

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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REGULAR PUBLIC HEARING

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WEDNESDAY,

MARCH 27, 2024

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The Regular Public Hearing of the District of Columbia Board of Zoning Adjustment convened via Video Teleconference, pursuant to notice at 9:51 a.m. EDT, Frederick L. Hill, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

FREDERICK L. HILL, Chairperson
CHRISHAUN S. SMITH, NCPC Designee

ZONING COMMISSION MEMBER PRESENT:

TAMMY STIDHAM, NPS Designee

OFFICE OF ZONING STAFF PRESENT:

KEARA MEHLERT,, Secretary
PAUL YOUNG, A/V Production Specialist

OFFICE OF PLANNING STAFF PRESENT:

RON BARRON
MICHAEL JURKOVIC
CRYSTAL MYERS
SHEPARD BEAMON

OFFICE OF ZONING ATTORNEY ADVISORS PRESENT:

SARAH BAJAJ, ESQ.

COMETRIA COOPER, ESQ.

CARISSA DEMARE, ESQ.

The transcript constitutes the minutes from the
Regular Public Hearing held on March 27, 2024.

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

(9:51 a.m.)

CHAIRPERSON HILL: All right, then we can go ahead and go with our first hearing case, Ms. Mehlert.

MS. MEHLERT: Okay. The board has now entered the public hearing session. The first case on the agenda is Application No. 21071 of David and Amy Copeland. This is a self-certified application pursuant to Subtitle X901.2 for special exceptions under Subtitle D5201.1 from the rear yard requirements of Subtitle E2A7.1 and the lot occupancy requirements of Subtitle E210.1.

The project is to construct a two-story rear porch and deck addition to an existing two-story attached principal dwelling in the RF-1 zone. And this is located at 1432 F Street Northeast, Square 1051, lot 140.

CHAIRPERSON HILL: Thank you. If the applicant could hear me, if they could please introduce themselves for the record.

MS. FOWLER: I'm Jennifer Fowler with Fowler architects and I'm representing the homeowners.

CHAIRPERSON HILL: Good morning, Ms. Fowler. If you would go ahead and walk us through your client's application and why you believe we should grant the request. I'm going to put 15 minutes on the clock so I know where we are and you can begin whenever you like.

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1 MS. FOWLER: Okay. Thank you, everyone. So this
2 is a project proposing to remove an existing two-story deck.
3 The clients approached me about refurbishing it, rebuilding
4 it because it's not structurally sound. And when we started
5 looking into logistics kind of did some research and found
6 that it was not permitted by the previous owners who had
7 built it, and on top of that it was built at 73% occupancy,
8 73.3. So we were directed by DoB to go ahead and get zoning
9 relief to be able to rebuild it and permit it. So we are
10 proposing to remove the existing structure and reconstruct
11 it in a slightly different footprint at the 70% mark. We are
12 going to still be encroaching in the rear yard. The current
13 rear yard is 4.7 ft. and the proposed is going to be 14.42
14 ft. So that's the rear yard request that we're asking for
15 as well. Basically just changing the shape of the porch,
16 because it is getting smaller, to give it a more workable
17 size. So now we have about an 8 x 8 1/2 ft. porch with a
18 deck on top with screens and a new landing going to the yard.

19 Very minimal changes, no change to the impact of
20 the neighbors. And we do have letters of support from both
21 adjacent neighbors as well as the house that's immediately
22 behind that are really the only houses that would be impacted
23 by this project. We also have support from the ANC on this
24 project. So with that, I will leave it open for questions.

25 CHAIRPERSON HILL: Thank you, Ms. Fowler. Before

1 I turn to my board, if I could hear from the Office of
2 Planning.

3 MS. MYERS: Good morning. Crystal Myers with the
4 Office of Planning. The Office of Planning is recommending
5 approval in this case and can stand on the record of the
6 staff report but of course are here for questions. Thank
7 you.

8 CHAIRPERSON HILL: Thank you. Does the board have
9 any questions for the applicant or the Office of Planning?
10 All right, Mr. Young, is there anyone here wishing to speak?

11 MR. YOUNG: We do not.

12 CHAIRPERSON HILL: Okay, great. Thank you. All
13 right, Ms. Fowler, do you have anything you'd like to add at
14 the end?

15 MS. MEHLERT: Thank you to Ms. Myers for her
16 assistance on the project.

17 CHAIRPERSON HILL: Great. Thank you, Ms. Fowler.
18 All right, I'm going to close the hearing of the record. Mr.
19 Young, if you can please excuse everyone. Okay. I thought
20 again, this was relatively straightforward. I didn't have
21 any concerns about the light or air, or the privacy and
22 enjoyment of neighboring properties. I didn't think that it
23 was going to be visible from the street and only minorly
24 visible from the neighbors' backyards. I am speaking also
25 to the Office of Zoning's report. I do see that they again

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1 are in favor. And then also I do appreciate the input that
2 we received from the ANC. I believe that this is something
3 that I can say is ready for our approval, and I will be
4 voting to approve. Mr. Smith, do you have anything like to
5 add?

6 MEMBER SMITH: Mutual assessment, Chairman Hill.
7 I didn't think that the proposed deck structure would have
8 any undue impulse on light and air. Granted that this is
9 slightly smaller footprint than what it currently exists now,
10 I think we would not have an impact on privacy use and
11 enjoyment of neighboring properties. And we also have
12 evidence support from the neighboring properties that seem
13 to indicate that they don't have any major concerns with this
14 proposed structure.

15 And also I do not believe it would visually
16 intrude upon the character of the alley or the neighborhood
17 because of this particular type of decking system seems to
18 be fairly common within the neighborhood based on the images
19 provided within the record. So with that, I also agree with
20 your assessment and the assessment of the Office of Planning
21 and will support the application.

22 CHAIRPERSON HILL: Thank you. Commissioner
23 Stidham?

24 MEMBER STIDHAM: I don't have anything to add.
25 I agree with the assessments already made and am prepared to

1 support.

2 CHAIRPERSON HILL: Thank you. I'm going to go
3 ahead and make a motion to approve Application No. 21071 as
4 captioned read by the secretary and ask for a second. Mr.
5 Smith?

6 MEMBER SMITH: Second.

7 CHAIRPERSON HILL: Motion made and seconded. Ms.
8 Mehlert, if you can take a roll call.

9 MS. MEHLERT: When I call your name, please
10 respond to the chair's motion to approve the application.
11 Zoning Commissioner Stidham?

12 MEMBER STIDHAM: Yes.

13 MS. MEHLERT: Mr. Smith?

14 MEMBER SMITH: Yes.

15 MS. MEHLERT: Chairman Hill?

16 CHAIRPERSON HILL: Yes.

17 MS. MEHLERT: Staff will report the vote as three
18 to zero to two to approve application 21071 on the motion
19 made by Chairman Hill and seconded by Mr. Smith, with two
20 board members not present or participating.

21 CHAIRPERSON HILL: All right. Ms. Mehlert, you
22 may call our next when you get a chance.

23 MS. MEHLERT: Next application is Application No.
24 21079 of Braulio Agnese and Shelley Vilov. This is an
25 application pursuant to Subtitle X901.2 for a special

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1 exception under Subtitle E5201.1 from the law occupancy
2 requirements of Subtitle E210.1. This is to construct a rear
3 deck addition to an existing attached principal dwelling in
4 the RF-1 zone. This is located at 3925 13th Street
5 Northwest, Square 2907, lot 60.

6 CHAIRPERSON HILL: Thank you. If the applicant
7 is here, if they could please introduce themselves for the
8 record. Can the applicant hear me? Yes, now we can.

9 MR. AGNESE: Okay, sorry. Braulio Agnese, owner
10 of 3925 13th Street Northwest.

11 CHAIRPERSON HILL: Okay, great. Mr. --

12 MR. AGNESE: Agnese.

13 CHAIRPERSON HILL: Agnese, thank you. Mr. Agnese,
14 if you could please tell us about your project and why you
15 believe you're meeting the criteria for us to grant the
16 relief. And I'll put 15 minutes on the clock so I know where
17 we are and you can begin whenever you like.

18 MR. AGNESE: Thank you. My wife and I purchased
19 our house in 2012. It had been a gut job, complete flip,
20 including a new rear deck. This is in a stretch of row
21 houses where all of them, the backyard is at the basement
22 level, not at the front door, ground level, street level.
23 And so they all have had landings and stairs and/or decks
24 since they were first built.

25 A few years ago, we decided we wanted to replace

1 the deck because it was falling apart, and we took it down
2 because we were also doing some siding work. But when we
3 applied to do a repair and replace, we found out that the
4 flippers had not permitted the deck and thus, as far as the
5 city was concerned, we had no -- there was no deck, existing
6 deck.

7 In the meantime, since we purchased the house in
8 2012, RF-1 zoning changed to only 60% maximum lot coverage.
9 Our property has a decades-old garage on it, and with the
10 house and the garage without a deck and without stairs, we
11 are already over 60%. Thus, we need to have this action to
12 be able to have a deck.

13 And the deck is needed for many reasons. One is
14 for safety and egress, because currently the only way to exit
15 out the back of the house is through the basement door.
16 Also, for property values and enjoyment of the property. We
17 need a stair and at least a little landing to be able to more
18 directly access the backyard and the garage. We do not
19 believe this project will adversely impact our neighbors in
20 any way, shape or form. In fact, we have the support of our
21 immediate neighbors for it, and that's pretty much it.

22 CHAIRPERSON HILL: Okay, could you explain to me
23 what happened at the ANC meeting?

24 MR. AGNESE: There should be, I don't know how it
25 works.

1 CHAIRPERSON HILL: I see an email that shows that
2 they voted in support.

3 MR. AGNESE: Yes.

4 CHAIRPERSON HILL: We don't actually have the
5 report that we could give it great weight. However, it is
6 your testimony, if you're about to make it, that you did
7 testify at the ANC and they voted to approve. So you could
8 just tell me a little bit about that.

9 MR. AGNESE: So I first reached out to Dr. Antoine
10 Kirby, who is the single member district commissioner, and
11 he was in support of this effort. And then scheduled a
12 meeting with ANC4C, which I described the situation I just
13 described right now. And unanimously, they voted to support
14 this request. And I believe Dr. Kirby is in the meeting.

15 CHAIRPERSON HILL: Oh, that's interesting. Mr.
16 Young, if you want to allow Dr. Kirby in. Commissioner, can
17 you hear me?

18 MR. KIRBY: Yes, I can. Can you hear me?

19 CHAIRPERSON HILL: Yes. Since you took the time
20 to join us, you want to introduce yourself for the record?

21 MR. KIRBY: All right. Greetings all. My name
22 is Commissioner Kirby. I serve as the commissioner for
23 Single Member District 4C02.

24 CHAIRPERSON HILL: Okay, great. Do you want to
25 give us your testimony?

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1 MR. KIRBY: Okay. So we did outreach months prior
2 to actually coming to the meeting. As a matter of fact, we
3 began speaking back on 11/21/2003 as they were planning for
4 the deck. They did come to the last month's meeting. The
5 onus of not having to actually report in is completely on me.
6 We did have a vote. That vote was six to zero. There was
7 one commissioner that was absent. But he did present at the
8 February meeting, and there was no opposition. And we did
9 vote to support the applicant in this measure.

10 CHAIRPERSON HILL: Okay, great. Thank you,
11 commissioner. Thank you for taking the time for being with
12 us today. I'm going to turn to the Office of Planning first,
13 if I could, before I reach out to my fellow board members.

14 MR. BARON: Good morning, commissioner. My name
15 is Ron Baron, development review specialist for the DC Office
16 of Planning. The Office of Planning recommends approval of
17 the relief requested in the application. OP is content to
18 rest on our report and the record, and I'm available to
19 answer any questions you may have.

20 CHAIRPERSON HILL: Thank you. Does anyone have
21 any questions for the Office of Planning? All right. Mr.
22 Young, is there anyone here wishing to speak?

23 MR. YOUNG: We do not.

24 CHAIRPERSON HILL: All right. Mr. Agnese. I'm
25 sorry if I just didn't pronounce that.

1 MR. AGNESE: That's okay.

2 CHAIRPERSON HILL: Do you have anything you'd like
3 to add at the end?

4 MR. AGNESE: No, we believe this is pretty
5 straightforward and just a simple, you know, there's nothing
6 complex about this. And all of these properties have decks
7 and there's no -- it was suggested to us, actually, by the
8 city that we could tear down our deck, our garage, if we
9 wanted to build a deck. But we didn't feel like that was
10 positive on our property values. Thus, we want to go through
11 this BZA action.

12 CHAIRPERSON HILL: Okay, great. Thank you. All
13 right, I'm going to go ahead and close the hearing and the
14 record. Alright, great. Thank you. Okay. I mean, it's a
15 small deck. It's a 4% increase in the lot occupancy. I did
16 not think that there was any issues or concerns that I had
17 with any of the criteria within the regulations. And I do
18 appreciate that the analysis the Office of Planning has
19 provided is in support as well as that of ANC4C. And I'm
20 going to be voting in approval of this application. Mr.
21 Smith, do you have anything you'd like to add?

22 MEMBER SMITH: This particular case seems to me
23 to be very straightforward for the exact same reasons that
24 you highlighted. And I will rest on the record with OP staff
25 report and the support of the application.

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1 CHAIRPERSON HILL: Thank you, Commissioner
2 Stidham?

3 MEMBER STIDHAM: I agree. I'm in support also.

4 CHAIRPERSON HILL: Thank you. All right, I'm
5 going to make a motion to approve Application No. 21079 as
6 captioned and read by the secretary and ask for a second. Mr.
7 Smith?

8 MEMBER SMITH: Second.

9 CHAIRPERSON HILL: The motion is made and
10 seconded. Ms. Mehlert, if you could take a roll call,
11 please.

12 MS. MEHLERT: Yes. Please respond to the chair's
13 motion to approve the application. Zoning commissioner
14 Stidham.

15 MEMBER STIDHAM: Yes.

16 MS. MEHLERT: Mr. Smith?

17 MEMBER SMITH: Yes.

18 MS. MEHLERT: Chairman Hill?

19 CHAIRPERSON HILL: Yes.

20 MS. MEHLERT: Staff would record the vote as three
21 to zero to two to approve Application 21079 on the motion
22 made by Chairman Hill and second by Mr. Smith, with two board
23 members not present or participating.

24 CHAIRPERSON HILL: All right, great. We may call
25 our next one.

1 MS. MEHLERT: This is Application No. 21085 of
2 Marcus Watkins. This is a self-certified application
3 pursuant to Subtitle X1002 for area variances from the lot
4 dimension requirements of Subtitle E202.1 to allow two new
5 record lots. This is to subdivide three record lots into two
6 lots to allow a new three-story attached building on each new
7 lot. This is located in the RF-1 zone at 257 Warren Street
8 Northeast, Square 1033, lots 135, 136 and 137.

9 CHAIRPERSON HILL: Okay, great. If the applicant
10 could hear me, if they could please introduce themselves for
11 the record. You're on mute, I believe. Mr. Heisey, we can't
12 hear you. Yes.

13 MR. HEISEY: Oh, okay. Thank you.

14 CHAIRPERSON HILL: If you could please introduce
15 yourself for the record.

16 MR. HEISEY: Joel Heisey. I'm the agent for Mr.
17 Watkins for the property at 257 Warren Street Northeast. Mr.
18 Watkins is currently on an airplane over the Atlantic. He
19 was logged in, but got logged off. So he just gave me a
20 thumbs up by text. I'm not sure if he got logged in again
21 or not.

22 CHAIRPERSON HILL: That's okay. That's okay.

23 MR. HEISEY: He is aware.

24 CHAIRPERSON HILL: Okay, Mr. Heisey. Let's see
25 if you want to go ahead and walk us through your client's

1 application and why you believe they're meeting the criteria
2 for us to grant the relief requested. Obviously, you're also
3 asking for variances. So if you can kind of walk us through
4 your thoughts with that. And we're going to put 15 minutes
5 on the clock and you can begin whenever you like.

6 MR. HEISEY: Sure. Thank you. These are
7 currently three very small lots on a minor street over in
8 Capitol Hill area. They are each about 11 ft. wide, which
9 really makes them very difficult to build on with building
10 code regulations and those kind of things. And we are
11 proposing that they divide into two lots, which would still
12 be nonconforming, but they are about almost 14 ft. wide,
13 which is consistent with other lots on the block, especially
14 the ones immediately next door, which are about 13 sq. ft.
15 So we believe the development would remain consistent with
16 the scale of the block that is there.

17 This application has come before the board twice
18 before, in September of 1989 and December of 2014. And both
19 times it was approved. The last time the owner ran into some
20 difficulties with the development team. One of the members
21 died and everything kind of fell apart. He's a foreign
22 service officer working overseas, so it was very difficult
23 for him to continue pursuing it. Now he's at the point he
24 does like to pursue the development of these two lots. And
25 he's proposing that each lot has a two-unit flat that will

1 be built in accordance with all the relative zoning
2 regulations.

3 We have sent out notices to the neighbors. We met
4 with the ANC's Planning Committee. They reviewed it and
5 recommended approval. It went to the full ANC and they
6 recommended unanimously approval as well and their letter is
7 also in the record.

8 The only thing I would note, I know you guys
9 review all these applications fairly well, in the
10 architectural plans, the renderings are from the previous
11 submission, where it has the third floor set back. The owner
12 and architects have decided that we would pull that to the
13 front face of the building, which would make it look more
14 like an originally built building rather than a building that
15 had a pop-up added to it. But otherwise, the architectural
16 plans submitted are accurate as to what the proposal for
17 building it is there.

18 CHAIRPERSON HILL: Mr. Heisey, where are the
19 actual architectural plans?

20 MR. HEISEY: There's an exhibit listed
21 architectural plans.

22 CHAIRPERSON HILL: Are you saying, are those
23 different or those the ones that you're --

24 MR. HEISEY: The plans themselves are the actual
25 plans. The renderings are different, though, is that it

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1 shows the third floor set back from the front facade. The
2 newest plans that will be used have pulled that to the front,
3 the third floor, even with the front facade of the other two
4 floors.

5 CHAIRPERSON HILL: I understand. And is that the
6 ones that are in exhibit --?

7 MR. HEISEY: Oh, I don't have the exhibit numbers.
8 It's labeled architectural plans.

9 CHAIRPERSON HILL: Well, you understand that we
10 can't approve anything that doesn't have the correct plans
11 in the exhibit in the record.

12 MR. HEISEY: Well, the plans aren't really
13 relevant to what is being asked for the lot subdivision.
14 Those are, I believe, they were more for informational. The
15 lot subdivision is separated from the actual plans, I
16 believe.

17 CHAIRPERSON HILL: I understand, but we still need
18 the actual plans that are going to be built there.

19 MR. HEISEY: Well, the plans themselves are the
20 actual plans. It's just the renderings are from a previous
21 reiteration of the plan.

22 CHAIRPERSON HILL: Okay, I think I understand what
23 you're saying. It's on exhibit --

24 MR. HEISEY: Let's see if I can --

25 CHAIRPERSON HILL: It's Exhibit five. And then

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1 sheet five seems to be what has the correct plans in it.
2 I'll ask the Office of Planning also.

3 MR. HEISEY: Yeah, there's the sheets. There's
4 the cover sheet, then sheet C-100, which shows the existing
5 lot configuration and the proposed lot configuration. Then
6 there's A-101 which has the cellar and first floor. A-102
7 that has the second, third, and roof plans. And then there's
8 elevations on A-300, which are accurate. And then the
9 renderings that follow are the ones that are not consistent
10 with those plans. But the plans themselves are accurate.
11 The renderings were just to kind of give a visual.

12 CHAIRPERSON HILL: I understand. I understand.
13 Okay, let's see. Does the board have questions of Mr.
14 Heisey? All right, while Mr. Smith thinks about it, I'm
15 going to turn to the Office of Planning.

16 MR. JURKOVIC: Good morning, chairman and members
17 of the board. This is Mike Jurkovic, development review
18 specialist with the Office of Planning. OP recommends
19 approval of the requested area variance relief for lot width
20 and lot area and stands on the record of our report. I'm
21 here to answer any questions. Thank you.

22 CHAIRPERSON HILL: Okay, does anybody have any
23 questions for the Office of Planning?

24 Okay. The only question I have for the Office of
25 Planning. Do you understand the exhibit that I'm speaking

1 to, which is the plans that are in Exhibit five? Those are
2 the architectural plans that are the ones that you analyzed
3 and are comfortable with, correct?

4 MR. JURKOVIC: Correct.

5 CHAIRPERSON HILL: Okay. All right, let's see.
6 Mr. Young, is everyone here wish to speak? Okay. Mr.
7 Heisey, you have anything you'd like at the end?

8 MR. HEISEY: No. The board has approved this
9 twice before. I would hope they would also consider this a
10 good thing for the neighborhood that will allow this vacant
11 lot to be developed in a reasonable manner and look forward
12 to your approval. Thank you.

13 CHAIRPERSON HILL: Thank you. Mr. Heisey, I
14 guess, Mr. Heisey, just so you know, regardless of whether
15 or not whatever the relief that is being requested, the board
16 needs whatever plans we're supposed to be approving to be the
17 plans that get approved. So I'm just for the future, I
18 appreciate that it's in the exhibit, but it's easier for us
19 to find or take a look at if you say, Exhibit X or Exhibit
20 Y, just because I know you come here every now and again.

21 MR. HEISEY: Yes, yes, that's fine. I was having
22 a little computer problem, and it decided to shut down like
23 two minutes before I came up here. Sorry about that.

24 CHAIRPERSON HILL: No problem. All right, I'm
25 going to go ahead and close the hearing and the record. Mr.

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1 Young, if you could please excuse everyone.

2 Okay. I again thought this was relatively
3 straightforward insofar as there are three small lots that
4 they're trying to turn into two, while again being
5 nonconforming, more in line with the other lots that are
6 adjacent to this particular property. I would agree with the
7 extraordinary exceptional condition being the size of those
8 lots. I don't think that there is any substantial detriment
9 to the public good. And I think that this still is of no
10 substantial impairment to the intent, purpose, and integrity
11 of the zoning regulations.

12 I appreciate that Chris was in support, Capital
13 Restoration Society, and then we also did get the support of
14 the ANC and I appreciate the time the ANC takes to hear these
15 cases. I'm going to be voting in favor of this application.
16 Mr. Smith, do you have anything you'd like to add?

17 MEMBER SMITH: Chairman Hill, I agree with the
18 assessment of this particular case and how they meet the
19 standards for relief to build what I think is more in
20 character with what currently exists there now. So I will
21 support the application as well.

22 CHAIRPERSON HILL: Okay, great. Commissioner
23 Stidham?

24 MEMBER STIDHAM: I don't have anything to add.
25 I agree with both of you and your assessment and prepared to

1 support.

2 CHAIRPERSON HILL: Thank you. All right, I'm
3 going to make a motion then to approve Application No. 21085
4 as captioned, read by the secretary and ask for a second.
5 Mr. Smith?

6 MEMBER SMITH: Second.

7 CHAIRPERSON HILL: Motion is made and seconded.
8 Madam Secretary, will you take a roll call, please.

9 MS. MEHLERT: Under the chair's motion to approve
10 the application, Zoning Commissioner Stidham?

11 MEMBER STIDHAM: Yes.

12 MS. MEHLERT: Mr. Smith?

13 MEMBER SMITH: Yes.

14 MS. MEHLERT: Chairman Hill?

15 CHAIRPERSON HILL: Yes.

16 MS. MEHLERT: Staff records vote is three to zero
17 to two to approve Application 21085 on the motion made by
18 Chairman Hill and seconded by Mr. Smith, with two board
19 members not present or participating.

20 CHAIRPERSON HILL: Okay, thank you. So to my
21 board, the next case, there is not only the case itself, but
22 party status request that we are going to have to look at and
23 take a look at. And there are quite a few, I guess,
24 witnesses and some interpreters that we need for that. So
25 if we can go ahead and take a break and let the Office of

1 Zoning get organized for that. Madam Secretary, is 15
2 minutes okay? Twenty minutes?

3 MS. MEHLERT: That should be fine.

4 CHAIRPERSON HILL: All right. Let's try to come
5 back in 15 minutes. Thank you.

6 (Whereupon, the above-entitled matter went off the
7 record at 10:18 a.m. and resumed at 10:38 a.m.)

8 CHAIRPERSON HILL: Okay, Ms. Mehlert, if you can
9 go ahead and call our next case and also, yeah, that'd be
10 great.

11 MS. MEHLERT: So after the board's short break,
12 the next case is Application No. 20974 of RBP H Street
13 Northwest, LLC. This is a self-certified application
14 pursuant to Subtitle X901.2 for a special exception under
15 Subtitle C, Section 909.2 from the loading requirements of
16 Subtitle C, Section 901.1 and pursuant to Subtitle X1002 for
17 area variances from the Chinatown sub-area requirements of
18 Subtitle I, Section 609.5(a) and (c), and the rear yard
19 requirements of Subtitle I, Section 205.1.

20 This is a new, nine-story building retaining
21 portions of existing three or four story buildings for
22 lodging, retail and assembly uses, with approximately 85
23 lodging units with a range from 60 to 120 lodging units.
24 This is located in the D-4R zone at 505 to 517 H Street
25 Northwest, Square 485, lots 3, 30, 42 through 44, and 48.

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1 There are a couple of preliminary matters with
2 this case. First, just to note applicant's proffered two
3 expert witnesses, Ralph Cunningham is an expert in
4 architecture and Robert Schiesel an expert in traffic
5 engineering. Both have previously been approved as expert
6 witnesses and are in the witness book.

7 And then there is a request for party status in
8 opposition to the application from the Wah Luck House
9 Tenants' Association, located at 800 6th Street Northwest.
10 The party status requester has also asked for a waiver of the
11 party status filing requirements in Exhibit 51. And the
12 applicant has filed their opposition to the party status
13 request in Exhibit 52. The hearing for this case was
14 postponed from the originally scheduled date of November 8,
15 2023. It has not been heard yet.

16 And then lastly, we do have two interpreters for
17 this hearing, in both Cantonese and Mandarin. So I will let
18 them -- if there's any specific instruction about
19 translating, I'll let them speak. But just a reminder to
20 please stay muted if you're not speaking. I think will be
21 most helpful as well.

22 CHAIRPERSON HILL: Okay.

23 MS. TAN: Here for the Mandarin. Can you hear me?

24 CHAIRPERSON HILL: Yes.

25 MS. TAN: Okay, good. So please let me know when

1 you want me to step in to interpret. What you just spoke for
2 the last few minutes, do you want me to interpret it into
3 Mandarin and Cantonese now?

4 CHAIRPERSON HILL: If you can. Are you doing both
5 Mandarin and Cantonese?

6 MS. TAN: I can do that, but I believe we have two
7 interpreters on the line. And I'm doing the Mandarin and the
8 other one is doing Cantonese.

9 CHAIRPERSON HILL: Okay.

10 MR. CHEN: Excuse me. Good morning, Chairman.
11 I am the English-Cantonese interpreter.

12 CHAIRPERSON HILL: Okay, great.

13 MR. CHEN: Please, if necessary, please tell me
14 when or at what point to start interpreting.

15 CHAIRPERSON HILL: Sure. So, Janet, what's your
16 last name?

17 MS. TAN: Tan T-A-N.

18 CHAIRPERSON HILL: P-A-N?

19 MS. TAN: T as Thomas T-A-N.

20 CHAIRPERSON HILL: Okay, great. So, Ms. Tan and
21 Mr. Chen, you can go ahead and interpret as best you can what
22 you just heard the secretary say. And I will try to say
23 things very succinctly so that you can translate. So, Ms.
24 Tan, do you want to go first with your translation in
25 Mandarin?

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1 MS. TAN: Yes. And also I would remind you to
2 please stop after a few sentences and pause to let us
3 translate it because if you keep going, then we will lost
4 track of what you have spoken. So, to my best knowledge, the
5 secretary just read through the application number and I'm
6 going to translate it into the Mandarin at this point.

7 (Foreign language spoken.)

8 CHAIRPERSON HILL: Okay, thank you. All right,
9 if the applicant could hear me, if they could please
10 introduce themselves for the record.

11 (Foreign language spoken.)

12 CHAIRPERSON HILL: Mr. Chen, Mr. Chen, give me one
13 second. And Ms. Tan, give me one second. I'll come back to
14 you guys to interpret what I say. So, Ms. Tan, can you
15 interpret what I just said?

16 MS. TAN: Yes.

17 (Foreign language spoken.)

18 CHAIRPERSON HILL: Mr. Chen, could you interpret
19 what I just said?

20 MR. CHEN: Yes, sir.

21 (Foreign language spoken.)

22 CHAIRPERSON HILL: Can the applicant introduce
23 themselves for the record?

24 (Foreign language spoken.)

25 CHAIRPERSON HILL: Ms. Tan and Mr. Chen, let me

1 specifically tell you when to translate what I'm about to
2 say.

3 MR. CHEN: Sorry, sir.

4 CHAIRPERSON HILL: It's okay. Ms. Tan, go ahead
5 and translate what I just said.

6 (Foreign language spoken.)

7 CHAIRPERSON HILL: Mr. Chen, please interpret what
8 I just said.

9 MR. CHEN: Yes, sir.

10 (Foreign language spoken.)

11 CHAIRPERSON HILL: Could the applicant please
12 introduce themselves for the record?

13 MR. FREEMAN: Good morning, Mr. Chairman. Kyrus
14 Freeman with the law firm of Holland and Knight here on
15 behalf of the applicant. We have a full team. I'm not going
16 to name everybody for the purpose --

17 CHAIRPERSON HILL: Give me a second, Mr. Freeman,
18 Ms. Tan, can you interpret what was just said?

19 (Foreign language spoken.)

20 CHAIRPERSON HILL: Mr. Chen, could you interpret
21 what was just said?

22 MR. CHEN: Yes, sir.

23 (Foreign language spoken.)

24 CHAIRPERSON HILL: Would the party status
25 individual please introduce themselves for the record?

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1 MS. AHMED: My name is Nashrah Ahmed of the Asian
2 Pacific American Legal Resource Center and I represent the
3 Wah Luck House Tenants' Association.

4 CHAIRPERSON HILL: Ms. Tan, can you interpret what
5 was just said?

6 (Foreign language spoken.)

7 MR. CHEN: Sorry, sir.

8 CHAIRPERSON HILL: It's okay, go ahead, Mr. Chen.

9 MR. CHEN: Yes, sir.

10 (Foreign language spoken.)

11 CHAIRPERSON HILL: Okay, Ms. Ahmed. Okay, so, Ms.
12 Tan and Mr. Chen, this is a case that has a lot of testimony
13 to it, so I'm going to try to summarize what is being said
14 so that you can also translate that to the people in the
15 audience. Ms. Tan, can you please say, just translate what
16 I just said.

17 (Foreign language spoken.)

18 CHAIRPERSON HILL: Mr. Chen.

19 MR. CHEN: Yes, sir.

20 (Foreign language spoken.)

21 CHAIRPERSON HILL: Ms. Ahmed, you're late in
22 filing for party status, as I know you know this. Can you
23 explain why you're late?

24 MS. AHMED: Yes. The Wah Luck House Tenants'
25 Association was not made aware of the public hearing until

1 well after the original hearing date of November 8th. I
2 understand it was postponed on that date. But Wah Luck House
3 Tenants' Association did not have the opportunity to file in
4 advance of that.

5 I was retained in early March, and very soon after
6 that, Wah Luck House Tenants' Association learned that it had
7 the right to file for party status. As soon as it learned
8 it had that right, after a meeting with the Office of the
9 Attorney General, the Request for Party Status was filed that
10 same day.

11 The Wah Luck House Tenants' Association is made
12 up of tenants in the Chinatown neighborhood, majority of whom
13 are elderly and have limited English proficiency. So when
14 none of the notices for the original public hearing were
15 translated into Chinese, the tenants were unaware of the
16 development at all until an article was published and a
17 community member who speaks English and Chinese was able to
18 contact the Tenants' Association and ask them if they knew
19 anything about it.

20 Ever since then, Wah Luck House Tenants'
21 Association has been doing its best effort in order to be
22 involved in this process, but was unable to retain an
23 attorney until much later than the deadline that you
24 mentioned. But the Wah Luck House Tenants' Association has
25 made its best effort and it has filed a request to accept the

1 untimely filing and a request to waive the time requirement
2 for good cause based on the fact that the Wah Luck House
3 Tenants' Association did not know about this hearing until
4 very recently and also did not know about the ability to file
5 for party status until very recently. The Tenants'
6 Association is requesting that the board waive that
7 requirement for good cause and grant its application for
8 party status. Thank you.

9 CHAIRPERSON HILL: Ms. Tan, do you think you can
10 translate some of that?

11 MS. TAN: Yes, I will do my best.

12 (Foreign language spoken.)

13 CHAIRPERSON HILL: Okay. Mr. Chen.

14 MR. CHEN: Yes, sir.

15 (Foreign language spoken.)

16 CHAIRPERSON HILL: Okay. In an effort to be
17 efficient, I don't necessarily agree with everything that the
18 applicant is saying in terms of notice. However, I do
19 believe that there is enough information to grant the waiver
20 so that we can consider a party status request. Does my
21 board agree with me? And if so, could you please raise your
22 hand first so you could, I'm sorry, let me first know your
23 opinion on what I just said. Give me one second, Ms. Tan.
24 Mr. Smith, do you agree with what I just said?

25 MEMBER SMITH: -- what you just stated.

1 CHAIRPERSON HILL: Commissioner Stidham, do you
2 agree with what I just said?

3 MEMBER STIDHAM: Yes, I agree.

4 CHAIRPERSON HILL: Ms. Chen.

5 MS. TAN: Tan. Okay.

6 CHAIRPERSON HILL: I'm sorry. Ms. Tan. Ms. Tan.
7 Ms. Tan. What I would like you to translate is that, as I
8 had said, I don't agree with everything that the attorney
9 just said in terms of notice. However, I think there's
10 enough information there to grant the waiver to consider
11 party status. Please translate that, Ms. Tan.

12 MS. TAN: Okay.

13 (Foreign language spoken.)

14 CHAIRPERSON HILL: Mr. Chen?

15 (Foreign language spoken.)

16 CHAIRPERSON HILL: Okay. Ms. Ahmed, as I do
17 believe you're aware, the board is to consider requesting
18 party status under Y404.1(i)(h) which again, is an
19 explanation of how the person's interest, or as identified
20 in response to paragraph four, would likely be more
21 significantly, distinctly, or uniquely affected in character
22 or kind by the proposed zoning action than those of other
23 person in the general public.

24 Ms. Tan, what I'd like you to translate is
25 anything you think I just said, specifically, however, the

1 criteria that we're going to judge party status is based upon
2 how the party is more distinctly, uniquely affected in
3 character or kind by the proposed zoning action other than
4 the general public. Ms. Tan, can you translate that, please?

5 MS. TAN: Okay.

6 (Foreign language spoken.)

7 CHAIRPERSON HILL: Mr. Chen?

8 MS. TAN: Hello?

9 MR. CHEN: Hello?

10 MS. TAN: I cannot hear. I cannot hear the --

11 CHAIRPERSON HILL: Yeah, I think we had a
12 technical issue. Ms. Tan, can you start again?

13 MS. TAN: Okay. Repeat what I just translated.

14 (Foreign language spoken.)

15 CHAIRPERSON HILL: Okay, Mr. Chen.

16 MR. CHEN: Yes, sir.

17 (Foreign language spoken.)

18 CHAIRPERSON HILL: Okay. Okay. Thank you.

19 MR. CHEN: May I continue, sir?

20 CHAIRPERSON HILL: Okay, Ms. Ahmed, if you could
21 tell us why you believe you were --

22 MR. CHEN: Sorry, sir. I have not yet completed
23 my translation.

24 CHAIRPERSON HILL: Can you all hear me?

25 MR. CHEN: Hello?

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1 MS. MEHLERT: Yes, Mr. Chairman, we can hear you.
2 Can you hear, Mr. Chen? He said he's not finished with his
3 translation.

4 MR. CHEN: Mr. Chairman.

5 MEMBER SMITH: Technical difficulties. But Mr.
6 Chen, you can go forward with your translation.

7 MR. CHEN: Yes, Mr. Smith.

8 (Foreign language spoken.)

9 CHAIRPERSON HILL: Mr. Smith, can you hear me?

10 MEMBER SMITH: Yes, I can hear you.

11 CHAIRPERSON HILL: Did you all hear everything?
12 My camera's going in and out or I'm going in and out. Am I
13 the only one that's going in and out?

14 MEMBER SMITH: Yes.

15 CHAIRPERSON HILL: Okay. I'm going to jump off
16 and I'm going to come back in again. Okay? Thank you.

17 MEMBER SMITH: We'll hang tight until the chairman
18 comes back.

19 CHAIRPERSON HILL: Can you hear me, Mr. Smith?

20 MEMBER SMITH: Yes, I can hear you.

21 CHAIRPERSON HILL: Okay. Can everybody come back?
22 I don't know if you all went away. Thank you, Ms. Tan.
23 Okay, Ms. Ahmed, can you explain how your client is more
24 uniquely affected than the rest of the general public?

25 MS. AHMED: And so, the Wah Luck House building

1 is located only 112 ft. from the proposed development. Wah
2 Luck House tenants are distinctly involved in that area.
3 They walk past it every single day and even frequent the
4 businesses that currently exist in that area.

5 CHAIRPERSON HILL: Ms. Ahmed?

6 MS. AHMED: Yeah?

7 CHAIRPERSON HILL: You're going to need to
8 translate for your clients. So just to let you know. Okay.
9 The translator --

10 MS. AHMED: Okay, I'm sorry. I can stop there.

11 CHAIRPERSON HILL: That's all right. I would
12 provide very succinct answers. Right?

13 MS. AHMED: Okay. I apologize. I thought you
14 wanted to summarize at the end. So would you prefer if I
15 start short or --

16 CHAIRPERSON HILL: We're trying to determine and
17 Ms. Tan and Mr. Chen think this or figure this. We're trying
18 to determine whether or not you qualify for party status.
19 So that's what you're arguing now, whether or not you qualify
20 for party status. Then we're going to determine that, and
21 then we're going to have the hearing. Ms. Tan, can you
22 translate that, please?

23 MS. TAN: Okay.

24 (Foreign language spoken.)

25 CHAIRPERSON HILL: Mr. Chen, could you translate

1 that, please?

2 (Foreign language spoken.)

3 CHAIRPERSON HILL: Okay, Ms. Ahmed. Go ahead.

4 MS. AHMED: I apologize, Mr. Chairman. So the Wah
5 Luck House Tenants' Association is specifically impacted by
6 the development due to the proximity to that development and
7 the tenants' involvements with the businesses that are
8 currently housed in that development. Specifically, Full Kee
9 restaurant and the hair salon, Gaoya hair salon are places
10 both where tenants work and frequent regularly. The
11 reduction of retail space in this area, even if those two
12 businesses are not preserved, would still impact the Wah Luck
13 House Tenants' Association significantly because it would
14 lead to a loss of services and cultural spaces within the
15 Chinatown neighborhood, specifically that the tenants
16 frequent and use very regularly.

17 CHAIRPERSON HILL: Ms. Tan, you want to try to
18 translate that?

19 MS. TAN: Yes.

20 (Foreign language spoken.)

21 CHAIRPERSON HILL: Mr. Chen.

22 MR. CHEN: Yes, sir.

23 (Foreign language spoken.)

24 CHAIRPERSON HILL: Mr. Freeman, your client is in
25 objection to party status, I believe. Could you tell the

1 board why you believe there should not be granted party
2 status?

3 MR. FREEMAN: Mr. Chairman, we do not believe they
4 have demonstrated that they are more significantly,
5 distinctly, or uniquely affected in character compared to the
6 general public. First, in their submission, they say, in
7 quotes, they are concerned about, I'm sorry, in quotes,
8 "Chinese residents of Chinatown," and quote, "The entire
9 community." Those are broad-based categories of people, i.e.
10 the general public. They say they are uniquely affected
11 because they see the site every day. Thousands of people are
12 on H Street and see the site by every day. Again, general
13 public.

14 CHAIRPERSON HILL: Okay.

15 MR. FREEMAN: I wasn't done, but --

16 CHAIRPERSON HILL: All right, Mr. Freeman.

17 MR. FREEMAN: They say with respect to their
18 concerns, if you actually look at the record, there are
19 letters from people all across the city, Maryland, Virginia,
20 that say the same exact thing that they say. General public.
21 Number four. They say they have employees who work at the
22 site. Their materials do not identify, of the ten people
23 that signed this submission, which of those folks work at the
24 site.

25 And finally, and this may be getting to the

1 substance, so I apologize if I'm getting to the substance.
2 But finally, their concern is about tenants of the
3 development leaving, not about them leaving. We're not doing
4 anything that requires them to move. We're not doing
5 anything that affects their ability to live where they live.
6 Their argument is solely based upon the fact that existing
7 tenants of the applicant site are moving, when again, don't
8 want to get into the substance. We'll debate that quote
9 unquote displacement argument, but I don't even know that the
10 record is --

11 CHAIRPERSON HILL: Okay, Mr. Freeman? I'm just
12 going to interrupt you. Where in the exhibit again is your
13 opposition to the party status?

14 MR. FREEMAN: I can get you the exact exhibit
15 number, sir.

16 CHAIRPERSON HILL: Yes, please.

17 MR. COHEN: This is Christopher Cohen with Holland
18 and Knight, Kyrus Freeman's colleague for the record. It's
19 Exhibit 52.

20 CHAIRPERSON HILL: Thank you.

21 MR. COHEN: Yeah.

22 CHAIRPERSON HILL: Okay, give me a second. Okay.
23 Ms. Tan?

24 MS. TAN: Yes.

25 CHAIRPERSON HILL: Can you try to translate that?

1 And can you point out that the opposition to the party status
2 is in the record in Exhibit 52?

3 MS. TAN: Okay.

4 (Foreign language spoken.)

5 CHAIRPERSON HILL: Mr. Chen?

6 (Foreign language spoken.)

7 CHAIRPERSON HILL: Okay. Does my board have any
8 questions of the applicant or the party status requester?
9 If so, raise your hand. Go ahead, Ms. Ahmed.

10 MS. AHMED: Sorry, Mr. Chairman. I was going to
11 ask if I could have the opportunity to respond to the
12 applicant's argument very briefly.

13 CHAIRPERSON HILL: Ms. Ahmed, this is something
14 actually that the board doesn't need to do in the hearing
15 testimony part. We could do this based on the record.
16 Everything is in the record in terms of what you had stated.
17 So I'm asking now if the board has any questions for either
18 you or the applicant. Mr. Smith, do you have any questions?

19 Ms. Stidham, do you have any questions?

20 Okay. Go ahead, Ms. Ahmed, you were trying to say
21 something?

22 MS. AHMED: I just wanted to add that there are
23 around just over 300 members of the Chinese-American
24 community left in Chinatown, and there are 153
25 intergenerational families living at Wah Luck House. The Wah

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1 Luck House Tenants' Association already represents a huge
2 majority of the Chinese community within Chinatown, not
3 everybody, but a huge majority of that community. And that's
4 why Wah Luck House Tenants' Association is uniquely impacted.

5 CHAIRPERSON HILL: Ms. Ahmed, Ms. Ahmed.

6 MS. AHMED: Sorry.

7 CHAIRPERSON HILL: That's okay. So I'm trying to
8 understand how to translate for your clients as I'm going
9 through this and, Ms. Tan, can you hear me?

10 MS. TAN: Yes.

11 CHAIRPERSON HILL: You can try to translate what
12 Ms. Ahmed said. But before you do, again, I would like to
13 refer your clients to Subtitle Y404.1(i)(5), which explains
14 how the board is supposed to look at party status. Could you
15 please translate that, Ms. Tan?

16 (Foreign language spoken.)

17 MR. CHEN: Sorry, Ms. Tan, you are supposed to
18 translate into Mandarin rather than Cantonese.

19 MS. TAN: I'm sorry.

20 (Foreign language spoken.)

21 CHAIRPERSON HILL: Mr. Chen.

22 MR. CHEN: Yes, sir.

23 (Foreign language spoken.)

24 CHAIRPERSON HILL: So I'm now turning to my board
25 members to discuss the party status request. I've had a

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1 chance to look at the applicant, I'm sorry, the party status
2 requester's filing as well as the response from the applicant
3 in terms of the party status. I do not think that this party
4 status applicant is uniquely affected as per the regulations.
5 I think that just because they're over 100 ft. from the
6 property, they're not right next to the property, they're not
7 directly behind the property, and they'll have an opportunity
8 to speak at the public testimony. And we may even do
9 something a little differently concerning Ms. Ahmed and her
10 participation due to the fact that there are a lot of people
11 who need to be translated for.

12 However, I do not think that they are meeting the
13 criteria in the regulations or party status. Ms. Chen, could
14 you translate that please?

15 (Foreign language spoken.)

16 CHAIRPERSON HILL: Mr. Chen.

17 MR. CHEN: Yes, sir.

18 (Foreign language spoken.)

19 CHAIRPERSON HILL: Mr. Smith, could you give me
20 your thoughts, please?

21 MEMBER SMITH: I'm looking at the, as you stated,
22 I've read the letters within the record from the requestees
23 for the -- for party status and also from the applicant, and
24 in looking at the regulations, I also agree with you that the
25 -- that they have not met the burden of proof per the

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1 regulations that we're tasked with evaluating that against.

2 It seems to me that it is based on views and it
3 is based on what could potentially be an economic impact, but
4 I think the economic impact could be -- it could be something
5 that's mitigated or something that, you know, they could
6 continue to have dialogue with the applicant.

7 So, I -- so again, to reiterate what you stated,
8 I essentially agree with your assessment on the reason why
9 they shouldn't be granted party status, but I do want to
10 state that they do have the opportunity to voice their
11 opposition to this case during the hearing, during the public
12 hearing. So, I'll admit that.

13 CHAIRPERSON HILL: Ms. Tan, can you translate
14 that?

15 (Foreign language spoken.)

16 CHAIRPERSON HILL: Mr. Chen?

17 (Foreign language spoken.)

18 CHAIRPERSON HILL: Commissioner Stidham, can I
19 hear your thoughts?

20 MEMBER STIDHAM: Yes, sir. I agree with both your
21 comments and those of Commissioner Smith regarding party
22 status. I don't believe they met the burden of proof either
23 for that status.

24 CHAIRPERSON HILL: Ms. Tan, can you repeat that
25 please?

1 (Foreign language spoken.)

2 CHAIRPERSON HILL: Mr. Chen?

3 (Foreign language spoken.)

4 CHAIRPERSON HILL: Okay. Please no one go
5 anywhere. I have to just grab something from the file
6 cabinet.

7 MR. FREEMAN: While we're waiting, one of the
8 attendees, I believe Ed, is one of our witnesses. So if you
9 could bring Ed into the hearing. He is one of our witnesses
10 and will be testifying. Thank you.

11 MR. MOY: Okay, I'm on. You hear me?

12 MR. FREEMAN: Is it -- Mr. Moy, it's not your turn
13 yet.

14 MR. MOY: Yes.

15 MR. FREEMAN: But I'll let you know when it's your
16 turn. Thank you. So mute yourself.

17 MR. MOY: Thank you.

18 CHAIRPERSON HILL: All right. Sorry, Ms. Tan, if
19 you can just let everyone know I just had to step away to get
20 some files.

21 (Foreign language spoken.)

22 CHAIRPERSON HILL: Mr. Chen, if you could do the
23 same.

24 (Foreign language spoken.)

25 CHAIRPERSON HILL: Okay. All right. So, Ms.

1 Ahmed, what I would like to try to do is, do you know how
2 many witnesses you all have organized?

3 (Audio interference.)

4 MS. AHMED: -- total, including me.

5 CHAIRPERSON HILL: Okay. And have you had -- have
6 you been involved since kind of the beginning? Like, did you
7 go to the ANC meetings and such?

8 MS. AHMED: No, sir. I became involved in
9 mid-March.

10 CHAIRPERSON HILL: Mid-March.

11 MS. AHMED: But we do have members of the Save
12 Chinatown Solidarity Network here who are appearing as
13 witnesses and some of them have been involved from the
14 beginning.

15 CHAIRPERSON HILL: Okay. Can you tell me that
16 organization again?

17 MS. AHMED: The Save Chinatown Solidarity Network.

18 CHAIRPERSON HILL: Okay. Could you translate that
19 please, Ms. Tan?

20 (Foreign language spoken.)

21 CHAIRPERSON HILL: Mr. Chen?

22 (Foreign language spoken.)

23 CHAIRPERSON HILL: I'm going to make a motion to
24 deny party status for the -- at the party. I'm going to make
25 a motion to deny party status for the applicant, so I'm just

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1 looking for exactly what. I'm going to deny -- make a motion
2 to deny party status for WLHTA and ask for a second. Mr.
3 Smith?

4 MEMBER SMITH: Second.

5 CHAIRPERSON HILL: Motion made and seconded. And
6 Ms. Mehlert, will you please take a roll call.

7 MS. MEHLERT: After your name, please respond to
8 the chair's motion to deny a party status and opposition to
9 the Wah Luck House Tenants Association. Tammy Stidham?

10 MEMBER STIDHAM: Yes.

11 MS. MEHLERT: Chrishaun Smith?

12 MEMBER SMITH: Yes.

13 MS. MEHLERT: Chairman Hill?

14 CHAIRPERSON HILL: Yes.

15 MS. MEHLERT: Council vote is 3 to 0 to 2 to deny
16 a party status in opposition on motion made by Chairman Hill
17 and seconded by Mr. Smith.

18 CHAIRPERSON HILL: Thank you. Ms. Tan, could you
19 translate that, please?

20 (Foreign language spoken.)

21 CHAIRPERSON HILL: Mr. Chen, could you translate
22 that, please?

23 (Foreign language spoken.)

24 CHAIRPERSON HILL: Okay. Ms. Ahmed, what -- are
25 you going to be here with us for our public testimony

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1 portion?

2 MS. AHMED: Yes, I will.

3 CHAIRPERSON HILL: Okay. So if you could speak
4 with your -- do you have access to your clients?

5 MS. AHMED: Yes, sir.

6 CHAIRPERSON HILL: Okay. If you could speak with
7 them and let them know we'll be hearing from everybody during
8 the public testimony portion. And we're going to hear from
9 everyone and we're going to have an opportunity to ask
10 questions and also find out, again, the concerns that your
11 clients have.

12 And then also, we might ask more of you, as kind
13 of their representative, in ways that you might be able to
14 help with this process. And also then, the translations --
15 the translators will be here during the testimony -- during
16 the hearing. And so, first, Ms. Tan, can you translate that?

17 (Foreign language spoken.)

18 CHAIRPERSON HILL: Mr. Chen?

19 (Foreign language spoken.)

20 CHAIRPERSON HILL: Thank you. And also if you
21 could say, I respect and understand the concerns of the Wah
22 Luck House Tenants Association, and they will have an
23 opportunity to speak at the public testimony hearing portion.
24 Ms. Tan, if you could please translate that.

25 (Foreign language spoken.)

1 CHAIRPERSON HILL: Mr. Chen?

2 (Foreign language spoken.)

3 CHAIRPERSON HILL: All right. I'm looking for my
4 fellow board members. And this is the first time I've had
5 this many -- this much translation before. So there is a
6 possibility that we might ask for even a filing so that we
7 can hear from the public in a way that might -- the public
8 might be able to process this, and then we'll be able to hear
9 from -- if we had any questions from public testimony in a
10 way to be efficient.

11 Does the Board have any comments on what I've just
12 said? And if so, raise your hand. Seeing no one raise their
13 hand, Ms. Tan, if you could translate that please.

14 (Foreign language spoken.)

15 CHAIRPERSON HILL: Mr. Chen?

16 (Foreign language spoken.)

17 CHAIRPERSON HILL: All right. Ms. Ahmed, we'll
18 see you at the public hearing portion of the testimony and
19 the translators will stay here.

20 MS. AHMED: Okay. Thank you, Mr. Chairman.

21 CHAIRPERSON HILL: Thank you. Okay. Ms. Tan, is
22 it Ms. Tan or Ms. Pan?

23 MS. TAN: Tan. Suntan.

24 CHAIRPERSON HILL: P-A-N?

25 MS. TAN: Yeah, T as Thomas.

1 CHAIRPERSON HILL: Okay. Thank you. Sorry, I've
2 been saying it wrong, Ms. Tan.

3 MS. TAN: It's okay.

4 CHAIRPERSON HILL: All right. Actually, Ms. Tan
5 and Mr. Chen, can you use your cameras?

6 MR. CHEN: Sorry, sir. You mean visual
7 conferencing?

8 CHAIRPERSON HILL: Video, yes.

9 MR. CHEN: Video conferencing.

10 CHAIRPERSON HILL: Yes.

11 MS. TAN: Let me try. Okay.

12 CHAIRPERSON HILL: That's all right, Ms. Tan.
13 Never mind. Mr. Chen, Ms. Tan, never mind. All right. Mr.
14 Freeman, so if you could explain to us how you believe your
15 client is meeting the criteria for us to grant the relief
16 requested and walk us through your relief. I'm trying to --
17 I saw your presentation. I'm trying to find it in the -- oh,
18 here we go.

19 So, Ms. Tan and Mr. Chen, if you could please let
20 the audience know that the applicant's PowerPoint
21 presentation is in Exhibit 73. Ms. Tan, if you could let the
22 audience know. Ms. Tan? Mr. Chen?

23 MR. CHEN: Yes, sir.

24 CHAIRPERSON HILL: Thank you.

25 (Foreign language spoken.)

1 CHAIRPERSON HILL: Ms. Tan, can you hear me? Mr.
2 Young, is Ms. Tan with us?

3 MS. TAN: Chairman, sorry. When I tried to
4 activate my camera, I lost the connection. So I hesitated
5 to touch that. Hello?

6 CHAIRPERSON HILL: I agree. I'm sorry, Ms. Tan.
7 I can hear you. If you could translate what I said, if you
8 heard it.

9 MS. TAN: Yeah, I can hear you. I can translate
10 it. What did you just say?

11 CHAIRPERSON HILL: I said that the applicant is
12 about to make -- the applicant is about to make their
13 presentation, and if you could let those speaking in Mandarin
14 know that the exhibit is -- the PowerPoint exhibit is in
15 Exhibit 73.

16 (Foreign language spoken.)

17 CHAIRPERSON HILL: Okay. Mr. Freeman, have you
18 done this translation type thing at the Zoning Commission
19 before?

20 He's shaking his head, no. He's shaking his head,
21 no. I ask this because I'm trying to figure out the best way
22 to do this. And what I think we should do is, if you go
23 through maybe four or five slides and then pause, and we'll
24 let the interpreters interpret as best they can.

25 This is very technical language and it's a very

1 technical argument that's being made. So I think that -- I'm
2 trying to figure out the best way to do this for the
3 translators. And before I move on, Ms. Tan, could you
4 translate what I just said?

5 (Foreign language spoken.)

6 CHAIRPERSON HILL: Mr. Chen?

7 (Foreign language spoken.)

8 CHAIRPERSON HILL: Mr. Young, could you bring up
9 Mr. Freeman's slide deck? And Mr. Freeman, could you begin?

10 MR. FREEMAN: Thank you, Mr. Chairman. Two quick
11 points. One, did I hear at the beginning that Mr. Cunningham
12 and Mr. Robert Schiesel were qualified as experts, madam
13 secretary? I heard a discussion of that. I just wanted to
14 make sure that they are, in fact, being treated as experts
15 for this case.

16 CHAIRPERSON HILL: I believe that they are in our
17 book.

18 MR. FREEMAN: Okay.

19 CHAIRPERSON HILL: Ms. Mehlert, is that correct?

20 So they're already in our book. So therefore,
21 they will be treated as experts.

22 MR. FREEMAN: Thank you. Our first witness
23 actually is -- has to depart at 12 o'clock. So what I'll do,
24 if okay with you, Mr. Chairman, I'll let Mr. Eddie Moy
25 testify first.

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1 CHAIRPERSON HILL: Okay.

2 MR. FREEMAN: Such that you have any questions of
3 him, and then I will come back and go through our slides.

4 CHAIRPERSON HILL: Okay.

5 MR. FREEMAN: So Mr. Ed, he's listed as Ed. Mr.
6 Ed Moy, who's a co-owner, co-developer, is our first witness.

7 CHAIRPERSON HILL: Okay. Go ahead, Mr. Moy.

8 MR. MOY: Hi. Good morning, members of the Board
9 of Zoning Adjustment, and attendees. My name is Eddie Moy.
10 I have three siblings, and I have a joint venture with Rift
11 Valley Partners to redevelop our properties at 509-517 H
12 Street, Northwest that my family has owned since 1950s.

13 I was born and raised in D.C., you know, and been
14 here all my life, and I've seen all the evolvement of
15 Chinatown. How it grew, you know, from the riots in '68 to
16 now. My family has been active in Chinatown business
17 community since my father, M.H. Moy, and mom, Chu Moy, began
18 operating the Veterans Food Market, later site of the WMATA
19 Metro headquarters on 6th and G Street, Northwest.

20 The business interest grew over time and included
21 several properties and businesses in the community, including
22 Chinatown Express, which operates to this day. My family
23 lived above the restaurant for many years. My dad was a
24 decorated World War II veteran, and his various investment
25 brought enormous pride to our family.

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1 Over time, we have seen Chinatown neighborhood
2 evolve several times. We see the current challenges
3 throughout downtown, but also the opportunities to improve
4 the neighborhood --

5 CHAIRPERSON HILL: Mr. Eddie?

6 MR. MOY: -- which is why we are excited --

7 CHAIRPERSON HILL: Mr. Eddie?

8 MR. MOY: Yes.

9 CHAIRPERSON HILL: I'm sorry, could you give me
10 your last name again?

11 MR. MOY: M-O-Y.

12 CHAIRPERSON HILL: Mr. Moy, okay. Mr. Moy, I just
13 want the translators to be able to translate.

14 MS. TAN: Yes, please.

15 CHAIRPERSON HILL: So if you can pause every now
16 and again, Mr. Moy. But Ms. Tan, can you go ahead and
17 translate what you heard?

18 MS. TAN: Yes.

19 (Foreign language spoken.)

20 CHAIRPERSON HILL: Mr. Chen?

21 MR. CHEN: (Foreign language spoken.)

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

23 MR. MOY: Yes.

24 CHAIRPERSON HILL: Please continue. And is your
25 testimony in the record yet?

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1 MR. MOY: Say it again, I'm sorry.

2 CHAIRPERSON HILL: Is your testimony in the
3 record? No, correct?

4 MR. FREEMAN: Can't submit it.

5 MR. MOY: No, it's not.

6 CHAIRPERSON HILL: Yeah. If you can -- if you can
7 submit it into the record, Mr. Moy --

8 MR. MOY: Sure.

9 CHAIRPERSON HILL: -- that would be helpful. I
10 think this is something the Board's going to have to review
11 after all this. So, please, continue with your testimony.

12 MR. MOY: Okay. All right. I'm going to read
13 about three paragraphs and then let them translate. Okay?

14 CHAIRPERSON HILL: Thank you.

15 MR. MOY: Over time, we have seen the Chinatown
16 neighborhood evolve several times. We see the current
17 challenges throughout downtown, but also the opportunities
18 to improve the neighborhood, which is why we are so excited
19 to partner with Rift Valley Partners to revitalize a critical
20 part of Chinatown. They brought a vision whose scale and
21 quality builds on the commitment my parents had to Chinatown.

22 What started as a smaller hospitality project
23 encompassing only property owned by the Moy family has grown
24 into size between 5th and 6th Street, very impressively.

25 MS. TAN: (Foreign language spoken.)

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1 CHAIRPERSON HILL: Mr. Chen?

2 MR. CHEN: (Foreign language spoken.)

3 CHAIRPERSON HILL: Mr. Moy?

4 MR. MOY: Okay. Our joint venture is currently
5 in negotiations with several international hotel groups that
6 desire to have a presence in the neighborhood.

7 The more families' involvement in the project
8 brings continuity of ownership, something my siblings and I
9 think will have made my mother and father very proud. My
10 siblings and I look forward on building their legacy.
11 Translate.

12 MS. TAN: (Foreign language spoken.)

13 CHAIRPERSON HILL: Mr. Chen?

14 MR. CHEN: (Foreign language spoken.)

15 CHAIRPERSON HILL: Mr. Moy?

16 MR. MOY: Thank you. As the owner of the
17 property, I have kept three retail businesses abreast of the
18 proposed development plans and timeline as the project has
19 evolved and progressed over time. As stated in their support
20 letters, the retail businesses are not being displaced.

21 The businesses fully support the proposed plans
22 and believes the proposed development will promote downtown
23 -- revitalization and will improve public safety and commerce
24 for the Chinatown neighborhood.

25 CHAIRPERSON HILL: Ms. Tan?

1 MS. TAN: (Foreign language spoken.)

2 CHAIRPERSON HILL: Mr. Chen?

3 MR. CHEN: (Foreign language spoken.)

4 CHAIRPERSON HILL: Mr. Moy?

5 MR. MOY: Yeah, that's the end of my testimony.

6 So, I just want to say, you know, I'm looking forward to this
7 project and I like working with, you know, the neighborhood
8 and I can say I don't think, you know, it's negative aspects
9 of my dream to develop this property. All right. Thank you.

10 CHAIRPERSON HILL: Thanks, Mr. Moy. If you could
11 put your testimony in the record, that would be helpful. If
12 you could get your --

13 MR. MOY: Yeah, how soon can you get it? Because
14 I'm going to the airport now, so --

15 MR. FREEMAN: Well, we will handle it, Mr. Moy.
16 Thank you.

17 MR. MOY: Thank you.

18 CHAIRPERSON HILL: Okay. Great. Ms. Pan, can you
19 -- Ms. Tan, can you translate what was just said?

20 MS. TAN: (Foreign language spoken.)

21 CHAIRPERSON HILL: Mr. Chen?

22 MR. CHEN: (Foreign language spoken.)

23 CHAIRPERSON HILL: All right. Mr. Freeman, I
24 think -- Mr. Freeman, can you hear me?

25 MR. FREEMAN: Yes.

1 CHAIRPERSON HILL: Even though it's going to take
2 a long time, I think when you get to a slide that has a lot
3 of information, you go ahead and highlight the information,
4 and then we can let the translators also highlight the
5 information.

6 It's necessary for us to follow the regulations
7 that are put forth to allow the community to understand
8 things. So we need to make sure that we do this as best as
9 we can. And so, I would suggest at each slide that has a lot
10 of information, pausing. Ms. Tan, can you translate that,
11 please?

12 MS. TAN: (Foreign language spoken.)

13 CHAIRPERSON HILL: Mr. Chen?

14 MR. CHEN: (Foreign language spoken.)

15 CHAIRPERSON HILL: Mr. Freeman?

16 MR. FREEMAN: Thank you, Mr. Chairman. So I will
17 start with our presentation. Mr. Young, next slide, please.
18 Here's an image of the site outlined in red. Next slide,
19 please. As the Board and OP should know, the property is
20 zoned D-4-R, which permits lodging use as a matter of right.
21 So our use is a matter of right use.

22 The purpose of the D-4-R zone is to promote the
23 development of high-density residential and mixed-use
24 neighborhoods, and the property is within the Chinatown
25 subarea of the zoning regulations.

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1 CHAIRPERSON HILL: Ms. Tan, can you translate
2 that, please?

3 MS. TAN: (Foreign language spoken.)

4 CHAIRPERSON HILL: Mr. Chen?

5 MR. CHEN: (Foreign language spoken.)

6 CHAIRPERSON HILL: Mr. Freeman?

7 MR. FREEMAN: Next slide, Mr. Young. So we are
8 asking for two variances and one special exception. The
9 first variance is from the Chinatown subarea ground floor use
10 requirements. 0.5 FAR of preferred use is required. We're
11 providing 0.27 FAR. A hundred percent of the building's
12 frontage is required for preferred uses. We are proposing
13 40 percent being provided for preferred uses.

14 The second variance is we have a rear yard
15 requirement of 20.8 feet. We are providing a 10-foot rear
16 yard. And we're seeking special exception from the loading
17 requirements. Two berths and two platforms are required,
18 whereas we're providing one berth and one platform.

19 CHAIRPERSON HILL: Ms. Tan?

20 MS. TAN: (Foreign language spoken.)

21 CHAIRPERSON HILL: Mr. Chen?

22 MR. CHEN: (Foreign language spoken.)

23 CHAIRPERSON HILL: Mr. Freeman?

24 MR. FREEMAN: Next slide. The application has
25 been reviewed by the Office of Planning, which submitted a

1 report recommending approval subject to compliance with the
2 DDOT condition.

3 DDOT has submitted a report recommending --
4 indicating no objection subject to our implementation of the
5 TDM, Transportation Demand Management Plan, and the Loading
6 Management Plan, which we have agreed to. And the project
7 has been reviewed and approved in concept by HPRB, the
8 Historic Preservation Review Board.

9 CHAIRPERSON HILL: Ms. Tan?

10 MS. TAN: (Foreign language spoken.)

11 CHAIRPERSON HILL: Mr. Chen?

12 MR. CHEN: (Foreign language spoken.)

13 CHAIRPERSON HILL: Mr. Freeman?

14 MR. FREEMAN: Next slide. Our next witness is Mr.
15 Stephan Rodiger, on behalf of Rift Valley Partners, who will
16 describe the community engagement efforts.

17 CHAIRPERSON HILL: Thank you. If you could please
18 introduce yourself for the record when you speak, sir.

19 MR. RODIGER: Yes, good afternoon, chair and
20 members of the board. My name is Stephan Rodiger. I am the
21 managing partner at Rift Valley Partners, the JV partner with
22 the Moy family who you just heard testimony from Eddie Moy,
23 and the developer for 505 to 517 H Street, which is a
24 mixed-use lodging project.

25 Rift Valley Partners is a Ward 2 CVE real estate

1 company and partnering with both DMPED and other property
2 owners throughout the District of Columbia on real estate
3 projects.

4 Over the last three years, we have done extensive
5 community outreach engagement in Chinatown as well as to
6 greater downtown with support letters that we have posted
7 with HPO, HPRB, and BZA. Some of the BZA support letters
8 include ANC 2C, which we went to present multiple times --

9 CHAIRPERSON HILL: Mr. Rodiger?

10 MR. RODIGER: Yes. Sorry.

11 CHAIRPERSON HILL: If you -- as you're giving your
12 testimony, if you seem to come to a natural break, if you
13 could allow the translators to translate. Possibly before
14 you get into this slide, you could allow the translators to
15 translate. Ms. Tan, can you translate what you've heard thus
16 far?

17 MS. TAN: Okay. (Foreign language spoken.)

18 CHAIRPERSON HILL: Mr. Chen?

19 MR. CHEN: (Foreign language spoken.)

20 CHAIRPERSON HILL: You can continue please.

21 MR. RODIGER: Yes. So over the last three years,
22 we've conducted extensive community outreach engagement and
23 support within the Chinatown and downtown community. Support
24 letters have been posted in the case log with the ANC 2C, the
25 downtown bid, D.C. agencies like HPO, OP.

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1 We have worked with Chinatown property owners.
2 We've worked with Chinatown retail business owners, apartment
3 building owners, condo owners, the current three retail
4 businesses located at 509-517, and we have support letters
5 in the case log for that. And of course, our joint venture
6 partner, Eddie Moy, owner of 509-517 H Street, Northwest
7 which we have been working with him for over four years.

8 So, and of course, we have continued support from
9 the Moy family, our JV partner. This is Stephan Rodiger.
10 Thank you for allowing me to provide testimony in support of
11 the BZA application 20974.

12 CHAIRPERSON HILL: Ms. Tan?

13 MS. TAN: (Foreign language spoken.)

14 CHAIRPERSON HILL: Mr. Chen?

15 MR. CHEN: (Foreign language spoken.)

16 CHAIRPERSON HILL: Mr. Rodiger -- oh, I'm sorry.
17 Mr. Freeman?

18 MR. FREEMAN: Next slide. Our next witness is Mr.
19 Ralph Cunningham, who's been accepted as an expert in
20 architecture. Mr. Cunningham will take us through our next
21 few slides on the building design.

22 MR. CUNNINGHAM: Good afternoon, I'm Ralph
23 Cunningham from Cunningham Quill Architects here in
24 Washington. We are also a Ward 2 business and a CBE. And
25 I am going to try to keep my remarks brief so that the

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1 translator has time to translate, and I will stop after each
2 slide.

3 So here we see the context of this project, it is
4 in the heart of the Chinatown Historic District. This
5 consists of seven buildings that were built in the 1870s.
6 All of these buildings have different heights, depths, et
7 cetera, so -- but what we are planning to do and we have
8 coordinated with the Historic Preservation Review Board, is
9 a first-class preservation project for each of these
10 buildings. I'll stop there.

11 CHAIRPERSON HILL: Ms. Tan? Mr. Chen?

12 MS. TAN: (Foreign language spoken.)

13 CHAIRPERSON HILL: Mr. Chen?

14 MR. CHEN: (Foreign language spoken.)

15 CHAIRPERSON HILL: Mr. Cunningham?

16 MR. CUNNINGHAM: So here we see the site, which
17 is between 5th and 6th streets North West, on H Street. As
18 Mr. Moy said, Chinatown has a history of change over time.
19 All of these buildings were originally built as residential
20 and converted into commercial at some point, probably in the
21 20th century. So you see the historic front blocks of these
22 buildings, which have the numbers in them from 505 to 517.
23 The pieces in the back, some of which are historic and many
24 of which are not, are pieces to be removed. This also shows
25 the constraints of the site, between the rear of the existing

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1 houses and the alley behind.

2 CHAIRPERSON HILL: Ms. Tan?

3 MS. TAN: (Foreign language spoken.)

4 CHAIRPERSON HILL: Mr. Chen?

5 MR. CHEN: (Foreign language spoken.)

6 CHAIRPERSON HILL: Mr. Cunningham?

7 MR. CUNNINGHAM: Thank you, next slide. So here
8 we see the footprint of the addition, again the alley is to
9 the rear, H Street is at the bottom of the page, and you see
10 the large preservation of the existing buildings, again they
11 are the ones with the numbers in them. The white block
12 towards the rear of the property, or the top of the page, is
13 our addition, which is a nine-story addition. You'll also
14 see some of the street scape here and the existing stoops and
15 entries to those existing buildings on H Street, and I'll be
16 talking a little bit more about them in a minute.

17 CHAIRPERSON HILL: Ms. Tan?

18 MS. TAN: (Foreign language spoken.)

19 MR. CHEN: Yes sir. (Foreign language spoken.)

20 CHAIRPERSON HILL: Mr. Cunningham?

21 MR. CUNNINGHAM: Next slide please. So here you
22 see in three dimensions the project, and you see the 30-foot
23 setback from H Street, again that we negotiated with the
24 Historic Preservation Review Board, you see the four houses
25 on the left which have consistent stoops that go up and down

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1 and one of the points of this project is to restore those to
2 entrances for rooms in the lodging. So those entrances that
3 were historically entrances to houses will become entrances
4 to rooms.

5 The Full Kee Building, which is the building in
6 the middle, will become the entrance to the entire project.
7 We selected that building because it is probably the most
8 different of the seven, it also is the one that had a
9 renovated base and the ground floor meets the street, so we
10 can have handicapped entrance there. And then you see the
11 other of the two buildings on the right.

12 The design of the tower is designed to be
13 compatible with these buildings, we've taken cues from the
14 elevations of the building, we've also set it back
15 significantly in all directions, and we have a reveal or a
16 gap between the historic buildings, again which are to the
17 front of the drawings on H Street, and our building above.

18 The materials of the building will be compatible
19 with the Historic District and with the existing buildings.
20 It will be a high-quality project, primarily of brick and
21 glass, and again above a first-class preservation project
22 below.

23 CHAIRPERSON HILL: Ms. Tan?

24 MS. TAN: (Foreign language spoken.)

25 MR. CHEN: (Foreign language spoken.)

1 CHAIRPERSON HILL: Mr. Cunningham?

2 MR. CUNNINGHAM: So the next slide shows the
3 street level perspective, which I think illustrates the
4 different uses of this building, again the four houses to the
5 left will be used as lodging, the three to the right will be
6 used as the entrance to our project, which is commercial use
7 as well as retaining retail in the two buildings to the
8 right.

9 So you heard Mr. Freeman say earlier about the
10 relief we're requesting, we believe that returning the four
11 existing buildings to residential or lodging use is
12 appropriate in this case, and where we have access to the
13 ground, which is the three on the right, are remaining as
14 retail. The tower is behind, and I'll allow the translators
15 to work.

16 MS. TAN: (Foreign language spoken.)

17 CHAIRPERSON HILL: Mr. Chen?

18 MR. CHEN: (Foreign language spoken.)

19 CHAIRPERSON HILL: Mr. Cunningham?

20 MR. CUNNINGHAM: Thank you, next slide.

21 CHAIRPERSON HILL: Mr. Cunningham, actually can
22 I move you to slide 15?

23 MR. CUNNINGHAM: Yes, sir.

24 CHAIRPERSON HILL: Go ahead, Mr. Cunningham.

25 MR. CUNNINGHAM: Okay. This is an illustration

1 of the rear yard that we're requesting a change to. The
2 hatched red section of the building is what would be required
3 by right, and so again because we are preserving so much of
4 the existing town houses, which you see on the right, and
5 they're labeled as lodging units -- and by the way, the
6 preservation of that also means we're preserving the floor
7 system, the windows, et cetera. So because there's seven
8 different kinds of buildings here, it pushed the addition to
9 the left, towards the alley, and that's why we're requesting
10 the relief.

11 CHAIRPERSON HILL: Ms. Tan?

12 MS. TAN: (Foreign language spoken.)

13 CHAIRPERSON HILL: Mr. Chen?

14 MR. CHEN: (Foreign language spoken.)

15 CHAIRPERSON HILL: Mr. Cunningham?

16 MR. CUNNINGHAM: And again, this is an
17 illustration of the rear yard relief that we're requesting
18 that is shown in the hashed area at the back of the drawing,
19 the alley is to the rear, H Street is to the front.

20 CHAIRPERSON HILL: Ms. Tan?

21 MS. TAN: (Foreign language spoken.)

22 CHAIRPERSON HILL: Mr. Chen?

23 MR. CHEN: Yes sir. (Foreign language spoken.)

24 CHAIRPERSON HILL: Mr. Cunningham?

25 MR. CUNNINGHAM: That concludes my testimony,

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1 thank you very much.

2 CHAIRPERSON HILL: Mr. Freeman?

3 MR. FREEMAN: Chairman, just one quick question.
4 Mr. Cunningham, slide 14 shows some of the practical
5 difficulties with respect to the retail at the ground level.
6 I didn't know if you intended to skip that, Mr. Chairman?

7 CHAIRPERSON HILL: I skipped it, but it's okay,
8 go ahead if you want to refer to it. Mr. Cunningham, you
9 want to comment on that?

10 MR. CUNNINGHAM: Yes, thank you very much. So
11 this illustrates a point that I was making earlier about the
12 disjointed floor systems of these buildings. Again, remember
13 these were built as houses, and so the stairs that you see
14 in the lower section were going down to a lower part of the
15 unit, the stairs up were going to an upper part of the unit,
16 and that was the primary entrance. So this is very
17 compromised retail space, and we believe that returning it
18 to residential/lodging is a better use for the building and
19 is also a return to what it was historically. Thank you.

20 CHAIRPERSON HILL: Ms. Tan?

21 MS. TAN: (Foreign language spoken.)

22 CHAIRPERSON HILL: Mr. Chen?

23 MR. CHEN: (Foreign language spoken.)

24 CHAIRPERSON HILL: Mr. Freeman?

25 MR. FREEMAN: Thank you, if you could advance to

1 slide 18 please, Mr. Young? Our next witness is Mr. Rob
2 Schiesel with Gorove Slade, our expert in transportation, and
3 we'll quickly cover our loading relief.

4 MR. SCHIESEL: Thank you, as was just said, my
5 name is Robert Schiesel, I'm a principal at Gorove Slade
6 Associates. I will focus mostly on discussing the loading
7 relief, we have a transportation statement in the record.
8 We coordinated pretty regularly with the District Department
9 of Transportation about this project, focusing primarily on
10 the loading. As was shown on a prior slide, the alley behind
11 the building is only 10 feet wide, which constricts the type
12 of loading and the type of loading dock that is appropriate
13 for this building. Larger vehicles cannot enter and exit the
14 alley because it is only 10 feet wide.

15 We developed a solution that is twofold. There
16 is a dock in the alley that can accommodate a fair amount of
17 types of loading vehicles, such as vans and smaller trucks,
18 but also there is a loading zone on H Street in front of the
19 building that can accommodate larger trucks. So after we
20 discussed those types of solutions with D-DOT, are submitted
21 within our transportation statement was a loading management
22 plan. The details are in there, but it focuses primarily on
23 scheduling deliveries at the appropriate on street, or the
24 dock from the alley, based on their size and when the
25 delivery is expected to happen.

1 MR. FREEMAN: That might be a good point to pause,
2 so they can translate.

3 MR. SCHIESEL: Yeah, that was my end.

4 MS. TAN: (Foreign language spoken.)

5 CHAIRPERSON HILL: Mr. Chen?

6 MR. CHEN: (Foreign language spoken.)

7 CHAIRPERSON HILL: Mr. Freeman? Next? You're on
8 mute, Mr. Freeman, I don't know who's speaking right now.

9 MR. FREEMAN: Rob, were you finished?

10 MR. SCHIESEL: Yes.

11 MR. FREEMAN: Okay, thank you. Next slide. What
12 I will do, this section goes through how we meet each of the
13 prongs of the variants in special exception tests. What I
14 will do is pause after each section.

15 With respect to the Chinatown sub-area
16 requirements, the first prong on the exceptional,
17 extraordinary or exceptional condition, the property is
18 improved within its existent historic road dwellance, there
19 is no true ground floor level, some road dwellings are
20 constructed such that the ground floor is partially above or
21 partially below grade, the historic buildings have original
22 components, that HPRB has required the applicant to maintain.

23 CHAIRPERSON HILL: Ms. Tan?

24 MS. TAN: (Foreign language spoken.)

25 CHAIRPERSON HILL: Mr. Chen?

1 MR. CHEN: (Foreign language spoken.)

2 CHAIRPERSON HILL: Mr. Freeman?

3 MR. FREEMAN: Thank you. Second prong is a strict
4 application of the requirements would result in a peculiar
5 and exceptional practical difficulty. Interestingly, one of
6 the letters in opposition says that the historic situation
7 has to be exceptionally new or surprising, that is not the
8 case.

9 One, the inability to provide main entrances at
10 a consistent grade level presents accessibility issues, you
11 heard Mr. Cunningham testify to that. The lack of a true
12 ground floor poses difficulties in devoting 100% of the
13 street frontage to retail, the partially below-grade spaces
14 are not conducive for functional or comfortable retail
15 environment due to lack of spaciousness, lighting, display
16 options. Because the historic structures must remain intact,
17 the Applicant cannot combine the spaces, they have to remain
18 separate, so they can't be combined and create larger, more
19 marketable retain spaces.

20 Strict compliance actually raises challenges of
21 meeting the ADA requirements, and the inability to attract
22 a wide range of retail tenants could actually lead to the
23 spaces becoming vacant in the long term, and not activating
24 the street scape.

25 CHAIRPERSON HILL: Ms. Tan?

1 MS. TAN: (Foreign language spoken.)

2 CHAIRPERSON HILL: Mr. Chen?

3 MR. CHEN: (Foreign language spoken.)

4 CHAIRPERSON HILL: Mr. Freeman?

5 MR. FREEMAN: Next slide. And Mr. Chairman, I
6 would add, hopefully our pre-hearing submission includes a
7 lot more of this information in much detail. Our
8 architectural plan shows this information in detail. So this
9 is a summary of what is in the record.

10 With respect to the third prong for the retail
11 relief, the project still includes 2,216 square feet of gross
12 floor area dedicated for retail ground floor. The proposed
13 retail spaces within the building are connected to a hotel
14 lobby at grade, and are better suited to activate the
15 abutting street scape. Those lobbies are open and
16 accessible, by the way. There's a substantial amount of
17 other -- Subtitle I, 601.2A, those are the preferred uses,
18 there's a substantial number of those within the Chinatown
19 area, and we will show that.

20 There's also a substantial amount of vacant space
21 within the Chinatown area, so to the extent that other
22 retailers would like to remain, come to or remain in
23 Chinatown, there's unfortunately a substantial amount of
24 vacant space that people can utilize. And again, I think the
25 argument that we're -- the relief is supported by OP and we

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1 have a citation there from the OP report.

2 CHAIRPERSON HILL: Ms. Tan?

3 MS. TAN: (Foreign language spoken.)

4 CHAIRPERSON HILL: Mr. Chen?

5 MR. CHEN: (Foreign language spoken.)

6 CHAIRPERSON HILL: Mr. Freeman?

7 MR. FREEMAN: Next slide please. So with respect
8 to the rear yard relief, I think an important point here, as
9 the Board has recognized the existence of a historic
10 structure on a site can generate a practical difficulty, and
11 we're not saying just because they're there, but as a result
12 of the constraints that the incorporation of those structures
13 have posed on the development.

14 So in our case, HPO, moving to the second section,
15 has said the new construction must be pushed to the rear of
16 the site. That is a requirement from HPO in order to get the
17 project approved. So it's pushed to where building would
18 normally be, right? You saw the images that showed the
19 addition is substantially pushed to the back of the project.

20 Secondly, as a result of that, to provide a
21 compliant rear yard, a substantial amount of the gross floor
22 area would need to be removed, which would negatively impact
23 the layout of a number of units, and we describe those
24 negative impacts in our statement. And again, HPO found that
25 the project is compatible if the addition can convincingly

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1 appear as a separate building to the rear or side of the
2 historic building.

3 CHAIRPERSON HILL: Ms. Tan?

4 MS. TAN: (Foreign language spoken.)

5 CHAIRPERSON HILL: Mr. Chen?

6 MR. CHEN: (Foreign language spoken.)

7 CHAIRPERSON HILL: Mr. Freeman?

8 MR. FREEMAN: Next slide. So third prong of the
9 variants test regarding rear yard, adequate light and air
10 will still be provided at the rear of the site. There are
11 nominal and perceptible shadows cast, additional shadows
12 cast, as a result of the relief. The non-compliant rear yard
13 abuts a public alley, and the building is about 15 feet away
14 from the closest property at the rear. The request for rear
15 yard relief actually begins at the top of the second lower
16 level, the third floor. It's not kind of at the ground.

17 OP supports the relief, and importantly, the
18 purpose of the rear yard requirement is to benefit users and
19 occupants of the building, and although we don't have a
20 confined rear yard, the project does have open space
21 available on the site with terraces, public terraces and some
22 private terraces.

23 CHAIRPERSON HILL: Ms. Tan?

24 MS. TAN: (Foreign language spoken.)

25 CHAIRPERSON HILL: Mr. Chen?

1 MR. CHEN: (Foreign language spoken.)

2 CHAIRPERSON HILL: Mr. Freeman?

3 MR. FREEMAN: Next slide please. So our load-in
4 relief is a special exception, I'll just make a couple
5 points. One, given the proposed use, there's a relatively
6 low turnover rate. Two, the lodging use is not a conference
7 center, hotel, it doesn't have a lot of other venues that
8 would accommodate large events, so it would likely not
9 generate a substantial load-in demand. Last but not least,
10 again the Applicant and D-DOT have agreed to a load-in
11 management plan, which is listed there. We've agreed to
12 incorporate those conditions into a BZA order if the Board
13 approves the application.

14 CHAIRPERSON HILL: Ms. Tan?

15 MS. TAN: (Foreign language spoken.)

16 CHAIRPERSON HILL: Mr. Freeman?

17 MR. CHEN: Sorry sir, I have not yet --

18 CHAIRPERSON HILL: Oh, I'm sorry Mr. Chen. Mr.
19 Chen, go ahead.

20 MR. CHEN: (Foreign language spoken.)

21 CHAIRPERSON HILL: Mr. Freeman, you're on slide
22 23.

23 MR. FREEMAN: Yes.

24 CHAIRPERSON HILL: I have just been told that our
25 interpreters, there is a time conflict perhaps. If you could

1 summarize your last arguments concerning the relief that is
2 being requested and then what I'd like to do is get the
3 public testimony. In your slide deck, you seem to be
4 responding to public testimony, perhaps we can hear from
5 public testimony, and then you could maybe respond to that.
6 So perhaps you could just summarize the argument for the
7 relief, and then we can move, so I can have the
8 interpretation for the public testimony. Mr. Freeman if
9 there's some way for you to summarize. If not, we can see
10 how long --

11 MR. FREEMAN: Yeah, I think -- thank you, I think
12 the record and the slides just clearly indicate that we meet
13 each of the prongs for the variants test, for the retail and
14 rear yard relief, and each of the standards for the special
15 exception relief for the load-in. That actually concludes
16 our direct presentation, this slide.

17 CHAIRPERSON HILL: Ms. Tan, can you translate that
18 please?

19 MS. TAN: (Foreign language spoken.)

20 CHAIRPERSON HILL: Okay, Mr. Young if you drop the
21 slide deck, please.

22 MR. CHEN: Sorry, sir, I have not --

23 CHAIRPERSON HILL: Oh, I'm sorry, Mr. Chen. I
24 apologize, Mr. Chen, please go ahead.

25 MR. CHEN: It's all right, sir.

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1 (Foreign language spoken.)

2 CHAIRPERSON HILL: Thank you. Mr. Young, can you
3 bring in the attorney that was representing the Association?
4 Mr. Young? Oh, there we go. Ms. Ahmed?

5 MS. AHMED: I'm here.

6 CHAIRPERSON HILL: Okay, great. So Ms. Ahmed, I'm
7 trying to think about how to process this hearing in a way
8 that works best for the public that might be speaking
9 Mandarin or Cantonese. Did you have a chance to organize
10 your clients' renewing testimony?

11 MS. AHMED: Yes, so the majority of our clients
12 are here with me in person and ready and willing to testify.

13 CHAIRPERSON HILL: Oh, great. Do you know if they
14 will need translation services?

15 MS. AHMED: We do have an interpreter here as well
16 for Mandarin, but not for Cantonese. For the Mandarin
17 speakers, she would be able to interpret for them, but not
18 for the Cantonese speakers.

19 CHAIRPERSON HILL: Okay, how many do you have with
20 you?

21 MS. AHMED: We have I believe 12. I'm not sure
22 if they were already added to the panelists yet.

23 CHAIRPERSON HILL: That's okay, this is public
24 testimony, as long as they've gone through and sworn in.

25 MS. AHMED: Yes, everybody's registered.

1 CHAIRPERSON HILL: They signed in and registered,
2 that's fine. So then are they with you, all 12 of them?

3 MS. AHMED: Yes, just in the other room.

4 CHAIRPERSON HILL: Okay, great. Then could you
5 get them, could you ask them to come in one at a time, or
6 however you'd like to organize it, so that we can hear their
7 testimony? And what they'll need to do is give their name
8 and address, and then they'll have three minutes to give
9 their testimony, each person.

10 MS. AHMED: Okay.

11 CHAIRPERSON HILL: Uh --

12 MS. AHMED: Sorry.

13 CHAIRPERSON HILL: Go ahead.

14 MS. AHMED: Could we add Cassie He? She's in the
15 participant list, if we could add her, the tenants can join
16 from that device.

17 CHAIRPERSON HILL: Oh, I see, okay, Cassie He, so
18 they're there.

19 MS. AHMED: Yeah, we are in the same building,
20 just in different rooms. So for ease of testimony I thought
21 --

22 CHAIRPERSON HILL: No, that's great. So is it Ms.
23 He that will be organizing them in that room?

24 MS. AHMED: I'll step over into the other room,
25 we also have a couple of other representatives that are able

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1 to make sure everyone is organized, and I just got a message
2 that we're actually a total of eight people in that room
3 today that will be able to do testimony here.

4 CHAIRPERSON HILL: Okay, so again if you could ask
5 them to name, home address, and then they'll be given three
6 minutes. And we'll just wait until Ms. He pops up here, I
7 guess.

8 MS. AHMED: Okay, that would be great.

9 MS. MEHLERT: Chair, just one thing, another
10 person who signed up to testify, I don't think they're going
11 to be able to make it, but they did submit a letter of
12 authorizing someone else to read their testimony. Would you
13 like to add that authorization into the record?

14 CHAIRPERSON HILL: Yes please.

15 MS. MEHLERT: Okay.

16 CHAIRPERSON HILL: Do you guys want to take just
17 a quick, tiny break and we'll come right back? Okay? Take
18 a very quick break and we'll come back and hopefully Ms. He
19 is with us.

20 (Whereupon, the above-entitled matter went off the
21 record at 1:14 p.m. and resumed at 1:20 p.m.)

22 CHAIRPERSON HILL: If you would like to go ahead
23 and have people go through and introduce themselves and give
24 their testimony? And as I mentioned, each one will have
25 three minutes.

1 MS. AHMED: Okay. Thank you. Yes. So, we have
2 an interpreter here. Are we using the interpreter here or
3 the --

4 CHAIRPERSON HILL: Yes. One moment. Ms. Tan?

5 MS TAN: Yes?

6 CHAIRPERSON HILL: You can just rest for this
7 portion.

8 MS TAN: Okay.

9 CHAIRPERSON HILL: Because I think they have
10 someone in Mandarin there, so you're going to be translating
11 from English -- I'm sorry -- from Mandarin into English,
12 correct?

13 MS. AHMED: Correct.

14 CHAIRPERSON HILL: Okay. So, go ahead and begin.

15 MR. CHEN: Do I have to interpret?

16 CHAIRPERSON HILL: Yes, Mr. Chen. I'm sorry.
17 You're doing your side.

18 MR. CHEN: Yes, sir.

19 CHAIRPERSON HILL: Please, Ms. Ahmed, you can
20 begin.

21 MS. AHMED: Okay. Thank you.

22 MR. CHEN: My name is See Ming Chen. I am the
23 president of the Wah Luck House Resident Committee. Our
24 association's address is 800 6th Street, NW. Dear committee
25 member of the Zoning Committee, hello, everyone.

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1 We are right across the proposed development
2 project. Our association has been using cultural activities
3 and through resolving residents concerning issues to protect
4 our community.

5 We object the current plan proposed by the
6 developers as well as the zoning plan. They plan to reduce
7 the retail in the community. We ask that the Zoning
8 Committee protect our long-term commerce in Chinatown.

9 There used to be thousands of Chinese families and
10 a lively business and prosperous community life in here.
11 However, the economic development in the community has
12 greatly reduced the number of residents. Currently, there
13 are only under 400 people.

14 Among these residents, the majority of families
15 live in Wah Luck House. Gaoya Hair Salon and Full Kee
16 Restaurant, if they disappear, that would further reduce our
17 community. That would cause a lot of inconvenience to the
18 senior residents. They will not be able to find another hair
19 salon and restaurant.

20 Furthermore, those who work in those places will
21 lose their jobs. As a result, people in Chinatown will lose
22 their identity and their sense of belonging. And these
23 places are important to provide the identity and sense of
24 belonging.

25 The decline and declining number of the retailer

1 is also harming the economy in Chinatown. For a long time,
2 it is the Chinese people's business that has been a special
3 character and a core to attract others.

4 The developers may think that they have had plenty
5 discussions with organizations, such as 1882, and they have
6 followed this long-term history of the Namati community. We
7 understand this is his land and property. However, are they
8 the one that actually is living in Chinatown?

9 Only after the first zoning hearing, we got to
10 know this project. We have discussions with developer RVP,
11 we discussed the proposals that they had in the community.
12 Currently, the major proposal for RVP is to support the
13 renovation of the 6th Street. This is far from enough.

14 We do not object to the development of Chinatown.
15 We object the development at our cost. We believe that there
16 are ways to satisfy everybody.

17 If a hotel is to be built here, we request that
18 RVP provides an innovative solution in order to protect small
19 businesses as well as set up an Asian grocery store. Thank
20 you.

21 CHAIRPERSON HILL: Okay. Who's next?

22 Ms. He, do you know who asked for Cantonese
23 translation, or Ms. Ahmed, do you know?

24 (Foreign language spoken.)

25 CHAIRPERSON HILL: Okay. Mr. Chen?

1 MR. CHEN: Yes, sir.

2 CHAIRPERSON HILL: Can you translate as best you
3 can into Cantonese?

4 MR. CHEN: You mean from Mandarin into Cantonese?

5 CHAIRPERSON HILL: Yes. Mandarin -- well, she was
6 speaking -- he was speaking English. I mean, Ms. --

7 MS. AHMED: Sorry. We were just making sure that
8 everyone -- yes, we have -- actually, don't need the
9 Cantonese translation for this part, so I think we're all
10 set.

11 CHAIRPERSON HILL: Okay. But I'm asking a
12 question. I'm sorry. Do you know who the Cantonese was for?
13 Who asked for the Cantonese translation?

14 MS. AHMED: There are some residents here who,
15 Cantonese is their primary language, and so it was easier for
16 them, but I think, yes, so there are some folks here, but we
17 can -- there's, I think, a lot of folks here can speak both,
18 so --

19 CHAIRPERSON HILL: I understand. Okay. Mr. Chen?

20 MR. CHEN: Yes, sir.

21 CHAIRPERSON HILL: Just in order to make this as
22 helpful as possible, if you could please do your best to
23 translate, yes, from Mandarin or English into Cantonese just
24 a summary of what you heard?

25 MR. CHEN: Sorry. Sir, do I have to translate

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1 what the gentleman has just said?

2 CHAIRPERSON HILL: Yes.

3 MR. CHEN: Oh, all right. Wait a second. I have
4 to read my notes.

5 CHAIRPERSON HILL: Mr. Chen, let me stop one
6 second.

7 MR. CHEN: Yes.

8 CHAIRPERSON HILL: Madam Secretary, I'm not clear
9 as to how the translation services request works. If the
10 person who asked for translation services now requests that
11 they no longer need the translation services, do we not have
12 to provide those translation services?

13 MS. AHMED: Sorry. I just wanted to clarify. So,
14 we don't need someone to translate testimonies into
15 Cantonese.

16 CHAIRPERSON HILL: Okay. So, you don't need the
17 Cantonese translation?

18 MS. AHMED: Not right now.

19 CHAIRPERSON HILL: Well, the right now part is
20 what I'm trying to clear up. If you're going to need it
21 later, then I might as well keep the translator here, so
22 you're going to need Cantonese later.

23 MS. AHMED: I think it's fine. I think we're set
24 for the rest of the meeting without the Cantonese translator.
25 Thank you.

1 CHAIRPERSON HILL: Okay. Mr. Chen?

2 MR. CHEN: Yes, sir.

3 CHAIRPERSON HILL: Mr. Chen, since we've already
4 paid for your time and have you here, why don't you just sit
5 with us, and if something comes up where someone needs
6 Cantonese, you will be available, so please do not leave, all
7 right, Mr. Chen?

8 MR. CHEN: Yes, Mr. Chairman. I can stand by.
9 By the way -- well, I can speak both Mandarin and Cantonese,
10 but I have been booked specifically for only English and
11 Cantonese interpreting, not Mandarin and Cantonese
12 interpreting.

13 CHAIRPERSON HILL: I understand, Mr. Chen. Go
14 ahead, Mr. Chen, and just stand by.

15 MR. CHEN: Yes, sir.

16 MR. FREEMAN: Mr. Chairman, can I just ask a
17 question? Because I don't -- I just -- I'm trying to
18 understand, and maybe Ms. Ahmed can help. So, I just want
19 to clear that her witnesses have whatever translation
20 services they need to fully understand the remainder of this
21 hearing whether Mr. Chen stays or does not say. Is that what
22 I'm understanding, Ms. Ahmed?

23 MS. AHMED: Witnesses that are testifying don't
24 need Mr. Chen to translate their own testimony back into
25 Cantonese. All of the tenants have gone over their testimony

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1 and are clear on what everybody else is presenting as well,
2 but it is important for Mr. Chen to be on standby in case
3 there are any questions asked of anybody and for after their
4 testimony, for anybody else's testimony, that would still
5 need to be translated into Cantonese, but at this point, the
6 tenants' own testimony if it's given in Mandarin, it doesn't
7 need to be translated into Cantonese back to the tenants.
8 Does that make sense?

9 MR. FREEMAN: So, we will have rebuttal, so does
10 Mr. Chen need to be available --

11 MS. AHMED: Mr. Chen does need to be available for
12 that.

13 MR. FREEMAN: Thank you.

14 CHAIRPERSON HILL: Okay. So -- okay. Ms. He, are
15 you the one that's sitting there or no?

16 MS. HE: No. That's the translator, but this is
17 me. I'm Cassie. Hi.

18 CHAIRPERSON HILL: Okay, Ms. He. What's the name
19 of the translator?

20 MS. GAO: Mr. Chairman, my name is Helen Gao. I
21 am a court-certified Mandarin --

22 CHAIRPERSON HILL: Okay. Ms. Gao, I just want to
23 know how to refer to you. All right, Ms. Gao. Who is the
24 next person -- I lived in Beijing for a short time. My
25 Mandarin is not very good. Who's your next person there for

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1 testimony? Okay. Go ahead, Ms. Gao.

2 MS. LI: My name is Hui Xia Li.

3 CHAIRPERSON HILL: Okay. Ms. Gao, go ahead.

4 MS LI: My name is Hui Xia Li.

5 CHAIRPERSON HILL: No, no. I'm saying go ahead
6 with Ms. Li's testimony.

7 MS. LI: I live in Wah Luck House. I've been
8 living at Wah Luck House for 12 years. I am a member at the
9 resident committee at Wah Luck House. I've been in Chinatown
10 for 30 years.

11 Chinatown is my home. It's where my community is.
12 However, the replacement of the small business, especially
13 those that are affected by this replacement, and this is a
14 further forced replacement of our community.

15 Chinatown used to be a prosperous place with a lot
16 of businesses. In the past, there were bakeries, grocery
17 stores. However, right now, there are no places from which
18 we can buy what we need. Each month we have to take the bus
19 to Virginia to buy groceries, like bread.

20 Full Kee Restaurant and Gaoya Hair Salon are very
21 important to us. Please do not replace Full Kee and Gaoya
22 Hair Salon, as well as other small businesses in Chinatown.
23 Please help us to build a new grocery store in Chinatown.

24 Without Chinese and Chinese businesses, what would
25 Chinatown become? We urge you to ensure that the zoning

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1 planning will not further harm Chinatown as well as small
2 businesses like us. Thank you. You're welcome.

3 CHAIRPERSON HILL: Okay. Who's next?

4 MR. TAN: My name is Xi Zheng Tan. I also live
5 in Wah Luck House. I've been in Wah Luck House for roughly
6 over 20 years. In Chinatown, there used to be many Chinese
7 people living here. Currently, you can hardly find Chinese
8 people because they have moved away. I've been living here
9 for over 20 years.

10 In the past, there were relatively more stores.
11 It was convenient to do shopping. Right now, there were no
12 place to go for shopping. I am getting older each year, so
13 are the other residents. Yet, we have to go to Virginia or
14 Maryland to do grocery shopping. We are getting old. Our
15 mobility is no longer that good.

16 There is a hair salon in Chinatown, but if the
17 hair salon has moved, then there'll be no place to cut our
18 hair. We do not know where is a hair salon. We cannot do
19 the haircutting. Currently, the seniors living in Wah Luck
20 House use this hair salon to cut their hair.

21 For the seniors living in Wah Luck House, if they
22 want to go and buy groceries and other things, we need to go
23 to Virginia or Maryland to do shopping, such as the Great
24 Wall Supermarket in Virginia or Maryland, and it takes over
25 half an hour to be on the subway or busses. For seniors,

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1 it's impossible to do shopping that way.

2 Earlier, we could still go to Walmart to do
3 grocery shopping. Now, Walmart even moved away. We have no
4 place to buy any Chinese groceries. That's all. Thank you.

5 CHAIRPERSON HILL: Ms. Gao, I guess, how many more
6 do you have there with you?

7 MS. GAO: Four, Mr. Chairman.

8 CHAIRPERSON HILL: Okay. Okay. Thank you.

9 MS. LI: My name is Rui Yan Li. I am a resident
10 of Wah Luck House. I've been living in Wah Luck House for
11 22 years, which means I've been living in Chinatown for 22
12 years. Chinatown is my home.

13 Chinatown is my community that some small business
14 has been affected here. I am getting old myself. Just like
15 my other two fellow residents expressed, I will not say the
16 same thing again here. I am getting old myself, just like
17 my other two fellow residents expressed. I will not say the
18 same thing again here. I am getting old myself, it's not
19 easy for me to walk, and I like to do grocery shopping in
20 Chinatown.

21 That's all I would like to say. I won't say more
22 as my other two residents have said themselves. Thank you.

23 CHAIRPERSON HILL: (Foreign language spoken.)

24 MS. CHEN: My name is Hao Chen. I live at 401 K
25 Street. I've been living here for over ten years. I live

1 at a restaurant, Wok and Roll, in Chinatown. I'd like to let
2 you know that at 401 K, Chinatown, I've encountered a lot of
3 difficulties. The landlord asked me to leave. I hope that
4 you can help me. The elevator in 401 K is not working. They
5 are not fixing it.

6 CHAIRPERSON HILL: Okay. Ms. Gao, if you could
7 let the witness know that we're here for the zoning project
8 over at 505 to 517 8th Street? We don't have any authority
9 over that building. Do you have any testimony for this
10 project?

11 MS. CHEN: I am pleading you to help Chinatown,
12 to help Chinese people. It is difficult to buy groceries.
13 I do not speak beautifully. I can only speak a little, but
14 that's what I want to say. I go to work in Chinatown. At
15 night, it is not safe. I would like you to help us.

16 CHAIRPERSON HILL: Okay. Thank you.

17 MS. CHEN: Sorry, I don't speak very well.

18 CHAIRPERSON HILL: I don't speak very well
19 Mandarin, so it's okay. Okay. Who's the last one?

20 MS. TAN: My name is Shi Hua Tan.

21 CHAIRPERSON HILL: (Foreign language spoken.)

22 MS. TAN: I live at 401 K over ten years.

23 CHAIRPERSON HILL: Ms. Gao, are they going to
24 provide --

25 MS. HE: Yes, Mr. Chairman.

1 CHAIRPERSON HILL: Yes?

2 MS. HE: Yes. Please go ahead, Mr. Chairman.

3 CHAIRPERSON HILL: I was just asking -- I can't
4 hear the testimony. Is she giving some more testimony?

5 MS. HE: No. The lady says, no.

6 CHAIRPERSON HILL: Are there any more, Ms. Gao?

7 MR. CHEN: I live at Wah Luck House. My name is
8 See Ming Chen. Last name Chen.

9 CHAIRPERSON HILL: Ms. Gao, one moment.

10 Oh, you're still with us, right, Ms. Tan?

11 MS. TAN: Yes, I'm here. I'm here.

12 CHAIRPERSON HILL: Okay. Thank you.

13 Go ahead, Ms. Gao, please continue.

14 MR. CHEN: I've been living in Wah Luck House for
15 nearly two years. I've been living in Chinatown for 20
16 years. In the past, it was convenient in Chinatown to do
17 grocery shopping, to have haircut, but now, there seems, the
18 changes took place in Chinatown, it was not convenient to do
19 those things anymore. As older people, it is not convenient.

20 We are asking the government help us, to help us
21 be able to buy groceries more conveniently so that we do not
22 have to travel far to do that, and to travel far is not
23 convenient. We hope that the government can provide
24 conveniences to us.

25 The most important thing is that a lot of people,

1 other than Chinese people, are coming into the Chinatown, and
2 again, it is difficult to buy groceries. And we most hope
3 that you can help us to preserve the history, the tradition
4 of Chinatown. If the current situation continues, there will
5 be no Chinatown in the future.

6 CHAIRPERSON HILL: Okay. Is that all of your
7 witnesses, Ms. Gao?

8 MR. CHEN: Yes. That's for me. Thank you.

9 CHAIRPERSON HILL: (Foreign language spoken.)
10 Okay. Ms. Tan, can you hear me?

11 MS. TAN: Yes, I can hear you.

12 CHAIRPERSON HILL: Okay.

13 And, Ms. He, can you hear me? Leave that on, Ms.
14 He.

15 MS. HE: Yes, I can hear you.

16 CHAIRPERSON HILL: Can you hear me?

17 MS. HE: Yes.

18 CHAIRPERSON HILL: Okay.

19 So, Ms. Tan, I want to speak to the witnesses if
20 I could. If you could translate for me, Ms. Tan?

21 MS. TAN: Yes, go ahead.

22 CHAIRPERSON HILL: Before I -- Ms. Gao, if you
23 could submit something into the record that states that you
24 were a translator for this group and this group allowed you
25 to translate?

1 MS. GAO: Yes, Mr. Chair. Would you like me to do
2 that now?

3 CHAIRPERSON HILL: You can do -- the record is
4 going to be open for some things that we're going to need,
5 so please go ahead and submit that into the record, okay?

6 MS. AHMED: With you, Ms. Gao.

7 And, Mr. Chairman, before you address the
8 witnesses, I will say that we do have additional witnesses
9 that don't require translation and a couple of witnesses who
10 have joined virtually as well. If you would like to wait and
11 come back to those after, that's fine. I just wanted to --

12 CHAIRPERSON HILL: Yes, I appreciate that. There
13 was -- I was concerned about the translator, but I might need
14 the translator regardless. What I wanted to just mention to
15 the community there is, again, we're -- and, Ms. Tan, if you
16 can translate this for me?

17 MS. TAN: Sure.

18 CHAIRPERSON HILL: We're the Board of Zoning
19 Adjustment, so we only deal with zoning regulations.

20 Ms. Tan, please translate.

21 So, we're not the city council, and we don't
22 provide oversight for anything other than very narrow zoning
23 regulations. The Applicant has asked for a relief from
24 loading requirements for the building. Ms. Tan? And, also,
25 has asked relief from rear yard requirements.

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1 The area that you're speaking to with the retail,
2 they have asked for some relief from retail requirements, so
3 there might be some zoning connection there, but overall,
4 it's not necessarily in our purview.

5 On a personal level, I lived in Chinatown for ten
6 years, so I am familiar with your community. And please now
7 follow along with the rest of the hearing. Okay.

8 Ms. Ahmed, so there are other witnesses, correct?

9 MS. AHMED: Yes. We have a couple of witnesses
10 that are waiting in the participant pool, namely Daniel del
11 Pielago, Mary Tablante, Roy Chan, Zoe Li, and Cassie He will
12 also be testifying after.

13 CHAIRPERSON HILL: Okay. Slow down one second.

14 MS. AHMED: Sorry.

15 CHAIRPERSON HILL: That's all right. There was
16 someone who was trying to catch a plane, and so I'm trying
17 to find out about that. Okay.

18 Mr. Young, do you have the list of people wanting
19 to testify?

20 MS. LI: Sorry. This is Xi Zheng Li. That was me.

21 CHAIRPERSON HILL: Okay, great. Ms. Tan, can you
22 hear me?

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

24 CHAIRPERSON HILL: You're going to have to
25 translate the testimony that you're about to hear into

1 Mandarin, okay?

2 MS. TAN: Okay.

3 CHAIRPERSON HILL: Could you introduce yourself
4 again for the witness list?

5 MS. R. LI: My name is Rui Yan Li.

6 CHAIRPERSON HILL: I can barely hear you. Is it
7 Rui Yan Li?

8 MS. R. LI: Yes, that's right. Let me just switch
9 off my headphones. Is that any better?

10 CHAIRPERSON HILL: Is it a little better, I think.
11 (Simultaneous speaking.)

12 MS. R. LI: A little better, okay.

13 CHAIRPERSON HILL: Where do you live, Ms. Li?

14 MS. R. LI: I live in Washington, D.C. in Ward 4.

15 CHAIRPERSON HILL: Okay. If you could give us
16 your testimony, you'll have three minutes.

17 MS. R. LI: All right, thank you. So I'm part of
18 the Save D.C. Chinatown Solidarity Network. And my testimony
19 is this. We're discussing removing five of the historic
20 Chinese businesses left in D.C. Chinatown. That's five out
21 of less than a dozen. That would take the number of total
22 businesses to under seven and counting down. Essentially
23 this is the extinction of working class Chinese society here
24 in D.C.

25 Earlier, Mr. Moy came and introduced himself as

1 a long-time D.C. resident and shrouded the actual pertinent
2 point that he's joint venture partner of this Rift Valley for
3 this new development. He said that this does not displace
4 people, just businesses.

5 But to me, that is equated to saying we're not
6 going to directly remove villagers. We'll just remove their
7 wells, their sources of food, their kitchens, and make
8 completely impossible to exist as a community.

9 It echos how developers and investors talk around
10 the obvious harm to long-standing communities of color.
11 Where can the last remaining Chinese residents go to get
12 their food, meet their friends, get their hair cut, and exist
13 in this vanishing community?

14 This proposal for relief means to completely
15 eradicate the working class Chinese community from these
16 streets and replace them with pro-business luxury and
17 businesses that serve the wealthy.

18 I've been joining more of these hearings recently,
19 and it's become brazenly, brazenly obvious to me that D.C.
20 governmental bodies are not here to support these communities
21 of color, especially the working class communities. It is
22 very pro-business and very pro-development.

23 As an example, denying Wah Luck House party status
24 is such a telling showcase of how our systems operate against
25 people.

1 Chairman Hill, you said this is the first time
2 this kind of robust translation has happened on a hearing.
3 It shows the difficulty of our residents to be included in
4 what is happening in their own neighborhoods, their
5 namesakes, right, Chinatown.

6 The Black neighbors of the historic Strivers
7 neighborhood on 17th and U's zoning hearing showcase this
8 precedent and the importance of these kinds of cohorts to be
9 given party status. And --

10 CHAIRPERSON HILL: Ms. Li, Ms. Li Ms. Li? I just
11 realized --

12 MS. R. LI: I'm hearing you.

13 CHAIRPERSON HILL: Can you hear me?

14 MS. R. LI. Yes.

15 CHAIRPERSON HILL: So I have to translate this
16 into Mandarin. So --

17 MS. R. LI: I am going to send this written so
18 that it's translated in Mandarin for the residents.

19 CHAIRPERSON HILL: No, I'm just saying Ms. Tan is
20 going to speak in Mandarin. So just break up your testimony
21 here a little bit so that she can then translate it into
22 Mandarin.

23 MS. AHMED: Mr. Chairman, I'm sorry to interrupt.
24 But it's okay with the Board, the Wah Luck House Tenants
25 Association is willing to consent to not receiving

1 translation of the testimony in opposition to the
2 application.

3 CHAIRPERSON HILL: Okay. I don't know if that --
4 I don't know how that works, unfortunately, in terms of --

5 MS. R. LI: Chairman I am --

6 (Simultaneous speaking.)

7 CHAIRPERSON HILL: -- Ms. Li?

8 MS. R. LI: Yes, go ahead.

9 CHAIRPERSON HILL: That's okay. Why don't you go
10 ahead and finish your testimony, and then I'll figure out
11 what's going to happen.

12 MS. R. LI: Yes. And I am sending this as a copy
13 for translations as well, just to have that squared away.
14 Thank you for addressing that.

15 To continue, so we talked about the 300 long-
16 standing Chinese residents that remain in Chinatown. And if
17 you -- I went to Ward 2, Chinatown itself, as we're talking
18 about the zoning, Wah Luck House is the majority by
19 overwhelming numbers. They are the totality actually.

20 So when this committee had decided not to give
21 party status, to me it is an erasure of these Chinese
22 community members. And this kind of callus decision, it
23 really does do the most harm to these elders of color. They
24 get sick without their care network. They have alarming
25 rates of disproportionate poverty and death rates, and it's

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1 completely systemic.

2 So this is proof of this kind of systemic racism
3 in the city and of the individuals who refuse to hear these
4 voices of color, of working class, of elders. And it's a
5 further erasure and vanishing of the Asian-American community
6 in this country, and what this city has done to move from
7 thousands and thousands of Chinese members to dwindling under
8 300. It is violent in its silencing.

9 At the heart of the matter is an absolute lack of
10 community outreach. I hear people on this hearing say that
11 they've done all this outreach. And all I hear is actually
12 they're talking to business owners like the Moy family, the
13 -- there is no real representation of working with these
14 working class Chinese residents at the Wah Luck House or
15 Museum Square.

16 So party status is incredibly important, and
17 denying it is a deliberate tactic to actually silence and
18 ignore them --

19 CHAIRPERSON HILL: Ms. Li, Ms. Li?

20 MS. R. LI: -- and continue to ignore them.

21 CHAIRPERSON HILL: Ms. Li, I have to stop you a
22 little bit. You're saying that we deliberately are doing
23 something to the organization that requested party status.
24 We, the Board, we looked at the regulations and determined,
25 through the regulations, that this particular group was

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1 unable to achieve party status.

2 It's not that we're trying to disenfranchise the
3 group. And so I just have to take a little bit of issue
4 that you're speaking it in a way that we are trying to
5 disenfranchise a group. We had taken a look at the
6 regulations and found, through those regulations, that they
7 were unable to meet the requirements.

8 MS. R. LI: I would love to understand those
9 regulations and requirements. Because the way I see it, is
10 this is a community that is going to be disproportionately
11 harmed by this proposal for relief. And they've talked about
12 it, they've given testimony, so I disagree with the
13 interpretation of those regulations in giving special status
14 to this group.

15 CHAIRPERSON HILL: Okay. All right, go ahead, Ms.
16 Li.

17 MS. R. LI: Yes. And then finally, the proposal
18 for the relief has not met the burden of proof that they
19 cannot continue to have storefronts on the 500 block of H
20 Street to move forward with their building program. And this
21 should not just be approved without doing that due diligence.
22 There are other ways around this.

23 So we are asking the Zoning Commission to defend
24 Chinatown's land use requirements, adhere to planning
25 guidelines, and objectives of the Chinatown sub-area to

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1 protect and enhance downtown only as a cultural area by
2 maintaining and expanding the existing concentration of
3 retail uses emphasizing Chinese or Asian cultural and
4 community facilities.

5 This is part of the COMP plan, and it states that
6 Chinatown is to be protected. So when we talk about
7 Chinatown being protected, we mean the real Chinatown, these
8 communities that have been here 10, 20, 40, 50-plus years.

9 And this development needs to ensure that it is
10 preserving that and not erasing that, especially the last
11 dwindling on extinction community businesses that everyone
12 has said is so needed from the testimonies from Wah Luck
13 House.

14 CHAIRPERSON HILL: Okay. All right, thank you,
15 Ms. Li.

16 MS. R. LI: Thank you so much.

17 CHAIRPERSON HILL: You're welcome. Let's see,
18 who's the next witness, Mr. Young?

19 MR. YOUNG: Zoe Li.

20 CHAIRPERSON HILL: Ms. Li, can you hear me?

21 MS. Z. LI: Yes, thank you.

22 CHAIRPERSON HILL: Great, where are you, Ms. Li?
23 Can you use your camera just like -- okay. Great, perfect.
24 Okay, Ms. Li, could you please introduce yourself for the
25 record? And then you'll have three minutes to give your

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1 testimony as well.

2 MS. Z. LI: Thank you. Should I pause for
3 translation, or are we good to go through it.

4 CHAIRPERSON HILL: I think you should pause for
5 translation, so go ahead and, you know, when you get to a
6 nice break, go ahead and let the translator -- Ms. Tan, you
7 can translate.

8 MS. TAN: Okay.

9 MS. Z. LI: Thank you. My name is Zoe Li. My
10 Thai name is Li. I am a Ward 6 resident and a member of the
11 Save Chinatown Solidarity Network.

12 I recently graduated from a law school not far
13 from Chinatown and now work in public service here in D.C.
14 just as you all do on this Board. In school, I studied the
15 law, historic preservation, and where it falls short.

16 Once a place is gone, the history and spirit they
17 hold is also gone forever. That history and spirit lives in
18 the people and their places and demands special protection
19 that can't be fully captured in one office's review or cost
20 benefit analysis.

21 The Solidarity Network has worked closely with the
22 Wah Luck House Tenants Association and gotten to know
23 business owners' and retail workers' perspectives at both
24 long-term Chinese businesses, Gaoya and Full Kee.

25 In our conversations with working class people,

1 including wait staff, chefs, hairdressers, we've heard that
2 the development of a hotel would destroy their livelihoods
3 and further displace the little that is left of Chinatown.

4 The voices of landowners in any location, like the
5 Moy family here, tend to be the loudest, and most
6 influential, and often overshadow the needs of the tenants
7 and employees that feel beholden to them. But Chinatown's
8 landowners don't live here anymore.

9 Our working class residents do, and their voices
10 have often been dismissed, silenced, or treated as an
11 afterthought, as they were today with the Board's decision
12 to exercise their discretion to deny tenants association's
13 party status. These residents are the ones who make
14 Chinatown what it is, and are directly and uniquely impacted
15 by these decisions.

16 Many people the Network spoke to were unable to
17 attend the hearing this morning due to work demands, in fear
18 of retaliation, or other immediate negative consequences.
19 However, they were brave enough to voice their concerns about
20 the hotel development in writing. Chinatown residents have
21 worked at these businesses for years, even decades, and feel
22 they have no future in Chinatown if the hotel were to develop
23 in its current form.

24 We looked up the testimony submitted by Jeni of
25 Gaoya Hair Salon and Su I Ve of Full Kee who point out that

1 a hotel development will lead to rising rents and in turn the
2 closing of their businesses, loss of employment for workers,
3 and further displacement. They both asked what is the point
4 of building a hotel here if there's no Chinatown left?

5 We heard one message loud and clear. Chinatown
6 needs support for a strong residential community and a strong
7 Chinese API-led retail economy that includes long-term
8 establishments and caters to residents' needs. Local
9 retailers like Moon Rabbit have stood out recently in support
10 of these goals and can be important resources for finding
11 solutions.

12 However, if granted this zoning variance will
13 eliminate the possibility of preservation, and we urge the
14 Zoning Board to take action. Do not grant this variance.

15 And to the Applicant, if a hotel is built, please
16 preserve affordable rents for Full Kee and Gaoya and support
17 the establishment of an Asian grocery store in Chinatown.

18 Thanks, everyone, for your work and your patience.

19 CHAIRPERSON HILL: Thank you, Ms. Li.

20 Mr. Young, who's next?

21 MR. YOUNG: I believe it's Daniel Del Pielago.

22 CHAIRPERSON HILL: Mr. del Pielago, can you hear
23 me?

24 Great, could you please go ahead and give me your
25 name and address. And you'll have three minutes to give your

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1 testimony.

2 MR. DEL PIELAGO: Sure, my name is Daniel Del
3 Pielago. I work with the Empower DC, 1419 B Street, NW.

4 CHAIRPERSON HILL: Ms. Tan, can you -- Mr. Del
5 Pielago, if you wouldn't mind pausing as Ms. Li did, at an
6 appropriate time, so Ms. Tan can translate.

7 Ms. Tan, can you go ahead and translate that?

8 (Foreign language spoken.)

9 CHAIRPERSON HILL: Go ahead, Mr. Del Pielago.

10 MR. DEL PIELAGO: Okay. On behalf of Empower DC.
11 I am submitting this testimony to express our support for
12 Chinatown businesses and residents regarding Case 20974.

13 My organization believes that District residents
14 directly affected by development need to have a voice on what
15 happens in their neighborhood and community.

16 In this case a stronghold of long-time Chinatown
17 residents are lifting up their concern about the impact of
18 this development and the need to retain much used small
19 businesses they depend on.

20 For years now, we have seen the displacement of
21 businesses and residents from Chinatown. Moving forward with
22 the developer's plans will only exacerbate this loss.

23 The proposed retail reduction will impose deep
24 loss to the long-term Chinese American residents that serve
25 as the backbone of Chinatown.

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1 Residents who work at the businesses will lose
2 their livelihood, residents will lose access to goods,
3 services, and community spaces that are central to their
4 cultural identity, happiness, and sense of belonging.

5 It states the objectives of the Chinatown sub-area
6 are to protect and enhance downtown's only ethnic cultural
7 area by maintaining and expanding the existing concentration
8 of retail uses emphasizing Chinese or Asian cultural and
9 community facilities.

10 Further, D.C.'s comprehensive plan states that
11 Chinatown is to be protected so that its cultural tradition
12 and people can remain as this important area of downtown.

13 This request for relief should not be granted as
14 it directly contradicts city planning policies that seek to
15 protect Chinatown and its people.

16 If granted, this exception will deal a permanent
17 deeply, excuse me, deeply harmful blow to this already
18 struggling community.

19 We support the Wah Luck House Tenant Association's
20 ask for the developer to support small business preservation
21 and the establishment of a grocery store in Chinatown if
22 possible.

23 Thank you, and that concludes my testimony.

24 CHAIRPERSON HILL: Thank you, Mr. Del Pielago.

25 Who is next, Mr. Young?

1 MR. YOUNG: Mary Tablante.

2 CHAIRPERSON HILL: Ms. Tablante, can you hear me?

3 Yes, could you introduce yourself for the record?

4 And also, as with the other witnesses, if you noticed, if you
5 could just pause and let the translator translate.

6 MS. TABLANTE: Of course. Hi, my name is Mary
7 Tablante, and I am the president of the Asian Pacific
8 American Labor Alliance D.C. chapter, or APALA DC.

9 On behalf of our organization, I'm expressing
10 support for Chinatown businesses, workers, residents, and the
11 Save Chinatown Solidarity Network. We work to promote Asian
12 Americans within the labor movement and advocate for the
13 civil and human rights of immigrants and all people of color.

14 As an organization that fights for AAPI workers,
15 we have a strong interest in safeguarding Chinatown and
16 ensuring protection from displacement, gentrification, and
17 cultural erasure.

18 D.C.'s Chinatown existence has already faced so
19 many hardships over the years, and historically ethnic
20 enclaves like Chinatown have been a safe haven for
21 immigrants, those who are low income, and those who are some
22 of the most vulnerable.

23 We are concerned that with the Chinese American
24 businesses and residents dwindling, this proposed retail
25 space would further accelerate the erasure of this community,

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1 history, and economy, further creating a domino effect. Less
2 Chinese businesses means also less work opportunity residents
3 and less of this economic opportunity.

4 We believe long-term businesses and residents
5 should be protected. People who are D.C. residents and
6 visitors alike, really value investing and supporting
7 neighborhoods that are authentic and thriving.

8 The decimation of Chinatown as another ethnic
9 enclave is a trend across the country. And we want to set
10 a good example for historic preservation here in the
11 District.

12 We have heard and support the call from the Wah
13 Luck House Tenants Association to support the small business
14 preservation, including their grocery store. And we call
15 upon the Zoning Board to prioritize the people who are
16 long-term residents and workers who contribute every day to
17 Chinatown and to D.C. as a whole.

18 And that concludes my testimony. Thank you.

19 CHAIRPERSON HILL: Thank you, Ms. Tablante. And
20 thanks for the work that you and Ms. Li are doing.

21 Okay. Let's see, who's next, Mr. Young?

22 MR. YOUNG: Roy Chan.

23 CHAIRPERSON HILL: Mr. Chan, can you hear me?

24 Great. Yes. Could you introduce yourself for the
25 record? And then if you could also pause as the others have

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1 done for translation.

2 MR. CHAN: Absolutely. My name is Roy Chan. I
3 represent the National Coalition for Asian Pacific American
4 Community Development. We're headquartered here in
5 Washington, D.C.

6 I represent a national coalition of 100
7 neighborhood-based organizations across the country including
8 our Chinatowns.

9 Time and again we have witnessed the erosion of
10 our communities across the country when we see cities enable
11 market rate development in the name of growth or
12 revitalization end up displacing long-standing
13 neighborhood-serving businesses that harm local residents,
14 end up harming local residents.

15 And so we're deeply concerned about this proposed
16 development in which the developer's request to eliminate the
17 ground floor use requirement for retail space is directly at
18 odds with the land use objectives of the D.C. Chinatown sub
19 area.

20 And I'm going to restate the objective again, as
21 the previous speaker said, just to be clear. The D.C.
22 Chinatown sub area land use objective is to protect and
23 enhance downtown's only ethnic cultural area by maintaining
24 and expanding the existing concentration of retail uses
25 emphasizing Chinese or Asian cultural and community

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1 facilities.

2 For decades, the existing buildings' long-standing
3 Chinese American businesses have been operating successfully,
4 contributing faithfully to the Chinatown sub area objectives
5 and, most importantly, serving local residents in spite of
6 the storefront constraints that the developer is using for
7 their argument.

8 The developer's proposed variance would not only
9 displace these businesses but eliminate the future
10 requirements for ground-floor retail use in this building
11 that is so critical to Chinatown's remaining cultural
12 vitality.

13 So we believe the consequence of this proposed
14 project would have a substantial detriment to the public good
15 or substantial impairment to the entire purpose or integrity
16 of this zone plan, specifically for our local businesses and
17 residents whose livelihood, culture, and belongings will be
18 impacted.

19 So in closing, we urge you to reject the proposed
20 variance and uphold the Chinatown sub areas' land use
21 objectives by preserving the existing businesses and ground
22 floor retail use requirements for this vital building. Thank
23 you.

24 CHAIRPERSON HILL: Thank you.

25 Mr. Young, who's next?

1 MR. YOUNG: I believe that's all I had, but I
2 would ask Ms. Ahmed if there are any others.

3 CHAIRPERSON HILL: Don't let anybody leave yet,
4 Mr. Young.

5 Ms. Ahmed, can you hear me?

6 Okay, do you know if we missed any of your people?

7 MS. AHMED: I believe that was everybody. I just
8 have -- oh, we did Ms. Cassie He on behalf of the Chinatown
9 Solidarity Network. She coordinated all of the other
10 witnesses.

11 CHAIRPERSON HILL: Is she the one who's there?
12 I can see her right now.

13 MS. AHMED: Yes, she's here in person.

14 CHAIRPERSON HILL: Okay, great. Mr. Freeman?

15 MS. AHMED: And --

16 CHAIRPERSON HILL: I'm sorry --

17 MS. AHMED: I'm sorry. I would also like to add
18 that I also registered as a witness and would like to offer
19 testimony as well.

20 CHAIRPERSON HILL: Okay. Mr. Freeman, can you
21 hear me?

22 So I know that you're going to have rebuttal at
23 the very end about everything, meaning the hearing. But do
24 you have any questions of anyone in particular right now?

25 MR. FREEMAN: No questions from -- No, sir.

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1 CHAIRPERSON HILL: Okay. Ms. He, do you want to
2 go ahead and give your name, address, and testimony?

3 MS. HE: Sure. And I just want to, also before I
4 do that, say that this has already been shared with all of
5 the residents. And so we consent to my testimony not being
6 translated if that's okay with everyone else.

7 CHAIRPERSON HILL: No, we'll just go ahead. Ms.
8 Tan's been doing such a good job so far.

9 MS. HE: Okay.

10 CHAIRPERSON HILL: Why not, you know?

11 (Simultaneous speaking.)

12 MS. HE: It's going to be --

13 CHAIRPERSON HILL: I don't know what I'm missing
14 anymore, Ms. He, so we're just going to cover it all, okay?

15 MS. HE: Okay, great.

16 So my name is Cassie He. I am a Ward 1 resident.
17 And I'm here to testify on behalf of the Save Chinatown
18 Solidarity Network. And as previously mentioned, we are an
19 API-led network of D.C. residents and professionals working
20 to amplify the voices and support the preservation of
21 Chinatown's working class activities. So --

22 CHAIRPERSON HILL: Ms. Tan?

23 MS. HE: Okay.

24 CHAIRPERSON HILL: Oh, never mind. Ms. Tan, go
25 ahead, Ms. -- just kind of break, Ms. He, and let Ms. Tan go

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1 ahead and finish the whole -- there's only two more left.
2 Go ahead.

3 MS. HE: Okay.

4 (Foreign language spoken.)

5 CHAIRPERSON HILL: Go ahead, Ms. He.

6 MS. HE: Thank you. So we wanted to just uplift
7 that as the city focuses on the future of Chinatown. We're
8 here to spotlight a gaping hole in the conversation which is
9 the voices of working class Chinese Americans who live and
10 work in Chinatown and who Chinatown cannot exist without.

11 So when we look at the task force, the steering
12 committee, and other bodies that impact Chinatown, where is
13 the long-term working class resident representation?

14 We have been working closely with Wah Luck House
15 Tenants Association and gathered a lot of input from the
16 workers and small business leadership around RVP's zoning
17 variance request. And so we're here to uplift their voices
18 today.

19 So Rift Valley Partners, as we all know, is asking
20 for a zoning exception to shrink retail use requirements and
21 decrease from seven storefronts down to two. You've heard
22 from many of our parties today about how the zoning exception
23 will be deeply detrimental to the Chinatown sub area and the
24 continued existence of its community and cultural character.

25 We wanted to again highlight the ways in addition

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1 to that, but the Applicant failed to meet the requirements
2 for the request area of variance relief.

3 So the two ways that the Applicant fails to meet
4 the requirements for the requested area variance relief are,
5 one, RVP is arguing that there is an exceptional condition
6 or situation on the site.

7 On the contrary, the Moy family has long been
8 aware of the historic preservation protections around many
9 of the row houses in the area, including this one in
10 question. And again, the Applicant fails to show that the
11 situation in question is exceptional.

12 The second is that RVP argues that maintaining the
13 split level stairs could potentially result in having vacant
14 retail spaces. And this is false.

15 Retail has successfully operated out of these
16 historic storefronts for a very long time. And it's true
17 that some of these businesses have closed due to COVID and
18 other conditions related to gentrification, but not because
19 of the physical characteristics of the retail space.

20 I'd like to draw the Board's attention to the
21 objectives of the -- sorry, is it loud in here? There's a
22 --

23 CHAIRPERSON HILL: No, you're good, go ahead.

24 MS. HE: Okay. So we again call the Board's
25 attention to the objectives of the Chinatown sub area, which

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1 are to, quote, "protect and enhance downtown's only ethnic
2 cultural area by maintaining and expanding the existing
3 concentration of retail uses, emphasizing Chinese or Asian
4 cultural and community facilities."

5 Further, D.C.'s own comprehensive plan states that
6 Chinatown is to be protected. As it stands, there is only
7 a handful of Chinese small businesses remaining. And there
8 are not enough to fulfill resident's daily needs.

9 Residents continue to be pushed out of the
10 neighborhood, Museum Square, 401 K Street, these are all
11 major examples of this. And the rental units in the row
12 houses were actually emptied in the last few years and
13 converted into retail spaces.

14 So any reduction of retail on this lot means not
15 only displacing vital establishments like Full Kee and Gaoya
16 Hair Salon but also eliminating a crucial opportunity to
17 build API and Chinese retail back to Chinatown.

18 As the city prepares to pour resources into
19 redeveloping Chinatown and downtown, it's absolutely critical
20 that the BZA stand in defense of the Chinatown sub area land
21 use objectives, not to mention the livelihoods, dignities,
22 and identities of all the residents we've heard from today.

23 Our Network asks that the Board of Zoning
24 Adjustment deny the request for relief and support the
25 community asks that we've heard from today, specifically,

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1 one, the preservation of Full Kee and Gaoya Hair Salon and,
2 two, the creation of an Asian grocery store in Chinatown.

3 Thank you very much. That concludes my testimony.

4 CHAIRPERSON HILL: Okay, thanks, Ms. He.

5 Oh, Ms. Ahmed?

6 MS. AHMED: Yes.

7 CHAIRPERSON HILL: Can you hear me?

8 MS. AHMED: Yes, I can hear you, Mr. Chairman.
9 I sincerely apologize, but we actually did miss one more
10 witness, Angela Maske. She's already been added to the panel
11 list.

12 CHAIRPERSON HILL: Okay. Say her last name again,
13 please?

14 MS. AHMED: It's Angela.

15 CHAIRPERSON HILL: Oh, got you, I see her. Ms.
16 Maske, can you hear me?

17 MS. MASKE: Yes, I can hear you. I'm actually
18 speaking on behalf of a resident who was not able to speak
19 today. And I believe that has been cleared, but I just want
20 to double check.

21 CHAIRPERSON HILL: Yes, that got put into the
22 record and confirmed.

23 MS. MASKE: Okay.

24 CHAIRPERSON HILL: So you're going to read this
25 person's testimony, correct?

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1 MS. MASKE: Yes.

2 CHAIRPERSON HILL: Okay. And who's the person
3 that you're reading the testimony for again?

4 MS. MASKE: It's Su Ai Li.

5 CHAIRPERSON HILL: And where does she live?

6 MS. MASKE: In Chinatown, I don't have the exact
7 address, unfortunately. But we should be able to get that.

8 CHAIRPERSON HILL: I got you. Okay. Go ahead and
9 read the testimony.

10 MS. MEHLERT: I'm sorry to interrupt, Mr. Chair.
11 This is Keara.

12 CHAIRPERSON HILL: Sure.

13 MS. MEHLERT: So the Board is actually not
14 supposed to allow authorization for people to read public
15 testimony. They may submit it to the record, and you may
16 review it in the record. But the Board is not permitted
17 since there's no opportunity to cross or ask questions.

18 CHAIRPERSON HILL: Got it. I forgot about that.

19 Ms. Maske?

20 MS. MASKE: Yes?

21 CHAIRPERSON HILL: I forgot about that. You can
22 -- is her testimony in the record?

23 MS. MASKE: I am not sure. I would have to check
24 on that.

25 CHAIRPERSON HILL: There will be time for us to

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1 review it if you could please put it into the record.

2 MS. MASKE: Sure. Okay, that can be done. Thank
3 you.

4 CHAIRPERSON HILL: Okay. Thank you.

5 Ms. Ahmed, can you hear me?

6 MS. AHMED: Yes, I can hear you.

7 CHAIRPERSON HILL: Okay. Can you use your camera
8 for a second, is that okay?

9 MS. AHMED: Yes.

10 CHAIRPERSON HILL: Okay.

11 MS. AHMED: Sorry, it has a delay.

12 CHAIRPERSON HILL: That's all right. I will --

13 MS. AHMED: There we go.

14 CHAIRPERSON HILL: So, Ms. Ahmed, so I'm going to
15 keep you around, maybe a little bit. Because there might be
16 some questions, okay, that the Board might want to have.

17 And one of the things that I know that I would
18 like is a list of all the different organizations that have
19 been talking, you know. Because I'm a little -- I just want
20 the list of organizations, okay.

21 MS. AHMED: Yes.

22 CHAIRPERSON HILL: Now go ahead. As a witness,
23 please go ahead and give your testimony. And you will,
24 again, have three minutes.

25 I can go ahead and give -- I mean, I haven't been

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1 particularly strict about the time limit, right. I mean, I
2 want to hear everybody, we want to hear everybody, we want
3 everything to be translated. And so just because one didn't
4 get party status does not mean that we don't want to hear
5 from everybody, okay. So please go ahead and give us your
6 testimony.

7 And Ms. Tan, you're doing an outstanding job for
8 translating everyone. So we're going to take a break after
9 this, just to let everybody know. So go ahead, Ms. Ahmed,
10 and give your testimony, please.

11 MS. AHMED: Okay, thank you so much, Mr. Chairman.
12 My name is Nashrah Ahmed, and I represent the Wah Luck House
13 Tenants Association in this case.

14 The Applicant here has made three major requests
15 today, and while the Wah Luck House Tenants Association
16 opposes all three of these requests on the merits, we would
17 like to specifically focus this testimony on the first
18 variance requested, as it is most relevant to the Tenants
19 Association and directly presents economic and social
20 challenges to members of the Chinatown community.

21 Specifically this is the variance of the Chinatown
22 sub area ground floor use regulations in order to reduce the
23 amount of retail space required.

24 If this variance is granted, the result will be
25 a substantial reduction in the required storefront uses,

1 particularly retail and services uses that support the
2 existing Chinese residents of the neighborhood. I'll stop
3 there for translation.

4 MS. TAN: Okay.

5 (Foreign language spoken.)

6 The Applicant must meet three requirements in
7 order for the Board to grant a zoning adjustment. First, the
8 property is uniquely affected by exceptional size, shape, or
9 topography, or any other extraordinary condition.

10 Second, that the owner would encounter practical
11 difficulties if the current zoning regulations are applied.

12 And third, that the variance will not cause
13 substantial detriment to the public good or substantially
14 impair the intent, purpose, and integrity of the zone plan.

15 The Applicant has failed to meet all three of
16 these requirements, and thus the Board of Zoning Adjustments
17 should reject this for cause.

18 First I'd like to discuss the fact that the
19 property affected does not have any exceptional or
20 extraordinary conditions. The Applicant argues the existing
21 historic row homes on the property create an exceptional
22 situation that requires a variance. But the Applicant
23 provides no evidence showing that preservation of these
24 properties is exceptionally new or extraordinary.

25 While the Applicant has discussed, excuse me, has

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1 discussed the obligations that are required in order to
2 preserve these historic row homes, the Applicant continues
3 to describe the property in terms that can, in fact, be
4 applied to much of Chinatown and the surrounding
5 neighborhood.

6 The Applicant focuses on the fact that it's
7 required by the Historic Preservation Review Board to
8 preserve many of the original feature of the row homes. But
9 these features are in no way extraordinary or exceptional.
10 Historic row homes are not unique to this property or even
11 to the Chinatown neighborhood. The variance that the
12 Applicant is requesting cannot be granted, because it would
13 have to apply to everyone of these historic buildings.

14 The existence of a historically preserved district
15 or building by itself does not rise to the level of
16 exceptional or extraordinary circumstances. The D.C. court
17 previously held, in Capitol Hill Restoration Society versus
18 D.C. Board of Zoning Adjustment, that the extraordinary or
19 exceptional condition must uniquely affect a single piece of
20 property.

21 The Applicant has failed to prove how the specific
22 single piece of property is affected by this zoning
23 regulation, and the other properties in the area are not
24 affected by this zoning regulation.

25 Second, I would like to address the fact that the

1 Applicant would not encounter practical difficulties beyond
2 what is standard in the Chinatown neighborhood. In the case
3 Gilmartin versus the D.C. Board of Zoning Adjustment, the
4 court held that practical difficulties have two elements,
5 specifically that compliance with the area restriction would
6 be unnecessarily burdensome and, two, that the practical
7 difficulties are unique to that particular property.

8 The Applicant has failed to show either of these
9 elements. In terms of the first element --

10 CHAIRPERSON HILL: Give me a second, whoa, Ms.
11 Ahmed, give me one second now.

12 MS. AHMED: All right.

13 CHAIRPERSON HILL: That's all right. So I don't
14 know if Ms. Tan's going to be able to follow it, but just two
15 things. How much more do you have? The reason why I ask is
16 --

17 MS. AHMED: Another minute.

18 CHAIRPERSON HILL: Okay, that's fine.

19 MS. AHMED: Okay.

20 CHAIRPERSON HILL: So, you know, we might be
21 taking everyone's written testimony also. And so, you know,
22 but go ahead, please.

23 MS. AHMED: Okay, thank you.

24 (Simultaneous speaking.)

25 MEMBER SMITH: Ms. Ahmed?

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1 MS. AHMED: I can stop there for translation.

2 CHAIRPERSON HILL: Go ahead, Mr. Smith.

3 MEMBER SMITH: Well, that what I was going to say.

4 Ms. Ahmed, you have given us a thorough testimony, but can
5 I ask you slow it down a little bit more also.

6 MS. AHMED: Sure, I'm sorry about that.

7 MEMBER SMITH: Okay, to also help with the
8 translation.

9 MS. AHMED: Indeed.

10 CHAIRPERSON HILL: Thank you.

11 MS. AHMED: Thank you.

12 CHAIRPERSON HILL: Ha, ha, ha. Well, Ms. Ahmed,
13 she's got left and right, right. I mean, you've got the
14 three minutes on one hand, and she's got 20 minutes of
15 testimony. So I'm just trying to fit it in, right?

16 MS. AHMED: Exactly, ha, ha, ha.

17 CHAIRPERSON HILL: Go ahead.

18 MEMBER SMITH: I appreciate it, thank you.

19 MS. AHMED: Ms. Tan, if you'd like to go ahead
20 with translation now, and then I can proceed at a slower
21 pace.

22 MS. TAN: Okay.

23 (Foreign language spoken.)

24 MS. AHMED: Okay. So first in the two elements
25 that I mentioned, the Applicant failed to show that

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1 compliance would be unnecessarily burdensome. The Applicant
2 only argued that the split level stairs of the historic
3 buildings do not provide retail space that they consider
4 successful.

5 The Applicant additionally mentions the standard
6 clearing height for the majority of retail environments and
7 the issue with ADA accessibility. However, none of the
8 Applicant's reported practical difficulties have meaningfully
9 affected retail businesses in this area in the past. And
10 their proposed development does not address any of these
11 difficulties beyond removing the space completely rather than
12 addressing any of the difficulties that they are suggesting.

13 I will not spend too much additional time on the
14 third prong as we have heard a lot of testimony on this topic
15 from the tenants of Wah Luck House, from other Chinatown
16 residents, and other Chinatown business owners.

17 But I would like to highlight the fact that
18 granting this variance would cause a substantial detriment
19 to the public good and additionally is not aligned with the
20 zoning plan. And the Applicant has failed to prove either
21 of these points.

22 The Applicant has failed to meet all three prongs
23 required in order to grant the variance, specifically the
24 fact that the property affected does not have any exceptional
25 or extraordinary circumstances. The Applicant would not

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1 encounter any practical difficulties under the law that are
2 beyond what is standard to the Chinatown neighborhood or are
3 unique to the property in question.

4 And third, the Applicant has failed to prove that
5 this variant, I apologize, that this variance would create
6 any public good. And in fact, it would actually create
7 substantial detriment to the public good.

8 CHAIRPERSON HILL: Is that part of your testimony,
9 Ms. Ahmed?

10 MS. AHMED: Yes, sir.

11 CHAIRPERSON HILL: Okay. Go ahead, Ms. Tan.

12 (Foreign language spoken.)

13 CHAIRPERSON HILL: Okay. Thank you. All right.
14 So let me see. Mr. Freeman, can you hear me? Okay. Great.
15 So, a couple of things. So let's see. Ms. Ahmed, we're,
16 your testimony is in Exhibit 105, just Number 1, right?

17 MS. AHMED: Yes. That's correct.

18 CHAIRPERSON HILL: Number 2, I'm going to keep you
19 around because I have some questions for you with Mr.
20 Freeman. And, Mr. Freeman, some of the questions I have
21 again are just kind of what kind of, we're going to take a
22 lunch break. Okay. Just letting everybody know.

23 We're going to take a lunch break. And this is
24 going to be a longer day than I thought in terms of my Board
25 Members. Meaning, for my Board Members we have an appeal

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1 after this. So this is just the beginning of a long eight
2 hours.

3 So, I say all that because, Mr. Freeman, when we
4 come back, like some of this is going to be like, I'm kind
5 of curious as to what interaction you've had with any of
6 these groups thus far. I know that this may or may not have
7 been the first time. And then also, have these groups
8 participated in the ANC meetings, you know, those kind of
9 things.

10 And then I know, I haven't even gotten to my Board
11 on the questions they might have. We still have to go to the
12 Office of Planning. Haven't heard from the Office of
13 Planning yet. And so we're getting through witnesses.

14 So, if you all don't mind we'll take, well this
15 is another problem. So I have a Board Member who had an
16 obligation at 3:30 p.m., okay. And so, well let me look at
17 my fellow Board Members. Do you all think you can make
18 another 25 minutes before, do you think we can make another
19 25 minutes?

20 MEMBER SMITH: I'd say let's start, maybe --

21 CHAIRPERSON HILL: Okay. Well since I've been
22 talking and listening this whole time I haven't been able to
23 sneak away to eat anything, right. So I'm like actually, you
24 know.

25 So okay. But anyway, so then going back to the

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1 original questions. Well, let me throw it out to my Board
2 Members, unpack. You all got any questions for anybody? Go
3 ahead, Mr. Smith.

4 MEMBER SMITH: I have one for Mr. Freeman in
5 relation to, I guess the internal programming of the
6 building. The historic roll homes have to be, I'm sure it's
7 residential above for the most part, above the ground floor,
8 or the basement, what the Zoning Ordinance would term as a
9 ground floor. It was a walk up. And above that is
10 residential units.

11 And this building with the additions that you're
12 proposing off the rear, and given that you're converting this
13 into a hotel instead of residential units, I'm sure there'll
14 be a lot of retrofitting interior to the building.

15 In this renovation are you primarily keeping the
16 floor plates? Or you're just preserving the facade of the
17 building, and the floor plates will be redesigned to make the
18 programming work?

19 MR. FREEMAN: For that question, just factually
20 the upper levels are I'm pretty sure vacant. But I'll let
21 Mr. Cunningham answer the question about incorporation of the
22 existing floor plates into the proposed new development.

23 MR. CUNNINGHAM: Thanks you. So by DC
24 Preservation law and our agreement with HPRB we have to keep
25 the floor systems that exist. We can't change their

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1 elevation, which I think is your question.

2 MEMBER SMITH: I'm sorry. Can you repeat that
3 again?

4 MR. CUNNINGHAM: So, per the preservation law of
5 the District of Columbia and the Historic Preservation Review
6 Board we have to keep those floor systems, and we can't
7 change their elevation.

8 MEMBER SMITH: Even with interior? So --

9 MR. CUNNINGHAM: Yes.

10 MEMBER SMITH: That was the question I had. Thank
11 you.

12 MR. CUNNINGHAM: Thank you.

13 MEMBER STIDHAM: Chair, I had a few questions
14 related to the retail uses.

15 CHAIRPERSON HILL: Sorry. Yes. Go ahead, Ms.
16 Stidham. Oh, hold on a second. So, Ms. Ahmed, can you hear
17 me?

18 MS. AHMED: Yes.

19 CHAIRPERSON HILL: Can you, there was, your
20 organization had requested the translator, correct?

21 MS. AHMED: Yes.

22 CHAIRPERSON HILL: And what I understood from Ms.
23 He is that you no longer need the translator in Cantonese.
24 Is that correct?

25 MS. AHMED: That's correct. We also don't need

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1 the translator in Mandarin at this point either. Most of our
2 tenants had obligations after 3:00 p.m., so no one is able
3 to stay for the rest of the hearing.

4 CHAIRPERSON HILL: Okay. Could you send an email
5 to the BZA that states that we can release the translators
6 --

7 MS. AHMED: Yes, absolutely.

8 CHAIRPERSON HILL: -- of the Mandarin and
9 Cantonese?

10 MS. AHMED: Yes, absolutely.

11 CHAIRPERSON HILL: And, Madame Secretary, as soon
12 as you get that I will release the translators. All right,
13 Ms. Mehlert?

14 MS. MEHLERT: Sounds good.

15 CHAIRPERSON HILL: Okay. So, Ms. Tan, Mr. Chen,
16 just hang, bear with me for another minute there. Okay.
17 Now, Commissioner Stidham, you had a question. I apologize.
18 Go ahead.

19 MEMBER STIDHAM: No. No worries at all. For Mr.
20 Freeman, related to the retail uses that you're going to be
21 including, I believe at the lobby level of the new
22 development. And I believe the square footage is about half
23 of the retail that is being provided currently. Is that
24 correct?

25 MR. FREEMAN: After what is required. So .5 is

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1 required, and we're proposing .27.

2 MEMBER STIDHAM: Can you help me understand why,
3 other than the fact that the existing spaces that are used
4 for retail are a walk down, and that is a lot of the
5 character of Chinatown are these walk down retail spaces, why
6 you would not have your program continue to supply those, so
7 that the public does not have to enter the hotel in order to
8 access these spaces.

9 MR. FREEMAN: So that's a Mr. Cunningham question.

10 MR. CUNNINGHAM: Okay. We believe that, so
11 there's a very different situation among all seven buildings.
12 And the four that are the most challenged are the four that,
13 I think that everyone has been talking about, where there's
14 an English basement condition going down to the retail that
15 exists. And then the other retail is above the street.

16 Again, remember that historically these are all
17 residential entries. And we believe that that is a more
18 appropriate use for this property. As you may be aware the
19 retail statistics of Chinatown are not particularly robust
20 at the moment. So to have life there we believe the best use
21 is the logic.

22 MEMBER STIDHAM: Currently --

23 MR. FREEMAN: Commissioner Stidham, I would go to
24 Page/14 of our presentation is a section that demonstrates
25 that relationship. And --

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1 MEMBER STIDHAM: I understand the relationship.
2 My questions are more really did you, creating these spaces
3 that are part of the neighborhood character. Of the existing
4 structures how many retail spaces are currently there? Not
5 if they're currently occupied, but how many retail spaces are
6 currently there?

7 MR. CUNNINGHAM: I think this a question for our
8 client, Stephan.

9 MR. RODIGER: Yes. So you're asking, just to
10 clarify, you're asking what are the current retail spaces for
11 the properties from 505 to 517 H Street?

12 MEMBER STIDHAM: That's correct.

13 MR. RODIGER: Right. So for those properties the
14 current retail, and this is not currently occupied retail,
15 but, and I'll start, 505 there's a retail space, 507 there's
16 a retail space, 509 there's a retail space, 511 in the ground
17 floor is basically designated as a retail space, 513, 515,
18 and 517. So those are, those have been traditionally
19 designated --

20 MR. FREEMAN: But some of those are vacant, right?

21 MR. RODIGER: Correct.

22 MEMBER STIDHAM: I don't care if they're vacant.
23 I just want to understand the retail space as it currently
24 exists, whether it's occupied or vacant.

25 MR. RODIGER: Correct.

1 MEMBER STIDHAM: Okay. I think that's it for me
2 right now, Chairman.

3 CHAIRPERSON HILL: I lost Ms., oh gosh, Ahmed.
4 Mr. Young, did I lose Ms. Ahmed? Oh great. Ms. Ahmed, can
5 you hear me?

6 MS. AHMED: Yes, I can hear you. Sorry about
7 that.

8 CHAIRPERSON HILL: Okay, good. That's all right.
9 So just for the record I did get an email releasing those
10 providing translation services. Ms. Tan and Mr. Chen, I
11 thank you very much for your time. It's been a learning
12 experience for me. And I thank you very much for both being
13 here.

14 MR. CHEN: I thank you, Mr. Chairman. My pleasure
15 and honor.

16 MS. TAN: Good bye.

17 CHAIRPERSON HILL: Thank you. Thank you. Mr.
18 Young, if you could excuse the translators. So I guess, Mr.
19 Freeman, I'm curious, again like so, you know, the, this is
20 not going to get decided today.

21 Like there's a lot of questions that I have in
22 terms of a lot of the testimony that we've been given. And
23 I want to have an opportunity to hear from the public in a
24 way that's more efficient than I think this back and forth
25 translation thing actually was.

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1 Like, can you tell me what kind of community
2 outreach you guys have had with the Wah Luck House? And then
3 also, how the ANC meeting went? Like, did people testify
4 there? Those are two questions.

5 MR. FREEMAN: Those are for Stephan Rodiger. He
6 can answer those questions.

7 MR. RODIGER: Oh, great. So with Wah Luck, during
8 the pandemic we actually, and post pandemic over, about two
9 years ago, we participated in multiple Metropolitan Police
10 kind of forums at Wah Luck.

11 So, we were there. We met residents, you know,
12 formed a contact with Rita Li, who is the resident
13 coordinator for the group. And she actually for our first,
14 and it's in the public record. For our first HPRB meeting
15 she actually submitted a letter of support. So we actually
16 have, you know, have a letter of support, which reflects us
17 working with her.

18 CHAIRPERSON HILL: I guess, Mr. Rodiger, what I'm
19 trying, and I'm trying to get it like, you know, we've taken,
20 I've taken like four hours of testimony, right. And again,
21 I know this project has been going on a very long time for
22 you guys, and you.

23 Like, I've heard a lot about a grocery store. And
24 I've heard a lot about a hair salon. And I've heard a lot
25 about the retail that's there, right. And so --

1 MR. CUNNINGHAM: Right.

2 CHAIRPERSON HILL: And those, and I, like I said,
3 I've been, I lived in Chinatown for ten years. So I also
4 know all of the retail that is down there on those floors.
5 And so, in all of your community outreach you didn't figure
6 out how to solve a grocery store, a hair salon, and some
7 retail issues?

8 MR. FREEMAN: Let me take a stab at it, Mr.
9 Chairman. So this is the third hearing, just to give you
10 context, right. So there have two HPRB hearings, and now
11 we're at the BZA.

12 So this is the third hearing. Some of the
13 testimony, some of the organization, there's a website. And
14 you can go click a link on that website and submit a letter
15 in this case record. So some of the organizations are new
16 to us. The two arguments, keep existence, and it's there.

17 I don't know if you had a chance to look at the
18 record, but Exhibit 55 and 56, the dispensary says, we're not
19 being displaced. We're moving because we want to move. If
20 you look at Exhibit 56 the operator on the full key
21 restaurant and the hair salon are saying, we're not being
22 displaced. We're moving because we want to move. Right.

23 Like, that's what they have said. That's what the
24 evidence in the record shows. With respect to the grocery
25 store, we're not proposing a grocery store. A grocery store,

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1 right, our use is lodging. It's a matter of right use. And
2 that's what's before the BZA.

3 A grocery store requires more parking, requires,
4 there's no parking at this site. It requires much more
5 loading, and has a very different type of --

6 CHAIRPERSON HILL: All right, Mr. Freeman. That's
7 okay. That's cool. All right. Never mind. So I'll figure
8 it out on my own on the record. That's fine. So okay.

9 Let's take a break. It's, are you all ready to
10 take a break? Meaning, I'm looking at my Board Members.
11 Okay. I know that you, I know that some of the Board Members
12 have an issue at 3:30 p.m.. So, it's going to go from 3:30
13 p.m. to 4:15 p.m.

14 I think 4:15 p.m. sounds reasonable. Okay. All
15 right. So let's come back at 4:15 p.m. Thank you. And, Ms.
16 Ahmed, you're available? Is that correct? Okay. Thank you.
17 All right. Thank you all.

18 (Whereupon, the above-entitled matter went off the
19 record at 3:18 p.m. and resumed at 4:22 p.m.)

20 CHAIRPERSON HILL: Madam Secretary.

21 MS. MEHLERT: So the Board has returned from its
22 lunch break. And they're returning to Application number
23 20974 of RVP H Street Northwest, LLC.

24 CHAIRPERSON HILL: Okay, thanks. Just for the
25 record, and so the applicant knows, I mean, I just was

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1 keeping Ms. Ahmed around because I might have had, well I
2 mean, I know I'm going to have some questions at the end.

3 And even though we didn't grant them party status
4 there was a variety of different people to keep track of.
5 So I thought that she could be helpful.

6 Let's see, I'm going to turn to the Office of
7 Planning in a minute. But I did have a question for Mr.
8 Freeman. The range that you're looking for with the hotel
9 rooms, or the lodging rooms I should say, like what I'm
10 trying to understand is, how do you think, how are we
11 necessarily going to look at the range?

12 Meaning, like I'm trying to understand as far as
13 the loading requirements. Like if you're going to have, you
14 know, 60 rooms versus 120 rooms, like how many trucks are you
15 going to need? Do you have something that I can kind of
16 think about?

17 MR. FREEMAN: Sure. So the range that got us that
18 loading. Loading for lodging is based on total gross floor
19 area of the building. So the gross floor area is not
20 changing.

21 Other places parking is based on unit count.
22 There is no parking requirement here. So the flexibility
23 does not implicate any zoning requirements. It doesn't
24 affect any of the yard calculations. It doesn't affect
25 parking. Again, parking's not required.

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1 So, and I can pull up the regulations as it
2 relates to loading. But loading is a function of building
3 gross floor area. And that will remain the same. We're just
4 asking for flexibility on size of unit and number of unit
5 within that gross floor area. We're not increasing the
6 building or making it smaller in order to accommodate that
7 flexibility.

8 CHAIRPERSON HILL: Okay. Well, there is the room
9 flexibility, and then you wanted some other flexibility for
10 HPRB concerns?

11 MR. FREEMAN: So that was originally part of our
12 application. Since then we've gone to HPRB, and they have
13 approved the application. But when you look at the HPRB
14 request, and the Board has approved this in other cases,
15 right. There may be, some of the windows may have to shift
16 a foot or two, the materials may change here or there. But
17 not in a manner that affects the relief.

18 CHAIRPERSON HILL: Right. But we have asked what
19 specifically, what specific flexibility are you looking for?
20 Are you looking for the windows? Are you looking for -- You
21 don't have to tell me right now. You can --

22 MR. FREEMAN: Sure.

23 CHAIRPERSON HILL: We're kind of going to go
24 through the -- But that's one question I'm going to have,
25 right. What is the design flexibility that you asking,

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1 actually asking for? And I see the range of the 60 to 120
2 units.

3 Before I turn to the Office of Planning, do my
4 fellow Board Members have any further questions? Okay. Can
5 I turn to the Office of Planning?

6 MR. BEAMON: Shepard Beamon with the Office of
7 Planning. So OP has reviewed the application. And we find
8 that the request for relief meets the criteria for Subtitles
9 X and C. And therefore we recommend approval, with the
10 condition that that applicant comply with the loading
11 management plan as approved by DDOT.

12 We stand on the, sorry, OP stands on the
13 recommendation as shown in the record at Exhibit 49. And I'm
14 open to any questions.

15 CHAIRPERSON HILL: Okay. And I don't want to
16 steal somebody's thunder, but I'm going to ask. So in terms
17 of the variance request, like how did the Office of Planning
18 look at the Chinatown submarket, and the retail requirements,
19 the, in that market?

20 MR. BEAMON: Right. So obviously they would be
21 losing some retail space. But in OP's analysis the, let's
22 see, the proposed lesser amount of GFA dedicated to the
23 retail uses, well they are still providing some retail space.

24 And the space that they'd be losing for retail
25 space would thus be made up with lodging uses, which OP feels

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1 would still be sufficient in terms of street activation and
2 some level of activity on the street level.

3 CHAIRPERSON HILL: Okay. Does anybody have any
4 questions for the Office of Planning? Go ahead, Ms. Stidham,
5 Commissioner Stidham.

6 MEMBER STIDHAM: So the statement you just made,
7 you said would activate, because it would be street prime.
8 But none of this retail that's proposed is going to be street
9 prime. It's going to be within the building is my
10 understanding.

11 MR. BEAMON: Correct. But are you referring to
12 the actual access to the retail space, or the actual use of
13 the space along the street frontage?

14 MEMBER STIDHAM: If I'm --

15 MR. BEAMON: That's what we're looking at is the
16 actual street, the activation, I'm sorry, the retail use
17 along the street frontage.

18 MEMBER STIDHAM: Right. And wouldn't that mean
19 that the retail is located at the street frontage?

20 MR. BEAMON: For the portion that they are
21 preserving yes. For the street level, yes. And then --

22 MEMBER STIDHAM: Maybe I misunderstood from the
23 applicant. I didn't believe that there was any retail at the
24 street frontage. That it's within the building, off of the
25 hotel lobby, and not at the street frontage.

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1 MR. BEAMON: Okay. Well I'll, I can let the
2 applicant clarify that one then I guess.

3 MEMBER STIDHAM: Mr. Freeman, can you clarify the
4 location of the proposed retail?

5 MR. FREEMAN: It is at grade on street frontage.
6 We have about 2,500 square feet that takes approximately 40
7 percent of the existing street frontage along the eastern
8 portion of the proposed development.

9 We do have at grade street frontage retail. There
10 have been statements that there's no retail from the
11 opposition. But we do have retail.

12 CHAIRPERSON HILL: But the question I think --

13 MEMBER STIDHAM: Okay. I thought --

14 CHAIRPERSON HILL: Sorry.

15 MEMBER STIDHAM: I thought I either read it in the
16 record or heard it from you or one of your team that it was
17 off of the lobby. So, okay. At street, it's on the street,
18 accessible from the street frontage?

19 MR. FREEMAN: Yes. Yes, Commissioner.

20 MEMBER STIDHAM: Is there an exhibit that shows
21 that? Because I wasn't getting that from anything that I
22 read.

23 MR. FREEMAN: Sure. It's on all of our ground
24 floor plans. Mr. Young, if you want to pull up our
25 presentation deck. It is Sheets, give me a second,

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1 Commissioner.

2 CHAIRPERSON HILL: Sheet 12.

3 MR. FREEMAN: Sheet 12. Thank you. And I'm
4 sorry. I didn't mean to cut off OP's presentation. But if
5 you look to, the lobby is in the middle, if you will. And
6 to the right of that you can see the two retail, proposed
7 retail spaces.

8 MEMBER STIDHAM: Okay.

9 CHAIRPERSON HILL: So, Mr. Freeman, this is where,
10 those town homes that currently have retail at them, and
11 particularly those, you know, those lower level retail, those
12 are all now going to be lodging units that are accessed from
13 the street?

14 MR. FREEMAN: Yes.

15 CHAIRPERSON HILL: Because, when I, if you go to
16 11, the one slide up, I understand the ones that you all are
17 -- Even those retail I guess you can, you know, that one to
18 the far right, that's going to be retail that's accessed from
19 the street, correct?

20 MR. FREEMAN: Yes.

21 CHAIRPERSON HILL: And then the next one is retail
22 that's going to be accessed from inside the lobby. And you
23 access that from I guess what Full Kee, correct?

24 MR. FREEMAN: So, just looking at the rendering
25 there's a, going from right to left there's a little stair.

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1 I don't know how well you're able to see it. Where it says
2 coffee there's a little stair there.

3 Then to the left of that, kind of in the middle,
4 if you will, is essentially the primary entrance to the hotel
5 space. And then to the left of that are the four structures
6 that we've been talking about. And you can see the stairs
7 there.

8 CHAIRPERSON HILL: So the four structures, and the
9 four structures, there's no retail in those four structures?

10 MR. FREEMAN: Proposed, correct.

11 CHAIRPERSON HILL: At ground level?

12 MR. FREEMAN: Well, we haven't really gotten into
13 the argument that there's really no ground level. That's
14 actually six feet above. And then the next one is six feet
15 below. So that's what we were trying to show. If you go to
16 Page 14. And again, we can talk about this in rebuttal.

17 When you actually look at the section, from our
18 perspective, you're entering and going up, right. It's no
19 ground at grade, right. So to get to the first level you
20 have to go upstairs. And to get to the lower level you have
21 to go downstairs.

22 So for that portion of the site there is nothing
23 at grade in the sense of what you would think a ground floor
24 is.

25 CHAIRPERSON HILL: So, Commissioner Stidham, I'm

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1 sorry. I'll get back. They were your questions. But like,
2 so I'm just trying to understand. You go up the stairs or
3 you go down the stairs. And what is the proposed use for
4 that right now, if you go up the stairs or down the stairs?
5 You can't do it, correct?

6 MR. FREEMAN: Well, it's lodging.

7 CHAIRPERSON HILL: So, you're going to walk up
8 those stairs and go into a lodging unit?

9 MR. FREEMAN: Yes. And we're, could Mr.
10 Cunningham --

11 MR. CUNNINGHAM: Sure.

12 MR. FREEMAN: Could you step in here? I don't
13 want to --

14 MR. CUNNINGHAM: Those units that are accessed
15 from H Street also have rear doors too that go into the rest
16 of the building. So they can go either way. So they're
17 going to be able to, anyone lodging there will be able to
18 enter their unit that they've rented from the street, or from
19 inside the building. They have a front and a rear entry.

20 CHAIRPERSON HILL: Okay. So the hotel is going
21 to issue a key that people can go in through that front door,
22 and then they can also come in through the back door?

23 MR. CUNNINGHAM: Yes. And that, so that's the
24 street life that the Office of Planning was referring to.

25 CHAIRPERSON HILL: Okay.

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1 MR. FREEMAN: If you go to the next slide, Mr.
2 Young, Slide, I'm sorry, the prior slide, Slide 12, you can,
3 Chairman Hill, you can see the doors at the back of those
4 units as well.

5 CHAIRPERSON HILL: No. I appreciate that. And
6 I am just trying to understand whether or not if I'm a
7 lodging, you know, user, if I'm going to use those front
8 doors or not. Or I'll just come in and out of the hotel that
9 I would be accustomed to doing. But --

10 MR. FREEMAN: So the intent, again and part of why
11 we're asking for flexibility in terms of the number of our
12 range of units. But the intent is that these are long term
13 stay. That's the intent. So you would, you know, you may
14 decide that it's a lot easier for you to enter from the
15 street. And that's what we're hoping in terms of the street
16 level activity.

17 CHAIRPERSON HILL: Okay. Okay. I'm sorry,
18 Commissioner Stidham. I interrupted your questions. You're
19 on mute, Commissioner Stidham.

20 MEMBER STIDHAM: No. It was helpful. I totally
21 misread or misinterpreted. So basically there are two
22 project spaces that will be retail. The other piece of
23 retail is from the lobby. And maybe I read about the one
24 from the lobby and had them all together.

25 MR. FREEMAN: Actually, Commissioner Stidham, you

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1 know what I think happened, and I didn't mean to cut you off.
2 But to tell you that you are right. When we initially filed
3 the application we did not have the two retail spaces on the
4 east.

5 We were initially asking for 100 percent relief.
6 We amended the application. And we're now providing retail
7 relief. So that may be what you're thinking of. Our
8 original application did not have any retail. But we have
9 expanded it, and now do have retail.

10 MEMBER STIDHAM: Okay. Great. And I'm assuming
11 at this point you have no idea what type of retail you'll be
12 offering?

13 MR. FREEMAN: No, we don't --

14 MR. RODIGER: That's correct.

15 MR. FREEMAN: -- currently have tenants.

16 MR. RODIGER: That's correct.

17 MEMBER STIDHAM: Okay. I think that's it for me
18 right now, Chair.

19 CHAIRPERSON HILL: Thank you. Mr. Smith. Okay.
20 Okay. Let me check with them. All right. Mr. Freeman, do
21 you have any rebuttal?

22 MR. FREEMAN: No rebuttal, Mr. Chairman. I don't
23 know if you, so typically it's OP, DDOT, and then the ANC.
24 I don't know if you intended to recognize --

25 CHAIRPERSON HILL: I didn't think --

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1 MR. FREEMAN: -- DDOT.

2 CHAIRPERSON HILL: Is DDOT here? DDOT, I usually
3 never get DDOT.

4 MR. FREEMAN: Oh. I didn't know if they were --

5 CHAIRPERSON HILL: No, I don't think so. And I
6 don't think there's any ANC Commissioner here. Mr. Young,
7 is there a Commissioner here? Okay.

8 MR. YOUNG: No, there's not.

9 MR. FREEMAN: So, got it. So we're happy to move
10 then into our rebuttal. Mr. Young, if you go to Slide 25.
11 And you'll see it's labeled responses to arguments presented
12 by the tenants' association. But these arguments generally,
13 these responses generally apply to kind of most of what we
14 heard today.

15 And I think the first point is good for
16 clarification. Because there's an argument that we're
17 completely eliminating retail. Well, let me recenter what
18 we're talking about.

19 So we have presented an application, and the Board
20 is evaluating the application that we presented based on
21 whether and how that application as presented complies with
22 the standards for relief.

23 So we've heard a lot about displacement. We've
24 heard a lot about other things. But the zoning regulations
25 empower the BZA to look at the application before it and how

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1 it meets the standards.

2 So our proposal does not eliminate retail space
3 entirely. Development will devote approximately 2,216 square
4 feet of GFA to ground floor retail, which is short. We're
5 short 2,913 square feet than what is required. But we don't
6 think that's a substantial reduction. It's about half.

7 Number 2, we heard a lot of arguments about again
8 people leaving. But the project does provide retail. So to
9 the extent that retail uses, even drinking establishments,
10 other preferred uses will have the ability to come back to
11 the project. There's nothing that precludes those types of
12 uses from returning to the project.

13 Second bullet, the next two bullets. I think, and
14 if you listen to some of the opposition in a vacuum you may
15 think these are the last restaurants in Chinatown, and this
16 is the only space available for retail within Chinatown.
17 That is not the fact.

18 There are tons of other retail, eating and
19 drinking, service uses within immediate proximity of the
20 site. One of the arguments was about the fact that a medical
21 provider, I think that's the dispensary on site that will be
22 moving. But there's a dispensary right across the street
23 from the Wah Luck's, the Wah Luck House, right across the
24 street, which will continue to be there.

25 To the extent that retailers want to stay in

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1 Chinatown, by our math there's over, close to 200,000 square
2 feet of vacant retail space in the Chinatown submarket. So
3 again, the fact that we're asking for relief to go from 5,000
4 to 2,500 is not eliminating retail in Chinatown, does not
5 eliminate any ability of other retailers that want to be in
6 Chinatown to be in Chinatown. Next slide, Mr. Young.

7 So this is just a graphic that we put, our retail
8 brokers put together. The Wah Luck House is the yellow star.
9 What you can see, and it's in the record. It may be a little
10 easier to read in the record. There are many, many
11 restaurants, pharmacies, service, and other uses in close
12 proximity to the site in the Chinatown area. Next slide.

13 I'm not going to go through each of these. But
14 what we have here are slides that demonstrate there's
15 substantial vacant space in the Chinatown subarea for anyone
16 that wants to move there.

17 In fact, excuse me. I think yesterday, two days
18 ago a existing retailer in Chinatown said they're leaving.
19 So there's additional space available. So, I'm not going to
20 go through each of these, Mr. Young. But next slide, next
21 slide, next slide, next slide, next slide, next slide, next
22 slide. Right. So that's 22 buildings in the Chinatown
23 subarea that has space available for lease. Next slide,
24 please, Mr. Young.

25 So again, what's currently there. And I don't

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1 think the regulations give the BZA authority to deny an
2 application that meets the standards for relief in order to
3 keep existing tenants there.

4 There are other places that may be able to happen.
5 But the zoning regulations as it relates to what we're
6 seeking here today, I don't think gives the Board that
7 relief. And that's essentially what the opposition is asking
8 you to do.

9 They're saying don't, deny the application because
10 we want the existing retailers to stay there. Don't grant
11 the application unless they do a grocery store. And that's
12 just not what the regulations allow for.

13 You keep hearing that we're pushing out tenants,
14 we're displacing tenants. You will see in the record that
15 tenants have said they are moving because they want to. I
16 will just read a portion of Exhibit number 55, which is
17 Granny Zed's Weed, marijuana dispensary says.

18 Eddie Moy, the owner, has kept me abreast of the
19 proposed development plans and the close, and the, as the
20 project has evolved and progressed over time. I have
21 discussed my intention with Eddie to close the business, not
22 due to the development project, but to relocate my business
23 operations to another D.C. neighborhood location.

24 I am not being displaced, but expanding my
25 business operations at interest at another location. So

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1 again, you've heard this constant refrain of displacement,
2 when in fact people, business operators are making decisions
3 on their own to relocate.

4 And again, there's nothing that precludes folks
5 from coming back in the event they have an interest in coming
6 back, because retail space will be available.

7 We went through in detail how we think the
8 applicant meets all three prongs of the variance test. And
9 again, I think, and the special exception standards. I
10 think, don't think, I know the regulations on it enable the
11 BZA to deny a case that meets the standards to keep existing
12 uses in place. Next slide, please.

13 Okay. So I think I've kind of described this
14 already. The project still provides ground floor space
15 capable of supporting retail use, emphasizing Chinese and
16 Asian culture.

17 The proposal to include lodging rooms and retail
18 at the ground floor will also help to activate even allowed
19 in the abutting streetscape, and to stimulate activity
20 through Chinatown.

21 The proposed lodging use will attract tourists who
22 are likely to support businesses that are integral to the
23 Chinatown community.

24 The next bullet, we've, I've heard three people
25 read this provision. But they've all stopped in the middle

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1 of the provision, because they like the first half, but not
2 the second half, right.

3 This is what the zoning regulation says. The
4 project, the zoning regulations say that the purpose of the
5 Chinatown subarea are to protect and enhance downtown's only
6 ethnic cultural area by maintaining and expanding the
7 existing concentration of retail uses, emphasizing Chinese
8 or Asian cultural and community facilities, as well as
9 merchandise and related wholesale operations.

10 Here's the part that you missed, serving
11 residents, visitors, tourists, and business travelers, right.
12 They would have you think the purpose of this area is to
13 require Chinese owned businesses that only serve the
14 immediate Chinese American population.

15 That is not what the regulations say. The
16 regulations talks about preferred uses to serve a broad array
17 of people, residents, visitors, tourists, and business
18 travelers. And that's what we're doing. We have retail.
19 We have lodging, which will serve a broad array of people.

20 And I'd have to say, like, and we talked about
21 this. If the goal here is for us to, it would be easy for
22 us to just say, okay, we'll provide retail. Then that retail
23 becomes vacant and unleashed. And that's not hitting the
24 second part of the goal. That's not actually enhancing the
25 neighborhood.

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1 But if that's what people want the Board to do,
2 to deny the application, to require a vacant space, I don't
3 know how that advances the purposes of the zoning
4 regulations.

5 The applicant seeks relief from Subtitle I,
6 Section 609.5(a) and (c), which require the applicant to
7 devote ground floor to certain uses. None of these
8 provisions require the uses to be owned or operated by people
9 of certain ethnic backgrounds. We've heard a lot of that.
10 But that's not what the regulations require.

11 Also, if you read the regulations, if this project
12 was all residential, as opposed to lodging we wouldn't have
13 to provide any ground floor retail. None of this becomes,
14 comes into play if it were all residential.

15 So we think it's overall the evidence. And again,
16 we certainly appreciate the emotion and some of the concerns,
17 and the organization efforts that went into the testimony
18 today. But the evidence indicates that we meet each prong
19 of the BZA, of the variance standards, and of the special
20 exception standards.

21 I think that covers, I would like to have an
22 opportunity, I saw attorney, the attorney submission of
23 testimony that came in today. I'm sorry, Attorney Ahmed.
24 Most of it completely misapplies the variance standard.

25 So we'll, we would love to have an opportunity to

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1 submit a written response. Because there's a lot to get
2 through there. But none of it actually properly reflects
3 actual BZA precedent here.

4 So with that, again we in our view meet the
5 standards. We would request that the Board approve our
6 application. And happy to answer any questions.

7 CHAIRPERSON HILL: Okay. So, Mr. Freeman, like
8 I think the Board knows what we're supposed to be doing, and
9 whether or not it's in our purview or not to be doing things.
10 And so I will remind myself to make sure that I hear the
11 regulations when I'm reviewing your case today.

12 So the, anything, does the Board need anything
13 from anybody? Because I did have a couple of things that I
14 was interested in from the tenant association group.

15 MR. FREEMAN: Can I, I'm sorry. I forgot to
16 mention one more exhibit. I'm sorry, Mr. Chairman.

17 CHAIRPERSON HILL: Okay, Mr. Freeman.

18 MR. FREEMAN: Just one more exhibit.
19 Commissioner, you asked a question about, Commissioner
20 Stidham asked a question about the retail. Exhibit 40D is
21 a letter from a retail broker.

22 So, the architect talked about some of the
23 practical challenges in developing the retail. So I also
24 have a letter from our retail broker that talks about some
25 of the marketing challenges associated if we were to provide

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1 that space as retail.

2 And they outline three challenges that they
3 viewed, which would make it difficult to attract tenants into
4 that space. So I didn't want to, again, it's not that we
5 didn't evaluate it.

6 We actually evaluated it and came to the
7 conclusion that for the project this relief is necessary in
8 order to have a successful project and actually still create
9 active useful space within the development.

10 So, again, I'm sorry. I just wanted to make sure
11 the Board was aware of Exhibit 40D as well. Thank you.

12 CHAIRPERSON HILL: Okay. Ms. Ahmed, can you hear
13 me? So, I was trying to find out, I can't remember, and I
14 was trying to consult with OZLD as to what we are able to do
15 with witnesses.

16 And I guess I'm actually even asking OZLD here and
17 now if they're on. I think they are. Like, if I want to
18 hear a conclusion from everybody, then would we get a
19 conclusion? And then, is there, is the applicant supposed
20 to respond to conclusions? I'm a little unclear on that one.

21 I know the applicant has just asked that he would
22 like to submit something to the record concerning the exhibit
23 that just I guess was put in the record, which makes sense
24 that he would want to respond to it, to Exhibit, I think it
25 was 105, or something.

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1 So my question is to OZLD. If I were to have a
2 closing statement from a witness, is that then something that
3 the applicant responds to?

4 MR. FREEMAN: I don't know that witnesses get to
5 submit closing statements. They submit their testimony. But
6 I don't know that they submit closing statements.

7 CHAIRPERSON HILL: Yes, Mr. Freeman, I love it.
8 I was just asking OZLD. Do you work for OZLD? I mean, I
9 know that you're a really good attorney, Mr. Freeman. I
10 mean, I know. And like you're doing a damn good job for your
11 client.

12 But so, I'm just trying to understand what I'm
13 allowed to ask for. And I'm asking OZLD if I'm allowed to
14 ask for a conclusion from a witness. And if that does happen
15 then is the applicant supposed to respond to that conclusion?

16 MS. DEMARE: Hi. Good afternoon. So yes, the
17 Board is allowed to ask for conclusions from anyone. All
18 conclusions should be filed simultaneously. No need for a
19 response, because it's supposed to be an argument. So --

20 CHAIRPERSON HILL: Okay. So then in that case,
21 Ms. Ahmed, if you could provide a conclusion to the Board,
22 okay. And then, Mr. Freeman, if you'd like to, I said
23 freemis, I'm sorry, Mr. Freeman. Mr. Freeman, if you'd like
24 to go ahead and provide a conclusion to the Board as well.

25 And if you'd also like to respond to the testimony

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1 that's in 105 at that time, then you can do so. And then I
2 think the ANC has seven days to respond to those things. Is
3 that correct, Ms. --

4 MS. DEMARE: Yes. If there are any additional
5 submissions all parties should get a chance to respond to
6 those.

7 CHAIRPERSON HILL: So this is where I get lost
8 again. So if all parties are responding to the submissions,
9 then all parties would be able to respond to the conclusions
10 that they are submitting, correct?

11 MS. DEMARE: So the conclusions themselves are
12 supposed to be arguments. The submissions would be
13 substantive. So that's kind of the distinction. So you
14 could have everyone submit the conclusions at a certain date.
15 Any sort of substantive submissions beyond argument would
16 allow additional parties to respond afterwards.

17 CHAIRPERSON HILL: Okay, Ms. Demare, this is where
18 again I'm sorry. I wish I went to law school kind of. So
19 fine. So we're going to ask for conclusions, okay, from Mr.
20 Freeman and Ms. Ahmed.

21 And then we're also going to get some comments
22 from Mr. Freeman concerning the testimony in Exhibit 105.
23 And then we'll keep the record open for seven days for the
24 ANC to respond. And then we can come back for a decision.

25 If that were the case, when, Mr. Freeman, do you

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1 think you might be able to, or both of you, Mr. Freeman,
2 and/or, Ms. Ahmed. I'll start with you, Mr. Freeman. Do a
3 conclusion for the record, including responses to Exhibit
4 105.

5 MS. DEMARE: May I clarify? Sorry.

6 CHAIRPERSON HILL: Sure.

7 MS. DEMARE: Okay. So the first one would be from
8 the applicant, would be a submission, which does need a
9 chance to response from all parties. After that I'd suggest
10 closing statements be simultaneous and no response. Does
11 that make sense?

12 So request the submission that you would like
13 before any closing statements, if you have any submissions
14 that you'd like. Does that make sense?

15 CHAIRPERSON HILL: Yes. Hold on a second. Now
16 I actually want to talk to the attorneys. Can I do, I'm just
17 going to do an emergency meeting real quick, just so I know
18 what I'm asking for, and whether or not I'm allowed to ask
19 for it. And so, I'm going to do a quick emergency meeting.

20 (Pause)

21 CHAIRPERSON HILL: Okay. As Chairperson of the
22 Board of Adjustment for the District of Columbia, in
23 accordance with 407 of the District of Columbia
24 Administrative Procedures Act, I move that the Board of
25 Zoning Adjustment hold a closed meeting on March 27, 2024 for

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1 the purposes of seeking legal counsel on 200, 20974, and not,
2 I'm sorry, deliberate upon but not vote on March 27, 2024 for
3 reasons cited in D.C. Official Code T-575(b)(13). Is there
4 a second?

5 MEMBER SMITH: Second.

6 CHAIRPERSON HILL: Mr. Smith. Thanks. Ms.
7 Mehlert, if you could take a roll call real quick on the
8 motion?

9 MS. MEHLERT: The Chair's motion to hold an
10 emergency closed meeting with legal counsel. Zoning
11 Commissioner Stidham.

12 MEMBER STIDHAM: Yes.

13 MS. MEHLERT: Mr. Smith, I didn't hear you.

14 MEMBER SMITH: Yes.

15 MS. MEHLERT: Okay. And Chairman Hill.

16 CHAIRPERSON HILL: Yes.

17 MS. MEHLERT: That concludes the vote. It's three
18 to zero to approve the motion to hold an emergency closed
19 meeting with legal counsel on a motion made by Chairman Hill
20 and seconded by Mr. Smith.

21 CHAIRPERSON HILL: Okay. Thank you, guys. Sorry.
22 Just let me go back. We'll come back right away.

23 (Whereupon, the above-entitled matter went off the
24 record at 4:57 p.m. and resumed at 5:13 p.m.)

25 CHAIRPERSON HILL: Okay. Ms. Mehlert, if you can

1 call us back in.

2 MS. MEHLERT: The Board has returned from their
3 emergency closed meeting with legal counsel. We are
4 returning to Application number 20974 of RVP H Street
5 Northwest, LLC.

6 CHAIRPERSON HILL: Thank you. Mr. Freeman, just
7 a quick question. The, you guys again have that range of 60
8 to 120 units that you're looking for, correct?

9 MR. FREEMAN: Yes.

10 CHAIRPERSON HILL: Okay. And then, you were
11 comfortable with the TDM and loading management plan that the
12 Office of Planning seemed to be referring to as a condition?

13 MR. FREEMAN: OP and DDOT, yes.

14 CHAIRPERSON HILL: Yes. Okay. So that's that
15 one. And then, I did find out from our legal department that
16 again we can ask for conclusions of all parties. So, if you
17 all wouldn't mind. Mr. Freeman, you can give us a conclusion
18 and respond to the arguments or testimony that was put
19 forward today, including the exhibit that Ms. Ahmed put
20 forward, which I think is Exhibit 105.

21 And then, Ms. Ahmed, if you could also give us a
22 conclusion from the tenant association. And even though
23 you're not a party, if you guys could serve each other, so
24 you all know, that would be what OZLD recommended. And so,
25 Mr. Freeman, if you could just serve Ms. Ahmed and, Ms.

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1 Ahmed, if you could serve Mr. Freeman, that would be great.

2 And then, if you could get those in by April 3rd.
3 Then we're going to come back here. And that would also be,
4 also the ANC, if the ANC wanted to submit something by April
5 3rd, they could. And then we'll come back for a decision on
6 April 10th.

7 Mr. Freeman, I never really got an answer. Or
8 maybe I've forgotten it because it was so long ago. Did you
9 guys, have you guys talked with the association, the tenants'
10 association recently?

11 MR. FREEMAN: Not since they filed party status.
12 But there have been many conversations with them prior to the
13 filing of their party status request.

14 CHAIRPERSON HILL: If you wouldn't mind having a
15 conversation, and just see -- And if not that's fine too.
16 But if you have a conversation and there's anything that
17 comes of that conversation, you can let us know also on the
18 3rd.

19 Because I'll show my hand, okay. The, you know,
20 the rear yard and the loading is not anything that I really
21 have any kind of an issue with. It's the variance to the
22 store frontage. And again, the Chinatown submarket.

23 And the way that I kind of read that language is
24 that it's really kind of to protect the Chinatown submarket
25 so that tourists and businesses, and all of that can enjoy

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1 that submarket being protected. That's the gist of how I'm
2 looking at it right now.

3 So if there's anything that the applicant might
4 be able to do to think about that as they put forward their
5 conclusions. So that's it. Anything else from Commissioner
6 Stidham or Mr. Smith? Okay.

7 Well, I appreciate all of you all's patience. And
8 I apologize if I get a little short every now and again.
9 Because this is a new one for me. I haven't had two
10 translations before. And I had not thought that this was
11 going to go as long as it did.

12 But I'm glad that we all had an opportunity to be
13 heard. Because I think everyone did get an opportunity to
14 be heard, regardless of whatever their status was. Okay.
15 Thank you all very much. I hope you all have a nice evening.
16 And we're going to continue on for another six hours.
17 Goodbye.

18 MS. AHMED: Thank you so much, Mr. Chairman.

19 (Whereupon, the above-entitled matter went off the
20 record at 5:18 p.m. and resumed at 5:24 p.m.)

21 MS. MEHLERT: So the Board has returned from a
22 short break. The last case of the day is Appeal No. 21042
23 of William W. Bennett. This is an appeal pursuant to
24 Subtitle X 1100 on the decision made on August 15th, 2023 by
25 the Department of Buildings to issue building permit No.

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1 B2307068.

2 This is located in the R-1-A zone at 2243 Sudbury
3 Road Northwest Square 2755, Lot 28. There is a motion from
4 DOB to accept a late filing. Which is not a request
5 requesting a waiver of the 24-hour rule, but from the appeal
6 filing requirements of subtitle Y302.17.

7 The email and the motion are in Exhibit 17. And
8 then I also believe ANC 4A Commissioner Paula Edwards is on
9 the call in addition to the appellant and DOB.

10 CHAIRPERSON HILL: Okay, great. Okay, is the
11 appellant with us and if so, if they could introduce
12 themselves for the record. You're on mute I think. All
13 right, now I can. I'm not exactly sure --

14 MR. BENNETT: Yes.

15 CHAIRPERSON HILL: -- who's speaking.

16 MR. BENNETT: My name is William, William Bennett,
17 the appellant.

18 CHAIRPERSON HILL: Okay, Mr. Bennett. Mr.
19 Bennett, are you able to use your camera?

20 MR. BENNETT: I don't see --.

21 CHAIRPERSON HILL: There may be a button at the
22 bottom that says stop video, start video.

23 MR. BENNETT: I'm sort of scared to hit, oh, here
24 we go. Yes.

25 CHAIRPERSON HILL: Okay, great. Perfect, thank

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1 you. All right, so Mr. Bennett, thank you for the
2 introduction and welcome. It's been a long day, but you're
3 here with us. Let me see who else we have. Could DOB
4 introduce themselves for the record?

5 MR. COX: Good evening.

6 MALE PARTICIPANT: Thank you.

7 MR. COX: I'm Deputy GC Department of Buildings.

8 CHAIRPERSON HILL: Great.

9 MR. MOELLER: Jim Moeller, Assistant General
10 Counsel, Office of the General Counsel, Department of
11 Buildings.

12 CHAIRPERSON HILL: Okay, great. Ms. Vitale?

13 MS. VITALE: Good evening, Mr. Chair, Elisa
14 Vitale, Deputy Zoning Administrator with the Department of
15 Buildings.

16 CHAIRPERSON HILL: Ms. Vitale, lovely to see you.

17 MS. VITALE: Good to see you.

18 CHAIRPERSON HILL: It's been a long time.

19 MS. VITALE: Yes.

20 CHAIRPERSON HILL: Okay. Let's see. Okay, Mr.
21 Bennett, I just want to go through how this process is going
22 to work. You're going to go ahead and give us your testimony
23 and reasons why you believe the Zoning Administrator has
24 erred.

25 And I have read through the appeal and I think

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1 some of the appeal may be in our jurisdiction and others may
2 not. However, in order to have a properly full record, I'm
3 going to go ahead and let you give your testimony and we'll
4 try to figure it out later. Right?

5 As to what is or is not within the Board's
6 purview. Then the Department of Buildings will have an
7 opportunity to give their presentation and then you, Mr.
8 Bennett, I'm sorry, the Department of Buildings will have an
9 opportunity to question Mr. Bennett.

10 Mr. Bennett, you'll have an opportunity to
11 question the Department of Buildings. Then, Mr. Bennett, you
12 will have rebuttal. The Department of Buildings will have
13 any questions upon rebuttal and then you, Mr. Bennett, will
14 have, well actually both parties, Mr. Cox, you'll have an
15 opportunity to give a conclusion as well as you, Mr. Bennett.

16 And the Board will have an opportunity to ask
17 questions at any time. So that being the case, Mr. Bennett,
18 you may begin whenever you like.

19 MR. BENNETT: I do have, can you hear me?

20 CHAIRPERSON HILL: Yes.

21 MR. BENNETT: Okay. I do have a question about
22 what's in the record now. I know that there were a couple
23 of late items from me anyway.

24 CHAIRPERSON HILL: Yes.

25 MR. BENNETT: And I wanted to make sure I

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1 understand and know what's in the record that will be the
2 basis for you all's decision.

3 CHAIRPERSON HILL: No, I appreciate that. And
4 there was a question actually and I'm just looking at it
5 right now and we will just start it as to what we were going
6 to include in the record.

7 Okay, if the Department of Buildings -- what is
8 it that you're trying to get in the record again? If
9 somebody could let me know.

10 MR. BENNETT: For me?

11 CHAIRPERSON HILL: No, not you, Mr. Bennett.

12 MR. BENNETT: Oh, I'm sorry.

13 CHAIRPERSON HILL: That's all right.

14 MR. MOELLER: We, the other night we submitted for
15 the record an email communication from the Commission of Fine
16 Arts. In that communication, the Commission confirmed that
17 2243 Sudbury Road Northwest was not within the Commission's
18 jurisdiction under the Shipstead- --

19 CHAIRPERSON HILL: Okay.

20 MR. MOELLER: -- Luce Act.

21 CHAIRPERSON HILL: I got you. Okay. Mr. Moeller,
22 if you want to, I mean, if the Secretary could please allow
23 into the record what DOB has put forward because I would like
24 to take a look at it.

25 And I neglected to mention the ANC Commissioner.

1 Is the ANC Commissioner here and if so, could you introduce
2 yourself?

3 MS. EDWARDS: Yes, Paula Edwards, ANC 4A-01 and
4 that includes Colonial Village, North Portal Estates and
5 parts of Shepherd Park.

6 CHAIRPERSON HILL: Okay, good evening,
7 Commissioner. You have an evening issue. Is that correct,
8 Commissioner?

9 MS. EDWARDS: Yes, I have an appointment. I can
10 stay on for a little while, but I do have an appointment at
11 about 6:30 p.m., 7 o'clock.

12 CHAIRPERSON HILL: Okay, well, I'll make sure that
13 we at least get your testimony. If the applicant or
14 Department of Buildings would allow me, I'll go with the ANC
15 after the applicant to hear their testimony and then I'll
16 have the ANC have any questions they might have as well.

17 MS. EDWARDS: Okay, one thing. I believe the
18 homeowner is also trying to get on the call. I just got an
19 email from the homeowner so they're trying to log in.

20 CHAIRPERSON HILL: And I'm trying to recall that
21 homeowner's name. Do you know, Ms. Edwards?

22 MS. EDWARDS: Montero, M-O-N-T-E-I --

23 CHAIRPERSON HILL: Oh, yes, I can see it.

24 MS. EDWARDS: -- -R-O. Yes.

25 CHAIRPERSON HILL: Mr. Young, if you could, if you

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1 Jeremy Montero, if you want to go ahead and put that person
2 in there, that would be great.

3 MS. MEHLERT I don't believe the property owner
4 signed up to testify so we just need to give them the oath.

5 CHAIRPERSON HILL: Okay.

6 MS. MEHLERT: So.

7 CHAIRPERSON HILL: Thank you, Madame Secretary.
8 And the property owner would be presenting again after DOB,
9 Department of Buildings. Can the property owner hear me?

10 MR. YOUNG: I don't see them on yet, so I'll keep
11 an eye out and let you know.

12 CHAIRPERSON HILL: Okay, great. Thank you. Mr.
13 Bennett, --

14 MS. MEHLERT: Ms. Swati Rawani. Do you see them,
15 Paul?

16 MR. YOUNG: Oh, yes, I do.

17 MS. RAWANI: Yes, I'm here and my husband's here
18 with me and we can hear you.

19 CHAIRPERSON HILL: Great, could you introduce
20 yourselves for the record please?

21 MS. RAWANI: Sure, my name is Swati Rawani and my
22 husband is Jeremy Montero. And we the owners of 2243 Sudbury
23 Road Northwest.

24 CHAIRPERSON HILL: Okay, great. And so what
25 you'll have an opportunity to do again now is provide your

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1 testimony after the Department of Buildings. And so and
2 everyone will have an opportunity to ask questions of
3 everyone.

4 And so the last thing that I see, Mr. Bennett, in
5 the record from you I think are color photographs of Exhibit
6 18. Was that what you were trying, was that the last thing,
7 Mr. Bennett, you had in the record?

8 MR. BENNETT: Yes. Yes, there are color
9 photographs attached to Exhibits 4 and Exhibits 11, but I was
10 unclear whether the color photograph Exhibit 18 I believe was
11 in the record.

12 CHAIRPERSON HILL: I got, I have one color photo
13 in Exhibit 18 and then you're saying there's other color
14 photos that you're trying to add?

15 MR. BENNETT: No, no, not trying to add. These
16 were attachments to earlier filings so attached to my
17 Statement of Appeal should be four photographs. Attached to
18 my Supplemental Statement of Appeal should be 12 photographs.

19 CHAIRPERSON HILL: Wait, please, Mr. Bennett. I'm
20 just trying to find out if the photographs are in there. I
21 do see the photographs. And then the, you said the 12
22 photographs are attached to which one again?

23 MR. BENNETT: My Exhibit 11 which is a Form 150
24 Motion for Leave to File the Supplemental Statement of Appeal
25 and the 12 photographs attached thereto.

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1 CHAIRPERSON HILL: Okay, yes, sir. All of those
2 are in the record.

3 MR. BENNETT: Okay. Thank you.

4 CHAIRPERSON HILL: All right, so with that, Mr.
5 Bennett, you can give your presentation.

6 DIRECT EXAMINATION

7 MR. BENNETT: Okay, well thank you all for, thank
8 you, Commissioners for being here this evening with me. My
9 name is William W. Bennett. My wife and I live at 2237
10 Sudbury Road in Northwest Washington, D.C.

11 We've been residents of the District of Columbia
12 for about 50 years and 43 of those or more of those years
13 we've been at this house here at 2237 Sudbury Road Northwest.
14 We raised our family here. Our kids went to public schools
15 in the District of Columbia.

16 I'm here today on appeal to ask you to revoke a
17 building permit that was issued on or about August the 15th,
18 2023 of that being Permit B as in Bennett, 2307068 by the
19 D.C. Department of Building without giving any prior notice
20 to me.

21 The basis of my appeal are several, but the part
22 of it is that given the jointness with 2243 Sudbury Road and
23 our house at 2237 Sudbury Road, fundamental fairness of the
24 Fifth Amendment procedural due process holds that we should
25 have been given notice.

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1 Prior notice, by the Department of Building upon
2 the filing of the Request for Permit by the owners of 2243
3 Sudbury Road when the review process started by the D.C.
4 Department of Building when the review process was nearing
5 a close by the D.C. Department of Building and certainly we
6 should have been given notice when the permit issued.

7 We should have been given notice we believe that
8 was reasonably calculated to allow us to exercise our liberty
9 to help in gender innovation to forestall the threats,
10 attendant to the massive destruction of an old house and
11 reconstruction of a new house which the permit contemplated.

12 What are the elements of jointness? Well if you
13 will look at or if someone can call up for me the photographs
14 attached to our Exhibit 4, you can see that one of the
15 elements of jointness in this case is a joint right-of-way
16 in the rear of Lots 27 and 28 that ends at --

17 CHAIRPERSON HILL: Mr. Bennett, give me one
18 second.

19 MR. BENNETT: I'm sorry.

20 CHAIRPERSON HILL: Mr. Young. That's all right.
21 Mr. Young, if you could pull up Exhibit 5 I think it was --
22 was it Exhibit 5? No.

23 MR. BENNETT: I thought it was 4, Chairman.

24 CHAIRPERSON HILL: Thank you. Thank you.

25 MR. BENNETT: And if you look at the photographs

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1 thereto. Next one please. Yes, that one. So that's a
2 picture of the right-of-way. It's looking south. That's our
3 garage there with the white door and the blue-grey car in
4 front of it.

5 The back of the photographer was at Primrose Road
6 and so this right-of-way runs between Lots 27, 28 which is
7 where 2243 Sudbury is the property in question and a number
8 of the lots going down to Primrose Road.

9 So that right-of-way is a joint right-of-way
10 shared by a number of the lots along the way. And that's one
11 element of the jointness here that's involved. A jointness
12 which we believe required giving us notice and fundamental
13 fairness.

14 Another element of the jointness is that the
15 preceding, or sorry, the next photograph, if you could call
16 that up please. I'm sorry, the next one. Yes. I don't know
17 if you can blow that up or not, but that's one of the
18 documents that apparently was submitted by the owners of 2243
19 Sudbury Road.

20 Or their contractors and I believe it was
21 approved, accepted as approved by the D.C. Department of
22 Building when they issued their building permit on August the
23 15th, 2023.

24 And you see there that what's contemplated is a
25 dumpster in the back of Lot 28 so that would be east facing

1 which was to hold, I believe construction debris and
2 construction debris would be removed from that location.

3 And that dumpster would be accessible up the joint
4 right away. Which is something that I believe is joint
5 between our lot, Lot 27, Lot 28 and a number of the lots
6 going down towards Primrose Road.

7 So that's the second element of jointness between
8 Lots 27 and Lot 28. Another element of jointness is the
9 nearness of 2237 Sudbury Road to 2243 Sudbury Road. I
10 believe that there is less than about 30 feet between the
11 north wall of our home 2237 Sudbury Road and the south wall
12 of the home of Monteros.

13 So that's another element of jointness that we
14 believe required giving us notice before the building permit
15 issued. Given the nature of the work that was to be done
16 onto the building permit, there was also a zone of safety
17 that one could generally expect would be the case.

18 And if you take a look at Exhibit 18, I don't know
19 if you could call that up now, photo, our photo Exhibit 18.
20 Yes. There's something here blocking my view of it, but yes,
21 I -- you'll see there's some construction debris there in my
22 yard, 2237 Sudbury Road that was either through some sort of
23 misjudgment or some other kind of way was cast into our yard
24 from the property at 2243 Sudbury Road during the
25 construction.

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1 And even though that thing that is there is not
2 a solid whatever it is, we have grandkids who come and visit
3 us who play outside and other people come and visit us and
4 there was a threat that debris from the construction of 2243
5 Sudbury Road might endanger us, our grandkids, our children
6 even though they're adults, and any visitors.

7 So there's a narrow zone around 2243 Sudbury Road
8 where during this construction, there's a possibility that
9 debris could because of misjudgment enter our yard and hurt
10 somebody, but we are within that zone.

11 Because as I said before, you can see in the left
12 corner of that photograph the bricks for our chimney and you
13 can also see in that space that's knocked out of the south
14 wall of 2243 Sudbury Road that the distance between the two
15 is under 30 feet given the side yard of eight feet on either
16 side.

17 So we were within the narrow zone of danger,
18 direct danger and that's another element of jointness for us.
19 And then, the, another element of the jointness was that for
20 the longest time, for the 43 years that we lived in that
21 house, there was no effort to alter the height aesthetic, the
22 bulk aesthetic or any other aesthetic of the east side what
23 I call Rambler Row of the 2200 block of Sudbury Road which
24 runs roughly between 1913 Sudbury Road which is near the
25 intersection of Sudbury Place and Sudbury Road down to the

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1 corner house that was at the intersection of Primrose Road
2 and Sudbury Road.

3 So there's a certain height aesthetic there that
4 was never endangered or threatened in the sum of 43 years or
5 so that we lived in that place. And that to me is another
6 element indicating that there was a joint appreciation for
7 the aesthetic of that particular stretch of houses on Sudbury
8 Road.

9 So the last element and this may be somewhat,
10 maybe I'm repeating myself, there was long-term stability in
11 our neighborhood. So there was a jointness and appreciation
12 for the long-term stability in the neighborhood.

13 And all of these things militated in favor of
14 granting us, the adjacent neighbors, notice as I have
15 described before where we were not granted notice. And
16 again, the notice was to allow us in fundamental fairness,
17 an opportunity to exercise our liberty to engender innovation
18 that could be used to forestall threats to the various
19 aesthetics in the neighborhood, including people who walked
20 around our yard. So what were the threats?

21 Some of them, as I've mentioned already in
22 speaking about Exhibit 18 were the possible depositing of
23 construction debris in our yard through misjudgment, loud
24 noises and construction dust during the construction period,
25 destabilizing impact of the height aesthetic in our

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1 neighborhood that had been in place for so long, blocking of
2 light in our house to our house and a skyward view that would
3 come from granting of the building permit.

4 So I guess I should swing back and say if you will
5 go down to the photographs that are Exhibit 13, I'm sorry,
6 Exhibit 15. I'm sorry, Exhibit 11. If you could call up
7 those photographs, you can see the tremendous destruction of
8 the old house, the old Rambler that was permitted countenance
9 by the building permit.

10 And the reconstruction of basically a new house
11 that was countenanced by the building permit. Next slide
12 please. And there you're looking at the, I guess it's the
13 south most wall of 2243 Sudbury Road after the roof has been
14 destroyed. Next slide please.

15 You're looking at, yes, there you can see the roof
16 that has been destroyed I would say raised, but I don't want
17 to disturb anybody, but the roof of 2243 Sudbury Road was
18 completely destroyed. Next slide please. There you see more
19 of the roof completely destroyed. Next slide please.

20 More of the roof completely destroyed and next
21 slide please. More of the roof completely destroyed. Next
22 slide please. That's the -- it's hard for me to see here,
23 but that looks like the east facing back wall of 2243 Sudbury
24 Road with the muffin top that was built as an addition to the
25 house countenanced by the building permit. Next slide

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1 please.

2 There you see the muffin top again in green
3 sheathing there. Waterproofing of some sort I suppose. And
4 you can see that looking at the I guess it's the east, I'm
5 sorry the south facing wall. A lot of the bricks have been
6 knocked out. Next slide please.

7 Okay, that's the east facing back wall of the
8 house that you could see that there's a lot of brick down to
9 the ground knocked out of that exterior wall. Next slide
10 please. And you could see that was knocked out in order to
11 give, I suppose, in order to give access to the enclosed deck
12 that was to be built from the inside. Next slide please.

13 Okay, so with that kind of massive destruction of
14 a house, they basically made the house uninhabitable. You
15 couldn't sleep there in private after the roof was knocked
16 off and the other things were knocked off. You couldn't eat
17 there in private.

18 You couldn't clean the, you couldn't shower there
19 in private. You couldn't entertain anybody in private. You
20 couldn't enjoy your meals in private. The place was
21 uninhabitable.

22 And our position is that fundamental fairness of
23 the Fifth Amendment due process clause, when that kind of
24 massive destruction and then construction of basically a new
25 house was to happen right next door to you where these

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1 elements of jointness are, we should have at least gotten
2 notice that this was about to happen.

3 And we did not get notice. So we believe that
4 fundamental fairness procedural Fifth Amendment procedural
5 due process has been violated in this case. And had we
6 gotten notice, we would have been at liberty to engender
7 innovation through discussion to try to find ways of
8 forestalling the threats to our home which was adjacent to
9 2243 Sudbury Road.

10 It would not have required the District of
11 Columbia, we believe, to engage in any sort of different kind
12 of function or to have any other different kind of interest
13 that they have simply given us notice.

14 Our interests were pretty clear as adjacent
15 homeowners and there was no undue costs, we believe, or risks
16 associated with the new owners had notice been given to us.
17 So for all of those reasons, we -- the blocking of light by
18 the higher muffin top house, the blocking of a view skyward
19 by that higher structure, the loud noise of construction, the
20 dust from the construction, the risk of having debris injure
21 visitors, grandkids or other people by depositing that there
22 inadvertently, for those reasons we request respectfully that
23 the building permit be revoked.

24 CHAIRPERSON HILL: Okay, thank you, Mr. Bennett.
25 Let's see. Mr. Cox. Oh, hold on. Let me, Commissioner, can

1 you hear me? Commissioner Edwards, the ANC is a party and
2 so would you like to give -- I know you said you have to
3 leave at 6:30 p.m. Would you like to give us your testimony?

4 DIRECT EXAMINATION

5 MS. EDWARDS: Yes, the ANC did not take a position
6 on this matter. I recommended that they not. But I wanted
7 to come and testify as to my observations and what I'd seen
8 in this. I took this, I took a lot of time with this.

9 Mr. Bennett is a very meticulous person. As you
10 can see he's documented everything so I went to the site
11 several times to observe. I looked at the record. I looked
12 at his protest. He and the property owner both appeared at
13 our March meeting and testified.

14 And I can't find anything the property owner's
15 done wrong. I have be very honest. Mr. Bennett originally
16 said that there was a CFA issue and with Shipstead-Luce and
17 I called the Assistant Secretary of this Commission of Fine
18 Arts.

19 I believe that DOB has also put in an email from
20 her on the record, Ms. Sarah Bachelor. And she confirmed,
21 she's the Assistant Secretary in charge of Shipstead-Luce for
22 the Commission of Fine Arts and she confirmed this address
23 has nothing to do with Shipstead-Luce.

24 Mr. Bennett also said there was a party wall. I
25 could not find a party wall, anything that even approached

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1 a party wall. He said that the dumpster blocked emergency
2 vehicles. I went there and there was parking that the
3 dumpster, you know, kind of fits into the parking space.

4 It does not appear to block emergency vehicles.
5 And I checked with D.C. Fire and Emergency because Mr.
6 Bennett said that the Fire and Emergency vehicles had been
7 there on the 18th and he said that the dumpster was blocking
8 them.

9 And no one told me of any report that there had
10 been a dumpster blocking the emergency vehicles. So I looked
11 at the permitting record. There was several instances where
12 inspectors were called apparently to allege that there were
13 construction violations, there was illegal construction and
14 there were no violations found.

15 I think this occurred on at least four occasions.
16 So DOB didn't find any violations, I didn't find see anything
17 that looked amiss and I just don't think there's merit in
18 this.

19 Mr. Bennett is very serious about it. Obviously,
20 he's very intelligent, very organized gentleman, but I just
21 don't think there's anything there. So that was what all I
22 wanted to say.

23 CHAIRPERSON HILL: Okay, thank you, Commissioner.
24 Does the Board have any questions for the Commissioner?

25 Does the Department of Buildings have any

1 questions for the Commissioner?

2 They're shaking their head no for the record. Mr.
3 Bennett, do you have any questions for the Commissioner?

4 CROSS-EXAMINATION

5 MR. BENNETT: Yes, I do. I want to clarify one
6 thing, Commissioner Edwards. My recollection of what I said
7 to you when you came on the 19th to look at the front of the
8 narrow, the front of I guess Kenny Clark's house which I
9 guess is 2240.

10 So 2251 or 49 Sudbury Road which is where the
11 emergency took place on the March the 18th, what I said to
12 you if I may attempt to refresh your recollection is that
13 when the emergency vehicles sped down Sudbury Road in the
14 late night of March the 18th in order to get to Kenny Clark's
15 house where there was an emergency, there was a dumpster in
16 the front of 2243 Sudbury Road which had for that narrow
17 street made it difficult for the emergency vehicles to get
18 through.

19 I never said it blocked them. What I said in
20 addition to you -- I hope this helps refresh your
21 recollection, is that there was a school bus that morning.
22 I guess it was early morning which would come and usually
23 pick up people from Kenny Clark's house.

24 And they had to turn around because the street was
25 blocked by the dumpster and the emergency vehicle that were

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1 in front of his house. Does that refresh your recollection
2 as to what I said?

3 MS. EDWARDS: I'm looking up your email right now.
4 And because you sent it to me and you sent it to
5 Councilmember Lewis George as I remember and I thought you
6 said that the dumpster was blocking the street. I will check
7 that.

8 But I do know that there is parking there so the,
9 whether the dumpster had been there or not, the school bus
10 would have had to turn around because the school bus could
11 not roll over parked cars.

12 And there's parking at the same, not in the same
13 space, but on the same side as the dumpster. So I can't
14 imagine any scenario in which the dumpster itself prevented
15 the school bus from doing through that the parked cars did
16 not.

17 And I don't see how, I don't know if it could
18 speed down the street, maybe it could, but I did inquire as
19 to D.C. at the D.C. FEMS to see if there was any report of
20 a car, of the emergency vehicle being impeded in any way and
21 they did not have a report of that to my knowledge.

22 CHAIRPERSON HILL: Okay, thank you, Commissioner.
23 Mr. Bennett, do you have any further questions?

24 MR. BENNETT: No, no, I stand on what I said about
25 that particular morning, March the 18th.

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1 CHAIRPERSON HILL: Okay.

2 MR. BENNETT: The school bus couldn't get,
3 couldn't get down to Kenny Clark's house because with the
4 emergency vehicle in the street and the dumpster, their way
5 was blocked so they actually had to turn around.

6 CHAIRPERSON HILL: Okay. So again, there was
7 questions, there's no questions. Does the property owner
8 have any questions of the Commissioner? And that's Ms.
9 Rawani or Mr. -- you're shaking, for the record, the property
10 owner is shaking no.

11 MS. RAWANI: I don't have any questions. I mean,
12 yes, we don't have any questions for the Commissioner.

13 CHAIRPERSON HILL: Thank you. Thank you. All
14 right, Mr. Cox, who's going to be giving the DOB's
15 presentation?

16 MR. COX: Mr. Chair, Mr. Moeller will present the
17 agency's position.

18 CHAIRPERSON HILL: Okay, thank you. Mr. Moeller?

19 MR. MOELLER: Well should I keep my questions to
20 the appellant for later then?

21 CHAIRPERSON HILL: You can go ahead and ask your
22 questions now.

23 CROSS-EXAMINATION

24 MR. MOELLER: Okay. Very good. Mr. Bennett, a
25 pleasure to meet you, sir, after our ongoing correspondence.

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1 There's been a bit of discussion about the dumpster. Just
2 for clarification, was there ever a dumpster placed in the
3 back yard at 2243 Sudbury?

4 MR. BENNETT: I don't, I don't know.

5 MR. MOELLER: Well you made an argument about
6 jointness and the dumpster removal and replacement blocking
7 the common right-of-way so I just wanted to confirm whether
8 there was ever a dumpster in the back or whether the dumpster
9 was always placed on Sudbury Road.

10 MR. BENNETT: I don't know the answer to your
11 question.

12 MR. MOELLER: Okay. Mr. Bennett, can you share
13 with the Board any regulation within Title 11 of the zoning
14 regs that you feel was violated by the issuance of the
15 building permit?

16 MR. BENNETT: Sure. I'll respond to your question
17 and thank you for it. And yes, it's good to see you face to
18 face to Mr. Moeller.

19 MR. MOELLER: Yes.

20 MR. BENNETT: The point I'd like to make about the
21 party wall regulation which I think is that's 16, the 1600
22 series or something like that. But it is a zoning
23 regulation.

24 If you're getting at the party wall question, the
25 point I'd like to make about the party wall and also my

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1 citation to the raise regulations is that those regulations
2 which require advance notice to various persons reflect, in
3 my view, an appreciation by the District of Columbia
4 Department of Building for the fundamental fairness that is
5 captured in the Fifth Amendment of the United States, Fifth
6 Amendment of the United States Constitution.

7 But those regulations don't circumscribe that
8 fundamental fairness. Now with respect to Title 11 of the
9 District of Columbia municipal regulation, I don't know those
10 intimately. I'm not a zoning lawyer.

11 MR. MOELLER: Fair enough. That concludes my
12 questions for appellant. If Mr. Young will tee up my slide
13 deck, I will --

14 REDIRECT EXAMINATION

15 MR. BENNETT: I'm sorry. It just occurred to me.
16 I'm sorry. Not to cut you off, but I believe the R-1-A
17 zoning provisions, if I'm not mistaken, are part of Chapter
18 11 of the District of Columbia municipal regulations.

19 And those regulations as I indicated in my Reply
20 which is Exhibit bear with me -- 16, I think that R-1-A
21 zoning regulation was reviewed by the, by someone who did the
22 review for the building permit as you noted, Mr. Moeller, in
23 your own brief.

24 So there are apparently in addition to R-1-A,
25 there are some zoning regulations in Chapter 11 of the

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1 District of Columbia municipal regulation which are involved
2 in this case and apparently were reviewed. Is that not so?

3 RECROSS EXAMINATION

4 MR. MOELLER: I have a quick follow up. You
5 mentioned the height aesthetic of your neighborhood. Now do
6 you have reason to believe that the construction at 2237
7 exceeds the height limitation for the R-1-A zone?

8 MR. BENNETT: Well the height limitation for the
9 R-1-A zone as I recall is 40 feet. Again, I'm not a zoning
10 lawyer, but the point I'm making is that there is a, there
11 was a status quo, a stable understanding of what the height
12 aesthetic was in the I guess it would be the east side of the
13 2200 block of Sudbury road apart from what the zoning
14 regulations permitted.

15 And when the building permit authorized the
16 construction of this muffin-top type of structure, that did
17 pose a I don't know if threat is too strong a word, but it
18 certainly made pretty clear that the height aesthetic that
19 that had revealed before for a long, long time was being
20 challenged.

21 I have on my own, you know, gotten a device from
22 the forest supply people that allows you to -- someone told
23 me it's called triangulation and earlier in the year I did
24 go and stand I think as the, what is it the Congress
25 Congressional Heights Act or something like that, requires

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1 you to stand opposite the structure that you think may be
2 violative of the zoning provisions.

3 So I did stand on the I guess it would be the west
4 side of Sudbury Road in front of 2243 Sudbury Road. And with
5 this triangulation device that I got from the forest service
6 people, I pointed at the top of the roof as it was being
7 constructed and the readout I got back was 13.6 yards which
8 to me is more than 40 feet.

9 DIRECT EXAMINATION

10 MR. MOELLER: Okay. Mr. Bennett, thank you for
11 those responses to my questions. If Mr. Young will tee up
12 my slide deck, I will proceed with our presentation. Thank
13 you, Mr. Young.

14 First, just let me take a moment to extend a
15 belated welcome to Commissioner Stidham to the Zoning
16 Commission and to the Board of Zoning Adjustment on a
17 rotating basis, of course.

18 As well as my congratulations to Ms. Mehlert on
19 her new position with the Office of Zoning. I am Jim
20 Moeller, M-O-E-L-L-E-R, appearing for the appellee,
21 Department of Buildings and with me is Elisa Vitale,
22 V-I-T-A-L-E, Deputy Zoning Administrator Department of
23 Buildings.

24 Next slide please. I'd like to begin by reading
25 into the record 11X DCMR Section 1100.3. Quote, the Board

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1 of Zoning Adjustment has no jurisdiction to hear and decide
2 any appeal or portion of any appeal where the order
3 requirement decision determination or refusal was not based
4 in whole or in part upon any zoning regulation or map.

5 Now under this rule, the Board, it is our
6 position, has no jurisdiction to hear an appeal based on 12A
7 DCMR 105.4.4.4. I would submit to the Board as well that it
8 has no jurisdiction to hear an appeal based on the
9 Shipstead-Luce Act.

10 However, because it's not necessary to do so, I
11 will not press this argument. Finally, the Board has no
12 jurisdiction over claims arising under the Fifth Amendment.
13 Next slide please. I will now read into the record what the
14 permit authorizes.

15 Now the building permit at issue in this appeal
16 appears to the left of this slide. Next slide please. Now
17 the definition of raise under 12A DCMR 202 is quote, the
18 complete, the complete removal of any existing structure with
19 or without the removal of party walls and below-grade
20 portions of a structure.

21 And to your right is just an illustrative example
22 of what a raised permit looks like. Next slide please. So
23 to conclude this portion of my presentation, no structure was
24 raised on the property.

25 The permit does not authorize 2243 Sudbury Road

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1 to be raised. DOB has not issued a raise permit for 2243
2 Sudbury Road and the existing one-story residential structure
3 has not been raised.

4 Now to the right you see Sheet A-001 of the
5 drawings for this building permit and you can see that the
6 one-story brick colonial remains intact. The second story
7 non-brick addition is that which was authorized by the
8 building permit. Next slide please.

9 Now I'm going to skip over this chronology except
10 to note that on July 26th, 2023, the permit did receive a
11 zoning review and that would be the subject of Ms. Vitale's
12 testimony in this case. Next slide please.

13 Now appellant's case is based on two construction
14 code regulations. First 12A DCMR 105.4.4.4 applicants for
15 raise permits are also required to comply with Section
16 106.2.18 where the raise work involves any structural work
17 within three feet of an adjoining lot line or excavation work
18 more than three feet below existing grade.

19 Section 106.2.18.3 notification of owners of
20 adjoining premises shall be provided by the applicant
21 pursuant to the procedures set forth in Section 106.2.18.3.1
22 where the proposed work involves all or any of the following.

23 Now, those conditions include, for example, where
24 there is a party wall, otherwise the remainder of that text
25 is not applicable to this appeal. Next slide please. To

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1 conclude, no notice to the appellant was required.

2 Because no raise permit was required, appellant
3 was not entitled to prior notification of the permit under
4 12A DCMR 105.4.4.4 or under 12A DCMR Section 106.2.18.3. Now
5 to the right of this slide you will just see an example of
6 the neighbor notification letter that is used when neighbor
7 notification is required under 106.2.18.3.

8 Next slide please. Well again, there's been a bit
9 of discussion already about the dumpster, but it is our
10 position that the dumpster placement is not quote tantamount
11 to work on a party wall.

12 First and foremost, there is no part wall. Both
13 appellant and his neighbor lived in single family homes and
14 in fact, appellant has already testified that there's about
15 30 feet between those homes.

16 Again, I believe that the concern with the
17 dumpster, the original concern with the dumpster is moot
18 because it is our understanding that the dumpster during the
19 duration of the construction at 2243 Sudbury was placed on
20 Sudbury Road.

21 But I will let the intervenor address that issue.
22 I'm sorry, not the intervenor, but the party, the permittee
23 to this proceeding. Neighbor notification issues again are
24 not appealable to the Board of Zoning Adjustment.

25 These neighbor notification issues come under the

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1 construction code not under the zoning regulations. In any
2 event, no neighbor notification was not required under 12A
3 106.2.8.18.3 because there was no raise permit.

4 And finally, the BZA cannot look to the intent or
5 import of a regulation of 12A 106.2.18.3. As we argued in
6 our brief in opposition to this appeal, the BZA cannot look
7 for the import or the intent of regulations where the plain
8 language of those regulations is unambiguous.

9 Next slide please. I will skip this language from
10 the Shipstead-Luce Act except to emphasize the operative
11 language in the statute is front or abuts. Next slide
12 please. Now, this is a map from opendatadc.gov.

13 It shows the jurisdictional boundaries of the CFA
14 under Shipstead-Luce. That jurisdiction is in the color blue
15 and you can see from this map that Sudbury Road Northwest is
16 not within those jurisdictional boundaries. Next slide
17 please. Again, a map this from propertyquestdc.gov.

18 Again, it shows that the property identified here
19 with a red dot is outside the jurisdictional boundary of CFA
20 which is delineated by that purple line. Finally, I'd like
21 to direct the Board's attention to the Exhibit we filed on
22 the 25th.

23 That exhibit again a communication from the
24 Commission of fine arts confirming that 2243 is outside the
25 jurisdiction of the Commission under Shipstead-Luce. At this

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1 time, I would like to ask a few questions of our witness, Ms.
2 Vitale.

3 CHAIRPERSON HILL: Okay, please go ahead.

4 DIRECT EXAMINATION

5 MR. MOELLER: She's, Ms. Vitale again, you are the
6 Deputy Zoning Administrator for the Department of Buildings?

7 MS. VITALE: I am.

8 MR. MOELLER: And how long have you been in that
9 position?

10 MS. VITALE: About one month.

11 MR. MOELLER: And where were you employed before
12 you joined the Department of Buildings?

13 MS. VITALE: The District's Office of Planning.

14 MR. MOELLER: And how long were you employed by
15 the Office of Planning?

16 MS. VITALE: Approximately 12 years.

17 MR. MOELLER: Twelve years. Ms. Vitale, have you
18 had an opportunity to familiarize yourself with the facts of
19 this appeal?

20 MS. VITALE: Yes, I have.

21 MR. MOELLER: Now, again, the application for the
22 permit received a zoning review on July 26th, 2023. Did the
23 Office of the zoning administrator conduct a zoning review?

24 MS. VITALE: Yes. A Zoning Technician on the
25 Office of Zoning Administrator staff conducted the review.

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1 MR. MOELLER: And what is the purpose of a zoning
2 review of a building permit application?

3 MS. VITALE: The purpose of the zoning review is
4 to access conformance or compliance with the zoning
5 regulations.

6 MR. MOELLER: Now, did the zoning review identify
7 any noncompliance with any provision of the zoning
8 regulations?

9 MS. VITALE: No. The zoning review determined
10 that the project complied with the relevant zoning
11 regulations.

12 MR. MOELLER: Thank you. Ms. Vitale, would the
13 zoning review make a determination of the need for a review
14 by the Commission of Fine Arts under the Shipstead-Luce Act?

15 MS. VITALE: No, that would not.

16 MR. MOELLER: And would the Department of
17 Buildings ever work with the Commission of Fine Arts on
18 reviews under Shipstead-Luce?

19 MS. VITALE: The Commission of Fine Arts is
20 responsible for administering any of the architectural
21 reviews within its jurisdiction under the Shipstead-Luce Act.

22 MR. MOELLER: Ms. Vitale, does this appeal raise
23 any issues under the zoning regulations?

24 MS. VITALE: No, it does not.

25 MR. MOELLER: Thank you, Ms. Vitale. Mr.

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1 Chairman, that concludes our presentation. We're available
2 for questions. We feel though based on the evidence
3 presented that the appellant has failed to meet his burden
4 of proof to win his appeal.

5 We believe therefore that the Board should deny
6 this appeal. Thank you for your time.

7 CHAIRPERSON HILL: Thank you, Mr. Moeller. Does
8 the Board have any questions for the Department of Buildings?

9 Mr. Bennett, do you have any questions of Mr.
10 Moeller?

11 MR. BENNETT: Yes, and also of his witness. But
12 Mr. Moeller, --

13 MR. MOELLER: Yes, sir?

14 CROSS-EXAMINATION

15 MR. BENNETT: Thank you. Mr. Moeller, did you
16 read my reply in this case which is Exhibit -- bear with me,
17 16.

18 MR. MOELLER: Yes, sir. Yes, sir, I did.

19 MR. BENNETT: And did you see there cited a case
20 called Bannum Inc. vs. the Department of the D.C. BZA?

21 MR. MOELLER: I do recall that you cited two
22 cases, yes, in your supplemental statement.

23 MR. BENNETT: And did you read the Bannum Inc. vs.
24 D.C. BZA case?

25 MR. MOELLER: No, sir, I did not. I didn't think

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1 it was relevant to the appeal.

2 MR. BENNETT: Well if in that case the D.C. Court
3 of Appeals which provides judicial review of decisions from
4 the Board of Zoning Administration engaged in conversation
5 as it reviewed a case from the Board of Zoning Appeals about
6 two constitutional provisions, one being the impact of the
7 supremacy clause on a matter that was before the BZA.

8 And the second being an equal protection argument
9 on a matter that was then before the BZA and if in the course
10 of that opinion, the D.C. Court of Appeals made the comment
11 that while it was questionable whether the constitutional
12 arguments were made before it had been raised before the
13 Board of Zoning adjustments, I'm sorry, had those arguments
14 been raised there it's unlikely that on the merits, they
15 would have succeeded.

16 Did you not see that part? Well I guess you said
17 you didn't read the opinion.

18 MR. MOELLER: No.

19 MR. BENNETT: But doesn't that convey to you that
20 the District of Columbia Court of Appeals was saying that in
21 fact it is proper for the Board of Zoning Adjustment to
22 address constitutional questions in matters that come before
23 it?

24 MR. MOELLER: No, no, no, no, sir. And my
25 response is two-fold. First, that is inconsistent with the

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1 regulation I read at the onset of this proceeding 11X DCMR
2 1102 which defines very clearly what the jurisdiction of the
3 Board of Zoning Adjustment is.

4 Now it only has jurisdiction over appeals that
5 raise zoning issues and a claim arising under the
6 Constitution, be it the Fifth Amendment or 14th Amendment is
7 not a claim that arises under Title 11.

8 And if I may, and I mean no disrespect to the
9 Board whatsoever. I know that one of the Commissioners is
10 an attorney, but this is not a Board of trained attorneys.
11 And again, I mean no offense, but the Board of Zoning
12 Adjustment is not qualified to resolve issues that arise
13 under the U.S. Constitution.

14 CHAIRPERSON HILL: Let me -- Mr. Moeller, that's
15 okay. You don't, I don't take any offense to not being an
16 attorney. Mr. Bennett, what's your next question?

17 MR. BENNETT: Well, I'm through with my, I'm
18 sorry, I'm through with my questions for Jim Moeller. I
19 stand on my Reply Brief and the cases cited thereto. But I
20 do have some questions for Ms. Vitale. If I may.

21 CHAIRPERSON HILL: Okay. Go ahead, Mr. Bennett.

22 MR. BENNETT: Good evening, Ms. Vitale.

23 MS. VITALE: Good evening.

24 CROSS-EXAMINATION

25 MR. BENNETT: My name is Williams Bennett and I

1 am the appellant in this case. You discussed before a review
2 that would be done by technicians in connection with the
3 building permit which is at issue in this case. You
4 mentioned that. Do you remember that --

5 MS. VITALE: Yes.

6 MR. BENNETT: -- particular question? Okay. Were
7 you privy to any such discussions in this case?

8 MS. VITALE: The building permit issuance
9 pre-dates my employment with Department of Buildings. So in
10 this particular building permit, I was not involved in any
11 discussions. I have reviewed the permit record though in
12 this case.

13 MR. BENNETT: And does that permit record include
14 a transcript of the conversations between whoever the zoning
15 technician was and other persons that they may have discussed
16 matters with as they did their zoning review?

17 MS. VITALE: No, it does not. It would include
18 any comments that were provided by the technician to the
19 permit applicant, but it does not certainly provide a
20 transcript of any conversations.

21 MR. BENNETT: And have you reviewed the building
22 permit issued in this case?

23 MS. VITALE: Yes, I have.

24 MR. BENNETT: And when you reviewed it, did you
25 see in the upper right-hand corner a citation to R-1-A zoning

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1 regulation?

2 MS. VITALE: This property is located in the R-1-A
3 zone and so any review of the permit would be for compliance
4 with the development standards for the R-1-A zone.

5 MR. BENNETT: And is that R-1-A zone contained in
6 Title 11 of the District of Columbia municipal regulations?

7 MS. VITALE: Yes, the R-1-A zone is contained
8 within the zoning regulations for the District of Columbia.

9 MR. BENNETT: When you all train zoning
10 technicians to engage in zoning reviews with applicants of
11 one sort or the other or other persons, do you train them
12 with respect to when neighbor notification is appropriate and
13 when it is not?

14 MS. VITALE: Neighbor notification is not relevant
15 for a zoning review. And so that would fall to, you know,
16 as Mr. Moeller discussed in his presentation, if there was
17 a raise permit that was being issued that may require
18 neighbor notification, so in this instance that would not be
19 relevant for this building permit application.

20 MR. BENNETT: Well, thank you, but my question was
21 do you all train technicians who engage in conversations
22 about zoning reviews with applicants? Do you train them to
23 understand when neighbor notifications are appropriate and
24 when they are not?

25 MS. VITALE: Given my tenure here, I can't speak

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1 to the formal training of the staff, but I can attest that
2 neighbor notification is an element that is evaluated with
3 a building permit application.

4 And if it is required, that would be conveyed to
5 the application and that neighbor notification process would
6 take place.

7 MR. BENNETT: Thank you and not to prolong the
8 matter, but I believe you were questioned by Mr. Moeller
9 about Shipstead-Luce Act. Do you recall those questions,
10 that line of questioning?

11 MS. VITALE: Yes, I do.

12 MR. BENNETT: Have you ever read the
13 Shipstead-Luce Act?

14 MS. VITALE: I have read the Shipstead-Luce Act.

15 MR. BENNETT: And are you aware that the
16 Shipstead-Luce Act indicates that if there's, if the law --
17 abut -- road that borders a park like Rock Creek Park then,
18 it is mandatory for the Shipstead-Luce Act personnel to
19 review that building, that application that's sent to them
20 by the District of Columbia, a District of Columbia official?

21 MS. VITALE: I am aware of the review provisions
22 contained in the Shipstead-Luce Act and would certainly defer
23 to the Commission of Fine Arts which has jurisdiction to
24 conduct those reviews.

25 MR. BENNETT: Thank you.

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1 MS. VITALE: Thank you.

2 MR. BENNETT: I have no further questions.

3 CHAIRPERSON HILL: Thank you, Mr. Bennett. Okay,
4 does the property owner have any questions of the Department
5 of Buildings?

6 MS. RAWANI: No, we don't, thank you.

7 CHAIRPERSON HILL: Okay. All right, does the
8 Board have any questions, I'm going to let the property owner
9 go next. But does the Board have any questions?

10 All right. Ms. Rawani and I'm sorry, it's Ms.
11 Rawani and oh, Mr. Montero.

12 MS. RAWANI: Mr. Montero.

13 CHAIRPERSON HILL: Mr. Montero. So, Ms. Rawani
14 and Mr. Montero, I mean, we are here again as an appeal and
15 the appellant has made their presentation on what they think
16 the Department of Buildings has made an error on.

17 And so do you have any testimony that you'd like
18 to give on that particular issue or do you have some
19 testimony that you'd like to provide?

20 MS. RAWANI: Yes, so it was our understanding that
21 under the rules, that as homeowners --

22 MS. MEHLERT Sorry to interrupt.

23 CHAIRPERSON HILL: Oh, yes, sorry.

24 MS. RAWANI: -- we're an automatic party.

25 MS. MEHLERT Ms. Rawani.

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1 MS. RAWANI: Sorry.

2 MS. MEHLERT Sorry, I just wanted to administer
3 the oath before you testify.

4 MS. RAWANI: Okay.

5 CHAIRPERSON HILL: Thank you. I forgot --

6 MS. MEHLERT: Yes.

7 CHAIRPERSON HILL: -- that you hadn't administered
8 the oath yet. Thank you.

9 MS. MEHLERT Please raise your right hand. Do
10 swear or affirm that the testimony that you will give today
11 is the truth?

12 MS. RAWANI: Yes.

13 MR. MONTERO: Yes.

14 WHEREUPON,

15 SWATI RAWANI and JEREMY MONTERO

16 were called as witnesses as parties to this matter
17 and, having been first duly sworn, assumed the witness box,
18 was examined and testified as follows:

19 MS. MEHLERT You may consider yourself under oath.
20 Thank you.

21 CHAIRPERSON HILL: Yes, Ms. Rawani, you guys are
22 a party.

23 MS. RAWANI: Okay. Yes, so I do, we do have, we
24 submitted a presentation under Exhibit 14A, so if I can share
25 my screen or if you're able to pull that up and I --

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1 CHAIRPERSON HILL: Yes, you can't share your
2 screen unfortunately. Okay. Go ahead, Mr. Young, if you
3 could pull that up please.

4 DIRECT EXAMINATION

5 MS. RAWANI: Okay, thank you. If you could go to
6 the next page. So myself and my husband are owners of 2243
7 Sudbury Road Northwest which is a single family home in the
8 neighborhood of Colonial Village.

9 Our home was built around 1951. We purchased the
10 property in 2022 and are renovating this home. It will
11 continue to be a single family home and we intend to live in
12 the home after the renovation is complete.

13 Our intention has been to follow all the
14 requirements of the DOB permitting process. And the current
15 construction is being conducted in accordance with the
16 submitted plans and the approved permits.

17 The project which has been approved under the
18 permit B2307068 which is the subject of this appeal is a
19 second story addition and interior modifications to the main
20 level.

21 We also have a separate permit for the deck and
22 the screened porch which is not subject to this appeal.
23 There are currently several projects in Colonial Village that
24 are similar that have been completed or are currently ongoing
25 and I have some photos regarding those chores at the end of

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1 those presentation.

2 We oppose this appeal because we would suffer
3 significant harm because we have relied on this permit to
4 renovate our home and the project is substantially complete.
5 Next slide please.

6 This permit did not involve a special exception,
7 a variance or any zoning change. We went through the
8 permitting process which lasted from about May 25th, 2023 to
9 August 9, 2023.

10 During the review process, DOB contacted us
11 several times to provide additional information which we did.
12 The application shows that, you know, we had a thorough
13 review of the zoning structural, electrical, energy,
14 mechanical, plumbing, and environmental reviews.

15 And during the construction, we've had several
16 inspections as required by DOB and they have not found any
17 issues with the construction. Next slide please. We think
18 that the appellant's argument should fail because it seems
19 that the appellant would like to apply definitions of a party
20 wall and raise that are different than what appear in the
21 D.C. building code.

22 It seems that the appellant argues that prior
23 notice by the D.C. Government should have been required
24 because there is major deconstruction and reconstruction.
25 This is not in line with the notice requirements in 12A GCMR

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1 Section 106.2.183.

2 And were these requirements to be imposed on us,
3 this would be a different prior notice requirement than what
4 is generally applied in these types of permitting cases. We
5 also have attached some maps that show that the Commission
6 of Fine Arts review is not applicable in this case.

7 Next slide please. Here we just attempted to show
8 the party wall definition that is in the code and what seems
9 to be what appellant is suggesting. He seems to be relying
10 on the shared alley.

11 This is a very large 10,000 square foot lot and
12 the construction even, you know, the construction is not,
13 there's no construction happening in the alley. And as DOB
14 noted earlier, our, the issue seems to be the location of the
15 dumpster.

16 And during the first week of the renovation when
17 we heard of complaints from the appellant about the location
18 of the dumpster, we moved the dumpster to the front of the
19 house so that it would no longer be an issue.

20 Next slide please. There were also some arguments
21 about this being a raise and we just have some photos on
22 every side of the house to show, you know, the photos
23 submitted by the appellant had like a blue tarp that didn't
24 show what was happening to the walls.

25 So this is just a picture of every side of the

1 house to show that the original walls had been retained on
2 every side of the house and this is not a raise. Next slide
3 please. Here are pictures of the other sides of the house.

4 Next slide please. This is a map of the
5 Commission of Fine Arts jurisdiction and there is an example
6 of a house that does fall within the Commission of Fine Arts
7 and the site clearly states that this is in the Commission
8 of Fine Arts review.

9 And when you enter the address 2243 Sudbury Road,
10 it clearly shows that it is not within the Commission of Fine
11 Arts review. Next slide please. The appellant referred to,
12 you know, the height aesthetic in Colonial Village.

13 And I just wanted to include some pictures of
14 homes in Colonial Village, not at all two of these homes are
15 on Sudbury Road. They're only a couple of houses down from
16 our house that are all two-level homes that currently exist
17 in Colonial Village or are currently under renovation in
18 Colonial Village. Next slide please.

19 These are other houses that are just around the
20 block on Sudbury Place which intersects with Sudbury Road
21 that are also two level homes. And to clarify, I don't
22 believe the dumpster was ever in the back yard.

23 For these reasons, we oppose the appeal and we're
24 happy to answer any questions. Thank you.

25 CHAIRPERSON HILL: Okay. Does the Board have any

1 questions of the property owner?

2 Does the Department of Building have any questions
3 of the property owner?

4 Mr. Bennett, do you have any questions of the
5 property owner?

6 CROSS-EXAMINATION

7 MR. BENNETT: Just one. Thank you for your
8 presentation. And the photos that you submitted. Did you
9 ever take photos standing at 1913 Sudbury Road looking north
10 that would be to get a sense of what the height aesthetic was
11 for the east side of the 2200 block of Sudbury Road?

12 MS. RAWANI: The photos I took are the ones that
13 are included in this presentation.

14 MR. BENNETT: And you took no other?

15 MS. RAWANI: No.

16 MR. BENNETT: No further questions.

17 REDIRECT EXAMINATION

18 CHAIRPERSON HILL: Thank you, Mr. Bennett. Ms.
19 Vitale, this is, I haven't taken well, this is not in
20 violation, this was built within the height perimeters.
21 Correct? And is it 40 feet there or --?

22 MS. VITALE: Forty feet and three stories.

23 CHAIRPERSON HILL: Okay, great.

24 RE-CROSS EXAMINATION

25 MEMBER SMITH: Follow up question, Ms. Vitale.

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1 In building permits, did it state what the height of this
2 building was as measured, as a measure in the building
3 permit? When it comes to -- what was the measurement of this
4 building?

5 MS. VITALE: I need to pull up that plan sheet.
6 If you'll give me one minute.

7 MEMBER SMITH: Is it measured from a finished
8 grade?

9 MS. VITALE: Correct. At the mid-point of the
10 façade. I apologize, the project doc systems is slow to pull
11 up thin sheets. The first floor is 8 feet 11. The second
12 floor is 9 so just under 20 feet for the two. Let me, I'm
13 trying to -- and that's measured at the front.

14 MEMBER SMITH: So that's the height of the
15 building in the estimation of the Zoning Administrator's
16 Office?

17 MS. VITALE: This is a section I'm not finding the
18 sheet with the overall. I would want to provide the overall
19 height from the correct plan sheet and I am, have not located
20 that yet in the record.

21 MEMBER SMITH: Okay.

22 MS. VITALE: It does not, I do not anticipate that
23 it exceeds the 40-feet maximum and it is two stories, not
24 three stories.

25 MEMBER SMITH: Thank you. That was the only

1 question I had and if you do find it, feel free to interrupt
2 and let us know.

3 MS. VITALE: Sure.

4 MEMBER SMITH: Thank you.

5 CHAIRPERSON HILL: Okay. Mr. Bennett, so now
6 you'll have rebuttal meaning if there's anything you would
7 like to -- I always, refute I guess is the word of testimony
8 that was given and then any of the rebuttal that you give,
9 anyone will be able to ask questions just concerning
10 rebuttal.

11 Then we're going to go ahead and have a conclusion
12 from the building owners, the Department of Buildings and
13 then you'll have the last word. So, Mr. Bennett, do you have
14 any rebuttal?

15 REBUTTAL DIRECT EXAMINATION

16 MR. BENNETT: Just briefly to reiterate my
17 reference to party wall and raise. And I know again, I'm
18 repeating, but it bears repeating. Those provisions that
19 pertain to party wall and raise reflect an understanding, in
20 my view, by the District of Columbia Government.

21 And the District of Columbia Department of
22 Building that fundamental fairness under the Fifth Amendment
23 of the United States Constitution where there is jointness
24 requires that prior notice be given to parties that are
25 affected.

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1 And in this case, when I referred to party wall
2 and the joint right-of-way in the back of Lots 27 and 28
3 being tantamount to a party wall, that was a reference to the
4 understanding that the fundamental fairness requirements to
5 the United States Constitution were observed by the District
6 of Columbia when it required notice in party wall
7 circumstances.

8 But the jointness or the similarity of my property
9 circumstance which is joint with the property at 2243 Sudbury
10 Road brought my property within the same understanding and
11 therefore the District of Columbia should have given us prior
12 notice.

13 I don't see what the problem was of just giving
14 prior notice. Especially if giving prior notice would enable
15 us to pursue our liberty to engender or use innovation as a
16 way of mitigating threats that were evidence whenever you
17 tried to break the status quo in the neighborhood.

18 And build a structure that goes up towards if it
19 doesn't exceed the height limitation of R-1-A zoning, the
20 bulk limitations, whatever they may be. So that's my
21 rebuttal.

22 CHAIRPERSON HILL: Thank you, Mr. Bennett. Go
23 ahead, Ms. Vitale.

24 MS. VITALE: Sorry. Yes, I just wanted to say
25 Sheet A001 of the proposed elevations in the record, the

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1 building height is 28 feet.

2 CHAIRPERSON HILL: Thank you, Ms. Vitale.

3 MS. VITALE: Thank you.

4 CHAIRPERSON HILL: All right, does the Department
5 of Buildings have any questions about rebuttal? Mr. Moeller.

6 No, he's shaking his head no for the record. Does
7 the building owner have any questions on rebuttal?

8 Thank you. All right, we're going to go in
9 reverse order here for a conclusion. Ms. Rawani or your
10 husband, do you have any conclusion to offer the Board?

11 MS. RAWANI: We just for the reasons we discussed
12 at this meeting, we just feel the appeal should be dismissed.
13 Thank you.

14 CHAIRPERSON HILL: Thank you. Mr. Moeller, do you
15 have any conclusion?

16 MR. MOELLER: Yes. It's our position that
17 fundamental fairness is built into the construction code.
18 Now fairness requires a balancing of interest, not just the
19 interest of a possibly affected neighbor.

20 But the interest of the property owner and the
21 right of the property owner to do as they see fit, so we do
22 believe that fundamental fairness is built into the
23 regulations and the regulations have determined that in some
24 cases, neighbor notification is required and in other cases
25 neighbor notification is not required.

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1 This is not one of those, this is one of those
2 cases where neighbor notification is not required. Finally,
3 it's our position that the appellant, he's put up a good
4 fight, but he has failed to meet his burden of proof that he
5 was entitled to prior notification.

6 Or that review was required by the Commission of
7 Fine Arts. We have nothing further.

8 CHAIRPERSON HILL: Thank you, Mr. Moeller. Mr.
9 Bennett, would you like to offer a conclusion?

10 MR. BENNETT: I stand on my earlier comments about
11 the interests that are involved and the fundamental fairness
12 of the Fifth Amendment, procedural due process of the United
13 States Constitution.

14 But and Counsel Moeller is correct, that it does
15 involve a balancing of interests. Our interests at 2237
16 Sudbury Road were not to be imminently threatened with the
17 kind of destruction and construction that is evident in our
18 photographs without prior notice.

19 The interest of the District of Columbia
20 Government had prior notice been given to us would not be any
21 different, nor would the function be different as has been
22 said several times here.

23 There are situations where the District of
24 Columbia Government does give prior notice to parties so
25 personnel are accustomed to discussing notice matters with

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1 them. That's a regular function of the District of Columbia.

2 That wouldn't change by giving prior notice to the
3 owners of 2237 Sudbury Road and with respect to the risks of
4 facing the property owner, jointness is there between 2243
5 Sudbury Road, 2237 Sudbury Road, but when the dumpster was
6 either moved from the back yard and put into the front or was
7 never in the back yard, but somehow appeared in the front,
8 that actually made the neighborhood more dangerous.

9 Because the dumpster blocked the very narrow
10 street which is 2200 block of Sudbury Road. And I suggest
11 that given the jointness between 2220 37, sorry, Sudbury Road
12 and 2243 Sudbury Road, that to go from a dumpster in back
13 yard to a dumpster in the narrow street in the front yard,
14 makes the whole neighborhood, especially that block, more
15 dangerous, more unsafe, not less safe. Thank you.

16 CHAIRPERSON HILL: Okay. Thank you. Thank you,
17 Mr. Bennett. Thank you, everyone for all of your testimony
18 today. As I'm sure if you've been watching, it's been a
19 pretty long day for us.

20 What I would suggest from the Board is we go ahead
21 and take a look at all the testimony provided as well as that
22 in the record and come back next week for a decision. And
23 that will be at the very beginning of the day for everyone
24 who is participating here.

25 And we don't take any testimony during our

1 decision-meeting sessions, so I would encourage you all to
2 tune in at the beginning of Wednesday for our decision. Is
3 there anything final from the Board before I close the
4 record?

5 All right. Well, thank you all very much, again.
6 And I hope you all have a nice evening --

7 MS. RAWANI: Can I just, I'm sorry, can I ask a
8 quick question? Do all parties need to be present for the
9 decision?

10 CHAIRPERSON HILL: No one has to be present for
11 the decision. It's just the Board is going to make a
12 decision during its meeting session.

13 MS. RAWANI: Okay, great.

14 CHAIRPERSON HILL: If you want to watch, you can.
15 If you don't want to watch, I'm sure you'll be notified.

16 MS. RAWANI: Okay. Thank you very much.

17 CHAIRPERSON HILL: Thank you. Thank you, DOB, Mr.
18 Bennett, Ms. Vitale, Mr. Cox. Good night.

19 MR. MOELLER: Have a good evening, everyone.

20 CHAIRPERSON HILL: Thank you. All right, Ms.
21 Mehlert, it was your first time as the Secretary, I hope that
22 this does not turn into a trend. Is there anything else
23 before the Board today?

24 MS. MEHLERT: No, you have nothing else.

25 CHAIRPERSON HILL: Okay, thank you. All right,

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1 then we stand adjourned. You all have a nice evening. You
2 all did a wonderful job today. Bye-bye.

3 (Whereupon, the above-entitled matter went off the
4 record at 6:49 p.m.)

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C E R T I F I C A T E

This is to certify that the foregoing transcript


In the matter of: Public Hearing

Before: DC BZA

Date: 03-27-24

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

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WASHINGTON, D.C. 20009-7831

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