

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

+ + + + +

BOARD OF ZONING ADJUSTMENT

+ + + + +

REGULAR PUBLIC HEARING

+ + + + +

WEDNESDAY

MARCH 13, 2024

+ + + + +

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

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

FREDERICK L. HILL, Chairperson
LORNA L. JOHN, Vice-Chairperson
CARL H. BLAKE, Member
CHRISHAUN S. SMITH, NCPC Designee

ZONING COMMISSION MEMBER[S] PRESENT:

ANTHONY J. HOOD, Chairperson
ROBERT MILLER, Vice-Chairperson
TAMMY STIDHAM, NPS Designee

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY, Secretary
PAUL YOUNG, A/V Production Specialist

OFFICE OF PLANNING STAFF PRESENT:

KAREN THOMAS
MATTHEW JESICK
RON BARRON

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

(202) 234-4433

(202) 234-4433

OFFICE OF ZONING ATTORNEY ADVISORS PRESENT:

SARAH BAJAJ, ESQ.
COMETRIA COOPER, ESQ.
CARISSA DEMARE, ESQ.
MARY NAGELHOUT, ESQ.
RYAN NICHOLAS, ESQ.

The transcript constitutes the minutes from
the Regular Public Hearing held on March 13, 2024.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

(202) 234-4433

(202) 234-4433

CONTENTS

Application No. 20920 of Florence Olajide	4
Application No. 21064 of Matthew T. Mason	79
Application No. 21066 of 2925 Pennsylvania Ave SE, LLC	87
Appeal No. 20944 of Advisory Neighborhood Commission 3D and Rohit Kumar	106
Appeal No. 21040 of Advisory Neighborhood Commission 2G	112

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

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

(11:35 a.m.)

BZA CHAIR HILL: Okay, Mr. Moy, you can call our first public hearing.

MR. MOY: Okay, I'll try my screen again, see what happens. Just let me know if it's still a little bit gritty. Is that the right word? Anyways.

BZA CHAIR HILL: Okay.

MR. MOY: The Board is in its public hearing session with its first case. And this is case application number 20920, Florence Olajide, I guess, O-L-A-J-I-D-E, self-certified application pursuant to Subtitle X, Section 901.24, special exception under Subtitle U, Section 421, and it's located in the RA-1 zone at 1326 Fort Stevens Drive, NW, Parcel 0870/0570.

And let's see, I think that's all I have to say, except to note that this applicant has previously been postponed. That's all I have. Thank you, sir.

BZA CHAIR HILL: Okay. If the applicant can hear me, if they could please introduce themselves for the record.

MR. BELLO: Good morning, Mr. Chairman, Board members. Toye Bello, representing the owner of the property and the applicants.

BZA CHAIR HILL: Okay, thanks, Mr. Bello. I see the Commissioner here. Is the Commissioner with us?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

(202) 234-4433

(202) 234-4433

1 Commissioner, could you introduce yourself for the record?

2 MS. NELSON: Hi. Good morning, everyone. My name
3 is Candace Tiana Nelson, I'm the Chair of ANC-4A, and the
4 Commissioner for ANC-4A06.

5 BZA CHAIR HILL: Thank you, Ms. Chair. Thank you
6 for joining us today. Okay, Mr. Bello, if you want to go
7 ahead and walk us through your client's application and why
8 you believe you're meeting the criteria for us to grant the
9 relief requested. I'm going to put fifteen minutes on the
10 clock so I know where we are, and you can begin whenever you
11 like.

12 MR. BELLO: Okay, the applicant is online. Did
13 you need them to introduce themselves too?

14 BZA CHAIR HILL: As soon as they speak, they can
15 introduce themselves. But, I mean, are they going to provide
16 testimony?

17 MR. BELLO: Only if necessary. Thank you. If Mr.
18 Young would pull up the PowerPoint presentation.

19 So this is an application for special exception
20 to construct a new four-unit building on the property at 1326
21 Fort Stevens Drive, NW. Next slide, please?

22 The nature of relief essentially is the relief,
23 Subtitle U, Section 421, including those sections pertaining
24 to the conditions for the concentration of a special
25 exception. Next slide, please.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 So the Board, as we all know, is authorized to
2 approve a special exception where in the Board's judgment the
3 Board finds that the special exception will be in harmony
4 with the general purpose and intent of the zoning
5 regulations. Next slide, please.

6 The special exception would not tend to affect
7 adversely the use of neighboring property, and three, will
8 meet the such special conditions as may be specified in this
9 title. Next slide, please.

10 These are the applicant's representation of the
11 compliance of the application with the stated standards. As
12 stated under Subtitle F, Section 300.1(a), the purpose of the
13 Area 1 zone district is to permit all types of urban
14 residential development if they conform to the height,
15 density, and area requirements established for this district.

16 The proposed three-story apartment house is not
17 inconsistent with the stated purpose because it is an urban
18 residential development which conforms with the height,
19 density, and area requirements for the underlying zone
20 district. In other words, the application does not request
21 any relief from the development standards. Next slide,
22 please.

23 Specifically, Section F, 300.1, states that in the
24 Area 1 zone, that that zone is intended to provide for area
25 predominantly developed with low to moderate density

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 development, including detached dwellings, row houses, and
2 low-rise apartments.

3 The proposed project here is three-story, low-rise
4 apartment containing four units. So it meets this provision
5 that complies with it. Next slide, please.

6 Will not tend to affect adversely the use of
7 neighboring property, in accordance with the zoning
8 regulations. The subject property is an undeveloped,
9 landlocked lot, surrounded on all sides by larger apartment
10 houses, with the exception of a single-family detached
11 dwelling on a similarly landlocked immediately adjoining lot
12 west of the subject property.

13 The proposed building is freestanding and will not
14 share a common division with any adjoining property, and the
15 proposed building would not cast any shadow in part lot
16 already in existence, or exacerbate same. And the shadow
17 study is in Exhibit 28. Next slide, please.

18 The proposed use is compatible with the
19 surrounding uses, and complies with the general provisions
20 of this underlying Area 1 zone district.

21 The proposed building will not street fronting,
22 and is in fact behind two apartment houses, shielding view
23 from the street, and will not significantly alter the
24 architectural fabric of the neighborhood, as viewed from the
25 street. Next slide, please.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 The proposed project provides three parking spaces
2 accessible from Peabody Street via a vehicular easement,
3 which is submitted under Exhibit 29.

4 A second easement affords both pedestrian and work
5 utilities access from Fort Stevens Drive. See Exhibit 30.
6 The proposed building will be fully sprinkled in accordance
7 with the applicant construction codes. Next slide, please.

8 Will meet such special conditions as may be
9 specified in this title. Those conditions are set forth
10 under Subtitle U, Sections 421.2 through 421.4. Next slide,
11 please.

12 421.2 states that the Board of Zoning Adjustment
13 shall refer the application to the relevant District of
14 Columbia agencies for comments and recommendations, as to the
15 adequacy of the following, (a) existing upon the area schools
16 to accommodate the number of students that could be expected
17 to reside in the projects.

18 The applicant contends that the proposed number
19 of dwelling units, which are four, are not substantially
20 numbered enough to significantly impact on the capacity of
21 the existing or planned schools, or adequately accommodate
22 the potential number of residents expected to reside in the
23 proposed project. And I do not believe that there's any
24 comments from the school board. Next slide, please.

25 This slide basically lists the number of

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 elementary schools and the relative distance to the subject
2 property. There are between private and public elementary
3 schools and junior middle schools. There are six such
4 facilities. So it is adequately served. Next slide, please.

5 Public streets, recreation, and other services to
6 accommodate the residents that can be expected to reside in
7 the project. The project is deemed very walkable, in
8 accordance with the walkable score of 81 out of 100 walkable
9 score; very bikeable score of 65 for the property. The
10 neighborhood is the 23rd most walkable neighborhood in
11 Washington, DC, making most errands possible on foot.

12 At a transit score of 64, the subject property is
13 served by many nearby transportation options, as attested by
14 the public transit system, including cost-sharing from
15 Zipcar, Hertz On Demand, and RelayRides. Next slide, please.

16 This slide lists public transportation, rail
17 lines, and bus lines, that serve in close proximity to the
18 subject property. Next slide, please.

19 This is a list of nearby parks. The property is
20 well-served with close proximity to the Rock Creek Golf
21 Course and Fort Stevens Park. Next slide, please.

22 The Board of Zoning Adjustment should refer the
23 application to the Office of Planning by memo dated February
24 28th. The Office of Planning recommends approval of the
25 application. That memo is Exhibit 27. Next slide, please.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 The ANC regularly-scheduled meeting voted to
2 oppose unanimously those who opposed the application. The
3 major concern of the neighbors appears to be rodent
4 infestation that is a neighborhood-wide problem.

5 If need be, the applicants and owner would testify
6 to some of the rodent-control measures that they've taken to
7 date. Those are upload as Exhibit 31. Next slide, please.

8 This is basically a zoning dater and unit matrix
9 that shows the average size of the units and its compliance
10 with every element of developments standards applicable to
11 it. Next slide, please.

12 This is essentially a roof plan and a landscape
13 plan that reflects that there are three parking spaces
14 located at the rear of the property, which would be
15 accessible from the easement, and also the fact that there
16 will be a roof deck that will be accessible through a roof
17 hatch. Next slide, please.

18 This is a vicinity map and adjacent photographs
19 of surrounding properties. As previously testified to, this
20 is a landlocked property that's not visible from the street
21 and is surrounded by much larger apartment developments, some
22 four-story, multiple unit apartment building. Next slide,
23 please.

24 Slide here shows the existing site plan of the
25 vacant lot, and also the proposed building site plan. Next

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 slide, please.

2 Proposed floor plans. Next slide, please.

3 Second and third floors. Next slide, please.

4 Building elevation. Next slide, please.

5 In our engagement with some of the neighbors who
6 did not like the look of the proposed building, these
7 renderings were offered as a second option for consideration.
8 Next slide, please.

9 That may be the last slide. Mr. Young, is it?
10 Yeah, okay. And that will be our presentation. Thank you.

11 BZA CHAIR HILL: Thank you, Mr. Bello. Go ahead,
12 Mr. Blake.

13 MEMBER BLAKE: Which of the second option
14 rendering, which one are you presenting us to the Board
15 today, and which one are you intending to use?

16 MR. BELLO: Well, the first one that was shown as
17 part of the zoning data as red brick veneer, combined with
18 sidings. And the reason for that is most of the surrounding
19 buildings are red brick, and the adjoining single-family
20 dwelling that's also in a landlocked lot is predominantly
21 sidings, white sidings. So the intent was combine those two
22 elements.

23 MEMBER BLAKE: And which one is presented to the
24 ANC initially, and which one is presented to the Office of
25 Planning?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 MR. BELLO: The red brick veneer was the primary
2 one that was presented both to the Office of Planning and the
3 neighborhood.

4 MEMBER BLAKE: Thank you.

5 MR. BELLO: Yeah, thank you.

6 BZA CHAIR HILL: All right, go ahead, Ms. John.

7 BZA VICE CHAIR JOHN: I am looking at Exhibit 6,
8 which is your official exhibit in the record. Is that option
9 presented in Exhibit 6, or are you attempting to amend
10 Exhibit 6? Exhibit 6 has your architectural plans and
11 elevations. I can't hear you, Mr. Bello. Are you speaking?
12 I think your mic is off. Okay.

13 MR. BELLO: Yes, I'm not sure if Mr. Young can
14 help us bring that up, or Mr. Ali, the architect, is online.
15 I probably prefer for him to speak to that.

16 MR. ALI: Yeah, just wanted to confirm this is the
17 most recent design option, we're affecting the kind of like
18 light-brownish, reddish brick, and the siding as well.

19 BZA VICE CHAIR JOHN: Mr. Ali, could you introduce
20 yourself for the record, please?

21 MR. ALI: Ramy Ali with RAM Design Architects.

22 BZA VICE CHAIR JOHN: Thank you.

23 BZA CHAIR HILL: So, Mr. Ali, is Exhibit 6 the one
24 that has the correct brick color?

25 MR. ALI: I'm sorry, can we pull Exhibit 6, just

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 so I can confirm this is what -- I don't have the --

2 BZA CHAIR HILL: Okay. Mr. Young, can you pull
3 Exhibit 6 for us? And then Mr. Ali, you can ask Mr. Young
4 to scroll.

5 MR. ALI: No, that was the previous one that we
6 got from objection on the finishes, and it was revised to
7 reflect the brick and siding that Mr. Bello just went over
8 a few minutes ago. That was the previous design.

9 BZA CHAIR HILL: The only thing you have in the
10 record reflecting it is the PowerPoint presentation?

11 MR. ALI: Mr. Young, the design package that you
12 just went over, is this on record?

13 MR. YOUNG: It is only on the PowerPoint of our
14 current, Mr. Chair.

15 BZA CHAIR HILL: Okay. And right, it's in slide
16 number 18, I think. Mr. Young, I'm sorry. If you could pull
17 up Mr. Bello's presentation and go to slide 18, please?

18 MR. ALI: That was correct. This is the most
19 recent one that have a combination of the brick and the
20 siding.

21 BZA CHAIR HILL: Okay. So if we were -- I just
22 want to make clear that I referenced the correct files. So
23 Exhibit 18 in your PowerPoint has the correct color.
24 Correct?

25 MR. ALI: Correct. Everything on that design

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 package is the most recent and the correct one. Correct.

2 BZA CHAIR HILL: Well, you don't have a full
3 design package. It's just a couple of slides. Your design
4 package is number six.

5 MR. BELLO: Yeah, that's correct, because the only
6 difference between that is this second option of facade
7 exterior design.

8 BZA CHAIR HILL: Okay. And Exhibit 25, slide
9 number 18. All right, we'll see what happens. Okay, do my
10 fellow Board members have any further questions of the
11 applicant at this point?

12 MEMBER BLAKE: So there are no changes to the
13 interior design whatsoever, from what we saw between those
14 two facade changes. Correct?

15 MR. ALI: No, the request was basically to revise
16 the envelope.

17 MEMBER BLAKE: Okay. But nothing else changes at
18 all.

19 MR. ALI: No. Same in the matrix, same unit type,
20 square footages, all that is exactly --

21 BZA CHAIR HILL: Like, your plans, Mr. Ali, are
22 in Exhibit 6, except for the facade, which is in Exhibit 25,
23 slide 18. Correct?

24 MR. ALI: Sorry, say that again?

25 BZA CHAIR HILL: Your plans are in Exhibit 6 --

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 those are your plans -- except for the facade coloring, which
2 is in Exhibit 25, slide 18. Correct?

3 MR. ALI: Yes, coloring and actual material.

4 BZA CHAIR HILL: Okay. Well, I don't see the
5 actual material, but all right. Where does it say actual
6 material? Mr. Ali?

7 MR. ALI: Yes. Yeah, I'm sorry, because I don't
8 know what documents are on record and what's on the
9 PowerPoint. I'm just referring to the one on the PowerPoint
10 that Mr. Bello just went over.

11 BZA CHAIR HILL: Yeah. I'm just trying to refer
12 to the right slide. So I get to 25, we get to 25.

13 MR. ALI: If you pull up the cover page of the
14 design package, I think I have, like, sixteen sheets here.
15 I don't know, you're saying there's only four. But it's
16 okay.

17 BZA CHAIR HILL: Sorry, they're doing some
18 construction here in my house over here, and I apologize.

19 Exhibit 25 is a rendering. It doesn't say
20 materials. I'm sorry, Exhibit 25, slide 25 -- my mistake.
21 Exhibit 25, slide 18 --

22 MR. ALI: Can we pull this up?

23 BZA CHAIR HILL: Mr. Young, if you can please pull
24 up Exhibit 25 again, slide 18, maybe it has the materials if
25 I zoom in.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 MR. YOUNG: Exhibit number? Because mine says
2 Exhibit 25 is Motion for Continuance.

3 BZA CHAIR HILL: Hold on, that's not what I got.
4 Oh, I apologize. Right, Exhibit 32. Exhibit 32, slide
5 number 18. Mr. Ali, that's the correct picture. Correct?

6 MR. ALI: Yes.

7 BZA CHAIR HILL: And then does it say materials
8 somewhere?

9 MR. ALI: On the elevations, it specifies the base
10 square finishes.

11 BZA CHAIR HILL: Elevations. Where would those
12 be, Mr. Ali?

13 MR. ALI: A05 and -- yep, just scroll. Further.
14 Further. Yeah, so one up. Yeah, so this reflects the brick.

15 BZA CHAIR HILL: Okay.

16 MR. ALI: And there's also another drawing for the
17 elevation. There's two drawings for the elevation. Should
18 be the one right after it, A05. Okay, it's missing on the
19 PowerPoint presentation.

20 BZA CHAIR HILL: All right, we'll come back to
21 this. I mean, again, Mr. Ali and Mr. Bello, as you know, the
22 Board has to approve what is before us. And so it's a little
23 bit confusing as to what you're proposing.

24 Okay, Commissioner Nelson, do you have any
25 questions?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 MS. NELSON: I do not. I think ANC-4A, we were
2 able to meet with them in a special meeting. Myself, I met
3 with them at the site and did a walkthrough. I was just
4 going to kind of testify to that, some of the steps that we
5 had taken, and some of the things that we heard from the
6 community. But as far as questions for the applicant, no,
7 I do not.

8 BZA CHAIR HILL: Okay. Okay. Would you like to
9 give us your presentation?

10 MS. NELSON: My presentation? Are you still
11 talking to me?

12 BZA CHAIR HILL: Yeah. Sorry, Commissioner. I'm
13 getting a little feedback, so I'm trying to unmute and mute.
14 Would you like to give us your testimony? Is there a
15 testimony you'd like to give us?

16 MS. NELSON: Yes, I would like to testify for the
17 written record. May I begin?

18 Well, good morning again, Chair Hill and the
19 members of the Board of Zoning Adjustment. My name is
20 Candace Tiana Nelson and I am the Chair of ANC-4A and the
21 Commissioner for Single-Member District 4A-06.

22 On Tuesday, March 5th, ANC-4A, at their regularly
23 scheduled meeting, we did vote to protest and/or oppose the
24 application for Ms. Florence Olajide to construct a new
25 detached three-story with seller, four-unit apartment house

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 in RA-1 Zone.

2 There was a quorum of seven commissioners present,
3 voting seven ayes, zero nays, zero abstentions. So this was
4 unanimous.

5 I did kind of want to walk you through the
6 notifications that we provided, in case there was any
7 question to that.

8 On February 6th at our ANC regular meeting for the
9 month of February of 2024, we did announce the special
10 meeting that we held, just to discuss BZA matters that were
11 in our jurisdiction.

12 On February 14th and again on the 15th, we made
13 notification to that special meeting, and then on February
14 28th we gave notification for our March 5th meeting.

15 In November of 2023 -- so this has been a part of
16 this for a little while now -- I did get the opportunity to
17 meet Mr. Bello, Ms. Olajide, and Mr. Timothy Oluwani, Jr.,
18 and walked through the site along with several of the
19 neighbors, and the two neighbors that are most highly
20 affected, Mr. Judith Anderson and Charlene Evans.

21 So I did get a chance to kind of walk through, see
22 the space, talk through at the time what they were deciding
23 that they were going to use for the space.

24 And at that point in time, we decided that let's
25 go back to the BZA -- Mr. Bello agreed to do that on behalf

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 of the applicant -- and ask for a postponement, just so that
2 we could hopefully have some time to compromise and address
3 some of the major issues regarding the property line -- there
4 were discrepancies as to where the property line was.

5 Yes, we've talked about the rodents. Mr. Bello
6 mentioned that issue.

7 But when we got to the special meeting, another
8 issue arose that I think is noteworthy, which was the concern
9 that given the proposed height and the designs that were
10 submitted for this potential construction project, that
11 neighbors directly affected were concerned about losing their
12 privacy and their sunlight.

13 I did ask for a shadow study. Mr. Bello secured
14 that study on the 5th. But given all of the folks who came
15 to testify virtually, and everything that I heard from the
16 community and person at the site visit, it was just a
17 resounding no.

18 Additional issues, of course, always parking in
19 the District of Columbia, or just the loud ringing of the no,
20 I think that there are some neighbors that would be in
21 support of a different proposal. Maybe a proposal that had
22 one house, a two-story building, as opposed to three or four.
23 So I'm not sure if that is -- maybe that should have been a
24 question that I asked when you asked me earlier if I had a
25 question for the applicant.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 But all that being said, I do represent the
2 single-member district where this project is being proposed.
3 I'm authorized to represent ANC-4A and answer any questions
4 that you may have that I can answer. So thank you.

5 Thanks for suffering through that. This is my
6 first time testifying before the BZA. So hope I didn't let
7 you down in my constituent watching. Hope I did all right.

8 BZA CHAIR HILL: Commissioner, I think you did
9 lovely. I thank you so much for your time, and the fact that
10 you also are here with us is very telling how much you are
11 serving your constituents, because it takes time for you go
12 be here.

13 MS. NELSON: Thank you, thank you, thank you for
14 your service.

15 BZA CHAIR HILL: We appreciate it. All right,
16 does anybody have any questions for the Commissioner?
17 Commissioner, I'm going to ask you, if you don't mind, just
18 to mute your line. We've got many an echo. And I'll come
19 back to you, Commissioner, if you have any questions also for
20 the Office of Planning, and as we go through the hearing.
21 Thank you. May I turn to the Office of Planning, please?

22 MS. THOMAS: Good afternoon, Mr. Chair, members
23 of the Board. Karen Thomas with the Office of Planning, and
24 the Office of Planning is recommending approval of this
25 application.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 It has satisfied the requirements of Subtitle U,
2 421, and we had issue with access to Peabody Street and to
3 Fort Stevens Drive initially, and the applicant has produced
4 document to the record.

5 In support of that we also told the applicant to
6 work with the neighborhood to address the issue of rodent
7 control, and we see that they have provided documentation
8 outlining some pest abatement to the issue. And with that,
9 we had no more issues.

10 I briefly looked at, recently, the shadow study
11 that was produced, and I could say that I don't see an
12 adverse impact due to shadowing from this three-story
13 building.

14 And with that, I will stand on the record of our
15 report. Thank you.

16 BZA CHAIR HILL: Thank you, Ms. Thomas. Does my
17 Board members have any questions for the Office of Planning?
18 Okay, Commissioner Nelson, do you have any questions for the
19 Office of Planning?

20 MS. NELSON: I do.

21 BZA CHAIR HILL: Go ahead, please.

22 MS. NELSON: Thank you. Ma'am, were you able to
23 visit the site in person?

24 MS. THOMAS: Yes. Yes, I did.

25 MS. NELSON: Okay. Were you concerned about the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 property lines there, and the eight feet versus the
2 non-existent, it seemed, eight feet of how the structure
3 would actually fit there?

4 It wasn't until I went in person that I had a
5 little bit more concerns when I actually looked at the
6 parcel.

7 MS. THOMAS: No, 1C -- we have an echo.

8 BZA CHAIR HILL: Maybe, Commissioner Nelson, if
9 you ask your question and then mute yourself, then Ms. Thomas
10 with the Office of Planning can respond and it'll be maybe
11 not as much of an echo. And then when you speak, unmute your
12 line, and we'll go about it that way.

13 MS. NELSON: Yes.

14 BZA CHAIR HILL: Go ahead, Ms. Thomas.

15 MS. THOMAS: Yes, sure. I did go to the site
16 because this was an unusual site in terms of it being an
17 interior lot. This is not usually the case for us, so I did
18 go to the site to see exactly how this would work. It seems
19 to be a fairly large lot.

20 Once the yards are being satisfied, as shown on
21 the plans, we didn't think that this would be an issue, in
22 terms of light and air and shadowing, to the neighbors. The
23 issue that I did hear from one or two residents when I did
24 go visit last year, was the rodent control. And I expressed
25 this concern to the applicant.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 But at that time, there was no issue of any
2 boundaries or anything. I didn't have any issues with the
3 site plan, per se.

4 BZA CHAIR HILL: Commissioner, did you have any
5 other questions?

6 MS. NELSON: Is this better? Okay. All right.
7 I was in the middle of switching my speakers, hoping that I
8 could help you guys out with that echo you were hearing.

9 BZA CHAIR HILL: Thank you. It worked out well.
10 Do you have any further questions for the Office of Planning?

11 MS. NELSON: Not at this time.

12 BZA CHAIR HILL: Thank you, Commissioner. Mr.
13 Bello, do you have any questions for the Office of Planning?

14 MR. BELLO: No, Mr. Chairman. No questions.

15 BZA CHAIR HILL: Mr. Young, is anyone here wishing
16 to speak?

17 MR. YOUNG: Three witnesses signed up.

18 BZA CHAIR HILL: Okay, could you give me their
19 names and you bring them in, please?

20 MR. YOUNG: The first is Angela Nedd, the second
21 is Charlene Evans, and the last one is Judith Anderson.

22 BZA CHAIR HILL: Ms. Nedd, can you hear me?

23 MS. NEDD: I can, but I would like to let Ms.
24 Evans go first. She is the property owner adjacent to the
25 vacant lot and has the greatest interest.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 BZA CHAIR HILL: Okay, sure. Ms. Evans, can you
2 hear me? Great.

3 MS. EVANS: Can you hear me as well?

4 BZA CHAIR HILL: Yes, I can. If you can introduce
5 yourself for the record, and then you'll have three minutes
6 to give your testimony. And you can begin whenever you like.

7 MS. EVANS: Good afternoon, Board members and
8 Chairman. My name is Charlene Evans, I live at 1328 Fort
9 Stevens Drive.

10 There has been a survey of my property. And I was
11 added additional six feet of property. This was done last
12 year in July. So there isn't dispute regarding the land.

13 I have concerns regarding the distance of eight
14 feet from that particular property, given that I was given
15 -- well, my measurement from the surveyor gave me an
16 additional six feet.

17 Also, this area's very saturated. If that
18 building is put there, then my property value will go down.
19 There is no way to want to buy this property.

20 I have spent a lot of money in doing landscaping,
21 and things along those natures, to improve the land, my land,
22 so that if I do decide to sell it, it would be worth
23 something.

24 As far as the easement agreement, that easement
25 agreement that he has coming off Peabody, it crosses my

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 easement. So if I wanted to park in front of my garage, how
2 are these people getting in?

3 Another question is, if there's a trash area for
4 one of the buildings that are across the way, there's no way
5 that someone can enter that particular area.

6 Another thing, the Notice of Publication of
7 Hearing, I never saw it. In fact, my neighbor called me and
8 said, hey, Charlene, have you seen the public hearing? That
9 wasn't up this weekend, because I was out working on my fence
10 and I did not see anything regarding that public hearing.
11 I just found out yesterday.

12 Thank God I was registered. My biggest thing is,
13 I will not have absolutely no privacy with that building.
14 And given that there was a single-family home on that
15 original property, now you want to turn it into an apartment
16 building, four stories up, I won't have any privacy.

17 It's a very saturated area. And when the ANC
18 Commissioner came in and inspected the area, they even
19 noticed that it's a very saturated area. I mean, extremely
20 saturated.

21 Where are these trucks -- let's say that they did
22 have construction. Where are these trucks going to park?
23 That area is all parking. All parking. Plus, the garbage
24 there are two trash areas that are adjacent from one another.
25 So how are you going to have parking, which that easement

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 crosses my property, how can you build when you don't even
2 know -- you say that there's a public record, but did you do
3 a measurement of the land?

4 I did a measurement of my land and my neighbor did
5 a measurement of her land. And I received an additional six
6 feet. And it was done by a surveyor that has been doing --
7 it's on record and has been doing surveys in this particular
8 area for a long time.

9 It makes it very difficult for someone who's new
10 to come in and do a survey. But I just happen to have the
11 individual that did the original survey.

12 I will not have any property and any privacy. My
13 value of my home would definitely go down. It is a very
14 saturated area. And those pictures, the architectural
15 pictures, do not represent the area, especially the building
16 that is adjacent to the original paperwork. It doesn't
17 represent it. These buildings are very old. They just do
18 some updating in terms of the windows, but they are old.

19 And that is a false representation of the area in
20 this, I guess, quadrant of apartment buildings.

21 BZA CHAIR HILL: Okay, Ms. Evans.

22 MS. EVANS: Right now, people cannot -- okay, go
23 ahead. I'm sorry.

24 BZA CHAIR HILL: That's okay. I'm just saying you
25 ran out of time, but I had a question for you. You want to

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 go ahead and --

2 MS. EVANS: I'm sorry.

3 BZA CHAIR HILL: That's all right. You want to
4 go ahead and sum up?

5 MS. EVANS: It's very disconcerting to me. First
6 of all, I would never bought this house if I knew that there
7 was an apartment done. All the paperwork I looked at for
8 this plan was done before I moved in here.

9 BZA CHAIR HILL: Okay.

10 MS. EVANS: Even along those lines, I have my
11 stuff documented.

12 BZA CHAIR HILL: Okay.

13 MS. EVANS: And like I said, the easement
14 agreement would run across my parking area.

15 BZA CHAIR HILL: Okay. Okay. Can you tell me the
16 address again, Ms. Evans?

17 MS. EVANS: It's 1328 Fort Stevens Drive. And the
18 architectural design does not have my wooden fence. It has
19 chainlink fence.

20 BZA CHAIR HILL: Okay. Ms. Evans, we may come
21 back to you in a second. All right, Ms. Anderson, can you
22 hear me?

23 MS. ANDERSON: Yes, I can hear you.

24 BZA CHAIR HILL: Okay, great. Could you introduce
25 yourself for the record? And then you will also have three

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 minutes to give your testimony.

2 MS. ANDERSON: My name is Judith Anderson and I
3 live at 1324 Fort Stevens Drive, NW. I have actually lived
4 here since 1979. I remember when there was a single-family
5 house on that lot, and that people actually occupied it.

6 At this point, the neighbors and the people that
7 are proposing to build have been the neighbors from down
8 under.

9 They say at this point -- at this point, nothing
10 they have said to us as neighbors has been the truth. And
11 currently, they have proposed that they want to put a
12 three-story building, plus with a roof deck.

13 The roof deck and this building will tower up over
14 both of the buildings -- Charlene's house and 1324 -- so that
15 we'll have no privacy. The roof deck will make it so they
16 can look down on us into the windows, and if you're actually
17 standing at the property anywhere in the vicinity, you'll
18 notice that the way the buildings that are designed
19 currently, while you can see the windows from the adjacent
20 buildings, you can't look in them.

21 You can kind of see what, like right up to them,
22 but you aren't able to see the neighbors, or people walking
23 around. There is no invasion of privacy.

24 Even though there are screened-in porches on the
25 rear of 1320 and 1324, we don't really directly look or peer

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 into anybody's window.

2 With the addition of the roof decks, they will
3 take away any semblance of privacy that we have, because they
4 will be above us, so they'll be able to look in every window
5 almost that we have from their roof.

6 Further, there has been no notice, no publication
7 -- I understand that you're supposed to put some kind of
8 notice up at least fifteen days in advance. They snuck those
9 notices up yesterday. Because I do outside every day to take
10 the trash out, and I can see from my porch where they posted
11 the notice, there was no notice there. There hadn't been a
12 notice.

13 They have never posted notices. Not for any
14 hearing or proposed hearings or continuances, that they were
15 ever going to have.

16 I mean, I just kind of feel like at one point, to
17 get me to go along, they tried to tell me -- Ms. Lawrence and
18 her husband -- that that was going to be their retirement
19 home and they were going to live there.

20 There is nothing back there. I spent 27 years in
21 law enforcement and I can tell you that this lot has caused
22 more crime and more things back there. And the addition of
23 that, when you cram some people that tightly in a little
24 teeny area, it is destroying Charlene's property value, and
25 my property value.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 Mr. Timothy and his wife, they don't maintain the
2 property that they have. There's been some trash on the
3 sidewalk going to their property, that has been there for the
4 last fifteen days.

5 And I get that you're not responsible for trash,
6 but my concern is that if they're not upkeeping the property
7 that is immediately adjacent to the lot they want to build
8 on, what do we have to look forward to? And that's really
9 all I have to say about that, is that it's not something --
10 it is not that I am not in support of someone living back
11 there, because I've been here long enough to know when there
12 was someone living there.

13 And it was quite nice when they lived there. So
14 I'm not in total opposition to someone building or being
15 there. It's just the manner in which they want to increase,
16 because they have the potential of having 40 people back
17 there.

18 BZA CHAIR HILL: Okay. All right, thanks, Ms.
19 Anderson. Ms. Nedd, can you hear me?

20 MS. NEDD: Yes, I can.

21 BZA CHAIR HILL: Okay, great. Could you please
22 give us your testimony, and introduce yourself for the
23 record? And you'll have three minutes.

24 MS. NEDD: Thank you. My name is Angela Nedd.
25 I also live at 1324 Fort Stevens Drive, NW.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 My testimony is that the applicant has
2 misrepresented the neighbors' opposition to this proposal,
3 reducing our concerns to an unaddressed rodent issue on the
4 property, as shown on the slide show submitted on March 11th.

5 If approved, the residential, or this proposed
6 building on this lot will negatively, adversely affect the
7 immediately adjacent properties.

8 The proposed building will house significantly
9 more people than the immediately adjacent properties.
10 They're looking at twelve bedrooms, compared to a maximum of
11 seven bedrooms in the adjacent properties.

12 And the vacant lot is much smaller than those
13 immediately adjacent lots, and much smaller than represented
14 in their initial proposal.

15 The proposed building design is incongruent with
16 existing buildings. It's steel, concrete, and glass, and all
17 of the buildings, except Ms. Evans' older farmhouse home, are
18 brick exterior.

19 Although passerbys won't see this incongruent
20 design, the adjacent properties -- us, the neighbors -- will.
21 This proposed building, as Ms. Anderson indicated, will tower
22 over our properties. They will be looking into our bedroom
23 windows.

24 I'm on the western side of Ms. Anderson's
25 building, and they would still be able to see into my

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 bedroom. And this is going to negatively impact our quality
2 of life.

3 As submitted, the proposal does not reflect the
4 actual boundaries. Therefore, the applicant needs to submit
5 a new and accurate proposal that reflects the true size of
6 the property and the actual building they wish to build, with
7 design proposals, construction materials, and actual
8 renditions of what is here. Not their fantasy and what they
9 want it to look like, and what they want us to believe it
10 would look like. And that's all I have. Thank you.

11 BZA CHAIR HILL: Thank you, Ms. Nedd. Okay, I'm
12 going to keep Ms. Evans around for a little bit. But before
13 we excuse Ms. Anderson and Ms. Nedd, do my Board members have
14 any questions for Ms. Anderson or Ms. Nedd? Okay, go ahead
15 first, Vice Chair John.

16 BZA VICE CHAIR JOHN: I was confused, but the
17 witness who testified to the easement going over her land --

18 BZA CHAIR HILL: That was Ms. Evans.

19 BZA VICE CHAIR JOHN: Ms. Evans. So, Ms. Evans,
20 did anyone talk to you about that easement?

21 MS. EVANS: I have documentation that gives me the
22 easement that I have. No one has really -- I shouldn't say
23 really -- no one has talked to me about any additional
24 easement that is being proposed. No one has talked to me
25 about that.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 BZA VICE CHAIR JOHN: Okay. And you're saying
2 that the easement that's shown on the plans would include the
3 easement that you currently have?

4 MS. EVANS: It would cross over my easement patch.
5 For example, if I was to park in front of my garage today,
6 there's no way someone could get into that property.

7 BZA VICE CHAIR JOHN: Okay.

8 MS. EVANS: Number one -- okay, go ahead, ma'am.

9 BZA VICE CHAIR JOHN: I wanted to have that image
10 pulled up but I'm not sure what exhibit it is. Mr. Young,
11 let me see.

12 BZA CHAIR HILL: Mr. Bello, can you hear me? Mr.
13 Bello, can you hear me? Okay, Mr. Bello, I'm trying to also
14 figure out what -- I'm having a difficult time from your
15 exhibits understanding what is immediately around the
16 property.

17 So maybe you can give us an exhibit that Ms. John
18 might be able to look at, and would help me as well, with the
19 easement.

20 But just before I do that, Ms. John, I just want
21 to excuse Ms. Anderson and Ms. Nedd, unless there's any
22 questions for them.

23 PARTICIPANT: And I'm a little confused -- well,
24 let's just leave everybody here. That's okay. Because I'm
25 a little -- so, Mr. Bello, if you could direct us to

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 something that shows more clearly the easement, and kind of
2 around the property.

3 MR. BELLO: Okay. I think perhaps Exhibit 22,
4 which is the certified survey, should offer some insight.
5 Mr. Young, if you can pull that up, please?

6 BZA CHAIR HILL: Which one again, Mr. Bello? I'm
7 sorry.

8 MR. BELLO: Exhibit 22 on the PowerPoint.

9 BZA VICE CHAIR JOHN: No.

10 MR. BELLO: Oh, I'm sorry, I'm sorry. PowerPoint
11 is Exhibit 31. That'll be slide 22.

12 BZA VICE CHAIR JOHN: Can we look at what's
13 actually in the record? Exhibit 29 has an easement from
14 Peabody, and Exhibit 30 has a pedestrian easement from Fort
15 Stevens.

16 So which of those -- I guess, Mr. Chairman, you
17 might want to start with 30, because that might be the one
18 that affects the trash.

19 BZA CHAIR HILL: All right, Mr. Bello. Mr. Young,
20 can you pull up easement -- which one did you say, Ms. John?

21 BZA VICE CHAIR JOHN: It's Exhibit 30, copy of
22 pedestrian easement from Fort Stevens.

23 BZA CHAIR HILL: Okay.

24 BZA VICE CHAIR JOHN: We might have to look at
25 both. It's crossways. I can't read it.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 BZA CHAIR HILL: That's all right, it's not
2 particularly easy.

3 MR. BELLO: I'm trying to see.

4 MS. EVANS: This one is the walkway from Fort
5 Stevens.

6 BZA VICE CHAIR JOHN: Is that the one you're
7 concerned about?

8 MS. EVANS: No, it's the one that's in the rear.
9 If you look at the aerial shots, the colored pictures of the
10 aerial shots, it really does depict how congested that is
11 where they're proposing an entrance for parking, or three
12 parking spots, if you look at the color site photos.

13 And I believe it's Exhibit 5. I'm not sure where
14 it is in the presentation.

15 MR. BELLO: Looking at the case records to try to
16 see that. So let's try Exhibit 29. Mr. Young, Exhibit 29
17 from the case folder, please?

18 So if we scroll down to the bottom. All right,
19 so the former document with the recitation of the vehicular
20 easement, and the area of easement is the thirteen-foot
21 access, which goes all the way to Peabody, and ends up in an
22 L-shape at the back of the property of application.

23 Ms. Anderson's property would be the immediately
24 adjoining property to the west of the property of
25 application.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 All right, so the easement, contrary to what Ms.
2 Anderson's testimony is, does not go into her own property.
3 She has the safe vehicular easement rights, according to her
4 testimony, as the applicant does.

5 So both Ms. Anderson and the applicant can use
6 this easement. Ms. Anderson would have to access their own
7 property, I assume, through turning to the left of the L side
8 of the shape of the easement.

9 So at no point does the applicant need to go over
10 Ms. Anderson's property to access the parking spaces that are
11 provided here at the rear of the property. Ms. Anderson
12 would essentially turn to the left in order to access their
13 own property, so that there's no overlap whatsoever.

14 BZA VICE CHAIR JOHN: Mr. Bello, did anybody
15 discuss this with Ms. Anderson?

16 MS. EVANS: It's Ms. Evans.

17 BZA VICE CHAIR JOHN: Ms. Evans.

18 MS. EVANS: My name is Ms. Evans.

19 BZA VICE CHAIR JOHN: Sorry, Ms. Evans.

20 MS. EVANS: Whatever. No problem.

21 MR. BELLO: Okay. I'm sorry, Ms. Evans is the
22 owner of the adjacent property to the left? Yes, that's
23 correct.

24 Yes, we did have that discussion when we were all
25 on the site with the Commissioner. Ms. Evans' assertion was

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 that the applicant didn't even have any easement at all.

2 So we've provided evidence of that recorded
3 easement that's recorded in the Recorder of Deeds.

4 We haven't seen hers, but we're not challenging
5 the testimony. But she says she does have a vehicular
6 easement that crosses this easement.

7 But we provided to the record evidence of our own
8 legal easement. And it does not require the applicant to
9 cross over Ms. Evans' property whatsoever.

10 BZA VICE CHAIR JOHN: Thank you.

11 MS. EVANS: Can I respond to that?

12 BZA CHAIR HILL: Give me one second, Ms. Evans.

13 MS. EVANS: Okay, no problem.

14 BZA CHAIR HILL: That's all right. Does anybody
15 have any more questions of -- well, anyway, the witnesses?
16 Is what -- I thought somebody had their hand up.

17 Okay, Ms. Evans, what did you want to say?

18 MS. EVANS: That picture that he just showed does
19 not depict the area in which I'm questioning. That is just
20 a drawing.

21 But if you were to look at the colored picture
22 that has been submitted that was breezed by in this
23 presentation, you can see exactly where I'm talking about.

24 BZA CHAIR HILL: It's okay, Ms. Evans.

25 Which colored picture are you talking about?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 MS. EVANS: It is on -- what I have is Exhibit 5.
2 I'm not quite sure what page that is on. And I guess I
3 should have taken notes on what page that picture is in the
4 presentation.

5 It was skimmed by.

6 It's an aerial shot, to be exact. I believe there
7 is something that says aerial shot. Let me go back.

8 Oh, the color photo.

9 BZA CHAIR HILL: Give me a second, I'm trying to
10 open it.

11 MS. EVANS: No, no, no problem, excuse me.

12 BZA CHAIR HILL: That's all right.

13 MS. EVANS: No, that's not it. Oh, that's me, I'm
14 sorry.

15 BZA CHAIR HILL: Okay. Well, actually, this is
16 actually kind of helpful. So, Ms. Evans, can you see the
17 photo?

18 MS. EVANS: Yes, I have it up on my computer.
19 With that being said --

20 BZA CHAIR HILL: So your house is the little white
21 one in the back, correct?

22 MS. EVANS: Yes.

23 BZA CHAIR HILL: Okay. And then, Ms. Nedd and Ms.
24 Evans, which one are you guys?

25 MS. EVANS: I apologize, are you talking about --

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 oh, there she goes.

2 BZA CHAIR HILL: Yes, give me a second, Ms. Evans.

3 BZA VICE CHAIR JOHN: I'm -- 1324 is the one --
4 the building that's directly in front of Ms. Evan's House.

5 BZA CHAIR HILL: Got it, that one.

6 And then, the one to the left, that's another
7 property, right?

8 You guys are both in the one directly in front of
9 Ms. Evans property?

10 BZA VICE CHAIR JOHN: In that place -- is it --

11 MS. EVANS: Yes, that's correct.

12 BZA VICE CHAIR JOHN: Is it number three?

13 BZA CHAIR HILL: Number two.

14 BZA VICE CHAIR JOHN: Number two, thank you.

15 BZA CHAIR HILL: I'm zoomed in, that's why I can
16 see.

17 BZA VICE CHAIR JOHN: I'm trying to zoom in,
18 that's why I need to know which one you're talking about.

19 BZA CHAIR HILL: Yes.

20 BZA VICE CHAIR JOHN: Okay. So I'm zoomed in to
21 number two.

22 BZA CHAIR HILL: Yes.

23 BZA VICE CHAIR JOHN: Okay. Now what are we
24 talking about?

25 BZA CHAIR HILL: Yes, Ms. Evans, is the house in

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 the back, right?

2 BZA VICE CHAIR JOHN: When you say the house in
3 the back --

4 BZA CHAIR HILL: Mr. Young, move over to the
5 right, Mr. Young.

6 Can you point at the little house in the back, Mr.
7 Young?

8 MS. EVANS: It'll be picture three, I believe it
9 is. Picture three would be a good aerial shot.

10 BZA CHAIR HILL: No, that's all right, go back to
11 what I was asking, Mr. Young.

12 If you put your -- that's your house, Ms. Evans,
13 correct?

14 MS. EVANS: Yes.

15 BZA CHAIR HILL: Got it.

16 And then, Ms. Anderson is the one in front of
17 that?

18 Mr. Young, if you would again --

19 MS. EVANS: Yes, that's correct.

20 BZA CHAIR HILL: That's where Ms. Nedd and Ms.
21 Anderson are in, got it.

22 So you see those Vice Chair John?

23 BZA VICE CHAIR JOHN: Yes, yes, I'm following.

24 BZA CHAIR HILL: Okay, great.

25 BZA VICE CHAIR JOHN: And across from Ms.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 Anderson, who's house is that?

2 So, Mr. Young, to the --

3 MS. EVANS: That's 1320, the one you have your
4 cursor on is actually owned by the Applicant.

5 BZA VICE CHAIR JOHN: Okay.

6 BZA CHAIR HILL: Got it. And then, so, Mr. Bello,
7 I think, by the way, Mr. Bello, I'm going to need something
8 else from you guys because we're going to probably maybe
9 think about this.

10 But this number two is helpful to understand where
11 your project is and where the easements are.

12 It's a little bit hard to understand in
13 relationship to, again, the people who are on the phone now.
14 Okay?

15 MR. BELLO: Just a little bit.

16 BZA CHAIR HILL: Okay.

17 MR. BELLO: Mr. Young, the vacant lot that looks
18 like a dirt lot right next to Ms. Evans' property, that one.
19 That's the property of the application.

20 BZA CHAIR HILL: Yes, I got that part.

21 MR. BELLO: And right behind that towards the
22 rear, the easement comes from Peabody on the other side on
23 the -- so at the front of these two 1320 and 24 would be
24 where Fort Stevens is.

25 The opposite side of that will be where Peabody

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 is. So the easement actually comes through the rear property
2 that's also like a three or four unit multiple building.

3 BZA VICE CHAIR JOHN: Mr. Young, can we see if we
4 can put the cursor there? So if you understand what Mr.
5 Bello is saying.

6 Let me just show you what I'm seeing in this
7 photograph.

8 I'm seeing a parking lot on the -- maybe an alley,
9 I don't know what street that is.

10 And to the rear of the photograph, we're looking
11 at beside the trees --

12 BZA CHAIR HILL: Ms. John?

13 BZA VICE CHAIR JOHN: Yes?

14 BZA CHAIR HILL: I apologize, I have to quickly
15 step out.

16 BZA VICE CHAIR JOHN: Okay.

17 BZA CHAIR HILL: If you want to continue your
18 questioning and then, I'll come right back.

19 BZA VICE CHAIR JOHN: Okay. So, Mr. Bellow, if
20 you could show us the direction of the easement?

21 As I understand it, it would come through the rear
22 of the property where those cars are.

23 Is that correct?

24 MR. BELLO: So I think picture four, if Mr. Young
25 can put -- right, right, that's the lot right there, the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 application subject property of the application.

2 BZA VICE CHAIR JOHN: Okay.

3 MR. BELLO: And right behind it is where the
4 easement comes through from Peabody.

5 MS. EVANS: That would be picture two.

6 MR. BELLO: Well, it's also reflected in the
7 picture four, I believe more distinctively.

8 BZA VICE CHAIR JOHN: Well, where is Peabody in
9 this picture?

10 MR. BELLO: Well, Peabody is not really shown on
11 the picture. But if we go to I believe -- perhaps the -- if
12 we go to --

13 BZA VICE CHAIR JOHN: We're talking -- let's stay
14 with this for a moment.

15 We're talking about the white house in, you know,
16 in the western part, let's say.

17 MR. BELLO: What's the picture are you on?

18 BZA VICE CHAIR JOHN: I'm still on four.

19 MR. BELLO: Okay, four.

20 BZA VICE CHAIR JOHN: And I'm trying to figure out
21 where this -- how this easement would come in.

22 MR. BELLO: Okay. So the -- so we'll take a look
23 at this and then take a look at the survey, maybe that'll
24 help. So we're comfortable that the dirt vacant space
25 surrounded by these houses is the subject property of the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 application.

2 BZA VICE CHAIR JOHN: Yes.

3 MR. BELLO: Yes. And those two houses -- two
4 structures that you're looking at are 1320 and 1324 facing
5 Fort Stevens.

6 All right? So if we're going in the opposite
7 direction of Fort Stevens, then we're going towards Peabody.

8 And that easement comes through a private property
9 that's also improved by an apartment building through their
10 parking lot.

11 So this -- the easement area will be parked upon.
12 They do have some parking spaces on that lot.

13 But the easement that both Ms. Evans and the
14 Applicant would share actually comes from Peabody.

15 And if we go back to the PowerPoint slide 22 shows
16 exactly where Peabody's --

17 BZA VICE CHAIR JOHN: So before you leave that,
18 it's coming where you see these -- the parking lot there, Mr.
19 Young, if you could -- there you go.

20 The easement is coming from that direction?

21 MR. BELLO: That's correct.

22 BZA VICE CHAIR JOHN: Okay. And then the
23 pedestrian parking would -- pedestrian easement would be
24 between those two big buildings?

25 MR. BELLO: Yes, that's correct. That's correct.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 BZA VICE CHAIR JOHN: Okay. And it would go
2 straight through those two big buildings?

3 MR. BELLO: It'll go through -- straight through
4 those two buildings and grant both the pedestrian and also
5 the way the connection will come through there.

6 In fact, that's -- the utility connections are
7 already approved by D.C. Water.

8 BZA VICE CHAIR JOHN: Okay. All right now, can
9 you please go to the other slide you were trying to get to
10 before I interrupted you?

11 MR. BELLO: That would be slide 22, I believe, Mr.
12 Young, on the PowerPoint.

13 BZA CHAIR HILL: Is that it, Mr. Bello?

14 MR. BELLO: No, Mr. Young, the slide 22 on the
15 PowerPoint, please?

16 BZA CHAIR HILL: That's what I'm on, 22. That
17 looks like 22 to me.

18 MR. BELLO: Oh, well, hold on one second, please.

19 BZA CHAIR HILL: Somebody's unmute -- if somebody
20 can mute themselves, by the way, if they're outside?

21 MR. BELLO: It looks like 22 should be existing
22 and proposed site plan on the PowerPoint presentation.

23 BZA CHAIR HILL: I'm in your PowerPoint
24 presentation.

25 MR. BELLO: The other slide is slide 23, I believe

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 that's what Mr. Young is on. But the slide before. There
2 we go. Okay.

3 BZA CHAIR HILL: Okay, go ahead, Mr. Bello.

4 MR. BELLO: So can you enlarge it a little bit,
5 please?

6 BZA CHAIR HILL: Which one do you want him to
7 enlarge? The one on the left or the one on the right?

8 MR. BELLO: So both actually show it.

9 So the Fort Stevens would be to your right. And
10 upwards of that would be Peabody which comes through an
11 apartment building parking lot.

12 BZA CHAIR HILL: Right. So I see the -- there's
13 the sidewalk easement going out front to Fort Collins.

14 MR. BELLO: Right. Then the opposing side --

15 BZA CHAIR HILL: Sorry, Fort Stevens.

16 MR. BELLO: The opposing side of the survey is
17 Peabody.

18 BZA CHAIR HILL: And then, the easement to allow
19 Ms. Evans to her house, where is that?

20 MR. BELLO: That's in the -- from the opposite
21 street, Peabody, on the other --

22 BZA CHAIR HILL: Does it go across your parking
23 lot there?

24 MR. BELLO: What --

25 BZA CHAIR HILL: Your parking?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 MR. BELLO: No, it goes across the -- this
2 property with an improvement on it that's facing Peabody.
3 That's also another apartment house.

4 BZA CHAIR HILL: I was just trying to figure out
5 how Ms. Evans is supposed to -- I don't see where her car
6 gets parked. I don't know where she's driving in.

7 MR. BELLO: All right. So it's -- so you can have
8 multiple users of an easement, sir, as you know.

9 We have -- the Applicant has an easement, the
10 vehicular easement, to use that same easement.

11 Ms. Evans has testified that she also has an
12 easement to access the rear of her property.

13 So they both share the rights to use that
14 easement. And that easement does not require either party
15 to cross on to either party's property, you know, to access
16 the rear of the property.

17 BZA CHAIR HILL: Okay, I'm sorry.

18 The shaded area that I see there on the drawing
19 to the right has three parking spaces, correct?

20 MR. BELLO: Yes.

21 BZA CHAIR HILL: In the back?

22 And you're saying that Ms. Evans doesn't cross
23 over those three parking spaces to get to her property?

24 MR. BELLO: No, she doesn't have any right to
25 cross over the Applicant's property. She doesn't have any

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 easement crossing over.

2 BZA CHAIR HILL: Okay, I'm trying to figure out
3 where the easement is.

4 MR. BELLO: Okay. So we --

5 BZA CHAIR HILL: Okay, Mr. Bello, let me do this
6 another way. So I am -- I think there's going to be other
7 things that -- one of the things I want clarity on is this
8 easement. Right?

9 And I'm going to ask the Office of Planning also
10 just what the easement has to do within the regulations that
11 we may be taking a look at.

12 We have to get to an appeal which is at the end
13 of this day.

14 And so I'm trying to get us to get through what
15 we have to get through before lunch and then, take lunch and
16 then, do the appeal.

17 And Commissioner, just so you know, appeals go
18 four hours. And so, yes.

19 So I guess, Vice Chair John, because I'm also a
20 little confused. I'm just trying to figure out where the
21 easement is.

22 VICE CHAIR JOHN: Does the easement affect what
23 --

24 MR. ALI: Do you mind if I can help locate? I
25 just need Mr. Young to zoom into the existing side by side

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 so I can look at it for everybody.

2 VICE CHAIR JOHN: Okay. So let me explain why the
3 easement is important, because the Applicant needs the
4 easement to be able to meet the requirements of the
5 regulation for parking and other things.

6 And I think, while you're trying to locate it, for
7 me, I'm going to need more information from both the
8 Applicant and Ms. Evans.

9 I would need to see a better depiction of where
10 these various easements are.

11 I can't make head or tail of what's before me
12 here.

13 So I know to come to a decision, Mr. Chairman, I
14 would need that.

15 So let's see if Mr. Ali can help us here because
16 it's terribly confusing and I'm concerned about Ms. Evans'
17 testimony.

18 MR. ALI: Yes, Mr. Young, do you mind going back
19 to that same existing site plan and zoom in towards the three
20 parking spaces in the back?

21 The side one on the right hand side.

22 Yes, zoom in more, please?

23 Yes, so the shaded area is where our -- we are
24 proposing the three standard parking spaces on the
25 Applicant's property.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 If you see, the easement is to the left of these
2 three parking spaces where that property line turn up to
3 access Ms. Evans parcel.

4 So it comes from Peabody Street on the very far
5 left, goes all the way down.

6 And once you get to our property line, they go up
7 or they make a left to go north to access their property.

8 And this is the easement. It stops at the rear
9 property line of the Applicant.

10 MR. BELLO: Okay. I think even the Office of
11 Planning's report does a much better job that we've done.
12 I think that's in Exhibit 27, page 5.

13 The area of the easement is colored, if Mr. Young
14 can pull that up.

15 And I -- the Applicant, while we're at it, is not
16 adverse to submitting a more clear package, taking into
17 consideration the time constraints that the Board has.

18 BZA VICE CHAIR: Yes, I'm particularly interested
19 with Ms. Evans. And, Ms. Evans, do you have, you know, a
20 document attached to your deed that shows where your easement
21 is?

22 MR. BELLO: The rear --

23 BZA VICE CHAIR: I understand, I understand, but
24 she's making the claim that it doesn't.

25 MR. BELLO: Can Mr. Young pull up the OP report,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 page 5? I think that will help to clarify matters.

2 BZA CHAIR HILL: I'm sorry, everyone, there's --
3 I'm having my own technical issues over here.

4 What was the last question?

5 MS. EVANS: That picture --

6 MR. BELLO: So the Office of Planning report is
7 Exhibit 27. Page 5 of it shows in column four, there we go.

8 So the recorded easement is what the Office of
9 Planning is showing here in the blue color, which is right
10 in front of the rear property line of the Applicant's
11 property.

12 So if Ms. Evans were to vehicularly access her own
13 parking from Peabody, drive through this easement and
14 actually make a left to access her own property. And --

15 BZA CHAIR HILL: Okay. This is helpful, this is
16 helpful.

17 MR. BELLO: Okay.

18 BZA CHAIR HILL: Okay. All right, okay, does
19 anybody have any questions about this easement now?

20 Yes, who's talking?

21 MS. NELSON: It's the Commissioner.

22 I have a point of information.

23 BZA CHAIR HILL: Sure, go ahead, Commissioner.

24 MS. NELSON: Thank you.

25 Point of information, I'm wondering if we could

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 ask them to provide an updated aerial photo.

2 And then, maybe if it was updated, it could then
3 show the property lines up against the easement and clarify
4 this for us.

5 I'm getting just as confused as everyone else.

6 BZA CHAIR HILL: No, yes, well, this would
7 actually, Commissioner, I think is actually pretty clear.
8 Like this is actually showing the easement.

9 MS. NELSON: So I don't see what you see.

10 BZA CHAIR HILL: If you go to Exhibit -- the
11 Office of Planning's report, which is Exhibit 27 and then,
12 you go to the fourth page, that is the easement, if Mr. Young
13 can zoom in a little bit more.

14 And Commissioner, if you can look on your screen.
15 That's the easement.

16 MS. NELSON: Okay, Exhibit 27?

17 BZA CHAIR HILL: Yes, page four.

18 Commissioner, I'll come back to you.

19 Don't drop the screen, Mr. Young, please.

20 Do my Board Members have any more questions about
21 the easement?

22 ZC VICE CHAIR MILLER: I share the confusion that
23 Commissioner Nelson has and Vice Chair John has, and we all
24 have for the lack of clarify here where the easement fits in
25 to both in relation to the Applicant's property and Ms. Evans

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 property.

2 I think the aerial shot that -- something showing
3 the context of the project with the easement location,
4 context in the neighborhood with its neighboring properties,
5 whether it's the aerial shot or several shots, several
6 renderings, I think, would be -- illustrative renderings
7 would be helpful to see that relationship of the easement to
8 both the Applicant's property and the -- and Ms. Evans'
9 property.

10 And something which also shows the relationship
11 in height between the Applicant's property and Ms. Evans'
12 property and the other two houses, one of which the Applicant
13 apparently owns.

14 So I think we -- that information would be helpful
15 that both Vice Chair John and Commissioner Nelson -- more
16 than one illustrative rendering that would show where
17 everything is on one shot.

18 BZA CHAIR HILL: Okay. And then, Mr. Bello --
19 don't get rid of this, Mr. Young, yet -- do you know about
20 this six feet that Ms. Evans had mentioned?

21 Is there some -- are you aware of this six feet
22 and whether that has anything to do with this application?
23 Or how, I should say, that might have something to do with
24 this application?

25 MR. BELLO: There was a discussion about it prior

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 to Ms. Evans' belief that the Applicant's property is not as
2 wide as depicted on the certified survey.

3 And I might add that a licensed surveyor surveyed
4 this property.

5 MS. EVANS: Sir, may I say something?

6 BZA CHAIR HILL: Just let him answer, Ms. Evans,
7 and I'll get back to you.

8 MS. EVANS: Okay.

9 BZA CHAIR HILL: Go ahead, Mr. Bello.

10 MR. BELLO: Since Ms. Evans raised that issue, she
11 hired -- she testified her own licensed surveyor to show the
12 location of the common site property line where she has now
13 placed a fence since the application.

14 So I guess maybe her question at this point is
15 whether, indeed, the proposed building would meet the
16 prescribed side yard that is depicted on the property.

17 And I basically believe that it does and this
18 information has been provided by licensed surveyors which
19 neither I or her are -- is.

20 BZA CHAIR HILL: And so that -- and I would
21 actually ask the Office of Planning this. Is that something
22 that we get cleared up in permitting?

23 I'm asking the Office of Planning.

24 MEMBER SMITH: Mr. Hill, it's Mr. Smith.

25 That'll be cleared up in permitting.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 You know, some of this discussion about the size
2 of the lot versus between two surveyings, that's not
3 something that this Board can clear up. That's a simple
4 matter between both the Applicant --

5 BZA CHAIR HILL: Ms. Evans, do you hear that?

6 MS. EVANS: Say again, please?

7 BZA CHAIR HILL: So that's something that will get
8 cleared up in permitting and it's not something that we
9 resolve here, your six feet issue.

10 MS. EVANS: Well, it's not about just six feet,
11 it's my land. And he's aware that I did have a surveyor come
12 out and measure my land.

13 And that survey that he submitted is on utilities,
14 not on the land.

15 If you read it very carefully, it's about the
16 utilities. It's not a survey of the land itself.

17 BZA CHAIR HILL: Right.

18 What I'm just saying, Ms. Evans, is that if that
19 six feet -- if they're incorrect, they would have to come
20 back to us for different forms of relief.

21 (Simultaneous speaking.)

22 MR. SMITH: Mr. Hill, can I offer something?

23 BZA CHAIR HILL: Yes, go ahead, Mr. Smith.

24 MR. SMITH: Yes, this from like a history of
25 signing off on subdivisions of lots.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 Yes, it may be a survey of the utilities, but it
2 is completed by a licensed land surveyor within the District
3 of Columbia that use property lines.

4 And those property lines have pins in the ground
5 that they maybe utilize to show the property lines as well
6 as the utilities in relation to the property lines.

7 So it may be -- it very well may be an open
8 question about which licensed surveyor, whether the
9 Applicant's or the party in opposition's survey is correct,
10 but that is -- that's a matter -- that's a civil matter and
11 that will also be cleared up at permitting before the permit
12 is issued.

13 And they -- the party in opposition --

14 MS. EVANS: I did use a licensed registered
15 surveyor in D.C. He's registered in D.C.

16 MEMBER SMITH: Yes, I'm not disputing that.

17 MS. EVANS: So he wasn't like -- oh, oh, okay.

18 MEMBER SMITH: I'm not -- no, ma'am, I'm not
19 disputing that.

20 MS. EVANS: I'm being honest, it keeps breaking
21 up.

22 MEMBER SMITH: No, no, I understand, I'm not
23 disputing that. I'm completely not disputing that.

24 So is the Applicant. The Applicant before us also
25 has a licensed land surveyor within the District of Columbia.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 I'm not debating that -- I believe that you do.
2 It's just an open question of which one, it seems
3 to me, which one is -- the debate is which one is correct.
4 But they're both licensed surveyors.
5 This is something that will be cleared up at
6 permitting. This is a civil matter, this is not something
7 that the Board can decide.
8 MS. EVAN: Oh, okay, I see what you're saying.
9 So what would be the next action in terms of what
10 I need to take? Because there is a dispute over the land.
11 And that's not a land surveyor. I mean, it was
12 a land surveyor, but he was not surveying the land nor was
13 it measured. My land is actually measured.
14 BZA CHAIR HILL: You know, I have to step away for
15 one minute. I will come right back.
16 MS. EVANS: No problem. So that's my concern as
17 well as the easement.
18 BZA VICE CHAIR JOHN: So if I could break in for
19 a bit. Mr. Smith, you are correct, it's a civil matter.
20 But here's the thing, if the Applicant can't meet
21 -- can't show that it has the required side yard, then that's
22 something the Board would have to be sure of before it grants
23 the relief.
24 And we had a similar case which I guess we can
25 resolve the legal issues and I won't put legal on the spot

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 right now.

2 But we had a similar dispute and the Applicant's
3 neighbor stated that the Applicant couldn't meet the
4 development standards because the Applicant didn't own the
5 land.

6 And I believe that application was withdrawn or
7 something.

8 But this is -- Mr. Smith is correct, we can't
9 resolve the dispute over who owns the land, but the Applicant
10 has to show that the Applicant has property -- I mean, that
11 the property or the application meets that side yard
12 requirement, that is correct.

13 So I think I will just leave it there for now.

14 If the Applicant can't meet the side yard
15 requirement, the Applicant would need to request additional
16 BZA relief.

17 So I think that's where the ownership of the land
18 comes into play.

19 And I don't know if we leave that to permitting
20 or is it that the Applicant hasn't proven that it can meet
21 the side yard requirement.

22 And I think OC can weigh in on that at some point,
23 but for today, since we obviously won't decide this case
24 today, there should be some resolution of that issue.

25 And maybe I'll leave it to the Office of Planning

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 to follow up.

2 And I suppose that response to Ms. Davis' question
3 about what happens next.

4 But Mr. Smith is correct, this is not something
5 we can resolve.

6 MR. SMITH: And Ms. John, also and I welcome the
7 Office of Planning, if they want to add, you know, additional
8 information or testimony.

9 I believe an exhibit, let's see 11, we do have a
10 whole host of surveys that were submitted by the Applicant.

11 And if I go to page 2, the Applicant is showing
12 or illustrating a survey with the proposed three-story
13 building with a basement with an eight-foot side yard on a
14 legal survey sealed by a land surveyor licensed within the
15 District of Columbia.

16 So I think we have the information within the
17 record.

18 When we get the preponderance for the trust of the
19 surveyor that was clear that the Applicant is meeting the
20 minimum side yard requirement.

21 MR. ALI: Supplied by the surveyor's office signed
22 by the surveyor of the D.C. -- District of Columbia.

23 BZA CHAIR HILL: Where is that, Mr. Ali?

24 MS. EVANS: That doesn't resolve the issue of my
25 property.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 MR. ALI: We requested the building plat from the
2 surveyor's office and we have a copy of that and it's part
3 of the design package.

4 Mr. Bello, I don't know if you included that in
5 the PowerPoint or in the previous design package.

6 MR. BELLO: That's Exhibit 13.

7 MR. ALI: Okay. So that's from the surveyor's
8 office, the issued building plat.

9 MR. BELLO: If I may add, to your point, Mr.
10 Smith, by operation, there's no way to predetermine the
11 compliance of a proposed site until the wall tests are
12 recorded in the course of construction.

13 MEMBER SMITH: Exactly.

14 And at that point, the neighbors can, you know,
15 go to the Department of Building and get that information.
16 That will be public -- that's public record.

17 MR. BELLO: In fact, the Office of Zoning would
18 not approve the wall test report if it doesn't meet the
19 prescribed site and setback.

20 MEMBER SMITH: Exactly.

21 BZA CHAIR HILL: Pardon me, Ms. Evans?

22 MS. EVANS: I was going to say that, with that
23 being said, and I understand the rules and the code, but that
24 was all done before I moved in and before I had my survey
25 done.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 BZA CHAIR HILL: What it sounds --

2 MS. EVANS: And you have two licensed surveyors.
3 My surveyor is saying that I have an additional six feet.

4 You have another one that says that it's proper
5 land.

6 Now, mind you, this survey was done before the
7 fence was put up.

8 So if I was coming out to look at Office of
9 Planning or whomever, you would go, yes, there's enough land.

10 But theirs does not depict my fencing that is up
11 now. This is a proper distance of my land.

12 BZA CHAIR HILL: Ms. Evans.

13 MS. EVANS: These were -- say again?

14 BZA CHAIR HILL: I'm just saying, it's not
15 something that we're going to resolve. We don't -- it's not
16 in our area.

17 And so what I'm trying -- what I'm going to ask
18 to happen next is for Mr. Bello -- does he have your
19 information, Ms. Evans?

20 MS. EVANS: Yes, he should have it because I gave
21 it to him the day we all were out there.

22 BZA CHAIR HILL: Mr. Bello, do you have Ms. Evans'
23 contact information?

24 MR. BELLO: I believe do through the Commissioner,
25 yes.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 BZA CHAIR HILL: Okay. In between now and the
2 next time we're here, if you can try to work with Ms. Evans
3 to get on the same page. Okay?

4 And -- or at least let Ms. Evans know that this
5 is something that is not going to be resolved with the Board
6 of Zoning Adjustment. Right?

7 May I turn to the Office of Planning real quick?
8 Can you hear me again, Ms. Thomas?

9 MS. THOMAS: Yes, yes, I can.

10 BZA CHAIR HILL: Can you explain to us again how
11 this would -- how does this type of thing get resolved?

12 MS. THOMAS: I think this should be resolved at
13 permitting or at the Zoning Administrator's Office or the
14 Office of the Surveyor.

15 Nothing would get approved if the survey is not
16 correct when they go to apply for their building permit.

17 We, Office of Planning, can't resolve that. We
18 are only looking at the surveyed plat that is given to us and
19 what the developer is putting on the property in terms of the
20 side yards and whatever is the legal document of the -- from
21 the surveyor.

22 But we can't resolve that here.

23 BZA CHAIR HILL: Ms. Evans, can you hear me?

24 MS. EVANS: Yes, I do.

25 BZA CHAIR HILL: The surveyed plat is in -- and

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 I'm looking for the -- I just had it up and my exhibits kind
2 of dropped out.

3 Can y'all see where that one plat was again?

4 MS. THOMAS: In Exhibit 14, I think.

5 MEMBER SMITH: Thirteen for the surveyors.

6 MS. THOMAS: Thirteen?

7 BZA CHAIR HILL: Thirteen, right.

8 Ms. Evans, if you were to look in the record at
9 Exhibit 13, that has their plat.

10 MS. EVANS: Exactly.

11 BZA CHAIR HILL: Okay. And you can compare that
12 against what you have.

13 MS. EVANS: Okay.

14 BZA CHAIR HILL: And that might be helpful. Okay?

15 MS. EVANS: Okay.

16 BZA CHAIR HILL: So does anybody have any more
17 questions for any of the witnesses?

18 Okay, go ahead, Commissioner Miller.

19 ZC VICE CHAIR MILLER: So in addition to the
20 request for some better illustrative renderings from the
21 Applicant that shows the context of the site and the easement
22 and the height in relation to all the adjacent properties,
23 I wanted to ask the Applicant to clarify in a subsequent
24 submission, it doesn't have to be right now, the number --
25 I think I heard the number of dwelling units was four, what

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 the number of bedrooms is for each of those units so I can
2 get an idea of how many people are going to be occupying this
3 apartment building.

4 There's been references to up to 40, so I just
5 wanted to understand the number of bedrooms per unit and
6 clarify and confirm that it is four units.

7 Also, the Applicant's PowerPoint includes
8 inaccurate or incomplete information about the proximity of
9 schools.

10 It lists schools which are pretty far away. It
11 doesn't have the nearby schools like Brightwood or Coolidge
12 that are closer than the schools that are mentioned there.

13 So there's an inaccuracy in the record or in the
14 PowerPoint that needs to be -- it may be elsewhere in the
15 record as well.

16 So those are just a couple of the things that
17 would help me and I think the Board.

18 And I turn it back to you or Mr. Blake.

19 BZA CHAIR HILL: Thanks, Commissioner Miller.

20 Just real quick again, we might come back for a
21 continued hearing on this just because I'm a little bit
22 messed up. Or I shouldn't say that.

23 I'm -- we might have some questions about the
24 exhibits that come forward.

25 ZC VICE CHAIR MILLER: We would.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 BZA CHAIR HILL: Okay. So that's fine.

2 So then what I'm trying to get is, do we have any
3 more questions for the witnesses? And if anybody has any
4 more questions for the witnesses, please your hand.

5 Okay, Mr. Young -- so, Ms. Evans and Ms. Anderson
6 and Ms. Nedd, this is going to be a continued hearing. There
7 will be further information that we're going to ask for the
8 Applicant and there will be a continued hearing.

9 And Mr. Moy?

10 MR. MOY: I'm here.

11 BZA CHAIR HILL: How do they know, again, when the
12 continued hearing is?

13 MR. MOY: We will, after this hearing, upload a
14 OZ memorandum in the case record that would give specifics
15 as to when the next continued hearing is as well as the
16 deadlines for submissions.

17 BZA CHAIR HILL: Okay. And when do you guys
18 usually submit that?

19 MR. MOY: Within 24 hours.

20 BZA CHAIR HILL: Okay. So, Ms. Evans, Ms.
21 Anderson, and Ms. Nedd, can you all hear me?

22 MS. EVANS: Yes, sir.

23 BZA CHAIR HILL: If you can access the record,
24 this case record, we, the Office of Planning, will put
25 something in there that -- and you can just listen, we're

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 going to decide at the end of this hearing, but I'm just
2 saying like I'm going to excuse you guys now.

3 So you will be able to know about when the
4 continued hearing is. Okay?

5 MS. EVANS: Thank you.

6 BZA CHAIR HILL: Okay.

7 MS. NEDD: Thank you.

8 BZA CHAIR HILL: Thank you. All right, I'm going
9 to excuse you guys. Mr. Young, if you can please excuse the
10 witnesses?

11 Okay, I'm going to ask Commissioner Miller to
12 repeat what he wants.

13 But before I do that, what else did -- does
14 anybody else want anything else other than what Commissioner
15 Miller mentioned?

16 MEMBER BLAKE: Yes, sir.

17 BZA CHAIR HILL: Go ahead, Mr. Blake.

18 MEMBER BLAKE: Yes, the other thing I want to do,
19 there's a question about privacy and I wanted to get a sense
20 of the side renderings that gives a sense of the line of
21 sight.

22 There's only probably I think one or two windows
23 on Ms. Evans' house. And I wanted to make sure that we --
24 that how this was situated was not impinging upon that, you
25 know, distance aside.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 BZA CHAIR HILL: Great. So, Commissioner Miller,
2 I'm sorry, can you kind of repeat what you wanted?

3 ZC VICE CHAIR MILLER: Essentially, requesting
4 what the ANC Commissioner Nelson and Vice Chair John had
5 requested over an hour ago, I think, which was a better
6 illustrative renderings that show the context of the proposed
7 project and the easement in relation to the neighboring
8 properties of both the height, the windows that Mr. Blake is
9 asking about, and just the relationship in the context of the
10 neighborhood so we can all see that better and where the
11 easement is and where it crosses over.

12 That was one, but the illustrative rendering was
13 one.

14 Second was the clarification on the number of
15 units and the number of bedrooms in the proposed project.

16 And three, the clarification or information on the
17 proximity to schools in the neighborhood because there's --
18 the most proximate schools -- more proximate schools are not
19 mentioned in the PowerPoint as well or is inaccurate. It's
20 in another neighborhood. I think that must have been just
21 taken from another PowerPoint.

22 So those were what I was -- the -- what I was
23 requesting, Mr. Chairman.

24 BZA CHAIR HILL: Okay, great.

25 All right, yes, all that's very helpful.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 Before I let us all go, did anybody else want
2 anything else?

3 Then, I'm going to clarify a couple of things.

4 MEMBER SMITH: I've just got a question about
5 what's requested.

6 BZA CHAIR HILL: Go ahead, Mr. Smith.

7 MEMBER SMITH: By Mr. Miller.

8 What's the rational nexus for -- what you want to
9 approve on this project for asking about the --

10 ZC VICE CHAIR MILLER: I'm sorry, I couldn't hear
11 exactly what you asked, Member Smith.

12 MEMBER SMITH: What's the rational nexus for our
13 review or asking about the number of bedrooms per unit?

14 (Simultaneous speaking.)

15 ZC VICE CHAIR MILLER: It would be how it fits
16 into the neighborhood, just in terms of effects -- adverse
17 effects on the neighborhood. That's a general criteria in
18 the special exception.

19 And it's also a specific one that I think that
20 makes reference to that in the RA-1 zone.

21 MEMBER SMITH: Okay, I appreciate it.

22 Thank you, that's all I had.

23 BZA CHAIR HILL: Okay, thanks.

24 All right, Mr. Bello, so you have all of those
25 things.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 And I think part of it, also, Mr. Smith, is you
2 know, we -- I think like how many people we're actually
3 talking about here in the potential development.

4 So, Mr. Bello, do you have questions about any --
5 I mean, we're just trying to understand the context of where
6 it is, right?

7 And then, the shadowing is a little bit helpful.
8 I know there's a shadow study, I think, that you -- that I
9 recall. And we might want to take a look at that shadow
10 study again when you come back. Okay?

11 And I think that, you know, we have oftentimes had
12 glazing on windows if we thought the privacy was going to be
13 an issue. And so that might be something you might think
14 about ahead of time so that, you know, it's something that
15 the, you know, we have to approve whatever the final thing
16 is.

17 So I don't want you to have to come back again,
18 right, you know, put your best foot forward with all of the
19 concerns that you heard the Board bring up. Okay?

20 MR. BELLO: Thank you, Mr. Chairman and Board
21 Members.

22 BZA CHAIR HILL: Okay. Commissioner Nelson, do
23 you have anything you'd like to add at the end?

24 MS. NELSON: The only thing that I could think of
25 is I did remember seeing one of the drawings that included

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 roof decks.

2 If that's the one that's he's putting forward,
3 then we may need to see how the roof decks will be in play
4 with the privacy issue as well.

5 BZA CHAIR HILL: Okay. Mr. Bello, if you can show
6 us where the roof decks are when you come back, that'd be
7 helpful also. Okay?

8 MR. BELLO: Certainly, thank you.

9 BZA CHAIR HILL: Okay, great. All right, Mr. Moy,
10 when can we get --

11 BZA VICE CHAIR JOHN: Mr. Chairman, sorry to
12 interrupt, I saw Mr. Ali's hand up.

13 BZA CHAIR HILL: Oh, sorry, go ahead, Mr. Ali.

14 MR. ALI: Yes, I just had a quick question about
15 the privacy matter.

16 Because based on the privacy comment, we can
17 simply flip the bedroom size to the other facade.

18 I just want to make sure that the privacy concern
19 is only brought up from the single-family dwelling, right,
20 not from the adjoining apartment building.

21 Because we can easily flip the bedrooms on the
22 other side. So this way, we can eliminate the windows or
23 reduce the number of windows facing the single-family house.

24 There is no privacy concerns towards the apartment
25 building, correct?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 BZA CHAIR HILL: At least not today.

2 MEMBER BLAKE: Yes, from my regard, it was with
3 regard to the single-family home, yes.

4 MR. ALI: Okay. So we have -- we can solve that,
5 that's -- we can flip the windows to the other side.

6 BZA VICE CHAIR JOHN: Mr. Ali, the most important
7 thing is to meet with the neighbors and try to work out some
8 of these differences before you come back. And I think
9 that's a good step in the right direction.

10 BZA CHAIR HILL: That's a good step in the right
11 direction, yes, Mr. Ali. Yes, flip the windows.

12 And ten, go ahead and --

13 MR. ALI: And the roof decks.

14 BZA CHAIR HILL: Pardon me?

15 MR. ALI: And I will also flip the roof decks as
16 well to the other side.

17 BZA CHAIR HILL: Okay, great.

18 And ten, what was I going to say?

19 The -- oh, and then, Mr. Bello, try to just
20 explain your survey versus the survey that the next door
21 neighbor has. Okay?

22 And you know --

23 MR. BELLO: I'm not so sure that I'm competent
24 enough to do that.

25 I think while you were away, I testified to the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 fact that by operation, the only way to a certain compliance
2 to the side yard is the point of wall test report, which is
3 post permit issuance.

4 BZA CHAIR HILL: I got you.

5 Then, Mr. Bello, why don't you share that
6 information again? Okay?

7 And all I'm trying to say is, you know, I would
8 hope that there's continued communication, that's all, Mr.
9 Bello.

10 Because I'm sure that Ms. Evans will come back at
11 the continued hearing. And so you don't want us to just go
12 back in another circle again. Okay?

13 And at least you can say, I spoke to Ms. Evans.
14 We tried and we're still at the opposite ends and it'll get
15 resolved in permitting. Okay?

16 An answer is better than no answer, Mr. Bello.

17 MR. BELLO: Got it, thank you.

18 BZA CHAIR HILL: Okay. Mr. Young, I mean, Mr.
19 Moy, when can we get back here again?

20 MR. MOY: And I'll give the reason why I am
21 suggesting the continued hearing be scheduled for April 10th.

22 And let me give the rest of the time line.

23 BZA CHAIR HILL: Sure.

24 MR. MOY: So I think I want to give ample time for
25 the Applicant to pull their materials together. So if they

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 can do that, make their submission deadline by March 27th,
2 then we can have ANC response and maybe another supplemental
3 OP if needed by April 3rd.

4 And ten, you have your continued hearing on April
5 10th.

6 BZA CHAIR HILL: Okay. Commissioner, when is your
7 next ANC meeting?

8 MS. NELSON: We meet the first Tuesday of the
9 month, so let me pull that up for you.

10 BZA CHAIR HILL: That's April 2nd.

11 MS. NELSON: There you go, April 2nd.

12 BZA CHAIR HILL: Just out of curiosity, have you
13 heard anything during this that might get a different opinion
14 from your ANC?

15 MS. NELSON: From my fellow Commissioners?

16 BZA CHAIR HILL: Yes.

17 MS. NELSON: No, not yet.

18 BZA CHAIR HILL: Well, the only reason I'm asking
19 is, they're flipping windows and they're flipping roof decks.

20 And so, you know, if Mr. Bello, you think it's
21 worth taking another crack at the ANC, you're welcome to do
22 so. That's on y'all. Okay?

23 Y'all figure it out, otherwise, what Mr. Young,
24 I don't -- Mr. Moy just said, if you could repeat it, Mr.
25 Moy?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 MR. MOY: Well, yes, sir, with pleasure.

2 So if the Applicant can make their submission
3 deadline by March 27th, then the ANC response and, if needed,
4 an OP supplemental based on the filing from the Applicant by
5 April 3rd.

6 And ten, schedule the continued hearing on April
7 10th, Wednesday.

8 BZA CHAIR HILL: Okay. And Mr. -- I'm having a
9 question asked, Commissioner, are you available to testify
10 on the 10th?

11 MS. NELSON: So far, yes, I can block that off.

12 BZA CHAIR HILL: Great.

13 Actually, I think it's -- Ms. Evans, I excused Ms.
14 Evans, but Mr. Young, can you let her back in?

15 Hi, Ms. Evans, can you hear me?

16 MS. EVANS: Yes.

17 BZA CHAIR HILL: Are you available on April 10th?

18 MS. EVANS: Let me look at my work schedule.

19 I'm looking at my calendar.

20 BZA CHAIR HILL: Sure.

21 MS. EVANS: I do apologize.

22 BZA CHAIR HILL: Sure, that's all right.

23 MS. EVANS: The 10th of April you're referring to
24 or the 10th of March?

25 BZA CHAIR HILL: April.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 MS. EVANS: Well, the 10th of March has passed.
2 So, sorry.

3 BZA CHAIR HILL: That's all right.

4 MS. EVANS: That's when we have our big all-hands
5 meeting on the 10th. I work for -- I'm in the government,
6 so we have an all-hands meeting on the 10th. That's what's
7 scheduled right now.

8 BZA CHAIR HILL: I got you.

9 Do you know when that meeting -- would you be able
10 to break at some point in time from that meeting? You don't
11 know?

12 MS. EVANS: Honestly, I don't know since it's an
13 all-hands meeting and that would be our director from the
14 Treasury that would be there.

15 BZA CHAIR HILL: I got you.

16 MS. EVANS: I don't think I would --

17 BZA CHAIR HILL: Sure, I understand.

18 I mean, that's the only day that I'm going to be
19 able to do it. So let's go ahead, and I guess Ms. Blake, if
20 you can -- I have some -- some Board Members are interested
21 in your opinion.

22 So if you would like to submit something into the
23 record for us. They're going to submit, meaning, this
24 Applicant is going to submit their next round of information
25 on April 27th. Okay?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 MS. EVANS: On April 27th or March 27th? I
2 apologize.

3 BZA CHAIR HILL: I'm sorry, my bad, March 27th.
4 Okay?

5 And so if you want to take a look at the record
6 and submit something to us by April 3rd, we will leave the
7 record open for you to submit something by April 3rd.

8 MS. EVANS: Okay. I guess what I'm trying to
9 understand, what -- do I need to submit my survey and when
10 I bought the property, it shows all these different things
11 that are -- that we're disputing plus pictures? What -- I
12 guess I'm trying to understand what would be sufficient
13 enough for this committee to make -- or to view.

14 BZA CHAIR HILL: Sure, that's understandable.

15 I would only be interested in -- we'd only be
16 interested in your comments regarding what the Applicant puts
17 forward on the 27th of March. Okay?

18 MS. EVANS: So I would have to see his information
19 by the 27th of March?

20 BZA CHAIR HILL: Yes, and then, you'll have until
21 the 3rd of April to give us whatever comments you want to
22 give us from the information he gives us on the 27th of
23 March.

24 So whatever you want to give us is fine with me
25 on the 3rd. You know, whatever it is that you think responds

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 to that.

2 In addition to that, there's always your
3 Commissioner and she will be here to testify on the 10th of
4 April. So she can also help convey any of your questions.

5 MS. EVANS: Okay.

6 BZA CHAIR HILL: Okay. If you want to reach out
7 to Commissioner Nelson.

8 MS. EVANS: I shall.

9 BZA CHAIR HILL: Okay. And you can volunteer for
10 her re-election campaign when that comes around. Okay?

11 MS. EVANS: Now, I'm in the government, I have to
12 be partial.

13 BZA CHAIR HILL: Okay. Well, you're allowed to
14 represent your community, believe it or not. And you're
15 allowed to help --

16 MS. EVANS: Okay.

17 BZA CHAIR HILL: -- her all you like. So, you
18 know, even if you're --

19 MS. EVANS: I can do that.

20 BZA CHAIR HILL: All right. Okay --

21 MS. NELSON: Mr. Chair?

22 BZA CHAIR HILL: Yes, sure, who just spoke?

23 MS. NELSON: It's the Commissioner.

24 BZA CHAIR HILL: Okay, sure.

25 MS. NELSON: I have offered and will probably

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 convene a meeting of, you know, all of the parties or even
2 an SMD meeting for more neighbors to weigh in so that we have
3 all the information we need when I come back.

4 BZA CHAIR HILL: Okay, great.

5 All right, so we're back on --

6 MS. NELSON: And I'll bring Mr. Bello and, you
7 know, the neighbors and everybody together.

8 BZA CHAIR HILL: Okay. So we're going to come
9 back on 4/10, we'll see what we see. Okay?

10 Thank you all very much. You all are excused.
11 Have a nice afternoon.

12 MR. BELLO: Thank you.

13 MS. NELSON: You do the same.

14 BZA CHAIR HILL: Thank you.

15 Okay, so I'm looking at my fellow Board Members,
16 I'm trying. I don't know what to do. Right?

17 So we have an appeal and you never know how long
18 the appeals go. Right? It could easily go three hours.
19 Right?

20 And so if y'all want to -- and I also need to eat
21 lunch, too. Right?

22 So I don't know what to do, like I would still go
23 for like, take a quick break, try to somehow get a snack.

24 We do the three cases, then we take a full lunch.
25 And then, we do our appeal.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 MEMBER SMITH: I'm fine with that.

2 BZA CHAIR HILL: Is that good?

3 BZA VICE CHAIR JOHN: Yes.

4 BZA CHAIR HILL: Okay. So let's take a quick
5 break and then we'll come back. Okay, thank you. Bye-bye.

6 (Whereupon, the above-entitled matter went off the
7 record at 1:28 p.m. and resumed at 1:43 p.m.)

8 BZA CHAIR HILL: I'll tell you what I'm going to
9 do. Mr. Moy, can you hear me? Let's chug along here and
10 see. I don't know what happened to Mr. Blake, but let's go
11 ahead and move forward.

12 MR. MOY: Okay. I texted him, as well, too.
13 Okay. So the board has returned to its public hearing
14 session after a snack break; I guess that's appropriate. The
15 time is now at or about 1:45 p.m.

16 The next case before the board is Application
17 Number 21064 of Matthew T. Mason. This is an amended
18 application pursuant to Subtitle X, Section 901.2, for
19 special exceptions under Subtitle D, Section 5201. And I'm
20 reading the caption that has been advertised and followed by
21 the applicant. And from the rear yard requirements of
22 Subtitle D, Section 207.1; lot occupancy requirements,
23 Subtitle D, Section 210.1. The property is located in the
24 R-1B zone at 3747 Huntington Street, N.W., Square 1876, Lot
25 37. And I believe that's all I have for you, and I believe

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 the applicant owner is before you in the panel. Thank you,
2 sir.

3 BZA CHAIR HILL: Okay. If the applicant can hear
4 me, if they can please introduce themselves for the record.

5 MR. MASON: Hi. Good afternoon. My name is Matt
6 Mason. I'm the applicant owner, 3747 Huntington Street, N.W.

7 BZA CHAIR HILL: Okay. Mr. Mason, are you here
8 on your own?

9 MR. MASON: That's correct, yes.

10 BZA CHAIR HILL: All right. Do you want to tell
11 us about your project? And I'm going to also hear from the
12 Office of Planning.

13 MR. MASON: Yes, absolutely. Mr. Young, could
14 you go ahead and start up the presentation I sent you
15 yesterday?

16 BZA CHAIR HILL: Is that in the record?

17 MR. MASON: I sent it to Mr. Young yesterday. I
18 don't know if --

19 BZA CHAIR HILL: That's okay. That's okay. If
20 you guys could drop that into the record when you get a
21 chance, if the staff could. Okay. Go ahead, Mr. Mason.
22 Thank you.

23 MR. MASON: Okay. So this is just some admin.
24 It's my name, number, email.

25 Next slide, please. This is what we're talking

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 about here. That major road to the right there, that's
2 Connecticut Street. My house is the corner lot on Huntington
3 and 38th Street, and the subject that I am trying, the garage
4 that I am trying to seek a BZA for is in that northeast
5 sector of my property right where the alleyway bends, right
6 at the end of the alleyway -- the bend in the alleyway.
7 Excuse me.

8 Next slide, please. Okay. This is directly from
9 the Office of Planning. There was a bit of a confusion
10 between what the referral memorandum I received from the
11 Department of Buildings and what I used to submit to the
12 Office of Zoning. But this is, in fact, the regulations and
13 the relief that I'm seeking. One, an accessory building,
14 which is my garage, in the rear yard under Section 5004; and
15 then the second is the lot occupancy, Section 210.

16 The confusion came out of Department of Building
17 thought that the garage was an affixed unit or affixed to the
18 construction that's already underway. That is incorrect.
19 It is a separate unit.

20 Next slide, please. Okay. This is me, I don't
21 know, about two weeks ago. You can see the construction is
22 well underway. It is going to be a beautiful house in line
23 with the feel of the neighborhood, but that's not the
24 subject. I am just showing that the size, in fact, up, and,
25 you know, give you a sense of what's going on.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 Next slide, please. So the subject, when I
2 started this construction project, the Office of Zoning told
3 me I needed to destroy the current garage because the
4 additional project that I, the addition that I made to my
5 house, the garage was now abutted or in the rear yard. And
6 I acquiesced to that agreement just so I could move forward
7 with the construction project, and now I am asking for
8 relief. So this relief has been about --

9 BZA CHAIR HILL: Mr. Moy. I'm sorry, Mr. Mason.
10 Mr. Moy, did you guys drop the slides in?

11 MR. MOY: It's on the way. We have it now so --

12 BZA CHAIR HILL: Okay. All right.

13 MR. MASON: -- it should be up there momentarily,
14 sir.

15 BZA CHAIR HILL: Okay. Just checking. Okay. Go
16 ahead, Mr. Mason.

17 MR. MASON: So this is the garage, as you see it
18 now. We partially destroyed it to make room for construction
19 vehicles and whatnot. You can see it's old adobe brick,
20 probably built about 75 - 80 years ago. It's in pretty bad
21 disrepair, and I hope to make that much nicer when I improve
22 it.

23 Next slide, please. Okay. This is the west side
24 and, of course, the south side. So my house is south of this
25 little garage here, so this would be what would be facing my

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 house. The west side, that would be like what 38th Street
2 would see. And, again, as it exists now, it's quite an
3 eyesore, and it will be destroyed, and I'll show you pictures
4 here in the future that will make it, you'll see it will be
5 much nicer.

6 Next slide, please. So, again, this gives you a
7 sense of the scale in the neighborhood. Starting on the top
8 left there, the north side, you can see it's, you know, it's
9 a one-story garage. It fits nicely in the neighborhood.
10 It's kind of surrounded by some trees, certainly nothing like
11 an eyesore or anything that would be out of scope of the
12 neighborhood.

13 The northeast side, if you kind of go clockwise
14 there, this is where the garage would be. It's kind of hard
15 to see, but I was just trying to give a sense of the scale
16 and scope of the house.

17 And then, of course, west side, you can hardly see
18 it from the west side. South side you can't see it.
19 Southwest side you definitely cannot see it.

20 BZA CHAIR HILL: Mr. Mason, let me just interrupt
21 you a second. I'm going to ask whether the board has
22 questions, but, Mr. Young, could you drop that slide deck for
23 a second? I don't have all your slides, Mr. Mason, so I'm
24 not really sure where some of this might be where I can kind
25 of interject. So just let me move along here and see where

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 my board are because we do have your burden of proof, we do
2 have your architectural plans and elevations.

3 Could I turn to the Office of Planning, please?

4 MR. JESICK: Mr. Chairman and members of the
5 board, my name is Matt Jesick presenting OP's testimony in
6 this case. I think I can mostly rest on the record in this
7 case. OP is recommending approval of the application. If
8 the board has any questions, I'm happy to address those.
9 Thank you.

10 BZA CHAIR HILL: Okay. Mr. Young, is there anyone
11 here wishing to speak?

12 MR. YOUNG: We do not.

13 BZA CHAIR HILL: Okay. Mr. Mason, can you tell
14 me a little bit how it went with your ANC?

15 MR. MASON: It went very positive. I briefed them
16 twice, and we had a unanimous vote in favor of the project.

17 BZA CHAIR HILL: Okay. Does my fellow board
18 members have any questions for the applicant? All right.
19 Mr. Mason, we have a very busy day ahead of us, and so I'm
20 sorry if it seems like I'm kind of rushing you through here.
21 But I don't see anyone who has any questions for you, so I'm
22 going to go ahead and excuse you. And thank you very much
23 for your time.

24 MR. MASON: Does that mean it's approved?

25 BZA CHAIR HILL: We don't know yet, Mr. Mason, but

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 if I'm moving along here, you can go ahead and watch here and
2 just kind of enjoy the day, all right?

3 MR. MASON: Okay. Thanks.

4 BZA CHAIR HILL: Bye, Mr. Mason. Okay. I didn't
5 have any issues with this application. I would agree with
6 the recommendations of the Office of Planning. I would also
7 agree with the right weight that we are to give the ANC, and
8 I am going to go ahead and vote to approve this application.

9 Mr. Smith.

10 MEMBER SMITH: I vote to approve this application.

11 BZA CHAIR HILL: Thank you. Vice Chair John.

12 BZA VICE CHAIR JOHN: I have nothing to add, Mr.
13 Chairman.

14 BZA CHAIR HILL: Thank you. Commissioner Miller.

15 ZC VICE CHAIR MILLER: The criteria for relief has
16 been met and, with the OP and ANC approval, I'm ready to vote
17 yes.

18 BZA CHAIR HILL: Okay. Great. Thank you. All
19 right. I'm going to make a motion to approve Application
20 Number 20164 with the relief requested and ask for a second,
21 Ms. John.

22 BZA VICE CHAIR JOHN: Second.

23 BZA CHAIR HILL: The motion made and seconded.
24 Mr. Moy, if you could take a roll call.

25 MR. MOY: Before I go through the roll call, Mr.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 Chairman, on your motion, you said it was the relief
2 requested. Could you --

3 BZA CHAIR HILL: Right. I'm sorry. It's D5004,
4 under D5004, D210, from the rear yard requirements and from
5 the lot occupancy requirements.

6 MR. MOY: Okay. Perfect. When I call your name
7 --

8 BZA CHAIR HILL: It's been made and seconded.

9 MR. MOY: Okay. When I call your name, if you'll
10 please respond to the motion made by Chairman Hill to approve
11 the application for the amended relief, and the motion to
12 approve was seconded by Vice Chair John. Zoning Commissioner
13 Rob Miller?

14 ZC VICE CHAIR MILLER: Yes.

15 MR. MOY: Mr. Smith?

16 MEMBER SMITH: Yes.

17 MR. MOY: Mr. Blake?

18 BZA VICE CHAIR JOHN: Not participating.

19 (Simultaneous speaking.)

20 MR. MOY: Vice Chair John?

21 BZA VICE CHAIR JOHN: Yes.

22 MR. MOY: Chairman Hill.

23 BZA CHAIR HILL: Yes.

24 MR. MOY: Staff would record the vote as 4 to 0
25 to 1, and this is on the motion made by Chairman Hill to

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 approve. The motion to approve was seconded by Vice Chair
2 John, who also voted to approve the application, as well as
3 approval from Zoning Commissioner Rob Miller, Mr. Smith, Vice
4 Chair John, and Chairman Hill. We have no other board
5 members participating. Again, the motion carries 4 to 0 to
6 1.

7 BZA CHAIR HILL: Great. You can call our next
8 case, Mr. Moy.

9 MR. MOY: Okay. The next case is Application
10 Number 21066 of 2925 Pennsylvania Avenue S.E., LLC, as
11 amended for, as a self-certified application pursuant to
12 Subtitle X, Section 901.2, for filing special exceptions;
13 Subtitle U, Section 421, to allow a new residential
14 development; Subtitle A, Section 207.2, to extend the
15 regulations of a portion of the lot located in a
16 less-restrictive zone; and pursuant to Subtitle X, Section
17 1002, for area variance from -- just a second -- Subtitle A,
18 Section 207.2(a). The property is located in the RA-1 and
19 R-1B zone at 2925 Pennsylvania Avenue, S.E., Square 5583, Lot
20 806.

21 Mr. Chairman, I would ask the applicant to confirm
22 the relief that I have just or to confirm the relief I just
23 cited is what the applicant is asking for. And we do have
24 witnesses signed up to testify, at least I know of one in
25 support. Thank you, Mr. Chairman.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 BZA CHAIR HILL: Okay. Thank you. If the
2 applicant can hear me, if they could please introduce
3 themselves for the record.

4 MS. WILSON: Alexandra Wilson from Sullivan &
5 Barros.

6 BZA CHAIR HILL: Okay, Ms. Wilson. If you want
7 to go ahead and walk us through your client's application,
8 why you believe they're meeting the relief requested. If you
9 can confirm what Mr. Moy had said about what he had read in
10 terms of the relief. And I'll put 15 minutes on the clock
11 so I know where you are, and you can begin whenever you like.

12 MS. WILSON: Great. Thank you so much. The
13 relief is correct, and I'll discuss it a little bit more on
14 the next slide. The presentation is not -- Mr. Young, if you
15 could please pull it up. Thank you. Could you please go to
16 the next slide? Thank you.

17 So the property is split zoned. It's located in
18 the RA-1 and R-1B zones. It's improved with a purpose built
19 apartment building constructed in 1932.

20 It has 14 units. Thirteen of those are legal
21 units which means they're listed on the CFO. And there's
22 also a storage room unit that was set up when the applicant
23 purchased the building.

24 No one is occupying that unit, of course, right
25 now since it was not on the CFO. But there is technically

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 a 14th unit set up. So 12 of the 13 units are located on
2 Floors 1 and 2, six units on each floor.

3 And those units have already been renovated. The
4 cellar level has one legal unit and then the storage room
5 unit. The other parts of the cellar are either partially
6 excavated or contain unused amenity space such as a washer
7 and dryer as the upstairs units all have in-unit laundry
8 facilities as part of the renovation.

9 The applicant is proposing to add four brand-new
10 units in the cellar and then to make that storage unit legal.
11 And this will increase the total legal unit count to 18
12 units. And no changes to the building footprint are
13 contemplated as part of the proposal. Next slide, please.

14 So originally, we thought a use variance was the
15 only option. But with the help of the Office of Planning,
16 we found a line of cases under which we could request this
17 relief as special exception and area variance, the idea being
18 that extensions of uses that are permitted on a portion of
19 the lot can be extended. And the regulations facilitate that
20 extension when appropriate.

21 And so we are seeking a special exception under
22 U-421 to add units in the RA-1 zone. And then for R-1B side,
23 in addition, we are seeking special exception relief from A
24 to 7.2 which permits the extension of the use permissions in
25 the RA-1 zone, 35 feet into the R-1B portion. And then from

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 there, we were seeking a variance from that 35 foot limit to
2 extend another 46 feet into the R-1B portion.

3 And so this is a request for area variance relief
4 that does not come up very often. And to put into
5 perspective, only eight other cases have requested this
6 relief over the last 30 years. So we greatly appreciate OP
7 guiding us here.

8 And I think the fact that this relief is requested
9 so infrequently speaks to the nature of the property and the
10 unique issues faced by the owner. And the Office of Planning
11 report reflects that as well. Next slide, please. So OP is
12 recommending approval of all relief.

13 ANC 7B voted in support. And I see that the SMD
14 is here as well. And we look forward to hearing from him.
15 Thank you so much for coming today.

16 And finally, DDOT has no objection. The applicant
17 will work with DDOT during the permit process regarding the
18 comments and its report. Next slide, please. Regarding the
19 history of the property, this speaks to the first prong of
20 the variance test.

21 It is a purpose filled apartment building
22 constructed in 1932. So it's been used as an apartment
23 building for 90 years. According to historic zoning maps,
24 the split zoning occurred after the construction of the
25 building as a result of the adoption of the 1958 regulations.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 This slide says other properties in the area were
2 also split zoned at the time. But there's actually just one
3 other property in the area that's split zoned. It's across
4 Pennsylvania Avenue at 2910 Pennsylvania.

5 And that property is in two R zones, the R-3 and
6 R-1B, which are both low density residential zones compared
7 to our property which has residential apartment zone and a
8 low density zone. That property is designated as an
9 educational use and doesn't have those same issues since it
10 is not in two separate density residential zones nor is it
11 a purpose built apartment building. Next slide, please. As
12 I mentioned, this is one of those partially excavated spaces.
13 Next slide, please. Thank you.

14 These are just a compilation of photos in the
15 cellar. These are all in the record. Next slide, please.
16 Next slide, please. Thank you. Next slide, please. And
17 then Mr. Young, if you could skip to slide 19. I think I'm
18 going to go through the relief first since I used some of the
19 plan slides in my variance discussion. And then I'll come
20 back. Thank you.

21 So we are seeking two special exceptions and the
22 proposal meets the general requirements as it's a new unit
23 in a 90-year-old apartment building. And no exterior work
24 or additions are being done here. We're not extending the
25 building footprint. Next slide, please.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 Regarding the requirements of U-421, the proposal
2 safety meets the requirements as the increase is for only
3 five units and technically only four as one has been
4 existing. And this increase shouldn't have any impact on
5 area schools nor public streets and recreation to accommodate
6 the residents. Also, we are well over the parking
7 requirement with six legal spaces where only two would be
8 required for a new building with 18 units in this location
9 given the proximity to a priority Metro bus route. Next
10 slide, please.

11 The requirements of A20-7.2 are safely met and
12 that the proposal not have any impact on the character of the
13 neighborhood given that the work is all interior work. And
14 the applicant is keeping the existing building. We are
15 seeking relief from subsection A to extend the RA-1 uses more
16 than 35 feet into the R-1B portion of the zone. Next slide,
17 please.

18 So I've covered some of this already, how the
19 building is unique with respect to its use. Split zoning and
20 age relative to the only other split zone building in the
21 area. But now turning to the issues of the cellar level, Mr.
22 Young, could you please go to slide 14 and go back to the
23 plans? Thank you.

24 So this is the existing condition on the eastern
25 side where we're seeking the variance. Could you go to the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 next slide, please? So this is the RA-1 side where the units
2 can be added via special exception.

3 So the cellar level has this partially excavated
4 space. And we have a letter from the engineer. And the
5 engineer visited the site with the architectural team.

6 And because of the age of the building and the
7 condition of the basement, there are, of course -- or cellar,
8 there are, of course, structural concerns. And based on the
9 engineer's review of the property, he wrote the architect a
10 letter which states that from a structural stability
11 standpoint, his recommendation is to excavate all of the dirt
12 from those spaces as they are intertwined and therefore
13 cannot be selectively excavated. This puts the applicant in
14 a position where it would have to excavate either all of
15 these crawl spaces or none of the crawl spaces. Could you
16 please go to the next slide?

17 So this is the proposed cellar on the variance
18 side. If you see here, we have the demarcation for the 35
19 foot extension. And so anything in that space is permitted
20 via special exception.

21 And then anything to the left of that requires the
22 area variance. So that's the space we're talking about for
23 the area variance, anything to the left of that 35 foot --
24 or yeah, 35 foot mark, that dashed line all the way to the
25 left. And so you can see that the new units are proposed in

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 the existing crawl spaces.

2 The applicant is effectively keeping the same
3 walls. It's not really reorienting this space. And again,
4 we have a letter from the engineer.

5 But even if the applicant were to risk going
6 against the structural engineer's recommendation and
7 attempting to selectively excavate which, again, the engineer
8 has recommended against doing, the applicant will still face
9 a series of issues on this side. So via special exception,
10 some of that middle crawl space could be used for a unit but
11 not all of it. And then the cutoff point where the special
12 exception ends and the variance begins is not tied into any
13 sort of wall or logical place in the building.

14 It's simply 35 feet from the spilt zone line which
15 is an arbitrary point created during the 1958 regulations.
16 There's an existing legal unit next to that space. So even
17 if one could overcome the structural issues and go ahead the
18 engineer's opinion, there's a small amount of square footage
19 in this odd configuration to put any unit.

20 And so the only place to expand the small portion
21 that's in the special exception is into the adjacent legal
22 unit. So there's no practical way to configure that leftover
23 space even if you could selectively excavate without the
24 structural stability issues in the engineers report. Mr.
25 Young, could you please go back to slide 22? Yes, thank you.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 So leaving the cellar as-is also creates practical
2 difficulties because it leaves the cellar units next to
3 partially excavated spaces. This attracts pests, of course.
4 And this cellar level needs to be brought up to modern living
5 standards. Next slide, please.

6 So given that the option is all or nothing for the
7 excavation, I wanted to mention that none of the by-right or
8 special exception uses would make sense even if new space
9 were created in the variance side. So this is an area
10 variance with practical difficulty standards. So I
11 understand we don't have to prove use issues.

12 But I thought it might be helpful to mention it
13 as it was mentioned in our original use variance argument and
14 this does come up sometimes. Next slide, please. Regarding
15 the third prong, the relief is specifically related to split
16 zone properties which are rare. And this is the only split
17 zone property in zones with different residential densities
18 and the only property that is an apartment building in this
19 area.

20 Further, it's extremely old. It's 90 years old.
21 It has a partially excavated cellar. All of these unique
22 issues directly relate to the relief and the structural
23 issues driving the relief.

24 Because of these lower level structural concerns
25 and unique splits in history, without the relief, the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 applicant will either have to leave the space as-is, risk the
2 structural integrity, or have vacant condition space that
3 will have to pay to excavate and continue to maintain. And
4 another way to think of this is that if the relief is not
5 granted, the applicant could technically be a special
6 exception, demolish this 90-year-old building, create the
7 same number or more units as it's proposing on the other side
8 of the lot, the RA-1 side. But that, of course, would not
9 only be detrimental to the existing tenants who are mostly
10 voucher tenants but also create practical difficulties for
11 the applicant as a full rebuild versus adaptively -- versus
12 using existing space or partially existing space in an
13 existing building.

14 And of course, it'd be a detriment to the
15 community too. The applicant received enthusiastic support
16 from the ANC and community which recognized the need for
17 additional housing in the area. And this project can be
18 accomplished with no destruction to the community as the
19 applicant is not constructing an addition but rather
20 proposing to add four new family sized units in unused
21 partially excavated space.

22 Again, this is an existing 90-year-old apartment
23 building which is permitted on most of the property under the
24 zoning regulations. The special exception exists to
25 facilitate extending this use to lower density zones on split

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 zone properties when deemed appropriate. And the unique
2 structural issues of the cellar level create practical
3 difficulties unique to the specific property preserving the
4 integrity of the zoning regulations. We do have additional
5 plans in the PowerPoint. And I'll leave it to the Board if
6 you -- would you like the architect to walk through the --

7 (Simultaneous speaking.)

8 BZA CHAIR HILL: Ms. Wilson, let me see where we
9 are. I don't know if we're going to have a lot of questions
10 for you. Do you want to drop that slide deck, Mr. Young?
11 Let me do one thing. Let me first hear from the Office of
12 Planning, please.

13 MR. BARRON: Good afternoon, Commissioners. My
14 name is Ron Barron, Development Review Specialist with the
15 D.C. Office of Planning. The Office of Planning recommends
16 approval of the special exception relief pursuant to Subtitle
17 A-207 to apply the less restrictive regulations of the RA-1
18 zone to the more restrictive zone on the split zone lot that
19 has been under single ownership since before the application
20 of the 1958 zoning code.

21 Office of Planning also recommends approval of the
22 special exception relief pursuant to Subtitle U-421 to allow
23 expansion of residential uses in the RA-1 zone. The
24 applicant has stated and initially requested the use variance
25 relief to allow construction of additional units and the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 portion of the lot subject to the R-1B zoning restrictions.
2 Office of Planning and the applicant discussed this approach.

3 And based upon those discussions, the applicant
4 amended their proposal as the area variance relief that is
5 now before you. The Office of Planning reviewed the area
6 relief and is recommending approval of the area variance.
7 While this is not a common form of relief and one that the
8 Office of Planning might not support in other circumstances,
9 OP does feel that the applicant has made a sufficient case
10 for us to recommend approval in this instance. Thank you
11 very much for your time, and I'm available to answer any
12 questions that you may have.

13 BZA CHAIR HILL: Thank you. Does the -- I'm
14 sorry. Does the Board have any questions for the Office of
15 Planning or the applicant?

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

18 MR. YOUNG: Commissioner Swanson.

19 BZA CHAIR HILL: Oh, okay. Commissioner Swanson,
20 can you hear me?

21 MR. SWANSON: Yes, I can.

22 BZA CHAIR HILL: Okay. Commissioner Swanson, do
23 you want to please introduce yourself for the record and give
24 us your testimony?

25 MR. SWANSON: Sure. Good afternoon, Chairman Hill

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 and members of the BZA Board. My name is Travis Swanson, and
2 I'm here today to voice my support for the petitioner in Case
3 No. 21066 concerning the property at 2925 Pennsylvania
4 Avenue, Southeast which is in ANC 7B. As the Commissioner
5 representing single member district 7B03, the district where
6 this property resides, I firmly believe that granting the
7 requested variance is paramount for the thoughtful progress
8 of our community.

9 This property presents a unique challenge as just
10 described by Ms. Wilson that it's straddling two zones, RA-1
11 and R-1B. And as Ms. Wilson said, this issue has only come
12 to the Board eight times over the past several decades. Such
13 situation calls for a tailored solution, and I wholeheartedly
14 endorse the petitioner's request for a variance to address
15 this zoning discrepancy and allow for the construction of the
16 new cellar units.

17 This endeavor aligns seamlessly with my advocacy
18 for increased density in our community and promoting
19 responsible and sustainable urban development. It is also
20 the consensus of ANC 7B via a unanimous voice vote that the
21 Board should green light the requested variance, permitting
22 the construction of these new cellar units as this endeavor
23 is in perfect harmony with our community's broader
24 objectives, offering additional housing options to our
25 residents. And we firmly believe that embracing such

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 opportunities enriches our neighborhood and ensures its
2 diverse and flourishing nature.

3 While I do understand that the focus of today's
4 hearing lies with the property at 2925 Pennsylvania Avenue,
5 I would like to seize this moment to just express my firm
6 conviction that properties along economic arteries such as
7 Pennsylvania Avenue really shouldn't be rigidly zoned for
8 single family detached houses. I advocate for a more
9 adaptable approach and welcoming mixed use developments that
10 combine economic structures and housing density and the
11 inclusion of apartments, townhouses, and condos along
12 Pennsylvania Avenue that will inject life into our urban
13 landscape along Pennsylvania. In closing, I do want to note
14 that this particular developer has been very forthcoming and
15 eager to work with the ANC which is not something I've always
16 experienced.

17 In past cases, for things happening in 7B03, I've
18 had developers who are unreachable and unwilling to engage
19 with the ANC whereas the petitioner in this case proactively
20 reached out to me late last year and began conversations
21 about this project with the ANC early on, as soon as this
22 hearing was scheduled months ago. I implore the Board to
23 deliberately and thoughtfully approve the requested variance
24 in Case 21066. Your decision will not only address the
25 unique circumstances of this property but also propel the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 growth and prosperity of our community as a whole.

2 I'm grateful for your attention to this matter and
3 eagerly anticipate the positive impact that this project will
4 have on ANC 7B. Thank you for your time. And I have
5 submitted my written remarks a couple of weeks ago to the
6 Board for your consideration and welcome any questions.
7 Thank you.

8 BZA CHAIR HILL: Okay, great. Thank you,
9 Commissioner. All right. Does the Board have any questions
10 for the Commissioner?

11 Okay. Let's see.

12 ZC VICE CHAIR MILLER: Thank you, Commissioner
13 Swanson, for your testimony. Have you brought the issue of
14 the rezoning that is not before us today? But that rezoning
15 that was Pennsylvania Avenue, Southeast single family zoning,
16 have you brought that to the attention to the Office of
17 Planning other than bringing it to their attention and our
18 attention today?

19 I'll ask them -- I'll take this opportunity to ask
20 them, Mr. Barron and Joel Lawson and others at the Office of
21 Planning to take a look at that broader issue that is not
22 before us today. But have your own ANC endorsed that
23 position yet? And you may want to go to them and work with
24 the Office of Planning on the broader issue.

25 MR. SWANSON: We have not brought that up yet but

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 definitely intend to because I don't believe this is the
2 first time this has come up along Pennsylvania Avenue where
3 there has been a zoning issue that does not align with our
4 vision for that corridor. With that being an economic
5 corridor, I believe there are more than 30,000 cars per day
6 that pass in each direction along there. There's a lot of
7 economic opportunity there.

8 The city has a small area plan underway from the
9 Sousa Bridge to Southern Avenue. So we really do feel like
10 the single family house model is probably not appropriate for
11 that street. Now we're not saying come through and rip down
12 all the single family houses tomorrow.

13 People wish to live in their single family home.
14 That's fine. But we do not -- I personally do not like to
15 see it be that restrictive, saying that there is zoning on
16 there, including a section of this building that it's saying
17 it would have to be a single family house and would like to
18 see more of it zoned for, like, MU-5 type zoning.

19 ZC VICE CHAIR MILLER: Well, thank you for that
20 comment. And I encourage you and the Office of Planning to
21 take a look at that issue further. Thank you.

22 MR. SWANSON: Great, thank you.

23 BZA CHAIR HILL: Thank you. Mr. Young, is there
24 anyone else here wishing to speak?

25 MR. YOUNG: No, we do not.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 BZA CHAIR HILL: Okay. Does the Board have any
2 final questions of the applicant, Commissioner, or the Office
3 of Planning? Well, I got one actually real quick. Ms.
4 Wilson, can you tell us what happened with DDOT?

5 MS. WILSON: I just noted that there's some
6 comments in the report asking us to work with them during
7 permitting regarding some public space issues. And so I just
8 confirmed that we will work with DDOT during permitting.

9 BZA CHAIR HILL: Okay, great. All right. Okay.
10 Anyone have any final questions?

11 All right. Ms. Wilson, anything at the end?

12 MS. WILSON: No, thank you all so much. And thank
13 you, Commissioner Swanson, for that wonderful testimony. I
14 really appreciate all of your work.

15 BZA CHAIR HILL: Okay, great. Thank you. All
16 right. I'm going to -- let's see. I'll let everyone go.
17 Okay. Thank you. Okay. I do think that this was a pretty
18 unique situation. I think, again, it being split zoned and
19 that they really can't -- when they dig that out, they can't
20 really decide which things they can or can't keep.

21 So there would be, like, condition space that
22 would be basically a waste if this wasn't approved. So I
23 think they made their case for the uniqueness of the property
24 and how that uniqueness leads to a detriment to the owner.
25 And I don't think it's going to harm the plan -- the zone

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 plan in terms of the area variance.

2 In terms of the special exception, I also didn't
3 have any issues with that. They're not making any changes
4 to the footprint of the building. I would rely on the
5 analysis of the Office of Planning as well as the approval
6 of the ANC and be voting to approve. Mr. Smith, do you have
7 anything you'd like to add?

8 MEMBER SMITH: Nothing at all, Chairman Hill.

9 BZA CHAIR HILL: Let's see. Vice Chair John?

10 BZA VICE CHAIR JOHN: Nothing, Mr. Chairman.

11 BZA CHAIR HILL: Thank you. Mr. Blake?

12 MEMBER BLAKE: I am in support of the application.

13 BZA CHAIR HILL: Thank you. Vice Chair Miller?

14 ZC VICE CHAIR MILLER: I concur. I turned off my
15 video because I was having some technical issues. I don't
16 know if you can hear me.

17 BZA CHAIR HILL: Yeah, we can hear you. All
18 right. I'm going to make a motion to approve Application No.
19 21066 as captioned and read by the Secretary and ask for a
20 second. Ms. John?

21 BZA VICE CHAIR JOHN: Second.

22 BZA CHAIR HILL: Motion made and seconded. Mr.
23 Moy, if you can take a roll call, please.

24 Mr. Moy, I cannot hear you if you're trying to
25 speak.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 MR. MOY: Okay. I'm in.

2 BZA CHAIR HILL: Okay.

3 MR. MOY: When I call your name, if you'll please
4 respond to the motion made by Chairman Hill to approve the
5 application for the relief requested. The motion to approve
6 was second by Vice Chair John. Zoning Commissioner Rob
7 Miller?

8 ZC VICE CHAIR MILLER: Yes.

9 MR. MOY: Mr. Smith?

10 MEMBER SMITH: Yes.

11 MR. MOY: Mr. Blake?

12 MEMBER BLAKE: Yes.

13 MR. MOY: Vice Chair John?

14 BZA VICE CHAIR JOHN: Yes.

15 MR. MOY: Chairman Hill?

16 BZA CHAIR HILL: Yes.

17 MR. MOY: Staff would record the vote as 5 to 0
18 to 0. And this is on the motion made by Chairman Hill to
19 approve. Motion to approve was second by Vice Chair John who
20 also voted to approve the application as well as approvals
21 from Zoning Commissioner Rob Miller, Mr. Smith, Mr. Blake,
22 Vice Chair John, Chairman Hill. Motion carries, sir, 5 to
23 0 to 0.

24 BZA CHAIR HILL: Thank you, Mr. Moy. You can call
25 our next one, please.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 MR. MOY: Okay. The next case before the Board
2 is Appeal No. 20944 of the Advisory Neighborhood Commission
3 3D and Rohit Kumar, K-U-M-A-R, as amended and appeal pursuant
4 to Subtitle X, Section 1100 from the decision made by --
5 excuse me, from the decision made by the Department of
6 Buildings on March 1st, 2023 to issue Building Permit No.
7 B2303238 and on January 31st, 2024 to issue Building Permit
8 No. B2310998. Property located in the R-1D zone at 5122
9 Cathedral Avenue, Northwest, Square 1439, Lot 60.

10 The preliminary matter here, Mr. Chairman, as
11 you're aware, there is a motion from the Department of
12 Buildings to dismiss the appeal or in the alternative for a
13 continuance. And I believe it's in the case record now that
14 yesterday, Tuesday, March 12th, there was a filing from the
15 appellant consenting to the continuance for 90 days. So
16 that's all I have for you. There's a number of people signed
17 up to -- as witnesses to testify.

18 BZA CHAIR HILL: Well, I'm disappointed. I wish
19 we had done this thing first. Can the appellant hear me?
20 And if so, could they introduce themselves for the record?

21 MS. THEMAK: Good afternoon. Tracy Themak for the
22 appellant.

23 BZA CHAIR HILL: Okay, great, Ms. Themak.
24 Commissioner Duncan, can you hear me and would you like to
25 introduce yourself for the record?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 MS. DUNCAN: Duncan, Chairman of ANC 3D.

2 BZA CHAIR HILL: Okay. I'm going to -- I mean,
3 I'm glad you all waited around. I mean, we have an appeal
4 after this. So I do not -- you have to feel bad for us.
5 Okay. And so Ms. Themak, so there's a 90-day continuance
6 that you're asking for, correct?

7 MS. THEMAK: Yeah, DOB has consented to it. We
8 think we can resolve -- we're hoping to use that time to
9 resolve some of the issues.

10 BZA CHAIR HILL: Okay. So Mr. Moy, what does 90
11 days -- where does that put us at?

12 MR. MOY: Thank you very much. Sometimes that's
13 a good thing. Okay, 90 days. That's three months. So that
14 puts us out to, one, two -- that puts us out to June, Mr.
15 Chairman. So the dates available for a hearing in June would
16 be as follows. I would suggest June 12th at the earliest.
17 If that doesn't work for you, then we're looking at July 3rd
18 --

19 (Simultaneous speaking.)

20 BZA CHAIR HILL: -- June 12th?

21 MR. MOY: Sorry, sir?

22 BZA CHAIR HILL: How many cases are on June 12th
23 apparently?

24 MR. MOY: For June 12th, this would be the only
25 case. If you want to keep it the only case, I can do that

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 for you.

2 BZA CHAIR HILL: Yeah, sure. Okay. So 6/12, Ms.
3 Themak, can you hear me? Does that work for you? I'm going
4 to ask everybody if it works for them. Ms. Themak, does that
5 work for you?

6 MS. THEMAK: Works for us.

7 BZA CHAIR HILL: Does it work for DOB? Okay.
8 Does it work for the property owner, Mr. Agarwal?

9 MR. AGARWAL: Good afternoon, Mr. Chair. I was
10 actually hoping we could discuss this case right now because
11 we've been at this for a year now. And 90 days out just
12 delays this even further.

13 BZA CHAIR HILL: Okay. Well, there's been a
14 request for a 90-day continuance. And I didn't realize that
15 you were opposed to that. Let's see now. So you are opposed
16 to the 90-day continuance?

17 MR. AGARWAL: Yes, sir.

18 BZA CHAIR HILL: Okay. And what reasoning are you
19 giving us for the 90-day -- for the opposition or for your
20 -- whatever, that you don't want to do it?

21 MR. AGARWAL: Well, sir, last Friday, DOB filed
22 a letter to revoke the permit. The permit is not revoked as
23 of now. I still have the right to either surrender or not
24 surrender or appeal which is why the continuance was filed.

25 But again, filing for a continuance right now just

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 delays what we had to discuss today anyway where if DOB has
2 not been able to get this figured out in the last nine or ten
3 months, 90 days out is not going to change anything because
4 now we've already had three rounds of permits already
5 approved. And I have a current approved permit sitting with
6 me. So it's just one of those things where as a small
7 business owner in D.C., I'm trying to build my project.

8 And pushing this out further and further makes
9 this a one and a half BZA appeal. And then I still don't
10 know if that might push it out even further. So I would
11 really request we conduct the hearing today like we had --
12 like you had suggested last time.

13 BZA CHAIR HILL: Sure. So I don't think that I'm
14 in a position right now for us to have this hearing. And so
15 unless my fellow Board members have any difference of
16 opinions and I'll let them raise their hands if they do.
17 Okay. Mr. Agarwal, I guess you're going to have to try to
18 work with DOB and the appellant to try to see what you may
19 or may not be able to get resolved.

20 As I understand the crux of this issue is, again,
21 whether the building has been razed or not. And if it's been
22 razed, then whatever your rights are as a raze. And if it's
23 been demolished and you kept some of that previous building,
24 then you have -- keeping the noncompliance for that previous
25 building. That's what the whole appeal is about.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 And I would imagine, Mr. Agarwal, you possibly
2 know better than anybody which way you want to argue that.
3 And so I would definitely go ahead and work with DOB because
4 if you can get a permit that we don't have to be here for an
5 appeal for, that's also something that would be to the
6 benefit of the city. So that being the case, we're going to
7 try to come back here on June 12th.

8 And hopefully, that gets resolved by this point
9 between you, DOB, and the appellant. But currently, it seems
10 like it's between you and DOB because if they're revoking
11 that second permit, then I guess you have to talk to DOB
12 about that. Okay.

13 MR. AGARWAL: Right. So Mr. Chair, I have a
14 question. Right now, DOB is giving me a letter saying that
15 they have an intention to revoke which would also mean that
16 I have a 60-day window to file an appeal against that letter
17 which would bring me back to you guys anyway. So I guess my
18 question is, I could either work with DOB or we could come
19 back here in 60 days and effectively discuss the same thing
20 again at BZA.

21 BZA CHAIR HILL: It sounds like you're talking
22 about a difference issue which is DOB revoking your permit.

23 MR. AGARWAL: Right.

24 BZA CHAIR HILL: And so I don't know how that gets
25 before us again. Like, you'd have to talk with the Office

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 of Zoning. You'd be applying an appeal to that decision of
2 DOB. And so then you have to get in the queue like everybody
3 else as to before you get before us.

4 MR. AGARWAL: Okay.

5 BZA CHAIR HILL: Okay? All right. So we'll see
6 you here on June 12th or not if it all gets resolved. And
7 thank you all very much for being here. And I apologize to
8 the witnesses, but we're not taking any testimony today.

9 So there we go. Okay. Thank you. Goodbye.
10 Okay. Mr. Moy, I just had a quick question for you. Can you
11 hear me? We moved the Howard University case, the 20837 to
12 another date. What date did we move it to?

13 MR. MOY: July, the last week in July. I think
14 it was July 31st.

15 BZA CHAIR HILL: Okay, great. Okay. So now I'm
16 sorry if it was confusing before. Let's take a lunch break
17 now. Okay. And then for some of my Board members, we were
18 going to take a little break.

19 You can go back and check the transcript. We were
20 going to take a little break and then we were going to do all
21 this. And then we were going to take lunch. So I'm going
22 to do my best to get back here in 40 minutes. Okay. And
23 then we'll do the appeal. Okay. Thank you.

24 (Whereupon, the above-entitled matter went off the
25 record at 2:34 p.m. and resumed at 3:26 p.m.)

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 BZA CHAIR HILL: All right, Mr. Moy, you want to
2 call our last case?

3 MR. MOY: Thank you, sir. After the board's late
4 lunch recess, the board has returned to its public hearing
5 session, and the time is at or about 3:27 p.m. in the
6 afternoon. The case before the board is appeal number 21040
7 of the Advisory Neighborhood Commission 2G. This is an
8 appeal pursuant to Subtitle X Section 1100 challenging the
9 decision made on August 10th, 2023 by the zoning
10 administrator, Department of Buildings, to approve issuance
11 of building permit number B2301285 as issued on November 6th,
12 2023.

13 The property is in the D-4-R zone at address 501
14 New York Avenue Northwest, Square 482S, Lot 800. The only
15 preliminary I have for you, Mr. Chairman, is that the
16 appellant, I believe today, requests a waiver of deadline to
17 add or update her revised witness list for today, and that's
18 all I have. Thank you, sir.

19 BZA CHAIR HILL: Okay, if the appellant can hear
20 me, if they could please introduce themselves for the record?

21 MS. THEMAK: Tracy Themak for the appellant.

22 BZA CHAIR HILL: Okay, Ms. Themak, I didn't know
23 we were going to see you today. Let' see, and then could DOB
24 please introduce themselves for the record?

25 MR. HARESIGN: Chair Hill, Chris Haresign,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 assistant general counsel, Department of buildings.

2 MR. COX: Erick Cox, deputy general counsel, DOB.

3 MS. BEETON: Kathleen Beeton, zoning
4 administrator.

5 BZA CHAIR HILL: Okay, Ms. Beeton, I didn't know
6 we were going to see you today. Let's see, so a couple of
7 things. First of all, Zoning Administrator Beeton, again,
8 welcome. This is the first time we've seen you in this
9 capacity. Unfortunately this is part of your duties, and so
10 we will see you again, and again. So welcome to the first
11 one of many. And so that's that welcoming. Ms. Themak,
12 again, I know, and welcome, Ms. Themak.

13 And to my fellow board members, I mentioned this
14 when we were having our legal call, but this is my ANC, and
15 I don't think that it is going to preclude me from being able
16 to oversee the hearing. I am again, one of five voices, and
17 so I do not think that this being my ANC is going to cause
18 an issue. However, if my fellow board members have anything
19 to say, please let me know.

20 ZC VICE CHAIR MILLER: I don't think there is any
21 concern with you participating at all.

22 BZA CHAIR HILL: Okay, that came from Vice Chair
23 Miller on the Zoning Commission, anyone else from my board?
24 Okay, great. All right, so that being the case, I guess the
25 first is that, Ms. Themak, the appellant is trying to add a

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 witness list, is that correct?

2 MS. THEMAK: We have a witness list in the record,
3 we were adding one name, and then adding a potential
4 substitute for Sean Sullivan, who was already registered to
5 be a witness for Boston Properties, in case he can't be
6 available.

7 BZA CHAIR HILL: Can you tell me again the witness
8 list in the exhibits by any chance? 48 I think.

9 MS. THEMAK: Yeah, I can look, let me see.

10 BZA CHAIR HILL: Okay, so you want to switch out
11 somebody perhaps, correct?

12 MS. THEMAK: Yeah, we might be switching Mr. Ellis
13 for Mr. Sullivan, and we have added Robinson as well.

14 BZA CHAIR HILL: Okay, who is Mr. Ellis?

15 MS. THEMAK: Ellis is also a representative of
16 Boston Properties.

17 BZA CHAIR HILL: Okay, so the same thing?

18 MS. THEMAK: Yes.

19 BZA CHAIR HILL: Okay, and then who is the other
20 one that you want to add?

21 MS. THEMAK: That is the president and CEO of the
22 Mount Vernon CID, directly across the street from 501 New
23 York Avenue.

24 BZA CHAIR HILL: Okay, and what's his name?

25 MS. THEMAK: Robinson, Mr. Robinson.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 BZA CHAIR HILL: Kenyattah Robinson, okay, all
2 right. Okay, I don't have any issues with them switching out
3 a name, and adding a name. I'm not going to ask everybody,
4 but do my fellow board members have any issues? Okay, Mr.
5 Haresign, do you have any issues?

6 MR. HARESIGN: No, Chair Hill, it's the policy of
7 the Department of Buildings that the community should be
8 heard. I do just want to remind the board respectfully that
9 the issues in this appeal are extremely narrow, and are
10 limited to the use category.

11 BZA CHAIR HILL: Okay, no problem, so that's
12 great. Let's see. Okay so, Ms. Themak, we're going to go
13 ahead and allow that change.

14 MS. THEMAK: Let's see then, after that, okay.
15 So what I think we're going to do here, give me one moment
16 please.

17 MR. MOY: Chairman, I believe Ms. Themak had a
18 PowerPoint slide as well, but I do know DOB had, and that's
19 in the record.

20 BZA CHAIR HILL: Okay, Ms. Themak, is your
21 PowerPoint not in the record yet?

22 MS. THEMAK: No, it was submitted a couple days
23 ago. We resubmitted this afternoon to Mr. Reed and Mr. Young,
24 we just reordered the slides to make the process more
25 efficient.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 BZA CHAIR HILL: Okay, that's great. As if we
2 were actually live, you would be able to present your slides
3 however you want to present your slides, so I'm going to go
4 ahead and allow that into the record. Then if staff could
5 drop that into the record, and let us know when it's in
6 there, because it's easier for the board to follow along.
7 Again, the order of the appeal is in Y507. I haven't had an
8 appeal in a little while, so I'm going to go back to
9 referring to this.

10 As we go through, we're going to first do the
11 statement of the appellant, and appellant's witnesses, then
12 the cases of parties or interveners in support of the appeal.
13 If there was a property owner, we would have heard from that
14 person in that time. Then we're going to hear from the
15 Department of Buildings. We're going to have questions of
16 each during the course of the presentations. At the end, the
17 appellant will have an opportunity for rebuttal.

18 The Department of Buildings will have an
19 opportunity to ask any questions on rebuttal, and then we're
20 going to have closing arguments from, I like to hear from
21 everybody, so we're going to go in reverse order, which is
22 we'll hear from DOB, and then we'll hear from the appellant
23 last, because it is the appellant's case. So that being the
24 case, Ms. Themak, I'm going to put 15 minutes on the clock
25 just so I know where we are.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 But as is what usually -- in fact, I'm just going
2 to put, Mr. Young, can you just put 25 minutes up there now?
3 Thank you. And so 25 minutes, so that is a more reasonable
4 time, at least I kind of, again, will know where we are. And
5 Ms. Themak, you can begin whenever you like.

6 MS. THEMAK: Great, thank you. Mr. Young, if you
7 can bring up our PowerPoint presentation, that would be
8 really helpful.

9 BZA CHAIR HILL: Wait a minute, give me one
10 second, I apologize, Ms. Themak. Mr. Moy, was there a
11 preliminary matter about dismissing this as untimely?

12 MR. MOY: I think there was, let me defer to OZLD,
13 if they could chime in now.

14 BZA VICE CHAIR JOHN: I believe there is that
15 issue. DOB has certainly raised it.

16 BZA CHAIR HILL: Okay, I think --

17 BZA VICE CHAIR JOHN: Yeah, that's their first
18 argument, the board should dismiss because the appeal is
19 untimely, filed too early.

20 BZA CHAIR HILL: Okay. So unless OZLD is about
21 to chime in, unless my board thinks of this differently, as
22 a threshold issue, let's go ahead and hear about the
23 timeliness first. Ms. Themak, if you have a little bit of
24 an argument -- well, actually I'll tell you what, we're going
25 to go to DOB first, I guess it's their request. I'm not an

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 attorney, and I'm late in the day here.

2 So they're putting forward that this is untimely.
3 So let's hear that argument first, let's determine what we're
4 going to do with that, and then we can see where we get. So,
5 Mr. Haresign, is it Haresign?

6 MR. HARESIGN: From the members of my family
7 you'll get four different pronunciations, so that's certainly
8 among them.

9 BZA CHAIR HILL: Which one do you like?

10 MR. HARESIGN: Haresign usually, two syllables.

11 BZA CHAIR HILL: Haresign, okay, I'll try. Okay,
12 go ahead, Mr. Haresign.

13 MR. HARESIGN: Thank you, Chair Hill. So DOB's
14 bringing to the board's attention that this appeal appears
15 to be taken not from the issuance of the permit, but rather
16 an entry in the Scout system. Board's rules and precedents
17 make clear that appeals may be taken from the first
18 reflecting an unambiguous zoning determination of which an
19 appellant had notice.

20 When the appealable event is not the issuance of
21 the permit, there is uniformly a letter, an email reflecting
22 a final zoning decision that leaves no room for doubt that
23 a determination has been made. The appellant here has
24 asserted in their application that the appeal is being taken
25 from the August 10th permit issuance, but that's factually

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 incorrect.

2 The permit was not issued until November 6th,
3 2023. That's after the appeal was filed. The appellant's
4 not appealing the permit, the appellant is appealing an entry
5 on the Scout system. And it's the position of DOB that Scout
6 entries are not appealable events. They're progress
7 oriented, and they are not decisional in nature. If they
8 were, then there's a March 6th, 2023 zoning review approved
9 entry that would be the measuring date for lodging this
10 appeal.

11 DOB is not taking that position, the only
12 appealable event in this case is the November 6th permit
13 issuance, and to hold otherwise -- sorry?

14 BZA CHAIR HILL: No, I didn't say anything.

15 MR. HARESIGN: Okay. So to hold otherwise would
16 mean to encourage duplicative, premature appeals on pending
17 permits, ones where final zoning determinations have not yet
18 been made. And this would effectively overwrite the
19 requirements of Subtitle Y Section 203.5, render those words
20 meaningless. And the board should give weight and meaning
21 to the plain language of its regulations.

22 This appeal should be dismissed as improperly
23 taken, premature, and untimely. And with that, we would
24 request that the board dismiss this appeal so as not to
25 invite chaos into zoning appeals.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 BZA CHAIR HILL: Mr. Haresign, how long have you
2 been over there at DOB?

3 MR. HARESIGN: About a year.

4 BZA CHAIR HILL: You and I, Mr. Haresign, are
5 going to have a very interesting time together, I can see
6 that. Go ahead, Ms. Themak, do you have some kind of
7 response?

8 MS. THEMAK: Yeah, Commissioner Nigro filed this,
9 if that's correct, on October 8th. And the only writing
10 available at that point was the statement on Scout that said
11 that the permit had been issued. That's very different from
12 a statement saying zoning approval. Permit issued, and the
13 date of August 10th, 2023. The Scout entry that DOB
14 submitted in support of its dismissal has the 11/6/23 date
15 on it.

16 However, as when the permit was filed. However,
17 the only date that Commissioner Nigro had access to on August
18 10th was the Scout entry saying a permit had been issued on
19 August 10th. She had at that point also submitted, and we'll
20 get into this if we're given the opportunity, FOIA requests,
21 submissions to DOC, DGS, and DOB about what was happening
22 with the actual permit, and nobody would supply the
23 documents, they were also unavailable on e-records.

24 So our position is that Commissioner Nigro filed
25 this appeal with the only writing that was made available to

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 the public, which was the Scout entry on August 10th, 2023.
2 The November 6th date was just simply not available, nor were
3 any of the permit documents given to her, as she requested
4 through, I believe it was Director Hanlon's office as well
5 as Councilmember Pinto's office.

6 So it seems unjust for her to now be prevented
7 from following through with an appeal based on information
8 that was withheld, and then being too late to file an appeal
9 given a permit issuance date that she didn't know about, and
10 is now wrong. So, again, I would say the appeal was timely
11 filed based on the information available to the public. And
12 when the Scout system says permit issued on August 10th,
13 that's very different from a departmental approval.

14 That is indicating that a permit was issued, and
15 when she requested said permit, or any documents, she was
16 refused. So I don't know what more she could have done that
17 was within her power. She contacted every agency and
18 department to try to get more information. I believe
19 Councilmember Pinto's office also intervened on her behalf.
20 She couldn't get the FOIA request processed any more quickly.

21 So our response to the timeliness argument is what
22 could we have done more than she did? And again, if you
23 allow us to go through our PowerPoint and hear the case,
24 we'll show you all of the actions proactively that she took
25 over the past year to try to be as proactive about this as

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 possible. But we contend that the August 10 date published
2 on Scout right next to permit issued should suffice for
3 giving her notice, and for taking a proactive movement.

4 BZA CHAIR HILL: Okay, thanks, Ms. Themak. Do my
5 board members have any questions of either DOB, or the
6 appellant? Okay, all right, so let's see. I guess we can
7 just deliberate on this in front of everybody, and not have
8 anyone pull back. So this is where I get, I'll give you my
9 perspective in terms of this debate that we're going to have
10 now.

11 So you can read the record, I've read the record,
12 and I've seen what the appellant was trying to understand as
13 to when they would be able to file an appeal on this decision
14 from the zoning administrator. And I think that we in the
15 past have had discussions through the regulations as to what
16 is the first writing. And I guess we've taken the first
17 writing as being the permit.

18 Also we've taken, I guess now we're going to
19 possibly consider taking the first writing as the potential
20 decision of the permit being issued, or you know,
21 acknowledgment that the permit is going to be issued on
22 Scout. And so I'm not really sure what the appellant was
23 supposed to do if they were advised also, it seems from
24 possibly potentially the Office of Zoning, to go ahead and
25 file the appeal.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 And then if they didn't file that appeal, then
2 they would be now untimely, because they didn't file the
3 appeal after the permit was issued. So I'm not exactly sure,
4 also, what the appellant was supposed to have done. I mean,
5 that's not to say that this appeal is, whatever, go one way
6 or the other. But at least in terms of hearing the appeal,
7 I think this appeal is properly before us.

8 And so I will let my other board members chime in,
9 and I'll go around the way I normally do, I guess. Which is
10 Mr. Smith?

11 MEMBER SMITH: I agree that we've had a long
12 discussion on the origination of when you can originate an
13 appeal. But I do agree with your assessment on this, given
14 the history of this case, given that the ANC, I believe, has
15 attempted to do, legally, their due diligence to research
16 this building permit. Given that it was posted on Scout that
17 the permit was issued.

18 So I think they did what they were supposed to do
19 given the language that was posted on Scout by the issuance
20 of a building permit by the city government. So I do believe
21 that this appeal is timely before us. So I agree with your
22 assessment on this case, and would like to proceed with
23 hearing this appeal.

24 BZA CHAIR HILL: Mr. Blake?

25 MEMBER BLAKE: I agree that there wasn't enough

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 information available from the Scout report to determine if
2 you did have an objection to the permit, because you didn't
3 know exactly what it fully said. So while that was something
4 that was out there, it didn't really give the appellant
5 enough information to make a decision as to whether they
6 disagreed or did not. It was a crap shot because they
7 weren't sure.

8 But they did do it, and the appeal that has taken
9 place, when we do note the first writing came actually after
10 that date, it would have been, as soon as they knew, they
11 should write it on this event. So I believe it is
12 essentially timely, and I would be in support of hearing the
13 case, and denying the timely dismissal.

14 BZA CHAIR HILL: Commissioner Miller?

15 ZC VICE CHAIR MILLER: Mr. Chairman, I agree with
16 all of my colleagues' statements, and with the position of
17 Ms. Themak, the appellant. I hesitate to even say more. I
18 don't know where I am really on the merits of the case, I'm
19 open minded, but I really think that this procedural
20 dismissal motion is very user unfriendly, very public
21 unfriendly, and I think DOB should reconsider its posture
22 toward the public with respect to these kinds of matters.

23 BZA CHAIR HILL: Okay, Vice Chair John?

24 BZA VICE CHAIR JOHN: Thank you, Mr. Chairman.
25 I agree substantially with all of the comments. And I am not

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 saying that every single Scout entry will be the first
2 writing, which is what DOB seems to say that we're widening
3 the definition of first writing. But in this particular
4 case, the applicant did everything it could to find out if
5 the Scout entry was correct.

6 And it seems to me that they just couldn't get
7 anywhere with DOB in either a yes or a no answer. And so
8 they did the next thing, which is to preserve their rights
9 on appeal. So the worst that could have happened is they
10 would have withdrawn it, and filed after November 8th, so I
11 don't see how DOB is prejudiced in any way. I think DOB
12 should have responded to the appellant's request for
13 additional information.

14 So they were in a difficult spot, and so not
15 wanting to miss the first writing rule, they filed the
16 appeal. So that's where I am on the timeliness issue.

17 BZA CHAIR HILL: Okay, thanks. I hate to do this,
18 but I've got to talk to OZLD just for a minute. So I'm going
19 to do the emergency meeting if you don't mind, I'll go as
20 fast as I can. Mr. Moy, do you have that emergency meeting
21 stuff handy?

22 MR. MOY: Yes, I do.

23 BZA CHAIR HILL: I've got it.

24 MR. MOY: You got it?

25 BZA CHAIR HILL: Yeah.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 MR. MOY: Okay.

2 BZA CHAIR HILL: Give me a second, just pulling
3 it up. Okay, as chairperson of the Board of the Zoning
4 Adjustment for District of Columbia in accordance with the
5 District of Columbia Administrative Procedures Act, I move
6 that the Board of Zoning Adjustment hold a closed emergency
7 meeting on 3/13/2024 for the purposes of seeking legal
8 counsel on 2104, and or to deliberate but not vote on 2104.
9 Is there a second, Ms. John?

10 BZA VICE CHAIR JOHN: Second.

11 BZA CHAIR HILL: Thank you. The motion has been
12 made and seconded, Mr. Moy, can you take a roll call?

13 MR. MOY: When I call your name, if you'll please
14 respond to the motion made by Chairman Hill to hold an
15 emergency closed meeting. The motion was seconded by Vice
16 Chair John. Zoning Commissioner Rob Miller? Mr. Smith? Mr.
17 Blake?

18 MEMBER BLAKE: Yes.

19 MR. MOY: Vice Chair John? Chairman Hill?

20 BZA CHAIR HILL: Yes.

21 MR. MOY: The motion carries on a vote of five to
22 zero to zero to hold an emergency closed meeting.

23 BZA CHAIR HILL: Thanks. I hereby give notice
24 that the Board of Zoning Adjustment will recess this meeting
25 at 3:50 p.m. to hold a closed emergency meeting pursuant to

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 District of Columbia Administrative Procedures Act. A
2 written copy of this notice will be posted in the Jerrily R.
3 Kress Memorial Hearing Room, Mr. Haresign, can you hear me?

4 MR. HARESIGN: Yes, Chair Hill.

5 BZA CHAIR HILL: Mr. Haresign, I was trying to be
6 cute, it's very difficult to be cute over Zoom. When we're
7 more live, it's different, when you said chaos, I was kind
8 of making a joke at the chaos thing, and so my apologies, I
9 was just -- don't mean to throw you there also.

10 MR. HARESIGN: No problem, from one 2G resident
11 to another, it's understood.

12 BZA CHAIR HILL: Okay, there we go, okay, good,
13 we're going to run into each other. All right, then I will
14 see you guys in the emergency meeting, we'll come back as
15 quickly as we can. Thank you.

16 (Whereupon, the above-entitled matter went off the
17 record at 3:51 p.m. and resumed at 4:13 p.m.)

18 BZA CHAIR HILL: All right, Mr. Moy, can you just
19 call us back?

20 MR. MOY: After convening an emergency closed
21 meeting with OZLD, the board has returned to its public
22 hearing session, and the time is now at or about 4:13 p.m.

23 BZA CHAIR HILL: Okay, thanks. So I appreciate
24 -- I'm sorry for the delay. What I wanted to clarify with
25 OZLD was again, this timeliness issue, and how Scout is

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 somewhat functioning in connection with this particular
2 appeal. What I did not want to infer from this is that Scout
3 somehow becomes kind of the first writing, right? In this
4 particular case, again, the appellant had thought that a
5 permit was issued.

6 And they thought the permit was out there, and so
7 they went ahead and put a appeal on a permit that they
8 thought was out there. And so actually that permit didn't
9 get put in until 11/6/23, and Scout is not a zoning decision
10 in that matter. And so what I would like to do, which is
11 within the power of the board, unless my fellow board members
12 have any issues with this, we'll go ahead and amend the
13 appeal to incorporate the permit from 11/6/23.

14 So that's what we're going to do unless my fellow
15 board members have an issue, or I suppose anybody has an
16 issue. Please raise your hand. All right. So, Ms. Themak,
17 we're back with you, and you may please begin your
18 presentation.

19 MS. THEMAK: Thank you. Go back to that
20 PowerPoint, Mr. Young, if you would? Great, if we can go to
21 the next slide? The reason we're here today is it's the
22 appellant's belief that DOC and DGS should have applied for
23 special exception relief and approval for the change in use
24 in this D-4-R zone from a local government use to a large
25 scale government use, which would have allowed for the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 community, the ANC, and this board's adequate consideration
2 of the significant adverse impacts that such a change will
3 involve.

4 I'm sorry there's a typo on this, it would have
5 required the appellee -- next slide please. The plain
6 meaning of 11B200.2S for local government puts this current
7 use and the past use of the property at 501 New York Avenue
8 clearly within the gamut of local government use. It is
9 currently MPD's traffic management station. The activity
10 level here is minimal with one or two child safety
11 installations per week.

12 In the past, there have only been a sporadic use
13 of the lower level jail cells for DWIs, and juvenile
14 detention, but even that has ceased since 2016, as we'll see
15 later. So, again, what we're doing here is changing this
16 permitted use, this matter of right use in the D-4-R zone to
17 a special exception use. Next slide please. As I mentioned,
18 there haven't been any detainees on this site since 2016, DOB
19 even states this in their pre-hearing statement.

20 Although they assert that 2017 was the last date
21 that a detainee was held there. So in the alternative, and
22 in the unlikely event that the original, and current, and
23 past use is deemed large scale government use, 11C204.4 says
24 that the discontinuance of that use for any more than three
25 years would require them to go back through the special

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 exception process through you, and seek approval for that
2 nonconforming use in the D-4-R zone.

3 So whether you measure it from 2016, or whether
4 you measure it from 2017, they would need a special exception
5 approval from you to put the central cell block at 501 New
6 York Avenue. Next slide please. Again, the proposed use,
7 if you're going according to the plain meaning of the zoning
8 regulations, 11B200.2R defines large scale government. And
9 they specifically call out exactly what this is going to be
10 used for, jails.

11 So if we're looking at the plain meaning of the
12 zoning ordinance, you have to consider that this is going
13 from a local government use to a large scale government use.
14 The central cell block is planned to accommodate 80
15 detainees, and this is in direct violation of the current
16 use, which hasn't had any detainees there since 2016/2017.
17 It will be operating 24 hours a day 7 days a week.

18 It will not only be used by MPD, but Metro
19 Transit, U.S. Capital Police, Uniformed Secret Service, and
20 the Park Police, which is a significant change from its
21 current use. There are going to be high drop off times that
22 will require staggered and call ahead arrivals. That is not
23 in place now because it is completely unneeded. So, again,
24 to put this large scale government use in the D-4-R zone, it
25 would require special exception approval pursuant to I303.1C.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 Next slide please. We can skip this one, because
2 we handled this matter. I am going to let Commissioner Nigro
3 take you through a brief summary of this, so that I'm not
4 just reading verbatim from the screen, but this shows that
5 the ANC has been actively engaged in this process for a year.
6 And it also documents the noted change in use that has been
7 broached in conversation with Councilmember Pinto's office,
8 and the commissioner.

9 So, Commissioner Nigro, if you're available, I'll
10 have you take them through a brief background of all of your
11 work on this matter.

12 MS. NIGRO: Hi, good afternoon. I am Rachelle
13 Nigro, I am commissioner for ANC2G06, and chair of ANC2G.
14 I want to first say that we are grateful for this hearing
15 taking place, and very much appreciate everyone's time. So
16 let me go through, as I say, my journey for the past year,
17 and I'll want to be very succinct, because this has been a
18 very long day for many people.

19 So it was announced to the community about this
20 project by me, and that was on the night of March 23rd, 2023.
21 This project was not announced by any branch of the D.C.
22 government. I was told a rumor by someone that there could
23 possibly be a correctional facility at 501 New York Avenue.
24 That night on the 23rd of March, I looked on the Department
25 of Buildings website, and saw that there were some reviews

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 taking place.

2 I immediately went on Instagram live, and
3 announced to the community about the central cell block, and
4 I have to be honest with you, normally I'm never confused
5 about anything, that night I was confused. I was like what
6 is happening, did I miss the memo about this? And I found
7 out there was no memo about this. So I immediately wrote MPD
8 Chief Contee, and my first email to Department of Corrections
9 director, Director Faust.

10 Chief Contee responded to me, Director Faust did
11 not. For me, that was my first sign that we were going to
12 be in trouble. So when he did -- he never actually responded
13 back to me, he referred the inquiry to the Department of
14 General Services, that was Director Faust. I invited both
15 the Department of Corrections and the Department of General
16 Services to our April ANC2G meeting to present to the
17 community and say what is this all about.

18 Both cancelled, and they wanted to come to the May
19 meeting. I said okay, come on to the May meeting. Literally
20 right before our May 10th meeting, the Department of General
21 Services wanted to cancel again. I said absolutely not. I
22 then went to the Department of Corrections director, Director
23 Faust, and to the deputy mayor, and I said please have
24 someone come to our meeting.

25 They did not, there was no representation from the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 Department of Corrections, and they didn't respond. Next we
2 reached out to Councilmember Pinto, Councilmember Pinto and
3 her office never met with the surrounding stakeholders. I
4 contacted the mayor's office, they also did not meet with the
5 surrounding stakeholders. And Director Anderson from
6 Economic Development, he referred it back to the Department
7 of General Services.

8 That is when I began the campaign, that was on
9 June 6th, and asked my constituents to reach out to all the
10 officials involved from the mayor, the city administrator,
11 all the agencies involved, and the Council members, we are
12 wholly opposed to this proposal. Contacted the mayor's
13 office again, no meeting date with the surrounding
14 stakeholders. And then on June 15th I stood up at the
15 downtown bid and said we are wholly opposed to this proposal.

16 And then on the 28th of June, 2023, Department of
17 General Services met with the neighborhood developers. What
18 came of that meeting was not much, basically they were
19 talking about operations. And the developers, and myself
20 representing the constituents, stood opposed to the project.
21 Also on that date, on the 28th, Councilmember Pinto and
22 myself toured 501 New York Avenue.

23 And that is when we learned from the Metropolitan
24 Police Department that the last time there were any detainees
25 in those cells was in 2016, and they were very up front about

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 that. And then in July, I was informed by someone that there
2 was a substantial cell block under 510 4th Street. So I went
3 to the government, both word and email to Department of
4 General Services.

5 I said why not look at 510 4th Street, there's
6 another cell block, do not come to 501 New York Avenue. And
7 that 510 4th Street is a block away from the current central
8 cell block. Then on July 11th, Department of Corrections and
9 the Department of General Services met with ANC6E. This is
10 the commission that is across the street from 2G. To this
11 day the Department of Corrections has not met with ANC2G,
12 that is where 501 New York Avenue is.

13 But they chose to meet with the commission across
14 the street. That night when I was on the meeting, they had
15 talked about well, the permit is almost issued, that's what
16 General Services said. And I did a call for action to the
17 constituents, and said let's reach out to the Department of
18 General Services, or the Department of Buildings, and say can
19 we stop the permit?

20 Director Hamlin got a whole bunch of emails from
21 my constituents, and from the constituents in 6E. I then
22 spoke to Director Hamlin the next day, and he told me the
23 permit is coming, there is nothing that can be done to stop
24 it. Then on August 3rd, the residents spoke out at a forum
25 for Councilmember Pinto for a crime forum, they were opposed

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 to the project.

2 Again, I tried to reach out to the mayor's office
3 on the 28th, I never got a date for a meeting for the
4 stakeholders, so there was no response there. On August
5 31st, Councilmember Allen, the Council member across the
6 street, he did meet with myself, representing the residents,
7 and the surrounding stakeholders. But what came of that
8 meeting was that he did not like us using the word jail. And
9 apparently he knew about this project in 2019 and did not
10 tell anyone.

11 And then on, let's see, September 1st, I met with
12 Director Hunter about 510 4th Street, he said no, can't be
13 used. I met with the city administrator, Kevin Donahue,
14 about 510 4th Street, and he's like you know what, let me go
15 back to Director Hunter, and see if maybe we can look at 510
16 4th Street. I said that's great. Then how can we stop this,
17 how can we stop this, what else can we do?

18 And people were telling me take a look at the
19 permit, take a look at the permit. So that is when I went
20 to think about doing an appeal for the permit, and I couldn't
21 see anything online, I couldn't see anything. Nothing I can
22 see about the reviews, nothing, I couldn't see anything. And
23 I went to the Department of Buildings, and was seeking
24 information, and that's when they said to me I have to do a
25 FOIA for everything pertaining to anything with a permit,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 anything, any documentation, I have to do a FOIA.

2 So I did a FOIA because I couldn't see anything.
3 And then I chose to file the appeal on October 8th, and then
4 the FOIA response on October 23rd. So as you can tell, this
5 has been a journey for us, and this is one stop on our
6 journey as we continue on this. But we have been wholly
7 engaged, and I have been on top of this situation literally
8 for almost a year.

9 MS. THEMAK: Thank you, Commissioner. Mr. Young,
10 if you'll take us to the next slide? We can skip this one
11 pretty much, but I know all of you saw the exhibit that we
12 submitted that had all of the email exchanges that
13 substantiate the time line both in filing, and the FOIA that
14 Commissioner Nigro spoke to. I wanted to call your attention
15 to one email in there that is from Councilmember Pinto.

16 And she confirms the conversation in that email
17 with MPD, confirming that 501 New York Avenue had not been
18 used for detainees since 2016, so she also got that message
19 from MPD directly. Next slide please. The appellant and all
20 of our witnesses understand clearly the narrow scope of this
21 appeal, and are not here to convince you that the cell block
22 should not be in place.

23 The testimony that the people are going to speak
24 after me plan to give is simply to explain how much community
25 input there was, is, and should have been considered by the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 ANC, and then by you. As a special exception would
2 necessarily involve the consideration of significant adverse
3 impacts on the neighbors. And we believe there are
4 significant adverse impacts, you're not here to evaluate
5 whether they would prevent a special exception.

6 We're just saying that this is proof that this
7 should have gone through the process, there is a change of
8 use here, and there was significant community members, and
9 corporate members that would have appreciated being involved
10 in what should have been a public process. So with that I
11 would ask that we be able to call our witnesses.

12 BZA CHAIR HILL: Sure, go ahead, Ms. Themak.

13 MS. THEMAK: Great. Drew Turner is here, if he's
14 still available from Douglas Development --

15 BZA CHAIR HILL: Commissioner, you had your hand
16 up?

17 MS. NIGRO: Yeah, can I just add one more thing?
18 Because I just want to do mine, am I allowed?

19 BZA CHAIR HILL: Sure, go ahead, commissioner.

20 MS. NIGRO: Okay. So I just want to say, just
21 representing the thousands of constituents that are involved
22 with this, and this is big for our community, and it
23 shouldn't be downplayed. I just want to make sure that my
24 constituents understand what is happening here, right? And
25 so they have known for years, nothing has happened at that

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 little building at 501 New York Avenue for a very long time.

2 And what will happen if this is turned into a
3 jail, because that is what it is, and it was insulting for
4 almost a year, people saying don't use that word jail,
5 Commissioner Nigro. It's a jail, all right? And so it will
6 change the neighborhood greatly because it's going to be
7 government large use, and everything that comes with that.
8 The traffic, the vendors, the employees, everything.

9 That does not exist currently with the little
10 traffic management station that left a couple weeks ago, is
11 that there was barely any movement with that. And my
12 constituents know, especially that surround that building,
13 they are well aware that no one has been in those cells since
14 2016, because first of all, we see those cells, and the
15 windows have been open, of those cells, literally since I
16 have lived here in 2009.

17 Nothing has been in those cells except for
18 squirrels, and rats, and they use it as storage. There you
19 go, just wanted to say that.

20 BZA CHAIR HILL: Okay, thanks, commissioner.
21 Okay, go ahead, Ms. Themak.

22 MS. THEMAK: Great. I think our first witness is
23 Drew Turner from Douglas Development.

24 BZA CHAIR HILL: Okay, Mr. Turner.

25 MR. TURNER: Hi, can you hear me?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 BZA CHAIR HILL: Yeah, go ahead.

2 MR. TURNER: All right, great. How is everybody?
3 Thank you, I know you all have had a long, busy day, so I
4 will be brief. My name is Drew Turner, I am with Douglas
5 Development, we are the owner of several properties in the
6 surrounding neighborhood, but one building in particular
7 directly across the street, 655 New York Avenue. No
8 different than many of our projects that we bring before this
9 board, or many other boards of approval that we must go
10 through within the District of Columbia.

11 We're very familiar with the process. We applaud
12 Ms. Beeton and her team, they do a great job, but it does not
13 mean that there are times where things happen that maybe
14 should be looked at in a different light. And in this case,
15 I'm here to support Commissioner Nigro and her team, and
16 really applaud her for all of the work she has done on this.
17 I don't think we would be in this place, or learn what we've
18 learned without her leadership.

19 But, simply put, this clearly is a change of use,
20 and that change of use requires a special exception, and that
21 special exception requires the applicant of the permit to
22 present to the neighborhood, and present to this board, and
23 the neighborhood places -- I know this board places great
24 weight on the opinions, and the findings of the neighborhood,
25 and of the impacts to the neighborhood. And we simply ask

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 that that process happen for this proposed jail use of 501
2 8th Street. So thank you very much.

3 BZA CHAIR HILL: Thank you, Mr. Turner. Ms.
4 Themak?

5 MS. THEMAK: Up next we have a resident, Jacky
6 Delaney

7 MS. DELANEY: This is Jacqueline Delaney.

8 BZA CHAIR HILL: Hi, could you introduce yourself
9 for the record before you give your testimony?

10 MS. DELANEY: Okay, my name is Jacqueline Delaney,
11 I'm a resident of 1109 McCullough Court.

12 BZA CHAIR HILL: Okay, thank you. You can go
13 ahead, Ms. Delaney.

14 MS. DELANEY: I just wanted to input that I've
15 lived in the area for 15 years, and I'm semi active with the
16 community, I like to find out what is going on. I am a
17 senior citizen, so I like to find out what's going on in the
18 neighborhood, and I was not aware of the precinct turning
19 into a cell block until the commissioner brought it to our
20 attention. And I do not remember it ever being in one of the
21 ANC meetings, if we wanted that in our community.

22 And I just want to say if it were in our meeting,
23 I would have voted no to it, because I wouldn't want it in
24 -- I don't want it in the community, and it was not presented
25 at any of the meetings that I attended, and I attend most of

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 them. And that's all I have to say.

2 BZA CHAIR HILL: Okay, Ms. Delaney, thank you so
3 much, thanks for sticking around too.

4 MS. DELANEY: You're welcome.

5 BZA CHAIR HILL: Go ahead, Ms. Themak.

6 MS. THEMAK: Next we have another resident, Kyle
7 Everett.

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

9 MR. EVERETT: Yes, I can hear you, I apologize.

10 BZA CHAIR HILL: That's all right, just introduce
11 yourself for the record, then give us your testimony.

12 MR. EVERETT: Sure. My name is Kyle Everett, I'm
13 a resident of 1110 6th Street. In 2022 I purchased a
14 condominium, I know I speak on behalf of five other residents
15 of our condo association, so I just want to underscore the
16 profound impact that the jail will have on myself, and my
17 fellow residents. When I purchased my condominium in 2022
18 I did so with the vision of contributing as a resident to a
19 vibrant and safe neighborhood.

20 Had I been aware of the plans to open a jail in
21 close proximity, I would have approached this investment
22 decision a bit differently. The concept of a correctional
23 facility in our neighborhood tends to cast a shadow of
24 uncertainty and concern over the community. I think it's
25 imperative to highlight the importance of community planning,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 and the approval process for projects such as this jail.

2 The decision to establish such a facility should
3 not be made unilaterally, but should involve extensive
4 community input and planning. Sadly in this case, however,
5 myself and my neighbors were deprived of that right to
6 participate in the approval process. The lack of
7 transparency and community engagement surrounding this
8 project is deeply troubling, and undermines the principles
9 of governance in this city.

10 Moreover, the opposition to this jail is not just
11 confined to our immediate neighborhood, it extends throughout
12 the broader community. Residents from all walks of life have
13 expressed their staunch disapproval of this development. To
14 that end, we're united in our belief that the jail is
15 incompatible with the residential character, and the other
16 amenities that our neighborhood offers.

17 These include a thriving residential enclave
18 that's enriched by various services and facilities like
19 restaurants. We have the children's services, daycare,
20 schools, a long standing place of worship here, and of course
21 we have the convention center, which is a hub for residents
22 coming from all over the world, whereby they are introduced
23 to our city. These amenities contribute to the fabric of our
24 city, and our community, and they underscore its
25 unsuitability for the jail.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 Additionally I just want to draw attention to,
2 again, my purchase of property in 2022, and also the rights
3 of the various stakeholders in the neighborhood. When you
4 buy property, you don't just buy the property and the
5 structure on it, the real property that is. You also acquire
6 a bundle of sticks, this concept is known to any lawyer, to
7 anyone who studied property law.

8 Each stick in a bundle represents a distinct
9 right, these include the ability to sell, rent, or utilize
10 your property in a variety of ways. In this case, the
11 establishment of the jail without any opportunity for notice
12 or comment effectively deprives me and other stakeholders of
13 one of our rights. And that is to provide notice and comment
14 of any such changes in zoning.

15 Unilaterally making a change like the city has in
16 this case really threatens the integrity of property in
17 general, including my own. So just in conclusion I want to
18 urge everyone to carefully consider the profound implications
19 of permitting a jail here. Especially given the process, and
20 its complete and utter dearth of transparency in this case.
21 And also please consider the overwhelming opposition from
22 residents, and the unsuitability of a jail in our residential
23 area. Thank you.

24 BZA CHAIR HILL: Thank you. Go ahead, Ms. Themak.

25 MS. THEMAK: Sorry, the next witness would be Nick

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 Jessee, if he is available.

2 BZA CHAIR HILL: Great, Mr. Jessee, and by the
3 way, just for everybody, if you can remember it, if you
4 forget that's okay, if you can introduce yourself before with
5 your home address, before making your testimony, that would
6 be helpful. Go ahead, Mr. Jessee.

7 MR. JESSEE: Good afternoon, my name is Nick
8 Jessee, I'm a resident of ANC2G, I live at 1243 10th Street
9 Northwest, and I'm a parent of three year old twin girls who
10 attend Bambini Child Development Center, which is directly
11 across the street from 501 New York Avenue. I'm here to
12 testify in support of the appeal. The zoning reviewer for
13 the associated building permit, by erring in their
14 determination that placing a jail in this location wasn't a
15 change of use, denied the BZA, ANC, and the community the
16 opportunity to discuss potential adverse impacts of such a
17 facility, particularly on an adjacent childcare center.

18 Based on the incomplete information that was
19 submitted by the permit applicant, the reviewer's decision
20 was understandable. However, as Ms. Themak and Commissioner
21 Nigro have pointed out, it simply doesn't align with the
22 reality of the building and its recent use. 501 New York
23 Avenue has been used as a police station, which is explicitly
24 noted as a government local use for at least the past three
25 years.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 And in my opinion, DOB's statement that because
2 this particular police station provided some city wide
3 services, and therefore makes it a large scale government use
4 is a flawed argument. For example, there's only one city
5 wide driver road test facility in Deanwood, but it too is
6 specifically called out as a local government use. I urge
7 the board to grant this appeal, and require that the
8 applicant pursue a special exception under the zoning
9 regulations. Thank you for your time.

10 BZA CHAIR HILL: Thank you, Mr. Jessee. Ms.
11 Themak?

12 MS. THEMAK: I'd like to call Geraldine Watts, who
13 is the director of Bambini Childcare Center.

14 BZA CHAIR HILL: Ms. Watts, can you hear me?

15 MS. NIGRO: I don't think she was going to be able
16 to make it, she was caught up in some stuff today at the
17 office, at the daycare.

18 MS. THEMAK: Okay, we will move on to Kate Carr.

19 BZA CHAIR HILL: Ms. Carr, can you hear me?

20 MS. CARR: Can you hear me now?

21 BZA CHAIR HILL: Yes, can you please introduce
22 yourself for the record, and then give us your testimony?

23 MS. CARR: Yes. My name is Kate Carr, I live at
24 475 New York Avenue, just a few steps, and across the street
25 from the proposed jail. I've lived there since December of

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 2018, and when I moved in, I believed that having a police
2 facility, but not a jail, would be a safer thing for me. The
3 seven owners of the condos and the building where I live did
4 not receive the appropriate and required notice, as has been
5 elaborated on throughout this hearing.

6 Had that happened, I would have provided testimony
7 to object to the change in creating that building as a jail.
8 I've lived in D.C. for more than 30 years, and have paid
9 considerable income and real estate taxes. Now that I have
10 retired, I plan to move out of the district, and sell my
11 condo. What will happen to my investment? What will happen
12 to the value of the condo?

13 I've purchased it for 900000, and my recent
14 property assessment sets the proposed assessed value at more
15 than a million dollars, an increase of 12 percent in those
16 5 plus years. This investment is an important one to me, as
17 I now live on a fixed income. I researched property values
18 in close proximity to jails. The closer you are, the more
19 likely your value will fall. While I am but one here today,
20 I have numerous neighbors who share this concern.

21 But it's more than about the value of my property.
22 I think of the traffic that happens on New York Avenue, it
23 is sometimes quite a challenge to walk across the street to
24 Safeway because the volume of traffic there is quite high.
25 And the number of drivers who simply do not pay attention to

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 the traffic signals means that you do take your life in your
2 hands sometimes in just crossing the street from where I live
3 to go to the Safeway across the street.

4 Traffic is a problem, and bringing in a 24 7 jail,
5 and all of the traffic associated with it, will increase the
6 safety aspects to pedestrians. We have enough issues in our
7 little neighborhood, it's a charming neighborhood. But as
8 you're all probably aware, crime is an issue in this part of
9 the city. And bringing a jail into it isn't going to help.
10 What about parking for those residents who don't have a
11 parking spot?

12 We already have an overcrowded neighborhood, and
13 parking is an issue. What impression of D.C. will this leave
14 on visitors heading from the Homeward Suites, which is right
15 next to me, to the convention center two blocks away?
16 Passing by a jail with traffic going in and out is hardly to
17 leave a great impression on our wonderful city. And finally,
18 I was glad you heard from a parent whose children attend the
19 daycare center.

20 I particularly worry about the impact on the young
21 children who are in there day after day. Altogether, the
22 proposed change will negatively impact our community. And
23 while I realize that you're not here to make that decision,
24 I do hope that you will give careful consideration to the
25 efforts that have been brought about through this appeal by

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 Commissioner Nigro who has worked tirelessly on this issue,
2 thank you.

3 BZA CHAIR HILL: Thank you, Ms. Carr. Ms. Themak?

4 MS. THEMAK: Next witness is a resident, Joseph
5 Russo.

6 MS. NIGRO: He did the written one, Ms. Themak.

7 MS. THEMAK: Okay, Commissioner, are you with Mr.
8 Peterberg.

9 MS. NIGRO: No, he couldn't make it.

10 MS. THEMAK: He could not make it. Okay, so we'll
11 move on to Dr. Murray from the United House of Prayer.

12 DR. MURRAY: Thank you so much, can everyone hear
13 me?

14 BZA CHAIR HILL: Yes, Dr. Murray, we can hear
15 you.

16 DR. MURRAY: My name is Apostle Dr. Lodriguez
17 Murray, I live at 515 L Street Northwest. It is, I've heard
18 a lot of people say they were across the street from the
19 jail, I'm the geographically closest person to the jail. My
20 front door and my balcony look at the jail. And so before
21 I get started with the formal presentation, I can attest,
22 because looking at the balcony, I can look into what they say
23 are those cells, and no one has been there.

24 I'm representing the United House of Prayer for
25 All People. It is a significant religious organization. It

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 is the long standing house of worship that has been
2 previously referred to in today's testimony. We're not just
3 a church, the United House of Prayer for All People, the
4 building where we are, the plot of land, we've been there
5 since 1926, we've been owning that land at 601 M Street, a
6 block away from where I live, since 1926. So that's
7 approximately 98 years.

8 But in addition to having a house of worship, and
9 we'll get to how that matters in just a moment, we also own
10 600 units of rental property in this geographic location,
11 including where I'm sitting right now. Just not a putt away
12 from the jail cells. And so I want to talk to you about it
13 personally, and about the organization, and our opposition,
14 and why we're opposed. And we understand the narrow scope
15 of today's hearing.

16 I've lived in this neighborhood since 2004, so
17 this year makes 20 years. I've lived this close to the
18 facility in question since 2021. I've worshiped in this
19 neighborhood since 2004. I can tell you that when they say
20 that those cells have not been used for the reason they'd
21 like to use them since 2016, I think that's a really
22 conservative estimate.

23 I think it may be even longer than that, but 2016
24 for sure. This neighborhood has experienced, in the area
25 where I live, and the residents, those in the 600 plus units,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 have experienced historic disenfranchisement like this
2 before. And I'll be more clear about disenfranchisement.
3 I mean we have experienced lack of transparency, and lack of
4 community input. We've had, in the last year or less,
5 letters sent to us saying that no one lives on L Street
6 Northwest, and you heard a resident from McCullough Court,
7 which is off of L Street, the parking comes into L Street.

8 This is from the D.C. government, and so this is
9 not an isolated incident for us. This is a pattern of
10 historic lack of transparency, lack of community input, and
11 disenfranchisement of us continually. So the fact that we've
12 not been involved in this process at all, I can tell you as
13 a resident, we've never been asked to comment on this other
14 than what our ANC commissioner has made us aware of. So no
15 other portion of D.C. government has reached out to us, there
16 have never been fliers.

17 And when they did finally, an element of the D.C.
18 government did finally come to the ANC board meetings, we
19 asked them to come in person, and the church has offered to
20 host a meeting, no such meeting was able to take place. And
21 so I want to talk to you a little bit about our ministry and
22 our church. We're out a bustling church, which bucks many
23 trends, with hundreds, and hundreds, and hundreds of local
24 parishioners.

25 But in addition to that, we are the national

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 headquarters organization for 137 congregations in almost 30
2 different states across the country. A hub where thousands,
3 upon thousands, upon thousands come multiple times a year,
4 including services so big that we have to take them to the
5 D.C. Convention Center on an annual basis, a block away from
6 our national headquarters congregation. That means that we
7 have a substantial children's ministry.

8 And when I say children's ministry, many people
9 aren't familiar, we have different types of bands where our
10 young people are very active. Marching bands that practice
11 walking around this neighborhood, as well as what we call
12 shout bands, or stationary bands, and choirs. We have a
13 substantial youth ministry. We believe adding this kind of
14 jail, and the element that comes with a jail to the
15 neighborhood would be detrimental to the youth ministry.

16 And how parents feel they can have their children
17 be with us, and have those ministries that we are so very
18 proud of, the ministries that we have are preventative for
19 the same types of folks that have to go to jail. And so
20 having less of us means having more of the other element.
21 We think the investment should be in having more of us. I
22 just want to underscore for everyone here, the lack of
23 transparency that has gone on.

24 The lack of community involvement, and outreach,
25 and that has been detrimental to our ability to have input.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 We've reached out, we are rebuffed. We've asked to meet,
2 they don't want to meet. They've been invited to meetings,
3 they cancel at the last minute while we're already on. And
4 so I just don't know what the recourse is. And then I think
5 if you even take into account the procedural brouhaha that
6 happened earlier in today's meeting, I think that is a notice
7 of just how people don't want us to be involved in the
8 process.

9 You know, that was an inconvenience for you, but
10 it was a slap in the face to the rest of us. And so I'm
11 hopeful that you'll look favorably upon our appeal. We
12 shouldn't be here, and if we had community involvement in the
13 process, residents, organizations, land owners, we would not
14 be in this place, and you guys would not have this before you
15 today. But it is incumbent upon you to make the right
16 decision, and all of us in this community are looking to you
17 for your guidance.

18 And for some strong backbone to the rest of the
19 D.C. government. Thanks so much, and it's back in your
20 court.

21 BZA CHAIR HILL: Thanks, Dr. Murray. Ms. Themak?

22 MS. THEMAK: Next we have Mr. Richard Ellis, he
23 will be providing testimony in lieu of Sean Sullivan from
24 Boston Properties.

25 MR. ELLIS: Great, thank you, good afternoon. My

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 name is Richard Ellis, I'm a senior vice president with
2 Boston Properties, I've been with the company 17 years now,
3 and have worked on numerous downtown development projects,
4 but I'm here today representing the ownership group for 501
5 K Street Northwest, which is the partial just to the south
6 across New York Avenue from the subject site.

7 We are currently in the midst of planning a major
8 new development for that site that we're very excited about.
9 That project will include over 500 units of multifamily
10 housing, and 25000 square feet plus or minus a ground floor
11 retail. As long time developers and landlords in the
12 District of Columbia, we are very familiar with the process,
13 and the Department of Buildings rules, regulations, and
14 procedures, as well as the local zoning requirements.

15 And we are very often in front of given ANCs
16 presenting and talking about our projects. We are here today
17 to support Commissioner Nigro's, and the others who have
18 spoken so far's call for proper public discourse, for a
19 typical change of use zoning approval. Which we believe this
20 case requires, and has not occurred to date? This is a
21 process that we ourselves have gone through on many
22 occasions, and we believe is a valuable step in the process
23 in ensuring successful developments.

24 Thank you for your consideration, we look forward
25 to being a part of the continuing conversation with our

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 surrounding neighbors, stakeholders, and applicable
2 government agencies, and seeing the proposed change in use
3 brought to the ANC and a local community. Thank you again.

4 BZA CHAIR HILL: Thank you, Mr. Ellis. Ms.
5 Themak?

6 MS. THEMAK: Next is Michael Wichita.

7 BZA CHAIR HILL: Mr. Wichita, can you hear me?

8 MR. WICHITA: Hi, my name is Michael Wichita, my
9 partner and I have lived in our apartment at 511 L Street
10 Northwest since 2004, coming up on 20 years in October. We
11 have seen much growth and change in the neighborhood since
12 then, and have payed close attention to it. To the best of
13 our recollection, every development effort in the surrounding
14 blocks has included public input and open information as part
15 of the process.

16 Since we moved here the Metropolitan Police
17 Department facility at 501 New York Avenue, which is about
18 25, 30 steps from our front door across L Street, has been
19 used for traffic safety activities, parking of police
20 vehicles, and I want to mention that, highlight that when
21 there are police there, from about a month or two ago, from
22 where we are on our balcony, in our bedroom, it's very easy
23 to hear the vocalizations of police out on the street, very
24 easy.

25 And at no time has anyone from the MPD, District

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 of Columbia, or any other authority including our city
2 councilwoman informed us of any changes of use of 501 New
3 York Avenue. At no time has any entity shared with us any
4 details, time frame, or expected impacts of the plan to
5 convert the plan into a central cell block, central lock up.
6 We've not been given any opportunity as a neighboring
7 residence to address any of our concerns.

8 It was only because our ANC representative
9 discovered the plans that we have learned some details of
10 this plan. We are troubled, surprised to see these plans
11 were advanced without any attempt to address zoning issues
12 with the surrounding community as the impact would be, we
13 believe, considerable. And let me just tell you a little bit
14 about our community.

15 Very happy to be here, I'm very lucky to have
16 lived there for 20 years, and be able to walk to work. And
17 I can say it's been a delight to have the United House of
18 Prayer in the community as well, and I've certainly enjoyed
19 their marching bands, and other things that they do publicly,
20 which has been a great boost to the community. Without any
21 communications from authorities, our government leaders, we
22 so far can only surmise that they wanted to convert the
23 building without public input. Thank you for your attention
24 to this matter, and I thank Commissioner Nigro for making
25 this public.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

(202) 234-4433

(202) 234-4433

1 BZA CHAIR HILL: All right, Mr. Wichita, thank
2 you. Ms. Themak?

3 MS. THEMAK: I believe our last witness is Mr.
4 Kenyattah Robinson.

5 BZA CHAIR HILL: Mr. Robinson, can you hear me?

6 MR. ROBINSON: I can hear you, can you hear me?

7 BZA CHAIR HILL: Yes, sir, please go ahead.

8 MR. ROBINSON: All right, well thank you,
9 Chairperson Hill, and members of the board. My name is
10 Kenyattah Robinson, and I'm the president and CEO of the
11 Mount Vernon Triangle Community Improvement District one of
12 D.C.'s 12 business improvement districts that sit at the
13 intersection of the public and private sectors, and strive
14 to serve as an effective catalyst for growth, and change, and
15 improvement, and advocate on behalf of the interests of our
16 stakeholders and the public at large.

17 MVT CID works to enhance the overall quality of
18 life for residents, employees, business owners, and visitors
19 in the Mount Vernon Triangle Neighborhood of downtown
20 Washington, D.C. And despite not have any formal governing
21 authority, we do often convene those who do in support of
22 solving our community's toughest challenges.

23 It's in that regard that our right to give voice
24 to the scores of questions, concerns, and comments that we've
25 received regarding the proposed relocation of the central

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 cell block function currently located at the Henry J. Daly
2 Building to an existing MPD traffic enforcement station at
3 501 New York Avenue Northwest. Although the MPD traffic
4 enforcement station is located just outside of MVTICID's
5 formal boundaries, many who have contacted us regarding this
6 proposed project possess a stakeholder interest with our
7 organization, and hence our involvement in this discussion.

8 The common denominator of most feedback received
9 has been simply people didn't know. Which is puzzling given
10 the weeks, months, and sometimes years of discussion,
11 dialogue, and debate that often accompanies these types of
12 decisions. My review of multiple district budgets revealed
13 that while funds were allocated for a quote unquote swing
14 space in support of a Daly Building repair project, what
15 wasn't clear was the use of 501 New York Avenue Northwest for
16 that function.

17 That aside, we want to be clear that MVTICID
18 recognizes the urgent need for repairs of the current central
19 cell block on Indiana Avenue to ensure that all individuals
20 awaiting a court appearance or being hold after an arrest are
21 doing so under humane conditions. We fundamentally believe
22 that arrestees not yet charged with a crime have a right to
23 be held in conditions that are fit for basic human habitation
24 for the few hours or overnight before their initial court
25 hearing.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 We also believe, however, that concerns of those
2 who live, work, worship, and invest around the location
3 should merit fair and just consideration. Particularly given
4 the publicly stated purpose of 501 New York Avenue Northwest
5 will change considerably under this current proposal. Thank
6 you for allowing us to share our views on this matter, and
7 I ask that you don't hesitate to contact me further to
8 discuss the content of this testimony.

9 BZA CHAIR HILL: Thank you, Mr. Robinson. Ms.
10 Themak?

11 MS. THEMAK: That was our final witness.

12 BZA CHAIR HILL: Okay. Sure, Commissioner.

13 MS. NIGRO: Thank you, I'll be very brief. So as
14 chair of the commission, and I've been a commissioner now for
15 over a decade, and I'm also the zoning committee chair. I
16 cannot tell you how many times the residents, small
17 developers, big developers have to run around following the
18 procedure, coming before us, going to the department of
19 buildings back and forth, back and forth. And it is
20 insulting to the entire community that the D.C. government
21 did not do that.

22 So the overall why, and how are they allowed not
23 to do that, it is just plain wrong. So if they're not
24 allowed to do that, then all of these people that are
25 constantly emailing me about their small developments, and

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 back and forth, why bother have a process then? They should
2 have come before the commission to seek any sort of
3 exceptions, and that they chose not to.

4 BZA CHAIR HILL: Okay. Thank you, commissioner.
5 All right, let's see, so is that your conclusion, Ms. Themak?

6 MS. THEMAK: Yes.

7 BZA CHAIR HILL: Okay, all right. DOB, Mr.
8 Haresign, please go ahead and give us your testimony.

9 MR. HARESIGN: Thank you, Chairman Hill, and
10 members of the board. We all know why we're here, we're here
11 on the appeal of ANC2G challenging the issuance of a permit
12 for the interior renovations of an existing police department
13 facility located at 501 New York Avenue Northwest. And
14 quickly before I delve into the substance of this appeal, I
15 do want to take a moment to acknowledge Commissioner Nigro.

16 It's extremely heartening, both as a public
17 servant, citizen of the district, to see an active and
18 passionate community organizer in elected office. The sheer
19 volume of signatures and emails that Commissioner Nigro was
20 able to procure was impressive, and her efforts are laudable.
21 But unfortunately most of what we've heard today in the
22 testimony, what's in the statement of appeal, and the
23 substance of those many, many emails and letters, the items
24 raised aren't the subject of this appeal.

25 They're not the zoning considerations that the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 board is required to adjudicate in this matter. What is
2 substantively at issue in this appeal is does the permit
3 reflect a change in use category that would have required
4 that special exception? And two, was there a discontinuation
5 of a prior use? DOB submits that the answer to both
6 questions is no.

7 The ANC challenging the issuance of the building
8 permit for interior renovations for the temporary relocation
9 of the central cell block, or CCB, while the permanent CCB
10 location at the Daly Building receives much needed renovation
11 and repair. The CCB is a critical law enforcement resource
12 for the District of Columbia. Critical in that it involves
13 a centralized location that promotes the efficient movement
14 of arrestees, and as Mr. Robinson noted, these are
15 individuals who are not yet being prosecuted for a crime.

16 It promotes the efficient movement of those
17 individuals within the district, and allows the arresting
18 officers, the MPD officers, to transfer custody, and get back
19 out on the street to protect our communities, a goal that I
20 hope we can all support. The appellant asserts that 501 New
21 York Avenue is currently a government local use, and the
22 proposed temporary CCB will be a change in use to government
23 large scale.

24 This is, respectfully, incorrect. Government
25 local use is defined as a use involving services owned,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 managed, or provided by local government, and associated with
2 providing neighborhood scaled services to meet the community
3 needs of the directly adjacent areas. Compare that
4 definition with government large scale, a use involving
5 services owned, managed, or provided by a government entity
6 and associated with providing regional or wider services.

7 The board's going to hear some testimony from the
8 Metropolitan Police Department that 501 New York Avenue has
9 been continually used in its entirety to provide city wide
10 law enforcement services since the 1970s, the past half
11 century. You'll hear that it was first used as a Traffic
12 Division, and then by Youth Services Division as the juvenile
13 central cell block.

14 And most recently again as the headquarters of the
15 Traffic Safety Division, Major Crash Investigations Unit, and
16 the Motor Carrier Safety Unit, all city wide services. And
17 to the extent that the appellant represents that the existing
18 cells have not been used since 2016, this is both factually
19 incorrect, and too narrow a view of a use category. It's not
20 the detention of the arrestees that defines the use category.
21 It's the geographic scope and scale of the services provided.

22 The entirety of the building has been continuously
23 used to provide city wide law enforcement services, and will
24 continue to do so in its temporary role as the CCB. None the
25 less, the board will hear testimony that 501 New York Avenue

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 and its existing cells have been used as a high volume
2 processing center for mass arrests, such as the J20 protests
3 in 2017 around the inauguration. And that the existing cells
4 have continued to be used, and available for use by units
5 operating out of that location.

6 There's simply been no discontinuation. To the
7 extent that the appellant references concerns over safety and
8 noise, not only have those concerns not been substantiated,
9 they only trigger on the special exception review, which is
10 not required in this case, because there is no change of use,
11 and those concerns have been addressed. There's no change
12 of use category indicated by the permit, and no
13 discontinuation of the prior government large scale use.

14 That's going to be crystal clear in a moment,
15 unambiguous, and we're going to ask that the appeal be
16 denied. And with that, Mr. Chairman, I'd like to call my
17 first witness.

18 BZA CHAIR HILL: Okay, please go ahead and do so.

19 MR. HARESIGN: Okay, the Department of Buildings
20 will call Assistant Chief Stuart Emerman. Chief Emerman, are
21 you there?

22 BZA CHAIR HILL: Good afternoon, Chief Emerman,
23 how are you doing?

24 CHIEF EMERMAN: I'm very well, thank you, how
25 about yourself?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 BZA CHAIR HILL: Good, thank you.

2 MR. HARESIGN: All right, Chief Emerman, just go
3 ahead and state your name for the record please.

4 CHIEF EMERMAN: Sure. My name is Stuart Emerson,
5 and I'm an assistant chief with the Metropolitan Police
6 Department.

7 MR. HARESIGN: And what is your specialty, what
8 are you the assistant chief of?

9 CHIEF EMERMAN: I'm currently the assistant chief
10 of our Technical and Analytical Services Bureau.

11 MR. HARESIGN: Okay, how long have you been with
12 MPD?

13 CHIEF EMERMAN: I am coming up on my 26th year at
14 the end of April.

15 MR. HARESIGN: So you started in 1998?

16 CHIEF EMERMAN: Correct, 1998.

17 MR. HARESIGN: Okay. Can you describe your duties
18 and responsibilities as assistant chief of the Technical and
19 Analytical Services Bureau?

20 CHIEF EMERMAN: Sure. The Technical and
21 Analytical Services Bureau handles the department's Records
22 Division, our IT units, our fleet facilities, uniform and
23 equipment, and our Evidence Control Division.

24 MR. HARESIGN: And in your time, and I guess in
25 this role, have you had an opportunity to become familiar

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 with an MPD facility located at 501 New York Avenue
2 Northwest?

3 CHIEF EMERMAN: Yes. As the assistant chief of
4 Technical and Analytical Services Bureau, I was involved in
5 the process of MPD units vacating that property several weeks
6 ago.

7 MR. HARESIGN: And prior to your current role in
8 your long career, have you had opportunity to have other
9 contacts with 501 New York Avenue?

10 CHIEF EMERMAN: Yes, in 2008 I was the lieutenant
11 of our Major Crash Investigations, and Motor Carrier Safety
12 Units housed at 501 New York Avenue.

13 MR. HARESIGN: And have you also had other
14 opportunity to visit, or be involved in the operations of 501
15 New York Avenue?

16 CHIEF EMERMAN: Yes. After I was assigned there
17 in 2008, for the next three years after that I was the
18 lieutenant in charge of our special events planning section,
19 which was a part of the Special Operations Division, which
20 was the umbrella group that was responsible for traffic
21 safety. So during that time period I would respond over
22 there on occasion, as it was part of our element.

23 MR. HARESIGN: So it would be accurate to say that
24 you're familiar with this facility?

25 CHIEF EMERMAN: That's correct.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 MR. HARESIGN: Most recently, before the property
2 was vacated for renovations, how did MPD use 501 New York
3 Avenue?

4 CHIEF EMERMAN: In its most recent function, it
5 was our Major Crash Investigations and our Motor Carrier
6 Safety Units that were housed there.

7 MR. HARESIGN: What were the activities of those
8 units?

9 CHIEF EMERMAN: So those units handle, the Major
10 Crash Investigations Unit handles city wide accidents with
11 critical injury or fatalities, and the Motor Carrier Safety
12 Unit handles city wide commercial vehicle inspections.

13 MR. HARESIGN: There was some testimony earlier
14 about car seat installation, is that part of the mission?

15 CHIEF EMERMAN: Yes, traffic safety is a portion
16 of it, so child car seat installation would take place there,
17 as well as other traffic safety related things, such as DUI
18 enforcement operations, speed enforcement, what we call LIDAR
19 and radar.

20 MR. HARESIGN: And all of those things that you
21 described, those are city wide services, correct?

22 CHIEF EMERMAN: That is correct, those all take
23 place throughout the city.

24 MR. HARESIGN: And in its most recent use, did any
25 of the services provided at that location, were they limited

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 to the directly adjacent neighborhood?

2 CHIEF EMERMAN: No, they were not.

3 MR. HARESIGN: Does MPD provide neighborhood
4 scaled law enforcement services to directly adjacent areas?

5 CHIEF EMERMAN: Yes, 501 New York Avenue is within
6 the boundaries of the Third Police District, and also across
7 the street on New York Avenue is the borderline of the First
8 Police District.

9 MR. HARESIGN: Where do the local, neighborhood
10 scaled services, where do they operate out of for the Third
11 District?

12 CHIEF EMERMAN: The Third District is located at
13 1620 V Street Northwest.

14 MR. HARESIGN: And how about the First District?

15 CHIEF EMERMAN: The First District main station
16 is 101 M Street Southwest, and there is a substation at 500
17 E Street Southeast.

18 MR. HARESIGN: And again, nothing out of 501 New
19 York Avenue?

20 CHIEF EMERMAN: That's correct.

21 MR. HARESIGN: Turning back, I guess to this
22 property, and its characteristics, there are holding cells
23 at 501 New York Avenue, right?

24 CHIEF EMERMAN: That is correct.

25 MR. HARESIGN: What are they used for?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 CHIEF EMERMAN: There are two tiers of cells at
2 the 501 New York Avenue, they are available for housing of
3 arrestees, most recently in 2017 during high volume
4 processing related to the inauguration of 2017.

5 MR. HARESIGN: Are those cells utilized for other
6 purposes while Traffic Safety Division and Major Crash
7 occupied the property?

8 CHIEF EMERMAN: Yes, those cells are available or
9 the Major Crash to process DWI and DUI arrests, as well as
10 fatal accident investigations if there's an arrestee. That
11 facility is equipped with a cell block facility, as well as
12 a fully functioning interview room for our interviewing of
13 arrestees.

14 MR. HARESIGN: Was the property in its entirety
15 -- sorry, I think I already asked that. Was the property in
16 its entirety used for these city wide services?

17 CHIEF EMERMAN: Yes, in its most recent use, it
18 was by Motor Carrier and Major Crash, which are both city
19 wide operations.

20 MR. HARESIGN: Okay. And prior to its most recent
21 use, was 501 New York Avenue used by the Youth Services
22 Division?

23 CHIEF EMERMAN: Yes, in the early, I believe the
24 early 2000s or so, it served -- late 90s, early 2000s, it
25 served as a juvenile processing swing space, where we would

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 process juvenile youth offenders, individuals under the age
2 of 18.

3 MR. HARESIGN: And in that incarnation, was it
4 only juveniles from the local area, or was it city wide?

5 CHIEF EMERMAN: It was city wide, all juvenile
6 arrests in the city were taken to that location.

7 MR. HARESIGN: Prior to that use, what did MPD use
8 501 New York Avenue for?

9 CHIEF EMERMAN: So prior to being used for the
10 juvenile processing center swing space, it was Traffic
11 Division again. So initially a Traffic Division prior to
12 that.

13 MR. HARESIGN: And that was also city wide, not
14 local?

15 CHIEF EMERMAN: Correct, same city wide
16 operations.

17 MR. HARESIGN: And when did MPD first start using
18 it for the Traffic Division in that incarnation?

19 CHIEF EMERMAN: My understanding is in the late
20 70s, middle to late 70s, it was in the 1970s.

21 MR. HARESIGN: So it's fair to say that since the
22 1970s New York Avenue has been used by MPD for city wide law
23 enforcement purposes?

24 CHIEF EMERMAN: Yes, and each of the operations
25 that were there since the middle to late 70s have all been

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 city wide operations.

2 MR. HARESIGN: Turning to the -- and that's up
3 until the recent departure for the renovations, right?

4 CHIEF EMERMAN: Correct.

5 MR. HARESIGN: What's the purpose of the
6 renovations?

7 CHIEF EMERMAN: The renovations, the central cell
8 block, which is currently in the basement of 300 Indiana
9 Avenue, is in need of renovation. The central cell block
10 serves as a critical function for MPD in our transporting and
11 processing of arrestees to the court. They are the central
12 location where they're delivered to, processed, and then
13 handled, and delivered to the court. So they serve a
14 function to do that.

15 In order to renovate the central cell block at 300
16 Indiana Avenue, there needs to be an appropriate location to
17 do that.

18 MR. HARESIGN: If there was no central location
19 for holding detainees pending prosecution, or pending
20 arraignment, what would be the impact to MPD's mission and
21 operations?

22 CHIEF EMERMAN: The impact would be, we would have
23 to house prisoners, arrestees, back at our individual
24 district stations, which requires transporting of them
25 individually for varying times, they have to go down to the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 court in the morning, it would take units out of service in
2 those districts to transport throughout the day, to bring
3 them downtown, to bring them to the courthouse. Also things
4 such as feeding the prisoners, instead of being a central
5 feeding location, would then require us to feed in various
6 locations.

7 MR. HARESIGN: Okay, so you'd agree that without
8 a central cell block, MPD's ability to protect the district
9 would be impacted?

10 CHIEF EMERMAN: There would be less units
11 available to patrol the streets if they had to transport
12 downtown to the courts without the central cell block.

13 MR. HARESIGN: No further questions at this time.

14 BZA CHAIR HILL: Mr. Haresign, so what I'm trying
15 to do, everyone is going to get an opportunity to ask
16 questions. Meaning DOB will get an opportunity to ask Ms.
17 Themak, or anyone that gave testimony, any questions if you
18 have, the board is also going to ask questions, I have a
19 couple of questions, and I'm trying to get to them as quickly
20 as possible so that people that are in the public will have
21 an opportunity to leave. But Mr. Haresign, is that your only
22 witness?

23 MR. HARESIGN: No, and if you want me to just call
24 my witnesses consecutively --

25 BZA CHAIR HILL: Yeah, if it's okay, just go ahead

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 and go through it, and then we'll try to get all the Q&A
2 answered at the same time.

3 MR. HARESIGN: Okay, thank you. So DOB's next
4 witness is Deputy Director Michelle Wilson from the
5 Department of Corrections.

6 BZA CHAIR HILL: Hi Director Wilson.

7 MS. WILSON: Hi, how are you?

8 BZA CHAIR HILL: Good, thank you, how are you?

9 MS. WILSON: I'm good, thank you.

10 BZA CHAIR HILL: Good. Go ahead, Mr. Haresign.

11 MR. HARESIGN: All right, Deputy Director Wilson,
12 can you just state your name and agency for the record
13 please?

14 MS. WILSON: Yes, good afternoon. My name is
15 Michelle Wilson, I'm the deputy director of administration
16 at the D.C. Department of Corrections.

17 MR. HARESIGN: How long have you been with DOC?

18 MS. WILSON: A little more than four years, since
19 January of 2020.

20 MR. HARESIGN: Can you please describe your duties
21 and responsibilities as deputy director of administration?

22 MS. WILSON: As deputy director, the easiest way
23 for me to say it, is that I handle all things that are
24 nonoperational, and that do not involve our education and
25 programs section. So all of the behind the scenes functions

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 of the agency, human resources, billing, budget and
2 management, fleet management, training division, to just name
3 a few. Those all fall under my purview.

4 MR. HARESIGN: Thank you. In that role, you're
5 familiar with the central cell block, or CCB, correct?

6 MS. WILSON: I am.

7 MR. HARESIGN: And what is it?

8 MS. WILSON: Central cell block is a temporary
9 holding facility where police drop off individuals,
10 arrestees, and they are held there for a short period of time
11 until they are presented at court.

12 MR. HARESIGN: Does DOC operate the CCB?

13 MS. WILSON: Yes, we do.

14 MR. HARESIGN: Since when?

15 MS. WILSON: October the 1st of 2013.

16 MR. HARESIGN: Prior to that date, MPD operated
17 the CCB, right?

18 MS. WILSON: Yes.

19 MR. HARESIGN: Why did DOC take over operations?

20 MS. WILSON: What I've been advised, and what I
21 know is that then Chief Lanier of MPD, and Director Faust,
22 who was the director of DOC at that time, there was a need,
23 essentially a shortage of police officers, and there was a
24 need to have as many officers as possible on the street, and
25 there was an ask, or an agreement between Chief Lanier and

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 Director Faust that DOC would assume control of the central
2 cell block in order to allow for the police to be out on the
3 street doing that work and those services for the district.

4 MR. HARESIGN: Thank you. In terms of the day to
5 day at CCB, how many cells are at CCB currently?

6 MS. WILSON: There are 57 cells at CCB.

7 MR. HARESIGN: What's the maximum capacity?

8 MS. WILSON: It can hold up to 107 people.

9 MR. HARESIGN: A lot of people. What is the
10 typical arrestee head count at CCB?

11 MS. WILSON: We average about daily averages
12 between high 20s, about 28, to about 35.

13 MR. HARESIGN: How long are the arrestees
14 typically held at CCB? I know you said it was a short time,
15 but can you narrow that down a little bit?

16 MS. WILSON: It can be as short as a few hours,
17 no more than 24 hours, and the 24 hour situation would happen
18 over the weekend. Court operates Monday Through Saturday,
19 so Sunday would be the only day that court does not run, so
20 that would be where there is a longer period of time where
21 someone could be at CCB.

22 MR. HARESIGN: Thank you. You mentioned that
23 they're transferred to court, these arrestees, when do these
24 transfers typically occur?

25 MS. WILSON: To court in the morning.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 MR. HARESIGN: How many transfers are usually
2 made?

3 MS. WILSON: How many? It depends on how many
4 people are there.

5 MR. HARESIGN: Are they transferred individually?

6 MS. WILSON: No, typically not, they're
7 transferred in vans.

8 MR. HARESIGN: So it's a consolidated transfer of
9 the arrestees?

10 MS. WILSON: That is correct.

11 MR. HARESIGN: And I do want to talk about, not
12 that it's -- and apologies, not really relevant to the
13 appeal, but some of the community concerns. I want to focus
14 a little bit on what happens to an arrestee when they're
15 placed in DOC custody. These are individuals who have not
16 been -- a decision to prosecute hasn't been made for these
17 individuals yet, right?

18 MS. WILSON: Yes.

19 MR. HARESIGN: What happens to an arrestee if a
20 decision to prosecute is made?

21 MS. WILSON: They're presented before the court.

22 MR. HARESIGN: And at that presentment, are those
23 individuals held, released, what are their possible outcomes?

24 MS. WILSON: It would depend on the decision made
25 by the judge. I'm not in the court typically, but they --

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 if a decision is made that an individual is to be held, then
2 they're going to be taken to the jail, which is at 1901 D
3 Street.

4 MR. HARESIGN: So they would be returned to DOC
5 custody if they're going to be held pending trial?

6 MS. WILSON: That is correct.

7 MR. HARESIGN: And you mentioned the jail, there's
8 been a lot of talk about the jail. You're not referring to
9 the CCB when you're saying jail, right?

10 MS. WILSON: The CCB is not a jail, so no, I'm
11 not.

12 MR. HARESIGN: And can you tell us where the jail
13 is?

14 MS. WILSON: Yes, 1901 D Street and E Street.

15 MR. HARESIGN: What about the arrestees who are
16 not charged, who are no papered, where are they released?

17 MS. WILSON: It depends.

18 MR. HARESIGN: Okay. It depends on what?

19 MS. WILSON: It depends on when they're no
20 papered.

21 MR. HARESIGN: Okay. So if someone is no papered
22 while they are in DOC custody, or actually while they're in
23 the CCB, what happens to them?

24 MS. WILSON: Currently?

25 MR. HARESIGN: Yes.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 MS. WILSON: Currently, if they're no papered
2 while at CCB, if a decision not to charge by the U.S.
3 Attorney's Office, and someone is no papered at CCB, we will
4 release them from CCB, which is at the Daly Building, and so
5 there is transportation services through our transportation
6 from there.

7 MR. HARESIGN: So effectively they're released
8 from the courthouse in the CCB's current location?

9 MS. WILSON: CCB is currently located in the
10 building next to the superior courthouse, yes.

11 MR. HARESIGN: Thank you. Let's talk a little bit
12 about the proposed temporary swing space, the subject of the
13 permit 501 New York Avenue. You're aware of the proposed
14 temporary relocation of the CCB to 501 New York Avenue,
15 right?

16 MS. WILSON: I am aware of it, yes.

17 MR. HARESIGN: Why does the CCB need to be
18 relocated?

19 MS. WILSON: The Daly Building itself is being
20 vacated because it is in need of extensive renovation. It
21 is an outdated and old building, as is, it was the
22 headquarters for the Metropolitan Police Department, which
23 is why, again, CCB was in the basement. And the entire
24 building is being vacated. The only services that remain
25 there at this time is the central cell block.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 The central cell block is in desperate need of
2 renovation, it is outdated, the building is in need of
3 repair, and in need of desperate updating. And so the CCB
4 needs to be vacated in order to allow that to happen.

5 MR. HARESIGN: Thank you. Upon the temporary
6 relocation of the CCB to 501 New York Avenue, do you
7 anticipate that DOC operations will change substantially?

8 MS. WILSON: Our internal operations, no, I don't
9 anticipate that.

10 MR. HARESIGN: Okay, that's staffing, and
11 consolidated transport, that type of item, those types of
12 items?

13 MS. WILSON: No, I don't anticipate that changing.

14 MR. HARESIGN: What about those arrestees we were
15 talking about, the ones who are no papered, the ones who are
16 not going to be prosecuted, or currently released from the
17 CCB. Will they be released from 501 New York Avenue?

18 MS. WILSON: No, we'll be releasing them from the
19 courthouse, so that they can continue to access
20 transportation services.

21 MR. HARESIGN: So those individuals will be
22 transported from 501 to the CCB? I'm sorry, to the court
23 house.

24 MS. WILSON: To New York Avenue -- I mean to the
25 superior court building.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 MR. HARESIGN: And so to just be absolutely clear,
2 none of the arrestees who come into DOC custody at 501 will
3 be released into the surrounding area directly from 501 New
4 York Avenue?

5 MS. WILSON: No, they will not.

6 MR. HARESIGN: If you know, why was 501 New York
7 Avenue selected as the location for the temporary CCB?

8 MS. WILSON: Because of the size, the current
9 cells that are located there, the ability to add some --
10 because it currently has cells, because it's a centralized
11 location within the district, because of its proximity to the
12 courthouse, and the ability to get to the courthouse. I
13 think I've already said the cells, our ability to add
14 additional cells to the location so that it can, again, serve
15 as the central cell block for the district.

16 MR. HARESIGN: And does have 501 have an existing
17 sally port?

18 MS. WILSON: It does, that as well, yes.

19 MR. HARESIGN: What's a sally port?

20 MS. WILSON: I liken it, in the simplest terms,
21 to a fancier garage. In terms of the ability, it has an
22 entrance on one end, and an exit on the other end. So it
23 allows, those can be secured, and allows for secured entry
24 and access to the building by the vans, and then movement
25 within the facility, and then exit of those vans from there.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 MR. HARESIGN: Okay, so the sally port would be
2 used for the loading and unloading of these arrestees?

3 MS. WILSON: That is correct.

4 MR. HARESIGN: While arrestees are in custody,
5 would they be outside the building in any way?

6 MS. WILSON: Like walking around? I'm not sure
7 I understand.

8 MR. HARESIGN: Yeah, while an arrestee is in
9 Department of Corrections custody in the CCB at 501 New York
10 Avenue, they'd come in and out of the building via the sally
11 port, right?

12 MS. WILSON: That is correct.

13 MR. HARESIGN: Okay, would they ever be released
14 out the front door?

15 MS. WILSON: No.

16 MR. HARESIGN: And because they enter the building
17 effectively in a vehicle, if you were standing on the street,
18 would you be able to see any of the arrestees from the
19 street?

20 MS. WILSON: I'm sorry, I don't understand, would
21 I see them? See them from where, doing what?

22 MR. HARESIGN: From the street, would you be able
23 to observe them, if you were standing on the street would you
24 be able to observe the detainees entering and exiting the
25 building?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 MS. WILSON: No, you would not be able to.

2 MR. HARESIGN: This relocation to 501 New York
3 Avenue, is it permanent?

4 MS. WILSON: No.

5 MR. HARESIGN: Is it your understanding that the
6 capacity at 501 New York Avenue will be greater than the
7 capacity at the permanent CCB?

8 MS. WILSON: Is the capacity at 501 New York
9 Avenue greater than the capacity at the Daly Building CCB?
10 Is that what you're asking me?

11 MR. HARESIGN: It is.

12 MS. WILSON: No, it isn't.

13 MR. HARESIGN: And the intention is to return the
14 CCB to the Daly Building next to the courthouse once
15 renovations are complete?

16 MS. WILSON: That is my understanding, yes.

17 MR. HARESIGN: All right, thank you, I have no
18 further questions.

19 BZA CHAIR HILL: Thank you. Is there another
20 witness for you?

21 MR. HARESIGN: Yes, DOB calls Zoning Administrator
22 Kathleen Beeton.

23 BZA CHAIR HILL: Okay, great, thank you.

24 MR. HARESIGN: And if you could add just two
25 slides for Ms. Beeton, I'll let you know when I want to pull

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 them up. So thank you, Zoning Administrator Beeton, would
2 you just state your name and position for the record?

3 MS. BEETON: Kathleen Beeton, I'm the zoning
4 administrator.

5 MR. HARESIGN: And you run the Office of Zoning
6 Administration within the Department of Buildings, right?

7 MS. BEETON: Yes, I do.

8 MR. HARESIGN: How long have you been in that
9 position?

10 MS. BEETON: Since November 2023.

11 MR. HARESIGN: Prior to that, you used to be the
12 deputy zoning administrator, right?

13 MS. BEETON: That's correct.

14 MR. HARESIGN: How long did you hold that
15 position?

16 MS. BEETON: For 12 years.

17 MR. HARESIGN: Could you describe your duties and
18 responsibilities as a zoning administrator?

19 MS. BEETON: Sure. I'm responsible for
20 supervising the team of people who administer, interpret, and
21 enforce the zoning regulations for the District of Columbia.
22 We do that primarily through the review of building permit
23 applications, certificate of occupancy applications,
24 occupation permits, and subdivisions for compliance with the
25 zoning regulations.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 MR. HARESIGN: And among those duties and
2 responsibilities, I heard you say the permit reviews. Are
3 you familiar with the permit and the property located at 501
4 New York Avenue Northwest that's the subject of this appeal?

5 MS. BEETON: Yes, I am.

6 MR. HARESIGN: What's your understanding of the
7 purpose of the permit?

8 MS. BEETON: My understanding of the purpose of
9 the permit is an interior renovation permit to renovate the
10 existing building, including the existing cells that are
11 there, to repair and replace them in kind, and to add
12 additional cells.

13 MR. HARESIGN: And based on your review, what's
14 the intended use of 501 New York Avenue when the renovations
15 are complete?

16 MS. BEETON: My understanding is that the intended
17 use of the facility is as a temporary central cell block for
18 people who are detained awaiting a pre-arraignment hearing.

19 MR. HARESIGN: Obviously the issuance of this
20 permit has been appealed. The appellant ANC alleges that the
21 permit should not have issued due to zoning review or error.
22 And first they assert that there's a change of use from
23 government local to government large scale that should have
24 required special exception relief. Do you agree with that
25 characterization?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 MS. BEETON: No, I don't agree with that
2 characterization.

3 MR. HARESIGN: Why not?

4 MS. BEETON: Because the property has been used
5 for city wide services, MPD related city wide services for
6 a number of years, as most recently testified by Assistant
7 Chief Emerman, who went through fairly methodically the
8 various crimes, major crash investigations, motor carrier
9 inspections, and the Traffic Safety Division that had
10 occupied the building up until relatively recently.

11 MR. HARESIGN: Can we pull up DOB's slide number
12 two?

13 BZA CHAIR HILL: Mr. Haresign, is that Exhibit No.
14 57? You only have three slides in there, right?

15 MR. HARESIGN: That's correct, it's only three
16 slides.

17 BZA CHAIR HILL: I think it's 57, Mr. Young.

18 MR. HARESIGN: Yeah, if we can go to the next
19 slide? Thank you very much. All right, Zoning Administrator
20 Beeton, what's a government local use?

21 MS. BEETON: So pursuant to 11 DCMR, which is the
22 District of Columbia Zoning Regulations, Subtitle B200.2S,
23 a local government use is use involving services owned,
24 managed, or provided by local government, and associated with
25 providing neighborhood scale services to the communities of

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 the directly adjacent areas.

2 MR. HARESIGN: And in your own words, what are the
3 hallmarks of a local government use as defined by the zoning
4 regulations?

5 MS. BEETON: Okay, so it's something that provides
6 services to the neighborhood, services that serve the
7 neighbors, the immediate community surrounding the particular
8 facility, versus something that provides more regional or
9 city wide services.

10 MR. HARESIGN: Okay. And if we could just go to
11 the third slide please? Thank you. What is a government
12 large scale use?

13 MS. BEETON: Okay, so again, pursuant to the DCMR
14 11, the District of Columbia zoning regulations, Subtitle
15 B200.2R, large scale government use is a use involving
16 services owned, managed, or provided by a governmental
17 entity, and associated with providing regional or wider
18 services.

19 MR. HARESIGN: And again, in your own words, what
20 are the hallmarks of a government large scale use?

21 MS. BEETON: So use to provide services city wide,
22 regionally, something that's larger than a neighborhood
23 service area.

24 MR. HARESIGN: That's all I have on the slides,
25 you can pull them down. Thank you.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 BZA CHAIR HILL: Okay, Mr. Haresign, is that it?

2 MR. HARESIGN: No, sorry, I thought I heard
3 someone trying to speak.

4 BZA CHAIR HILL: Nope.

5 MR. HARESIGN: Okay. Often times, you can tell
6 what prior use of a property is by looking at a previously
7 issued certificate of occupancy, right?

8 MS. BEETON: Yes.

9 MR. HARESIGN: Was there a prior certificate of
10 occupancy for 501 New York Avenue Northwest?

11 MS. BEETON: Not that we could find, no.

12 MR. HARESIGN: Do you know why that is?

13 MS. BEETON: There are any number of reasons, it
14 could be that, I've seen cases where the predecessor agency
15 have issued a C of O that is no longer in our records, but
16 customers have come in actually with framed certificates of
17 occupancy that they've had on their walls, which I've asked
18 to scan so we can have them be part of our actual records.
19 That has happened on more than one occasion.

20 Other reasons that we may not have issued a C of
21 O for this building could be, one prime example is DCPS, D.C.
22 Public Schools, after those buildings were constructed, none
23 of them got C of Os at the time that they were constructed.
24 So following school modernization, again in the 1990s, each
25 school has come in after that modernization has been

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 completed, and obtained its own C of O. So it's not uncommon
2 for public buildings that exist in the district to not have
3 had an issued C of O.

4 MR. HARESIGN: Okay, so in the absence of a C of
5 O for 501 New York, what was your understanding of the prior
6 use category?

7 MS. BEETON: Government large scale.

8 MR. HARESIGN: And in your review of this matter,
9 what percentage of 501 New York was devoted to that large
10 scale government use?

11 MS. BEETON: The entire building.

12 MR. HARESIGN: So 100 percent?

13 MS. BEETON: Yes, 100 percent.

14 MR. HARESIGN: Is it fair to say that the permit
15 application accompanying the plans reflected a
16 reconfiguration of an existing use?

17 MS. BEETON: Yes, that's fair to say.

18 MR. HARESIGN: And based on your review of the
19 approved plans, how much of the property will be devoted to
20 government large scale use after the renovation?

21 MS. BEETON: The entire building.

22 MR. HARESIGN: Is special exception relief
23 required to continue the use in this case?

24 MS. BEETON: No, it's not required.

25 MR. HARESIGN: The appellant ANC is also arguing

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 in the alternative that the existing government large scale
2 use was discontinued in 2016 because the existing holding
3 cells were not regularly used. Even if that were true, would
4 you believe that that fact would change the use category to
5 government local?

6 MS. BEETON: No, I don't believe so.

7 MR. HARESIGN: Why not?

8 MS. BEETON: Because city wide services were being
9 provided for other units in that building. The cells is part
10 of the building, that's part of the use of the building, but
11 that's not the entirety of the use of the building that has
12 been in operation since at least the last 50 years according
13 to Assistant Chief Emerman's testimony earlier today.

14 MR. HARESIGN: And again, if it were true that the
15 cells were discontinued, would it create a situation where
16 the property now contained multiple use categories?

17 MS. BEETON: No, I don't believe so.

18 MR. HARESIGN: And you watched this entire
19 hearing, right?

20 MS. BEETON: Yes.

21 MR. HARESIGN: Has any of the evidence or
22 testimony presented by the appellant here today caused you
23 to reconsider your position in this matter?

24 MS. BEETON: No, it has not.

25 MR. HARESIGN: All right, I have no further

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 questions, and no further witnesses.

2 BZA CHAIR HILL: Okay. I am a little bit, I guess
3 Ms. Themak, I've lost some of your witnesses, which is
4 understandable, but I guess I'm going to try to do the best
5 I can. And let's see, what I want to do, is I want to allow
6 the board an opportunity to ask questions. Then since Ms.
7 Themak went first, I give DOB an opportunity to ask questions
8 of Ms. Themak, and then I would give Ms. Themak an
9 opportunity to ask questions of DOB. So I'm going to start,
10 and I'm going to go to an unlikely place real quick. Mr.
11 Robinson, can you hear me?

12 MR. ROBINSON: Yes, Chairman Hill, I can.

13 BZA CHAIR HILL: So, Mr. Robinson, this is, and
14 you're just a member of the public -- well, not a member of
15 the public, you do a lovely job at the BID, and so you're
16 with the BID, but I'm just more kind of like people that are
17 there, I mean this whole thing is going to turn on whether
18 or not the board thinks it's local government versus large
19 government. And so what I'm trying to understand is just
20 from your knowledge of the area there, does it seem like a
21 local -- I'm not looking for expertise, I mean just does it
22 seem like a local government, or a large government use?

23 MR. ROBINSON: Would you mind characterizing the
24 distinction, just really quickly, between local government
25 and large government?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 BZA CHAIR HILL: Yeah, that's right, that's also
2 what I'm trying to process, Mr. Robinson. I'll come back to
3 you, Mr. Robinson, I'll come back to you. So let's see. Ms.
4 Themak, where was, again, the item you mentioned, that
5 Councilmember Pinto had emailed about the 2016 use being
6 discontinued?

7 MS. THEMAK: Yes, that was in exhibit, let me find
8 it, exhibit 46.

9 BZA CHAIR HILL: Okay.

10 MS. THEMAK: And I'll find the page number for
11 you.

12 BZA CHAIR HILL: Yes, thanks. There's a lot in
13 there.

14 MS. THEMAK: There's a lot of them.

15 BZA CHAIR HILL: Okay, well while you're doing
16 that, Ms. Beeton --

17 MS. THEMAK: Oh, I have it.

18 BZA CHAIR HILL: Got you, okay.

19 MS. THEMAK: It's page 34 of that exhibit. She
20 mentions a walk-through of 501, where MPD told us that no
21 detainees have been held there since 2016.

22 BZA CHAIR HILL: Okay, thanks.

23 Ms. Beeton, first of all I didn't know that you
24 served that long with the previous zoning administrator. We
25 enjoyed working with him.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 And so can you tell me like, when I'm trying to
2 I guess, well, a couple things. Can you think of a place
3 where there's a police station like this that is a local use
4 police station?

5 MS. BEETON: Not offhand.

6 BZA CHAIR HILL: Okay.

7 MS. BEETON: Honestly.

8 BZA CHAIR HILL: That's a fair answer. Because
9 and then in your analysis then, is it if something has a
10 large-scale government use, if there's like, 10 percent of
11 it is large-scale government use, does that kick it into the
12 large-scale government use versus whether it's a local
13 government use?

14 MS. BEETON: Well, I would say look at the
15 totality of the use. I'm not sure about 10 percent. We
16 usually use 20 percent as a rule of thumb for accessory uses.

17 But in this case, again based upon the testimony
18 of the chief from MPD, the services they provide and apart
19 from the holding cells, were provided citywide to people who
20 lived and worked outside of this neighborhood.

21 Yes, we provided neighborhood, well, actually I'm
22 not even sure they provided neighborhood services. I'll let
23 him, his testimony stands for himself.

24 But he said specifically that this location for
25 the past 50 years has offered citywide services. So which

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 I think is distinguishable from a local government use. And
2 a local police station.

3 BZA CHAIR HILL: Okay, okay, that's great.

4 Mr. Robinson, I'm not actually coming back because
5 I can't clarify when. I guess I was just kind of looking
6 like just at, I mean, I kind of know the area, too.

7 And so like activity of that area whether it
8 seemed like a local use or a large-scale use, you can't
9 really tell me probably because I just don't know on a daily
10 basis like how active that place seems to be.

11 That's all I was trying to get kind of local
12 testimony from. But it's very difficult for you to say yes,
13 I saw 20 people around there; I saw 40 people around there.
14 That makes it large-scale versus local.

15 So I don't really have a good question for you,
16 Mr. Robinson, so that's okay.

17 I don't know if you would be able to give me an
18 answer anyway, but I appreciate your giving, I appreciate the
19 opportunity to ask a question and again, I appreciate the
20 work that you do there at the Bid.

21 Okay, do my fellow board members have questions?
22 And if so, please raise your hand and we can go around that
23 way.

24 Go ahead, Commissioner Miller first because you
25 raised your hand first.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 ZC VICE CHAIR MILLER: I didn't raise my hand
2 first.

3 Thank you, Mr. Chairman, and thank you to the
4 appellant and all of your witnesses, particularly
5 Commissioner Nigro, for your diligence and persistence and
6 patience in dealing with the frustrations, and lack of
7 information from our own government that you've had to deal
8 with about this issue.

9 It's really very remarkable, your service as a
10 volunteer putting all that time and effort into just one
11 issue when I know you have many other issues and a life
12 otherwise, to live. And a job, probably, as well, that pays
13 you.

14 So thank you also to the Department of Buildings
15 and your witnesses, and your service to the city.

16 I think at this point, I only have one question
17 for the government witnesses. You mention that the New York
18 Avenue facility has been used for, the cells there have been
19 used for occasionally I think, I'm not sure exactly what the
20 word used for, large-scale events such as the J-6 detainees,
21 which I think was more than 3 years ago, January 2021.

22 So that was more than 3 years ago that I guess you
23 had so many detainees you had to use, find other facilities
24 other than the central cell block, or then the local police
25 stations.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 When else in the last, or when in the last 3 years
2 has the cells on New York Avenue at the New York Avenue
3 location been used for detainees? And how many times, if you
4 have that information available, readily available.

5 MR. HARESIGN: I don't know that that information
6 is available. I've looked to Chief Emerman if he has that
7 information but again, because it's the, not the specific use
8 that defines the use category, I don't know that that
9 information is readily available at this time.

10 But Chief Emerman, I'll look to you.

11 CHIEF EMERMAN: Yes, I do not have that
12 information unfortunately, but what I would say as part of
13 our contingency planning for large-scale demonstrations, for
14 any incident where we expect civil disorder, et cetera, the
15 501 New York Avenue location is part of our contingency
16 planning among as you say, our District locations, our high
17 volume processing that we use down at the, in our training
18 academy facility.

19 But New York Avenue is part of that, which is when
20 it was used in that 2017 incident, as part of that continual
21 planning.

22 ZC VICE CHAIR MILLER: I'm sorry, what incident
23 were you referring to?

24 CHIEF EMERMAN: The January of 2017 arrestees that
25 we brought there. That's part of, as part of our contingency

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 planning for a large-scale demonstration, we identify areas
2 that we will be processing individuals if we have high volume
3 arrests.

4 And that's what happened --

5 (Simultaneous speaking.)

6 ZC VICE CHAIR MILLER: Do you mean January --

7 CHIEF EMERMAN: -- in January 2017.

8 ZC VICE CHAIR MILLER: -- do you mean January
9 2021, or?

10 CHIEF EMERMAN: January 2017.

11 ZC VICE CHAIR MILLER: 2017?

12 CHIEF EMERMAN: When we utilized 501 New York
13 Avenue for prisoner processing.

14 ZC VICE CHAIR MILLER: Okay. I would request, Mr.
15 Chairman, that if we can get from the MPD or Corrections, any
16 information on when the cells have been used for detainees
17 in the last 3 years.

18 Discontinuance of use is an issue in this case,
19 if it was even, that's an issue in this case. And I think
20 Commissioner Nigro, you might have been raising your hand.
21 You might have had some information on that?

22 I heard your testimony on that about the open, or
23 somebody's testimony about the open windows there, and
24 nothing going on there, for continuous, for continuous
25 periods of time at least in recent times.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 But did you have something further on?

2 MS. NIGRO: I do, I do. I do want to answer. I
3 have a response for you, Mr. Miller.

4 So I knew the employees of that building very
5 well, who worked there for years. And they recently moved
6 out as we all know.

7 And when this situation came up, I asked them and
8 I said, when was someone back in those cells? And they
9 honestly told me because they had no, you know, what do they
10 care, right, they're just answering me.

11 And, they said they had no clue. They did not
12 have an answer for me. I then went to the chief of police,
13 Chief Smith, and I asked her. I sent her an email, and I
14 ended up doing a FOIA.

15 When I got the FOIA back, it was a non-response.
16 What I heard kind of in a background was someone told me, is
17 that the Metropolitan Police Department does not have an
18 exact date for when there was anyone in those cells the last
19 time.

20 So it is definitely beyond the 3 years. We know
21 that, but I think they would find it embarrassing and that's
22 why maybe we didn't get a response, that they do not have any
23 data point for when anyone was in those cellblocks.

24 Otherwise, just tell us. Just tell us. Give me
25 the date. And so that's why I think there is no exact date

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 because they, they actually do not know.

2 ZC VICE CHAIR MILLER: All right, so that's the
3 information I'm asking for from MPD and/or Department of
4 Corrections, or anybody on the, from the government side of
5 this issue in this case, I mean.

6 So if they can provide subsequent to this hearing
7 that information, the dates of when detainees were last, were
8 most recently there and maybe how many.

9 That's, I think at this time, Mr. Chairman, the
10 only question I have. And, I had another but I can't
11 remember it off the top of my head. So I may raise my hand
12 again if I remember it. Thank you.

13 BZA CHAIR HILL: All right, Commissioner, thank
14 you. From my board again, who had their hand up? Mr. Blake?

15 MEMBER BLAKE: Quick questions. First for Ms.
16 Wilson, how long will this facility be operated for this
17 purpose?

18 MS. WILSON: I don't know the answer to that.

19 MEMBER BLAKE: Okay. And second line, what will
20 happen to it after that?

21 MS. WILSON: I don't know the answer to that.

22 MEMBER BLAKE: Okay, and what's kind of cost to
23 the renovation that you're doing, the internal renovation?

24 MS. WILSON: I'm sorry, say that one more time?

25 MEMBER BLAKE: What do you think the range of cost

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 for the internal renovation?

2 MS. WILSON: For the total renovation?

3 MEMBER BLAKE: Internal.

4 MS. WILSON: The cost?

5 MEMBER BLAKE: Internal renovation of that
6 facility. Of 501.

7 MS. WILSON: Oh, what is the cost of renovating
8 inside?

9 MEMBER BLAKE: Yes.

10 MS. WILSON: Okay. I will, I know it. If I can
11 get that for you before we finish here, I just have to find
12 it in my notes.

13 MEMBER BLAKE: That's fine, I'm just trying to get
14 an indication of that.

15 And I have a question for the Zoning
16 Administrator. How many facilities citywide, are
17 characterized as government large?

18 MS. BEETON: Would I characterize it that way?
19 I don't know the answer to that question.

20 MS. WILSON: Okay, and well I guess that would
21 hurt my last question because I was going to ask the
22 department, the chief, what percent, well how much, how many
23 facilities that they occupy that we use for services that
24 would be deemed citywide-type services.

25 CHIEF EMERMAN: We have several locations at are

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 citywide. Our Narcotics and Special Investigations Division,
2 which became our Violent Crimes Suppression Division, is
3 located in the facility that then deploys citywide.

4 From there, our Internal Affairs Unit is in one
5 location that then deploys citywide from their location.

6 I'd have to go through all of my facilities and
7 pull you lists, but there are examples such as Special
8 Operations Division is another one that deploys citywide from
9 locations. Our K-9 Units.

10 So I'd have to go through the list of every one
11 of our facilities to ascertain that for you.

12 MEMBER BLAKE: Okay, thank you.

13 And for the Zoning Administrator, of those
14 facilities, how many do you think, I guess we really wouldn't
15 have a handle, but how many do you think would have not had
16 the CFO that reflects that potentially?

17 MS. BEETON: Yes, I would be speculating. I
18 really don't know, Mr. Blake.

19 MEMBER BLAKE: Okay, thank you.

20 MS. WILSON: It's \$10 million.

21 MEMBER BLAKE: Thank you.

22 MS. NIGRO: May I respond to Mr. Blake?

23 BZA CHAIR HILL: One second, Commissioner, I'm
24 going to go in order here and then we'll get back to what,
25 if you have answers to some of the questions here.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 Okay, Mr. Blake, what was that last question that
2 you asked Ms. Beeton?

3 MEMBER BLAKE: I had asked her how many buildings
4 in the city would have that distinction of local government
5 local that would not have a C of O or something like that,
6 reflecting that.

7 BZA CHAIR HILL: So, Ms. Beeton, is there C of O
8 that says government local? No.

9 MS. BEETON: Not unless it was issued after 2016.
10 Because the 2016 zoning regulations created those use
11 categories. They didn't exist in the 1950 at regulation.

12 So we do have a draft down in our C of O platform
13 so that we can choose that use group for any use that fits
14 that designation.

15 But prior to 2016, no, you probably would not see
16 that on any previously issued C of O.

17 BZA CHAIR HILL: Okay, thanks.

18 Before I move on now, go ahead, Mr. Blake, sorry.

19 MEMBER BLAKE: But what would be the predecessor
20 distinction now? What would we have seen?

21 MS. BEETON: That's a hard question to answer, Mr.
22 Blake. I don't know what it would have been called. It
23 could have been called any number of things.

24 But since that use category didn't exist, I'm
25 quite sure we wouldn't have been referencing it that way.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 Either local or large-scale, for that matter.

2 MEMBER BLAKE: Thank you.

3 BZA CHAIR HILL: Is that it, Mr. Blake?

4 MEMBER BLAKE: Yes, sir.

5 BZA CHAIR HILL: Okay. Commissioner Nigro, what
6 was it that you wanted to comment on, or see if you can help
7 explain?

8 MS. NIGRO: I wanted to actually, Mr. Blake, that
9 was a good question about the budget. So that is, it has
10 nothing to do with like the hearing, per se, but that is a
11 major concern with this.

12 Is there is no end game for the renovation of the
13 Daly Building, right? There's no budget. Nothing's carved
14 out, and I actually had a conversation with the city
15 administrator two weeks ago about how is this going to end
16 if this comes.

17 It is not, this central cellblock to go back in
18 the Daly Building, is not budgeted. There is no end game.
19 We are not naive.

20 This is going to end up being permanent. You do
21 not spend \$10 million on a temporary facility. Ridiculous.

22 MS. WILSON: Right, Commissioner --

23 (Simultaneous speaking.)

24 MS. NIGRO: Well, let me finish.

25 MS. WILSON: -- Nigro, that's not accurate.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 MS. NIGRO: Let me finish.

2 BZA CHAIR HILL: Ms. Nigro, Ms. Nigro,
3 Commissioner Nigro, let her respond.

4 MS. WILSON: I just don't, that comment is not,
5 it's not accurate. The renovations, there are, the
6 conditions at the Daly Building, the CCB at the Daly
7 Building, are deplorable.

8 Quite honestly, \$10 million, I know it sounds like
9 a lot, but it is not that much actually, in terms of
10 renovation costs for this space, or this, for the building
11 because there are existing holding cells there.

12 And we're able to use the services and the
13 facility that is currently there. The Daly Building is going
14 to require extensive renovations that are much, much more
15 than that.

16 So to say, and to make a comment, a blanket
17 comment that to spend \$10 million means it's permanent, that
18 is not true.

19 We are spending that even as we're talking about
20 building an actual new jail. Unrelated to that, we still,
21 we are doing renovations. We still have to do work on our
22 actual jail space. And so --

23 (Simultaneous speaking.)

24 BZA CHAIR HILL: Deputy Director --

25 MS. WILSON: -- I just want to --

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 BZA CHAIR HILL: -- I'm sorry, Deputy --

2 MS. WILSON: -- say that. I just want to say that
3 that was number one.

4 BZA CHAIR HILL: -- I'm getting off topic here.
5 I can see that my board members are getting agitated with me,
6 so I'm going to stick with letting them ask their questions
7 first, and then I'll rotate around.

8 Mr. Blake, do you have any more questions?

9 MEMBER BLAKE: No, I will get that answer later.
10 Thank you.

11 BZA CHAIR HILL: Mr. Smith, you had your hand up?

12 MEMBER SMITH: Yes, I think I have a two-part
13 question. I think the first part is to Mr. Emerman, Chief
14 Emerman. And I thank you for your services, Chief Emerman.

15 In your testimony with Mr. Haresign, I believe I'm
16 saying our name right Mr. is it Haresign, is that how you
17 want it pronounced?

18 Okay, you had characterized the uses of that space
19 for different citywide uses, or services conducted by MPD.

20 That first floor space outside of the, where the
21 cellblocks are. The various services that operated there,
22 were they, was it cubicles, was it offices?

23 What was the primary tasks that were done by the
24 various different services that operated there? Was it a
25 desk, they were processing documents, paperwork, that you

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 characterize that a little bit?

2 CHIEF EMERMAN: So the current, the most recent
3 I guess layout of that facility is on that first floor, was
4 a, the cellblock area, there is a down by the sally port
5 there is a fingerprinting station area for processing the
6 prisoners, the arrestees.

7 There is an interview room, which is hooked up to
8 our recording system, that we use to record our interviews
9 with our arrestees.

10 There is a, when you come in the front door, there
11 is a counter area. Thinking of a reception area, but it's
12 not a staffed open door at that facility because the members
13 aren't usually in that building.

14 They do have desk spaces, yes, upstairs on the
15 second floor are some cubicles, some office space. Because
16 the Major Crash investigators are detectives.

17 So they're the ones writing warrants for fatal
18 accidents; doing some research; some work. But their
19 introduction to what they're doing is out on the scene at a
20 crime -- at a vehicle crash scene.

21 They're taking the measurements; collecting data;
22 interviewing witnesses, and things like that.

23 So while there is some desk space, the majority
24 of their work, especially with the Motor Carrier Unit, who
25 does the commercial vehicle inspections, is out in the field.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 This is a place for them to drop uniforms and
2 gear, and then go out on the field.

3 MEMBER SMITH: What would you say the second floor
4 was predominantly used for day-to-day? What was the
5 furniture that was there? What was that second floor
6 predominantly used for day-to-day?

7 CHIEF EMERMAN: The second floor is predominantly
8 where their office space was. So cubicles, the lieutenant
9 had an office up there.

10 I think there was a small conference room where
11 if they had to meet with a witness, or an attorney or
12 something, they could have that space up there.

13 But that's configured up on that second floor as
14 office space.

15 MEMBER SMITH: Okay, and what was on the first
16 floor again?

17 CHIEF EMERMAN: The first floor consists of --
18 (Simultaneous speaking.)

19 MEMBER SMITH: Where put it to the first floor?

20 CHIEF EMERMAN: I'm sorry, so the first floor
21 consists of the entry to the cells, as well as the interview
22 room, and then there is a, I think there's a small office if
23 I recall correctly, in the back.

24 And then as I explained, like a reception area
25 where there is a service counter there but with desks in it,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 but there is nobody staffing that.

2 MEMBER SMITH: All right, thank you, I think that
3 was one of the questions that I had. So, Ms. Beeton, I'm
4 assuming the second part of this question.

5 Based on the testimony that he provided, would you
6 say the majority of that space in this building was
7 administrative space? Administrative office space?

8 MS. BEETON: So --

9 (Simultaneous speaking.)

10 MEMBER SMITH: Administrative, administrative
11 office space for a local government agency?

12 MS. BEETON: Based upon Chief Emerman's recent
13 testimony?

14 MEMBER SMITH: Or when the determination was made,
15 just in general.

16 MS. BEETON: So I heard him say that the space was
17 used as offices, yes, at least on the second floor.

18 MEMBER SMITH: Okay. So based on that, if it's
19 an administrative office space, could it be considered an
20 office use?

21 MS. BEETON: Office could be part of the uses that
22 they provided there, yes.

23 MEMBER SMITH: There's an overall office use. I'm
24 looking at the local government exception that says that, it
25 does not include administrative offices of local government

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 agencies.

2 And he did describe that this particular space to
3 a certain degree, is administrative offices. And under, if
4 it's considered a administrative office, it would be
5 considered a office use.

6 Was there any evaluation done of that?

7 MS. BEETON: When he described the administrative
8 use, he was describing it as part of the citywide services
9 that are being provided for the, just trying to remember what
10 he called it.

11 The Major Crash Investigations, the Motor Carrier
12 Inspections, a -- services division. If the administrative
13 use is an office work that was being done there was related
14 to the services or being provided citywide, I would argue
15 that that's part of the large-scale government use and not
16 an administrative office use for the local serving, local
17 government use.

18 MEMBER SMITH: Okay. And just as a follow up
19 question, Mr. Blake, because I think I missed the
20 distinction. What is the Office of Zone Administrators
21 interpretation of the line between what is considered
22 neighborhood versus larger service area?

23 MS. BEETON: In terms of police stations?

24 MEMBER SMITH: Police stations, schools.

25 MS. BEETON: Okay.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 MEMBER SMITH: Is the MLK main library considered
2 a large scale use? Because there are a lot of government or
3 civic institutions that may be located within the
4 neighborhood but may have some services that are citywide,
5 or region wide.

6 So what is that distinction in the eyes of the
7 Zoning Administrator's office?

8 MS. BEETON: So I would point back to the
9 definitions. And there are very distinct definitions for
10 large-scale government and local gov.

11 And I'm just quickly scanning them. I think a
12 library you could make an argument I suppose, that perhaps
13 the MLK library is more large scale.

14 But the use group definition, it just mentions
15 libraries, for example. So is that like the southwest
16 library that just I go to with my family? Is it the MLK
17 library that I often go to with my family?

18 Like, I think the intent of the large-scale
19 government is to recognize entities that provide services
20 broader than just that neighborhood area.

21 So beyond whatever you could get at a local
22 library or police station, or anything else, that serves a
23 citywide purpose, right?

24 Or serves the city, or region. This is even
25 region, but let's focus on the city for now.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 So I would say we're using the sense of
2 reasonableness. What is the reason the people are going
3 there to do the work? What is the work that's being done?

4 Who does it serve? Who is the people who are
5 doing that work, who does it serve? Whether it's serving
6 the local people or something more citywide.

7 So that's my best attempt to try and articulate
8 it. I hope that's helpful.

9 MEMBER SMITH: That was helpful; I appreciate it.
10 Thank you.

11 MS. BEETON: Sure.

12 BZA CHAIR HILL: Mr. Smith, is that it?

13 Okay. Vice Chair John?

14 Chair John, you're on mute. Sorry.

15 BZA VICE CHAIR JOHN: -- so much.

16 So I wanted to continue with Assistant Chief
17 Emerman, and your testimony was very helpful to me.

18 But I got a little confused about what services
19 are being provided there, or were provided there within the
20 last 3 years.

21 And Mr. Smith's questions also answered some of
22 my questions. So there is a first floor and a second floor.
23 And, where are the cellblocks?

24 CHIEF EMERMAN: There is actually three floors in
25 that building.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 BZA VICE CHAIR JOHN: Okay.

2 CHIEF EMERMAN: There's a basement, as well.

3 So if you, to describe it best, where the sally
4 port is, which is the vehicle port where we bring in, that
5 is somewhat of a I don't want to say, it's sort of like a
6 half floor down low.

7 So that's a receiving area that you have to take
8 a few steps up to get to the first floor. So I don't want
9 to call that its own floor.

10 BZA VICE CHAIR JOHN: Okay.

11 CHIEF EMERMAN: But the main floor in there, the
12 main floor has the first row of cellblock tiers. When you
13 go in, you go into a door where the cellblock is.

14 And there's a few steps down to a tier of
15 cellblocks, and then there's steps up to a tier of
16 cellblocks. So they're double-stacked.

17 There's a row of cellblocks on top of another row
18 of cellblocks.

19 BZA VICE CHAIR JOHN: On the first floor?

20 CHIEF EMERMAN: Yes. You access them from the
21 first floor. So I would say that they're, the cellblocks are
22 kind of at floor one and a half, and floor half.

23 Because from the first floor, you can either go
24 down or you can go up to them.

25 BZA VICE CHAIR JOHN: Okay.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 CHIEF EMERMAN: From outside of the cellblocks,
2 from inside the non-cellblock area, there is a second floor
3 above you, which in it's last, let's saying in its most
4 recent use, was where the Major Crash investigators and our
5 Motor Carrier Safety Unit officers had their work stations.
6 That's where they had that.

7 BZA VICE CHAIR JOHN: Okay.

8 CHIEF EMERMAN: The basement, which would be
9 downstairs from that first floor, had locker facilities.
10 That's where they would keep their uniforms, spare equipment
11 and gear, and things like that down there for their, for
12 their operations.

13 BZA VICE CHAIR JOHN: Okay, when was the last time
14 services of any nature were performed in this building?

15 CHIEF EMERMAN: I guess I'd have to ask you what
16 do you mean by services of any nature?

17 BZA VICE CHAIR JOHN: Well, large scale services.
18 The crash investigations, which I'm going back to your
19 testimony.

20 CHIEF EMERMAN: Those are --

21 (Simultaneous speaking.)

22 BZA VICE CHAIR JOHN: These are the citywide
23 services that you described: major vehicle inspection, child
24 car seat, DUI enforcement.

25 And, you distinguished the services at that

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 building from for example, the 3rd Street Station and the 1st
2 Street Station.

3 So my question is then, what, when was the last
4 time any of those services were performed at 501 New York
5 Avenue?

6 CHIEF EMERMAN: So the Major Crash and the Motor
7 -- my motion light just went out in here, sorry. The Major
8 Crash and the Motor Carrier Investigations Unit were housed
9 at that location providing citywide services up until about
10 3-4 weeks ago when we vacated there. When we moved them out.

11 BZA VICE CHAIR JOHN: Okay. And they basically
12 occupied the second floor?

13 CHIEF EMERMAN: The second floor, and then had
14 locker room space and equipment down on the basement level.

15 BZA VICE CHAIR JOHN: Okay.

16 CHIEF EMERMAN: And their interview room is on the
17 first level. So where they would interview an arrest, a
18 recorded interview of an arrestee.

19 BZA VICE CHAIR JOHN: Okay. And those, and they
20 basically have offices there and they go out in the street
21 to do their investigations, and it's basically their
22 headquarters? Or?

23 CHIEF EMERMAN: Correct. That's where they
24 report; that's where they get their assignments, and that's
25 where they go out on the street.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 Like the Motor Carrier Unit does truck
2 inspections, and buses, and things like that. So they will
3 be out on Interstate 295 doing vehicle safety inspections of
4 a truck. So they will be out throughout the city doing those
5 sort of things.

6 And then the Major Crash Unit will be responding
7 to fatal accidents or critical injury accidents, wherever
8 they are within the city.

9 BZA VICE CHAIR JOHN: Okay, what about the child
10 car seat installation?

11 CHIEF EMERMAN: So both of those units do assist
12 with child car seat installations, and those usually took
13 place at 501 New York Avenue.

14 Vehicles could pull into that sally port and be
15 protected from rain and elements, while those units assisted
16 with them.

17 BZA VICE CHAIR JOHN: And, that's still happening
18 now or happened within the past 3 years?

19 CHIEF EMERMAN: Oh, it certainly happened within
20 the past 3 years they do that, but since we have relocated
21 from that area, they are not doing them there.

22 The property is fenced off completely now. So
23 they are doing their child car seat inspections at other
24 locations.

25 BZA VICE CHAIR JOHN: I'm just confirming they

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 were there and were using the facility within the past 3
2 years?

3 CHIEF EMERMAN: I believe that they have done
4 child car seat installations there within the past 3 years.
5 I was not taking part in that activity, but it's my
6 understanding that they were.

7 BZA VICE CHAIR JOHN: Okay. And the last one.
8 DUI enforcement?

9 CHIEF EMERMAN: So that unit is responsible for
10 alcohol operations and alcohol enforcement. So they will
11 deploy to a location within the city somewhere and set up our
12 sobriety checkpoints, or set up our alcohol enforcement
13 operations, usually in a, and sometimes in a nightlife area.

14 But it's run by those units that work there.

15 BZA VICE CHAIR JOHN: And they had offices there?
16 Within the past 3 years?

17 CHIEF EMERMAN: These are the same officers that
18 are involved. It's the Major Crash detectives and the Motor
19 Carrier ones. They're specially trained in traffic, so.

20 BZA VICE CHAIR JOHN: Okay. And in terms of,
21 okay, I don't think I have another question right now.

22 Thank you, Mr. Chairman.

23 BZA CHAIR HILL: Thank you, Vice Chair John.

24 Just real quick, Ms. Beeton. There's a lot, in
25 the appellant's PowerPoint they talk about 11(c) DCMR 204.4,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 which says, discontinuance for any reason of a non-conforming
2 use of a structure or of land, except for a government
3 action, that impedes access to the premises for any period
4 of more than 3 years, shall be construed as prima facie.

5 And I didn't go to law school.

6 Evidence of no information, et cetera.

7 So does that apply here?

8 MS. BEETON: No, it does not apply here.

9 BZA CHAIR HILL: You've determined that --
10 (Simultaneous speaking.)

11 MS. BEETON: Because they have been keep --

12 BZA CHAIR HILL: Why does it not apply?

13 MS. BEETON: Because I believe that they have been
14 operating citywide services in this location for the past 3
15 years, separate and apart from whether the cells are occupied
16 or not.

17 BZA CHAIR HILL: I got you.

18 What I'm trying to understand is that if, if the,
19 well, I guess I'm confused of the non-conforming use.
20 Discontinuance for any reason of a non-conforming use.

21 I mean, is this a non-conforming use?

22 MS. BEETON: Yes. We acknowledge it's a non-
23 conforming use. Excuse me, it's a large-scale governmental
24 use. But it is also non-conforming.

25 BZA CHAIR HILL: Okay, why is it non-conforming?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 MS. BEETON: Because it doesn't comply with the
2 D-4-R regulations today.

3 BZA CHAIR HILL: Okay.

4 MS. BEETON: It would require a special exception
5 today.

6 BZA CHAIR HILL: Got it. And so if the
7 cellblocks, if prisoners had not been there, it hasn't been
8 used by MPD for over 3 years, does that mean that they have
9 to come back for that one specific use?

10 MS. BEETON: I would, my determination is that
11 they haven't used the building in its entirety in greater
12 than 3 years, and they would have to come back, then they
13 would come to you for a special exception.

14 Not if they stopped using part of the building,
15 but are using the rest of the building for these citywide
16 services.

17 BZA CHAIR HILL: Okay.

18 MS. BEETON: That's my determination. You may
19 disagree with me, but that was the basis of my determination.

20 BZA CHAIR HILL: No, that's okay, I appreciate the
21 answer.

22 Okay, Vice Chair John?

23 BZA VICE CHAIR JOHN: Mr. Chairman, can I follow
24 up with Administrator Beeton on that one?

25 BZA CHAIR HILL: Yes.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 BZA VICE CHAIR JOHN: So if the cellblock use was
2 discontinued for more than 3 years ago.

3 MS. BEETON: Uh huh.

4 BZA VICE CHAIR JOHN: So could it be expanded?
5 I mean, a non-conforming use cannot be expanded. And that,
6 I just thought of that.

7 I guess you don't have to answer now.

8 MS. BEETON: Well, if you, if it was determined
9 that that use had been abandoned and the rest of the use of
10 the building as large-scale government had been abandoned,
11 then yes, I would say that a special exception is required.

12 BZA VICE CHAIR JOHN: Okay, let me just do one
13 more thing since it occurred to me.

14 So the cellblock use has been discontinued since
15 2017, I believe is the testimony? Or the last known use was
16 2017. And now we're adding cellblock uses.

17 So it seems to me we are expanding the non-
18 conforming use or, and also that the use has been
19 discontinued for more than 3 years.

20 So that raises questions which I am sure we will
21 consider at some point. I don't have an answer. I'm just
22 thinking it, just thinking.

23 BZA CHAIR HILL: Mr. Smith?

24 MEMBER SMITH: The question that Ms. John brought
25 up, it just raised up another question that I had to Ms.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 Beeton, and it may help, it may help with some of this
2 discussion.

3 Ms. Beeton, you in your interpretation, did not
4 consider a jail are saying the cellblocks or the cell space
5 or jail, however we want to term this, as a separate use.

6 It's a characteristic of a large-scale government
7 use?

8 MS. BEETON: I would say it's part of the
9 operation. How MPD has used the space historically, yes, the
10 cellblocks are part of it.

11 MEMBER SMITH: But the cellblocks are not a
12 standalone use, it's part of a --

13 (Simultaneous speaking.)

14 MS. BEETON: Right.

15 MEMBER SMITH: -- larger, the broader use of the
16 large-scale government use category?

17 MS. BEETON: Yes, that's my opinion.

18 MEMBER SMITH: Okay, thank you.

19 I hope that may help.

20 BZA CHAIR HILL: I don't know, I don't know if
21 it's helping or not.

22 Okay, let's see, okay, so Mr.?

23 BZA VICE CHAIR JOHN: Hand up.

24 BZA CHAIR HILL: Oh, who has their hand up?
25 Sorry. Oh, sorry, Commissioner Miller?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 ZC VICE CHAIR MILLER: Yes, I said I would raise
2 my hand if I remembered my question. I hesitated to raise
3 it again because it's not really relevant to the appeal, but
4 it's relevant to my curiosity since we have testimony on the
5 issue.

6 Is the \$10 million cost, Deputy Director Wilson,
7 you said you had the \$10 million cost to renovate the New
8 York Avenue cellblocks.

9 Is that currently is in your budget to somehow to
10 do that?

11 MS. WILSON: Department of General Services
12 budget.

13 ZC VICE CHAIR MILLER: Okay. Have you begun doing
14 it?

15 MS. WILSON: Have we begun to do what?

16 ZC VICE CHAIR MILLER: Have you begun doing the
17 renovations?

18 MS. WILSON: The building is closed and it is, a
19 contractor was approved by the District.

20 ZC VICE CHAIR MILLER: A contractor was approved
21 by whom? I'm sorry.

22 MS. WILSON: The District. Council approved the
23 contract for the contractor.

24 ZC VICE CHAIR MILLER: And so has interior
25 renovation begun?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 MS. WILSON: As of today, I don't know if the work
2 has begun, but there is a contractor, the contract was
3 awarded and it is a fully funded contract.

4 So it could begin any day now, if it hasn't begun
5 already.

6 BZA CHAIR HILL: Commissioner Nigro, I see you,
7 give me one second.

8 ZC VICE CHAIR MILLER: So the permit is under
9 appeal? Okay, that, I think that answers that question,
10 which isn't necessarily relevant to the appeal but I think
11 it's relevant to the issue generally.

12 The 500 block of 4th Street alternative that was
13 testified to as an alternative vacant cellblocks that are
14 available on 500 block of 4th Street.

15 I guess that's, I think that might be a federal
16 building.

17 MS. WILSON: It is a federal building.

18 ZC VICE CHAIR MILLER: Yes. Has that, was that
19 explored by your or somebody and rejected for any reason?
20 Or, what was the status of the declaration of that
21 alternative?

22 MS. WILSON: It was explored by the Department of
23 General Services. It is a building that is not owned by the
24 District; it is a federally owned building.

25 And so it is not available for the use. But it

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 was explored by the Department of General Services.

2 ZC VICE CHAIR MILLER: Do you know how many cells
3 are available?

4 MS. WILSON: I don't know off of my head. Again,
5 it was explored by the Department of General Services.

6 ZC VICE CHAIR MILLER: And we don't have a
7 representative here from there, from that department today,
8 is that correct?

9 MS. WILSON: No. They're not here.

10 ZC VICE CHAIR MILLER: Okay. All right, thanks
11 and I thank you, thanks very much.

12 MS. WILSON: You're welcome.

13 BZA CHAIR HILL: Commissioner Nigro, you had your
14 hand up?

15 MS. NIGRO: -- address about was any work being
16 done there.

17 So no, not really. The fence went up I suspect
18 because they viewed my videos of the building and people were
19 parking in the parking lot. So I think that's why the fence
20 went up.

21 But since the permit was issued, which we now know
22 is November 6, that there has been no work on that, in that
23 building whatsoever.

24 So the fence went up and that's about it as we can
25 tell. And the fence just happened recently. Otherwise, the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 workers were still there doing their thing.

2 And it wasn't only till literally a couple weeks
3 ago that it was officially vacated completely. And then for
4 a little bit, they had the K-9 Unit there for a nanosecond,
5 and then the fence went up.

6 BZA CHAIR HILL: Okay, thank you, Commissioner.

7 MS. NIGRO: Oh, I have something else, too.

8 So they just asked about the other cellblock. So
9 that was used, put in service many, many years ago during
10 1986. And that was used to house people for the District.

11 And I don't know when it was closed, but it had
12 plenty of space. And for the people who are, they had
13 actually it was set up at that time in the late 80s, it was
14 for 64 people.

15 But the members of the police force who talked to
16 me and who informed me about it, they said it's large and
17 they, they were confounded why it wasn't being used either
18 as the temporary central cellblock. Because it's a block
19 only from the current one.

20 BZA CHAIR HILL: Okay. Okay, all right, so let
21 me try to do this now. So --

22 (Simultaneous speaking.)

23 ZC VICE CHAIR MILLER: I'm so sorry, Mr. Chairman,
24 I just had one --

25 BZA CHAIR HILL: Oh, sure, go ahead, Mr. Miller.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 ZC VICE CHAIR MILLER: -- one other irrelevant
2 question for Deputy Director Wilson.

3 Is there funding in your capital budget for the
4 Daly Building cellblock renovation/expansion, or whatever has
5 to be done.

6 Is there funding in your, in a currently approved
7 budget or proposed budget, I guess there's a budget pending
8 before the council now.

9 Is there funding in the proposed or current budget
10 for the renovation of the cellblocks in the Daly Building?

11 MS. WILSON: It would not be in our budget, DOB's
12 budget --

13 (Simultaneous speaking.)

14 ZC VICE CHAIR MILLER: In somebody's budget, BES.

15 MS. WILSON: So as of right now today, it is not,
16 it is not in the budget. I will also say that I am, I do not
17 know what the mayor's upcoming budget.

18 That information has not been released, so I don't
19 have any, you asked about upcoming. I don't have any
20 information regarding the mayor's upcoming budget, or any of
21 that.

22 But it is not in, it would never be in DOC's
23 budget. The Daly Building was the Department of, it was MPD
24 headquarters.

25 ZC VICE CHAIR MILLER: Right.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 MS. WILSON: And so it would not be in.

2 ZC VICE CHAIR MILLER: But as far as you're aware,
3 it's not in a currently approved budget?

4 MS. WILSON: It is not in the budget today.

5 ZC VICE CHAIR MILLER: Okay.

6 MS. WILSON: No.

7 ZC VICE CHAIR MILLER: Thank you very much. I
8 appreciate that.

9 MS. WILSON: And I just, and again, I just want
10 to, I cannot stress enough the conditions of the current Daly
11 Building, and the need.

12 Like, if the conditions are not good, and I mean
13 that's saying it as nicely as possible, there is a need for
14 these services.

15 It is not a jail. It is a place for arrestees,
16 and those arrestees will not be released from the location.
17 And they will not be on, in the local area.

18 It is not a jail. The jail is at 1901 D Street.
19 And that is where the jail is located.

20 ZC VICE CHAIR MILLER: Thank you.

21 BZA CHAIR HILL: Commissioner Nigro, I see you
22 hand. Just let me get one second.

23 Commissioner Nigro, by the way, like I said, I'm
24 in your ANC, right, okay? I mean, I know how this whole
25 thing works.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 Or I shouldn't say that. It's you also have to
2 run your hearings as well, right? We're running on four
3 hours right now, or something like that, okay?

4 Your testimony is not expert testimony in certain
5 things that you've spoken to. So just let me get through
6 people asking, we haven't even gotten to everybody asking
7 their questions yet. So give me a second.

8 So, okay, I got, and by the way, I know you're
9 frustration and I appreciate all your work as well, and I
10 also want to go on the record. Chief Emerman and Deputy
11 Director Wilson, and Zoning Administrator, and even the
12 people over at DOB, I appreciate all your work as well.

13 And I really do. Because like I really do, right?
14 So, okay.

15 Now, Ms. Themak, oh, no, no. So, Mr. Haresign,
16 so Mr. Haresign, do you have any questions of Ms. Themak?

17 MR. HARESIGN: No questions of Ms. Themak, no.

18 BZA CHAIR HILL: Okay. So again, I want to, you
19 pointed this out Ms. Harrison. I'm going to bring this all
20 back to the focus. This seems to be again whether this is
21 local versus large-scale government.

22 And if it is a use change going from local to
23 large. And by the way, I still don't know the answer.
24 There's a lot of doubt in my mind as to what the answer is.

25 So I'm pointing that out because now I'm going to

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 put, go over to Ms. Themak. And so Ms. Themak, do you have
2 any questions and it's good if you do, of the Department of
3 Buildings?

4 MS. THEMAK: I do.

5 BZA CHAIR HILL: Okay.

6 MS. THEMAK: And they're brief. But my first
7 question is, from what we've heard in testimony, it seems
8 that the activities that were being conducted, I guess
9 question.

10 Would you, and is the chief still on and available
11 to answer questions?

12 BZA CHAIR HILL: The chief's right there.

13 MS. THEMAK: Okay, hi.

14 BZA CHAIR HILL: It's not like he doesn't have
15 better things to do.

16 MS. THEMAK: Okay.

17 BZA CHAIR HILL: Okay, go ahead, Ms. Themak.

18 MS. THEMAK: I guess my question is, would you
19 categorize the activities that are currently or most recently
20 were being conducted at 501 New York Avenue, as motor vehicle
21 related?

22 CHIEF EMERMAN: Those as far as yes --

23 (Simultaneous speaking.)

24 MS. THEMAK: Traffic, crashes?

25 CHIEF EMERMAN: Yes.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 MS. THEMAK: DUIs?

2 CHIEF EMERMAN: Yes, those units address, their
3 primary function is things involving motor vehicles, correct.

4 MS. THEMAK: Okay.

5 CHIEF EMERMAN: And traffic safety.

6 MS. THEMAK: And traffic safety.

7 CHIEF EMERMAN: And --

8 MR. HARESIGN: We could have Ms. Beeton speak to
9 that, as well. I believe --

10 MS. THEMAK: Wait.

11 BZA CHAIR HILL: I got you. Hold on, Mr.
12 Haresign. I keep have to looking back to how to pronounce
13 your name correctly.

14 So Ms. Harrison, give me a second. Let Chief
15 Emerson ask, Emerman, Emerman, answer the question. And I
16 think he did.

17 MS. THEMAK: He did, yes.

18 BZA CHAIR HILL: So now, what were you trying to
19 interject, Mr. Haresign?

20 MR. HARESIGN: Yes, I believe Ms. Themak's
21 pointing at one of the --

22 (Simultaneous speaking.)

23 MS. THEMAK: Can I finish?

24 BZA CHAIR HILL: Hold on.

25 MR. HARESIGN: -- sections.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 BZA CHAIR HILL: Wait, I'm just trying to hear out
2 what he was saying. Okay.

3 MR. HARESIGN: Ms. Themak's trying to point out
4 one of the exceptions that's a zoning question.

5 BZA CHAIR HILL: Okay, so whether or not you think
6 she --

7 MR. HARESIGN: So.

8 BZA CHAIR HILL: That's okay. So I'm sure Ms.
9 Themak can now defend herself as to what you think she
10 thought she was doing.

11 So, Ms. Themak, you got your question answered,
12 right? Do you have another question?

13 MS. THEMAK: I do.

14 BZA CHAIR HILL: Okay.

15 MS. THEMAK: So now I want to ask Zoning
16 Administrator Beeton, why does that not fall then under the
17 exception category for the government large-scale use, which
18 says motor vehicle related uses?

19 MS. BEETON: So I'm going to refer to the use
20 category here.

21 So motor vehicle related use is a use engaging
22 primarily in the onsite sale, rental, service, maintenance,
23 or refueling of motor vehicles or their components.

24 Which does not sound like the testimony that
25 Chief, Assistant Chief Emerman gave earlier about what was

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 happening with the facility.

2 MS. THEMAK: My next question is, do we know how
3 many cells, the number of cells are currently at 501 New York
4 Avenue?

5 BZA CHAIR HILL: Who is that to, Ms. Themak?

6 MS. THEMAK: Chief Emerman.

7 CHIEF EMERMAN: I believe on each tier there is
8 between 8-10. I apologize because when I was in there last,
9 I did not count them all. But it's, I believe it's 8-10 per
10 tier. So two tiers.

11 MS. THEMAK: And then Deputy Director Wilson, how
12 many cells are proposed to be added as part of the
13 renovation? What is the total number of cells going to be?

14 MS. WILSON: The number of cells is going to be,
15 I don't want to guess, I believe it is 40. There are 20
16 cells now, and I believe it is going to be 40. Wait a
17 minute. I don't know why that just escaped my head.

18 It is going to be 46 in total.

19 MS. THEMAK: And, so you said, the chief had said
20 8-10 currently and you said there's 20 currently?

21 MS. WILSON: No, no, he said per floor. He said
22 per floor.

23 MS. THEMAK: So about 20 per?

24 MS. WILSON: There's 20 currently, and so it will
25 be a total of 46 cells.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 MS. THEMAK: Cells, okay. And then my last
2 question is for Zoning Administrator Beeton. We know that
3 the large, or the large-scale specifically calls out jails
4 as an example. Is that correct?

5 MS. BEETON: Yes, that's true.

6 MS. THEMAK: And exhibit, I believe it's 30A is
7 the permit issued for 501 New York Avenue. What is the use
8 indicated there on that permit?

9 MS. BEETON: I don't have it in front of me.

10 MS. THEMAK: Can we bring exhibit 30A up onto the
11 screen?

12 BZA CHAIR HILL: Mr. Young, can you find 30A?
13 We're going to look for 30A.

14 MR. YOUNG: You said A?

15 BZA CHAIR HILL: 30, the number 30 and then A.

16 MR. YOUNG: Okay, yes, give me one minute.

17 BZA CHAIR HILL: I'm pretty sure I know what it's
18 going to say, but go ahead and bring it up.

19 MS. THEMAK: So the permit does describe the
20 proposed use as jails.

21 MS. BEETON: It lists as jails, I-3, yes.

22 MS. THEMAK: Okay.

23 BZA CHAIR HILL: What's I-3?

24 MS. BEETON: It's a building code use group.
25 Institutional dash 3.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 BZA CHAIR HILL: Got it, thank you.

2 MS. THEMAK: That's all I have. I believe
3 Commissioner Nigro might have an additional question or two.

4 BZA CHAIR HILL: Okay.

5 MS. NIGRO: Bringing that permit up that I've
6 looked at now forever, they're saying existing use jail. It
7 is not a jail currently. A proposed use jail. We're using
8 the word jail because the government uses the word jail.

9 It is insulting to everyone that they say we can't
10 use that word. I'm using that word because they use that
11 word.

12 But just to go back to Mr. Miller about the money,
13 as I mentioned earlier, I had a conversation with the city
14 administrator --

15 (Simultaneous speaking.)

16 BZA CHAIR HILL: Commissioner Nigro? Commissioner
17 Nigro?

18 MS. NIGRO: Yes.

19 BZA CHAIR HILL: I appreciate it. This is a
20 question and answer part.

21 MS. NIGRO: Okay, sorry.

22 BZA CHAIR HILL: Do you have any questions for
23 anybody? If you want to give a conclusion at the end, you
24 can give a conclusion at the end.

25 MS. NIGRO: I don't have any more questions. No,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 sir.

2 BZA CHAIR HILL: No more questions? Okay, thanks.

3 Okay, so now because I'm going to ask, I'm sorry,
4 I'm going to request some things from people at the end and
5 I'm sure all my fellow board members will also want to
6 request some things.

7 Rebuttal from you, Ms. Themak. Do you have any
8 rebuttal?

9 MS. THEMAK: Yes.

10 BZA CHAIR HILL: Okay, please go ahead.

11 MS. THEMAK: Yes, we've heard from Deputy Director
12 Wilson again about this jail discrepancy; that the jail is
13 not located here.

14 We now clearly know that there isn't a
15 discrepancy. The jail, there's a jail located somewhere else
16 and there will be a jail located here.

17 In DOB's opening statement, they referred to the
18 existing police station which again, if we're going by what's
19 plainly written in the zoning ordinance, is listed as a local
20 government use.

21 He called it a police station.

22 DOB noted that the appellant's testimony is all
23 about the impacts. I don't believe that that's true. I
24 believe that we, our witnesses spoke to what they've seen and
25 experienced as the use. And how they foresee that changing

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 with the proposed change in use.

2 So I would submit that it wasn't about impacts;
3 but it was more about what they've seen currently on that
4 property, which is all we have to go by because we don't have
5 a C of O for the existing use.

6 There's also been, there was a lot of talk about
7 this interior renovation. And I think that that is
8 irrelevant. Whether they are exterior or interior
9 renovations, doesn't matter if the use itself is changing.

10 That is completely irrelevant, and more than
11 doubling the amount of cells I think demonstrates that it's
12 a significant change in use.

13 We make no argument about the need for the
14 renovations to the Daly Building. That's not in question.
15 The nature or purpose of this project is not. It's simply
16 what process needs to be followed in this case, for this
17 property.

18 The fact that it's temporary doesn't matter. If
19 it's a change in use, it's a change in use. How long it's
20 going to be there if even for a month, is irrelevant as well.

21 I think there was some discussion also about
22 whether the capacity of 501 New York Avenue will be greater
23 than the current central cellblock.

24 I think that is an irrelevant issue as well. The
25 real issue here is whether it's significantly greater than

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 the current cellblocks at 501, not at the Daly Building.

2 So I guess I would close by pointing to the issue
3 of building permit, stating that this is now going to be a
4 jail.

5 And I would reiterate our request that this go,
6 just simply follow the special exception process because
7 either it was a change in use, or it was the discontinuance
8 of a non-conforming use in the D-4-R Zone.

9 Thank you.

10 BZA CHAIR HILL: Okay. You kind of gave me a
11 rebuttal and conclusion at the same time, but that's okay.
12 Because I think I'm going to ask for written conclusions
13 anyway.

14 MS. THEMAK: Uh huh.

15 BZA CHAIR HILL: But Mr. Haresign, do you have
16 questions of what possibly was a rebuttal?

17 MR. HARESIGN: Do I have questions of the
18 rebuttal?

19 BZA CHAIR HILL: Yes.

20 MR. HARESIGN: No, but I would like to make a
21 brief conclusion even if you are asking for written
22 conclusions because I think we are --

23 BZA CHAIR HILL: Okay, wait a second.

24 MR. HARESIGN: -- a little off the rails.

25 BZA CHAIR HILL: Give me a second, that's okay.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 Then she's going to get it and then Ms. Themak gets the final
2 word of the conclusions.

3 So okay, go ahead, Mr. Haresign. Go ahead and
4 give us your conclusion and then Ms. Themak, you can finally
5 give a little conclusion as well.

6 Go ahead, Ms. Haresign, Mr. Haresign.

7 MR. HARESIGN: Yes, I think it's really important
8 that we have to refocus where we are looking here. And, I
9 think Member Smith had some very good points in asking about
10 libraries.

11 Just because it's a library doesn't actually
12 define the use. The use isn't defined by the examples or the
13 exceptions.

14 The attempts to say oh, it's a motor vehicle use.
15 Well, that's defined. It's the definition that controls.
16 And here, as you pointed out, the government large-scale use
17 is characterized by regional and wider services.

18 And in order to find a change of use, this board
19 would have to transform the use of this property to
20 government local so that you have to find that it was at some
21 point, providing neighborhood scaled services to meet the
22 community needs of the directly adjacent areas.

23 The testimony here today does not support that.

24 And, Chief Emerman testified as to its uses since
25 the 1970s, none of which are neighborhood-scaled services to

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 meet community needs of the directly adjacent area.

2 The jail/not jail issue is a bit of a red herring.
3 When looking at a permit, it's not the gotcha moment. That's
4 the product of 12(a), DCMR 308.5, an institutional use group.

5 That's defined as, a building or structure
6 inhabited by more than five persons under restraint or
7 security. And that is not a zoning regulation.

8 What the use is, is not what the, what the label
9 applied as for the construction of the building code is.
10 It's the zoning use.

11 And the zoning use has been consistently and will
12 be, large-scale providing regional or wider services.

13 Again, getting down into the specifics of the use
14 of portions or specific sub-uses is not, not the point. One
15 hundred percent the building was devoted to regional or wider
16 services.

17 One hundred percent of the building will be
18 devoted to citywide law enforcement services. There's no
19 intervening time since again the 1970s where it was dedicated
20 to neighborhood services.

21 And, that is the only thing that's really before
22 the board. And based on that, the actual definitions
23 contained in the zoning regulations, the regulations that
24 this board applies, the appeal should be denied.

25 BZA CHAIR HILL: Okay. Ms. Themak, do you have

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 any conclusion conclusions?

2 MS. THEMAK: Yes, real conclusion time is that by
3 DOB's own admission, this was an existing police station.
4 So if we're going to go by the definition in the zoning
5 ordinance, then it's a police station and it's a small-scale
6 use.

7 If the definition has jail listed under large-
8 scale use, then it's a jail now, which is a change in use.
9 And I would go back to conclude by saying that the reason
10 that a change in use I believe requires special exception
11 approval, is because of the impacts that a significant change
12 for the community will have.

13 That's exactly what this is. The change from a
14 police station to a jail is going to have significant impacts
15 that warrant consideration by the community, the ANC, and
16 you. And that is why we're here. That's all.

17 BZA CHAIR HILL: Okay, thank you. Okay, so what
18 -- does anybody need anything from -- well, does anybody need
19 anything from Chief Emerman? I'm looking at my board
20 members.

21 And you -- I'm sorry, Commissioner Miller, you had
22 wanted to know when the last time was that that facility was
23 used housing --

24 ZC VICE CHAIR MILLER: Cell mates.

25 BZA CHAIR HILL: Cell mates.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 ZC VICE CHAIR MILLER: Detainees are in the cells,
2 yes. If, we got verbal answers, but if they can provide that
3 in writing, that would be helpful.

4 BZA CHAIR HILL: Okay. Anybody else?

5 Okay, Chief Emerman, please, you're excused.

6 CHIEF EMERMAN: Thank you all, you have a great
7 night, everybody.

8 BZA CHAIR HILL: Thank you. Okay. All right, so
9 -- oh, Mr. Haresign, I don't know who to get this from, but
10 I'm going to ask you, I guess. And by that I mean, asking
11 the Zoning Administrator -- and we might come back for a
12 continued hearing, I don't know what might happen -- but I'd
13 like to know from the Zoning Administrator what is a local
14 use? Like, can you show me something, like, is there a --
15 like, what's local versus large, right? Meaning like, can
16 you point to something and say this police station is local?
17 Or are all police stations large, like, there's no such thing
18 as a local police station?

19 So that's what I'm first trying to understand,
20 like, if you could just give me some examples of local police
21 stations versus large police stations, then I can at least
22 compare something. Then, the next thing, and I don't know
23 who knows this, is that, do you know why in the 2016 regs
24 this even was developed? You don't have to answer, because
25 I'm just saying, like, if you could write -- if you could

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 give me some information as to why this even came about,
2 right? Because before, in ZR-whatever it was, right, there
3 was, this didn't exist, so if you can tell me what existed
4 and why now do we have it, okay? That would be something
5 that I would find helpful.

6 Okay, that's all I got. Okay, what about my
7 fellow board members?

8 MEMBER SMITH: I think I have another question for
9 the Zoning Administrator, based on --

10 (Simultaneous speaking.)

11 BZA CHAIR HILL: Go ahead, Mr. Smith.

12 MEMBER SMITH: Based on the question that you had.
13 Would a District Precinct Station, let's say the Fifth
14 District Precinct Station which has a defined neighborhood
15 that it serves, would that be considered a local government?

16 MS. BEETON: Thank you, Mr. Smith. I kind of wish
17 Assistant Chief Emerman was here because I took down some
18 notes about where he said local services were provided 1620
19 V Street Northwest and 101 M Street Southwest, but I don't,
20 I'm not intimately familiar with what those services are.
21 So that might be part of the request that we give back to you
22 and Chairman Hill, about what distinguishes between local
23 services and large scale, or non-local services.

24 MEMBER SMITH: Okay, that works for me. Thank
25 you.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 MS. BEETON: Thank you.

2 BZA CHAIR HILL: I was trying to let the Chief go
3 so he could go fight crime. Okay, so, all right, let's see.
4 Who else has something they want from somebody?

5 Okay, so it's just me and Commissioner Miller, and
6 then -- let's see. So I'm looking at my board members now,
7 are we going to come back for a decision or do you all need
8 a continued hearing?

9 Did Mr. Blake raise his hand?

10 MEMBER BLAKE: Just one thing I wanted -- I'd just
11 like the, to get a clearer understanding of the comments that
12 Mr. Haresign made with regard to the differentiation between
13 the I-3 classification, I believe he said it's a building
14 code classification, versus zoning classification? I do
15 understand how it would -- well, I just want to make a clear,
16 very concise understanding of that relation, what those two
17 things are and what the difference would be.

18 MR. HARESIGN: Yeah, well, they are contained in
19 different sections and they --

20 MEMBER BLAKE: And just, I want it written, I
21 don't --

22 MR. HARESIGN: You want it in writing? Sorry,
23 okay.

24 BZA CHAIR HILL: Okay, great. So somebody else
25 had a question, I mean, somebody else wanted something.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 Okay, is that it?

2 Okay, so I would think it's going to take Mr.
3 Haresign a little bit to come up with this stuff. But, Mr.
4 Haresign, when do you think you might be able to gain, or
5 give us this information?

6 MR. HARESIGN: This information that, I guess,
7 would be backing up the testimony from Chief Emerman in large
8 part --

9 BZA CHAIR HILL: No, the things that I just asked
10 for, and what Mr. Blake just asked for.

11 MR. HARESIGN: So local police station examples,
12 which Chief Emerman testified to, was the District Stations
13 and substations. So we could provide those promptly.

14 BZA CHAIR HILL: What I was asking for was, what's
15 the, what's examples of large scale versus local government?

16 MR. HARESIGN: Okay, yeah.

17 BZA CHAIR HILL: And I said, if you can give me
18 the police station -- I'm just trying to find an answer. I
19 mean, I can come back, if I don't understand I'll just come
20 back. And I'll be like, there's obviously two categories,
21 I don't know what goes into each category anymore, right?
22 And I'm being asked to decide, and so I want to know what are
23 the two categories?

24 MR. HARESIGN: Yeah. Without going as far as
25 giving you an inventory of every District of Columbia-owned

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 property in the city, I would provide ample examples in
2 coordination with the Zoning Administrator, yes.

3 BZA CHAIR HILL: Okay, great. The Zoning
4 Administrator seems to see what I'm asking for --

5 (Simultaneous speaking.)

6 MR. HARESIGN: If you can believe, that is a
7 larger ask than what I --

8 BZA CHAIR HILL: She's smiling, so I think she
9 understands the question.

10 MR. HARESIGN: Yeah.

11 BZA CHAIR HILL: All right.

12 MS. BEETON: I wrote down the notes, I have the
13 notes of what you want.

14 BZA CHAIR HILL: How long will it take, Mr.
15 Harrison, do you think?

16 MR. HARESIGN: Well, since Ms. -- since Zoning
17 Administrator Beeton is a far busier person, far more
18 important person than I, and we're going to have to work
19 together on this, what would you propose, Zoning
20 Administrator Beeton?

21 MS. BEETON: Thank you. I would like to confer
22 with the Office of Planning because they are responsible for
23 writing the zoning regulations, and they will probably be
24 able to answer Chairman Hill's original question about why
25 do we have these categories and what were they intended to

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 do. So I'd like to be able to liaise with them a little bit
2 in terms of giving you that information back, is a month too
3 long to ask? I mean, is that unreasonable?

4 (Simultaneous speaking.)

5 BZA CHAIR HILL: They can't -- you guys can't do
6 anything until this is done anyway, so I don't think, you
7 know, it's more just holding up, you know, whatever may or
8 may not happen at that facility. So a month puts you at the
9 10 of April.

10 MS. BEETON: Okay.

11 BZA CHAIR HILL: Okay, and are you saying that you
12 would give the information by the 10 of April?

13 MS. BEETON: I'm asking if that's okay with you,
14 or if you prefer sooner?

15 BZA CHAIR HILL: Oh, I'm not here the 17 through
16 the 24, so that's going to kick you back even farther now --

17 MS. BEETON: Okay --

18 BZA CHAIR HILL: In terms of a decision. And so
19 you could give your information, you're welcome to, the 10
20 of April. That means that parties would have time to respond
21 which would be, I guess, we'd give them two weeks, because,
22 you know. And then, that would be fine. So then we'd be
23 back here on the first of May, and that works for me, if that
24 works for my fellow board members and Mr. Moy. And I'm
25 looking at my fellow board members, we're just doing a

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 decision, correct?

2 BZA VICE CHAIR JOHN: Yes.

3 BZA CHAIR HILL: Okay. I love Vice Chair John,
4 she tell me what it is. Okay, and so -- okay. So great, so
5 then you have until the 10 of April to give us your
6 information DOB, and then the ANC, or I'm sorry, the
7 appellant will have an opportunity to respond by the 24 of
8 April, that's two weeks, and then we'll be back here for a
9 decision on May 1, okay?

10 Okay, Ms. Themak?

11 MS. THEMAK: Do you also want written closings or
12 are we skipping that?

13 BZA CHAIR HILL: I don't mind written closings,
14 do the Board? I wouldn't mind having a written closing, is
15 the Board fine with that?

16 MS. THEMAK: It's fine either way with me, if
17 we're -- if we get a chance to respond, that's enough too.
18 So if you don't want more to read, I understand.

19 BZA CHAIR HILL: Okay, then I don't need a
20 closing, it's just going to be rehashing what you said. But,
21 so we don't need written closings.

22 MS. THEMAK: Okay.

23 BZA CHAIR HILL: So -- and that probably just
24 saved my ANC some money. So we got -- okay, right, so we'll
25 get whatever we get back from DOB on the 10, okay, Mr. Moy?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 MR. MOY: All right, from what I have, Mr.
2 Chairman, is submissions from DOB by April 10, submission
3 from the Appellant by April 24 -- are you allowing the ANC
4 the opportunity to reply or respond or submit?

5 BZA CHAIR HILL: Yeah, well, that's what I mean,
6 the -- what I thought I was saying was that -- and you can
7 tell me if I'm not doing this right -- is again, the 10 we
8 will get submissions from DOB, then -- or now that I think
9 about it, then does DOB get the respond, I don't know. So
10 then the 10 we'll get submissions from DOB, then -- oh,
11 actually, now that I think about it, I don't know, do they
12 --- you'll have to help me, Mr. Moy, right, does the
13 Appellant get to respond to the submissions? No, right?

14 MR. MOY: That's up to the Board.

15 BZA CHAIR HILL: Well, no, I'm just saying, we're
16 just asking for further information.

17 MR. MOY: That's right, and you could leave it at
18 that or you can have a final submission for everyone to
19 respond to anyone, but I would defer that to OZLD.

20 BZA CHAIR HILL: Vice Chair John, do you have any
21 opinion?

22 BZA VICE CHAIR JOHN: Well, it's such a full
23 record, for me a summary of the closing arguments would be
24 great, because it's late, you know. It shouldn't be anything
25 elaborate, the only issue is what's large scale, what's not

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 large scale, local.

2 BZA CHAIR HILL: Sorry, Ms. John, we're not next
3 to each other anymore so I can't just ask you, so the -- do
4 we put -- we wait for -- we get submissions by April 10, and
5 then do we get conclusion by April 10 or we wait -- we give
6 -- or we give the Appellant two weeks to respond to the
7 submissions?

8 BZA VICE CHAIR JOHN: Okay, I am not OZLD and I'm
9 saying, personally, I would be fine, I don't need a lot of
10 responses, I just need for them to tell me what their closing
11 argument is. Since we're all tired, it's 7:00 o'clock, and
12 so essentially, what is the closing argument? Based on
13 everything that's happened today, what is it you want the
14 Board to consider? And that would be fine for me, I don't
15 know what the other Board members need.

16 BZA CHAIR HILL: OZLD, you're getting asked now,
17 is the appellant supposed to have -- because we're just
18 asking for further information, right, the Board is -- and
19 so my question to OZLD is, is the appellant supposed to
20 respond to the further information?

21 MS. NAGELHOUT: Yes, the usual rule is parties get
22 to respond to post-hearing submissions.

23 BZA CHAIR HILL: Fine. So then you guys submit
24 what you want to submit by the 10, meaning DOB, to answer our
25 questions, right, that information. And then the Appellant

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 will have until the 24 to give their comments on your
2 submissions. And I guess then, also, if you want to give us
3 a conclusion at that point, also on the 24, and then DOB can
4 also give us their conclusion on the 24.

5 MS. THEMAK: Okay.

6 BZA CHAIR HILL: Okay, does anybody have any
7 questions?

8 Okay. All right, well, this has been fun. Okay,
9 y'all -- oh, sorry, Commissioner, yep, Nigro?

10 MS. NIGRO: How are you? I'm back. So I just
11 want to make one more statement, if you don't mind, because
12 this has sucked my life away for one year almost --

13 BZA CHAIR HILL: Commissioner Nigro, I have to --

14 MS. NIGRO: Can I make a statement?

15 BZA CHAIR HILL: No, Commissioner Nigro, I got to
16 tell you, you can't make any statements.

17 MS. NIGRO: Okay.

18 BZA CHAIR HILL: If you make statements, then I
19 got to go back around the circle again and everybody gets to
20 ask anything that's going on with your statement.

21 (Simultaneous speaking.)

22 MS. NIGRO: All right, okay.

23 BZA CHAIR HILL: You can go ahead and talk to Ms.
24 Themak, and whatever you want to put in the conclusion, put
25 it in there.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

1 MS. NIGRO: All right, sounds good. I'm ready,
2 I've been doing it for a year, I'm good, not tired yet.

3 BZA CHAIR HILL: I got you. All right. Okay.
4 All right, I'm going to close the hearing and the record,
5 thank you all very much.

6 PARTICIPANT: Thank you.

7 BZA CHAIR HILL: Well, I'm sorry, I'm going to
8 close the hearing but leave the record open for everything
9 we just talked about. Thank you.

10 MS. NIGRO: Thank you, everyone, we appreciate it.

11 MS. NAGELHOUT: Thank you.

12 BZA CHAIR HILL: Good night. Thank you, Deputy
13 Director. Bye. Okay, Mr. Moy, is there anything before the
14 Board?

15 MR. MOY: No, I think I, we have everything we've
16 got.

17 BZA CHAIR HILL: Okay. All right, y'all have a
18 good day, evening. Thank you, bye-bye.

19 (Whereupon, the above-entitled matter went off the
20 record at 6:58 p.m.)

21

22

23

24

25

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14TH ST., NW, STE. 200
WASHINGTON, D.C. 20009-4309

C E R T I F I C A T E

This is to certify that the foregoing transcript


In the matter of: Public Hearing

Before: DC BZA

Date: 03-13-24

Place: teleconference

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



Court Reporter

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1716 14TH ST., N.W., STE. 200

WASHINGTON, D.C. 20009-7831

(202) 234-4433

www.nealrgross.com