any questions?

6 | COMMISSIONER SMITH: Yes. I guess as a follow-up  
7 | question to Chairman Hood. DDOT, in their reports, said that the  
8 | Applicant did no outreach or coordinate with them on ways that  
9 | they could potentially have improved that alley. Can you speak  
10 | to that, was there any discussions with DDOT on ways that you  
11 | could collaboratively improve this alley? You say that the cost  
12 | -- it's cost prohibitive. Could you elaborate on the reasons why  
13 | it's cost prohibitive?

14 | MR. BELLO: Okay. So for one, DDOT's recommendation  
15 | was for the Applicant to improve the alley. If you look at DDOT's  
16 | report, they give options of improving the public alley from  
17 | either direction, either 350 feet, linear feet, of it or 275  
18 | linear feet of it in either direction at the owner's expense.  
19 | What was submitted in supplemental information is simply the fact  
20 | that the improvement of the alley would require the relocation  
21 | of a heritage tree, and that relocation cost by itself is  
22 | approximately \$250,000 and counting, not included (indiscernible)  
23 | costs. We did discuss the cost of the mere concrete at the  
24 | government's rates with DDOT, just the concrete would cost  
25 | \$60,000, so, and this is not including what DOEE may require for





1 the mitigation of the underground stream.

2           So there are lots of hidden costs that the owner is  
3 unable to determine at this point. And if you look at the DDOT's  
4 report, the Applicant has committed to continuing to work with  
5 DDOT to find some other ways to improve the alley. If the public  
6 were to -- if DDOT were to improve the alley, I would assume that  
7 a removal of a heritage tree wouldn't cost them \$250,000 that it  
8 would cost the Applicant to do.

9           So these are the kind of discussions we will continue  
10 to have with them. And also the Applicant is committed to in  
11 fact providing parking spaces on site at any point in time that  
12 that public alley becomes improved by whichever means.

13           COMMISSIONER SMITH: Okay. Thank you, Mr. Bello. That  
14 was pretty helpful.

15           All right. Thanks. Chairman Hill, back over to you.

16           CHAIRPERSON HILL: Okay. Thank you.

17           I mean, this happens to us sometimes, we're like I  
18 don't know, the alley -- if the alley were there, Mr. Bello, then  
19 your Applicant would be very happy to provide parking because it  
20 would help the project, correct?

21           MR. BELLO: In fact, the original proposal did provide  
22 parking through the existing curb cut and if the alley were there,  
23 then the owners would be or the Applicants would be able to  
24 provide that parking through that public alley if it was existing,  
25 yes.

1 CHAIRPERSON HILL: Unless -- well, except for we're now  
2 approving the parking relief. So if the alley were to be  
3 approved, the Applicant would not need to provide the parking  
4 because they have the relief requested?

5 MR. BELLO: Well, the Applicant has committed to  
6 providing parking and also retaining the TDM approved by DDOT if  
7 that alley were to come to be improved and if the Board were to  
8 consider approving the project, that could also serve as a  
9 condition of approval for which the Applicant does not object to.

10 CHAIRPERSON HILL: Okay. DDOT's so funny. DDOT says  
11 that, you know, again their regulations don't allow curb cut if  
12 there is an improved or unimproved alley.

13 MR. BELLO: That's new curb cut.

14 CHAIRPERSON HILL: Yeah. Well, there's an existing  
15 curb cut there now, right, isn't that what you're saying?

16 MR. BELLO: That's correct.

17 CHAIRPERSON HILL: You can't use the existing one?

18 MR. BELLO: Upon the insistence of DDOT, that's  
19 correct, they want it closed.

20 CHAIRPERSON HILL: Okay.

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

22 MR. YOUNG: We do not.

23 CHAIRPERSON HILL: Okay. Okay.

24 Does anybody need anything else? Okay.

25 Mr. Bello, do you want to add anything at the end?

1 MR. BELLO: I've nothing to add, Mr. Chairman.

2 CHAIRPERSON HILL: Thank you. So your client would be,  
3 if there was a condition that the -- how would they change the  
4 design? No, I'm just asking because this part, I didn't see the  
5 design before, if we were to approve this with the condition that  
6 if that alley were to be improved, the Applicant would provide  
7 the seven spaces required, would that be something that the  
8 Applicant would be comfortable with as a condition, meaning could  
9 you change the design at a later time?

10 MR. ALI: Excuse me.

11 MR. BELLO: Absolutely.

12 CHAIRPERSON HILL: Sure, go ahead, Mr. Ali, and if you  
13 could introduce yourself for the record.

14 MR. ALI: Yep. Ramy Ali with RAM Design Architects.  
15 I'm the project architect. And I think the first submission that  
16 we submitted did include the original design that had provided  
17 parking through the existing curb cut that exceeded the by-right  
18 parking requirements because the backyard is deep enough to  
19 provide way more than what we need by-right for parking and this  
20 option, I think, was uploaded to the system first on --

21 CHAIRPERSON HILL: Do you know which exhibit it is?

22 MR. ALI: Mr. Bello, is the first design package that  
23 we submitted, is that -- will it still be on record or does it  
24 replace?

25 CHAIRPERSON HILL: It's still on record.



1 MR. ALI: Because the minimum requirement is seven. If  
2 I recollect correctly, we had 11 or 12 provided parking. I'm  
3 pulling it up right now.

4 CHAIRPERSON HILL: I'm just try to look at the exhibit,  
5 which one has the parking.

6 COMMISSIONER SMITH: We have the 22A-1.

7 CHAIRPERSON HILL: A is the parking, oh, A1.

8 MR. BELLO: Or Exhibit 2, the survey.

9 CHAIRPERSON HILL: Mr. Bello, you know which exhibit  
10 that is, the survey?

11 MR. BELLO: Exhibit 2, the original survey.

12 CHAIRPERSON HILL: Okay. My computer's slow.

13 COMMISSIONER SMITH: Exhibit 2 or 22A-2?

14 MR. BELLO: It is both of those --

15 CHAIRPERSON HILL: Okay. I see the parking. So that  
16 parking would still be available through that public alley if the  
17 public alley were to be opened, that space, correct, Mr. Ali?

18 MR. ALI: Correct, yes, we can still provide that  
19 parking in the back if the alley were to be improved.

20 COMMISSIONER SMITH: Let me --

21 MR. ALI: Without impacting the building structure.

22 COMMISSIONER SMITH: Mr. Chairman?

23 CHAIRPERSON HILL: Yep?

24 COMMISSIONER SMITH: Can I put a statement out here?  
25 So again, I do see that they are providing parking in these older



1 exhibits. But the parking the way that the landscape plans --  
2 these plans were drawn, the access for the parking wasn't through  
3 the alley, it was graphically shown as to Quarles Street. So I  
4 don't think that -- it sounds like you're attempting to, you  
5 know, craft the condition that would state that they would need  
6 to -- if DDOT improves this alley, then it would revert in some  
7 way, shape, or form back to this landscape plan showing these  
8 parking spaces. I would caution against that because the layout  
9 will probably change for these parking spaces if the access is  
10 from the alley.

11 CHAIRPERSON HILL: Okay. I got two questions. One,  
12 Chairman Hood, are you free to come back at the end of the day  
13 for a hot minute?

14 ZC CHAIRPERSON HOOD: You know what time the end of the  
15 day is going to be? That's like me asking you what the number's  
16 going to be.

17 CHAIRPERSON HILL: Or even like -- or even if like --  
18 I mean, I can schedule it at a time probably that will work for  
19 you if you want to do lunch or I don't know if we're going to,  
20 you know, like 1 o'clock, something like that.

21 ZC CHAIRPERSON HOOD: I have a 1 o'clock. That's what  
22 I'm saying. One o'clock is probably going to last 'til two  
23 o'clock and you all may be finished by then, but I can come back  
24 at 12:00.

25 CHAIRPERSON HILL: Okay. Mr. Ali, can you put an

1 exhibit for me together that would show how you would get parking  
2 access through that public alley?

3 MR. ALI: Exactly. Yes. We have that actually already,  
4 because the parking will stay in the same exact location as the  
5 original design. It's only the driveway that will have to flip  
6 towards the alley and it has to --

7 CHAIRPERSON HILL: I got you. I only see seven spaces  
8 though. I don't see 12. So that's okay. Seven's required but  
9 I only see seven spaces.

10 MR. ALI: I think the one that is uploaded was eight.  
11 One, two, three four, five, six, seven, eight. And we had -- we  
12 had 12, 8, and 7. The eight was due to the critical root zone  
13 of the heritage tree in the back. So I think the one that you're  
14 looking at does account for the heritage tree structural root  
15 zone and it's a total of eight spaces, right?

16 CHAIRPERSON HILL: Okay. I'd like to see the one that  
17 keeps the heritage tree root zone there.

18 MR. ALI: Yes.

19 CHAIRPERSON HILL: Okay? And make it so that the  
20 parking can come from that alley. Then we can put it in as a  
21 condition that if this alley does get improved by DDOT, you all  
22 will revert to the plans that show the seven or eight spots,  
23 whatever you want to put in there with the heritage tree. Do  
24 you understand?

25 MR. ALI: We'll have that to you within an hour.

1 CHAIRPERSON HILL: Okay. All right. Well, if you get  
2 that to us within an hour, then we can come back, unless y'all  
3 need something else.

4 ZC CHAIRPERSON HOOD: Mr. Chairman, I agree with that  
5 path we're going forward. What happens if that doesn't work,  
6 then what is the thinking there if it does not work, the alley's  
7 not improved and that takes -- I'm just trying to figure out how  
8 do we to some degree satisfy the ANC?

9 CHAIRPERSON HILL: Well, I guess my problem is I don't  
10 think they can -- they don't have access to the property so that  
11 -- they don't have any way to get the cars onto the lot.

12 ZC CHAIRPERSON HOOD: Right.

13 CHAIRPERSON HILL: And so that's where right away they  
14 meet the criteria, I think, for us to grant the parking relief.  
15 Like they can't put cars on there. Like DDOT won't let them put  
16 cars on there. So if we would be approving it without the park  
17 -- we would be approving the parking relief; however, we would  
18 put a condition on there because they, the Applicant, has stated  
19 that they will continue to work with DDOT and DOEE or whoever  
20 they need to still work with to see if they can get that alley  
21 improved, right, and if they can get the alley improved, then  
22 they're required as a condition to put the parking on there.

23 ZC CHAIRPERSON HOOD: So meanwhile, they have approval  
24 in this process. They will continue to work and meanwhile they  
25 will continue to move on with their project and it's going to be

1 a point, a tipping point, where they're not going to be able --  
2 they should not be able to be held liable to make any changes  
3 because they've already invested in the way they're moving  
4 forward. So that's just my thought on it. I agree with the way  
5 you're going and I know they're in a difficult situation. I was  
6 just trying to figure out a way to kind of make a happy medium.  
7 But anyway, I will follow your lead on this, Mr. Chairman. Thank  
8 you.

9 CHAIRPERSON HILL: No, no. They would get approved  
10 -- I mean, I don't know. Like this is -- I don't know what you  
11 guys are thinking, but and I see Mr. Smith's hand waving, let me  
12 just finish my statement real quick, which is that they would get  
13 approved for parking relief and they would get approved for the  
14 plans that they have submitted already. However, an exhibit,  
15 whatever exhibit Mr. Ali ends up putting in there, if DDOT and  
16 DOEE and the Applicant can work together to get that public alley  
17 approved, that'll add the parking because it doesn't change the  
18 building design. It doesn't change the land. They're just going  
19 to have to put the parking slots there.

20 Mr. Smith, you had your hand up?

21 COMMISSIONER SMITH: Yes. So I think Chairman Hood  
22 kind of brought this up a little bit, but I'll just say that I  
23 do understand the ANC's concerns regarding, you know, the limited  
24 amount of parking. This has come up with this ANC fairly often.  
25 But from a legal standpoint, I don't know if I'm comfortable with



1 the route that we may go where we grant a special -- in theory,  
2 let's say in theory if we say that they meet the standard for us  
3 to waive the parking requirements, so we will waive it to zero  
4 and then in turn negate the special exception if an alley is put  
5 in by the city. I think that if they -- I don't know if we can  
6 require a parking -- a requirement of putting in parking when  
7 we're waiving the parking requirement. We would in theory be  
8 putting in a special exception waiving the parking requirement  
9 and then under a hypothetical situation overturn it and say they  
10 have to put in parking.

11           So I'm not comfortable with that condition. I  
12 understand where we're going with that and I also wouldn't want  
13 to put in an exhibit here because the -- I think it needs to be  
14 a little bit more engineering involved with that, because this  
15 isn't -- this will be coming from the alley then, a topographic  
16 difference. I think that any landscape plan or any plan that's  
17 put in would be highly hypothetical for us to condition it here  
18 on the fly, and that may not be something that works from an  
19 engineering standpoint. So I think we have to react to the  
20 application as is now. I do understand the ANC's concern, but I  
21 would recommend that we just, you know, act on it as we see it  
22 here and given the facts that we see here now in the request  
23 before us. If that makes sense.

24           If they want to put in parking, if DDOT does improve  
25 the alley, there's nothing in what we approve that would stop

1 that. If it is in the benefit of the Applicant to construct that  
2 parking, they can construct that parking. But I think from a  
3 legal standpoint, they're asking for a waiver and then for us to  
4 impose this condition that would retroactively or in the future,  
5 if the improvement is made remove that waiver and say you shall  
6 construct parking is dicey.

7 CHAIRPERSON HILL: Okay. Well, I can either -- I mean,  
8 I don't have anything today, so I can go ahead and go do an  
9 emergency meeting if y'all want to have an emergency meeting, we  
10 can talk to legal because you've said legal a couple of times  
11 and I don't mind having an emergency meeting. So we can have an  
12 emergency meeting real quick to talk to legal. I think I have  
13 the stuff that I'm supposed to read, let me look.

14 ZC CHAIRPERSON HOOD: Mr. Chairman, let me just ask.  
15 I think Board Member Smith is just saying let's deal with what's  
16 before us. Is that what you're saying? I can go with that. I  
17 can go with that. I'm just trying to make a happy medium because  
18 I will tell you honestly, I love the design, so I can go with  
19 that. But that's not what's before us, so I can deal with what's  
20 before us. I was just trying to make a way to understand, as  
21 Board Member Smith mentioned, about the -- what the ANC is --  
22 this ANC who's been very actively involved. But I think that  
23 this would definitely be an uptick in helping to jumpstart a lot  
24 of things in that area.

25 So that's where I am on that. I don't necessarily



1 think legal's going to help me, but maybe others. I'll just  
2 leave it that.

3 CHAIRPERSON HILL: Okay. Well, I want five minutes  
4 then with legal. So I'm going to talk to legal. Let me do my  
5 little emergency meeting here. Let me just see if I've got the  
6 -- Cliff, can you send me the emergency statements?

7 MR. MOY: Yes, I'll do that now.

8 ZC CHAIRPERSON HOOD: So do all of us have to agree for  
9 the emergency meeting to happen or how does that work?

10 CHAIRPERSON HILL: No.

11 ZC CHAIRPERSON HOOD: I'm just being messing, man. I'm  
12 just --

13 CHAIRPERSON HILL: That's all right. It's fine. It's  
14 okay. Like I said, I got nothing to do today. I don't know  
15 about Commissioner Miller. But like you know I think only one  
16 person needs to ask for it. You know, we all like each other  
17 over here at the BZA, Chairman Hood, you know. I don't know  
18 about your Board. We like try to help each other out. Where  
19 are those things? If I were at my regular office I would have  
20 it, but I'm not. Oh, wait a minute. I got them. Oh, come on  
21 computer.

22 MR. MOY: Okay.

23 CHAIRPERSON HILL: I got it.

24 MR. MOY: Okay. And mine is on the way, so it should  
25 be in your inbox.

1 CHAIRPERSON HILL: Okay. Commissioner Miller might be  
2 going I got stuff to do. I hope not. I don't know why my  
3 computer won't let me open it. All right. Legal can let me  
4 know.

5 I would like to make a motion to have an emergency  
6 closed meeting with legal counsel to discuss case No. 20898 and  
7 deliberate upon but not decide on Case 20898 as allowed by the  
8 regulations and ask for a second, Mr. Smith?

9 COMMISSIONER SMITH: Second.

10 CHAIRPERSON HILL: Motion's been made and seconded, Mr.  
11 Moy, could you take a roll call?

12 MR. MOY: When I call your name if you'll please respond  
13 to the Chairman's motion for an emergency meeting.

14 Mr. Smith?

15 COMMISSIONER SMITH: Yes.

16 MR. MOY: Zoning Commission Chair Anthony Hood?

17 ZC CHAIRPERSON HOOD: Yes.

18 MR. MOY: Chairman Hill?

19 CHAIRPERSON HILL: Yes.

20 MR. MOY: The motion carries on a vote of three to zero  
21 to two.

22 CHAIRPERSON HILL: Okay. You guys I'll be right back  
23 -- we'll be right back.

24 (Whereupon, the BZA went into closed meeting.)

25 CHAIRPERSON HILL: Mr. Moy, are you there?

1 MR. MOY: Yes, sir, I'm back.

2 CHAIRPERSON HILL: Can you call us back please?

3 MR. MOY: Oh, yes. Thank you, sir. After the Board's  
4 brief emergency meeting with legal, the Board has resumed back  
5 in public hearing session and the time is at or about 10:51 in  
6 the morning.

7 CHAIRPERSON HILL: Okay. Thanks.

8 All right. Mr. Bello, can you hear me?

9 MR. BELLO: Yes, Mr. Chairman.

10 CHAIRPERSON HILL: Could you reintroduce yourself for  
11 the record please?

12 MR. BELLO: Toye Bello representing the Applicant.

13 CHAIRPERSON HILL: Thanks. So Mr. Bello, we've talked  
14 with legal and I guess, you know, another way to go about this  
15 is to allow for flexibility for your client if the alley were to  
16 be improved or you guys were able to figure out a way to improve  
17 that alley, that way DOB wouldn't send you back to us for the  
18 parking if you decide -- or I'm sorry, change of plans if you  
19 decided to do that, and I assume you're comfortable with that,  
20 correct?

21 MR. BELLO: Yes, Mr. Chair. No problem.

22 CHAIRPERSON HILL: Okay.

23 All right. Mr. Young, once again, is there anyone here  
24 wishing to speak?

25 MR. YOUNG: We do not.



1 CHAIRPERSON HILL: Okay. Does the Board have anything  
2 final? Okay. All right. Mr. Bello, thank you so much for your  
3 time. I'm closing the hearing and the record. Y'all have a good  
4 day.

5 MR. BELLO: Thank you, Mr. Chairman.

6 CHAIRPERSON HILL: Okay. So the first thing is whether  
7 or not to allow the new residential development and I think that  
8 per the regulations and what Office of Planning has put forward  
9 in their report, I would agree with their analysis as to the  
10 residential development.

11 The big thing that has turned into this long discussion  
12 was the minimum vehicle parking requirements, which is that seven  
13 were required and they're proposing zero and the reason why they  
14 are proposing zero is they have no way to get the cars onto the  
15 lot. There's no curb cut, there's no alley access. So that per  
16 the regulations I believe they meet the requirement for us to  
17 grant the relief if we believe that the building should be  
18 allowed. And I do believe the building should be allowed. And  
19 so I am comfortable, as we've discussed now a little bit, going  
20 ahead and granting the relief requested with flexibility that as  
21 they're working with DDOT and DOEE, or if DDOT and DOEE on their  
22 own decided to improve that lot, then we would have design  
23 flexibility for the parking to be allowed in the rear of that  
24 property. And those are my thoughts.

25 Mr. Smith, do you have any thoughts?



1           COMMISSIONER SMITH: I agree with your analysis on this  
2 particular case and OP's analysis of the proposed special  
3 exceptions and the reasons why they meet the requirements for us  
4 to grant the request before us. I'm, you know, fully comfortable  
5 with Subtitle U 421 to allow the new residential development.

6           As you stated, the majority of the concerns that was  
7 raised by the ANC, by the Deanwood Citizens Association and here  
8 on this Board today has to do with parking and I'm sympathetic  
9 to the concerns raised by the ANC regarding parking here. You  
10 know, this is a common issue that's come up in this neighborhood  
11 as redevelopment has occurred -- development and redevelopment  
12 has occurred in this neighborhood. But I do believe that based  
13 on what was submitted by the Applicant, they do meet the criteria  
14 for us to grant the special exception.

15           Chairman Hill, you spoke of C 703.2(b) -- well, (a) I'm  
16 sorry, which is the physical constraints of providing the parking  
17 because there's an unimproved alley, it's cost prohibitive for  
18 the Applicant to improve that alley in order to meet the minimum  
19 parking requirement for this development.

20           I will also say that I do believe that they also meet  
21 the criteria for C 703.2(d) which says land use and transportation  
22 characteristics of the neighborhood minimize the need for  
23 required parking spaces. There at the intersection of Quarles  
24 and Eastern Avenue is a bus stop and that the buses that run  
25 along that line go to the Deanwood Metro station, which is within

1 walking distance of this particular site. So given that, I do  
2 believe that they meet the criteria for us to waive having those  
3 parking requirements. But I do agree with your approach to  
4 provide some flexibility for the Applicant with their landscape  
5 plan, their site plan submissions, that if DDOT does improve --  
6 well, I will just say the District of Columbia, does improve this  
7 alley they wouldn't have to come back before this Board to get  
8 additional approval to modify the order in order for them to  
9 construct the parking spaces that they say that they are willing  
10 to construct and the neighborhood requests for them to construct.

11 So I'm comfortable with the special exceptions and also  
12 adding that additional condition that you have given.

13 CHAIRPERSON HILL: Thank you.

14 Chairman Hood?

15 ZC CHAIRPERSON HOOD: I too would agree with both of  
16 my colleagues. The relief requested, I think the Applicant has  
17 made the case, and also the subject matter experts that's weighed  
18 in. I do understand the issues of the ANC, but I believe to make  
19 anything work, regardless of what we mandate or what we put in  
20 place down here, I believe that the community and the Applicant  
21 will continue to work together and I'm pretty sure of that to  
22 make it work for everybody.

23 So with that, I'm not going to belabor the point. I  
24 will be voting in favor of this application. Thank you, Mr.  
25 Chairman.





1 CHAIRPERSON HILL: Thank you.

2 Then I make a motion to approve Application No. 20898  
3 as captioned and read by the secretary, including the TDM plan  
4 that is in the DDOT exhibit and also the on-site short-term  
5 parking, two on-site short-term parkings, and the 12 long-term  
6 parkings, and then grant flexibility for if the alley is to be  
7 improved, the Applicant could add the parking in the rear of the  
8 lot, and ask for a second, Mr. Smith?

9 COMMISSIONER SMITH: Second.

10 CHAIRPERSON HILL: Motion's been made and seconded, Mr.  
11 Moy, if you'd take a roll call?

12 MR. MOY: Thank you, sir.

13 When I call your name, if you'll please respond to the  
14 motion made by Chairman Hill to approve the application for the  
15 special exception relief that's being requested along with the  
16 conditions, as the Chairman has just cited. The motion was second  
17 by Mr. Smith.

18 Zoning Commission Chair Anthony Hood?

19 ZC CHAIRPERSON HOOD: Yes.

20 MR. MOY: Mr. Smith?

21 COMMISSIONER SMITH: Yes.

22 MR. MOY: Chairman Hill?

23 CHAIRPERSON HILL: Yes.

24 MR. MOY: We have no other members participating, the  
25 staff would record the vote as three to zero to two, and this is

1 on the motion made by the Chair to approve. The motion to approve  
2 was second by Mr. Smith, others voting to approve the application  
3 is Zoning Commission Chair Anthony Hood, and of course Mr. Smith,  
4 and Chairman Hill. No others participating. And again, the  
5 motion carries on a vote of three to zero to two.

6 CHAIRPERSON HILL: Thank you, Mr. Moy.

7 All right. Chairman Hood, you have a good day.

8 ZC CHAIRPERSON HOOD: Y'all enjoy your day. Thank you.

9 CHAIRPERSON HILL: We're going to take a quick break.

10 There's a technical issue that also needs to be resolved and so,  
11 Mr. Moy, if you could let --

12 MR. MOY: Mr. Chairman?

13 CHAIRPERSON HILL: Yes.

14 MR. MOY: You can still take a quick break, but just  
15 letting you know while you were on an emergency meeting, our  
16 court reporter has resolved their technical issues, so we're good  
17 to go.

18 CHAIRPERSON HILL: Okay.

19 MR. MOY: Just want to let you know.

20 CHAIRPERSON HILL: Okay. All right. Let's just take  
21 a quick ten-minute break.

22 MR. MOY: Very good.

23 CHAIRPERSON HILL: Thank you.

24 (Whereupon, there was a brief recess.)

25 CHAIRPERSON HILL: Hello, Commissioner Miller.



1           ZC VICE CHAIR MILLER: Hello.

2           CHAIRPERSON HILL: In honor of Peter May, I came on  
3 just at 11:10. Like I said, there was going to be a ten-minute  
4 break, Peter May, ten-minute break.

5           ZC VICE CHAIR MILLER: In honor of him I came in right  
6 after you did.

7           CHAIRPERSON HILL: Mr. Moy, are you there? I thought  
8 Mr. Moy, maybe Mr. Moy, he didn't get the Peter May memo. It's  
9 up to you guys, but if we get snacks and everything we might  
10 power through and get it done before lunch, but we'll see what  
11 happens. It might not really happen, but you never know.

12          Mr. Moy, you may call our next case when you get the  
13 opportunity.

14          MR. MOY: All right. Thank you, Mr. Chairman.

15          So the Board is back in its public hearing session and  
16 the case before the Board is Application No. 20943 of WCP 1207 H  
17 Street, LLC. This is a self-certified application pursuant to  
18 Subtitle X Section 901.2 for special exception under Subtitle H,  
19 Section 5200.2 and from the requirements of Subtitle H, Section  
20 901 -- or rather 907.1 that would allow new construction on a  
21 lot with at least 6,000 square feet of land area. Property  
22 located in the NMU-7B/H-A zone. Property located at 1207 H  
23 Street, N.W., Square 1004, Lot 342.

24          For the Board, for you, Mr. Chairman, I'm expecting  
25 that we have witnesses signed up to testify. One from a Ms.



1 Abigail Nydam N-Y-D-A-M, Robert Pittman from the Linden  
2 Neighborhood Association and I believe ANC 6A02 as well, along  
3 with a person by, I think the person's name is Mike Velasquez.  
4 And finally, within the 24-hour block, Mr. Chairman, we have an  
5 affidavit of posting from the Applicant, but I do not see a filing  
6 of a affidavit of maintenance, so if we can ask the Applicant  
7 about that, that'd be helpful. Thank you, sir.

8 CHAIRPERSON HILL: Okay. Great. If the Applicant can  
9 hear me, if they could please introduce themselves for the record?

10 MR. GOINS: Yeah. This is Jeff Goins with PGN  
11 Architects formerly, now Michael Graves Architects. I'm here  
12 with Jorel of Michael Graves Architects. And I think the owner  
13 is also present, Ben Miller.

14 CHAIRPERSON HILL: Mr. Young, if you could add Mr.  
15 Miller to the hearing, we'll see if we have any questions.

16 Mr. Goins, you just filed the affidavit of posting, is  
17 that correct, and the affidavit of maintenance?

18 MR. GOINS: Yeah, I thought that it should have been  
19 three pages that were submitted.

20 CHAIRPERSON HILL: So you submitted the maintenance  
21 with the posting affidavit?

22 MR. GOINS: I did, yes.

23 CHAIRPERSON HILL: Okay. And why is it late?

24 MR. GOINS: I'm not sure. I think we tried to get it  
25 in within the 24 hours.



1 CHAIRPERSON HILL: Okay. All right.

2 Mr. Moy, if you could go ahead and add that to the  
3 record, I'd like to take a look at those.

4 Let's see, Mr. Miller, you want to introduce yourself  
5 for the record?

6 MR. MILLER: My name is Ben Miller, I'm district  
7 president and owner/developer of the lot in question.

8 CHAIRPERSON HILL: Okay. Great. Thanks, Mr. Miller.  
9 You can put yourself on mute, we'll see if we have any questions  
10 of you.

11 All right. Mr. Goins, I guess you --

12 MR. YOUNG: Sorry, you also -- the call-in user is the  
13 ANC commissioner.

14 CHAIRPERSON HILL: Oh, great. Commissioner, can you  
15 hear me? You have to unmute your line maybe. I don't know how  
16 to do that. Mr. Young, do you?

17 ANC COMMISSIONER VELASQUEZ: Yes, sir, I can hear you,  
18 can you hear me?

19 CHAIRPERSON HILL: Oh, yeah, great. Excuse me.  
20 Commissioner, could you introduce yourself for the record?

21 ANC COMMISSIONER VELASQUEZ: Yes, sir. Commissioner  
22 Mike Velasquez, ANC commissioner for Single Member District 6A02  
23 that the district boundaries contain the Applicant's property  
24 over.

25 CHAIRPERSON HILL: Okay. Great. Thanks, Commissioner.



1 Commissioner, we'll get to you also when we're hearing from that  
2 portion of the testimony.

3 Mr. Goins, I guess if you want to go ahead and walk us  
4 through your explanation of why you're meeting the criteria for  
5 us to grant the relief requested. As you go through that -- and  
6 I don't know what exhibits you're going to ask us to pull up,  
7 you seem to be asking for a bunch of flexibility, the Board's  
8 not used to granting a lot of flexibility, so if you want to kind  
9 of like explain whatever flexibility is in the design you're  
10 trying to get us to approve, that would be helpful as you go  
11 through the process.

12 And Mr. Moy has his hand up.

13 MR. MOY: Yes, Mr. Chairman, if I may, if I can ask  
14 Mr. Goins to resubmit his affidavit of maintenance, I'd  
15 appreciate it. I don't know where it -- I ima- -- if he said he  
16 submitted it, I believe him, but some reason it's fallen through  
17 the cracks. So if you wouldn't mind resubmitting, I'd appreciate  
18 it. Thank you, sir.

19 CHAIRPERSON HILL: So you have the posting affidavit,  
20 but you don't have the maintenance affidavit, Mr. Moy?

21 MR. MOY: That's correct, sir.

22 CHAIRPERSON HILL: Okay. So Mr. Goins, if you could  
23 try to --

24 MR. GOINS: Yep. I will add that to the record.

25 CHAIRPERSON HILL: Okay. Well, we're going to need it

1 while we're looking at your case. So can somebody from your  
2 office submit it?

3 MR. GOINS: Yes.

4 CHAIRPERSON HILL: Okay. All right. So if you want  
5 to go ahead and give us your argument as to why you're meeting  
6 the criteria for us to grant the relief requested, I'll put 15  
7 minutes on the clock, just so I know where we are, and you can  
8 begin whenever you like.

9 MR. GOINS: All right. Thank you. This project is  
10 only asking for the special exception. We're not asking for any  
11 relief beyond the minimum lot size and meeting the design  
12 standards of the NC15, which is now the NMU-7B/HA, the H Street  
13 overlay. This is, for practical purposes, the design review for  
14 lot size requirements. We can start the presentation, but we are  
15 not asking for flexibility or relief or any variances beyond this  
16 special exception.

17 CHAIRPERSON HILL: No, no, no, but I mean, there was  
18 -- the flex- -- well, I thought -- I'll go back and maybe I have  
19 the wrong case, I don't think so, it seemed as though you were  
20 asking for flexibility in the design.

21 MR. GOINS: No, I think we were adhering to the design  
22 guidelines.

23 CHAIRPERSON HILL: Okay. Go ahead with your  
24 presentation.

25 MR. GOINS: Yeah. Ben, if you want to make an

1 introduction, and then I can jump in?

2 MR. MILLER: Just a quick (indiscernible) summary  
3 basically. So we bought the property in 2010. It's currently  
4 an AutoZone. It's been an AutoZone since 1997. And the AutoZone  
5 is not the highest and best use of this lot anymore. It's --  
6 neighborhood's grown beyond the original potential of the site  
7 back in 1997. We've been working for about two years with the  
8 community on this site and have had about 18 meetings with the  
9 neighbors and communities and have had very positive constructive  
10 ongoing dialog. We've incorporated a lot of different kinds of  
11 requests and ideas from neighbors. I think the project reflects  
12 like a joint working process, and so I believe it's really like  
13 going to have a very large positive effect on the corridor and  
14 that we have a lot of, I think you'll see, our ideas that we've  
15 gotten from the community.

16 The site's IZ Plus, so the original by-right would have  
17 been 8 to 10 affordable housing units, and now basically under  
18 IZ Plus we've quadrupled it, so it's about 36 to 40 affordable  
19 housing units. So it's -- has another large positive potential  
20 for the neighborhood. Back to you, Jeff.

21 MR. GOINS: I think as it's been mentioned we worked  
22 with the community over a five, six-month period and had five,  
23 six presentations of the design. The community actually got to  
24 weigh in on the design we see in front of us and the design we're  
25 going to present. Next slide please?





1                   This is just a summary of the zoning sheet. Next slide  
2 please?

3                   As Ben mentioned, one of the things that we wanted to  
4 kind of highlight was the IZ Plus scenario. As Ben went through  
5 the map amendment and the matter-of-right scenario, it would have  
6 yielded about 8 to 10 affordable units. And I think through the  
7 map amendment and the IZ Plus, it should yield right around 40  
8 to 42 units. We don't have a final unit count there. That was  
9 one -- that might be one of the flexibilities that you were asking  
10 for with the -- in the design package and the application. We  
11 did ask for flexibility, because we have not narrowed down the  
12 final unit count. And as we go through the design, I'm going to  
13 let Jorel present the design.

14                  CHAIRPERSON HILL: Yeah, Mr. Goins, do you know which  
15 exhibit is that PowerPoint in?

16                  MR. GOINS: It should be the updated architectural  
17 package in the record. There should be five updated architectural  
18 plans.

19                  CHAIRPERSON HILL: Got it. I'm just looking here.  
20 Please go ahead and continue, I'm sorry.

21                  MR. SANCHEZ: As Jeff mentioned, I'm Jorel Sanchez.  
22 I'm here with Michael Graves. I'm working in the design team.  
23 If you could go to the next slide, I will go quickly through the  
24 presentation of the design here for interest of time.

25                  So this is the location. As we can see, it's right

1 along the H Street corridor with high density of public  
2 transportation around there, including the Capitol Bike Share,  
3 the tram and buses. If we could go to the next slide as well?

4 This is an overlay of the zoning for the district.  
5 Next slide?

6 This is a little bit zoomed in here into some of the  
7 transportation, main transportation via the vehicular circulation  
8 from the site. It is also of note that we are one block east  
9 -- I'm sorry, west of the Atlas Performing Center, so we -- this  
10 site will essentially (indiscernible) essentially becoming the  
11 opening to the Atlas district. If we can move to the next slide  
12 please?

13 This slide and the next few slides are just pictures  
14 of existing conditions of the area surrounding the site. So we  
15 can move to the next slide?

16 This is more pictures of the surrounding area.

17 CHAIRPERSON HILL: Can you give me a second, Mr. --  
18 what's your name again, sir, I'm sorry?

19 MR. SANCHEZ: No worries. Jorel Sanchez.

20 CHAIRPERSON HILL: Sanchez, okay. Now, Mr. Goins, in  
21 some of the exhibits in the top left corner of the pages, it says  
22 flexibility is requested to vary the final selection of the  
23 exterior materials within the color range and material types as  
24 proposed without reducing the quality of the materials and to  
25 make minor refinements to exterior details and dimensions.

1 Flexibility requested to vary the approved signage provided if  
2 considered -- and so -- and those seem on different exhibits.

3 MR. GOINS: Yeah, we were -- we haven't made final,  
4 final brick selections, so we were just putting in a general note  
5 that we often do. Maybe it's a little over the top there, but  
6 just asking for general flexibility in material and color  
7 selections.

8 CHAIRPERSON HILL: Okay. I'll let Mr. Smith help me  
9 with that as to whether or not we've even done that one a little  
10 later during the presentation or during the discussion, I should  
11 say. So continue, Mr. Sanchez.

12 MR. SANCHEZ: Thank you. So as I was saying,  
13 (indiscernible) pictures of the (indiscernible) slide, including  
14 left one, number five there, which is the current site, which is  
15 a parking lot, most of it, mixed with an AutoZone.

16 If we continue to the next slide, these -- so this is  
17 again more pictures of the existing site. Now you have  
18 (indiscernible) to the right and the top and parking gara- -- or  
19 parking, surface parking, to the left. Next slide please?

20 These are condition (indiscernible) design if they're  
21 reconditioning the alley, then the exterior along the alley and  
22 pedestrian (indiscernible) experience around the neighborhood in  
23 this area.

24 CHAIRPERSON HILL: Mr. Sanchez, can you hold on one  
25 second. When you guys are going through this slide deck also,

1 | if there changes that have been made based upon all of your  
2 | discussions with the community, if you can kind of point out what  
3 | changes have been made and how you have also worked with the  
4 | community thus far to get to where you are, that could also be  
5 | helpful for the Board, thank you.

6 |           MR. SANCHEZ:     That is coming up.     Actually good  
7 | question.   So this is slide for the alley.   If you can continue  
8 | for the next slide, which are also more pictures of the alley.  
9 | And to your point on the next slide, we have three four-bedroom  
10 | houses evolution of the design work around when we met with the  
11 | community.   There was a lot of concerns about the car, vehicular,  
12 | traffic into that alley and being like right behind their yards.  
13 | So we worked alongside the community and traffic consultant and  
14 | DDOT to develop a (indiscernible) or like an entrance to the  
15 | garage as the loading and service area that will comply with DDOT  
16 | expectations and the tenants or the residents of (indiscernible)  
17 | look and feel and conditions that they were expecting to maintain  
18 | as well.   And so this is one of the things that explicitly  
19 | highlight that coordination with the ANC and the community at  
20 | large.   If we go to the next slide please?

21 |           This is an existing satellite picture.   As we can see,  
22 | the parking lot, house and all that.   Next slide please?

23 |           So now we're going to go more into our design.   This  
24 | is our group plan or site plan of the area.   As you can see, we  
25 | comply with (indiscernible) and even going further beyond, we are

1 planning to have (indiscernible) slate roof, as well as you can  
2 see how are bringing the lower and we can see it in a couple of  
3 more slides, but we're also bringing some type of green as well  
4 to that alley. If we can go to the next slide?

5 This is the parking garage with the required -- over  
6 the required bike storage (indiscernible) building. Next slide  
7 please?

8 Here you can start seeing how we are addressing the  
9 concerns of the neighborhood. We are proposing to repave the  
10 alleyway with more nicer material and it'll be cobblestone or  
11 brick, which is one of the things that we are flexibilities there  
12 as we finalize that selection of material. We have set back the  
13 building 12 feet from the property line and created this new  
14 dwellings to the back of the building or to the neighborhood side  
15 to soften the frontage for the neighborhood. And then both of  
16 these dwellings are going to have a front yard as much as we can  
17 it's going to be landscaped. The front, for the entry we're  
18 complying with the H Street requirements to have -- be a model  
19 storefront for retail as we are needed, and then we have the  
20 (indiscernible) the naming trends we will be through the H Street  
21 corridor as well. If we can continue to the next slide?

22 This is our second-floor plan, which we have -- as we  
23 mentioned, we have not quite (indiscernible) or fixed our final  
24 unit counts, but you can see how it's going to be a combination  
25 of studio one-bedrooms, and two bedrooms apartments with amenity

1 spaces we're proposing on the second floor, and if we continue  
2 to the second slide -- to the next slide, sorry.

3 This is our typical floor. Once again, with a  
4 combination of studio, one-bedrooms, and two-bedrooms.

5 And if we move to the next slide, this is our penthouse  
6 area as we proposed. It is -- as mentioned previously, we are  
7 proposing to have units in this penthouse including one two-  
8 bedroom that's going to be reserved for IZ and then our outdoor  
9 rooftop terrace, we are very involved in bringing this landscape  
10 or -- so we are proposing an outdoor landscaped terrace as well  
11 as the required (indiscernible). So we move to the next slide  
12 please?

13 These are a little bit more in the details about the  
14 proposed rooftop terrace there. As we can see, the landscaping  
15 elements that we are proposing. The rooftop is set back, which  
16 all required, one-to-one setbacks (indiscernible). Next slide  
17 please?

18 Now, as we get into the design of the building and the  
19 (indiscernible) side of the building, we are doing a little bit  
20 of more modern or contemporary approach to the (indiscernible)  
21 where we are breaking the base into multiple smaller ones while  
22 still complying -- I mean, our later exhibits, you'll see how we  
23 calculated compliance to the base calculations as required. This  
24 is one of the things that we discussed with DDOT and we already  
25 got their approval or -- which should be in the recommendations

1 about the (indiscernible) and the projections of these bays that  
2 are complying with the requirements of DDOT. As you can see,  
3 it's in essence a three-part design where we have a bay, then we  
4 have the main facade and then it projects a little bit further  
5 in that centerpiece to create a more dynamic experience,  
6 specifically for the pedestrian. So you have changes in heights  
7 in a more interesting way and capturing the eye of the pedestrian  
8 as well as the vehicular person driving by. Next slide please?

9 This is a little bit of more in-depth detailing of that  
10 facade and how it -- how it just changes in volumes within the  
11 bay and inside the property line. Next slide please?

12 For the side by sides we have the west elevation here  
13 which is also looking on the street which is the facade obviously  
14 on the right. We are turning into more residential or more  
15 (indiscernible) down version of our jigsaw puzzle, like our  
16 developer, Ben, likes to call it. And then on the left side,  
17 even though it's a blind wall, we don't want to just put any type  
18 of brick there, we also want to bring some of that design because  
19 we don't know how long or if ever there will be building attaching  
20 to it, and we just want to as well (indiscernible) and bring some  
21 design and some art to the neighborhood which is similar to what  
22 we're doing in this blind wall here which is covering the  
23 extension of the loading dock and service bays. Next slide  
24 please?

25 Then for the residential side or the alleyway, as you

1 can see here, we have the (indiscernible), we have the new  
2 dwellings which start to tone down a little bit the scaling as  
3 we are more towards the neighborhood and directly seen in the  
4 neighborhood. The main portion of the building or the top floor,  
5 they start being more residential with more openings for  
6 balconies and there'll be balconies (indiscernible) with the  
7 neighborhood and the -- a bit more traditional in that sense. If  
8 we can continue to the next slide please?

9 This is similar to the north facade. This is a little  
10 bit more in-depth detailing of that south facade. You can see  
11 all that ins and outs to create a more interesting and dynamic  
12 building for everybody in the community. Next slide please?

13 This is one of the exhibits that we prepared for  
14 highlighting like the elevation -- sorry, the bays that are  
15 joining to the ground as part of our coordination with DDOT  
16 conversation. The ones highlighted are the bays that are off the  
17 ground and so you can see they are broken and different faces to  
18 don't create too much encroachment into the pedestrian way of  
19 travel in the sidewalk. If we can go to next slide please?

20 These are some of our (indiscernible) or schematic  
21 building sections. As you can see, we have the top floor are  
22 all residential while we have the garage underground and then the  
23 first floor, it's amenity, retail, and these dwellings attending  
24 on this side. Next slide please?

25 These are the other building sections. And on the



1 left, you can see how we comply with the requirement for the  
2 setback for the (indiscernible). Next slide please?

3           These are a little bit of more polar or street  
4 elevations and you can see the relationship that the building  
5 will have -- the proposed building at this time will have with  
6 the neighbor -- neighboring buildings. On the top this is a view  
7 from H Street and then on the right this is a -- on the bottom  
8 right, it's a view from 12th Street.

9           And I think we -- yes, we do have an exhibit that shows  
10 better the relationship of the setbacks. This is a material  
11 detailing or like a more high quality rendering of the proposed  
12 materials as it stand today. This is one of the things that  
13 we're asking as we make final selections of bricks, it's the  
14 shading and the color may not be exactly as shown in the record.  
15 Next slide please?

16           A lot of the conversation that -- with the neighborhood  
17 is the treatment of this alleyway. And as you can see here,  
18 where we have come up with this idea of adding residential spaces  
19 along the alley by creating these dwellings which are studios  
20 which (indiscernible) and also repaving the alley and adding  
21 (indiscernible) the pedestrian experience and safety. We are  
22 also adding environmentally friendly lighting as well as friendly  
23 to the tenants. So we don't want the -- to the residents of  
24 Linden Place, we don't want it to be (indiscernible), so they're  
25 going to be more down lighting or short lighting to illuminate

1 the area and give that sensation of safety, but without intruding  
2 into the bedrooms and the living areas of the neighbors. If we  
3 can go to the next slide please?

4 This is a little bit of more of a (indiscernible) of  
5 the new dwellings' entrances. As you can see how we propose to  
6 start landscaping this area and adding a little bit of more green,  
7 green spaces, and a better ambience for the community, the new  
8 building, and Lindon Place and everybody in this area. As you  
9 can see on the right, bottom right, we do have a setback after  
10 for the second floor that it's I believe six to eight feet. So  
11 our building setback's 12 feet from the property line or -- which  
12 is the part of the alley street, and then for the first floor  
13 and then on the second floor, it's set back again about eight  
14 feet. If we can continue for the next slide please?

15 This is, as I mentioned, the back of the building or  
16 the alleyway, residential side of the building. It's the one  
17 that we had plenty of discussions with the community. As you  
18 can see here in this exhibit, we're showing how our building  
19 design and setbacks give even more freedom or more space toward  
20 the alley and pushbacks, even the existing alley door, the  
21 existing structure, we're even beyond that 12-foot setback to the  
22 start of the start of the building and are further setback at  
23 the second floor to allow for a better sensation for that alley  
24 and a more open space while creating the building that we're  
25 proposing. If we can continue for the next slide?

1           This is more for -- really more realistic or more  
2 detailed work or rendering of what we are proposing for the alley.  
3 As mentioned, you can see here it -- it's -- feels more  
4 residential than your typical alley or service alley that we see  
5 other new developments in the area. If we can continue to the  
6 next slide please?

7           We also propose -- we have some questions even with  
8 -- from the neighborhood of how those new dwellings will serve  
9 so we decided to proposal of the design that we were thinking  
10 for this dwelling. So we have these two spaces which are more  
11 of a locked side of the dwelling. Next slide please?

12           And this is the (indiscernible) side that we were  
13 thinking about these new slides. Next slide please?

14           We have now some of the trees or like more detail of  
15 the trees. As mentioned, these were very helpful with  
16 coordination with DDOT. You can see here on the main drawing  
17 how we have that -- create those -- that dynamic of spaces along  
18 the pedestrian corridor of the sidewalk with varying the heights  
19 of the bays and it creates just a more intriguing experience as  
20 you walk down it. We are -- as you may know we are right along  
21 the tram or the streetcar with the streetcar stopping next door,  
22 and we also have a bus stop that stops on the left side or the  
23 northwest side of the building. Now, we are in talks with DDOT  
24 as well. They think that they might be open to relocate it as  
25 far as the development. If we can go to the next slide?

1           In the next slide, we will see the -- another section  
2 on that H Street without the base which was, again, one of the  
3 (indiscernible) coordination with DDOT as they wanted to see this  
4 -- how big that sidewalk is on most of the -- along most of the  
5 sidewalk without the projections at the street level. Next slide  
6 please?

7           This is the street (indiscernible) or streetscape for  
8 12th Street, which is our western street. You can see here we  
9 are fairly set back from the street. We're (indiscernible) at  
10 the lot line and we are proposing to activate the area with some  
11 outdoor seating and some non-thick outdoor seating and will say  
12 as well as including spaces for bike storage and for our bike  
13 storage and creating, as I mentioned before, a more dynamic  
14 pedestrian experience for everybody here. Next slide please?

15           As mentioned, we have a fairly irregular base. We  
16 provided this as -- sorry, excuse me, for the bay calculation  
17 illustrating that we comply with the District regulations for bay  
18 projections. Next slide please?

19           And this is for the 12th Street calculations for the  
20 bay. Next slide please?

21           This is our bike storage. As mentioned, we are  
22 providing more than required bike storage for -- or maximum amount  
23 of -- like a maximum projection of (indiscernible) and this is  
24 all of the detailing that we typically propose in our buildings  
25 and propose for this one as well. Next slide please?

1           Now, we have some perspective renderings of the  
2 proposed design with more detail elements and design. As you can  
3 see, we are proposing dark brick color for the -- most of the  
4 facade and then the projections are a darker or like more  
5 (indiscernible) red color for the back with bronze metal  
6 detailing for the windows and canopies and anything that is  
7 related to the bays. Next rendering please -- or next slide  
8 please?

9           You can see here a little bit what the proposed corridor  
10 will look like. So you can see it really fits the improvement  
11 for the current experience that the pedestrian and the vehicular  
12 and the neighborhood has for this corridor, activating the area  
13 and bringing more eyes to the street and more safety in that  
14 manner. As you can see when we start turning toward the  
15 residential area, we go to the more subtle brick with the maroon  
16 brick being the main color. Next slide please?

17           As far as the neighborhood concerns and DDOT concerns,  
18 well, we made our traffic studies here for the inbound and  
19 outbound vehicular traffic including the loading area  
20 (indiscernible). This slide shows how we are complying with the  
21 turning radius and all that. Next slide please?

22           This is the outbound. We are still developing as far  
23 as we can to better these conditions, but this is where we are  
24 at the moment. Next slide please?

25           And this will be the traffic towards the garage. So

1 the inbound -- and the next slide please -- it would be the  
2 outbound traffic.

3 So as you can see, we (indiscernible) slides that we  
4 have just shown in our exhibit, the vehicular traffic for the  
5 building is kept fairly toward the left side of the site and  
6 (indiscernible) most of the -- or actually does not interfere  
7 directly with any of the strict back yards, only the side yard  
8 of this unit at the top right -- or top left, sorry. Next slide  
9 please? I think this is the last one actually.

10 Yes, that is the last one, so that's our presentation.  
11 I'll (indiscernible).

12 CHAIRPERSON HILL: Okay. Thank you.

13 Let's see, does the Board have any questions of the  
14 Applicant at this point?

15 Go ahead, Mr. Miller.

16 ZC VICE CHAIR MILLER: Thank you, Mr. Chairman, and  
17 thank you to the Applicant's team for your -- all of your work  
18 on this project and for your presentation today. This -- and  
19 for your community engagement that you've outlined. The Zoning  
20 Commission did a map amendment, as I recall, last year for this  
21 site to facilitate this type of development. It wasn't -- the  
22 development project wasn't before us, but the map amendment. It  
23 largely -- that was considered by the Zoning Commission as a  
24 zoning -- as a comprehensive plan consistency case which we found  
25 to be not inconsistent with the comprehensive plan, the new



1 | proposed zoning. But this new zoning does facilitate, as you've  
2 | outlined, a greater amount of housing units, and more importantly  
3 | a greater amount of affordable housing units. I think you said  
4 | 36 to 40 affordable housing units because we did the IZ Plus  
5 | designation with that map amendment and there would have been,  
6 | as in the previous -- without IZ Plus and under previous zoning  
7 | would have been just 8 to 10 affordable units, I think. Anybody  
8 | can correct me if I've stated something wrong there. There are  
9 | a lot of numbers here.

10 |           But on the -- so I appreciate all the work that's gone  
11 | into improve and revitalize and redevelop this AutoZone site with  
12 | a vibrant well-designed housing project that's -- will be, I  
13 | think, welcome in -- along the H Street corridor and certainly  
14 | needed in the District of Columbia, the housing and affordable  
15 | housing.

16 |           Let me just ask on the -- I don't think we have a ANC  
17 | 6A report. You've -- we have some neighbor -- we have, I think,  
18 | one community -- one neighbor's -- one household in -- along 12th  
19 | Street I think did submit an exhibit into the record indicating  
20 | support, but if you could just tell me what happened, did you  
21 | present to the ANC? You did? I see you're nodding.

22 |           MR. GOINS: Yeah, Mr. Miller, we presented --

23 |           VICE CHAIR MILLER: Can you just elaborate on what  
24 | happened at the ANC and --

25 |           MR. GOINS: Sure, we presented as early as all the way

1 back in March. We had hearings in March, April, I think May,  
2 and a couple in June. There were multiple meetings to discuss  
3 -- I think we mentioned at the beginning in our introduction we  
4 actually had two designs for this. We actually let the ANC vote  
5 on which direction, whether they wanted to go to a more  
6 adventurous design that Jorel had designed that was a little more  
7 modern or more a traditional design. They voted unanimous for  
8 this design.

9 So yeah, they did vote. There was a letter that I  
10 didn't -- I know I received a copy of. I don't know if it was  
11 submitted into the record. It should have been, but I know that  
12 ANC did vote and supported this project. I think Ben and it's  
13 worth mentioning, Ben had multiple meetings before he engaged us.  
14 So I think overall we've had a lot of community --

15 CHAIRPERSON HILL: Yeah, Commissioner, I'll get to you  
16 in one second.

17 Was that the end of your statement, Mr. Goins?

18 MR. GOINS: Yeah, that's fine, yes. Yes, thank you,  
19 Mr. Miller.

20 CHAIRPERSON HILL: Yeah, Commissioner Velasquez, if you  
21 could introduce yourself again for the record and if you would  
22 like to answer the question and/or give your testimony?

23 ANC COMMISSIONER VELASQUEZ: Thank you, Mr. Chair.  
24 Mike Velasquez, Commissioner for Single Member District 6A02 and  
25 I was just raising my hand to be responsive to the other





1 commissioner's question.

2 Yes, the ANC did vote on July 13th unanimously five to  
3 nothing with five commissioners present to support this action.  
4 And if now's the best time for my testimony, I'm happy to  
5 continue, but if it's -- if you prefer I wait, I'm happy to go  
6 in regular order, sir.

7 CHAIRPERSON HILL: Okay. We'll wait in regular order.  
8 Mr. -- Commissioner, was your report submitted into the record?  
9 We don't have it, I don't think.

10 ANC COMMISSIONER VELASQUEZ: So I just learned today  
11 that the ANC apparently did not confirm that the Office of Zoning  
12 had received it, but I did forward to Mr. Reid just a few minutes  
13 ago.

14 CHAIRPERSON HILL: Okay. Mr. Moy, if you could check  
15 on that, and if so, if you could drop it into the record for us  
16 to take a look at? Okay. I think Mr. Moy probably heard me. If  
17 not, I'll clarify that when he gets back to me.

18 Commissioner Miller, did you have further questions of  
19 the ANC Commissioner at this time or would you like to hear his  
20 testimony first?

21 ZC VICE CHAIR MILLER: No, I have no further questions  
22 of the ANC at this time. I appreciate the responses that were  
23 given and the unanimous support last July -- well, two months  
24 ago, I guess, July, in favor of the project and all of your work  
25 and I appreciate the Applicant's responsiveness to the ANC's

1 concerns along the way and the community's concerns and the  
2 changes that have been made as a result of that.

3 So yes, if we can just get -- make sure in the next  
4 few minutes while we're hearing this case that that ANC letter  
5 of support is into the record, that's what I just wanted to make  
6 sure, that we had that full record of support.

7 At this time, Mr. Chairman, I'm not sure that I have  
8 any further questions. I'll let you know if I do. I'll turn it  
9 back to you to call on Board Member Smith or anybody or you --

10 CHAIRPERSON HILL: Thank you.

11 ZC VICE CHAIR MILLER: -- for questions of the  
12 Applicant.

13 CHAIRPERSON HILL: Mr. Smith, do you have any questions  
14 at this time?

15 COMMISSIONER SMITH: Of the applicant or the ANC?

16 CHAIRPERSON HILL: I was going to wait -- of the  
17 Applicant, then I was going to let the ANC give his testimony  
18 and then we could ask questions.

19 COMMISSIONER SMITH: Okay. My question is about, you  
20 know, some of the flexibility that was requested. One of the  
21 flexibility requests I saw was the use of the ground-level non-  
22 residential space. Is that your -- you're still requesting that?  
23 I heard you list it out, but there is an echo where you're at.  
24 Was that one of them?

25 MR. GOINS: Yeah, we would not be requesting

1 flexibility for non-residential use. I -- it would be retail  
2 (indiscernible) on the ground floor.

3 COMMISSIONER SMITH: Okay. Per the --

4 MR. GOINS: Yeah.

5 COMMISSIONER SMITH: -- zoning regulations for that  
6 zone? Okay.

7 MR. GOINS: Per the H Street guidelines. Sorry about  
8 that.

9 COMMISSIONER SMITH: Okay. Can you list out that  
10 flexibility again please?

11 MR. GOINS: For -- well, I think, in general we were  
12 asking for flexibility on the dwelling units. And this design  
13 is designed for the 210 units, meaning the parking requirements  
14 and the overage for the bike was -- currently, we're not showing  
15 210 units. We were at -- we're showing 184 currently, but we  
16 have not done that market research to see if there's additional  
17 units. So we designed the building for 210 units. The current  
18 design shows 184. So we were asking for just a general  
19 flexibility for the unit.

20 The other flexibility that we were asking for was the  
21 brick color, and we were not asking for substitution of materials,  
22 it was more of a color and size of the brick. We got a little  
23 detailed in our drawings, but we thought we would just add that  
24 note for general flexibility for color and brick sizing in  
25 general. We were not asking for changes.



1 COMMISSIONER SMITH: Okay. Okay. That was my only  
2 question for now.

3 CHAIRPERSON HILL: That's helpful. Thank you, Mr.  
4 Smith.

5 COMMISSIONER SMITH: Uh-huh.

6 CHAIRPERSON HILL: Okay. Commissioner, would you like  
7 to go ahead and give us your testimony?

8 ANC COMMISSIONER VELASQUEZ: Yes, sir. Well, Mr. Chair  
9 and other members of the Commission, thanks for the opportunity  
10 to be here today. I was originally planning on drafting testimony  
11 and then when I learned the timing of this hearing, I thought I  
12 had other work commitments and so I'm going to ad hoc instead of  
13 get -- instead of giving written testimony.

14 I want to first acknowledge the efforts of Mr. Reid  
15 from the Zoning Commission staff and appreciate his help in  
16 facilitating my ability to be here and also facilitating other  
17 folks, if some of my constituents are able to join. I'm  
18 definitely interested in hearing what else they have to say.

19 Just to add a little detail to what I said before, on  
20 July 13th after a number of committee meetings, the ANC met to  
21 consider this application and passed it five to zero unanimously.  
22 We did put in a stipulation that there would be no loud music on  
23 the roof after 11 p.m. and that was certainly agreed to by the  
24 Applicant.

25 And I want to thank our volunteer chair of the ANC 6A

1 economic development and zoning committee, Mr. Brad Greenfield,  
2 for working with the Applicant and residents to consider this and  
3 provide a recommendation that we approve it and all of those who  
4 participated.

5 As Commissioner Miller mentioned, there was a map  
6 amendment hearing last year and I appeared then as a citizen, a  
7 concerned citizen, not as an elected ANC commissioner because the  
8 election hadn't happened yet in opposition to the map amendment  
9 knowing full well that it was likely to go through. But I just  
10 wanted to say for the record that I was previously opposed and  
11 now support this project, and that is in large part to the  
12 information that Mr. Miller and his team have shared, but more  
13 importantly, due to the fact that we have had deep and continuing  
14 engagement as a community with Mr. Miller and his team.

15 I would say, as is often the case, not everybody within  
16 my district agrees and thinks this is a good idea, there is large  
17 consensus that it's time to move forward. And given the scope  
18 of what is going to happen, Mr. Miller has made a lot of -- has  
19 responded very positively to the suggestions and the concerns of  
20 our community, particularly those who live closest on the north  
21 side of Linden Place who have the alley that is currently shared  
22 with the AutoZone parking lot. And he's been open to discussions  
23 about use of the property should the AutoZone leave before  
24 construction is started.

25 And so I just want to be here to represent both the

1 ANC, and in particular, my neighborhood to say that we are  
2 supportive of this and confident that Mr. Miller will -- and his  
3 team will continue to be reliable and strong partners on this  
4 effort and I stand by for your questions. Over.

5 CHAIRPERSON HILL: Thanks, Commissioner. Thanks for  
6 taking the time also to be with us today. My only question is  
7 the whole -- and also we're going to ask a question with the  
8 Office of Planning. It's had to understand what loud music is,  
9 like what was kind of loud music and what did that mean to your  
10 ANC?

11 ANC COMMISSIONER VELASQUEZ: You know, I know that  
12 there are city regulations that pertain to volume levels. And  
13 so I think -- and I also know that it just depends on the ownership  
14 at the time it's occupied and whether or not it's -- you know,  
15 whether or not that that particular stipulation is enforceable.  
16 But I think moreover, we wanted to share and strengthen the  
17 community's request and their interest in making sure that those  
18 folks whose backyards abut the property aren't subjected to bad  
19 behavior on the part of the residents and our hope that the owner  
20 at the -- that the owner would be a reliable partner in trying  
21 to ensure that that happens. So I know that loud is certainly a  
22 subjective term, but it was more of a sort of asking for  
23 consideration and getting the owner's support once the building  
24 is occupied. So then we don't have to seek enforcement action  
25 through the various city agencies, it would be sort of a self-



1 regulating effort. Does that make sense.

2 CHAIRPERSON HILL: Yep, and we can talk that through  
3 with my fellow Board members and also the Office of Planning and  
4 even the Applicant and yourself since we're all here today, can  
5 kind of figure out what that might mean and how one might be more  
6 comfortable. As you say, there are regulations, city  
7 regulations, that speak to that. And so we'll just kind of get  
8 through this a little bit as we go.

9 ANC COMMISSIONER VELASQUEZ: And so for example, if I  
10 could, you know, maybe that's something that they put into the,  
11 you know, if it becomes condominiums and there's an association  
12 that is put into the association bylaws that music needs to be,  
13 you know, at a certain level and we could -- and in compliance  
14 with whatever the city regulations are at the time, or if it's  
15 residential, that it's put into the lease, you know, a way to  
16 communicate with residents that that's an expectation.

17 CHAIRPERSON HILL: No, I appreciate it. We'll try to  
18 figure that out as we go through this.

19 ANC COMMISSIONER VELASQUEZ: Yes, sir. Thank you.

20 CHAIRPERSON HILL: All right. Does anybody have any  
21 questions for the commissioner? All right. I'm going to turn  
22 to the Office of --

23 ANC COMMISSIONER VELASQUEZ: I did want to add, if I  
24 could, just one more thing here, two more things for the record.  
25 You know, I appreciate the things I'm about to bring up are



1 largely out of the purview of the Zoning Commission, but we're  
2 troubled by the view of the District Department of Transportation  
3 and their restriction on curb cuts. I think that the neighborhood  
4 and the Applicant had some design ideas to activate the alley  
5 better and to reduce the concentration of vehicles in the alley.  
6 And unfortunately, the District Department of Transportation does  
7 not seem to favorably -- to view favorably our idea of different  
8 curb cuts, and I understand that they believe that once we have  
9 a new use for the property, that the curb cuts go to zero and  
10 then we have to -- the Applicant has to apply for more curb cuts.  
11 But I just want to state for the record that I'm disappointed  
12 that the District Department of Transportation is not more open-  
13 minded on some of the designs that we had, and I hope that they  
14 can change their approach with future developments along H  
15 Street. I know that in my district, I have two other developments  
16 along H Street, and I hope I can work -- and perhaps the new DDOT  
17 director will be more open-minded on this. Thank you, sir.

18 CHAIRPERSON HILL: Thank you, Commissioner.

19 All right. Can I turn to the Office of Planning?

20 MS. MYERS: Good afternoon. Crystal Myers with the  
21 Office of Planning. Office of Planning is recommending support  
22 for this case. We are recommending a condition be put on this  
23 project, and it would say something to the effect of no amplified  
24 music or loud music be played on the roof deck after 11 p.m. or  
25 the time -- or the time and restrictions included in the D.C.





1 Code and regulations, whichever is earlier. I know you were  
2 questioning what does loud music mean. We've kind of recommended  
3 similar types of conditions in other cases, I took a look at one  
4 that I did a few years ago on a PUD case, and in that case, it  
5 was just amplified music, so I'm kind of, you know -- maybe a  
6 better approach would be to just simply say no amplified music.  
7 But it is up to you all how you'd like to specifically word it,  
8 but it's not an unusual condition to put on a case like this.

9           And otherwise, there's no other relief needed in this  
10 case except for the fact that they are doing a development on a  
11 property that is over 6,000 square feet. So that is the only  
12 reason why they are in, so they meet all the other development  
13 standards. And so we did not -- and they met all the design  
14 requirements and we did not see there being any issues in this  
15 project, and again recommend approval. Thank you.

16           CHAIRPERSON HILL: What about, Ms. Myers, the design  
17 flexibility, and I want to clarify again, if I understand, between  
18 184 to 210 units, or the brick colors? I mean, I know we've done  
19 things as long as it doesn't increase or change any of the zoning  
20 relief requested, but does the Office of Planning have any  
21 thoughts on the number of unit discrepancy or variability?

22           MS. MYERS: We were aware of it. I mean, even in the  
23 report we say up to 210 units. They have provided information  
24 and we reviewed it as up to that maximum. They are required to  
25 do 20 percent IZ Plus and they will comply with that, as you saw

1 in their exhibit. It shows what that would look like, depending  
2 on how many units they do. But in this case, I mean, the actual  
3 unit number wasn't one of the criteria for the review. It was  
4 more the design of it and, you know, does it meet the development  
5 standards, which it does. So we didn't have an opinion on that.

6 And as for the design flexibility, I know you had  
7 questions about that, you know, I am "confined" to what the zoning  
8 requirements are, and the relief doesn't really get into  
9 flexibility with design. I know in PUD cases, what they're asking  
10 for is a very, very common request for a PUD case, and we normally  
11 in our reports would say, you know, it's standard design requests,  
12 flexibility, and OP has no objection to it. In this case, I did  
13 not bring that up because this is a BZA relief case, special  
14 exception relief case, and it wasn't one of their criteria. But  
15 I don't have an issue with it, you know, from an OP standpoint,  
16 we don't have an issue with it. That's all.

17 CHAIRPERSON HILL: (Indiscernible), Ms. Myers. Yeah,  
18 I mean, from the BZA side I thought that again what they put  
19 forward is what they had to build, and that's why we end up at a  
20 design -- this request is something that comes up, I guess, with  
21 us every now and again, like again, what I thought from the BZA,  
22 you know, we say as per the plans in Exhibit X, and then they  
23 have to build that unless we specify the flexibility, which in  
24 this case I guess we will. And if we did -- get to this point  
25 -- and that the Office of Planning is comfortable with the up to

1 210 units, 20 percent IZ Plus, and then the brick color, size,  
2 and -- the brick color, yeah, the color and size of the brick is  
3 not something that the Office of Planning had an issue with and  
4 that we would allow for flexibility of. And if the Applicant  
5 has other things that they'd like us to specifically speak to for  
6 flexibility, they should let me know as we get kind of down to  
7 that area.

8 Okay. Anybody have any further questions for the  
9 Office of Planning from my fellow Board members?

10 Commissioner Miller?

11 ZC VICE CHAIR MILLER: Thank you, Mr. Chairman, and  
12 thank you, Ms. Myers, for your report and work on this case. I  
13 don't know if this is a question for you, Ms. Myers, or for --  
14 or back to the Applicant, but either can chime in or both can  
15 chime in. On the IZ Plus units, I'm just -- wanted to know what  
16 the -- I assume if it's rental, that would be the 60 percent  
17 median family income for those 36 to 40 units, except maybe  
18 there's maybe -- there is maybe one 50 percent unit that's  
19 triggered by the penthouse space. I guess that was my question.  
20 Is there a 50 percent median family income unit that's being  
21 triggered by the penthouse space in this particular development?  
22 Does anybody know the answer to the question about what the median  
23 family income is for these units, for the IZ Plus units? And  
24 also, I wanted to know the mix and size -- the size mix of the  
25 units, one- and two-bedroom.



1 MS. MYERS: It is -- there's -- the requirement is that  
2 it be 50 percent for the penthouse IZ. So in this case, I believe  
3 the Applicant said that that will be one two-bedroom IZ unit  
4 that's related to the penthouse. IZ in that would be at that 50  
5 percent, or lower if they're going to do that, but it has to be  
6 50 percent. And the other IZs will have to be 60 percent or  
7 lower, and that's just the zoning requirement. I don't recall  
8 the unit mix. I think it might have been in the plans. I just  
9 don't recall off the top of my head, but the Applicant can  
10 probably shed some more light on that.

11 ZC VICE CHAIR MILLER: Yeah, if the Applicant could  
12 just amplify that a little bit on --

13 MR. GOINS: Yeah, Chairman Miller, I think right now  
14 as designed it is about 30 percent twos and 70 percent one-  
15 bedrooms.

16 MR. SANCHEZ: For (indiscernible) your question, our  
17 IZ distribution will match the distribution of the general  
18 building.

19 ZC VICE CHAIR MILLER: Okay. Well, thank you for that  
20 response. Are some of the -- I should have -- it's probably in  
21 the plans that were before us, but are some of the IZ units in  
22 the muse dwelling as well as the apartments, or are they  
23 distributed throughout the project as required by the IZ?

24 MR. GOINS: Yes. As in the penthouse, we would  
25 anticipate one of the units being a muse dwelling as well. We

1 had 9 or 10 units on the penthouse, and one would be IZ. We  
2 would think the same with the muse dwelling.

3 ZC VICE CHAIR MILLER: Okay. All right. Thank you.  
4 So I don't think I have any further questions. I would just make  
5 a comment on the design flexibility that's been requested just  
6 since it's been commented on by others. Yeah, I realize that  
7 it's unusual in BZA cases, but it's also somewhat unusual for BZA  
8 to be doing the design -- doing a design review case, they often  
9 come in conjunction with a PUD or something before the Zoning  
10 Commission. But I would just echo Ms. Myers' comment that this  
11 is not -- this is typical. These are typical design flexibility  
12 language that would be put into a PUD case or a design review  
13 case, which is what I think this largely is.

14 I guess I have one more -- so that was a comment, but  
15 I have one more question for Ms. Myers, and I should know the  
16 answer to this since it's a zoning regulation. So the regulation  
17 that we're being asked for relief from is the H Street corridor  
18 overlay design regulation that says that the lots shouldn't be  
19 -- for this zone should not be more than 6,000 square feet, should  
20 not be more than 6,000 square feet; is that correct? It's the  
21 -- the -- in general in this zone, in the H Street, that the lot  
22 should not be more than 6,000 square feet, but here it is  
23 considerably larger, and I assume -- and so I want a comment from  
24 Ms. Myers to my comments about -- my question and comments about  
25 this. I assume that that maximum lot size, not a minimum lot,



1 the maximum lot size of 6,000 square feet, was put there to  
2 encourage maybe a diversity of uses and designs along the H Street  
3 corridor to encourage -- to discourage maybe mega-block type  
4 developments and to enhance the pedestrian experience, which I  
5 think all of the design components of this project do try to  
6 address with the bays and the different storefront retail spaces  
7 and other entrances and the muse dwellings, the lower scale muse  
8 dwellings in the back adjacent -- closer to the row homes. But  
9 if you can just, Ms. Myers, if you have any clarification as to  
10 what the purpose of our zoning regulation that had the maximum  
11 6,000 square feet lot size that is what is the regulation that's  
12 being asked for relief in this particular case, which I'm inclined  
13 to give.

14 MS. MYERS: I'm not aware of there being a maximum lot  
15 size. It's more if you have a lot that is more than 6,000 square  
16 feet, you are required to go through a review process to -- for  
17 -- mostly for the design. My understanding is that this came  
18 from the H Street small area plan, so that is why they are in.

19 ZC VICE CHAIR MILLER: So just to make sure that there  
20 was a review of the design along the H Street corridor for larger  
21 projects? It wasn't stopping --

22 MS. MYERS: Exactly.

23 ZC VICE CHAIR MILLER: -- larger projects. Okay. Thank  
24 you.

25 CHAIRPERSON HILL: Did anybody answer the question

1 about the 50 percent unit, was there a 50 percent unit?

2 ZC VICE CHAIR MILLER: Yes. They said a 50 percent  
3 two-bedroom unit would be triggered by -- both, I think, the OP  
4 and the Applicant said --

5 CHAIRPERSON HILL: Oh, great, thanks.

6 ZC VICE CHAIR MILLER: -- the 50 percent two-bedroom  
7 unit would be triggered by the penthouse space.

8 CHAIRPERSON HILL: Great. Yeah, I see OP nodding in.  
9 Mr. Smith?

10 COMMISSIONER SMITH: He got one of my questions.

11 Ms. Myers, what was the maximum number of units that  
12 they said they were proposing, it would be 210?

13 MS. MYERS: Yes, 210.

14 COMMISSIONER SMITH: Okay. And, Mr. Goins, you're  
15 saying that you have not programmed the building in its current  
16 state now from a parking standpoint and whatnot for 210 units?

17 MR. GOINS: No. We have designed the parking and the  
18 bike and all the conforming zoning to 210 units. We currently  
19 show 184 units. We just have not done, you know, a full unit  
20 analysis just in case, you know, we need to make some of the  
21 units smaller. You know, we were just looking -- but we have  
22 designed the building for 210 units from a requirement from all  
23 zoning regulations.

24 COMMISSIONER SMITH: Okay. So with that, I'm still  
25 struggling with the reason for the flexibility. If you've



1 designed the building to meet the zoning requirements per the  
2 maximum amount of units that you are proposing to construct, so  
3 you want to go less than that, that's fine, you can play within  
4 the box, but I'm trying to figure out what's the reason for the  
5 request beyond that.

6 MR. GOINS: Well, I think when we designed the building,  
7 we were designing the building for -- we were looking at a lot  
8 of the community concerns and we were looking at designing the  
9 maximum number of units that we could get for the project, but  
10 when we designed the units are a little large and there was not  
11 a criteria. There hasn't been a market study done or anything  
12 of that nature. So we decided to ask for that flexibility from  
13 184 to 210 just in case, you know, to make the project work from  
14 the developer and owner standpoint, that if we had to add two  
15 units per floor to get up to that maximum to kind of make those  
16 numbers work. So yeah, we have not designed the interior units  
17 of the typical units on a typical floor, other than --

18 COMMISSIONER SMITH: I don't think we're approving the  
19 interior designs for the units.

20 MR. GOINS: Correct.

21 COMMISSIONER SMITH: I mean, the H -- this zone is more  
22 of a form-based code, so we're more looking at the bulk, the  
23 size, the mass, and you meeting the general zoning requirements.  
24 So I'm still struggling with the need for the flexibility.

25 Ms. -- and again, Ms. Myers, you evaluated the space



1 on that max number, so they're meeting the standard zoning  
2 requirements for parking, the other design things per the zone,  
3 regardless of the number of units?

4 MS. MYERS: Yeah, that's how I looked at it.

5 COMMISSIONER SMITH: Okay. All right. Thank you.

6 Mr. Chairman Hill, you're on mute.

7 CHAIRPERSON HILL: Thank you.

8 Commissioner Velasquez, you said maybe -- did you have  
9 something to say?

10 ANC COMMISSIONER VELASQUEZ: Yes, sir, thank you. You  
11 know, Commissioner Smith brought up a point about parking, and  
12 you know, I understand that the city has regulations with respect  
13 to restricting parking for residents in new developments, but  
14 given the fact that there is going to be some retail on the ground  
15 floor and there continues to be retail adjacent to the property,  
16 in fact, one restaurant owner is concerned about loss of parking  
17 and so I would ask -- continue to ask the owner, who has been  
18 receptive, and any D.C. body to not restrict the parking even  
19 further so that we can have public parking that allows for patrons  
20 of the retail within the building and patrons for retail and  
21 outside the building to ensure that there is some parking. Not  
22 everybody can take advantage of the many public transportation  
23 options. Some people still need to come via car, so we would  
24 ask to have the maximum number of parking spots available for the  
25 public cover.



1 CHAIRPERSON HILL: Yeah, Commissioner, that's something  
2 that, you know, if they're meeting the requirements, it's not  
3 something that we would request or implement, and I guess the  
4 owner would have that -- I mean, I'm sure if they can make some  
5 money off of it, they're going to go ahead and do public parking.

6 ANC COMMISSIONER VELASQUEZ: I just -- we know that the  
7 city gets concerned, and not necessarily this Commission but  
8 other agencies, ensuring that they don't overbuild for parking,  
9 and so I just want to make sure there aren't any restrictions on  
10 overall parking lots so that any excess parking beyond the city's  
11 requirements can be available for public cover.

12 CHAIRPERSON HILL: Got it. Okay, Commissioner. Thank  
13 you.

14 Does anybody have any -- Commissioner, do you have any  
15 questions for the Office of Planning, Commissioner Velasquez?

16 ANC COMMISSIONER VELASQUEZ: No, sir, I don't, and I  
17 just want to thank Ms. Myers for her additional information and  
18 clarification about the amplified music. That's helpful.

19 CHAIRPERSON HILL: Thank you.

20 Does the Applicant have any questions for the Office  
21 of Planning?

22 MR. GOINS: No, we do not.

23 CHAIRPERSON HILL: Okay.

24 Mr. Young, are there people here wishing to speak?

25 MR. YOUNG: Yes, we have two witnesses signed up.



1 CHAIRPERSON HILL: Could you give me their names please  
2 and let them in?

3 MR. YOUNG: The first is Abigail Nydam, and the second  
4 is Robert Pittman.

5 CHAIRPERSON HILL: Ms. Nydam, can you hear me, and if  
6 so, could you introduce yourself for the record?

7 MS. NYDAM: Hi. I can hear you. Can you hear me?

8 CHAIRPERSON HILL: Yes.

9 MS. NYDAM: Abigail or Abby Nydam.

10 CHAIRPERSON HILL: Okay. Ms. Nydam, as a member of the  
11 public, you'll have three minutes to give your testimony, and you  
12 can begin whenever you like.

13 MS. NYDAM: Great. Thank you so much. Hello and good  
14 afternoon to everyone. Thank you for the opportunity to speak  
15 with you today. My name is Abby Nydam and I live on Linden Place  
16 with my husband and our boxer dog, Snorkel. Our property abuts  
17 the alley facing the current AutoZone parking lot. Along with  
18 my north side neighbors, we have the most to gain or lose with  
19 this development. We moved in February of 2022, and shortly  
20 thereafter learned that this lot would be developed into a large  
21 multi-use building. If we had known this, we probably would not  
22 have purchased the house, as we both work from home and need to  
23 ensure that our living environment is quiet.

24 Over the last 19 months, we have diligently kept  
25 abreast on the ongoing for this development and have received a

1 lot of misinformation from interested parties or outright lack  
2 of information around all things pertaining to this project and  
3 the implications it will have on our lives, homes, and businesses.  
4 In fact, some of my north side neighbors did not even receive  
5 the mailed announcement of this hearing today. I'm very surprised  
6 to hear that Mr. Miller and colleagues say they have worked with  
7 the community with 18-plus meetings as we live on the alley and  
8 have only been involved in one meeting.

9 But I guess it depends on the definition of community.  
10 In fact, most of the north side residents first learned of the  
11 design in the press. Just a few months ago, on the request of  
12 Commissioner Velasquez, the north side neighbors elected John  
13 Simons, who's been working with Mr. Miller on all communications.  
14 Mr. Simons is a neighbor on the north side and has done a  
15 wonderful job communicating our north side concerns and questions  
16 to Mr. Miller.

17 I think it is really important that we have one neighbor  
18 representative, one single point of contact, and that should be  
19 John Simons. However, we are still very unclear on the following  
20 things and have yet to receive answers, and our concerns grow.

21 The security of the alley, use of the alley. Will it  
22 now have cars, delivery drivers there? Will it be a one-way or  
23 a two-way alley? Right now, it's just a one-way.

24 Trash collection and bin placement. Right now, our  
25 trash collection is in the alley. How does this factor in?



1           Street parking. Where are all of these people going  
2 to park? I think the garage only accounts for 66 spaces, which  
3 Commissioner Velasquez mentioned. Right now, we have trouble  
4 street parking.

5           Rooftop noise concern and mitigation, which was  
6 discussed.

7           Alley maintenance, who will be responsible for this?

8           Electrical implications. Our lines are in the alley.

9           Implications of construction on the required, "quiet  
10 enjoyment and basic services of our home," sewer, water, gas,  
11 electrical disruptions.

12           Structural integrity of our 100-plus-year homes, and  
13 will builders' insurance cover this? Please note that when a  
14 large truck drives down Linden Place, our homes shake. What will  
15 be done to mitigate structural damage to our homes?

16           I am concerned that we cannot get answers. I'm  
17 concerned that we won't be able to get answers when they're  
18 critically needed. It does not inspire a lot of confidence and  
19 we're talking about a major artery of our nation's capital. I  
20 am pro development. My husband is as well, and we are pro  
21 progress, and I think we all can agree that something positive  
22 needs to happen to that lot and to that AutoZone building. But  
23 we would like more communication. We would like more involvement  
24 and input with the right and correct parties. This redevelopment  
25 will affect our quality of life, property value, and more,



1 particularly for those with the most equity on the north side.

2 I recommend that this Committee pause progress on  
3 further action until our concerns are heard and addressed, our  
4 questions are answered with the appropriate parties, and with our  
5 representative from the north side. Thank you very much.

6 CHAIRPERSON HILL: Thank you, Ms. Nydam. I'm going to  
7 hear all the testimony and then ask the Board if they have any  
8 questions. I believe one more person was added.

9 Mr. Pittman, can you hear me? Mr. Pittman, can you  
10 hear me? Maybe you're on mute, Mr. Pittman.

11 MR. PITTMAN: There I am. Okay. All right. So I'm  
12 Robert Pittman from the -- can you hear me?

13 CHAIRPERSON HILL: Hello, can you hear me?

14 MR. PITTMAN: Yes.

15 CHAIRPERSON HILL: Can you introduce yourself for the  
16 record first, sir?

17 MR. PITTMAN: Yes. I am Robert Pittman of the Linden  
18 Neighborhood Association. We are an advocacy group, and so we  
19 find ourselves here --

20 CHAIRPERSON HILL: Hold on, Mr. Pittman. Mr. Pittman,  
21 give me a second. So you're an advo- -- you're a group of whom,  
22 representing whom?

23 MR. PITTMAN: We are a group of neighbors. We are an  
24 incorporated entity of neighbors. I'm trying to get a picture  
25 here. Here I am. We are a group of neighbors who have been



1 working on the development of AutoZone for decades.

2 CHAIRPERSON HILL: Okay.

3 MR. PITTMAN: And we have finally gotten to the place

4 --

5 CHAIRPERSON HILL: Okay. Mr. Pittman, Mr. Pittman,  
6 give me a minute. I'm just letting you know as an organization,  
7 you'll have five minutes, not three minutes. And the clock is  
8 right there and you can begin whenever you like.

9 MR. PITTMAN: Yes, sir. So we are the ones who reached  
10 out to Ben Miller and his team, Allison Prince, his attorney, to  
11 start the ball on the conversation regarding the redevelopment  
12 of the AutoZone property. We have worked on this a long time,  
13 starting with the Pep Boys project coming through to AutoZone,  
14 finally getting to this point. We've made sure that every single  
15 person that lived in the 1200 block of G, the 700 block of 13th  
16 and 12th Street, H Street, and Linden Place were aware of this  
17 project. All of our meetings have been documented, they've been  
18 transcribed, and they have been linked on the local listserv,  
19 which is operated by a resident on the north side.

20 You'll hear comments today about north side residents  
21 and their concerns. We recognize and respect that. No one can  
22 represent every single person, and everyone on the north side  
23 were not included in all of the conversations that are being  
24 discussed, particularly by an individual. But we're going to  
25 move past that because we've gotten somewhere where we've not



1 | been able to get before. Mr. Miller has been helpful and willing  
2 | to meet with us on multiple occasions, and we've had a number of  
3 | virtual meetings regarding the project.

4 |           But there are some concerns. Some of the neighbors  
5 | have concerns about their trash cans. And while we recognize  
6 | that that is not a BZA issue, they put their trash cans on the  
7 | north side of the alley and never take them in. And some of the  
8 | residents on the north side complain that those residents do not  
9 | take those trash cans in. But again, minor issue. Mr. Miller  
10 | has agreed, and he and I talk quite often, he has agreed that he  
11 | would work with the neighbors on the north side to modify their  
12 | fences or come up with some other way to address the concern that  
13 | they have.

14 |           Another neighbor on the north side has an issue about  
15 | her bicycles and whether or not because of DDOT, as Mr. Velasquez  
16 | has indicated, or Commissioner Velasquez has indicated, we really  
17 | don't want that alley to turn into a street. But DDOT has imposed  
18 | certain conditions in a residential neighborhood, abutted by a  
19 | commercial overlay, that causes them to think that that is the  
20 | way to go. So I echo the point that Mr. Velasquez made. If  
21 | there could be some movement or adjustment as it relates to curb  
22 | cuts on the 12th Street side, that would offset some of the  
23 | problems that the neighbors feel that will create both pedestrian  
24 | -- we have this great picture of people walking in the north  
25 | alley, a nice bricked alley, but if you have all of these vehicles



1 that are turning off of 12th Street into this building, we  
2 potentially put the pedestrians at risk, we potentially put our  
3 cyclists at risk. I'm a cyclist. So those are some of the  
4 concerns that we would have. Eddie Curry, he had to be pulled  
5 into another meeting, but that -- I think that is primarily some  
6 of the concerns that we have. We've not had a chance to read  
7 the Office of Planning report. We've not had a chance to  
8 completely read all of the DDOT report.

9           The above, I'm wondering if there'll be security  
10 (indiscernible) for the front of the building at 12th and H, but  
11 I'm sure that those are design issues that we will get to at a  
12 later time. So thank you for the opportunity to present these  
13 views. Again, there are a few people who have at varying degrees  
14 and we're willing to work with them on that, but the vast majority  
15 of people do understand that it's time to move on, as Commissioner  
16 Velasquez has indicated, but there are some concerns and we can  
17 work through them as a neighborhood and not as one section or  
18 another. And we do need to recognize the 12th Street residents  
19 who have also been involved and definitely our 13th Street  
20 residents who have also been involved in this project. Thank  
21 you.

22           CHAIRPERSON HILL: Thank you, Mr. Pittman.

23           Mr. Curry, can you hear me?

24           MR. CURRY: Yes, sir, I can.

25           CHAIRPERSON HILL: Okay. Great. Could you introduce

1 | yourself for the record please, sir?

2 |           MR. CURRY: Yes, my name is Eddie Curry. I'm a resident  
3 | of Linden Place on the north side specifically.

4 |           CHAIRPERSON HILL: Okay.

5 |           MR. CURRY: My home is directly behind the present  
6 | AutoZone.

7 |           CHAIRPERSON HILL: Okay. Mr. Curry, as a member of the  
8 | public, you'll have three minutes to give your testimony and you  
9 | can begin whenever you like.

10 |           MR. CURRY: Thank you so much, sir. Well, I just wanted  
11 | to echo the fact that communication is key when it comes to a  
12 | project such as this and I feel that that ball has been dropped  
13 | as far as the north side -- or the west -- northwest side of  
14 | Linden as far as our end. I think that message of what's  
15 | happening and what's taking place should be broadcast in other  
16 | means other than just emails. We should get information firsthand  
17 | as things are progressing and not at the back end of things.  
18 | Yes, we have had meetings in the past. As of late, I don't think  
19 | that there have been any face-to-face types of meetings that I  
20 | think that would be beneficial so that we are in the know.

21 |           Now, I will say my primary concern as a resident who  
22 | lives directly behind the AutoZone and who has a permanent fence  
23 | and not a wooden one, you know, it's just the traffic that's  
24 | going to come back there due to whatever takes place. I'm for  
25 | development as well and I'm for safety as well, but the tradeoff



1 from having a wonderful nice alley that we finally have that's  
2 quiet without a lot of traffic, that's going to be a major  
3 transition for us. And my thing is it's just going to be  
4 important to just kind of make sure that the impact of this new  
5 development does not hurt us as residents.

6 I'm a long-term resident. I've been a resident of  
7 Linden Place for 23 plus years, and my thing is I'm not going  
8 anywhere anytime soon, and so I want to make sure as we go into  
9 the future that they are good neighbors, whoever comes into the  
10 neighborhood as a developer, and that they are engaging us. I  
11 feel that the work that we've done in the community overall, you  
12 know, as far as building up the H Street quarter and supporting  
13 it and the other aspects of the neighborhood, you know, the reason  
14 folk want to come and be a part of our neighborhood is because  
15 of the work we've done in the past. And my thing is we've done  
16 the work, and why should we be impacted negatively by new  
17 development, and so I'm just really concerned about that.

18 And another thing I'm concerned about too, I notice  
19 that in the DDOT documentation that was sent out today, they were  
20 saying about 66 spaces for parking and things of that nature when  
21 they alluded to the fact that there could possibly -- well, in  
22 my mind, I'm thinking well, 66 parking spaces for 210 units,  
23 interesting, but I think that there's going to be an issue of  
24 parking or a impact as it relates to parking on our neighborhood.  
25 And my thing is that needs to be addressed and it'll be nice to



1 have a plan or a study to that degree because there was a  
2 statement in there that said that there is permit eligibility if  
3 they use the 12th Street address or something to that effect as  
4 opposed to H Street. And my thing is well, I'm sure they will  
5 probably do that and that's going to be a major impact on our  
6 particular area.

7           So that's something to look at as well as the, you  
8 know, once again, just the alley in itself and the safety. I  
9 think that's just a major thing. And I definitely want to mention  
10 too -- and when I talk about the alley, I'm talking about as far  
11 as unloading and loading because some of the homes are older  
12 homes, of course, and they have -- and they can only remove things  
13 from their home from the back. And so we have to take things  
14 out like large refrigerators or large sofas, et cetera, what have  
15 you, they only can come out through the back. So we need our  
16 alley in order to load or unload or to get rid of items.

17           If we're having work done on any of our older homes,  
18 we have to work from the back. That's our alley. It's been our  
19 alley for the longest. Yes, it's public, but it's for our use,  
20 I will say primarily. And my thing is it'd be nice if we are  
21 not impacted by that use being limited by such an effort or  
22 project. But those are just a few of my concerns and I just  
23 would like to see if anything -- you know, some mitigation or a  
24 discussion or some type of plan to make sure that we are clear  
25 as it relates to things going forward.



1 CHAIRPERSON HILL: Okay. Thank you, Mr. Curry.

2 MR. CURRY: Thank you.

3 CHAIRPERSON HILL: Mr. Curry, how long you been there?

4 MR. CURRY: Twenty-three plus years, since -- well,  
5 since 2000 actually. Yeah.

6 CHAIRPERSON HILL: Wow, that's incredible. You've seen  
7 a lot of changes.

8 MR. CURRY: A lot of change and been a part of a lot  
9 of change, yeah.

10 CHAIRPERSON HILL: Well, that's good. Well, AutoZone's  
11 been there a long time, Mr. Curry.

12 MR. CURRY: Yup, watched it build. I remember when it  
13 was a empty lot.

14 CHAIRPERSON HILL: Yeah, I remember that as well  
15 actually.

16 All right. Let's see, Commissioner Velasquez, is this  
17 your SMD? I forget what you said.

18 ANC COMMISSIONER VELASQUEZ: Yes, sir, it is.

19 CHAIRPERSON HILL: All right. So Linden Place is in  
20 your SMD?

21 ANC COMMISSIONER VELASQUEZ: Yes, sir.

22 CHAIRPERSON HILL: Okay. All right. Thank you.

23 All right. Does the -- to answer some of the questions  
24 -- and -- or at least make some point of it, there are regulations  
25 as to how these buildings will be built in a way that protects

1 the neighborhood, and then there is -- Department of Buildings  
2 has a mechanism that you can call if there is any kind of issues  
3 during the actual build-out. That's not really something that  
4 is kind of within our purview. Really, the things that you're  
5 hearing us discuss in terms of, again, this being a 6,000-square  
6 foot lot, as to how it's here for kind of not really design  
7 review, but just kind of the overall how the building is going  
8 to interact with the community. Some of the issues, again, in  
9 terms of the alley and the access, it is a public alley and that's  
10 something that you guys will be able to continue to use. However,  
11 the DDOT issues, again, as far as like curb cuts and things,  
12 unfortunately, again, as the Commissioner has mentioned, is not  
13 something that is within our purview.

14 The music is something that we are going to -- or not  
15 music -- the amplified music is something that we're going to be  
16 talking about as we kind of continue through this.

17 Does the Board have any questions of the witnesses?

18 Commissioner Miller?

19 ZC VICE CHAIR MILLER: Thank you, Mr. Chairman. I just  
20 wanted to thank Ms. Nydam -- is that the way you pronounce your  
21 name -- yes, Ms. Nydam, Mr. Curry, and Mr. Pittman for your  
22 participation and testimony here today on this project. I think  
23 that several of the concerns that had been raised are addressed  
24 in the record and can be addressed by the Applicant and we may  
25 hear some of that on the rebuttal today, but we may be asking



1 for a more amplification of that depending upon what we hear on  
2 rebuttal in conclusion. But I just wanted to thank you for your  
3 participation. And Mr. Pittman, thank you for all your work.

4 MR. PITTMAN: Thank you, Commissioner Miller.

5 ZC VICE CHAIR MILLER: Oh, yeah, there you are. Looking  
6 on the Hollywood Squares screen and sometimes I lose somebody.  
7 There you are. It's good to see you --

8 MR. PITTMAN: It's good to see you.

9 VICE CHAIR MILLER: -- and I know you have worked for  
10 decades on improving your community, particularly, but also the  
11 District of Columbia as a whole and we appreciate that as a city  
12 and we've been the beneficiary of all of your good work. So we  
13 appreciate all of that.

14 I'm not sure I have any questions at that time. I will  
15 have further comments at a later point maybe. Thank you.

16 MR. PITTMAN: Thank you.

17 CHAIRPERSON HILL: Thank you, Commissioner Miller.

18 All right. I echo the Commissioner's sentiment. Thank  
19 you all very much for coming and spending the time with us today.  
20 It is much appreciated.

21 Mr. Young, if you could please excuse the witnesses?  
22 Okay. Give me one second, you guys.

23 (Pause.)

24 CHAIRPERSON HILL: Okay. I'm back. Sorry about that.  
25 Let's see, where is Mr. Miller, Mr. Miller, not Commissioner

1 Miller, the owner Mr. Miller, I've lost him. Oh, there we go.  
2 All right, Mr. Miller. I heard that, right, you've been working  
3 with Ms. Prince which is also good. You guys, have you thought  
4 about some kind of a community liaison or some way that -- you  
5 know, we've done things in the past where we've asked for a  
6 community liaison to kind of give reports or participate in the  
7 ANC meetings or at least create a community liaison so that the  
8 SMD would have a contact. Have you thought of that or have you  
9 done that in the past on any of your projects?

10 MR. MILLER: Yeah. Yeah, I mean, actually, I thought  
11 it might be useful for Mike Velasquez to kind of reframe some of  
12 the conversation because it was a little bit confusing to me  
13 because I have been working with different neighbors and  
14 different ANC members and gone to the ANC many times and have  
15 like -- so some of the feedback's confusing to me actually, to  
16 hear now, right, after a couple years doing this work. So maybe  
17 Mike -- maybe you could frame that a little bit because I actually  
18 thought I had been working with members.

19 So before I get into the little details, I think it'd  
20 be helpful for Mike to kind of frame some of the work that's  
21 happened to date because I think you're hearing sort of pieces.

22 ANC COMMISSIONER VELASQUEZ: Yeah, so if I could, Mr.  
23 Chair? Thanks, Ben. I'm glad that Ms. Nydam and Mr. Curry and  
24 Mr. Pittman testified. They're all my constituents, all my  
25 neighbors and I've talked with them before. I will tell you that





1 I intended to sort of convene an informal SMD meeting in advance  
2 of this testimony, but some of -- there were other incidents  
3 along H Street which took my time, and as a volunteer, and I  
4 think you all are volunteers as well so, you know, I appreciate  
5 that, it -- I just had other things to do.

6 I would offer that I appreciate your suggestion, Mr.  
7 Chair, of a community liaison. I'd like that in concept and in  
8 theory and would be all for it except I would share that Mr.  
9 Miller has been personally involved in conversations with Mr.  
10 Simons and with Mr. Pittman and with me and with some other folks.  
11 And so at the risk of my own reelection, I would offer that if  
12 there is a lack of communication, I would take more responsibility  
13 than I think we would give to Mr. Miller.

14 Now, to be fair, some of the questions that Ms. --

15 CHAIRPERSON HILL: Mr. Velasquez, Mr. Velasquez,  
16 Commissioner, Commissioner? It's okay. I don't want you to say  
17 anything at this point that's going to take it one way or the  
18 other because you seem to be a good commissioner there. It would  
19 be more along the lines of a liaison to work with the SMD or the  
20 ANC --

21 ANC COMMISSIONER VELASQUEZ: Yeah.

22 CHAIRPERSON HILL: -- and that's something that we can  
23 either put as a condition or reference in the order that the  
24 Applicant is willing to create a community liaison that will be  
25 available to the SMD and so that would be the way that the

1 community will be able to get information and/or there would be  
2 a way of communicating with the project.

3 And I guess, Mr. Miller, you would be comfortable with  
4 that?

5 MR. MILLER: Yes.

6 CHAIRPERSON HILL: Okay. All right. So that would  
7 help then -- I mean, as this is going forward and everything,  
8 you know, like trash, noise, whatever, at least there's a way the  
9 SMD, who is the elected official for that area, would at least  
10 have a mechanism with which to communicate with the owners. So  
11 that would be --

12 ANC COMMISSIONER VELASQUEZ: And particularly moving  
13 forward during the development as things come up on a day-to-day  
14 basis, I think it would be helpful to have somebody because I  
15 know Mr. Miller, this is not his -- this is not the only thing  
16 he does during the day so having a liaison would be helpful and  
17 I appreciate that suggestion.

18 CHAIRPERSON HILL: Okay. Great. All right.

19 Does the Board have any questions?

20 Go ahead, Commissioner Miller. I'm sorry, yeah, same  
21 Commissioner Miller, but Vice Chair Miller.

22 ZC VICE CHAIR MILLER: Yeah, and I appreciate that  
23 distinction. Whenever people referred to Mr. Miller, they were  
24 referring to the Applicant, Ben Miller, and people have called  
25 me Commissioner Miller or Vice Chair Miller so I hope the record

1 is clear on that. Maybe people have to watch it in order to see.  
2 But the one question I had, Mr. Ben Miller, is do you have a --  
3 on the issue of the H Street address versus the 12th Street  
4 address whereas I understand that the -- if it's H Street, the  
5 residents of the building would not be eligible for R --  
6 residential permit parking, which I assume the ANC would prefer  
7 that the residents of the building not be eligible for RPP. Is  
8 that correct, Mr. Velasquez, first of all?

9 ANC COMMISSIONER VELASQUEZ: Yes, sir, not only is that  
10 my position, that's consistent with other buildings along H  
11 Street.

12 ZC VICE CHAIR MILLER: Right. So my question is -- to  
13 Mr. Ben Miller is will the building have a H Street address so  
14 the residents will not be eligible for RPP whereas if you had a  
15 12th Street address, it would be -- they would be eligible, as I  
16 understand it, from DDOT's report?

17 MR. MILLER: Yeah, it's a H Street address. The lobby  
18 which is in the current design is on H Street. So I'm not exactly  
19 sure where the confusion came from. An example of something of  
20 confusion, there's an H Street address so I don't know where in  
21 the material it might have some conflict, but it's -- the design  
22 has the lobby on H.

23 ZC VICE CHAIR MILLER: Right, and that makes sense that  
24 you would want people to know where it's located and that would  
25 -- the 1207 H tells you where to go. So okay. Thank you very

1 much.

2 That's it, Mr. Chairman, I don't have any further  
3 questions at this time.

4 CHAIRPERSON HILL: Thank you, Vice Chair Miller.

5 Mr. Smith?

6 COMMISSIONER SMITH: I have no additional questions.

7 CHAIRPERSON HILL: Okay.

8 Mr. Goins, you have anything you'd like to add at the  
9 end? You're on mute, Mr. Goins.

10 MR. GOINS: Yeah. I think we're good, thank you.

11 CHAIRPERSON HILL: Okay. So y'all excuse me again for  
12 one more second.

13 (Pause.)

14 CHAIRPERSON HILL: Okay, guys. Sorry, I just had to  
15 check on something. All right. All right. I don't have anything  
16 else. I'm going to go ahead and close the hearing and the record.  
17 Thank you all very much for your time. Have a good day. Bye-  
18 bye.

19 Okay. So I think that we had a pretty good hearing and  
20 heard a lot from different people and think this project has been  
21 going on for a pretty long time. Just on a side note, I mean,  
22 that lot's been there a long time. That AutoZone I can't believe  
23 has been there through this whole process.

24 The -- what is before us again is highlighted in the  
25 Office of Planning's report concerning construction of a new

1 building on a lot that has more than 6,000 square feet and the  
2 different criteria that we are to look at. I think that the  
3 building is meeting that criteria. It's something that the BZA,  
4 we don't look at really design review, but there seems to be some  
5 issues that are kind of design review, and/or as Vice Chair Miller  
6 had mentioned before, it is also a way that the Zoning Commission  
7 has made sure that this at least pops before us as well as the  
8 ANC and goes through the process so that all of the neighbors or  
9 the neighborhood and community have an opportunity to hear what  
10 is going to be proposed.

11 I do think that the neighborhood has been given notice  
12 and has had an opportunity to work through the process as from  
13 all the testimony we've heard in terms of also just working with  
14 the ANC, in terms of working with some of the other community  
15 groups. I can clearly see why members of the public from the  
16 north would be most concerned, because this is now a much larger  
17 project that is going to be in their back yard. And I think that  
18 if we did reference a community liaison that would be provided  
19 to the SMD and we can put that in the order, that way there would  
20 be a person that the community would be able to reach through  
21 the SMD in order to ask any questions about construction and  
22 noise issues and parking issues and just general good neighbor  
23 policy information sharing. That would be something that we've  
24 done in the past. That would be something that I think would  
25 run with the life of the project in terms of someone being

1 available, whoever the ownership is, there would be someone who  
2 would be assigned from the ownership to act as the community  
3 liaison and even if that were to be a condominium association,  
4 somebody from the association could be asked to work with the  
5 SMD.

6           It being such a large group of people, I am sure that  
7 those people will be involved in their SMD and their ANC or at  
8 least some people will. And so there will be new neighbors that  
9 will be also interested in making sure that their neighborhood  
10 is taken care of. So that would be something that I would ask  
11 my colleagues to think about us proposing.

12           The design flexibility, I think that up to the 210  
13 units I would be comfortable with because, again, it was I guess  
14 the 20 percent IZ Plus. I didn't really have an issue as did, I  
15 guess, the Office of Planning with the brick-colored sign --  
16 brick, color, and size and/or standard design flexibility being  
17 allowed for the project as per ones that, I guess, come before  
18 the Zoning Commission but is not things that we put forward.

19           In terms of the amplified music that the Office of  
20 Planning has put forward, I guess, you know, in the order we  
21 might be able to say something along the lines of, as the Office  
22 of Planning has again put forward, amplified noise, I guess. I  
23 don't know, I mean, it might not be music, right? I mean, just  
24 amplification, in general, amplified noise -- and I'm looking at  
25 Office of Planning's report here real quick. No amplified -- I

1 mean, amplified noise, I love it -- no amplified noise will be  
2 allowed on the roof deck at -- oh, no -- yeah, no amplified noise  
3 will be allowed on the roof deck after 11 p.m. or the time  
4 restrictions included with the D.C. Code and regulations,  
5 whichever is earlier. And that, unfortunately, we can't change  
6 the regulations that are put forward. So there might be something  
7 that you're allowed to play it until whatever time, but we can  
8 at least put something in the order that says this has been  
9 discussed with the BZA and is a concern, and that also that will  
10 be something that the liaison would be able to work with the SMD  
11 if that actually became an issue.

12 So those are all my thoughts.

13 Mr. Smith?

14 COMMISSIONER SMITH: I don't think I have anything in  
15 addition to -- well, I do. I mean, let me back that up. I agree  
16 with, by and large, with what you've stated regarding this  
17 particular case. I think one of the concerns that I had was  
18 about the requested ability to vary some of the things. And as  
19 I stated a little bit earlier with the Applicant, that, you know,  
20 this is a form-based code and based on what was evaluated by the  
21 Office of Planning was evaluated based on the maximum number of  
22 units that they propose. So if they want to have -- if they want  
23 to play within that box, 210 and less, then I don't believe it  
24 would -- you know, it would -- there would be no need to vary  
25 based on -- let's see, where is it -- Subtitle A 304, deviations



1 and modifications permitted by the zoning administrator's ruling.  
2 So if it's less, I don't think that it would substantially change  
3 our intent if we were to approve this where the zoning  
4 administrator could vary that number less than that. They're  
5 proposing 180 some odd units, but the analysis was conducted  
6 based on 210 units. Regarding -- so I'm not in favor of adding  
7 that request to vary.

8 As far as exterior materials, I don't believe that the  
9 request was for -- again, I believe that this is a form-based  
10 code more about the scale and size and pattern, so I'm not  
11 necessarily in favor of adding that ability to vary because I  
12 don't think we're approving the materials here, but I -- you  
13 know, I could be so inclined to just include that one just as a  
14 measure of caution.

15 Outside of that, I do believe that Applicant has met  
16 the burden of proof for us to grant the special exception for  
17 them to construct the six-story building. I applaud the Applicant  
18 for coordinating with the ANC and greater neighborhood to take  
19 into account their concerns regarding the design and the unit mix  
20 including the IZ units, and I also support the inclusion of the  
21 condition (indiscernible) proposed by the Office of Planning, but  
22 under consultation by the -- as requested by the neighborhood to  
23 have a condition that it speaks to noise, not in the way it's  
24 worded. I would recommend removing loud music, so no amplified  
25 music, as you stated, and I think that would -- and after 11 p.m.



1 I think we probably should have a time, so if it's 11 p.m., then  
2 that's the cutoff. That's probably more restrictive than the  
3 D.C. Code, to be completely honest, and we -- that would be my  
4 recommendation as a condition and I welcome any feedback that you  
5 all may have.

6 CHAIRPERSON HILL: Okay. Thanks, Mr. Smith, and  
7 actually I stand clarified. We would be saying 11 p.m.,  
8 regardless of whatever the Code says. We would agree to this  
9 and it would be amplified noise.

10 And then just so I'm clear, you're fine with, as the  
11 Office of Planning was speaking, design up to 210 units, design  
12 up to 210 units, and then instead of getting into this brick  
13 color and whatever, said -- and then I was just going to say and  
14 standard design flexibility as long as it does not trigger  
15 additional relief. Are you comfortable with those two comments?

16 COMMISSIONER SMITH: Yeah, I'm comfortable with those  
17 comments.

18 CHAIRPERSON HILL: Okay. And -- my dog has joined us.

19 And Commissioner Miller, can we hear your thoughts?  
20 Vice Chair Miller, Vice Chair Miller, can we hear your thoughts?

21 ZC VICE CHAIR MILLER: Thank you, Mr. Chairman.

22 I think I -- I support this application. I believe the  
23 Applicant has met the standards for relief and I think I've  
24 expressed most of my comments in the dialog that I previously  
25 have had with the Applicant, the ANC representative and with the



1 community representatives and with also Planning and with my  
2 colleagues. So I'm not going to repeat all of the positive  
3 aspects of this project which this relief will facilitate.

4 So I support your recommendation, Mr. Chairman, that  
5 there be a community liaison condition. I support the Office of  
6 Planning and ANC recommendation that there be a -- no amplified  
7 music or other amplified sound. You said amplified noise. I'll  
8 leave it to our counsel or you with our counsel to figure out  
9 the exact wording of that condition. It should be in line with  
10 other similar noise restriction conditions that have been done  
11 in other zoning cases in the past both by BZA and Zoning  
12 Commission and with the 11 p.m. restriction or earlier or more  
13 stringent, if the Code requires, I think that was part of the  
14 condition recommended by the Office of Planning. So it's either  
15 the no amplified sound after, you know, after 11 p.m. or other  
16 more restrictive conditions that may be in D.C. Code or  
17 regulations. I think it's important to have that in the  
18 alternative, that condition, so that the most restrictive  
19 condition applies.

20 I know I've had a friendly disagreement with the Board,  
21 with the majority of this Board, and with our counsel in the past  
22 on transportation, parking, and traffic-related conditions being  
23 part of the BZA order. I personally don't think that there is a  
24 problem with that where it is designed to mitigate potential  
25 impacts from the relief that's being requested. And here, this



1 project is facilitated by the relief that's being requested  
2 through our design review -- through our review today. And I  
3 think the concerns -- since there have been concerns expressed  
4 by a couple community members -- or one community member today  
5 and -- or maybe it was a couple community members -- and even  
6 the ANC in terms of parking and traffic, I think the  
7 transportation demand management program that the Office -- that  
8 the DDOT recommended should be part of our order as a condition  
9 because I think it does go to the general potential adverse  
10 impacts that this special exception relief would trigger  
11 potentially.

12           So I think a lot of the -- there -- a lot of the TDM  
13 measures are designed to alleviate traffic and parking concerns  
14 and they've been the standard part of planned new developments  
15 as mitigation in the past, and I think here it does address the  
16 general special exception criteria that there not be potential  
17 -- that we can -- that there -- should not result in potential  
18 impacts on the neighboring properties. So I would support, but  
19 I realize that a majority of the Board might not support the TDM  
20 being part of that condition, but I would support it.

21           The Applicants testified that they intend to have the  
22 H Street address which would restrict our -- would prevent RPP  
23 eligibility for the residents of the building. That's been a  
24 standard condition that the Zoning Commission also has placed in  
25 the past. I know there's controversy about whether that's

1 enforceable on its own and then -- in those PUD orders or how  
2 well that's working, but I think it does address a potential  
3 parking and traffic adverse impact and I would -- if we're not  
4 going to do the TDM plan, I would like to have the RPP restriction  
5 language condition in there that is typical for Zoning Commission  
6 orders to mitigate potential adverse impacts.

7           And then moving on to the design flexibility, I have  
8 no problem with any of the design flexibility requirements. On  
9 the up to 210 units, my only concern is if we don't do the varying  
10 language which is more typical for that type of flexibility -- I  
11 mean, they said that they -- it's -- the plans in front of us  
12 are designed to go to 210. They're planning to do 184 they've  
13 told us -- testified today. I would prefer to have the language  
14 with that variance of units, I want to get -- make sure we get  
15 the minimum number of housing units that this whole zoning map  
16 amendment IZ Plus was designed to get. If we say up to 210, it  
17 could be one unit. You know, I don't want it to be -- I want  
18 there to be a minimum amount. They said 175 or 184 to 210. I'd  
19 prefer to have that varying -- that design flexibility. It's  
20 typical -- all the language is typical of Zoning Commission orders  
21 at least.

22           So that's where I am. I'm supportive of this  
23 application going forward with the conditions that I've outlined,  
24 but I realize that not everybody might be on board with all of  
25 them. Thank you.

1 CHAIRPERSON HILL: Okay. Yeah, Commissioner. I don't  
2 have a problem -- and maybe Mr. Smith is about to second it --  
3 like with the range in terms of like I don't want them to be like  
4 50 units or 100 units. I mean, I'm fine with the range. And  
5 we've added TDM language to a lot of our orders. So that's not  
6 -- I don't really know the specificity that you're speaking of  
7 in terms of what we have not used in the past. We've used TDM  
8 plans all the time.

9 But Mr. Smith, you had your hand up? You're on mute,  
10 Mr. Smith.

11 COMMISSIONER SMITH: I get the concerns raised by Mr.  
12 Miller, I'm just -- from a legal standpoint -- and we're getting  
13 a lot of requests for some reason lately for variability and I  
14 don't know if we are -- the variability, the BZA's ability to  
15 vary to me outside of a variance is questionable.

16 I'm still failing to understand what the reason for the  
17 request for variability in the number of units if the -- it meets  
18 all of the zoning requirements for the maximum number of units  
19 that they're projecting to build. If they want to reduce that  
20 down, they want to reconfigure the units within the space, they  
21 can do that. I think that it's fully within the zoning  
22 administrator's ability to, you know, vary the floor plans. I  
23 don't think we're approving the floor plan. So I'm not  
24 comfortable with varying things, period, on this Board outside  
25 of a variance. I get that, you know, that's very common with



1 the Zoning Commission. It's within the law, the ability for the  
2 Zoning Commission to do this and to evaluate these different  
3 development requests. I don't know if we necessarily have that  
4 ability, and even if we do, I don't think that this -- these  
5 requests rise to the nature that we need to do it.

6 CHAIRPERSON HILL: Okay. So I don't mind -- I mean,  
7 unless somebody's got a problem. I mean, it'd just fail. Like  
8 I'd vote for Commission -- I'd vote with Commissioner Miller at  
9 this point. But I don't mind doing the legal thing and we can  
10 have a meeting really quick with legal just to see what our  
11 abilities are. Are you all fine with that?

12 ZC VICE CHAIR MILLER: I don't need that necessarily,  
13 but if you do -- if you want that, Mr. Chairman, that's fine with  
14 me. Maybe if we just said vary the unit -- you know, have the  
15 variance number of units and just with your additional language  
16 that you suggested, Mr. Chairman, at one point within -- or maybe  
17 Mr. Smith suggested it, Board Member Smith, as long as it doesn't  
18 trigger additional relief being necessary. I mean, maybe if --  
19 was that your suggestion, Board Member Smith, or?

20 CHAIRPERSON HILL: He's -- he doesn't want to put the  
21 -- Mr. Smith is not --

22 ZC VICE CHAIR MILLER: Yeah, I know he doesn't want to  
23 put -- I thought if he added the language, as long as it doesn't  
24 trigger additional relief being necessary to be requested, I  
25 thought that might --

1 CHAIRPERSON HILL: I mean, Mr. Smith, like we can go  
2 back -- we can get legal and just have another five minutes just  
3 to talk it out, but like I just like the range also because if  
4 the -- they did a map amendment to deal with all this with IZ  
5 and IZ Plus and like -- and I mean, again, I don't think they're  
6 going to drop down below 184 anyway because they need -- you  
7 know, they've done the math as to how many units they need, but  
8 they don't want -- I don't know, I mean, to me I don't have a  
9 problem with the range just because I don't want all the work  
10 that the Zoning Commission did and everybody else did, if they  
11 want to go down to a 100 units, you know, does that make it then  
12 not worth all the trouble that happened.

13 But, Mr. Smith, are you wanting to talk to legal or is  
14 this just going to fail? I can't hear you, sorry, Mr. Smith.

15 COMMISSIONER SMITH: We can add in the range. I can  
16 have a later conversation with legal about this request if it's  
17 not legal and it fails, it fails, but you know, we can err on  
18 the side of caution.

19 CHAIRPERSON HILL: Okay. All right. Great. And then  
20 let me see -- oh, I did want to ask, I was a little confused  
21 about -- is the Applicant still here, Mr. Young? Oh, there we  
22 go. Great. All right. I'm going to reopen the hearing on the  
23 record.

24 Mr. Goins, can you hear me?

25 MR. GOINS: Yes, I can hear you.

1 CHAIRPERSON HILL: Great. Could you re-introduce  
2 yourself for the record please?

3 MR. GOINS: Yeah, this is Jeff Goins from Michael  
4 Graves, one of the principals here.

5 CHAIRPERSON HILL: Thanks. The TDM plan that's in  
6 DDOT's report, it came from Wells and Associates?

7 MR. GOINS: Yes. It came from David Wells, traffic  
8 engineer, that's correct.

9 CHAIRPERSON HILL: That's your TDM plan, correct?

10 MR. GOINS: That is correct.

11 CHAIRPERSON HILL: So you're comfortable having your  
12 TDM plan in the conditions, correct?

13 MR. GOINS: Correct. That is correct.

14 CHAIRPERSON HILL: Okay. That's all I need to know.

15 All right. Any questions of the Applicant before I  
16 close the hearing again?

17 Okay. Closing the hearing and the record. Great.  
18 Thank you.

19 Okay. All right. I'm going to see how this motion  
20 goes. All right. I'm going to make a motion to approve  
21 Application No. 20943 as captioned and read by the secretary,  
22 with conditions that the design flexibility is -- standard design  
23 flexibility as long as it does not trigger additional relief,  
24 including the range of 184 units up to 210 units, which includes  
25 the IZ Plus requirements and the TDM plan that's included with





1 the DDOT record be included as a condition, and a condition that  
2 no amplified noise will be allowed on the roof deck after 11 p.m.  
3 or D.C. Code regulations, whichever is earlier, and that a liaison  
4 be assigned to the SMD from the project, and ask for a second,  
5 Mr. Smith.

6 COMMISSIONER SMITH: Second.

7 CHAIRPERSON HILL: Motion been made and seconded, Mr.  
8 Moy, could you take a roll call?

9 MR. MOY: So when I call your name, if you'll please  
10 respond to the motion made by Chairman Hill to approve the  
11 application for the relief requested along with the conditions  
12 that he has cited in his motion and that can be read again --  
13 re-read again in the video or the transcript. The motion was  
14 second by Mr. Smith.

15 Zoning Commissioner Rob Miller?

16 ZC VICE CHAIR MILLER: Yes.

17 MR. MOY: Mr. Smith?

18 COMMISSIONER SMITH: Yes.

19 MR. MOY: Chairman Hill?

20 CHAIRPERSON HILL: Yes.

21 MR. MOY: We have no other Board members participating.  
22 Staff would record the vote as three to zero to two and this is  
23 on the motion made by Chairman Hill with the conditions as he  
24 has articulated. The motion was second by Mr. Smith. Voting to  
25 approve, Zoning Commissioner Vice Chair Rob Miller, Mr. Smith,



1 Chairman Hill. Motion carries on a vote of three to zero to two.

2 CHAIRPERSON HILL: Next, do you want -- do you guys  
3 want to just take like a snack break like for 15 minutes, is that  
4 enough time or no?

5 MR. MOY: Mr. Chairman, before your colleagues reply,  
6 our court reporter is still experiencing some technical issues  
7 so if you can allow more than 15 minutes, I think that'd be  
8 helpful for her.

9 CHAIRPERSON HILL: Okay. How much time you think you  
10 need?

11 MR. MOY: Gosh, I don't know, half hour maybe.

12 CHAIRPERSON HILL: Okay. You want to do 30 minutes  
13 then? I guess we don't really have a choice. Is that okay, you  
14 guys? Okay. All right. Okay. I'll see you guys in 30 minutes.  
15 Thanks. Bye-bye.

16 (Whereupon, there was a brief recess.)

17 CHAIRPERSON HILL: All right. Mr. Moy, you can call  
18 our next case when you get a chance.

19 MR. MOY: Thank you, Mr. Chairman. All right. After  
20 a quick lunch recess, the Board is back in its public hearing  
21 session and the time is at or about 1:56 p.m.

22 The next case before the Board is Application No. 20945  
23 of Townley Court, LLC. This is a self-certified application  
24 pursuant to Subtitle X, Section 901.2, special exception under  
25 Subtitle U, Section 421, which would allow a new residential



1 development. Property is located in the RA-1 zone at 2315 through  
2 2323 40th Place, N.W., Square 1334, Lot 813. And the only other  
3 thing I have for you, Mr. Chairman, is that the Applicant's  
4 proffering expert witnesses, an expert in architecture, and I  
5 believe it's under Exhibit 30B. Thank you, sir.

6 CHAIRPERSON HILL: Okay. Thank you. Could the  
7 Applicant please introduce themselves for the record?

8 MR. FERRIS: Good afternoon. Lawrence Ferris with the  
9 law firm of Goulston & Storrs here for the applicant.

10 CHAIRPERSON HILL: Hello, Mr. Ferris.

11 MR. FERRIS: Hello.

12 CHAIRPERSON HILL: Let's see, welcome back from recess,  
13 Mr. Ferris.

14 MR. FERRIS: Thank you.

15 CHAIRPERSON HILL: Let's see, the expert -- your expert  
16 witness, I think, is in our book, is that correct, Mr. Ferris or  
17 you don't know?

18 MR. FERRIS: She should be in the book. She has  
19 testified as an expert before the Board.

20 CHAIRPERSON HILL: Oh, okay. Great. All right. Then  
21 we'll have everybody introduce themselves as they get to the  
22 portion of the testimony. Mr. Ferris, if you want to explain to  
23 us why you believe your client is meeting the criteria for us to  
24 grant the relief requested, I'm going to put 15 minutes on the  
25 clock and you can begin whenever you like.



1 MR. FERRIS: Certainly. Thank you very much for your  
2 time this afternoon and, Mr. Young, feel free to go ahead and  
3 open up our hearing presentation if you can.

4 Again, my name is Lawrence Ferris with the law firm of  
5 Goulston & Storrs. We're land use counsel for this project.  
6 We're here today for the property located at 2315 through 2323  
7 40th Plathe -- excuse me, 40th Place, N.W, which is in Glover  
8 Park one block south of Stoddard Elementary School. This area  
9 of Glover Park is primarily a mix of multi-family residential  
10 buildings ranging from smaller low and mid-rise apartments up to  
11 high-rises. The property is currently improved with a 45-unit  
12 apartment complex that you see on the screen there. The complex  
13 consists of three attached buildings that were constructed  
14 together in the 1940s and are considered separate buildings under  
15 zoning, but they're all located and share the same lot. The  
16 project we're presenting today would renovate the existing  
17 building and add seven new units in the cellar level. That's  
18 existing cellar space that would be converted into seven new  
19 units. So there's no addition being proposed. It's just the  
20 new units that we're here for today. The property is zoned RA-  
21 1 and so our application is requesting special exception approval  
22 pursuant to Subtitle U, Section 421, for new residential  
23 development in the RA-1 zone which is the only relief we're  
24 requesting today. So with me are Adam Lobine on behalf of the  
25 Applicant and again Gozde Tanyeri from ADG&G Design, the project



1 architect. They're both here available and happy to answer  
2 questions should the Board have any for them. I can walk us  
3 through the plan shortly, but before I do, I would just note that  
4 we have reports and support from the Office of Planning. That's  
5 at Exhibit 33 as well as from DDOT at Exhibit 34. OP's report  
6 did include a comment about the proposed location of the trash  
7 area which we'll touch on momentarily as part of our presentation.  
8 DDOT had also requested some conditions related to screening for  
9 the parking along 40th Place and implementing transportation  
10 demand management measures and we have no objection to DDOT's  
11 conditions and we've updated the plans to incorporate the  
12 screening for the parking that they noted. So I can point that  
13 out as we dive into our plans here in a moment. We also have a  
14 report and support from ANC 3B which voted unanimously to support  
15 the project and the application when we met with them back in  
16 July. So the ANC's report is at Exhibit 31. We're also pleased  
17 to have letters in support from several neighbors. Those are at  
18 Exhibit 20 through 29. So with that, I'll go ahead and dive into  
19 the plans and I'll try to keep things brief in the interest of  
20 time.

21           Here you can see the front view of the building. That's  
22 from 40th Place and that's the view after the renovation's  
23 complete, but again, this is all existing, what you see there,  
24 in terms of building footprint. You can see there's also -- on  
25 this slide, you can see the significant grade change across the

1 site sloping down as you move north toward the end of the block.

2 Next slide please, Mr. Young?

3 Here's just the surrounding context quickly, lower park  
4 up by Conservatory Circle in Glover, Archibald Park. You can see  
5 the property in pink in the middle image and that's just off of  
6 the park and one block south of Stoddard Elementary. Next slide  
7 please?

8 Here are just a few photos of the building as they  
9 stand today. Photo 1 at the top left is the north end of the  
10 site down at the bottom of the hill. You can see the existing  
11 parking area that we're improving as part of the project. Photos  
12 2, 3, and 4 all sort of walk you up the hill moving south and  
13 you can see each of the three building entrances in those views  
14 as well. And then Photo 5 at the middle, bottom middle, of the  
15 page, is a view from the rear alley on the east side of the  
16 property. Next slide please?

17 Here we have just the overall site plan view. On the  
18 left is our updated parking area along the alley. There are two  
19 existing spaces that currently encroach into that building  
20 restriction area along 40th Place. So we've shifted the parking  
21 spaces over to resolve that issue. As I noted before, we've  
22 added screen there as well and you can see where we've added a  
23 label on the site plan. We've also shown it in some of the  
24 prospective views that we'll get into in a moment, and that was  
25 one of DDOT's requests. As I noted, OP had asked us to explore

1 alternative locations for the trash area that you see. That's  
2 at the top left corner between the parking and the building. We  
3 did study to see if there was somewhere else the trash could be  
4 located. The issue here is really that you need alley access  
5 for that trash here for when trucks come through on collection  
6 days and you can't shift the trash north to the left because that  
7 would mean losing parking. And if you tried to pull the trash  
8 back to the west off of the alley, then you lose that alley access  
9 because there's a significant drop-off from the alley down to the  
10 parking area where we have that trash enclosure now. So  
11 essentially there's just nowhere really that you put the trash  
12 other than where we have it. That's just sort of the nature of  
13 the beast with this particular site and the existing layout of  
14 the buildings and parking that we need. So the grade change is  
15 easier to see in some of the perspective views that we'll show  
16 in a second, but I thought it was helpful just to call this out  
17 on the site plan as well. So while we're limited in what we can  
18 do in locating the trash, we are adding a concrete pad for the  
19 trash and are proposing a metal enclosure system that we think  
20 will be very helpful hopefully in addressing some of OP's concerns  
21 about potential odor or pests. But we're very constrained by the  
22 existing site condition, as you can see, just the configuration  
23 of the parking and building and the grade change all really limit  
24 what we can do as far as location while also making sure that  
25 the trash remains functional. Next slide please?



1           Here's just the cellar floor plan to show where those  
2 seven new units are being added. You can see also the new bike  
3 storage area that we've added towards the north end of the  
4 building. Again, this is all existing space that's there today.  
5 It's just being converted to units at the bike storage. Next  
6 slide please?

7           Here are a couple of views, front perspective views  
8 from 40th Place again just to give you a sense of what the project  
9 will look like after completion. Next slide please.

10           Couple of aerial perspectives also to give you a sense  
11 of the project after it's done. On the left side of both images,  
12 you can see that screening that I called out a moment ago for  
13 the parking area, that's between the parking and 40th Place that  
14 was DDOT's comment. And at the bottom left you can also get a  
15 sense of that grade change down from the alley into the parking  
16 area and how that limits our ability to shift the trash away from  
17 that alley because you wouldn't be able to get containers up for  
18 collection days without having to remove parking. All right.  
19 Next slide please?

20           Here are two last perspectives from the rear of the  
21 building. You can see the alley, the grade change, and our trash  
22 location again, how it connects the access to maintain  
23 functionality. Next slide?

24           And just to recap briefly, OP's report did recommend  
25 approval and we talked through, as I have today, the site



1 constraints that create challenges in providing alternative  
2 locations for the trash. Obviously, it's very challenging when  
3 you're working with older existing sites like this and what we're  
4 faced with here as well as the topography of a site that all sort  
5 of lays particular limitations on what we can do. As I stated  
6 before, we do think that the concrete pad and the steel enclosure  
7 system will help address OP's concerns. And DDOT's report also  
8 raised no objection to the application. We have no issues with  
9 the conditions they requested, again the screening for the  
10 parking along 40th Place that we've added to the plans we're  
11 presenting today and the transportation demand management  
12 measures listed in DDOT's report, we're all amenable to those.  
13 So we're happy to commit to those as part of the BZA order as  
14 well. And again, we also have ANC 3B's support and they did not  
15 have any issues with the project or with the application. Next  
16 slide please?

17           And just lastly, I thought it would be helpful for us  
18 to share some of those specifications for reference for the Board.  
19 If there are questions for the metal trash enclosure that we're  
20 looking at, that's in response to OP's comments about potential  
21 impacts from that trash. We do think it's going to be very  
22 effective, in particular when you combine it with the concrete  
23 pad. So that concludes what we have for you today in terms of a  
24 primary presentation, but we're happy to have any questions and  
25 appreciate your time.

1           CHAIRPERSON HILL: Thank you, Mr. Ferris. Is that all  
2 the trash bins for that building, there's only six trash bins?

3           MR. FERRIS: If we can go back to the plan, Mr. Young,  
4 if you're able to pull the slide back up?

5           So you'll see there's multiple enclosures up in the top  
6 left-hand corner.

7           Ms. Tanyeri, do you want to weigh in and -- I'm not  
8 sure how large you can get those enclosures to make sure we have  
9 enough trash bins?

10          CHAIRPERSON HILL: Well, I just -- the reason why I'm  
11 asking it looks like you have two per enclosure and there's three  
12 enclosures. So that's how I was getting six. I was just curious.

13          MS. TANYERI: Yeah. So every floor for every building  
14 entrance has a small trash room where there is a bin at every  
15 floor. But that is not the primary trash collection, so that's  
16 daily trash collection we presume, and then a building  
17 maintenance person brings that trash over to -- for the collection  
18 area. So that's how we envision the trash would be. It's --  
19 currently, there's only two bins, so we're increasing that quite  
20 substantially.

21          CHAIRPERSON HILL: To six?

22          MS. TANYERI: Yes.

23          CHAIRPERSON HILL: Okay. Okay. All right. Okay.  
24 Thank you. Do you want to -- why don't we go through the whole  
25 process and then maybe our -- my Board members can ask questions



1 at the end if that's okay.

2 Could I hear from the Office of Planning please?

3 MS. THOMAS: Yes, hi. Good afternoon, Mr. Chairman,  
4 members of the Board. Karen Thomas for the Office of Planning.  
5 And the Office of Planning is happy to rest on the record of our  
6 report in support of this application. Yes, we were concerned  
7 and we still like, you know, have some concerns with respect to  
8 the trash being close to those windows, but we appreciate the  
9 Applicant's attempts to minimize the impacts with the enclosures.  
10 And, you know, it's still just near the windows, but I guess  
11 probably given the topography, it couldn't be moved adequately  
12 to any other location. But we are in support of the application.  
13 Thank you.

14 CHAIRPERSON HILL: Okay. Thank you, Ms. Thomas. Nice  
15 to see you, Ms. Thomas.

16 Let's see, does anyone have any questions for the  
17 Applicant or the Office of Planning?

18 Vice Chair Miller?

19 ZC VICE CHAIR MILLER: Thank you, Mr. Chairman, and  
20 thank you to the Applicant's team and to Ms. Thomas for your work  
21 on this case. Regarding the trash, to the Applicant, regarding  
22 the concern about trash location, would you -- you'd be able to  
23 put it in a different area, but you might have to sacrifice a  
24 unit or more -- some of the units that you're adding in the  
25 cellar? Could you -- you said the site location -- the site



1 constraints and the topography -- including the topography, but  
2 it's also the layout of the units in that area, I think, that's  
3 affecting the location. It's -- would you be able to move it  
4 away from the affected, the potentially affected, window units  
5 -- windows of those units that might be potentially affected  
6 above and below -- above and near, if -- but you'd have to --  
7 could you say what the effect would be on the unit, on the number  
8 of units, if you had a different location?

9 MR. FERRIS: Absolutely. And maybe it would be helpful,  
10 Mr. Young, if you're able to pull up the presentation again and  
11 we can go to that cellar floor plan at page 5 because I think  
12 that illustrates it as well.

13 So we did -- as I described, we looked at pulling it  
14 back, we looked at pulling it over into the parking, but that  
15 would mean losing a space. If you were to move that trash area  
16 inside, obviously that would sacrifice a significant portion of  
17 the residential space in that unit and you would still have the  
18 fact that you'd have to bring the trash through what is otherwise  
19 a parking space. And so you would lose both the residential  
20 living space and the parking space. I think that was something  
21 we talked through with Office of Planning and they were not in  
22 favor of losing that residential space, which is -- and we  
23 certainly don't think it would be good to lose that space for  
24 that unit. And unfortunately, if you try to pull the trash  
25 enclosure back at all, again you have that drop-off with the



1 alley and then you're not able to get the trash cans up to the  
2 alley for collection. So I'm not sure if that addresses your  
3 question.

4 ZC VICE CHAIR MILLER: I think it does, Mr. Ferris. So  
5 you would -- with the potential relocation that you discussed or  
6 pushing back, it would -- you would lose one parking space and  
7 one residential unit potentially, is that the impact?

8 MR. FERRIS: I think we would lose a major portion of  
9 one of those units. I don't know if it would eliminate a unit  
10 entirely, but it would I mean, compromise that. I think we have  
11 to do a pretty in-depth study of floor layout for that particular  
12 corner unit. We certainly'd be losing several bedrooms if -- and  
13 probably squeeze to something more like a studio versus what we  
14 have now is a three-bedroom which we see as a real value for the  
15 neighborhood.

16 ZC VICE CHAIR MILLER: Well, thank you for that  
17 response. So you are adding seven units to an existing 45-unit  
18 multi-family building. You're renovating the entire building?

19 MR. FERRIS: That's correct.

20 ZC VICE CHAIR MILLER: And it's a rental building  
21 currently?

22 MR. FERRIS: It is rental and it will stay rental.

23 ZC VICE CHAIR MILLER: And what's going to happen to  
24 the existing residents during the renovation, is there any plans  
25 to help them relocate? Are they under -- well, what are the



1 plans for the -- and notice to -- notice and any potential  
2 relocations or opportunity to return plans for the existing  
3 tenants?

4 MR. FERRIS: Sure, we're happy to address that.

5 Mr. Lobine, would you like to share what the current  
6 occupancy of the building is and what you all plan to do in terms  
7 of working with residents for the project?

8 MR. LOBINE: Yeah. This building went through a TOPA  
9 process.

10 CHAIRPERSON HILL: Oh, I'm sorry, could you introduce  
11 yourself for the record, sir?

12 MR. LOBINE: Yes. Hello. I'm Adam Lobine. I'm one  
13 of an -- one of the managers of the development going forward.  
14 So the -- this building went through a TOPA process where the  
15 tenants organized and hired an attorney to represent them. And  
16 so there -- it ended up going through a whole RFP. The tenants  
17 basically sent out an RFP to developers. We responded and the  
18 majority of the tenants took a buyout and four to six are going  
19 to be moving back in after the renovation's complete. Those  
20 tenants will move back in to renovated units at their previous  
21 rent levels. And it's going to be a level three renovation so a  
22 gut rehab of the entire building with all new mechanical systems  
23 and a full renovation. So those tenants we're temporarily  
24 relocating into apartments in the area and then when the  
25 construction's complete, they'll move back in.



1           ZC VICE CHAIR MILLER: Thank you for that response.  
2 The -- and the 52 -- well, of the 45 units currently, what's the  
3 mix of -- the size mix of the units and what's the -- going to  
4 be the size mix -- the size of the 52 -- each of the 52 units,  
5 how many three-bedrooms, two-bedrooms, one-bedroom, studio?

6           MR. LOBINE: So I believe that we have some of that  
7 data in the plans if I can just -- unless, Ms. Tanyeri, you know  
8 it off the top of my head, I think we have that data somewhere.

9           MS. TANYERI: Sure. Yeah, so I have it, you know, on  
10 one of the pages actually on what you had earlier. However, I  
11 can answer your question. It's currently, ones and twos. There  
12 are no threes at the moment, three-bedrooms. We are -- they're  
13 slightly larger units, so without moving some of the demising  
14 walls, we are able to convert them to three bedrooms which is  
15 very comfortable three bedrooms. Most of the units will be twos  
16 and threes, more family size from upgrade from a one-bedroom to  
17 two-bedroom to a two-bedroom, three-bedroom and we have four  
18 four-bedroom units. So target is families mostly.

19           ZC VICE CHAIR MILLER: Thank you.

20           And Mr. Ferris, does inclusionary zoning apply to this  
21 renovated development of 52 units?

22           MR. FERRIS: The project doesn't trigger inclusionary  
23 zoning.

24           ZC VICE CHAIR MILLER: And why is that because it's  
25 only adding seven instead of nine -- ten or more or --

1 MR. FERRIS: Correct, it's under the ten-unit  
2 threshold. We do anticipate there being a range of it being a  
3 mixed-income community, but it would not be subject to IZ.

4 ZC VICE CHAIR MILLER: And it wouldn't be subject to  
5 rent control because it's a new building, right? But the existing  
6 tenants that you have -- who are coming back have some kind of  
7 agreement to come back at comparable rent levels, is that what  
8 you said earlier?

9 MR. FERRIS: That's correct. That's what Mr. Lobine  
10 said is they've arranged an agreement with the existing tenants  
11 to maintain their existing rent levels when they return.

12 ZC VICE CHAIR MILLER: Okay. Thank you. Thank you  
13 very much.

14 Thank you, Mr. Chairman.

15 CHAIRPERSON HILL: Thank you. And just for my education,  
16 so right, the -- and Mr. Lobine, you can explain the -- I know  
17 like those tenants that come -- I know you went through the whole  
18 TOPA process and the RFP and got you guys and so the ones that  
19 are coming back, they come back at their old rent and then that  
20 gets increased again like the four or five percent a year, is  
21 that how that works, I forget?

22 MR. LOBINE: Yeah, the -- what's allowable so I think  
23 it's CPI plus inflation minus two percent or something, I think.

24 CHAIRPERSON HILL: That's right, right. There's -- it  
25 is controlled --



1 MR. LOBINE: Correct.

2 CHAIRPERSON HILL: -- right? Okay. All right.

3 Let's see, anyone else for the Applicant? Okay.

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

5 MR. YOUNG: We do not.

6 CHAIRPERSON HILL: Okay.

7 Mr. Ferris, do you have anything you'd like to add at  
8 the end?

9 MR. FERRIS: No, thank you for your time.

10 CHAIRPERSON HILL: Okay. I'm going to conclude --

11 ZC VICE CHAIR MILLER: I just want to thank the  
12 Applicant for their community engagement with the -- you have the  
13 neighbors' support. We'll see if there's any neighborhood  
14 opposition, but -- and the ANC support, I appreciate -- we  
15 appreciate the community engagement that's been done on this  
16 project and you're working with the tenants, the previous  
17 tenants, and the ones who will remain. Thank you.

18 CHAIRPERSON HILL: Thank you, Vice Chair Miller.

19 All right. I'm going to go ahead and close the hearing  
20 and the record. Would either one of my esteemed colleagues care  
21 to begin this deliberation?

22 All right. All right. I'll go ahead and start. It's  
23 an interesting project. I think that they're increasing again  
24 the numbers from 45 to 52 which is what brought us here. They've  
25 gone through -- just on a sidebar, I think, you know, they've



1 | gone through the TOPA process as has been organized and arranged  
2 | to function the way it did where some people decided to go ahead  
3 | and take the buyout and some are getting to come back at their  
4 | rates and then at the controlled levels of an increase.

5 |         The Office of Planning's report, I thought, was pretty  
6 | thorough and even spoke to the different level -- you know, cellar  
7 | units and also the trash storage. I guess the trash storage was  
8 | something that, you know, they'd lose one of those units and the  
9 | community wanted more housing for the sake of, you know, I guess  
10 | less trash being near a window. And so I am comfortable with  
11 | the argument that the Applicant made it as to why that trash  
12 | can't be relocated in another place.

13 |         They were also -- the Applicant was also comfortable  
14 | with the TDM plan and I also am fine implementing DDOT's TDM plan  
15 | in the order. And then the screening for the parking has already  
16 | been taken care of by the Applicant just going ahead and trying  
17 | to accommodate DDOT's concerns. The ANC 3B was also in support  
18 | of this project and so I will be voting in favor of the  
19 | application.

20 |         Mr. Smith, would you like to add anything?

21 |         COMMISSIONER SMITH: Nope, I have nothing to add. I  
22 | agree with your analysis and will support the application.

23 |         CHAIRPERSON HILL: Thank you.

24 |         Vice Chair Miller?

25 |         ZC VICE CHAIR MILLER: I have nothing to add, Mr.

1 Chairman. I think we've covered it. Thank you.

2 CHAIRPERSON HILL: Thank you.

3 I'm going to go ahead and make a motion then to approve  
4 Application No. 20945 as captioned and read by the secretary and  
5 ask for a second, Mr. Smith?

6 COMMISSIONER SMITH: Second.

7 CHAIRPERSON HILL: The motion been made and seconded,  
8 Mr. Moy, if you'd take a roll call?

9 MR. MOY: Yes. Thank you, sir. When I call your name,  
10 if you'll please respond to the motion made by Chairman Hill to  
11 approve the application for the relief requested. The motion to  
12 approve was second by Mr. Smith.

13 Zoning Commission Vice Chair Rob Miller?

14 ZC VICE CHAIR MILLER: Yes.

15 MR. MOY: Mr. Smith?

16 COMMISSIONER SMITH: Yes.

17 MR. MOY: Chairman Hill?

18 CHAIRPERSON HILL: Yes.

19 MR. MOY: We have no other Board members participating.  
20 Staff would record the vote as three to zero to two and this goes  
21 to the motion made by Chairman Hill to approve. The motion to  
22 approve was second by Mr. Smith to support -- to approve the  
23 application. Voted by Zoning Commissioner Rob Miller, Mr. Smith,  
24 Chairman Hill. Motion carries, sir, three to zero to two.

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



1 Moy, you can call our next case.

2 MR. MOY: The next case is Application No. 20947 of  
3 Paul and Anna Marie Lopata, L-O-P-A-T-A, a self-certified  
4 application pursuant to Subtitle X, Section 901.2 for special  
5 exception under Subtitle E, Section 207.5. And the property is  
6 located in the RF-1 zone at 314 9th Street, N.E., Square 916,  
7 Lot 815. The only thing I have for you, Mr. Chairman, is that  
8 there's a preliminary matter where the Applicant filed a motion  
9 to accept an untimely filing. I believe it's directed toward an  
10 updated self-certification.

11 CHAIRPERSON HILL: Sorry, I was on mute. If the  
12 Applicant can hear me, if they could please introduce themselves  
13 for the record?

14 MS. FOWLER: Good afternoon, everyone. I'm Jennifer  
15 Fowler with Fowler Architects. I'm representing the homeowners.

16 CHAIRPERSON HILL: Okay. Ms. Fowler, thank you. Ms.  
17 Fowler, you're trying to file a revised self-cert; is that  
18 correct?

19 MS. FOWLER: Yes, this is due to zoning amendments  
20 where the number of the regulation changed from 205.5 to 207.5.

21 CHAIRPERSON HILL: Okay.

22 MS. FOWLER: So not changing the nature of the  
23 application, it's literally just the change of the number in the  
24 regulation.

25 CHAIRPERSON HILL: Okay. I don't have any issues with

1 the change or of the self-cert. Mr. Moy, if you could go ahead  
2 and admit that into the record please? Then -- yeah, then Mr.  
3 Moy, do we have the correct number on our application then?

4 MR. MOY: I believe it should be.

5 CHAIRPERSON HILL: Okay.

6 MR. MOY: As to what I've read in the -- in --

7 CHAIRPERSON HILL: Okay.

8 MR. MOY: -- when I called the case unless Ms. Fowler  
9 tells me otherwise.

10 CHAIRPERSON HILL: Okay. No, that's all right. I'm  
11 sure we'll work it out anyway.

12 All right. Ms. Fowler, if you want to go ahead and  
13 walk us through your client's application and why you believe  
14 that your client is meeting the criteria for us to grant the  
15 relief requested, I'm going to put 15 minutes on the clock so I  
16 know where we are, and you can begin whenever you like.

17 MS. FOWLER: Okay. Thank you. So this is a proposal  
18 for a very modest two-story rear addition. There's an existing  
19 one-story, you know, cellar expansion with a deck on top of it  
20 that will be -- the deck will be removed and then we're going to  
21 build two stories above that. The goal of the project is to  
22 really add an expanded kitchen and to put in a third bedroom on  
23 the second floor. It's a pretty small footprint of a house and  
24 the extra feet that we're asking for really allows us to create  
25 three reasonable bedrooms and kind of improve the bathroom on the



1 second floor.

2           So the relief we're asking for is a rear wall extension  
3 to a 7.5, which is, as you know, the 10-foot regulation from the  
4 rear wall of the adjacent properties. Due to the fact that all  
5 the properties on the upper floors are flush, we're asking for  
6 relief to go to 15 feet. So it's five feet additional beyond  
7 what is allowed by-right. Otherwise, we are maintaining a 53-  
8 foot rear yard. So it's a very deep lot. Currently, it's 64  
9 foot, 5 inches. And on the lot occupancy, we're expanding from  
10 44.3 to 52.5 percent and that actually includes the deck that is  
11 above -- four feet above the ground.

12           So as you can see, we're still kind of well below the  
13 -- not even close to maxing out any of the other kind of zoning  
14 restrictions. It is a very modest size addition. We did provide  
15 a sun study, that's Exhibit 23, that kind of walked through  
16 different times throughout the year and it compares the proposed  
17 to the matter-of-right, so again, that five-foot extension, and  
18 what we found is there was very, very small amount of difference  
19 between those two proposals.

20           But we did have support from neighbors. We have four  
21 letters in the record which includes the two adjacent neighbors.  
22 We were able to get ANC's support. I believe their letter was  
23 submitted into the record, Exhibit 28, I think yesterday or this  
24 morning. We also have Office of Planning's support. So with  
25 that, I will leave it open to questions. Thank you.



1 CHAIRPERSON HILL: Thank you, Ms. Fowler.

2 Does the Board have any questions for the Applicant?  
3 Okay.

4 I'm going to turn to the Office of Planning please?

5 MR. JESICK: Thank you, Mr. Chairman, and members of  
6 the Board. My name is Matt Jesick. The Office of Planning  
7 reviewed this application pursuant to the criteria of  
8 Section 5201 and found that the application meets those criteria,  
9 and therefore, the Office of Planning can recommend approval of  
10 the application. I'm happy to rest on the record for the rest  
11 of my testimony, but can take any questions. Thank you.

12 CHAIRPERSON HILL: Thank you. Does the Board have any  
13 questions of the Office of Planning?

14 Does the Applicant have any questions of the Office of  
15 Planning?

16 MS. FOWLER: No, I do not. Thank you.

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

19 MR. YOUNG: We do not.

20 CHAIRPERSON HILL: Ms. Fowler, is there anything you'd  
21 like to add at the end?

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

23 CHAIRPERSON HILL: Okay. I'm going to close the hearing  
24 and the record.

25 Mr. Young, if you could please excuse everyone?

1           Okay. I actually thought this was straightforward. I  
2 didn't have any issues with it. I would agree with the Applicant  
3 in even the adjective that it being a modest expansion. They're  
4 asking for five feet more than they were able to do as a matter-  
5 of-right and we've had people ask for far more than that. I  
6 think that they have provided the sun studies that make it even  
7 more -- or make me even more comfortable with it because I don't  
8 see how this necessarily is a problem for the shadowing. It is  
9 helpful to have the support of both neighbors, adjacent  
10 neighbors, as well as that of the ANC, and then of course, the  
11 analysis that was provided by the Office of Planning.

12           So I am comfortable with the argument that has been  
13 made concerning the criteria and I'll be voting in favor of this  
14 application.

15           Mr. Smith?

16           COMMISSIONER SMITH: So I by and large agree with your  
17 assessment of this particular case. I do believe it's fairly  
18 straightforward given what is being requested, as you stated, an  
19 additional five feet. They have provided the sun studies that  
20 have shown that they will not have an undue impact on the adjacent  
21 properties. I will also note that the adjacent property owners  
22 that would be most directly impacted have written letters in  
23 support of their neighbors' application for their rear addition.

24           So I stand on the record of OP's staff report giving  
25 it great weight, will note that I am in support and will approve



1 the application. Thank you.

2 CHAIRPERSON HILL: Thank you, Mr. Smith.

3 Vice Chair Miller?

4 ZC VICE CHAIR MILLER: Thank you, Mr. Chairman. I  
5 concur with your comments and those of Board Member Smith and  
6 ready to support the application.

7 CHAIRPERSON HILL: Thank you. All right. I'm going  
8 to make a motion to approve Application No. 20947, as captioned  
9 and read by the secretary and ask for a second, Mr. Smith?

10 COMMISSIONER SMITH: Second.

11 CHAIRPERSON HILL: Motion been made and seconded, Mr.  
12 Moy, if you'd take a roll call please?

13 MR. MOY: When I call your name, if you'll please  
14 respond to the motion made by Chairman Hill to approve the  
15 application for the relief requested. The motion to approve was  
16 second by Mr. Smith.

17 Zoning Commissioner Vice Chair Rob Miller?

18 ZC VICE CHAIR MILLER: Yes.

19 MR. MOY: Mr. Smith?

20 COMMISSIONER SMITH: Yes.

21 MR. MOY: Chairman Hill?

22 CHAIRPERSON HILL: Yes.

23 MR. MOY: We have no other members today. Staff would  
24 record the vote as three to zero to two and this is on the motion  
25 made by Chairman Hill to approve. The motion to approve was



1 second by Mr. Smith. Voting to approve the application, Zoning  
2 Commissioner Rob Miller, Mr. Smith, Chairman Hill. Motion  
3 carries three to zero to two.

4 CHAIRPERSON HILL: Thank you, Mr. Moy. Mr. Moy, you  
5 may call our next case when you get a chance.

6 MR. MOY: The next case before the Board and, I believe,  
7 it's the last case on today's docket is Application No. 20951 of  
8 Roundtrip Properties, LLC. This application's the -- is amended.  
9 It's a self-certified application pursuant to Subtitle X,  
10 Section 901.2 for special exceptions as follows: Subtitle U,  
11 Section 320.2, to allow the conversion of an existing residential  
12 building into a apartment house; Subtitle U, Section 301.1(e) to  
13 allow use of an accessory building as a dwelling unit; Subtitle  
14 E, Section 204.4, architectural feature requirements of  
15 Subtitle E, Section 204.1; under Subtitle E, Section 5201, the  
16 accessory building area requirements of Subtitle U, Section  
17 5003.1; and the rear yard requirements of Subtitle E, Section  
18 5004.1, which would allow the location of an accessory structure  
19 in a required rear yard.

20 Property's located in the RF-1 zone at 3646 13th  
21 Street, N.W., Square 2828, Lot 820, and that's all I have for  
22 you, Mr. Chairman.

23 CHAIRPERSON HILL: Thank you, Mr. Moy.

24 Can the Applicant hear me, and if so, could they  
25 introduce themselves for the record?



1 MR. TERAN: Good afternoon, Chairman and Commissioners,  
2 my name is Eric Teran and I'm the architect for the owner.

3 CHAIRPERSON HILL: All right. Mr. Teran, welcome back.  
4 I guess if you could begin by walking us through your client's  
5 application and why you believe they're meeting the criteria for  
6 us to grant the relief requested. I'm going to put 15 minutes  
7 on the clock so I know where we are, and you can begin whenever  
8 you like.

9 MR. TERAN: Thank you, Chairman.

10 Mr. Young, could you please bring up the presentation  
11 please?

12 As mentioned, we're at the 3646 13th Street, N.W., in  
13 the RF-1 zone. If we'd go to the next slide please?

14 So that's the lot. The diagonal is the existing and  
15 we're proposing -- it's an existing single-family, we're  
16 proposing to have four units. So that's one of the reliefs we're  
17 requesting. We do have the allowed lot size. We're also putting  
18 in ADU. That's the detached unit on the back corner there, upper  
19 left, and that will be its zoning as well which also requires  
20 relief. And we're also making it bigger than the allowed 450  
21 square feet and within the rear yard setback. So those are the  
22 reliefs that we're requesting -- or actually, and the front yard  
23 -- front rooftop element relief as well. If we could go to the  
24 next slide please?

25 So these are just some site photos. There you can see

1 the rooftop element that we're proposing to remove. And the only  
2 -- there's 15 -- I believe 15, 16 properties on this block and  
3 the only two houses that have that feature is this one and the  
4 one immediately to the right that you can see in the picture to  
5 the right. So we definitely don't see it as a strong  
6 architectural feature on this block. Next slide please?

7 So there you can see the picture on the right, a little  
8 bit more of the neighbor's roof, and then to the left, you can  
9 really see what really the rest of the block looks like. Next  
10 slide?

11 So this is across the street. Next slide?

12 And this is the alley. So if you look at the photo on  
13 the left, our property's located to the right of that and the  
14 photo on the right would be to the left of the photo. Next slide?

15 And this is the -- the one on the right is the photo  
16 of the existing back yard. Right now it's all hardscape and it  
17 has a very big deck. And the picture on the left is the fence  
18 that you see there, that's the corner of the property and there's  
19 a small pedestrian alley going all the way to 13th Street from  
20 the alley. Next slide?

21 So this is just another slide of the property and where  
22 we're locating the ADU and the house -- what we're proposing to  
23 the house, to have three units. Next slide?

24 So here -- that came out a little bit fuzzy, but you  
25 can kind of see on the right side of the main house what's

1 existing, and then how we're going to be covering that porch --  
2 or that deck area that you saw. We're maintaining the hardscape  
3 and we're providing three parking spaces and then we have the ADU  
4 there on the upper left corner. Next slide?

5 So those are the existing floor plans. It's basically  
6 we're gutting it.

7 CHAIRPERSON HILL: Where are the three parking spaces?

8 MR. TERAN: Well, it's a -- you couldn't see it on that  
9 last slide, but there's one under the -- let's go to the floor  
10 plan, I think you'll see one because there's one next to the ADU  
11 and then two on the other side of the ADU. Next slide?

12 So this is just the level two that we're demoing and  
13 removing that deck. Next slide?

14 So that's a cellar plan which will be one unit. And  
15 then on the first floor, we have the primary bedroom of the unit  
16 one, and it's also the unit two we have the IZ unit off of the  
17 first floor, and also the entrance to the third floor -- or second  
18 and third floor unit which is unit three. Next slide?

19 And so that's going up the stairs, you get to the level  
20 two, and then you go level three, which will all be part of unit  
21 three. So those are the three units within the main building.  
22 Next slide?

23 Oh, that's the roof. So just next slide?

24 So here's the ADU which are the accessory structure of  
25 -- they both say level two. Well, the one on the right is level

1 one. So you can see the entrance there kind of above the mud  
2 room and the kitchen, there's a door, and right above that, that  
3 would be the parking space for this unit. And below that, there's  
4 two parking spaces that you can't see. I think we have it shown  
5 on the 3D images. And then the left side would be the second  
6 floor of the accessory structure. Next slide?

7 That's the roof for the accessory structure. Next  
8 slide?

9 And there you have the front elevation where we're  
10 adding, you know, the third floor and we're removing that rooftop  
11 element. And on the right would be the view from the alley.  
12 Next slide?

13 This is the view, the north elevation. Next slide?

14 And then a view to the south. Next slide?

15 And then these are the accessory dwelling unit  
16 elevations, two stories but the massing that's facing the  
17 neighbors to the east, it's broken up and I think you'll be able  
18 to see that when you look at the 3D renderings. Next slide?

19 So here that north elevation is what the houses to the  
20 east will be looking at, so there's, you know, different blocking,  
21 it's not just one big façade. It also pushes -- I'll explain it  
22 more when we look at a 3D rendering, it'll be easier to tell,  
23 but the idea there was that we didn't create one big massing for  
24 the properties on the east side. Next slide please?

25 And just some sections through the main building with

1 the three units. Next slide?

2 Once again, another section grading with the east to  
3 west. Next slide?

4 And the ADU section. Next slide?

5 So here we get into the shadow studies. We can see  
6 what's on the right is our matter-of-right of what we could build  
7 on the property. On the left is what we're proposing. You can  
8 also see the two cars there that we have. The third car that I  
9 showed you for the ADU is actually underneath part of the second  
10 floor, so you really can't see it from an aerial view. But here,  
11 this is 9 a.m. on summer solstice, so you could see really the  
12 ADU's not really getting, you know, much of a shadow or opposing  
13 light on anybody. Next slide?

14 Here it is at 12 p.m. in summer once again. Very minor,  
15 almost the same thing as matter-of-right. Next slide?

16 And then west. So once again, there is really no issue  
17 there. The proposed -- that's actually an alley behind the  
18 Lot 166. Pretty interesting alley, but it's not technically  
19 their property. Next slide?

20 This is winter. You know, we always have more shadows  
21 in winter because the sun is lower. So this is 9 a.m., so it  
22 does create a little bit more on those two lots that you see on  
23 the left. Next slide?

24 So here we'd probably be providing the most additional  
25 shadow as you can see on Lot 153 as from what would be for matter-

1 of-right. Next slide?

2 And then here we have some additional shadow as well  
3 for the two lots, 163 I think and 165. I think overall, I don't  
4 think it's -- the light and the air is much of a hardship, you  
5 know, in anyone's -- anybody's property. Next slide?

6 Oh, so here, I believe, we're going to look at the 3D  
7 renderings next I believe. Next slide?

8 Yes, and so this will give you a better idea of what  
9 we're proposing. So that's the front elevation, removing the  
10 rooftop element and building that third story. Next slide?

11 CHAIRPERSON HILL: You're building at the approved  
12 height, correct?

13 MR. TERAN: Yes. Yeah, we're not asking for any relief  
14 for that.

15 CHAIRPERSON HILL: Okay.

16 MR. TERAN: Next slide?

17 Just looking at an angle a little bit further away.  
18 Next slide?

19 So this is looking at the accessory structure. That's  
20 that small alley that we saw in one of those photos. You can  
21 kind of see that by the car and by the wood feature. You can  
22 also see there where there's different, you know, blocks. It's  
23 not just one straight massing. And you can also see the car as  
24 well. Next slide?

25 Once again, you can see how the massing is not just one



1 big side. So that helps with the shadows, as you saw, and I  
2 think also adds a little bit more interest for the few homes that  
3 will be on the east of this property. Next slide?

4 And there's the three parking spaces for the four  
5 units. And you can also see how the -- once again, we're not  
6 giving the flat façade, making it a little bit interesting, and  
7 we also decided to orientate the accessory structure in this  
8 manner so that it has the same width as the rest of the  
9 properties. And we didn't rotate it 90 degrees and have, you  
10 know, a 40-foot-long property along the alley, which I think  
11 would be different than what the rest of the blocks would -- or  
12 the rest of the properties would be able to do on this block.  
13 Next slide?

14 And just one more just reiterating everything that we  
15 just spoke about. And one more, is there another slide?

16 Yeah, so this is just kind of trying to put it in  
17 context just to get a sense of the height and how it looked with  
18 the neighboring structures, and I think there's one more from the  
19 alley.

20 Yeah, and there, you know, trying to put into scale  
21 with the alley and that small walk -- pedestrian alley between  
22 the two buildings. And so once again, trying to provide some  
23 relief and not having one big façade right at the property line  
24 or even five feet from it, just provide some more interest on  
25 that side.



1           And we did receive ANC unanimous support. We did have  
2 to go back to them because originally we only applied for two  
3 reliefs, and after speaking to the Office of Planning with Ms.  
4 Thomas, we realized we needed those three additional ones and the  
5 ANC supported us again unanimously. And I believe the owner is  
6 on who wanted to say a few words and he did reach out to the  
7 neighbors just on his outreach for that. And that's Mr. Levy.  
8 Are you on?

9           CHAIRPERSON HILL: Mr. Levy, can you hear us?

10          MR. TERAN: I think it's mute -- you're muted, Ben.

11          CHAIRPERSON HILL: I don't see him. Mr. Young, do you  
12 have a Mr. Levy?

13          MR. TERAN: Yeah, Benjamin Levy.

14          CHAIRPERSON HILL: Oh, now I see him. Mr. Levy, can  
15 you hear us?

16          MR. LEVY: Yes. Now I'm here. I was frozen. I was  
17 locked.

18          CHAIRPERSON HILL: Okay. No problem. Can you introduce  
19 yourself for the record please?

20          MR. LEVY: Yes. Okay. Now I have to see myself too.  
21 My name's Benjamin Levy. I am a representative of the owner,  
22 Roundtrip Properties, LLC, which is a -- you know, an LLC that I  
23 wholly own. Thank you so much, Chairman Hill, and everyone on  
24 the Board for hosting us today, and I want to thank also Mr.  
25 Reid and some of the folks on the staff from BZA that have been



1 | like really helpful in us getting these permits -- getting through  
2 | to this process.

3 |           I don't have too much to say because I think, Eric, you  
4 | did an excellent job, but I do want to say that we are very  
5 | excited to work on beautifying this block. This particular house  
6 | has been vacant for six or seven years. There was some illegal  
7 | construction at the house next door, 3644, in the year 2017 and  
8 | it caused some damage to the party wall that we share with 3644.  
9 | It caused some damages to the houses on the other side as well.  
10 | It actually caused the family that lived there to need to like  
11 | leave in the middle of the night and it's been in sort of bad  
12 | shape. And so we're very excited about being able to improve  
13 | this, and we're working really closely with actually the next  
14 | door neighbor, 3644, 3642, 3640, and the other members of the  
15 | people on the block to try to work together to really get this  
16 | beautified and really improve the look of this block.

17 |           I do also want to say that we've taken -- we've made a  
18 | huge effort to meet with neighbors. We have been in constant  
19 | conversation with neighbors on both sides, Garrett from 3648,  
20 | 13th, Carlos, 3644, Mommy (phonetic) from 3642. We have support  
21 | from -- we have written support on like support letters from four  
22 | neighbors which includes Carlos, the immediate neighbor, and then  
23 | the three neighbors directly behind us, Phil, Sam, and Chris who  
24 | would -- when I say behind like their backs of their houses would  
25 | face the back of this property where the ADU is.

1           We've been speaking with all the members of the people  
2 on Spring making an effort to speak with some and we have actually  
3 -- like I guess I could call verbal support from probably four  
4 of the neighbors that are on Spring that are kind of like  
5 alongside our houses and we want to continue to be in  
6 communication with them and like that's our policy is just really  
7 keep the communication up to try to be listening to their  
8 concerns, questions throughout. And so again, yes, thank you so  
9 much for the opportunity and if you all have questions, we're  
10 here to answer them.

11           CHAIRPERSON HILL: Thank you, Mr. Levy.

12           All right. Mr. Teran, is that it?

13           MR. TERAN: Yes, sir. We're happy to answer any  
14 questions.

15           CHAIRPERSON HILL: All right.

16           Let me go through the Office of Planning first, then  
17 I'll come back to my fellow Board members. Is the Office of  
18 Planning with us?

19           MS. THOMAS: Yes, hi, Mr. Chair, good afternoon. Karen  
20 Thomas with the Office of Planning. And here we have an unusual  
21 shaped property that we're dealing with today. The Office of  
22 Planning is recommending approval of the special exception to  
23 convert from a special -- from a single-family unit to a four-  
24 unit apartment house. We see that the land area is sufficient  
25 to satisfy the 900 per square foot lot area requirement per unit



1 requirement, and it has met the bulk development standards. So  
2 we don't see from that standpoint that development should  
3 adversely affect the use neighboring properties.

4           With respect to the conversion of the front part of the  
5 home, we ask that the Applicant consider applying for relief from  
6 the rooftop architectural elements since they were removing that  
7 entire mansard original portion of the roof and inserting a more  
8 contemporary style to the design. We have no issues with the  
9 design. We did suggest that they add some sort of a cornice,  
10 but that would be -- I mean, that's not a game changer for us.  
11 There are contemporary styles emerging along 13th Street as we  
12 unscientifically could observe, and we believe that it would not  
13 have such an adverse impact on the neighborhood and that's  
14 explained in our report.

15           We also asked the Applicant to consider, with respect  
16 to the accessory structure, relief from that since it's a new  
17 accessory structure where they would be putting in a unit. And  
18 due to the shape of the rear yard, that accessory structure is  
19 more shifted towards the left side and its design takes on the  
20 shape there a little bit differently and we have to have the  
21 relief from this -- the area that it's taken up into the rear  
22 yard and it would need rear yard relief as well.

23           The Applicant did satisfy a request in terms of the sun  
24 study. We do not believe that it will cause an adverse impact  
25 on the neighboring yards.

1           So with that, we would stand on our report and support  
2 the relief that's being requested for this application. I'll be  
3 happy to take any questions. Thank you.

4           CHAIRPERSON HILL: Thank you, Ms. Thomas.

5           All right. Does the Board have any questions for the  
6 Office of Planning or the Applicant?

7           Vice Chair Miller?

8           ZC VICE CHAIR MILLER: Thank you, Mr. Chairman.

9           You probably -- you showed this probably, but I think  
10 I might have missed it. Could -- do you have a slide that showed  
11 the proposed building from the front? I remember the slide with  
12 the proposed -- showing the proposed building from the rear, but  
13 I just wanted to see the proposed building from the front and  
14 just to understand its context with the other property. I  
15 remember this slide that showed the existing buildings with the  
16 different architecture and only the one adjacent to it that had  
17 the mansard roof, but I just wanted to see if you had a slide  
18 that showed the proposed facade from the front in the context  
19 with the existing buildings again?

20           MR. TERAN: Sure, Mr. Miller. If you look at -- or  
21 Mr. Young, if you could bring up I think the second to last slide  
22 had the 3D rendering with the two -- yeah, one before that. So  
23 there you can kind of get a sense of the height and the scale.

24           ZC VICE CHAIR MILLER: Okay. Thank you. I appreciate  
25 you doing that because I missed seeing that for some reason.

1 MR. TERAN: Uh-huh.

2 ZC VICE CHAIR MILLER: So do you have any reaction to  
3 the Office of Planning comment which they said was not a game  
4 changer, but to have a stronger cornice element there?

5 MR. TERAN: No, we could add one at the top of the  
6 parapet. It'd probably be more -- you know, lean towards the  
7 modern type of cornice, but I don't think we have an issue adding  
8 a feature at the top.

9 ZC VICE CHAIR MILLER: And do you have -- and how much  
10 taller in height is the -- I realize it meets the development  
11 -- the height and massing standards of the zone, but how much  
12 taller is the proposed building than the adjacent buildings?

13 MR. TERAN: I think, Mr. Young, if you could bring up  
14 the elevations, it's probably around the middle of the slide  
15 show? If you keep going back, little bit further, couple more,  
16 a little bit more, about one more or two more, one more, one more  
17 should have it. Nope, one more. There we go. So that's where  
18 you can see from the one to the south. So it's probably ranging  
19 about from the top of their roof without counting the turret,  
20 you're probably about like eight feet higher, maybe nine feet.  
21 And if you go back one more, Mr. Young?

22 ZC VICE CHAIR MILLER: Oh, it will look like it's one  
23 story higher than the adjacent, but it does -- it is within the  
24 height limitation of the zone, but it will look like it's one  
25 story higher. Okay. So my experience with what some would call

1 pop-ups which I would not call it a pop-up, but it is higher than  
2 the adjacent -- most of the adjacent, I think, properties unless  
3 some have been renovated as well on the block, which is probably  
4 the case is that if they're well designed, it's not as -- it  
5 doesn't create any out of chara- -- it just is -- it's not as an  
6 adverse an impact on the character of the block when viewed from  
7 the street, which is one of the criteria when you're removing a  
8 mans- -- when you're removing an architectural rooftop element.  
9 So I appreciate your consideration of the -- of adding the  
10 stronger cornice element or something that may be -- that fits  
11 in with the contemporary design that you now have, but it maybe  
12 just blends -- that compliments and doesn't stand out as much or  
13 just on its own looks like it's a well-designed project.

14 Okay. I'm going to just think about that for a minute.  
15 Thank you very much.

16 CHAIRPERSON HILL: Thank you, Commissioner Miller.  
17 Commissioner Miller, if you're going to want to see something  
18 else, which is perfectly fine, just let us know and we'll ask.

19 ZC VICE CHAIR MILLER: Right, that's what I'm thinking  
20 about. I don't necessarily want to do that, so I'm thinking  
21 about that.

22 CHAIRPERSON HILL: Okay.

23 Let's see, Mr. Smith, go ahead.

24 COMMISSIONER SMITH: Yeah, I mean, to Commissioner  
25 Miller's point, what is the height of this building from the spot



1 right to the rest of the building's facade in this row of towhomes  
2 -- rowhomes?

3 MR. TERAN: So the roof is -- I believe it's 34 feet  
4 and 6 inches, and then we have a 3-foot -- 3 and a half foot  
5 parapet. So overall, you're about 38 feet.

6 COMMISSIONER SMITH: Oh, okay. What about the adjacent  
7 properties, did you do an analysis of that?

8 MR. TERAN: Being from that site elevation that we just  
9 saw, the majority south of the building are about that height  
10 until you get to the corner where there's an apartment building,  
11 and then the one to the north, it's probably about the same height  
12 too.

13 COMMISSIONER SMITH: Okay. I mean, to -- I think Mr.  
14 Miller's gathering his thoughts. I think I will want to see some  
15 type of -- something in that elevation here in order to get a  
16 good read of the block, and especially given this particular  
17 request to remove the mansard roofs and you're making a very  
18 modern facade that would be flush with the facades of the rest  
19 of these rowhomes. So I think that's the additional information  
20 that I will need in order to make ensure that you're in keeping  
21 with the criteria under E 5201.4.

22 That's all I have for now.

23 CHAIRPERSON HILL: Thank you, Mr. Smith.

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

25 MR. YOUNG: Yes, we have two witnesses signed up.

1 CHAIRPERSON HILL: Great. Could you give me their  
2 names please and allow them in?

3 MR. YOUNG: The first is Garrett Nilsen and the next  
4 one is Preeti Haldepur. Hopefully I've pronounced that right.

5 CHAIRPERSON HILL: Okay. Great.

6 Mr. Nilsen, can you hear me?

7 MR. NILSEN: Yes, I can, can you hear me?

8 CHAIRPERSON HILL: Yes. Could you go ahead and please  
9 introduce yourself for the record?

10 MR. NILSEN: Yeah, my name is Garrett Nilsen and I own  
11 the house at 3648 13th Street so to the north side of the property  
12 in question.

13 CHAIRPERSON HILL: Say it again, which is where?

14 MR. NILSEN: To the north side of the property in  
15 question. So I'm the one with the kind of stucco-y looking --

16 CHAIRPERSON HILL: Can you tell me your address again?

17 MR. NILSEN: 3648 13th Street.

18 CHAIRPERSON HILL: Are you on the corner, are you  
19 adjacent?

20 MR. NILSEN: Yeah, I share the north wall. So it goes  
21 their unit, my unit, and then there's an alley before the Spring  
22 Street there.

23 CHAIRPERSON HILL: Right, so you're Lot 166?

24 MR. NILSEN: Correct.

25 CHAIRPERSON HILL: Okay. Great. Okay. Mr. Nilsen,



1 go ahead, you'll have three minutes as a member of the public to  
2 give your testimony, but since you're so adjacent, just go ahead  
3 and tell us what you have to say.

4 MR. NILSEN: Yeah, you know, I'm definitely excited to  
5 see these units get refurbished after the state they've been in  
6 for quite a while. I'm just kind of calling for two quick points.  
7 So one, I'm glad to see that there's parking in the back.  
8 Obviously, adding four units to the area will increase the number  
9 of cars into the already very constrained area in terms of street  
10 parking. So for whatever that's worth, I hope that's taken into  
11 account.

12 And the other part is that I have a solar energy system  
13 on the roof of my house. As you can see from the sun study,  
14 there will be some significant shading on my system, you know,  
15 well beyond the kind of 5 percent that it's my understanding that  
16 it needs to get some sort of approval or sign-off from a next-  
17 door neighbor. Ben and I have been talking, but we haven't yet  
18 reached an agreement for anything at this point as it relates to  
19 that shading, and it will be pretty significant, would very  
20 significantly impact the generation of that solar energy system  
21 on my roof.

22 CHAIRPERSON HILL: Okay.

23 MR. NILSEN: Those are my two points.

24 CHAIRPERSON HILL: Okay. Let's see, I can't remember  
25 how the solar works. So you hang on one second there, Mr. Nilsen.

1 Okay?

2 MR. NILSEN: Sure.

3 CHAIRPERSON HILL: Let's see, is it Hal- -- Preeti  
4 Haldepur?

5 MS. HALDEPUR: Yes. Can you hear me?

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

8 MS. HALDEPUR: Sure. Hi, everyone. Preeti Haldepur.  
9 I am an owner and resident of 3622 13th Street, so about four,  
10 or is it six, buildings down.

11 CHAIRPERSON HILL: Okay.

12 MS. HALDEPUR: And thank you for giving me the  
13 opportunity to share my thoughts. You know, I am empathetic to  
14 everyone's interests here.

15 CHAIRPERSON HILL: Ms. Haldepur?

16 MS. HALDEPUR: Yeah.

17 CHAIRPERSON HILL: Just a sec. I didn't realize you  
18 -- as a member of the public, you'll get three minutes to give  
19 your testimony. There's a clock on the screen. You can begin  
20 whenever you like.

21 MS. HALDEPUR: Awesome. Thanks much. So Ben, you  
22 know, I appreciate where you're coming from, right? And I  
23 appreciate all the points that you shared. I do want to agree  
24 that I don't think any of us in the neighborhood are interested  
25 in seeing the property remain vacant. We do want to see the

1 property renovated. We do want to see folks in that building.

2           My biggest objection -- and I just want to state for  
3 the record that I am in opposition of the plan -- is I bought my  
4 home in 2021 and I put a massive amount of money in it the last  
5 18 months to renovate it and I love the look of these 100-year-  
6 old Victorian homes, right, on our side of the street and the  
7 Water -- you know, Waterman style homes on the other side of the  
8 street. I don't think that the choice to have the building  
9 renovated and occupied means that we have to have something that  
10 looks so modern and that -- really jarring with the look of the  
11 street. My fear is that if this is approved, other buildings on  
12 that street might end up getting similar treatment over the next  
13 few years and we'll end up with a street that looks very similar  
14 to 11th Street between Otis and Lamont, which to me personally  
15 is an eyesore.

16           I realize all the effort that's been put into, you  
17 know, design this to look as esthetically pleasing as possible,  
18 but to me personally, I think it's an eyesore compared to the  
19 beauty of the older homes in D.C., right? The homes on this  
20 street are hundred years old or more. So my request, if it holds  
21 any weight, is that the development take into account the esthetic  
22 appeal. And to that, I'll add the point that Garrett already  
23 made, there seems to be accommodation for two parking lots, adding  
24 four units, meaning if every unit has one personal vehicle or  
25 more, it will put a burden on an already untenable parking



1 situation. That's point number two.

2 Point number three is that means we'll have four units  
3 producing trash and that part of that alley is extremely tight  
4 already. That alley is already very narrow, and as we know for  
5 those who live here, it's often riddled with litter and dirt. We  
6 have a problem with rodents, right? My concern is that the  
7 infrastructure just does not support four additional units  
8 producing additional trash with four additional recycling bins,  
9 four additional trash cans.

10 And you know, the last point is just again relating to  
11 the esthetics. There are certain -- when I looked at  
12 neighborhoods where I wanted to buy a home -- and I think I'm  
13 out of time.

14 CHAIRPERSON HILL: It's okay. You can finish your  
15 statement.

16 MS. HALDEPUR: I just wanted to say that I am concerned  
17 that if we get homes, buildings that are going to get this kind  
18 of modern treatment, it is going to adversely impact the value  
19 and appreciation of my home and the kind of folks who are really  
20 wanting to stay in neighborhoods that look and preserve the look  
21 of older homes in D.C. which I think is esthetically very unique  
22 to D.C. and very beautiful. So thank you for giving me the time.

23 CHAIRPERSON HILL: Okay. Great. Thank you.

24 Okay. All right. Ms. Thomas, can you hear me?

25 MS. THOMAS: Yes.



1 CHAIRPERSON HILL: How does the solar thing work again,  
2 like I know it's the 5 perc- --

3 MS. THOMAS: Yes, I was trying to figure that out  
4 myself. I will get back to you on that because I haven't had to  
5 deal with that for quite some time. I --

6 CHAIRPERSON HILL: Yeah, yeah, yeah, I think --

7 MS. THOMAS: I'm not sure if the regulations have  
8 changed. I will take a look and I'll get back to you in about  
9 five minutes.

10 CHAIRPERSON HILL: Okay. It doesn't matter, Ms.  
11 Thomas. I think we're going to see something here and we're  
12 going to ask for a couple of things anyway. So if the -- if you  
13 look --

14 MS. THOMAS: They have to mitigate the impact of -- on  
15 anybody who has solar. I know that for sure, but I had thought  
16 that the Applicant was working with the neighbor on that and so  
17 we thought that they had some agreement. That's why we didn't  
18 focus on it. So I --

19 CHAIRPERSON HILL: I understand.

20 MS. THOMAS: Uh-huh.

21 CHAIRPERSON HILL: And I know they are working together  
22 but, Ms. Thomas, just for, I mean, my information again -- and  
23 I'm sure I'm going to forget it again and going to ask again  
24 anyway --

25 MS. THOMAS: Yes, no worries.

1 CHAIRPERSON HILL: -- but the 5 per- -- I know there's  
2 the 5 percent or something, right?

3 MS. THOMAS: Uh-huh.

4 CHAIRPERSON HILL: And then I don't know what's  
5 supposed to happen.

6 MS. THOMAS: Yeah, let me check. Let me check.

7 CHAIRPERSON HILL: It's okay. It's -- I mean, I'd  
8 rather have something in the record anyway.

9 MS. THOMAS: Okay.

10 CHAIRPERSON HILL: So it's not that -- because we're  
11 coming back with this, I think, and it's not that -- I just want  
12 to know what is supposed to be happening because I don't remember  
13 there being like the person who has the solar panel then holds,  
14 you know, a trump card against the project. That's what I can't  
15 remember how it works, right?

16 And actually, the architect might even know. I mean,  
17 Mr. Teran, do you remember?

18 MR. TERAN: No, I don't know either, but I know --

19 CHAIRPERSON HILL: Okay. Great.

20 MR. TERAN: -- Mr. Levy has been working with the  
21 neighbor on possible solutions from day one. So --

22 CHAIRPERSON HILL: Right. That's okay. I don't -- and  
23 Mr. Levy, I don't want to know what it is, so just that's okay.  
24 Like I mean, there's a regulation, there's something that it  
25 tells me what I'm supposed to do and the Office of Planning is



1 going to let me know. In the meantime, between now and the time  
2 you come back with us -- because I think now I am also very  
3 interested into what it is Mr. -- Commissioner Miller might be  
4 interested in seeing, which would then maybe make him more like  
5 the block, I don't know, right, if the cornice were put back in  
6 there even if it was in a more modern way. I'm just kind of  
7 curious now.

8 But so let me do this, Mr. Nilsen, can you hear me?

9 MR. NILSEN: Yes, sir.

10 CHAIRPERSON HILL: Okay. So you guys just -- you know,  
11 thank you for your testimony. Please continue to work with Mr.  
12 Levy. I'm going to find out what exactly the regulations say.

13 MR. LEVY: Yeah, I apologize for not having that at my  
14 fingertips. I had just had it and -- so yeah, so appreciate it.  
15 Thank you.

16 CHAIRPERSON HILL: Hold on.

17 MS. THOMAS: (Indiscernible) find it.

18 CHAIRPERSON HILL: Okay. Anyway, so I'll let the Office  
19 of Planning take -- well, I mean, I just got a -- I had a thought,  
20 again something about like, you know, the height is matter-of-  
21 right, but the fact that the mansard is being removed, you know,  
22 is the mansard affecting the solar? I don't know, but still,  
23 what I'm not -- what I'm curious of -- right, so exactly. So  
24 Ms. Thomas, if the height is the height, like they're not asking  
25 for additional height, if they were asking for additional height,

1 that would be affecting the solar and then that would kick in  
2 the regulations or --

3 MS. THOMAS: Yeah.

4 CHAIRPERSON HILL: -- is the mansard somehow affecting  
5 the solar one way or the other. That's -- I'll let Office of  
6 Planning give me something. Okay?

7 MS. THOMAS: Yeah, let me -- I'm looking.

8 CHAIRPERSON HILL: Yeah, you can -- yeah, I don't want  
9 to know today. I'm already -- I'm already done.

10 MS. THOMAS: Okay. All right. Okay.

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

12 MR. NILSEN: Yes, sir.

13 CHAIRPERSON HILL: Okay. So just go ahead and continue  
14 to work with Mr. Levy. We'll see -- you can listen in. You'll  
15 see what's going to happen next. We're not going to decide this  
16 today. We're going to get a little bit more information, but  
17 we're going to start to get this to the finishing line one way  
18 or the other. So thank you very much for your testimony, Mr.  
19 Nilsen, as well as Ms. Haldepur and thank you all very much.

20 Mr. Young, if you could please excuse the witnesses?

21 So you, Mr. -- Commissioner Miller, were interested in  
22 the cornice, correct?

23 ZC VICE CHAIR MILLER: Thank you, Mr. Chairman. Yeah,  
24 I'm interested in the rooftop design. I think that the current  
25 design is potentially out of character with the -- both the lack

1 of a setback, the modern architecture, the -- and the removal of  
2 the mansard, historical man- -- not -- historical mansard  
3 element, I think combine to create a potentially out-of-character  
4 situation which is one of the criteria when you're removing a  
5 rooftop element. So I would like to see an alternative design  
6 as to what the adjacent neighbor testified to that she would like  
7 to see one as well. And I would also like to see a written  
8 agreement with the other neighbor on the solar issue. So those  
9 are things I'd like to see progress on before we scheduled this  
10 for a decision.

11 CHAIRPERSON HILL: Okay.

12 Mr. Smith, did you want to see something?

13 COMMISSIONER SMITH: Only item that I would want to see  
14 is that elevation that reads -- or that shows the proposed design  
15 in context with the rest of the block of townhouses that it sits  
16 in.

17 CHAIRPERSON HILL: Mr. Teran, do you understand?

18 MR. TERAN: Yes, and I would just like to add, you  
19 know, it is a -- we'll include more photos. You know, there is  
20 a one -- the other end of the street that's com- -- is more like  
21 -- it's com- -- both ends of the street are completely different  
22 than the middle. Our house is only alike like the one right next  
23 to it to the north and then you've got the one to the south, ten  
24 that are alike, and so I can understand more of a mansard roof  
25 like be more of an issue if it was matching, you know, these ten

1 other properties. But it's only matching the property to the  
2 north. So I don't -- you know, it already is a different  
3 character than these ten houses. And then if you go across the  
4 street, there's two or three different styles as well. So that's  
5 where I'm a little bit hung up on. You know, we also included  
6 the -- that bay that's popping up to kind of reflect the bay in  
7 the house to the south.

8 CHAIRPERSON HILL: Mr. Young -- hold on, Mr. Teran --  
9 can you interrupt a sec? Where -- can you pull up -- what can  
10 you pull up that shows the Board kind of what you get -- what  
11 you're talking about?

12 MR. TERAN: Probably one -- and Mr. Young, if you bring  
13 up the site photos, I think maybe like the third or fourth page.

14 CHAIRPERSON HILL: Where in the exhibits is this one?

15 MR. TERAN: So there -- it's in the presentation and  
16 the site photos.

17 CHAIRPERSON HILL: Oh, gotcha, gotcha.

18 MR. TERAN: So these are -- there you can see our house  
19 on the right there. That's the mansard roof on the left. And  
20 the only other mansard roof on the entire block is the one  
21 immediately to the right. There's nothing else like it. Then  
22 if you look at the picture to the left, there's about ten houses  
23 that look like those. It's kind of every other one has that type  
24 of feature. Then if you go to the next picture or the next slide  
25 please, this is what's across the street. So you can see the



1 houses to the left is kind of what's immediately across the street  
2 from our property. And then you have those houses to the right.  
3 And so it kind of mixes and matches between both, but we only  
4 -- the only two houses that have a mansard roof are our house  
5 and the one right next to it. So it's kind of out of character.

6 COMMISSIONER SMITH: Mr. Teran? Mr. Teran?

7 MR. LEVY: Do you mind if I add one thing, everyone?  
8 This is Ben.

9 CHAIRPERSON HILL: Who's talking?

10 MR. LEVY: This is Ben Levy with --

11 CHAIRPERSON HILL: Oh, yeah, go ahead, Mr. Levy.

12 MR. LEVY: Just do you -- if you could -- one thing we  
13 want to -- one thing that I think that we were going for was that  
14 we are putting a boxy bay window. I think that might be the  
15 technical term, I don't know. But if you look at the ones  
16 directly across the street there, the picture on the right, which  
17 by the way is the same as all the ones, they also have that kind  
18 of boxy bay and then -- inset. And so I think that while the  
19 paint color that Eric did, I think, is pink, of the brick and  
20 then the -- and then they'll kind of like a wood finish, those  
21 have a very modern look to the like -- you know, the material,  
22 but when you look at the massing, the blocking -- I'm not sure  
23 if those are the proper terms -- I think the shape of a squared  
24 bay actually does look very similar to the other ones.

25 CHAIRPERSON HILL: Can you go to 34, Mr. Young?



1               Yeah. Okay. So that's what you're also referring to.

2               MR. LEVY: Yeah.

3               CHAIRPERSON HILL: Right, Mr. Levy?

4               MR. LEVY: Yeah, exactly.

5               CHAIRPERSON HILL: Well, so I guess, you know, this is  
6 what I think -- and you can keep talking about it because I think  
7 you should try to convince the other Board members. I mean, like  
8 I don't mind the design. So you got one that's not -- but you  
9 need three, right? And so -- you know, and it's not even  
10 necessarily the design. Again, it's the scale and pattern of  
11 -- and character is what we're charged with, right? We don't  
12 really do design, right? So if -- you know, design is Zoning  
13 Commission, right? So if, you know, scale and pattern and you  
14 already got the Office of Planning believing that scale and  
15 pattern and character are in keeping with -- and so you have one  
16 mansard roof, right? If you could give us some pictures, Mr.  
17 Teran, about like, you know, defending this scale and character  
18 and pattern and show it in the context of -- I don't -- forget  
19 what the word is, of all the -- even if it's a line drawing or  
20 whatever -- well, I don't know, somehow throw it in there because  
21 I think you kind of already do, then you might be able to convince  
22 my other fellow Board members and/or, I guess, I don't really  
23 understand what the cornice thing means. Can you tell me, Mr.  
24 Teran, what's the cornice thing you're thinking of?

25              MR. TERAN: Oh, for me, it'd be adding something to the



1 top of the parapet, adding some more feature rather than having  
2 it flat. I think I'd like to keep the wood feature that you see  
3 there more the way it is, but possibly, you know, the pinkish  
4 wall which is brick maybe having some type of cornice on top of  
5 there.

6 CHAIRPERSON HILL: Okay. Maybe --

7 MR. TERAN: But that's what I'm imagining. I'm not  
8 sure if Commissioner Miller's --

9 CHAIRPERSON HILL: I don't know if Commissioner Miller,  
10 is that what you're kind of interested in seeing or not?

11 ZC VICE CHAIR MILLER: Yeah, I wasn't calling for  
12 putting back a mansard roof in there. I was talking about a  
13 rooftop element that just adds a little bit of architectural  
14 interest and maybe perhaps a setback given the pattern and  
15 character and scale of the neighborhood, so. Just -- and not  
16 necessarily a change to the modern design, but yes, some type of  
17 rooftop element and perhaps a setback on that higher floor where  
18 it's higher than what is there now by nine feet or whatever. So  
19 that, and the solar -- progress on the solar, yeah.

20 CHAIRPERSON HILL: Okay. So Mr. Teran --

21 COMMISSIONER SMITH: Oh --

22 CHAIRPERSON HILL: Oh, I'm sorry, go ahead, Mr. Smith.

23 COMMISSIONER SMITH: So I agree with Mr. Miller. My  
24 -- I'm not specifically referencing the design. It's more of  
25 just as you have tried to -- both of you, Mr. Levy and Mr. Teran,



1 have tried to verbally communicate some, you know, some of the  
2 architectural features and how it may relate to the surrounding  
3 properties. It would be better to have that shown visually  
4 because we are -- you know, we're tasked and, you know, this is  
5 a common question that comes up in front of this Board, to ensure  
6 that it doesn't visually intrude. So if you can communicate --  
7 I'm not asking you to redesign -- if you can communicate how this  
8 particular design that is modern draws connections to or has  
9 drawn inspiration from the existing character along this block,  
10 it would be beneficial for -- to you. And I would -- and Mr.  
11 Teran, we see you all the time. Carry that forward because this  
12 is a common issue that we see with developers that come here  
13 asking for this particular special exception and all you're doing  
14 is showing just a picture of a couple houses down the block but  
15 without giving a context, without giving the nuance, the  
16 narrative and I'm requesting that now.

17           So yes, this is a very modern building. You have an  
18 adjacent property owner that's kind of communicating these same  
19 concerns as it relates to the character and you're not selling  
20 me right now on the character. So give me those additional --  
21 give me that additional narrative. If you want to expand the  
22 rendering out to show the building in context with a little bit  
23 more property than just the one to the north and directly to the  
24 south, that would be beneficial to you and will also help your  
25 case that much more, to be completely honest.





1 CHAIRPERSON HILL: Okay. So what I hear my fellow  
2 Board member saying -- and if I'm wrong, Mr. Smith wants to see  
3 context and Mr. Miller wants to see a cornice and then talking  
4 with the solar person and a possible setback -- well, I'll let  
5 Mr. Miller articulate it better if that --

6 ZC VICE CHAIR MILLER: That's fine. That's fine.

7 CHAIRPERSON HILL: And I'm just like I'm good. So you  
8 got a whole hodgepodge here, right, but you need three. Okay?  
9 And so if you lose one of us, then somebody else has to come in  
10 -- which there are others that can come in -- and we will continue  
11 to move forward. And so -- but at the same time that I say I'm  
12 good, the little there -- you know, I mean, Mr. Smith might be  
13 good, I don't know, right, and after Commissioner Miller sees  
14 what he wants to see, who knows where he is either, but let's  
15 -- Mr. Teran, you know what we want to see now, correct?

16 MR. TERAN: Yes.

17 CHAIRPERSON HILL: Okay. How long will it take you to  
18 get what you think we need?

19 MR. TERAN: I can work with Ben after we get off this  
20 call -- or this meeting and probably by end of Friday.

21 CHAIRPERSON HILL: All right.

22 Mr. Moy?

23 MR. MOY: Yes, I'm here, I heard the entire  
24 conversation.

25 CHAIRPERSON HILL: Yep. What does next week look like?

1 MR. MOY: Next week would be October the 4th, correct?

2 CHAIRPERSON HILL: Yes.

3 MR. MOY: Okay. To let you know, all the hearing dates  
4 through December are bad --

5 CHAIRPERSON HILL: Yep.

6 MR. MOY: -- but next week, October the 4th --

7 CHAIRPERSON HILL: Yep.

8 MR. MOY: -- you have two mods of consequence and then  
9 you have one, two, three, four cases and one appeal.

10 CHAIRPERSON HILL: Okay. And then the 11th?

11 MR. MOY: No hearing.

12 CHAIRPERSON HILL: Oh, yeah, and then --

13 MR. MOY: Unless you want to come back for that.

14 CHAIRPERSON HILL: No, I love how you always ask that.  
15 And then the 18th?

16 MR. MOY: The 18th, you have ten cases.

17 CHAIRPERSON HILL: Okay. Got ten cases.

18 MR. MOY: On the 25th of October, you have ten.

19 CHAIRPERSON HILL: That's okay. I don't want to go  
20 -- that's all right. So then the 4th, we got an appeal, two  
21 expediter reviews, and four cases?

22 MR. MOY: Yes, hopefully those four cases will be  
23 straightforward, but I can't attest to that at the moment.

24 CHAIRPERSON HILL: I understand. And on the 11th you  
25 said there's ten cases now?

1 MR. MOY: Yes, sir. There were reasons for it, but I  
2 don't want to get into that now.

3 ZC VICE CHAIR MILLER: I think that's the 18th, not the  
4 11th.

5 CHAIRPERSON HILL: Oh, I'm sorry, the 18th.

6 MR. MOY: The 18th, it'd be the 18th.

7 CHAIRPERSON HILL: All right. Let's come back next  
8 week. Okay?

9 MR. MOY: Okay.

10 CHAIRPERSON HILL: Go ahead --

11 MR. LEVY: Do you mind if I make a comment?

12 CHAIRPERSON HILL: Sure. Go ahead, Mr. Levy.

13 MR. LEVY: I'm so sorry. I don't mean to gum up the  
14 works. Is there a concept where we can nail down what's being  
15 reviewed to just like the next time, to such a small -- something  
16 that should take a very small amount of time, where therefore we  
17 -- yeah.

18 CHAIRPERSON HILL: We're only going to be here for --  
19 this is -- I could even do this as a decision if I wanted to,  
20 but I'm going to end up doing a continued hearing so that we can  
21 get feedback from my fellow Board Members.

22 MR. LEVY: Sure. Okay. Yeah.

23 CHAIRPERSON HILL: And so -- but it's only going to be  
24 for what we just talked about. You're going to just give me --  
25 you're going to give us the stuff -- Mr. Teran knows what we've



1 done before. So he knows what we're talking about.

2 And Ms. Thomas popped back in. Go ahead, Ms. Thomas.

3 MS. THOMAS: Yes, Mr. Chair, I just wanted to say with  
4 respect to the solar issue that if there -- there needs to be a  
5 determination by the zoning administrator if there is more than  
6 a 5 percent impact on the solar installation by this design. And  
7 if there is some -- there would need to be relief from that under  
8 Section 204.5, Subtitle E, the Applicant would need to apply for  
9 relief for that. And the criteria is that they must demonstrate  
10 they have made best efforts to minimize and mitigate the potential  
11 shading impact on the abutting property, including possible  
12 design alternatives to the application, to the proposed  
13 construction, and they have to provide illustrations of the  
14 shading impact and all of that. So I think that requires a little  
15 bit more --

16 CHAIRPERSON HILL: Yeah, that's okay. But does that  
17 -- is that if it was a matter-of-right, no, correct?

18 MS. THOMAS: No, no. Any new building or any new  
19 alterations or a penthouse addition that has an impact on a solar  
20 installation --

21 CHAIRPERSON HILL: Even if it's matter-of-right?

22 MS. THOMAS: Well, if a neighbor complains that they  
23 have a solar impact, the zoning administrator determines that  
24 yes, it will have to get relief. Uh-huh.

25 CHAIRPERSON HILL: And so relief from us for a matter-

1 of-right is what you're saying?

2 MS. THOMAS: Well, then it's not a matter-of-right. It  
3 doesn't become matter-of-right because it can't impact a solar  
4 installation.

5 CHAIRPERSON HILL: Okay.

6 MS. THOMAS: They have to have some mitigation of that  
7 impact, and the mitigation is only derived from some sort of  
8 relief and how they plan to --

9 CHAIRPERSON HILL: I remember having this conversation  
10 in my head earlier, but I'm going to leave it in my head, so.

11 Go ahead, Mr. Levy.

12 MR. LEVY: The one piece that I know, and I don't know  
13 a little bit -- I don't know all the zoning code, but the one  
14 thing that I do know that we did do for this project was that it  
15 was a requirement that we received a letter from the neighbor  
16 with the solar that said he basically understands that there's  
17 interference with the sunlight, and that we had to do that in  
18 order to even get a hearing scheduled. And so what we -- and we  
19 have that signed.

20 MS. THOMAS: You have that from the zoning  
21 administrator?

22 MR. LEVY: We have -- it's signed from -- with the  
23 neighbor, and then what we described in the letter that is signed  
24 between us two is that we're going to be working together to get  
25 those mitigations -- to get it mitigated in a way that's fair by



1 both parties.

2 MS. THOMAS: And is it an affidavit?

3 MR. LEVY: It's signed by both parties. It's not  
4 stamped by a notary, if that's what you're asking.

5 MS. THOMAS: So you should look at Section, Subtitle  
6 E, 204.3.

7 MR. LEVY: Actually -- okay. Okay. Let me see if it  
8 is notarized. Maybe it is.

9 CHAIRPERSON HILL: Now, I'm confused now also. So what  
10 I thought, and we can maybe have a training on this at some point,  
11 but what I thought Office of Planning was saying is that the  
12 zoning administrator or somehow -- first the zoning administrator  
13 has to determine that this is going to impact the solar panel by  
14 5 percent or more, that's the first step, correct, Ms. Thomas?

15 MS. THOMAS: That's what it says.

16 CHAIRPERSON HILL: Right. So if the zoning  
17 administrator has or hasn't done that yet, then that's the first  
18 thing, right? Okay. And then I've seen stuff that gets submitted  
19 by solar experts to tell us whether it's one way or the other,  
20 right?

21 MS. THOMAS: Yeah.

22 CHAIRPERSON HILL: Okay. So that still sounds like  
23 something maybe Mr. Levy and Mr. Teran may or may not reach out  
24 to the zoning administrator for. I don't know, right? I very  
25 much doubt that whatever you were just told that you needed a

1 letter from -- and this is something I'm going to talk to our  
2 legal department about because I'm curious, is that you needed a  
3 letter from the neighbor with the solar panels in order to get  
4 to us here to begin with? That surprises me. That doesn't sound  
5 right, you know.

6           And then the fact that, you know, you would then have  
7 to ask for relief if you were getting more than 5 percent damage  
8 to the shading, right, if you're going to get 5 percent damage  
9 to the shading, that you would still have to come to us for relief  
10 showing how you somehow accommodated the situation, right, either  
11 by talking to the neighbor, offering some kind of incentive, or  
12 whatever it was, right? And if this is the way these regulations  
13 are written, and now I am going to say this, I think it's just  
14 ridiculous, right. That means everybody should slap up solar  
15 panels on all their homes so that they can make sure that nobody  
16 can mess with them. Okay? And I'm going to testify whoever I  
17 need to testify from saying that that's just, you know -- if I  
18 -- if matter-of-right I can build up to what I'm supposed to  
19 build up to, then there you go, right.

20           So anyway, now it's late in the day, and I'm already  
21 -- I don't know what happened. Okay.

22           Mr. Moy?

23           MR. MOY: Mr. Chairman, if I can add, maybe my timing  
24 is bad here, but on the zoning applications, that provision, that  
25 requirement's on the application where the applicant has to check

1 off the box as to whether or not they meet those provisions of  
2 the solar. Okay? But we can talk about that later if you like.

3 CHAIRPERSON HILL: Okay.

4 MR. LEVY: Yeah, maybe that's what -- yeah.

5 CHAIRPERSON HILL: I don't know. I -- Mr. Moy, I'm  
6 happy to learn about that later.

7 But so -- now I just don't know where we are. So if  
8 there's something that you need to do -- is the Office of Planning  
9 saying that the Applicant has to do something now concerning the  
10 solar?

11 MS. THOMAS: I'm saying please contact the zoning  
12 administrator to determine what needs to be done.

13 CHAIRPERSON HILL: Got it. Okay. Perfect.

14 MS. THOMAS: Thank you.

15 CHAIRPERSON HILL: Thank you.

16 Okay. Mr. Levy and Mr. Teran, we'll come back on -- I  
17 guess we'll come back next week, and then see whatever you've  
18 submitted.

19 And then Mr. Moy --

20 MR. MOY: I'm expecting that if the Applicant is going  
21 to make their filing this Friday, or at the latest Monday, that  
22 this should be a continued hearing, because I suspect he may have  
23 further conversations on this.

24 CHAIRPERSON HILL: I got it. So the 18th -- I mean, I  
25 don't think you're going to hear back from the zoning





1 administrator by Friday, right, whatever you need to find out for  
2 the solar thing, right. And so how many cases do I -- you said  
3 there's ten on the 18th and there's how many on the 25th?

4 MR. MOY: Ten also.

5 CHAIRPERSON HILL: Okay. Why don't we come back on the  
6 18th, all right?

7 MR. LEVY: And can I make another thought?

8 CHAIRPERSON HILL: Go ahead, Mr. Levy.

9 MR. LEVY: I guess this is maybe how it works. I'm  
10 sorry if I'm interrupting too much, but if we were to -- if both  
11 of me and the neighbor with the solar both agreed we were more  
12 than 5 percent, then wouldn't we -- would we need to go to the  
13 zoning? If we already agree we were more than 5 percent and that  
14 we had a mitigation already agreed to, then actually wouldn't  
15 that -- would we have to go to the zoning administrator because at  
16 the end of the day, you know, because Garrett and I have been  
17 like talking about this for months. We're like -- we could have  
18 had a agreement if we had known that we needed it because we're  
19 really well down the road. So we -- I feel like that might be  
20 something we can do really quickly, and I'm not sure -- you know,  
21 we could acknowledge that we're more or less than 5 percent,  
22 whatever.

23 CHAIRPERSON HILL: Okay. I got it.

24 I'm sorry, you guys, Commissioner Miller and Mr. Smith,  
25 do you mind if I talk to legal? You guys -- can I talk to legal?



1 Can I ask them. Do you guys got another 15 minutes? Okay. I'll  
2 go talk to legal. You're okay with me, Mr. Smith? Okay. All  
3 right, Mr. Miller. All right. And I need to talk to somebody  
4 else. So let's stop this. I'm going to have an emergency hearing  
5 again with legal, we're all going to jump over there, and I'm  
6 going to read what I have to read, because I think I actually  
7 have this again now.

8 As Chairperson of the Board of Adjustment for the  
9 District of Columbia and in accordance with Section 407 of the  
10 District of Columbia Administrative Procedures Act, I move that  
11 the Board of Zoning Adjustment hold a closed meeting -- emergency  
12 meeting on 02/27/2023 (sic) for the purpose of seeking legal  
13 counsel on Case 20951, deliberate upon, but not vote on 20951.

14 Is there a second, Mr. Smith?

15 COMMISSIONER SMITH: Now I'm just getting what you're  
16 saying. But I second.

17 CHAIRPERSON HILL: There you go, Mr. Smith, I got a  
18 second.

19 Mr. Moy, take a roll call?

20 MR. MOY: When I call your name, if you'll please  
21 respond to the motion made by Chairman Hill for an emergency  
22 meeting with legal counsel.

23 Mr. Smith?

24 COMMISSIONER SMITH: Yes.

25 MR. MOY: Zoning Commissioner Robert Miller?

1 ZC VICE CHAIR MILLER: Yes.

2 MR. MOY: Chairman Hill?

3 CHAIRPERSON HILL: Yes.

4 MR. MOY: Motion carries, sir, three to zero to two.

5 CHAIRPERSON HILL: Thanks.

6 Okay. I'll meet you all over in the other meeting  
7 room. Thanks. We'll be back. We'll be back you guys.

8 (Whereupon, the BZA went into closed meeting.)

9 CHAIRPERSON HILL: All right. Mr. Moy, could you call  
10 us back in please?

11 MR. MOY: The Board has returned to its public hearing  
12 session after a quick emergency meeting with legal counsel. And  
13 the time now is at or about 3:57 p.m.

14 CHAIRPERSON HILL: Okay. All right. So Mr. Levy and  
15 Mr. Teran, if you want to go ahead, Mr. Levy, and just continue  
16 to do your work with your neighbor and let us know where that  
17 stands, just do that. Okay. And then also if you can ask Mr.  
18 Teran to look at Section E, 204.3, and ask as how you're in  
19 compliance with that. Okay?

20 MR. LEVY: Okay.

21 CHAIRPERSON HILL: And then if you can provide us with  
22 the other information that has been requested of you from my  
23 Board members, I guess if you can do that by Friday, or at the  
24 very latest Monday, Monday's also fine, right, then we'll come  
25 back here on Wednesday the 4th.



1 Commissioner Miller, if you would be so kind enough to  
2 come at the very beginning of the day, if that would work for  
3 you?

4 ZC VICE CHAIR MILLER: That's fine. And not to create  
5 more work within a week, but if you -- to the extent there are  
6 -- you might want to touch base with the ANC yet again to let  
7 them know of possible developments in the case, since you -- but  
8 you have been working with them, so you might want to just touch  
9 base with them again.

10 MR. LEVY: Okay. We will. Uh-huh.

11 CHAIRPERSON HILL: And then so that will be something  
12 that will be asked of you next week, and then we'll see if that  
13 gets -- and if not, we'll get pushed -- we'll push you to another  
14 week. So we're going to do a continued hearing just on the issues  
15 that have been raised. We're not re- -- we're not going back to  
16 everything again. Okay. Continued hearing on 10/04/23. Okay.  
17 All right.

18 Do you guys have any questions?

19 MR. LEVY: No.

20 CHAIRPERSON HILL: Okay. All right. And I'll close  
21 this portion of the hearing and the record. We'll see you guys  
22 next week. And we're going to do it at the beginning of the day,  
23 because Commissioner Miller will be only joining us at the  
24 beginning.

25 MR. TERAN: Okay. Thank you.

1 CHAIRPERSON HILL: Okay. Thank you.

2 MR. LEVY: Thank you all very much. Thank you. Have  
3 a great day.

4 CHAIRPERSON HILL: Thank you. Thank you. You as well.

5 Okay. Mr. Moy, is there anything else that you need  
6 of the Board today?

7 MR. MOY: That's it, Mr. Chairman.

8 CHAIRPERSON HILL: Okay. I will make a note, Mr. Moy,  
9 that if the government does shut down, we might have -- we might  
10 be losing Mr. Smith.

11 MR. MOY: Mr. Smith, do you want to speak to that now  
12 or later?

13 COMMISSIONER SMITH: I wish I could. I wish I could  
14 speak to it, but --

15 CHAIRPERSON HILL: No, but that's true. I mean, that  
16 -- you're telling me that's true. You are going to be shut down  
17 if the government shuts down, correct, Mr. Smith?

18 COMMISSIONER SMITH: Yes, I'll -- I'm -- yeah. So I  
19 won't be able to serve on the Board during the closing. So that  
20 may create an issue next week.

21 MR. MOY: Should that -- yeah, should that occur, Mr.  
22 Chairman, what we've done in the past is I would probably put a  
23 letter into the record for all the cases set for next Wednesday,  
24 as well as opening up virtually on Webex to make an announcement  
25 of what the possible changes would be, just to let you know.

1           CHAIRPERSON HILL: And actually I know that -- actually  
2 this might somewhat even work out insofar as I know that one of  
3 our Board members might be joining us again, and hopefully that  
4 Board member would be able to join us by the 11th. And I'm  
5 speaking about Vice Chair John. And so if Vice Chair John can  
6 come back on the 11th, then we could just move all of those cases  
7 to that open day, Mr. Moy.

8           MR. MOY: I heard you. That'd be tremendous news.

9           CHAIRPERSON HILL: Okay. All right. Do you guys have  
10 anything to say?

11           Commissioner Miller, you got anything?

12           All right. You all have a good day.

13           COMMISSIONER SMITH: I --

14           CHAIRPERSON HILL: Sorry?

15           COMMISSIONER SMITH: I'll say this, Cliff, I'll send  
16 you my like personal email, if that'll work because it may be a  
17 situation that they reopen on a Tuesday, but I can't access, you  
18 know, the laptop or whatever for the documents per federal law.  
19 So I'll send you my personal email so you can send that like to  
20 my personal email.

21           MR. MOY: Okay, sure. Yeah, that works, that works.  
22 Okay.

23           COMMISSIONER SMITH: Okay.

24           CHAIRPERSON HILL: Okay. All right, y'all, it was a  
25 great day. We stand adjourned. Bye-bye.



(Whereupon, the above-entitled hearing was adjourned.)

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## C E R T I F I C A T I O N

This is to certify that the foregoing transcript

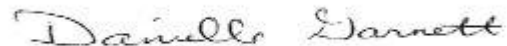
In the matter of: Public Meeting

Before: BZA

Date: 09-27-2023

Place: Teleconference

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