

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

+ + + + +

REGULAR PUBLIC HEARING

+ + + + +

WEDNESDAY

SEPTEMBER 18, 2024

+ + + + +

The Regular Public Hearing of the District of Columbia Board of Zoning Adjustment convened via Videoconference, pursuant to notice at 9:30 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 MEMBERS PRESENT:

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

OFFICE OF ZONING STAFF PRESENT:

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

OFFICE OF PLANNING DEVELOPMENT REVIEW STAFF PRESENT:

RON BARRON
SHEPARD BEAMON
MICHAEL JURKOVIC
CRYSTAL MYERS
KAREN THOMAS

The transcript constitutes the minutes from
the Regular Public Hearing held on September 18, 2024.

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

(9:35 a.m.)

BZA CHAIR HILL: Good morning, ladies and gentlemen, to the Board of Zoning Adjustment. Today is September 18, 2024. This public hearing will please come to order. My name is Fred Hill, Chairman of the District of Columbia Board of Zoning Adjustment. Today joining me is Crishaun Smith, Zoning Commissioner Rob Miller, Chairman Anthony Hood, and Commissioner Stidham at some point in time, I believe. Today's meeting and hearing agenda are available on the Office of Zoning website.

Please be advised this proceeding is being recorded by a court reporter and is also webcast live via Webex and YouTube Live. The video of the Webex -- the video of the webcast will be available on the Office of Zoning's website after today's hearing. Accordingly, everyone who is listing on Webex or by telephone will be muted during the hearing. Also please be advised that we do not take any public testimony in our decision meeting session.

If you're experiencing difficulty accessing Webex or with your telephone call in then please call our OZ hotline number at 202-727-5471 to receive Webex online or call in instructions.

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1 At the conclusion of decision meeting session,
2 I shall, in consultation with the Office of Zoning,
3 determine whether a full or summary order may be issued.
4 A full order is required when the decision it contains is
5 adverse to a party, including the affected ANC. A full
6 order may also be needed if the Board's decision differs
7 from the Office of Planning's recommendation.

8 Although the Board favors the use of summary
9 orders whenever possible, an applicant may not request the
10 Board to issue such an order.

11 In today's hearing session everyone who's
12 listening on Webex or by telephone will be muted during
13 the hearing and only persons who signed up to participate
14 or testify will be unmuted at the appropriate time.
15 Please state your name and home address before providing
16 oral testimony or your presentation.

17 Oral presentations should be limited to a
18 summary of most important points. When you're finished
19 speaking please mute your audio so that your microphone is
20 no longer picking up sound or background noise.

21 Once again, if you're experiencing difficulty
22 please call our hotline number at 202-727-5471. It's also
23 listed on the screen.

24 All persons planning to testify either in favor
25 or opposition that signed up in advance will be called by

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1 name to testify. If this is an appeal, only parties are
2 allowed to testify. By signing up to testify, all
3 participants complete the oath or affirmation as required
4 by Y-408.7.

5 Requests to enter evidence at the time of an
6 online virtual hearing such as direct testimony or
7 additional supporting documents other than live video
8 which may not be presented as part of the testimony may be
9 allowed pursuant to Y-103.13 provided that the person made
10 the request to enter an exhibit explained, A) how the
11 proposed is relevant, B) the good cause justifies allowing
12 the exhibit into the record including an explanation of
13 why the requestor did not file the exhibit prior to the
14 hearing pursuant to Y-206, and C) how the proposed exhibit
15 would not unreasonably prejudice any parties.

16 The order of procedures for special exceptions
17 and variances are pursuant to Y-409. The order of
18 procedures for appeals is pursuant to Y-507. At the
19 conclusion of each case an individual who is unable to
20 testify because of technical issues may file a request for
21 leave to file a written version of planned testimony to
22 the record within 24 hours following the conclusion of
23 public testimony in the hearing.

24 If additional written testimony is accepted the
25 parties will be allowed a reasonable time to respond as

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1 determined by the Board. The Board will then make its
2 decision at its next meeting session but no earlier than
3 48 hours after the hearing. Moreover, the Board may
4 request additional specific information that could
5 complete the record.

6 The Board and the staff will specify the end of
7 the hearing's exactly as expected and the dates when
8 persons must submit the evidence to the Office of Zoning.
9 No other information shall be accepted by the Board.

10 Finally, the District of Columbia
11 Administrative Procedures Act requires that the public
12 hearing on each case be held in the open before the
13 public. However, pursuant to Section 405b and 406 of that
14 act the Board may, consistent with its rules and
15 procedures and the Act, enter into a closed meetings on a
16 case for purposes of seeking legal counsel on a case
17 pursuant to D.C. Official Code Section 2-575b.4 and/or
18 deliberate on a case pursuant to D.C. Official Code
19 Section 2-575b.13, but only after providing the public
20 notice in the case of an emergency closed meeting after
21 taking a roll call vote.

22 Madam Secretary, do we have any preliminary
23 matters?

24 MS. MEHLERT: Good morning. There's one change
25 to the agenda today. That's Application No. 21177. The

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1 District of Columbia Department of General Services has
2 been postponed to October 9, 2024.

3 Also, the Chairman has reviewed and granted
4 waivers to allow late filings into the applicant case
5 record pursuant to Subtitle Y Section 206.7 and Section
6 103.13. Any other late filings during the course of
7 today's live hearing should be presented before the Board
8 by the applicant or parties or the witnesses after the
9 case is called.

10 Any other preliminary matters will be noted
11 when the case is called.

12 BZA CHAIR HILL: Okay. Great. Let's see.
13 Okay. Well, again, good morning, everybody.

14 And if you want to call our first item -- I
15 think it's with Commissioner Miller -- Ms. Mehlert, that
16 would be great.

17 MS. MEHLERT: First in the Board's hearing
18 session is Appeal No. 20944 of Advisory Neighborhood
19 Commission 3D and Rohit Kumar. As amended, this appeal is
20 pursuant to Subtitle X 1100 from decisions made by the
21 Department of Buildings to issue building permits to allow
22 a detached physical dwelling. It's located in the r-1B
23 zone at 5122 Cathedral Avenue, NW, Square 1439, Lot 60.

24 This appeal has been continued several times,
25 most recently on June 12th where the Board denied DOB's

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1 renewed motion to dismiss and granted the appellant's
2 motion to continue the hearing. And participating are
3 Chairman Hill, Board Member Smith, and Commissioner
4 Miller.

5 And then two preliminary matters are property
6 owner's motion to dismiss the appeal as moot as well as a
7 motion to dismiss from DOB.

8 BZA CHAIR HILL: Okay. Great. We're going to
9 go around the table again and introduce everybody. Let's
10 go ahead and start with Ms. Themak.

11 MS. THEMAK: Hi. Tracy Themak, Donohue,
12 Themak, & Miller, and representing the ANC and Rohit
13 Kumar.

14 BZA CHAIR HILL: Okay. Great. Commissioner,
15 could you introduce yourself for the record?

16 MS. DUNCAN: Tricia Duncan. I'm Commissioner
17 from 3D-02 and I am the Chairman of ANC 3D.

18 BZA CHAIR HILL: Great. Thank you.

19 Mr. Cox, could you introduce yourself?

20 MR. COX: Good morning. I'm Erik Cox, Deputy
21 General Counsel to the DC Department of Buildings. With
22 me from DOB are DOB Attorney Chris Haresign, and Zoning
23 Administrator Kathleen Beeton.

24 BZA CHAIR HILL: Great, thank you. We're just
25 going to introduce everybody just because.

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1 Mr. Haresign, do you want to introduce
2 yourself?

3 MR. HARESIGN: Chris Haresign, Assistant
4 General Counsel Department of Buildings for the Apellee.

5 BZA CHAIR HILL: Thank you.

6 Zoning Administrator, could you please
7 introduce yourself?

8 MS. BEETON: Sure. Kathleen Beeton, Zoning
9 Administrator Department of Buildings.

10 BZA CHAIR HILL: Okay. So I know where we are.
11 I think the Board knows where we are. And so really
12 basically, Mr. Cox, I'll just cut to the chase and then if
13 you -- if anybody wants to talk they can talk.

14 But what I still kind of want to know is when
15 this permit might be issued. Because really what the
16 ANC's appealing is not necessarily the permit, and we can
17 have a discussion about that if you want to, but it's the
18 whole rear yard issue.

19 So really I just kind of want to find out if
20 this thing can get issued, the permit, the ANC can have a
21 look at this. Hopefully this all goes away. Is what I'm
22 just waiting to figure out.

23 And I know DOB, you guys are busy. You guys
24 have other things to do than this, right? As do I. And
25 so Mr. Cox, do you know when this might get issued?

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1 MR. COX: Firm date? I think Ms. Beeton may be
2 able to speak to this with more precision, but the permit
3 is in application. It's had a bunch of reviews, and a
4 bunch of approvals, but it's not all there yet.

5 And I believe that the ball is in the property
6 owner's court to respond to some comments from DOB. So
7 it's up to him about how quickly he gets it back to us
8 that we can review and approve.

9 BZA CHAIR HILL: Is the property owner here?

10 No --

11 MS. DUNCAN: He is not. We are actually in
12 talks with him. I think he has a sick parent. He is out
13 of the country.

14 BZA CHAIR HILL: Oh, I see that.

15 Go ahead, Ms. Themak.

16 MS. THEMAK: Yeah. We're totally -- I think,
17 we did not file an opposition to DOB's -- today is day
18 seven for us. It wouldn't have come in in time for you
19 guys to hear it.

20 What we were going to do is submit a motion for
21 just a little bit more time to postpone, to allow DOB to
22 formally review and approve the permit, for ANC to look at
23 it and make sure everything -- so we would wholeheartedly
24 agree that I think this is ready to go away and be cleared
25 from your docket. We just don't want to dismiss it and

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1 again, like you've talked about get kicked back to the
2 beginning.

3 BZA CHAIR HILL: Okay. That's fine.

4 So Ms. Mehlert, when's our last hearing of the
5 calendar year again? I think it's December 18th, correct?
6 Okay.

7 Why don't we kick this to December 18th? Okay.
8 And hopefully it all works out. And then it will be a
9 holiday present for all of us. Okay. So 12/18. Okay.
10 2024. Okay. I hope you guys have -- I'm sure I'll see
11 some of you again for some other reasons at some other
12 time, but hopefully it's not for this one. So you guys
13 have a good day.

14 MS. THEMAK: Thank you.

15 MR. COX: Thank you. Good bye.

16 BZA CHAIR HILL: Okay. Ms. Mehlert, you can
17 call -- that's it for you, right, Mr. Miller?

18 COMMISSIONER MILLER: Yes, thank you. Have a
19 great day.

20 BZA CHAIR HILL: Okay. You have a nice day
21 also.

22 COMMISSIONER MILLER: Thank you.

23 BZA CHAIR HILL: Bye.

24 (Whereupon, the above-entitled matter went off
25 the record at 9:45 a.m. and resumed at 9:51 a.m.)

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1 BZA CHAIR HILL: Okay. Let's see. What is
2 next, Ms. Mehlert?

3 MS. MEHLERT: Next is returning to the Board's
4 hearing session is Application No. 21058, Rupsha 2011,
5 LLC. This is a self-certified application pursuant to
6 Subtitle X Section 901.2 for a special exception under
7 Subtitle U Section 421 to allow a new residential
8 development.

9 This is a 39-unit apartment house in a new
10 three-story detached building with cellar located in the
11 RA-1 zone at 2424 Pomeroy Road, SE, Square 5873, Lots 856,
12 857, 104, 903, and 932.

13 The original hearing date for this case was on
14 March 20, 2024 and postponed twice. Most recently from
15 May 8th to allow the applicant time to work with DDOT and
16 properly notice owners located within 200 feet of the
17 property.

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

21 MR. SECK: Good morning, Chairman Hill. Good
22 morning, Commissioner Hood and Mr. Chrishaun. This is
23 Oumar Seck representing Rupsha 2011, LLC. And I'm with
24 the Architect Michael Blake who's going to present.

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1 BZA CHAIR HILL: Great. Mr. Blake can you hear
2 me? And if so, could you introduce yourself for the
3 record?

4 You're on mute Mr. Blake, I believe.

5 That's all right, Mr. Blake.

6 MR. SECK: He just raised -- yeah. He just
7 raised his hand to give him a second.

8 BZA CHAIR HILL: Yeah. Take your time.

9 MR. BLAKE: Are you all able to hear me now?

10 BZA CHAIR HILL: Yes.

11 MR. BLAKE: Okay. Great. Sorry about that.
12 My name is Michael Blake from Bestudio Architecture.

13 BZA CHAIR HILL: Okay. Mr. Blake if you want
14 to go ahead and walk us through your client's application,
15 and I guess why you believe you are meeting the criteria
16 for us to grant the relief requested. And also if you
17 could speak to the discussions you had with the Office of
18 Planning and some of their suggestions. And you can begin
19 whenever you like.

20 MR. BLAKE: Okay. I have a presentation that
21 was uploaded to the record earlier this week. Would it be
22 possible to pull that up?

23 BZA CHAIR HILL: Of course.

24 MR. BLAKE: Great. Okay. Thank you, Chairman
25 Hill and members of the Board. As I said, my name is

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1 Michael Blake with Bestudio Architecture, and I'm joined
2 by Oumar Seck from the development team, Rupsha 2011, LLC.

3 We appreciate the opportunity to present the
4 project today which proposes to construct a 39-unit
5 apartment building on a vacant lot in the Barry Farm
6 neighborhood of Southeast, D.C.

7 Next slide, please. The relief being sought
8 for this project is a special exception pursuant to
9 Section U 421.1 which is required to construct a multi-
10 family building in an RA-1 zone.

11 Next slide, please. The site is located
12 between Pomeroy Road, Southeast, and Elvans Road,
13 Southeast, with multi-family residential developments to
14 the east and west, and single-family homes to the south.
15 The zone battery runs to the site with the majority of the
16 land located in an RA-1 zone, and the rest in an R-3 zone.
17 The proposed construction occurs entirely in the RA-1
18 portion of the site.

19 The proposed development will be in harmony
20 with the general purpose and intent of the zoning
21 regulations and zoning maps. The RA-1 zone is suitable
22 for multiple dwelling unit developments, and the addition
23 of three and five bedroom units provides an attractive
24 housing options. A housing type for a family that will
25 promote the stability of the residential area.

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1 The proposed development will not tend to
2 effect adversely the use of neighboring properties but
3 will in fact improve security and stewardship of this
4 large, dark, vacant lot by activating this portion of
5 Pomeroy Road, Southeast, and putting more eyes on the
6 street.

7 Next slide, please. The site is currently
8 comprised of five lots which will be subdivided to create
9 a single record lot of 95,904 square feet that slopes down
10 57 feet from Elvans Road to the south to Pomeroy Road,
11 Southeast, to the north.

12 Next slide, please. The design utilizes a long
13 and narrow footprint located on the flattest portion of
14 the site to minimize the disturbance of the natural grade.
15 The building is bound to the west by a heritage tree, and
16 to the east by a new 20-foot wide curb cut located 24 feet
17 from an existing curb cut on the adjacent lot which is
18 Pomeroy Gardens Apartments at 2408 Pomeroy Road,
19 Southeast.

20 This slide, the grade is situated to create a
21 centralized building entry at grade providing an
22 accessible, comfortable main entry for residents. The
23 westward slope of Pomeroy Road creates the opportunity for
24 a partial cellar which provides a secondary pedestrian
25 access point to the building from the sidewalk.

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1 Next slide, please. So here we see an X on the
2 interventions that were just described. And that's
3 accompanied by a view of the existing topography on the
4 left hand side. So the left is existing pre-construction,
5 and the right is proposed. And so here we see the curb
6 cut, the new curb cut which leads to a parking pad at the
7 rear of the building. Adjacent to that is a storm water
8 management facility and an amenity yard.

9 The building itself will use the slab on grade
10 and there we see the partial cellar towards the -- to the
11 west at the bottom.

12 Next slide, please. All right. I wanted to
13 share these snapshots of several different variations of
14 this project that Bestudio has studied since we began
15 working on this project in 2021.

16 We made extensive efforts to find the best way
17 to work with this difficult site which allows me to
18 confidently say that the design we are presenting today is
19 the most efficient and minimally evasive way we could find
20 to develop the site while preserving as much of the
21 natural features of the land as possible.

22 Next slide, please. That design resulted in a
23 58,637 square foot, three-story plus partial cellar, 39-
24 unit apartment building with more than 5,300 square feet

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1 set aside for inclusionary zoning units with no use of IZ
2 bonus density.

3 The building footprint of 18,106 square feet
4 results in a lot occupancy of 19 percent which is not even
5 half of the 40 percent that is allowable by right.

6 Next slide, please. The principal façade
7 utilizes a variation of materials and height to divide the
8 285 foot street frontage into nine separate sections. The
9 centralized entrance bay, which is the only place where
10 the building does meet the ground with an area way,
11 prominently anchors the symmetrical arrangement with a
12 generous distribution of fenestration that will help
13 activate Pomeroy Road.

14 Next slide, please. The indexed exterior
15 materials consist of anchored masonry, composite plank
16 siding, and composite vertical slats. The warm color
17 palette, fine textures, and repetitive nature of the
18 materials help to maintain a pedestrian scale to the
19 building.

20 Next slide, please. This is just a view of the
21 entry from Pomeroy Road, Southeast.

22 Next slide, please. The building will offer 27
23 three-bedroom two-bath, and 12 five-bedroom two-bath
24 units. Levels one through three have 12 units per floor
25 with three units in the partial cellar. Six type A and

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1 six type B units will be located on level 01 with its
2 grade level access to Pomeroy Road and IZ units will be
3 distributed between levels one through three.

4 A separate cellar entry provides residents easy
5 access to a generous bike storage area while level two
6 connects residents to amenity recreational area and
7 parking pad in the rear of the building.

8 Next slide, please. So here we see a view of
9 the amenity area. We -- the site has been created to
10 create a flat area. We're also seeing a storm water
11 management facility in the back, and the parking pad.

12 In addition to the heritage tree, trees on the
13 south side of the lot will preserve -- will be preserved
14 to buffer the single family homes at the top of the hill.
15 Interspersed plants will also be added to screen the
16 parking pad at the rear of the building while a four foot
17 tree box and six foot sidewalk on the front side of the
18 building will bring this stretch of Pomeroy Road up to
19 current DDOT standards.

20 The site will feature a storm water management
21 facility between the permeable parking pad and building,
22 as well as the large flat recreational lawn for residents
23 to enjoy.

24 BZA CHAIR HILL: Hey, Mr. Blake. These are
25 already in the plans, correct?

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1 MR. BLAKE: Correct.

2 BZA CHAIR HILL: Okay. And do you know which
3 exhibit they're in?

4 MR. BLAKE: The next slide actually shows -- I
5 can look up what sheet it is in the architectural plans
6 and elevations. This drawing -- so this shows the
7 recreational lawn, the flat recreational lawn, the storm
8 water management facility, and the parking pad as well as
9 the new curb cut.

10 BZA CHAIR HILL: Which again? I'm sorry,
11 you're going to tell me where it is in the plans?

12 MR. BLAKE: Yeah. Give me just one second.

13 That is in the architectural plans and
14 elevations, that is sheet A29.

15 BZA CHAIR HILL: One moment please. Okay.
16 Great. I've got it. Okay. Thank you. Okay. Please
17 continue. Thank you.

18 MR. BLAKE: Okay. In addition to storm water
19 management, green area ratio, and energy code this project
20 will also comply with the DC construction code, DC green
21 construction code, excuse me, since it is over 10,000
22 gross square feet.

23 The large amount of green space preserved on
24 the site will help combat heat island effect and storm
25 water runoff while the cool roof provides a generous

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1 surface for the installation of water solar panel array
2 that will offer a significant source of renewable energy.

3 Next slide, please.

4 This is a view of the curb cut. And I want to
5 mention that that received unanimous concept approval from
6 the DDOT Public Space Committee which is included in the
7 record as Exhibit 61.

8 The curb cut provides --

9 BZA CHAIR HILL: Mr. Blake, I'm sorry to
10 interrupt. In terms of the landscaping plan again, the
11 applicant is committed to what is on -- I'm sorry, it
12 would help to represent -- I mean, A29, and also the
13 representation A28 and A27?

14 MR. BLAKE: I'm sorry, let me just pull up that
15 --

16 BZA CHAIR HILL: That's all right. A27 and A29
17 look -- and A28 look beautiful. I just want to make sure
18 that that's what the applicant is committing to do because
19 I can't tell what is the commitment off of A29.

20 MR. BLAKE: Okay. Yeah. Yes, the rendered
21 views are -- that's the design intent. And that's what
22 the applicant intends to construct.

23 BZA CHAIR HILL: Okay. Okay. Please go ahead.
24 I'm sorry.

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1 MR. BLAKE: Okay. So that curb cut that was
2 approved by the Public Space Committee provides access to
3 23 vehicle parking spots which is almost double the 12
4 stalls required by the zoning regulations. And the
5 building trash pickup area.

6 Next slide, please.

7 In addition to the vehicle parking, the
8 building also provides an enhanced bike storage area that
9 includes a bike repair station, oversized bike parking
10 stalls for cargo bikes, and charging outlets for electric
11 bikes.

12 As part of the transportation demand management
13 plan required for developments with over 20 units,
14 building management will set in place programs encouraging
15 awareness and participation in the cities various eco-
16 friendly transportation initiatives prior occupancy.

17 Next slide, please.

18 Okay. So again, I just want to --

19 BZA CHAIR HILL: Are you guys -- can you guys
20 hear me? Did I lose Mr. Blake?

21 MR. SECK: Actually he froze.

22 BZA CHAIR HILL: Okay.

23 MR. SECK: Yeah. Hopefully he'll be back.

24 BZA CHAIR HILL: I want to see how far he got
25 in his presentation. Okay. That was actually the end of

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1 his presentation. Let me try to get Mr. Blake back
2 because the Board --

3 Okay, Mr. Blake we see you.

4 MR. SECK: Yeah, I just talked to him. He's
5 jumping back on.

6 BZA CHAIR HILL: Okay. He can also call on the
7 phone. If he has a problem, if he wants to call that
8 hotline number on the screen.

9 MR. SECK: Okay.

10 MR. BLAKE: Can you hear me now?

11 BZA CHAIR HILL: Yep. We can hear you.

12 MR. SECK: Yes. Chairman was saying, Michael,
13 if you have a problem you can call the hotline on the
14 screen.

15 MR. BLAKE: Okay. Hopefully it won't happen
16 again.

17 BZA CHAIR HILL: We can hear you Mr. Blake. So
18 that was the last slide on your slide deck.

19 MR. BLAKE: It was. The only thing that I
20 wanted to point out was just that Rupsha 2011, LLC has
21 been involved with several residential developments in the
22 Barry Farm neighborhood. And they're excited to continue
23 its contributions to the community to build the --

24 (Audio interference.)

25 MR. BLAKE: That was it. That's the end.

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1 BZA CHAIR HILL: Okay.

2 MR. BLAKE: Thank you for the opportunity to
3 present it.

4 BZA CHAIR HILL: You're welcome. Did you --
5 and thank you for the presentation. Did you see the
6 suggestions again that the Office of Planning had?

7 MR. BLAKE: Yes. So we, I think we first met
8 back with the Office of Planning back in February of 2024.
9 And we went through a round of revisions with them and
10 redesigned, revisited the façade, materiality, and made a
11 number of adjustments before they ultimately went on to
12 support the application.

13 And I know that there's a few bullet points
14 that go along with that approval which we're willing to
15 continue to work with them on.

16 BZA CHAIR HILL: Right. Well the only one's
17 that I'm -- like I don't want to go back and forth on
18 plans, and I don't necessarily know whether the Board
19 would agree with some of the criteria that the Office of
20 Planning has suggested however, I just wanted to know
21 where you guys are with some of these suggestions such as
22 the compliance with the landscaping plans. So they have
23 A06 and A07 in Exhibit 54. Do you know if that is in line
24 with what you guys have in A27, A28, and A29?

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1 MR. BLAKE: Yes. A06 is the site development
2 plan, just a line drawing, and A07 is the landscaping plan
3 that is later also shown on, I think that's the slide --

4 BZA CHAIR HILL: So the applicant has agreed to
5 that?

6 MR. BLAKE: Yes.

7 BZA CHAIR HILL: Okay. And then the proposed
8 heat pumps and the HVAC units?

9 MR. BLAKE: I would like to -- so there is a
10 plan to put a large solar panel on that. And I actually
11 believe that putting those heat pumps in the area way is
12 going to be the best way to mask any noise that is coming
13 from those units. It's a you know, it's a fair amount of
14 units. And with where they're situated now at the you
15 know, burrowed in the hill, I think that that would be the
16 best location. But it's, if that was, if the Office of
17 Planning really insisted on that --

18 BZA CHAIR HILL: We can -- let's -- I don't
19 know what we're going to do. Let's talk about it. I'm
20 just looking where they are now, right. They're in that
21 kind of -- they're below grade there.

22 MR. BLAKE: Yes.

23 BZA CHAIR HILL: Right?

24 MR. BLAKE: A significant -- the first floor
25 even, a significant level of that requires an area way.

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1 And it's a large area way that wraps around the building.
2 So that's where the outside units are currently shown.

3 BZA CHAIR HILL: Okay. And then the trash area
4 is screened from all sides?

5 MR. BLAKE: The trash area will be screened
6 from all sides, yes. We've got the trash area shown in
7 the site plan. We need to, it's not clear that -- it's
8 not clear in the drawings that it will be screened but as
9 a part of just the regular zoning regulations that will be
10 screened.

11 BZA CHAIR HILL: Okay. All right. Does the
12 Board have any questions of the applicant before I turn to
13 the Office of Planning?

14 MEMBER SMITH: Yes, I do.

15 BZA CHAIR HILL: Go ahead.

16 MEMBER SMITH: Regarding the landscaping again,
17 because it's still not all that clear on the plans. So
18 you stated that you were also planning to preserve
19 existing trees outside of the limits of disturbance. Are
20 the only existing trees that you would propose to
21 preserve, that's only on A07, these one, two, three, four,
22 five, six, seven, eight, nine existing trees? Is that it?
23 It doesn't seem like I'm looking at an area that those are
24 the only trees on the site beyond the limits of
25 disturbance.

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1 MR. BLAKE: No, and I'm looking at the exhibit
2 now. There's a tree protection plan that was uploaded.
3 The developers worked with the urban forestry division and
4 began to work to --

5 BZA CHAIR HILL: Mr. Blake, give me a second.
6 You're really muddled. Can everybody mute their phones
7 except for Mr. Blake?

8 MR. BLAKE: Okay. Is this any better?

9 The developer began work on the tree removal
10 which was permitted after working with the urban forestry
11 division. There is a tree protection plan which is
12 Exhibit 19 that shows the trees that have to be
13 maintained. There's a heritage tree to the west that is
14 in the extended building footprint but there's also some
15 other trees identified on that tree protection plan that
16 are staying in place.

17 MEMBER SMITH: Okay. That was helpful. Any my
18 last question is about that heritage tree. And you know,
19 it's good to hear that you stated that you worked with the
20 DC department of forestry, whichever agency that deals
21 with trees. I'm sorry, it's in the morning. And you and
22 they are comfortable that you can preserve this heritage
23 tree given this, the impact that this new construction
24 would have on the critical root zones? Given also the
25 scale of grading that you have to do?

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1 MR. BLAKE: Yes. We worked with an arborist to
2 identify the structural roots under the critical root
3 zone, and that was used at the early -- beginning of the
4 design, at the early part of the design to establish the
5 extent of the building footprint. So we're holding it as
6 close as possible to that critical root zone as the
7 arborist has identified to protect that tree.

8 MEMBER SMITH: Okay. All right. I'm
9 comfortable with that. Okay. Thank you.

10 MR. BLAKE: Thank you.

11 BZA CHAIR HILL: Please go ahead, Chairman
12 Hood.

13 ZC CHAIR HOOD: Okay. Thank you, Mr. Seck and
14 Mr. Blake, for your presentation. I'm just, there's some
15 timing issues I'm trying to figure out, so I figured
16 instead of me trying to figure it out for myself I'll ask
17 you guys.

18 I noticed the ANC had responded, and you all
19 are going to vouch for me, but I didn't see -- and you can
20 direct me if I missed it because I do miss things -- I
21 didn't see an updated ANC letter, unless it came in after
22 I looked at this. Is there an updated -- Mr. Seck, is
23 there an updated letter I can look at?

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1 MR. SECK: Chairman Hood, the ANC uploaded a
2 letter late yesterday and I believe that Chairman, Mr.
3 Johnson is on board as well.

4 ZC CHAIR HOOD: Okay.

5 MR. SECK: We were scheduled to meet yesterday
6 but he explained on his letter that due to the protests
7 yesterday, the police station cancelled it. And that's
8 where we were going to meet on that matter.

9 ZC CHAIR HOOD: Okay. All right. I
10 understand.

11 MS. MEHLERT: I'll just note that the ANC did
12 submit the letter we just haven't uploaded it yet because
13 it included the wrong case number, so we were trying to
14 get an updated version. But the ANC Commissioner is on
15 the call.

16 ZC CHAIR HOOD: Okay. Thank you, Ms. Mehlert.
17 Okay. Good.

18 Okay. Now also, I noticed we had a number of
19 letters. Let me just say I appreciate the wedding cake
20 model, we usually call it a commissioner wedding cake.
21 And I noted that the ZA does not get into design. I do
22 like the design other than the white panels that you have.
23 I think that they get dirty, and I don't think we can keep
24 them clean. So I'll just, that's not necessarily before
25 us but I just wanted to put that out there.

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1 I may want to -- let me think about how far to
2 go because I know that's not in the jurisdiction of the
3 board. But coming from the Zoning Commission we don't
4 necessarily care for white because we don't keep it clean.
5 And I'm just throwing that out there Mr. Blake and Mr.
6 Seck, so you all can think about that as you use that
7 material.

8 There are some other letters of opposition in
9 here. Have those people been contacted? Have we worked
10 with them? And I will associate myself with the
11 Chairman's comment. I think the wedding cake -- there's
12 another area where the wedding cake model of the retaining
13 wall was done, and I think the pictures look good. But
14 the question is, will it sustain the test of time, and
15 I'll leave that up to the proper folks with building
16 permits and all that.

17 But I think that -- well let me go back to my
18 original question. Have the people who had the
19 opposition, has there been some engagement with them as
20 well? And I don't know who can answer that, Mr. Seck or
21 Mr. Blake.

22 MR. SECK: Yes. Chairman Hood, we did engage
23 on a meeting we had. And I believe the Commissioner also
24 will elaborate more on that. And at the time when we
25 presented, I believe it was August 20th, the -- no, not

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1 August, we presented way back. I'm sorry, I don't have
2 the date.

3 ZC CHAIR HOOD: Okay.

4 MR. SECK: And there were, the public were
5 there, the neighbors, the adjacent neighbors, and voiced
6 their opinion, opposition, et cetera. And the
7 Commissioner Chairman Johnson invited everybody to come up
8 with a proposition of what they want us to work on in
9 order to win their support but with a lot of interaction
10 I've had with Chairman Johnson trying to also schedule
11 emergency meetings, according to him none of them did come
12 up with suggestions to him that we can all discuss and
13 come up with the, some kind of a pathway.

14 As far as the immediate neighbor, Mr. Walter,
15 which is the building owner next door to the right -- to
16 the left, the owner of the company actually Mr. Sigurd
17 (phonetic) did engage with him. They know each other.
18 They met and discussed at the time when we wanted to have
19 a common curb cut to minimize the number of curbs, curb
20 cuts that DDOT usually encourage people to minimize. He
21 has two curbs.

22 And after a lot of back and forth he opposed --
23 that's when it triggered a modification of the building.
24 The building was somewhat rectangular, but if you see
25 where the curb cut and the driveway's coming in, we had to

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1 chop off and make an angle. And Michael did a great job
2 on that. And so that make us win the support of DDOT
3 which was a condition from the commission, to make sure we
4 took care of that DDOT stuff.

5 So as of today, I see the letters that you saw,
6 the commissioner had reached out to them, the SMD
7 commissioner, Ms. Little, also you know tried and they're
8 all in support. And that's where we are.

9 ZC CHAIR HOOD: Okay. I thank you Mr. Seck for
10 explaining that. I'm looking forward to hearing from
11 Chairperson Johnson because I do know some of these
12 commissioners and silence is not necessarily how they
13 proceed. They're very active, vocal, and very passionate
14 about their community. So thank you, Mr. Seck and Mr.
15 Blake.

16 Thank you, Mr. Chairman.

17 BZA CHAIR HILL: Thank you.

18 ZC CHAIR HOOD: I think you're on mute, Mr.
19 Chairman.

20 BCA CHAIR HILL: Thank you. Commissioner
21 Johnson, can you hear me? Could you introduce yourself
22 for the record?

23 MR. J. JOHNSON: Sure. Joseph Johnson, ANC 8B
24 Chair.

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1 BZA CHAIR HILL: Great. Commissioner Johnson,
2 could you give us please, I don't know sir if you'd like
3 to use your camera. If not it's okay. I just wanted to
4 let you know it's not on. And let's see, and if you would
5 like to go ahead and give us your testimony, and comment
6 on anything that you've heard thus far, please do.

7 MR. J. JOHNSON: Sure. So I just -- good
8 morning to you, Chairman Hill and members of the Board.
9 It's good to hear from Chairman Hood again. As he
10 mentioned, a lot of us is very passionate about the work
11 that we do as commissioners and you know, take great pride
12 in you know, trying to be a part and make sure that we
13 inform our residents on major developments like this.

14 This project was on the agenda I think a couple
15 of times. We had many discussions back and forth about
16 this project. Residents have expressed their concerns
17 about the air quality, the wildlife, and the trees.

18 And we heard those concerns. But as a
19 commission we looked at those concerns, we looked at other
20 agencies like the Office of Planning recommendation, the
21 Public Space Committee, DDOT, and some of the things that
22 DOB was saying in terms of how they were reviewing the
23 permit and et cetera.

24 And based off of that information, the
25 commission decided to support the project. We were not

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1 able to have a vote due to the protests regarding Mr.
2 Robinson. We meet at the police station. The protest was
3 being held there so we were unable to have our public
4 meeting yesterday to vote on the project. But we did have
5 an executive meeting where we all voted to -- we came to a
6 conclusion that we were going to vote to approve the
7 project and submit a letter of support.

8 I want to say for the record, a number of
9 residents you know, they feel ways about the project for
10 their reasons and I don't want to belittle their reasons
11 on why they feel the way that they feel. But we looked at
12 this. We were in communication with the council member
13 office. And we had the council member support on
14 supporting the project. And so we tried to do as much due
15 diligence as possible.

16 The commission spent over I want to say
17 approximately \$2000 in getting fliers out in the
18 community. We put surveys out in the community. I think
19 out of those surveys we probably received six surveys back
20 and none of those surveys were saying that the property,
21 this project was going to be a major impact to them, and
22 they welcome the development. It puts more eyes on the
23 community.

24 This site again for the record was being used
25 as a dumping site. And so any time that you can bring a

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1 project such as this into a community where it can limit
2 some of these things, the illegal dumping, it benefits the
3 community.

4 And so lastly, I would just like to say that, I
5 think approximately about six residents echoed that they
6 would want -- they originally said that the quality of the
7 air, wildlife, and trees, and then they said that they
8 would recommend houses.

9 And so the commission also took that and said
10 well, if these residents is recommending houses, I see no
11 purpose why they would be against. Because if they're
12 bigger concern was the wildlife, trees, and the air
13 quality, and then you're saying that okay we'll go with
14 houses. For me, that raised, as a commissioner that
15 raised the concern as well. Because you know, my belief
16 was it would be like discriminating against renters, but I
17 wouldn't get into that.

18 They said that they wanted the developer to
19 consider houses. I'm not sure if the developer looked
20 into that option or not. And so the commission as a
21 whole, not one person making an executive decision or
22 whatever the case is, the commission as a whole, we came
23 together, and we decided to support this project. And
24 that's where ANC 8B stands.

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1 BZA CHAIR HILL: Thank you. Commissioner
2 Johnson, I'm sorry I just was informed -- we need to swear
3 you in.

4 Ms. Mehlert, can you swear in Commissioner
5 Johnson please?

6 MS. MEHLERT: Yes. Commissioner, please raise
7 your right hand. Do you swear or affirm that the
8 testimony that you will give today, or have given today is
9 the truth?

10 MR. J. JOHNSON: Yes.

11 MS. MEHLERT: You may consider yourself under
12 oath.

13 BZA CHAIR HILL: Okay. Thanks Commissioner.
14 Commissioner everything you just said is accurate and
15 truthful, correct?

16 MR. J. JOHNSON: Yes.

17 BZA CHAIR HILL: Okay.

18 MR. J. JOHNSON: One hundred percent.

19 BZA CHAIR HILL: Thank you. All right.

20 Does the Board have any questions for the
21 Commissioner?

22 ZC CHAIR HOOD: I want to commend Chairperson
23 Johnson and the team at ANC 8B for all the work they did
24 in working on this project. You all are not paid, and you
25 really went very extensively in your discussion to us and

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1 was well presented today and I thank you for all you do.

2 Thank you, Mr. Chairman.

3 MR. J. JOHNSON: Thank you, Chairman Hood.

4 BZA CHAIR HILL: Thank you, Chairman Hood.

5 All right. I'm going to turn to the Office of
6 Planning next.

7 MR. JURKOVIC: Good morning, Chairman, members
8 of the Board. This is Michael Jurkovic, Development
9 Review Specialist with the Office of Planning. OP
10 recommends approval with conditions for the request for
11 relief to allow a 39 unit apartment house in the RA-1 zone
12 and stands on the record of our report. I'm here to
13 answer any questions. Thank you.

14 BZA CHAIR HILL: Okay. Mr. Jurkovic, I guess
15 it seems as though everything has already been agreed upon
16 with the applicant and put forward in the plans the way
17 they stand except for the HVAC units and heat pump that
18 are in the area way being moved to the roof. And I guess
19 what the applicant is saying is they were going to put
20 solar panels up on that roof.

21 And so they thought that the noise from the
22 HVAC and the heat pumps in the area way would actually be
23 better served where they are now. Is OP agreeing with
24 that comment?

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1 MR. JURKOVIC: That condition really more so
2 focuses on the potential impact of all those HVAC units
3 kind of creating an echo chamber for those residents on
4 the first floor and cellar level. I understand that the
5 majority of the roof will be solar panels but not the
6 entirety. But I guess I would agree with you that if
7 moving those units to the roof would prevent the solar
8 facility on the roof, the solar facility would be
9 preferred.

10 BZA CHAIR HILL: Mr. Blake. I'm trying to also
11 understand. It's like I'm not an expert on this and I
12 don't want to go get a noise expert or what have you. I
13 mean, what are you -- can you and OP kind of like help me
14 know what's the best thing for the project? I mean, do
15 you think that those HVAC units are going to create as OP
16 just said, an echo chamber for those first floor and
17 cellar units?

18 MR. BLAKE: I think noise is always a concern.
19 I think that more modern units are not nearly as loud as
20 what we might remember from before. Those area ways are
21 also 10 feet wide. So it's not like -- I don't know if it
22 will be an echo chamber or not, I'm not an acoustician
23 either.

24 But I will also just say like visually as well.
25 So from the single family homes at the top of the hill you

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1 know, in the area way they wouldn't be seen but up on the
2 roof they would be seen.

3 I think that what we would generally do here, I
4 think it's probably a compromise and it would make sense
5 for construction as well. Because maybe the third-story
6 units, we want to shorten the line set run so those could
7 go to the roof. We could have some units on the roof that
8 serve the third floor and maybe the second floor. And if
9 that reduces the solar panel array you know, that's okay.

10 But then maybe the units that are at the
11 partial cellar and the first floor, just so we don't have
12 to run the line sets all the way up to the roof, maybe
13 those could be in the area way.

14 So I think as a compromise that will make sense
15 you know, for everybody. Thirty-nine units is a lot of
16 units. So I think it would be a lot to have everything on
17 the roof, it might be a lot to have everything in the area
18 way. And for construction it would make sense to split
19 them up.

20 So I'm not sure if that's a condition of the
21 approval?

22 BZA CHAIR HILL: Mr. Blake, that's okay. I
23 appreciate your comment. I'm going to let my fellow board
24 members think about this a little bit as we continue to
25 move forward. Because the way this board also operates is

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1 that whatever we approve is what we approve. So we would
2 need new drawings with the HVAC units the way that you are
3 proposing them so that we could actually understand what
4 we are approving.

5 So currently they're in that area way, right?
6 And I can't tell whether Office of Planning is hard -- you
7 know, is steadfast on them being moved or not.

8 And Mr. Jurkovic I have a bunch of things to do
9 -- how do you pronounce your last name sir?

10 MR. JURKOVIC: It's Jurkovic.

11 BZA CHAIR HILL: Jurkovic?

12 MR. JURKOVIC: Yes.

13 BZA CHAIR HILL: Jurkovic. Mr. Jurkovic you
14 think about it a little bit more. I have some more things
15 to do with this hearing and then we'll come back around to
16 it. Okay?

17 But the other thing that I'm trying to get at
18 Mr. Jurkovic is that I don't know if the Office of -- I'm
19 sorry, if the Board necessarily would agree with some of
20 these conditions. I just want to know if the applicant is
21 on board with these conditions, and they seem to be. And
22 so that's something that I just want our Board to think
23 about as we kind of move forward.

24 Commissioner Johnson, do you have any questions
25 for the Office of Planning and/or the applicant?

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1 MR. J. JOHNSON: I am in support of -- Office
2 of Planning the Public Space Commission. I'm in support
3 of their recommendations and I think that as I have
4 mentioned before that --

5 BZA CHAIR HILL: Commissioner Johnson, I'm
6 sorry. You're breaking up or you've broken up. I can't
7 hear you very well.

8 MR. J. JOHNSON: Say that one more time?

9 BZA CHAIR HILL: I could not hear what you said
10 Commissioner.

11 MR. J. JOHNSON: Yeah. So I am in support with
12 the Office of Planning recommendation, DDOT, DOB, all the
13 agency recommendations.

14 BZA CHAIR HILL: Okay. Commissioner can you
15 hear me?

16 MR. J. JOHNSON: Yep. So that's what -- that's
17 were the commission currently stands.

18 BZA CHAIR HILL: I got you. Do you -- did you
19 hear the discussion about the HVAC units and whether those
20 get split up between the area and the roof, and then some
21 of the solar panels would go away, and that other single
22 family houses might be able to see the HVAC units on the
23 roof? Did you have an opinion?

24 MR. J. JOHNSON: I think from the hill you
25 can't, if they're saying that the trees are -- the trees

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1 are going to stay there, from the hill I can't really see
2 from the hill down to there unless they remove those trees
3 that's at the top of the hill. And so I don't -- I mean,
4 just from me being there, going to see the site, looking
5 at it from the back of the townhouses that sit up the
6 hill, you can't really -- you cannot see down there.

7 Now if the developer is planning on removing
8 those trees, that may create some type of problem because
9 the homeowners would be able to see that. But as it
10 currently stands you can't see too much of down where the
11 development site is.

12 BZA CHAIR HILL: Okay, Commissioner. Thank you
13 so much. And again, as Chairman Hood mentioned thank you
14 so much for the work that you guys do and everything
15 because without you all here I wouldn't know whether or
16 not we need to talk about one thing or another thing some
17 times.

18 MR. J. JOHNSON: Well I want to thank you guys
19 for all that you guys do too. One, allow us and to give
20 us the extensive time to pull these things together. So I
21 want to thank you guys so much as well for all that you
22 guys do as well.

23 BZA CHAIR HILL: Oh, that's kind of you.

24 All right. So let's see, Mr. Blake you guys
25 are keeping those trees. Is that correct?

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1 MR. BLAKE: Yes. Oumar, do you want to speak
2 to that?

3 MR. SECK: Yes, Chairman Hill. It is an
4 understanding that with the neighbors behind that we're
5 going to keep trees as much as we can as a buffer and also
6 as part of the environment. So that's the plan.

7 BZA CHAIR HILL: Okay. I mean, the problem
8 that I'm having with this discussion. I'm going to get
9 through the rest of the hearing also. I'm just trying to
10 figure out these HVAC units, and whether or not they go on
11 the roof, and whether or not that's more of a problem for
12 the residents as to whether or not they're down in this
13 area way and whether or not there's a lot of noise in this
14 area way.

15 So -- and then you're going to lose solar
16 panels. So there's a couple of things that I'm trying to
17 figure out. And maybe the Office of Planning can help me
18 in their thought process by the time I get through this
19 hearing.

20 Mr. Young, do we have any more wishing to
21 speak?

22 MR. YOUNG: Yes we do. We have three witnesses
23 signed up.

24 BZA CHAIR HILL: Could I get their names,
25 please?

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1 MR. YOUNG: Yes. The first is Walter Johnson.
2 Then we have Talana Williams, and the last is Jay
3 Munyasya.

4 BZA CHAIR HILL: Okay. Great.

5 Mr. Johnson, can you hear me? Mr. Johnson, can
6 you hear me? Mr. Walter Johnson?

7 Okay. Can everybody mute their line unless
8 they're talking?

9 Mr. Johnson, can you hear me? Okay. We'll
10 come back to Mr. Johnson.

11 Ms. Williams, can you hear me? Ms. Williams,
12 can you hear me?

13 MS. WILLIAMS: Yes. Yes.

14 BZA CHAIR HILL: Okay.

15 MS. WILLIAMS: Yes, I can.

16 BZA CHAIR HILL: Okay. Great. Could you
17 introduce yourself for the record? And then you'll have
18 three minutes to give your testimony, and you can begin
19 whenever you like. Ms. Williams?

20 MS. WILLIAMS: Can you hear me?

21 BZA CHAIR HILL: Yeah. You're kind of breaking
22 up.

23 MS. WILLIAMS: Can you hear me now?

24 BZA CHAIR HILL: A little bit better.

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1 MS. WILLIAMS: Okay. Hi. I am Talana
2 Williams. I am a resident that lives on Elvans Road
3 (audio interference) at the back at the top of the hill
4 behind this development. I personally am opposed to the
5 townhomes (audio interference) other questions that we had
6 asked the developer to answer like the security features.
7 Because if anyone's familiar with Elvans Road it's very,
8 it's high crime, limited resources.

9 And there's been multiple shoot-outs and things
10 like that where the apartment building that holds 300
11 units next to this, where they want to build this
12 development, they scaled the hill, came up there and they
13 were like (audio interference) multiple houses, and a lot
14 of them had bullet holes in them, things like that.

15 So we were asking them what was the plan with
16 the security because a lot of buildings within a .5 mile
17 radius, the security systems are failing. The police are
18 complaining about the property owners not maintaining
19 their own security and having limited resources to do
20 these things.

21 The other question I had was, it's already a
22 congested area, but I see that they're only proposing a
23 plan for five-bedroom units and three-bedroom units. So I
24 (audio interference) going to ask the question, will there
25 be any one-bedroom, two units? Why not? Why so many

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1 five-bedrooms units with limited amount of parking? With
2 limited amount of parking spaces in the back, I know that
3 according to (audio interference) if you're (audio
4 interference) units in a 39-unit (audio interference) with
5 limited parking, and Pomeroy does not allow for us to park
6 in the --- it doesn't have street parking at all.

7 So you typically, the flow of traffic is
8 already limited to using only one lane which is supposed
9 to be two lanes when cars are already parked there it's
10 very hard to transition between -- on that road.

11 The other issue that I had with it was that the
12 last meeting that we went to, which was the last monthly
13 meeting for the ANC, Kimberly Little voted in opposition
14 of the building. They filed a motion that everybody would
15 agree that they would be writing another letter of
16 opposition. And Johnson, when we first proposed it --
17 when he first opposed it, he told us that this developer
18 builds illegally. He told us that this developer also
19 mismanages properties, and the buildings get worn down.

20 This was from his mouth. But then the last
21 meeting he's (audio interference) that we need to give the
22 developer a fair opportunity. We never said that the
23 developer didn't deserve to get a fair opportunity, we
24 just asked what does that look like.

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1 And so him and a neighbor got into it, and it
2 was this big thing that's neither here nor there, and then
3 next thing you know we got these calls saying he's in
4 favor of it. And so we were asking like, why has it
5 changed. We were asking him who else -- he said that he
6 surveyed the area, and everybody decided --

7 BZA CHAIR HILL: Ms. Williams, can you hear me?

8 MS. WILLIAMS: Yes.

9 BZA CHAIR HILL: Okay. I think I got most of
10 it. But I'll give you a chance to come back. Just let
11 me, let me process some of this and I'll come back to you.
12 Okay?

13 MS. WILLIAMS: Okay.

14 BZA CHAIR HILL: You're kind of breaking up. I
15 don't know if you can stand --

16 MS. WILLIAMS: Maybe I can try to call on the
17 phone.

18 BZA CHAIR HILL: Yeah. If you can call on the
19 phone that would be great. Do you know the number? Do
20 you see the number?

21 MS. WILLIAMS: Okay. Let me hang up and try to
22 dial in.

23 BZA CHAIR HILL: Do you see the number? Do you
24 see the number?

25 MS. WILLIAMS: I'm calling -- right now --

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1 BZA CHAIR HILL: It's the 202-727-5471. Once
2 again, 202-727-5471. Okay. Let's see what happens.

3 All right. Is it Ms. Munyasya or Mr. Munyasya?

4 MR. MUNYASA: Yes. That's me.

5 BZA CHAIR HILL: Great. Could you introduce
6 yourself for the record and then you'll have three minutes
7 to give your testimony, and you can begin whenever you
8 like.

9 MR. MUNYASYA: Yeah. My name is Jay Munyasya.
10 I live on Elvans Road on the south side of this
11 development. Basically up the hill, on their designs up
12 the hill right behind it.

13 And so a couple of things here. One, our
14 objections to this as the group of homes behind it were
15 not limited to air quality. Mr. Johnson is at best
16 misrepresenting us. We have all of our letters on record
17 that show our objections.

18 At worst he's outright lying. Our objections
19 have been safety, congestion in the area. We have within
20 a half a mile radius probably 2,000 units already,
21 apartment units. We're not opposed to renters at all,
22 it's the congestion that it brings adding more people when
23 you have a space that would add 10 people as opposed to
24 adding in this case, 200 people.

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1 On our block alone down the street there's
2 1,000-unit, another down on the other side of the block is
3 another 1,000-unit. Adding 200 people to this block not
4 only presents congestion for traffic, just congestion for
5 everything, lack of resources for the community is already
6 an issue. There's no green space.

7 We're not asking them, I know this is their
8 land. We're not saying turn it over and make it a green
9 space, but that these are issues that we brought up with
10 the ANC in multiple meetings, and for further proof in
11 these meetings with the notes from the ANC meetings you
12 can see our objection has never been air quality. That is
13 just a sham of an excuse of why he's supporting this
14 thing.

15 BZA CHAIR HILL: Okay, Mr. Munyasya. That's
16 okay.

17 MR. MUNYASYA: Well, hold on. So the other
18 objections that we have are safety. The lack of resources
19 with the police is already an issue. If we have another
20 development here, apartment building when there's already
21 three apartment buildings fighting with each other, and we
22 add another one in the mix and we're in the cross fire
23 we're going to object to it. So it has nothing to do with
24 renting or anything like that. It has to do with our
25 safety.

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1 The Chairman Johnson now wants to say that
2 we're objecting because we don't want renters here. It's
3 insanity that he's saying that. Along with that, with Ms.
4 -- what Talana was saying, Ms. Williams was saying, he
5 came and met with us at our housing development here, with
6 us here.

7 In that meeting what he said was he objected to
8 LNDC/Rupsha, whatever you want to call them, building
9 anymore because in the area they prey on first-time home
10 buyers, they do not maintain their buildings, the ones
11 that they have just built have already caused issues and
12 he's receiving calls, ANC, Johnson is receiving calls
13 about how bad of a company they are.

14 He basically mocked us for buying a house from
15 these people because he said that we bought it, cheap
16 quality, or they built it with cheap quality materials and
17 just that we should have went with a Ryan home. That's
18 word for word what he said.

19 BZA CHAIR HILL: Mr. --

20 MR. MUNYASHA: But that's neither here nor
21 there. Our objections are laid out in our letters.
22 There's been way more than six people objecting to this.
23 He said that they got six people saying in support of
24 this. There's been -- every meeting that we've gone to,
25 everyone in the ANC meeting has objected to this.

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1 And it's well beyond planning for curb cuts and
2 all of that. It's about what's needed for this community.

3 BZA CHAIR HILL: Okay. Okay. All right.
4 Thank you, Mr. Munyasya. How do you say --

5 MR. MUNYASYA: He just -- and let me, one other
6 thing. Sorry. I'm glad you put him under oath because
7 all of the notes from the ANC meetings, everything will
8 show that he has just lied about everything.
9 Misrepresented the community.

10 BZA CHAIR HILL: Mr. Munyasya, I appreciate --
11 like, I can't really get into kind of like that type of
12 discussion. But I appreciate --

13 MR. MUNYASYA: Well, how -- I'm going to -- can
14 I submit something to your office to investigate him lying
15 under oath?

16 BZA CHAIR HILL: I don't think that that's
17 something that's part of our purview, unfortunately.

18 MR. MUNYASYA: But there is an oath.

19 BZA CHAIR HILL: Mr. Munyasya, let me just get
20 through this first. I mean, we're listening to the issues
21 that you're bringing up. I just can't get into any
22 personal issues about what you're saying one way or the
23 other in terms of the Commissioner.

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1 MR. MUNYASYA: It's not -- well, let me just
2 say it's not personal. It is the community
3 representation.

4 BZA CHAIR HILL: Okay. I'm just telling you
5 what I can only do. So let's see.

6 Mr. Johnson, can you hear me? Mr. Walter
7 Johnson, can you hear me?

8 Mr. Young, do you see Mr. Walter Johnson
9 online?

10 MR. YOUNG: He seems to be unmuting himself,
11 I'm just not sure if he has his microphone set up or --

12 BZA CHAIR HILL: Mr. Johnson, do you want to
13 try to call in on the phone line? I don't know how you
14 can say yes or no. There is a phone number which is 202-
15 727-5471. Once again, it's 202-727-5471. And they can
16 put you in on the phone.

17 Mr. Young, we do not have Mr. Johnson's
18 telephone number, correct?

19 MR. YOUNG: We do.

20 BZA CHAIR HILL: Okay. Can you guys try to
21 reach Mr. Johnson?

22 MR. YOUNG: Yes

23 BZA CHAIR HILL: In the meantime, does the
24 Board have any questions for the witnesses other than Mr.
25 Johnson? Okay. Let me see.

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1 MR. MUNYASYA: Can I add one more thing?

2 BZA CHAIR HILL: I'm sorry, who's speaking?

3 MR. MUNYASYA: Mr. Munyasya again.

4 BZA CHAIR HILL: Okay.

5 MR. MUNYASYA: Just one other --

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

7 MR. MUNYASYA: One other point. The only
8 engagement that we've had, I know -- I can't remember your
9 name, asked about the engagement with the community. The
10 only engagement we had was in the May ANC meeting where it
11 was presented, everybody in the meeting was objected --
12 objected to the proposal as a whole because of the issues
13 that I said, safety, the congestion in the area, those
14 type of issues that we were objecting to. And parking,
15 street, the traffic, everything like that.

16 They were told or were asked by the ANC to come
17 back with maybe some other suggestions that they could do
18 and that we could maybe talk and have an agreement. We
19 have not had any other conversations with the developers
20 since then.

21 BZA CHAIR HILL: Okay. All right. Thank you,
22 Mr. Munyasya.

23 MR. J. JOHNSON: Chairman Hill, if I may have a
24 moment?

25 BZA CHAIR HILL: Of course, Commissioner.

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1 MR. J. JOHNSON: I just want to say that the
2 community has been notified. Residents is correct. They
3 received notices. We can't force residents to reply to
4 those notices. Surveys have went out. We can't force
5 residents to complete those surveys. The last couple of
6 meetings, I think surveys was given out in that meeting.
7 Only two residents turned in those surveys. Again, we
8 can't force a resident to do something.

9 In terms of everything else, because I'm not
10 going to address the other things that was said. There's
11 proper channels to do that. But in terms of what the
12 commission done, I stand behind it. I you know, we done
13 everything that we can to notify the community. We heard
14 their concerns.

15 One of the owners of one of the houses told me
16 in verbal words that she was going to lay in front of the
17 bulldozer if they did not cut -- stop cutting the trees
18 down. These were constant things that was echoed in the
19 public meeting. And so again, public safety, the
20 developers have put and agreed to making sure certain
21 security -- MPD, the commander of the 7th District
22 agreeing to those safety measures that they said they were
23 going to put in place.

24 So in terms of you know, some of these things,
25 if it was not mentioned in my letter it was because the

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1 developer had already agreed to do these things, and it
2 was not to shy away from as I stated earlier on, I'm not
3 here to persuade or to try to make the residents
4 statements or belittle them.

5 What -- at that time that we recalled in our
6 public meetings, we kept hearing the trees, the wildlife,
7 et cetera. Those are the things that we heard. Those are
8 the things that we drafted into a letter that we sent in.

9 BZA CHAIR HILL: Okay.

10 MR. J. JOHNSON: It was not to shy away from,
11 if it was more than this or whatever the case is, or who
12 ego was bigger or whatever the case might be.

13 BZA CHAIR HILL: Commissioner --

14 MR. J. JOHNSON: Yes.

15 BZA CHAIR HILL: Commissioner, I'm just going
16 to interrupt you one second. I mean, we have all the
17 different letters. I mean the record has been open. And
18 so we have all the letters from all the different
19 constituents that have put forward.

20 So rather than -- I appreciate the testimony
21 you just gave and some clarification, but let me just see
22 if anybody had any questions of you in a moment.

23 But before I do that, I'm just trying to figure
24 out if I can get in touch with Mr. Johnson.

25 MR J. JOHNSON: Sure.

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1 BZA CHAIR HILL: Mr. Johnson, can you hear me?

2 Okay. Mr. Young, did you try to reach Mr.
3 Johnson?

4 MR. YOUNG: Yeah. He's called in. He's on the
5 screen now, he just needs to unmute himself.

6 BZA CHAIR HILL: Oh. Mr. Johnson can you hear
7 me? Okay. Great. Are you here Mr. Johnson?

8 MR. W. JOHNSON: I hear you. I apologize for
9 being a dinosaur with technology.

10 BZA CHAIR HILL: That's all right. That's all
11 right.

12 MR. W. JOHNSON: That's just --

13 BZA CHAIR HILL: Can you introduce yourself for
14 the record and then you'll have three minutes to give your
15 testimony, and you can begin whenever you like.

16 MR. W. JOHNSON: Yes. My name is Walter
17 Johnson. I am the, I guess, general manager of Pomeroy
18 Limited Partnership, which is owned by the Nonprofit
19 Community Development Corporation of Washington, D.C. We
20 purchased and renovated that particular property in 2016.

21 I have raised a number of issues but let me
22 clarify. First, I'm amazed that I'm on this side of the
23 discussion. Normally I would be very pro-development.

24 Secondly, I did indeed speak to Mohammad Sheik
25 (phonetic). We had a conversation when he was interested

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1 in the trash and expanding the curb cut. Both items,
2 which we were not a 100 percent opposed to, but we needed
3 approval from HUD who has the deed of trust, and from our
4 investment partners and I could not agree to do it in a
5 two day process.

6 Secondly, we had a longer history with Mr.
7 Sheik going back many years. I've had dinner in his home,
8 I've had lunch with him and his wife, et cetera. So
9 finding me is quite easy. I have had no communication
10 with, unless since the last ANC meeting I went to, and I
11 tried not to engage overly with the community as not
12 wanting to be seen as pushing one point or the other.

13 But my phone numbers have not changed in 30
14 years. So having said that my number one concern is
15 basically elevation topography. Our building 2412 sits at
16 268 feet if you do a topographic survey Pomeroy is down,
17 and as Mr. Blake noted he used 24 feet -- a 24 foot
18 difference I believe, or 57 feet from the top.

19 When we renovated discovered a six foot by
20 seven foot cavern under the base of that building created
21 by storm water. Created by run off. Our architect in the
22 past when we renovated was extremely thorough and we've
23 developed a very large system to handle storm water and
24 run off water.

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1 Standing behind the building I've got a 10 foot
2 hill. Now let's leave that aside. No one -- Mohammad
3 knows my concern, Mr. Blake and I had a conversation way
4 back, he knows my concern.

5 My concern is that when you build a building,
6 no matter where it is, on a topographic site like this you
7 are disturbing the sub-section of the soil, you are re-
8 routing water, and water will go where it wants to go.
9 That's number one.

10 I just need some assurance, or someone to
11 assume liability that I am not going to lose my handicap
12 units which are in 2412, and I'm not going to
13 detrimentally affect our property. And do one has had
14 that conversation with me?

15 Secondly, I think people have ignored the site,
16 that this particular site, and I sent in my letter as an
17 exhibit. Old photographs that came from our environmental
18 surveys that showed in the mid-1960's the site next to us
19 was empty.

20 When they built the Douglas High School, they
21 built it to the north side. And this site was clear cut.
22 It was in essence, I want to assume a staging area. But
23 you can watch the progressions from the mid-1960s, '70s,
24 and '80s, as the trees and the scrubs grew back in.

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1 If you walk the site what you find is concrete.
2 You find rebar. You find asphalt. Now maybe Mr. Hood is
3 closer to my age than some of the other members of the
4 Board, but in the '70s when people did demolition, asphalt
5 shingles on houses, everybody had them. Everybody had
6 asphalt shingles on the floor in their rec rooms.
7 Drywall, it was all there.

8 People went to the most convenient place to
9 dump. So my question to Mr. Blake, my question to Mr.
10 Seck is simply have you done an environmental? All this
11 stuff washes down. What you're talking about is changing
12 the current environment. You are putting in my mind, not
13 only my residents, but generally there's a degree of risk.

14 And it's a risk that we were not aware of in
15 the '60s and '70s, but it is a risk that we're aware of
16 today. And nobody has addressed it.

17 BZA CHAIR HILL: Okay, Mr. Johnson. I just
18 wanted to let you know you've run out of time if you want
19 to wrap up.

20 MR. W. JOHNSON: Well, if I'm speaking in terms
21 of the representatives don't I get five minutes? Anyways,
22 just teasing.

23 Parking, the young lady that spoke earlier --

24 BZA CHAIR HILL: I think you're accurate, but I
25 think you did go over five minutes. But go ahead.

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1 MR. W. JOHNSON: The young lady that spoke
2 about parking. Go there on a Friday or Saturday night. I
3 have seen people, EMTs get out of their car and have to
4 walk out of the ambulance around the corner. People park
5 on the street and it's difficult.

6 My biggest concern, and I'm just going to lay
7 it out there, it's all in my writing, is the density of
8 the population. Twelve five-bedroom units, five bedrooms,
9 two people to a unit per code, small space. That is a lot
10 of people.

11 I have had -- we won the property on Langston
12 Lane, next to Woodland Terrace. I could talk for hours
13 about the impact of compacted people in a model which is
14 geared to DC Housing choice vouchers which is what this
15 will be. And there is no social support network. You
16 cannot rely on Martha's Table at the top of the hill.
17 They have limited resources.

18 We're warehousing people of which I will oppose
19 anybody, any ANC, anybody in city council. It's wrong
20 anywhere in the world. Thank you. I won't say any more.

21 Because we also -- oh, yes I will. We
22 presented to Mohammed way back when a site plan and a
23 development plan for this site because this was tax sale
24 property. Mohammed bought it from the city.

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1 Our architects, Angel Clarens and Mary Jane
2 Ching, developed a whole mid-rise building complex with
3 underground parking that would allow us to have 250-units
4 on this site. Not my place to tell Mohammed what to build
5 but there are other options including townhomes. And the
6 only reason you wouldn't build townhomes is you feel the
7 ground is unstable.

8 End of comment. I'll go away and be quiet.
9 Sorry to bore you.

10 BZA CHAIR HILL: No, you're not boring us.
11 Okay.

12 ZC CHAIR HOOD: Chairman.

13 BZA CHAIR HILL: Yeah, go ahead Chairman Hood
14 if you will.

15 ZC CHAIR HOOD: Mr. Johnson, did you mention
16 Angel Clarens?

17 MR. W. JOHNSON: Yes, sir.

18 ZC CHAIR HOOD: I'm sorry?

19 MR. W. JOHNSON: Yes, sir.

20 ZC CHAIR HOOD: Okay. Curious. All right.

21 MR. W. JOHNSON: What I said was he did a -- he
22 was the architect. He's been the only architect my
23 organization has used up until he passed. And he and Mary
24 Jane did a --

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1 ZC CHAIR HOOD: Hold on. Let me just say
2 something. Let's back up. Are you talking about Angel
3 Clarens that used to be on the zoning commission?

4 MR. W. JOHNSON: Yes, sir.

5 ZC CHAIR HOOD: So he passed?

6 MR. W. JOHNSON: He did.

7 ZC CHAIR HOOD: Sorry, Mr. Chairman, he was one
8 of my colleagues when I first served, Mr. Clarens and I
9 did not know that. So thank you. Sorry to get that
10 information like that, but thank you, Mr. Chairman.

11 MR. W. JOHNSON: It was a major loss. But he
12 had a degree -- anyway, I'm not going to do a eulogy. But
13 he developed a site, we took this 90,000 square foot site.
14 You could do a mid-rise building and maximize social
15 services, assisted living. There's a multiple number of
16 things you could do.

17 Yeah, you were going to spend \$30 million but
18 there are ways to get there. It is not my place to tell
19 Mohammed how to develop his property. And I'm not opposed
20 to apartments. I'm opposed to warehousing. I'm opposed
21 to all the other issues, security, parking, but protecting
22 my property is my number one --

23 ZC CHAIR HOOD: Mr. Johnson. Mr. Johnson. You
24 answered my question. Thank you and forgive me, Mr.
25 Chairman --

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1 MR. W. JOHNSON: I'm sorry.

2 BZA CHAIR HILL: You're all good, Mr. Johnson.
3 Everybody is fine. Okay. Okay.

4 Does my Board have any questions for anybody?
5 Okay.

6 Mr. Young, if you could please excuse the
7 witnesses?

8 MR. MUNYASYA: Well, can I ask one more -- or
9 just say one more comment if there's no other question?

10 BZA CHAIR HILL: Mr. Munyasya, you've had a lot
11 more time than you're supposed to get, but go ahead.

12 Mr. MUNYASYA: Okay. I understand. The one --
13 the ANC surveys did not go out and nobody was surveyed. I
14 think the last witness presented what I was saying as our
15 objections the best way possible in calling it warehousing
16 residents because that's where we're at in terms of the
17 block and where we are in this neighborhood.

18 BZA CHAIR HILL: Okay.

19 MR. MUNYASYA: The opposition letters spell all
20 of this out in terms of safety, the traffic, everything
21 like that.

22 BZA CHAIR HILL: Okay.

23 MR. MUNYASYA: And he was supposed to -- our
24 ANC the last time we met was supposed to write it --
25 Commissioner Johnson was supposed to write a letter of

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1 opposition with contingencies if they came back and
2 corrected anything.

3 They never came back and that was where the
4 opposition, that was where it stood the last that we knew
5 about it as a community from the ANC meeting itself.

6 BZA CHAIR HILL: Okay.

7 MR. MUNYASYA: Now there's a flip flop on why
8 this is happening, and I don't understand it --

9 BZA CHAIR HILL: Okay.

10 MR. MUNYASYA: -- and the community is against
11 it.

12 BZA CHAIR HILL: Okay. All right, Mr.
13 Munyasya. Okay. All right. I mean, I'll tell who's a
14 witness here before they go away, I mean, like what the
15 Board of Zoning Adjustment has a very limited bandwidth in
16 a lot of ways in terms of what we're supposed to be
17 looking at. And I'm not saying that this is or isn't
18 going to pass. And I'm not saying that this is or isn't
19 going to have some adjustments to it based upon extensive
20 testimony that we've taken at this point in time.

21 Again, within our review standards it's A, will
22 it be in harmony with the general purpose and intent of
23 the zoning regulations and zoning map. B, will not tend
24 to effect adversely the use of neighboring properties in
25 accordance with the zoning regulations and zoning maps.

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1 And then C, will meet such special conditions as we may
2 think is necessary to be applied to this title.

3 And so a lot of the issues that are being
4 spoken about are things that actually are more in line
5 with I guess things that are of a larger policy
6 discussion. But I just want to kind of point out what our
7 hands are supposed to be looking at.

8 So with that, Mr. Young, if you could please
9 excuse the witnesses. And I do appreciate the testimony
10 we have taken. And I'm going to need more time now on
11 this I think to kind of figure out what I think about some
12 of these things.

13 But Mr. Seck and Mr. Blake -- I mean to begin
14 with for sure, I don't know, like I'd like to give the ANC
15 time to give us a letter. Like I want to see -- you know,
16 I want them to go ahead and get us a letter. So that's
17 something that we're going to wait on. I think that my
18 fellow board members would agree.

19 And then the only other thing I'm kind of
20 curious of now is like, Mr. Seck and/or again Mr. Blake.
21 There was a lot of discussion from the testimony I guess
22 about either the water runoff, the storm drainage, then
23 also security was something that was mentioned. And I
24 don't remember hearing in your presentation any discussion
25 that you or may not have had with the ANC about security.

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1 So Mr. Blake could you address those two things
2 and/or send it to whoever needs to address them here?

3 Go ahead, Mr. Seck.

4 MR. SECK: Okay. Thank you. As far as
5 security, there is a plan that I will address to Chairman
6 Johnson who asked for it. As he described, he had a
7 conversation with a commander, police commander I believe
8 in that area.

9 So in all of our properties we do provide
10 security cameras, surveillance all around the building.
11 Front, back, sides, and rear, all of that. And we do
12 provide also access control. And that's on all of our
13 buildings that we have currently. Which the tenants can
14 let people in through this dial or fob. And recently
15 we've introduce the one that is going to be done through
16 the cell phone where they can see who the person is, let
17 them in or not, or deny access to them.

18 And in addition we do provide a security fence
19 for this property around the property limits. So there is
20 security. And to that point I just want to mention, I was
21 contacted yesterday by Detective DeAngelo on the 1700
22 block of 28th Street Southeast.

23 We have a property there at 1735 28th Street.
24 It's an eight-unit apartment. There's an incident that
25 happened in front of our building and he reached out to me

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1 for some footage of our camera for his investigation. So
2 that shows there that this has been helpful, and we do
3 take security as a concern for our tenants and also for
4 our neighbors. So that is something that Mr. Johnson does
5 have.

6 As far as the run-off, we know every building
7 you do, especially this magnitude or even sometimes over
8 two houses beyond 5,000 square feet, DOE requires storm
9 water management. So any water that will be running down
10 the hill, up the hill, whatever it is. In this case, down
11 the hill with the big drop will be managed properly
12 through grading and storm water facilities, et cetera.
13 And that is yet to come because once the project is
14 approved it will go through our civil engineer proposing
15 the storm water management plan and the GAR.

16 Michael, do you want to add anything to it?

17 MR. BLAKE: No, I think that you covered it
18 pretty well. I just to reiterate, stormwater management
19 will be a part of the permitting process and there will be
20 geotechnical testing done you know, once the project moves
21 forward and we begin to prepare for permit documents.

22 So it's been accounted for spatially. If you
23 look in the drawings we have a storm water management
24 facility that's been designed conceptually with the civil
25 engineer and then there will be you know, much more

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1 engineering to come once we start moving forward with the
2 design.

3 MR. SECK: And what I would like to add,
4 Chairman Hill, just back to the security point. The
5 neighbors that spoke, I believe Mr. Jay, and I say hi to
6 him by the way. And the other neighbors behind this
7 property we have met on their property. That was prior to
8 this ANC. They knew we were coming up with a building
9 there.

10 And one of their concerns with the vacant lot
11 is actually a hideaway or if you will, a getaway for gun
12 violence et cetera. People come in through it to go from
13 Pomeroy to Elvans and vice versa. So I did even install a
14 temporary fence there for them to try to block that off.
15 And they know that we were -- we had intention, and we
16 will keep trees there for the view's et cetera as a buffer
17 just like they mentioned on some of the opposition letters
18 as a concern.

19 And also with the security that I just
20 described and the building place, that will I believe
21 irradicate that triangle of violence that's happening
22 between those buildings on I believe, on the left side of
23 us and then up the hill on Elvans Road and on the right
24 side down on Pomeroy.

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1 That's what I wanted to also address on that.

2 Thank you.

3 BZA CHAIR HILL: Okay. Mr. Smith and/or
4 Chairman Hood, just to -- and you all can tell me if this
5 is kind of what you want to do. But like, I think -- oh,
6 Chairman Johnson, can you hear me?

7 Yeah. I know you guys have the protest going
8 on but when do you guys meet again?

9 MR. J. JOHNSON: So normally what happens is
10 I'll touch bases with, I have a call with the Commander of
11 the 7th District today. And so she'll kind of kind of
12 inform me on if this is going to be an ongoing thing we
13 can move it to get a -- to have a meeting at a different
14 venue so that we can you know, move things along.

15 Because there is another BZA case that is
16 coming up today and you know for ANC 8B. And so we were
17 not able to vote on it, but we were, in our executive
18 meeting, we all made a decision that we was going to
19 support those projects.

20 BZA CHAIR HILL: No, I got it. When do you
21 think you would actually have a meeting though again that
22 you could like take a vote and give us a letter?

23 MR. J. JOHNSON: So the next meeting will be
24 October 15th.

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1 BZA CHAIR HILL: Okay. Okay. Okay. Let me
2 think about that Chairman Johnson. We're off on the 16th
3 of October. But well --

4 MR. J. JOHNSON: I would say because we did not
5 have a meeting this month and I don't -- I would you know
6 if we can our bylaws do allow us to call for an emergency
7 meeting due to the fact that we didn't have a meeting in
8 September.

9 And, you know, we can kind of go from there
10 because at this point as the developer has mentioned,
11 Oumar, that we were planning on having a couple of
12 emergency meetings just to get the input from the
13 residents so that we can try to form something that the
14 residents feel comfortable with.

15 But I didn't get anything that I can go off of
16 from the residents. And those who did support the
17 project, they just happened to be all renters in
18 apartments in that area to the project.

19 BZA CHAIR HILL: Got it. Chairman Johnson, I
20 mean actually to be quite honest, October 23rd might work
21 out better anyway.

22 MR. J. JOHNSON: Okay.

23 BZA CHAIR HILL: And so what I'm trying to, and
24 now I'm looking at my fellow board members. You all can
25 tell me what you want. Like I'd like to get a letter from

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1 the ANC, right? And so that means that the ANC has to
2 meet at some point in time and we'd get a letter, and we'd
3 at least have a letter in the record by the 23rd.

4 Then what I'd like to see from the applicant,
5 Mr. Seck or Mr. Blake, just an easy security plan as an
6 exhibit so I can understand what you guys are proposing,
7 right? And then we're going to finish this discussion
8 about the HVAC units because I need to know what exactly
9 we're going to -- and I'm going to look to the Office of
10 Planning to also help me with what would be best for the
11 HVAC units so that we can actually have something to look
12 at.

13 And then I guess if you can put a note in there
14 Mr. Seck again for the record, you can put it in as part
15 of the security plan, about the DOE storm management
16 process and how that works. I know it does go through --
17 I know after you get through us you have to go get your
18 permits, and then you have to go through DOE. But just
19 something, if you can put it in the record because it
20 helps clarify to me.

21 And those are kind of the things that I would
22 need. And so we're going to come back to the Office of
23 Planning and talk about the HVAC thing, but I don't know
24 if Chairman Hood and/or Mr. Smith if you all have any

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1 other thoughts. This has gone on -- we've taken more
2 testimony than we initially were going to have.

3 Is everybody on mute because it sounds like we
4 are having a problem -- Mr. Smith, do you have any
5 comments?

6 MEMBER SMITH: I agree with the comments that
7 you stated. I think I do want some additional
8 clarification, and I think that they can just put it into
9 the architectural plans regarding the locations of the
10 HVAC units especially if they are amenable to, they're
11 accepting of the Office of Planning's condition that these
12 HVAC units will be located in a manner that would not
13 negatively impact residents.

14 So I think they would just need to show that on
15 the architectural plans in some way, shape, or form, or
16 add another page that shows where they would be located on
17 the building. And I guess, landscape plans, you can add
18 in the material for the retaining walls, again if you're
19 accepting the Office of Planning's condition.

20 So that would be my only recommendation.

21 ZC CHAIR HOOD: Mr. chairman I don't
22 necessarily have anything to add other than it's always
23 hope in the discussion. I believe that I'm not asking
24 them or directing them or pushing them to go back and talk

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1 to the community, but it would be good. As I always call
2 it, the good neighbor policy.

3 Even if you're far apart and going to stay far
4 apart, it's always good to have that discussion. I would
5 encourage that Mr. Chairman, and I agree with everything
6 you have mentioned as well as Board Member Smith. Thank
7 you.

8 BZA CHAIR HILL: Thank you, Chairman Hood.

9 Mr. Jurkovic. Mr. Jurkovic.

10 MR. JURKOVIC: You've mostly got it.

11 BZA CHAIR HILL: I'm getting closer. I'm
12 getting closer. The -- so what say ye, the Office of
13 Planning, with like the HVAC units, either splitting them
14 up or do you really want to see them all on the roof?

15 MR. JURKOVIC: I think splitting them up makes
16 sense, also with the overall construction of the building
17 we'd be amenable to that.

18 BZA CHAIR HILL: Okay. So Mr. Blake, so this
19 is what I guess we'd like to see, and I'm going to turn to
20 the Secretary as to when we're going to get this from you
21 guys, right? But some kind of security plan, one, and in
22 the security plan if you want to you can just go ahead and
23 mention about the DOE storm water management
24 clarification.

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1 Two, we need updated maps on the HVAC, right?
2 And if you split them up the way you're proposing to split
3 them up because you think it would be best for the
4 residents then go ahead and do that, and then let Office
5 of Planning see that and make a comment. Okay?

6 Then there's material from the retaining walls
7 that Mr. Smith mentioned that the Office of Planning
8 mentioned, and then while you're add it, Chairman Hood
9 mentioned about the white walls, that apparently you know,
10 he doesn't think are all that great, right. And so you
11 might as well go ahead and relook at that because we're
12 going to go and have some -- we're taking a look at
13 everything again in this particular area. So go ahead and
14 have some kind of a conversation about that, or at least
15 mention that in the record somewhere.

16 And then finally Mr. Blake again, you've seen
17 the letter from the Office of Planning. So if you want to
18 just address each one of those and make sure that you're
19 either in agreement or you're not, but at least let me
20 know in the record what you have to say about each one of
21 those, okay.

22 And then whatever the final drawings are that
23 you propose, or what the final drawings are as you
24 proposed.

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1 And then Chairman Johnson, can you hear me
2 again? Great. So if you guys meet on the 15th of October
3 can you get us something one way or the other by the 18th
4 of October?

5 MR. J. JOHNSON: Yes.

6 BZA CHAIR HILL: Okay. Great. So then we'll
7 have something from the ANC by the 18th of October, and
8 they'll be meeting again on the 15th of October to I
9 assume vote on this.

10 So does anybody have any final thoughts or
11 questions and if so please raise your hand.

12 Go ahead Mr. Blake.

13 MR. BLAKE: Can we just get the date that we
14 need to upload the revised drawings and documents by?

15 BZA CHAIR HILL: Okay. So just Mr. Blake to be
16 sure, you need to go through the Office of Planning first
17 to make sure that they've seen it, and they are clear as
18 to what they're recommendations are and then you would
19 need to get it to us.

20 I'll put that back on the secretary, Ms.
21 Mehlert to tell me what dates would be good. Please Ms.
22 Mehlert.

23 MS. MEHLERT: If he wants to submit all of the
24 requested items by October 11th then the ANC could submit
25 their report on the 18th, the following week as well as

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1 OP's supplemental report. Then the hearing would be on
2 the 23rd. Does that work?

3 MR. SECK: Yes.

4 MR. BLAKE: Yes, thank you.

5 BZA CHAIR HILL: Okay. All right. Let's see,
6 anything else. Everybody's got the dates. Is everybody
7 good?

8 Commissioner Johnson, anything to add at the
9 end?

10 MR. J. JOHNSON: I'm going to work with the
11 developers to -- and work with the residents to ensure
12 that the residents feel comfortable with the development
13 and that again, hearing the same concerns that we heard in
14 our public meeting we're going to continue to push to make
15 sure that they get the information.

16 But again, based off the call today, and the
17 interactions that we have been having with the residents,
18 the Commission prior to me becoming chair has been doing
19 what we have been taught.

20 I have been taught by some of the, some of my
21 great mentors that you guys know Sandra Seegars, Anthony
22 Muhammad, so I know that I'm getting the information. I
23 cannot force the residents to comply with the information.
24 They have it, they make the decisions that they make.

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1 But on, as to what you stated Chairman Hill
2 that BZA looks at certain things, and at every meeting I
3 iterate basically what you just said as a factor. And
4 just trying to put that information out there. We as
5 commissioners, we're not sitting in the best position
6 where we can try to please everybody, but we also have to
7 do what's right and to try to make sure it's in the best
8 interest of the community and of our residents at large.

9 And so we're going to continue to push forward
10 as me being a leader and the rest of the commissioners,
11 we're all working together as a collective. This is not a
12 dictatorship, nobody is a dictator, and so we're going to
13 continue to do that in that manner.

14 And like I said, I thank you guys for you know,
15 hearing the residents out, hearing me out, and we will
16 continue to move forward and make sure the residents are
17 informed on everything.

18 BZA CHAIR HILL: Thank you Commissioner
19 Johnson. And I mean, we've -- I've been here a little bit
20 of time, not as long as Chairman Hood has, but the ANCs, a
21 lot of people think the ANCs have a lot more authority
22 than they do. And people think we have a lot more
23 authority than we do.

24 And so I think you know, you all are doing your
25 best. And so we'll see what we see based upon the letter

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1 that we get from you on the 18th, or no I'm sorry the
2 11th. The 11th of October.

3 ZC CHAIR HOOD: Chairman, I have to say he
4 named some of the best in the city when I heard him name
5 Sandra Seegers and Anthony Muhamad and others. So you
6 learned from some great people. I'm not taking sides, but
7 I've worked with them most of them over 25 to 30 years.
8 So you've learned from some of the best.

9 Thank you, Mr. Chairman.

10 BZA CHAIR HILL: All right. I'm going to --
11 oh, we'll just put this on -- look at my Board members.
12 The decision is fine, and if we need to reopen we can,
13 we'll just get all the testimony. Correct? Okay.

14 MS. MEHLERT: Sorry. I would recommend a
15 continued hearing just with all of the information that
16 you're requesting.

17 BZA CHAIR HILL: Okay. That's fine. All
18 right. So continued hearing.

19 ZC CHAIR HOOD: Date Ms. Mehlert or Mr.
20 Chairman?

21 BZA CHAIR HILL: Well 10/23 if you can do it,
22 Chairman Hood.

23 ZC CHAIR HOOD: Could we maybe put that first?

24 BZA CHAIR HILL: Yeah. Or like even, is -- do
25 we have a hearing on 10/30?

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1 MS. MEHLERT: Yes.

2 BZA CHAIR HILL: Okay. What's our docket look
3 like on 10/23?

4 MS. MEHLERT: 10/23 there is an expedited
5 review and then five hearing cases.

6 BZA CHAIR HILL: And then on 10/30?

7 MS. MEHLERT: 10/30 there are six hearing
8 cases.

9 BZA CHAIR HILL: Well let's just keep it on
10 10/23, that's okay. So we'll keep it on 10/23. All
11 right. Does anybody have anything to add before I close
12 the hearing and the record? Or I should say before I
13 close this portion of the hearing and this portion of the
14 record.

15 I see you Mr. Seck.

16 The record is open for all of the material that
17 the Board asked for, but only that material. Other than
18 that the record is closed. And we're going to go have a
19 continued hearing on 10/23.

20 Go ahead, Mr. Seck.

21 MR. SECK: Just a quick clarification. You
22 mentioned that the ANC will submit a letter on the 11th,
23 or actually earlier I believe, is a mistake there. The
24 ANC is meeting on the 15th and the letter will be
25 submitted by the 18th.

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1 BZA CHAIR HILL: No, the Secretary mentioned
2 that information was going to come from all of you guys by
3 the 11th. Therefore the ANC will have all of their
4 information to be able to make any decision by the 15th
5 and then the ANC will give their letter by the 18th.

6 MR. SECK: Got it. Okay. I misunderstood.
7 Thank you.

8 BZA CHAIR HILL: Okay. Anyone else? Okay.
9 Great. I'm going to close the hearing and the record
10 except for those items asked for by the Board and we'll
11 see you guys again on 10/23.

12 Okay. This went, I'm looking at my Board now.
13 This went longer than I thought. So let's take a break if
14 that's okay and then we'll come back. I actually have to
15 -- I think I'll make it, but I have a meeting at 6:30,
16 4:30, 5:30 -- I've got 5:30. I don't know. I think I'll
17 be okay. But I'm just pointing it out.

18 And I didn't say this for the record, but I
19 would like to point out that apparently according to Mr.
20 Johnson, I look younger than Chairman Hood. And Mr. Smith
21 I know is younger. But I look younger.

22 ZC CHAIR HOOD: Mr. Johnson and I did kind of
23 look up my former colleague. I didn't know that he had
24 passed. I actually spoke to him maybe five years ago. He
25 passed in '21, maybe it was before COVID. But the reason

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1 why he says I'm so much older is because I started early.
2 I've been here for a while. But I am older though so it's
3 all good.

4 BZA CHAIR HILL: Whatever one needs to tell
5 themselves, Chairman Hood. Okay.

6 ZC CHAIR HOOD: It sounded good.

7 BZA CHAIR HILL: Okay. I think it sounded very
8 good. All right. Let's take a 15 minute break and we'll
9 come back and see what happens. Okay. Thank you.

10 (Whereupon, the above-entitled matter went off
11 the record at 11:26 a.m. and resumed at 12:01 p.m.

12 ZC CHAIR HOOD: Thank you Mr. Chairman, I
13 appreciate that.

14 BZA CHAIR HILL: All good Mr. Hood.

15 Ms. Mehlert, can you call us back and call our
16 next case?

17 MS. MEHLERT: The Board is back from a short
18 recess and is back to its hearing agenda. Next is
19 Application No. 2071-A of 2340 Ainger, LLC. This is self-
20 certified by request pursuant to Subtitle Y Section 704
21 for a modification with hearing to modify the order in
22 Application No. 20710 issued on June 1, 2022, and pursuant
23 to Subtitle Y Section 705 for a two year time extension of
24 the validity of the order.

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1 This is to modify the approved plans for
2 Building A to construct a cellar level and seven
3 additional dwelling units for a detached two-story with
4 cellar apartment house in the RA-1 --

5 BZA CHAIR HILL: I think Ms. Mehlert just broke
6 up. Can you guys hear Ms. Mehlert?

7 ZC CHAIR HOOD: Not the last part. Not the
8 last part.

9 BZA CHAIR HILL: I'm so glad that this is not
10 my problem. I apparently can hear everybody. So Ms.
11 Mehlert, you can try again.

12 MS. MEHLERT: Did you hear the -- I'll just
13 repeat the caption.

14 BZA CHAIR HILL: Yeah. That would be good.

15 MS. MEHLERT: Again, this is Application No.
16 20710-A of 2340 Ainger, LLC. This is pursuant to Subtitle
17 Y Section 704 for a modification with hearing to modify
18 the order in Application No. 20710 issued on June 1, 2022,
19 and pursuant to Subtitle Y Section 705 for a --

20 BZA CHAIR HILL: All right. That's okay. I
21 can read the order if it actually you know, if we actually
22 get to that point. I can see you Ms. Mehlert. I think
23 you read it properly.

24 If the applicant can hear me, if they can
25 please introduce themselves for the record.

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1 MR. SULLIVAN: This is Marty Sullivan with
2 Sullivan & Barros. But my colleague Alex Wilson is on
3 this case.

4 BZA CHAIR HILL: Okay.

5 MR. SULLIVAN: So if they could bring her in
6 instead.

7 BZA CHAIR HILL: Mr. Young, if you could bring
8 in Ms. Wilson.

9 MS. WILSON: Hi. Alex Wilson from Sullivan &
10 Barros on behalf of the applicant in this case.

11 BZA CHAIR HILL: Okay. Great. Ms. Wilson if
12 you could go ahead and walk us through your client's
13 application, why you believe they're meeting the criteria
14 for us to grant relief? I'm going to put 15 minutes on
15 the clock, so I know where we are. You can begin whenever
16 you like.

17 MS. WILSON: Thank you so much. And we do have
18 the architect Matt Lee here if we have any questions as
19 well as the owner, Mr. Taylor.

20 Could Mr. Young please pull up the presentation
21 and I'll briefly walk through the modification and time
22 extension request. Thank you.

23 Could you please go to the next slide? Thank
24 you so much.

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1 In the original BZA case No. 20710 the Board
2 approved the construction of two buildings with a total of
3 21 units, Building A and Building B. Each on its own
4 theoretical lot, but on one single record lot. And the
5 project required three special exceptions: The
6 theoretical lot special exception, there was a parking
7 screening exception, and then the approval for new
8 residential units in the RA-1 zone under U-421.

9 In the original application Building A had 13
10 units split between two floors, and Building B had eight
11 units. It was approved but then the former owner had
12 difficulty obtaining financing and eventually sold it to
13 the current owner, Mr. Taylor.

14 And so now we are seeking a modification to the
15 original plans. There are no changes proposed to Building
16 B. The request is to create a new cellar level in
17 Building A and add seven units to that Building A in the
18 cellar level for a total of 20 units in Building A.

19 We're not impacting the footprint or the
20 height, it's still only two stories, now just with a
21 cellar, and that's the primary change. There will now be
22 28 units total between Building A and Building B so a net
23 increase in seven units in only Building A.

24 As noted in OP's report they are recommending
25 the Board also review the increase under U-421 and the

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1 applicant has addressed those requirements herein, and
2 that's why we are seeking the modification because we are
3 increasing the original unit count approved under U-421
4 for new residential developments in the RA-1 zone.

5 In term of Agency and community outreach, OP is
6 recommending approval. The applicant met and presented to
7 ANC 8B in the summer, but no quorum was present at that
8 meeting, and then we remained in touch and Chairman
9 Johnson intended to have another meeting as you heard in
10 the last case but was unable to due to those protests
11 noted in the ANC letter.

12 They are supportive as noted in the letter.
13 And I believe they're also supportive of the original
14 application, but we just had a similar circumstance where
15 we never received a formal vote, but we did present.

16 So just an extra thank you to the Commission
17 for sending that in to indicate their support given
18 everything they've had going on with the protests.

19 Next slide, please. As I mentioned, the
20 primary change is to add a cellar level and I'll walk
21 through why the additional seven units continue to comply
22 with the standards of U-421. There are other smaller
23 changes that potentially could have been approved
24 administratively, but since we're here we wanted to
25 include them such as an increase in bike parking to

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1 accommodate the increase in units, shifting the building
2 to accommodate window wells and ensuring that Form 135 is
3 consistent with the Board approved plan from the previous
4 case. The original case.

5 And then in addition to the modification for
6 the cellar, we are seeking a time extension. The current
7 owner purchased the property in April of 2024. The
8 original order was set to expire in June 2024. And the
9 previous owner was in financial distress with the
10 intention of adding the additional units to make the
11 project viable.

12 And so the new owner is seeking the time
13 extension due to this change of ownership and the
14 inability to obtain sufficient project financing prior to
15 the expiration. Since those changes will require
16 modifications to any permit documents necessitating an
17 extension as the order expired in June and the new owner
18 was obviously unable to file a building permit application
19 prior to that expiration given that he purchased the
20 property in April.

21 Next slide, please. Regarding the requirements
22 of U-421, as we are increasing the degree of relief
23 approved in the previous case, the applicant is proposing
24 an increase in seven units beyond what was approved, and

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1 this is an RA-1 zone and the property is surrounded by
2 other apartments, so it is compatible with the RA-1 zone.

3 The proposal continues to meet the requirements
4 of U-421 as existing and planned area schools can
5 accommodate the number of students expected to reside in
6 the project. There are sufficient streets, recreation,
7 and services to accommodate future residents.

8 The applicant has provided sufficient
9 information for the Office of Planning to recommend
10 approval, and all relevant materials have been submitted.

11 We do have our whole plan set, but I'll ask
12 that in the interest of time Mr. Lee focus primarily on
13 the cellar level as that is the new request and the Board
14 has already seen and approved the other aspects of the
15 project.

16 And so with that I'll turn it over to Mr. Lee.

17 MR. LEE: Good afternoon everyone. Thank you
18 for having us today and thank you for reviewing our
19 project. If you'll go to slide 12, since Alex is pushing
20 me on time.

21 BZA CHAIR HILL: Mr. Lee, could you introduce
22 yourself for the record?

23 MR. LEE: Sure. My name is Matt Lee with Lee
24 Design Studio. I'm the architect of record for the
25 project.

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1 BZA CHAIR HILL: Okay.

2 MR. LEE: There we go. Detail two, thank you.
3 This shows the new seven units added to the seller. The
4 north side of the page shows the area way, and can have
5 access to them, and also the bike room. They are all
6 four-bedroom units except for the far right unit which is
7 kind of just what was left over in the basement, making a
8 small studio with the bike room and pump below that.

9 There is no substantial change otherwise. A
10 lot of windows, a lot of light. Trying to get as much
11 down there as possible working within the existing design.

12 MS. WILSON: Matt, do you want to show the
13 elevations too? I thought that would be helpful just to
14 quickly show the cellar.

15 MR. LEE: Happy to. Sure. That would be on
16 page 19, slide 19, A400. There we go. Part of it you can
17 see here, the distinction in the kind of white versus the
18 striped or the lap siding above.

19 So in the middle of the page you're seeing the
20 new level added down there below grade. And then this
21 also shows the opposite side, along the parking where we
22 have the window wells getting for the better egress and
23 windows there.

24 I'm happy to answer any questions you may have.

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1 MS. WILSON: Yeah. That's exactly what I was
2 about to say. That's the extent of the new request, that
3 cellar level shown there. But we're happy to answer any
4 questions.

5 BZA CHAIR HILL: Okay. All right. Let me go
6 to the Office of Planning first.

7 MS. MYERS: Good afternoon. Crystal Myers with
8 the office of Planning. The Office of Planning is
9 recommending approval of this case and good standing on
10 the record at this time of report. Thank you.

11 BZA CHAIR HILL: Okay. Great. Does anybody
12 have any -- well first let me do this.

13 Mr. Young, is there anyone here wishing to
14 testify? Okay.

15 Does the Board have any questions from the
16 applicant or the Office of Planning? Okay.

17 Ms. Wilson you're getting the benefit of an
18 earlier case being beaten up by us. And so do you have
19 anything to add at the end of this Ms. Wilson?

20 MS. WILSON: Just to thank the Board for their
21 time, and again the Commission for indicating their
22 support of this project.

23 BZA CHAIR HILL: Okay. All right. I'm going
24 to close the hearing and the record. I didn't
25 particularly have any issues with this application. I'm a

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1 little bit intrigued as to how this application was
2 processed with the community in a way that the previous
3 one was not.

4 But I'm going to go with the support and
5 analysis that the Office of Planning has provided as well
6 as at least the input from the ANC given that there was
7 again, an inability for them to meet formally. And I also
8 agree with the modification as well as the two year time
9 extension.

10 I think that the Board took a lot of time at
11 the beginning during the original hearing, and I did have
12 an opportunity to at least review that portion of the
13 record as well. So I'll be voting in favor of this
14 application.

15 Mr. Smith?

16 MEMBER SMITH: Nothing to add, Chairman Hill.
17 I agree with your assessment of this case. I'm just glad
18 to note that we have something from the ANC that seems to
19 indicate that there is some support for that even though
20 this is not a formal vote of the ANC, but there does seem
21 to be support for his allocation.

22 So with that I do believe they have met the
23 burden of proof for us to grant the requested relief and
24 will support the application.

25 BZA CHAIR HILL: Thank you.

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1 Chairman Hood?

2 ZC CHAIR HOOD: I don't have anything to add.
3 I agree with everything I've heard. Thank you, Mr.
4 Chairman.

5 BZA CHAIR HILL: Okay. Thank you. I'm going
6 to make a motion to approve Application No. 20710-A as
7 captioned and read by the Secretary and ask for a second.

8 Mr. Smith?

9 MR. SMITH: Second.

10 BZA CHAIR HILL: Motion made and seconded.

11 Ms. Mehlert, would you take a roll call please?

12 MS. MEHLERT: Motion to approve the
13 application.

14 Chairman Hill?

15 BZA CHAIR HILL: Yes.

16 MS. MEHLERT: Mr. Smith?

17 MEMBER SMITH: Yes.

18 MS. MEHLERT: And Chairman Hood?

19 ZC CHAIR HOOD: Yes.

20 MS. MEHLERT: Staff would record the vote as
21 three to zero to two to approve Application 2071-A on the
22 motion made by Chairman Hill and seconded by Board Member
23 Smith.

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1 BZA CHAIR HILL: Great. Thank you. Ms.
2 Mehlert, could you call our next case please when you have
3 an opportunity?

4 MS. MEHLERT: Next is Application No. 21158 of
5 629 SC, LLC. This is a self-certified application
6 pursuant to Subtitle X Section 901.2 for a special
7 exception under Subtitle E Section 5202 from the height
8 requirements of Subtitle E Section 203.2.

9 This is for a three story plus cellar rear
10 addition to an existing three story plus cellar single
11 family rear dwelling. It's located in the RF-1 zone at
12 629 South Carolina Avenue, Southeast, Square 876, Lot 14.

13 BZA CHAIR HILL: Thank you. If the applicant
14 can hear me, if they could please introduce themselves for
15 the record.

16 MR. SULLIVAN: Thank you Mr. Chairman. This is
17 Marty Sullivan from Sullivan & Barros on behalf of the
18 applicant.

19 BZA CHAIR HILL: Great. Thank you, Mr.
20 Sullivan. Mr. Sullivan if you want to go ahead and walk
21 us through your client's application and why you believe
22 you're meeting the criteria for us to grant the relief
23 requested. I'm going to put 15 minutes on the clock so I
24 know where we are, and you can begin whenever you like.

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1 MR. SULLIVAN: Thank you very much. If you
2 could load the Power Point presentation please, Mr. Young.

3 Thank you. Property's 629 South Carolina
4 Avenue, Southeast.

5 Next slide, please. I believe the property
6 owner is with us if the Board has any questions for them,
7 but I don't think any testimony will be necessary to get
8 through this presentation other than mine.

9 The property is in the RF-1 zone, it is
10 currently a three story single family. It's going to
11 remain a single family. There's an addition proposed to
12 the rear, and the height of the building is currently
13 compliant, but because it's a pitched roof and the way
14 that's measured the top of the pitched roof is actually
15 higher than the addition. So that's why you can't see the
16 addition because it's behind the pitched roof in the
17 front.

18 So we're asking for 1.2 feet of special
19 exception relief on the height. It's supported by the
20 Office of Planning. We have unanimous support from ANC
21 6B. The Architect of the Capitol has weighed in with no
22 objection. CHRS is also in support, and we have letters
23 of support from both adjacent neighbors and from the
24 neighbor immediately adjacent to the rear.

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1 Next slide, please. So that shows the
2 footprint of the addition there.

3 Next slide, please. Next slide. Let me get to
4 an elevation that shows the height. Next slide, please.
5 Next slide.

6 So here you see the addition in the back, and
7 you see where it goes from just under where the ridge is,
8 so it's -- in order to get the floor levels to match up
9 they needed the extra 1.2 feet of height which is allowed
10 by special exception up to 40 feet.

11 Next slide, please. Next slide, please. Next
12 slide. I think that you know, the main thing was the
13 section showing -- or showing the side elevation that
14 shows what's going on.

15 Next slide, please. So it meets the general
16 criteria. The purpose of the RF-1 zone is to provide
17 areas primarily developed with row houses on small lots.
18 As mentioned this is a single family home, it's remaining
19 a single family home. And then granting relief will not
20 tend to effect adversely the use of neighboring property
21 as described on the next slides regarding the specific
22 requirements.

23 Next slide, please. So requirement A is that
24 the proposed construction not have a substantially adverse
25 effect on the use or enjoyment by demonstrating compliance

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1 with the light and air and privacy. That's item number
2 one. So light and air available to neighboring properties
3 is not unduly effected by the 1.2 feet of relief. And
4 again we have support from both of those neighbors.

5 Same with privacy. It's unaffected by the
6 additional height, and the proposed construction is viewed
7 from the street, alley, and other public ways shall not
8 substantially visually intrude upon character, scale, and
9 pattern of houses along the subjects street.

10 Next slide, please. And I think that should be
11 it.

12 So yeah, that's it. If the Board has any
13 questions. Thank you.

14 BZA CHAIR HILL: Okay. I'm going to turn to
15 the Office of Planning please.

16 MR. BARRON: For the record my name is Ron
17 Barron, Development Review Specialist with the DC Office
18 of Planning. The Office of Planning recommends approval
19 of the requested special exception. The proposed rear
20 addition would be in harmony with the general purpose and
21 intent of the RF-1 zone and would be unlikely to affect
22 adversely the use and privacy of neighboring properties.

23 The Office of Planning is content to rest on
24 our report submitted to the record at Exhibit 23 and I am
25 available to answer any questions you may have.

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1 BZA CHAIR HILL: Thank you. All right. Does
2 the Board have any questions of the applicant or the
3 Office of Planning?

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

6 MR. YOUNG: We do not.

7 BZA CHAIR HILL: Mr. Sullivan do you have
8 anything you would like to add at the end?

9 MR. SULLIVAN: No, sure.

10 BZA CHAIR HILL: Okay. I'm going to close the
11 hearing and record. I thought this one actually was
12 pretty straightforward. They are doing the 1.2 feet which
13 is nominal I guess to match the roof. They've done all of
14 their due diligence, they've reached out and you know, I
15 would agree with the analysis of the Office of Planning,
16 that and also the feedback of the ANC, as well as the
17 Architect of the Capitol.

18 It is I mean, they've really done I think
19 extensive outreach for the amount of relief that's being
20 requested. And I'm glad to hear and see that the adjacent
21 neighbors as well as those behind have been notified and
22 are understanding and in agreement. I think that they
23 meet the criteria in E 5202 as well as the general
24 standard requirements of X 901, and I'll be voting in
25 favor of this application.

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1 Mr. Smith, do you have anything you would like
2 to add?

3 MEMBER SMITH: Nothing to add Chairman Hill. I
4 will vote in support as well.

5 BZA CHAIR HILL: Thank you.

6 Chairman Hood?

7 ZC CHAIR HOOD: I will vote in support. Thank
8 you.

9 BZA CHAIR HILL: Okay. Thank you. I'm going
10 to make a motion to approve Application No. 21158 as
11 captioned and read by the Secretary and ask for a second.

12 Mr. Smith?

13 MR. SMITH: Second.

14 BZA CHAIR HILL: Motion made and seconded.

15 Ms. Mehlert, would you take a roll call please?

16 MS. MEHLERT: Please respond to the Chair's
17 motion to approve the application.

18 Chairman Hill?

19 BZA CHAIR HILL: Yes.

20 MS. MEHLERT: Mr. Smith?

21 MEMBER SMITH: Yes.

22 MS. MEHLERT: Chairman Hood?

23 ZC CHAIR HOOD: Yes.

24 MS. MEHLERT: Staff would record the vote as
25 three to zero to two to approve Application 21158 on the

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1 motion made by Chairman Hill and seconded by Board Member
2 Smith.

3 BZA CHAIR HILL: Okay. Great. Let's just keep
4 chugging along here. Can we get our next application,
5 please, Ms. Mehlert?

6 MS. MEHLERT: Next is Application No. 21159 of
7 622 Jefferson Street Northwest, LLC. This is a self-
8 certified application pursuant to Subtitle X Section 901.2
9 for a special exception under Subtitle E Section 204.4
10 from the rooftop and upper floor element requirements of
11 Subtitle E Section 204.1.

12 This is for a new front porch roof at an
13 existing two story attached principle dwelling. It's
14 located in the RF-1 zone at 622 Jefferson Street,
15 Northwest, Square 3209, Lot 95.

16 BZA CHAIR HILL: Great. Can the applicant hear
17 me? And if so could they introduce themselves for the
18 record please.

19 MR. SULLIVAN: Marty Sullivan with Sullivan &
20 Barros on behalf of the applicant.

21 BZA CHAIR HILL: All right, Mr. Sullivan, if
22 you want to walk us through your client's application as I
23 pull up the file and explain to us why you believe they're
24 meeting the criteria for us to grant the relief requested.

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1 I'm going to put 15 minutes on the clock so I know where
2 we are, and you can begin whenever you like.

3 MR. SULLIVAN: Thank you very much. If we
4 could have the Power Point presentation, please?

5 I think this case is even more straightforward
6 than the last one. This is a simple in-kind replacement
7 of an existing porch roof. The porch roof was
8 structurally compromised in the midst of construction.
9 The applicant took steps to fix that, and in the course of
10 their zoning reviews, the zoning administrator said that
11 they needed BZA relief even though there are some
12 regulations that allow an in-kind replacement of an
13 architectural element.

14 So here we are asking for no other relief other
15 than to be able to put back exactly what was there before.

16 Next slide, please.

17 It's a two story plus cellar single family road
18 dwelling. The Office of Planning is recommending
19 approval. We have unanimous support from ANC 4D. And we
20 have a letter of support from one of the adjacent
21 neighbors.

22 Next slide, please. And here you see, the
23 subject property is the one on the left. So it's in a --
24 it's adjacent to other homes that have a similar front
25 porch, so obviously putting the porch back isn't going to

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1 be out of character, scale, or pattern with the rest of
2 the block.

3 Next slide, please. There's another photo, and
4 you see a side elevation and a front elevation. Probably
5 the side elevation is the most descriptive plan that we
6 have here. And I think that's the only plan I included
7 because we're just putting back what you can see in the
8 photo and what you see on the side elevation.

9 Next slide, please. So granting relief will be
10 in harmony with the purpose and intent. There's no
11 changes to the existing use, and we're merely replacing
12 the previously existing porch roof in kind. That is also
13 why it will not tend to affect adversely the use of
14 neighboring properties.

15 Next slide, please. The specific requirements
16 are light and air, privacy, and substantial visual
17 intrusion. And of course, there's no changes to the
18 existing use, we're just merely replacing it, and the
19 existing porch roof is being re-built and is consistent
20 with the porch roofs on neighboring houses as we showed in
21 that one photo.

22 So for this reason the project shall not
23 substantially, visually intrude upon character, scale, and
24 pattern of houses along this street.

25 Next slide, please.

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1 And I think that's it. Yes. Thank you.

2 BZA CHAIR HILL: Okay. Could I hear from the
3 Office of Planning, please?

4 MS. THOMAS: Yes, good afternoon, Mr. Chair and
5 the BZA Board. I am Karen Thomas with the Office of
6 Planning. And we will rest on the record of our report.
7 It's fairly straightforward. This is an in-kind
8 replacement with no significant changes. Thank you.

9 BZA CHAIR HILL: Thank you. All right. Mr.
10 Young, is there anyone here wishing to speak?

11 Does my Board have any questions for the
12 applicant or the Office of Planning?

13 Okay. Mr. Sullivan, would you like to add
14 anything at the end?

15 MR. SULLIVAN: No. Thank you, Mr. Chairman.
16 Thank you.

17 BZA CHAIR HILL: Okay. Thank you. All right.
18 I'm going to close the hearing and the record. I would
19 agree with the analysis that the Office of Planning has
20 provided concerning the you know, in-kind replacement if
21 you will. But I do understand why the applicant is here
22 before us, and so I do believe that they're meeting the
23 criteria for us to grant the relief requested.

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1 I am also glad to see again the outreach was
2 done with that, with the ANC. And I'll be voting in favor
3 of this application.

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

6 MEMBER SMITH: This is as Mr. Sullivan said
7 it's a very straightforward application. And I believe
8 they've met the burden of proof for us to grant the
9 requested relief and I will support the application as
10 well.

11 BZA CHAIR HILL: Thank you.

12 Chairman Hood?

13 ZC CHAIR HOOD: I too will support this
14 application. Thank you, Mr. Chairman.

15 BZA CHAIR HILL: Thank you. All right. I'm
16 going to make a motion to approve Application No. 21159 as
17 captioned and read by the Secretary and ask for a second.

18 Mr. Smith?

19 MR. SMITH: Second.

20 BZA CHAIR HILL: The motion's been made and
21 seconded. Ms. Mehlert, would you take a roll call please?

22 MS. MEHLERT: The Chair's motion to approve the
23 application.

24 Chairman Hill?

25 BZA CHAIR HILL: Yes.

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1 MS. MEHLERT: Mr. Smith?

2 MEMBER SMITH: Yes.

3 MS. MEHLERT: Chairman Hood?

4 ZC CHAIR HOOD: Yes.

5 MS. MEHLERT: Staff would record the vote as
6 three to zero to two to approve Application 21159 on the
7 motion made by Chairman Hill and seconded by Board Member
8 Smith.

9 BZA CHAIR HILL: Okay. Ms. Mehlert, if you
10 could call our next one please?

11 MS. MEHLERT: Next is Application No. 21160 of
12 Three Table, LLC. As amended, this is a self-certified
13 application pursuant to Subtitle X Section 1002 for a use
14 variance from Subtitle U Section 401 to allow a prepared
15 food shop and retail use in an existing non-conforming
16 use, currently an art gallery on the first floor of an
17 existing building.

18 It is located in the RA-2/DC zone at 1314 21st
19 Street, Northwest, Square 69, Lot 228.

20 BZA CHAIR HILL: All right. If the applicant
21 can hear me, if they could please introduce themselves for
22 the record.

23 MS. WILSON: Hey, Alex Wilson from Sullivan &
24 Barros on behalf of the applicant, Ms. Hollie Wong in this
25 case.

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1 BZA CHAIR HILL: Okay. Great. Let's see. If
2 you want to go ahead and walk us through your application
3 Ms. Wilson. And this may, I think the Board might have
4 some questions about some of this, and also some of the
5 specifics of what is being requested and asked for.
6 However I will let you go ahead and walk us through as I
7 said, the application.

8 I'll put 15 minutes on the clock, so I know
9 where we are and before you begin, Ms. Wong do you want to
10 introduce yourself for the record? You are on mute Ms.
11 Wong.

12 MS. WONG: My name is Hollie Ching Ching Wong.
13 I am the owner of Ching Ching Cha.

14 BZA CHAIR HILL: Great. All right, Ms. Wong,
15 well welcome.

16 Ms. Wilson, you can go ahead and begin whenever
17 you like.

18 MS. WILSON: Great, thank you so much. Mr.
19 Young, could you please pull up our presentation?

20 Just to clarify what we're asking for, Ms. Wong
21 currently operates an approved art gallery use, and as
22 I'll get into in our presentation, we are asking to add
23 uses to that, not change that use.

24 And the proposed uses are related to, directly
25 related to the existing approved art gallery use.

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1 Next slide, please. So for some background,
2 Ms. Wong opened her original location in Georgetown in
3 1998, and it was a neighborhood treasure. Many were sad
4 to see it go. It had been operating successfully for the
5 last 25 years.

6 But due to a rent increase of 50 percent Ms.
7 Wong had to relocate, and so she relocated to Unit 1 on
8 the first floor of 1314 21st Street Northwest in April
9 2023.

10 The unit had a C of O for art gallery use. The
11 upper floors are residential uses. The business at Ching
12 Ching Cha is primarily a teapot gallery which showcases
13 rare and unique teapots made by individual artisans. So
14 not only is this a small business, but it provides
15 opportunities for other small businesses and artists to
16 showcase their work.

17 An integral part in selling and educating the
18 public about teapots is demonstrating the teapots through
19 the art of pouring tea. Ms. Wong works with various
20 universities and schools in the area, for example, and
21 demonstrates this to students. As demonstrated by the
22 hundreds of letters in support, and none in opposition
23 this small business continues to be a treasured part of
24 the community.

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1 It's a testament to Ms. Wong that she found a
2 way to try and succeed after record high rent increases
3 forced her out of the Georgetown location of 25 years.

4 Her shop was even featured in DLCP's newsletter
5 highlighting women owned small businesses in the area. It
6 was the same DLCP that cited her for selling tea.

7 Ms. Wong on her own, and then eventually
8 through Counsel tried to explain and argue to DOB and DLCP
9 that this tea pouring, and service and sale is part of the
10 gallery use. There's an art of tea that may not be as
11 familiar in western culture, but it is part of Chinese and
12 other Asian cultures.

13 Also, mention that there surely are art
14 galleries in the area that have beverages and snacks for
15 purchase. We tried administratively to work with DOB and
16 DLCP as the regulations do not address this specific
17 situation, but they chose to strictly interpret the use
18 category and have the position that the sale and
19 demonstration of tea are beyond the art gallery use.

20 Next slide, please. An art gallery is defined
21 as an establishment that derives more than 50 percent of
22 its income from the display and sale of objects of art.
23 Ching Ching Cha meets this definition as the teapots
24 account for approximately 70 percent, and the tea sales
25 are approximately 30 percent.

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1 The pouring of the tea is part of the art
2 experience in showcasing the teapots. Prior to the
3 applicant's purchase this space was used for a brief
4 period of time as an art gallery. There is evidence of
5 performative art shows and evidence that food and
6 beverages may have once have been consumed here by the
7 former owners during these shows. And that occurred under
8 this same C of O by the previous owner.

9 No enforcement actions were found against the
10 previous owner. Perhaps this is because they stopped
11 using the studio at some point, as according to neighbors
12 who I believe a few are going to testify today, it was an
13 empty storage space for years.

14 So despite efforts to resolve this
15 administratively, DLCP and DOB have decided that the
16 incidental sale of tea and serving of tea requires the C
17 of O to also include a prepared food shop and retail use.
18 Accordingly, the applicant seeks a use variance to add
19 prepared food shop for 17 seats and retail use to the
20 existing approved art gallery use.

21 Next slide, please. The property is in a
22 residential apartment zone. This space has continually
23 been operated as mixed use, and the commercial floor has
24 been a commercial space for decades according to the

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1 available C of O's. At one point it was a dry cleaner
2 prior to the art gallery use.

3 The commercial space consists of large shop
4 windows and was built at grade to allow easy access for
5 shoppers unlike the neighboring residential property. You
6 can see it in direct contrast to the property to the left
7 there which has an -- you know, an entrance for above
8 grade and it's not on the corner.

9 This creates a unique hardship in using the
10 property for the limited matter of right or special
11 exception uses in the RA-2 zone. Those uses include
12 primarily various residential uses such as apartments,
13 community residence facility or retirement homes.

14 And then the non-residential uses are daycare
15 use and art gallery use. This space is clearly much too
16 small and not appropriate for a day care, but it has an
17 approved art gallery C of O.

18 Next slide, please. So the primary focus is,
19 what is the undue hardship in using it as a residential
20 space or as an art gallery use. It would no doubt be
21 costly and complicated to convert this space to private
22 residential space given its long-time use as commercial.

23 Also, there are individually owned condo units
24 above, there would be additional complications to modify
25 the building and change the nature of the long-standing

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1 mixed use. To the primary matter of right use, this
2 residential use is not possible without extreme cost and
3 disruption to the building and general fabric of the
4 community and the residents above.

5 Further, Ms. Wong purchased the unit with an
6 approved art gallery C of O, but an art gallery use such
7 as this is not possible to sustain without additional
8 revenue as evidenced by the former gallery which was used
9 for storage and sat empty for many years until they found
10 a buyer.

11 According to Redfin, the former owners listed
12 it and removed it at least nine times in the three year
13 period before it finally was relisted and purchased by Ms.
14 Wong.

15 The request is not a typical use variance
16 request that proposes an entire change of use or the
17 fabric of the existing use. The art gallery use is
18 permitted via special exception and has operated via
19 virtue of a special exception.

20 This use variance request is to allow for
21 complimentary uses to this existing approved use so that
22 it may continue. Again, the former art gallery use
23 demonstrates that an art gallery cannot sustain without
24 additional revenue.

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1 And while the primary business is from the
2 display and sale of the artisan teapots and meets this
3 definition of an art gallery, Ms. Wong does derive 30
4 percent from tea sales.

5 Additionally, the inability to sell tea and
6 pour tea will directly impact the teapot sales and
7 demonstration and it appears that the applicant is in this
8 position due to a subjective interpretation, but DOB has
9 made its decision, and the proposal does not -- and the
10 proposal meets the hybrid and given the undue hardship if
11 the zoning regulations are strictly enforced.

12 Ms. Wong will be forced to close this over 25
13 year old business without the relief as she cannot operate
14 the art gallery use without being able to demonstrate the
15 teapots and traditions associated with tea ceremonies.

16 Further, approximately 30 percent of the sales
17 come from tea. And while this is incidental, it still
18 makes an impact on the business, and she has felt that
19 since ceasing the tea sales due to this citation.

20 As noted above residential use is not feasible
21 given extreme costs and then of course there would be a
22 loss in a long standing commercial space in the community
23 which is supported by all.

24 Next slide, please. These are just additional
25 photos demonstrating the difference between the space and

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1 residential properties next door and showing the interior.
2 You can also see it in Ms. Wong's background right now.
3 She's in her shop.

4 It's a corner space. It has inviting, open
5 windows with a garden.

6 Next slide, please. Those are some of the teas
7 in the back that she is unable to brew or demonstrate or
8 serve at this point unfortunately. And Ms. Wong will talk
9 more about this, but the ability to drink the tea and try
10 the tea in these teapots is what draws people into this
11 space. She has seen a significant drop in foot traffic
12 since she's been unable to sell tea. And she is
13 devastated at the thought of having to shut down her
14 business due to the lack of tea sales.

15 And again, it's not just her business that
16 can't survive here, the previous owners had a vacant space
17 for many, many years because an art gallery use could not
18 sustain without additional revenue. And they attempted to
19 sell the space nine different times which speaks to that
20 as well.

21 Next slide, please. Regarding the other
22 prongs, the Office of Planning recommends approval. ANC
23 2B voted unanimously in support of application. There are
24 hundreds of letters in support and none in opposition.

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1 And this is one of those cases where we've had to do
2 almost nothing in terms of soliciting community support.

3 People were seeking out Ms. Wong and myself to
4 find a way to help. I think there were at least 30 people
5 who wanted to testify today, and of course in the interest
6 of time we said please don't all 40, 50 people sign up to
7 testify.

8 Granting this relief will certainly not result
9 in a substantial detriment to the public nor the zone
10 plan. This property has been used as a commercial space
11 since at least 1972. It has an approved C of O for the
12 art gallery use which will still be the primary use. The
13 tea pouring and sales are clearly incidental even if they
14 do require an additional category for the C of O so that
15 it triggers the inspections for a prepared food shop.

16 And the proposed use is a quiet use. Lots from
17 the metro. Ms. Wong will talk about this a little more,
18 but the tea service and sale came about because customers
19 asked for the demonstration and to sample the tea because
20 they wanted to purchase a teapot or tea.

21 And so while DOB certainly disagrees that this
22 was a natural extension of what is an approved use, Ms.
23 Wong did not realize she was doing anything beyond what
24 was permitted in the C of O for the property that she
25 purchased. The unique property and unique circumstances

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1 warranting a variance from the strict application of the
2 zoning regulations, the degree of relief here could also
3 be considered given that it's related to what has already
4 been approved.

5 The use is not being physically expanded
6 anywhere, say to another floor or anything like that. In
7 terms of the day-to-day operations Ching Ching Cha is
8 fully operated and run by Ms. Wong. She's proposing only
9 17 seats and has extremely limited operating hours as you
10 can see here.

11 And with that I'm going to turn it over to Ms.
12 Wong to say a few words about the shop and her experience.
13 Thank you.

14 MS. WONG: Good afternoon, Mr. Chairman and
15 members of the Board. And thank you, Alex and Martin, to
16 representing me.

17 I'm Hollie Wong. I open Ching Ching Cha in
18 1998 in Georgetown. I have lived and worked in Washington
19 for 35 years. Last April after an almost 50 percent rent
20 increase I moved the tea house to its current location in
21 Dupont Circle.

22 When I first opened Ching Ching Cha 26 years
23 ago the idea was simple. I wanted to create a tea house
24 that is comfortable and quiet to share the humble tea
25 culture. This idea remains. Soon after we settled in

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1 this new location as a pottery gallery, focused on artisan
2 tea wares and Asian handicraft I realized that the use as
3 a pottery gallery would not survive without the ability to
4 showcase the teapot and through the art of serving tea.

5 So it seemed like a natural expansion of the
6 property use to serve and sell tea as that is our strength
7 and our purpose. More importantly, tea is a necessity and
8 a commodity. We've been providing a hand-picked tea
9 selection for a quarter century to our customers, and this
10 is necessary for us to share and to demonstrate the use of
11 our beautifully handcrafted teapots and cups.

12 This has always been a commercial space, but
13 the only permitted commercial use is an art gallery. The
14 neighbors have told me the old art studio was always empty
15 and used only for storage. And my attorney explained the
16 other option for the space is changing it to residential
17 use. That would be impossible in this space and
18 prohibitively expensive.

19 We believe firmly this space will benefit the
20 neighborhood operating as a little tea house much more
21 than only a teapot gallery. This approval will allow us
22 to continue the legacy of a beloved tea house. It has
23 been serving our community in the District of Columbia for
24 over 26 years. We can continue to embrace our old and new

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1 community, provide a physical place to come together to
2 shar a cultural experience and teas and beyond.

3 And the proposed use is integral in supporting
4 the primary part of this which is a teapot gallery. This
5 is a local business, and also preserve and promote
6 cultural diversity within our community.

7 I understand the city has been working hard to
8 revise the business climate, helping small businesses to
9 reopen and offering grants. And this will fit within this
10 intent as it will just expand on an existing approved use.
11 Thank you for your attention.

12 BZA CHAIR HILL: Thank you, Ms. Wong.

13 Ms. Wilson.

14 MS. WILSON: Great thank you. I don't have
15 anything else to add. We are happy to answer any
16 questions the Board has.

17 BZA CHAIR HILL: Okay. I think we're going to
18 have some questions but first I'm going to go to the
19 Office of Planning.

20 MR. BRADFORD: Good afternoon, Chairman Hill,
21 Commissioners. For the record my name is Philip Bradford
22 Development Review Specialist with the DC Office of
23 Planning. The Office of Planning recommends approval of
24 the requested use variance, and we stand on the record of

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1 the report in Exhibit 426. And I'm available for any
2 questions you may have.

3 BZA CHAIR HILL: Okay. Thank you. All right.
4 Does the Board have any questions of either the applicant
5 and/or the Office of Planning? Okay.

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

8 MR. YOUNG: Yeah, we have two witnesses.

9 BZA CHAIR HILL: Okay. Okay. Could you give
10 me their names, please, Mr. Young?

11 MR. YOUNG: It was Kavitha Cardoza and Che
12 Ruddell-Tabisola.

13 BZA CHAIR HILL: Okay. Ms. Cardoza, can you
14 hear me?

15 MS. CARDOZA: Can you hear me?

16 BZA CHAIR HILL: Yes. Could you introduce
17 yourself for the record? And then you'll have three
18 minutes to give your testimony.

19 MS. CARDOZA: Absolutely. My -- dear members
20 of the Board, my name is Kavitha Cardoza. I live in the
21 District and happily prioritize spending my money in local
22 businesses.

23 When I was a local journalist who covered DC
24 for many years during the pandemic I interviewed a small
25 business owner, Hollie Wong to see how she was faring. I

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1 loved going to Ching Ching Cha as a customer for its
2 serene atmosphere and cell phone-free atmosphere.

3 She had to move out of Georgetown because her
4 landlord raised the rent exponentially and moved to 21st
5 Street. She took a space and transformed it into a
6 beautiful, airy space where the community could gather.
7 Many of her former customers including me followed her to
8 the new location.

9 Wong's business is exactly the type of business
10 DC says it supports. A local, female, immigrant, minority
11 run business. She has spent a lot of money on extensive
12 renovations, landscaping the front yard with plants and
13 serving a loyal customer base.

14 In the previous testimony you saw photos of
15 what it looked like now. I wish there were photos of what
16 it looked like when Ms. Wong bought the property. It was
17 horrendous.

18 When I heard she was stopped from pouring tea
19 because of a zoning issue, I assumed it would take a few
20 weeks to sort out. Instead, it's been several months and
21 has cost her tens of thousands of dollars in legal fees
22 and lost income.

23 Ironically, just this February the DLCP
24 newsletter promoted her business as one of two "Women
25 owned business showcasing their contributions to the

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1 District's economy." I heard about this from a friend who
2 had read the newsletter and went to try out the tea and
3 discovered that she couldn't.

4 Wong has had her little tea house for more than
5 25 years in the District but may have to close down
6 permanently if the process takes any longer. I urge you
7 to immediately grant the permits Hollie Wong needs so she
8 can continue operating her business.

9 And I should add over here that I was not asked
10 to testify by anyone. I had signed up independently.

11 BZA CHAIR HILL: Okay. Thanks. Ms. Cardoza
12 I've also enjoyed your journalism over the years and so
13 nice to hear your voice.

14 MS. CARDOZA: Thank you so much.

15 BZA CHAIR HILL: All right. Let's see. The
16 next witness is Ms. Ruddell-Tabisola. Oh, Mr. --

17 MR. RUDDELL-TABISOLA: Che Ruddell-Tabisola.

18 BZA CHAIR HILL: Okay. Could you please -- I'm
19 sorry. Just introduce yourself again for the record and
20 then you'll have three minutes to give your testimony.

21 MR. RUDDELL-TABISOLA: Thank you, Commissioner.
22 Good afternoon. My name is Che Ruddell-Tabisola. It's
23 with great pleasure that I submit these comments in
24 support of applicant 21160, Three Tables, LLC, better
25 known to her neighbors as Ching Ching Cha.

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1 I have the good fortune to live seven doors
2 down from the tea shop on Newport Place where my husband
3 and I have lived for 18 years. In addition to being a
4 neighbor, I am also the Vice President of Government
5 Affairs here at Restaurant Association of Metropolitan
6 Washington.

7 For more than 100 years RAMW has advocated and
8 provided the community for more than 1400 entrepreneurs
9 and small businesses in the Washington area. We count
10 among our members beloved neighborhood spots such as
11 Hollie and Ching Ching Cha.

12 You know, much has already been said by Ms.
13 Wilson and Kavitha about what the space looked like
14 before. You know it may have been permitted to be an art
15 gallery but frankly it did look like storage space. A
16 large statue stood in the window, other artwork could be
17 seen but it was dark. It was clearly dusty, and nobody
18 ever visited.

19 It's actually a little bit of a challenge for
20 me to describe what it was used for before because the
21 proprietor had little if any engagement with our
22 community. To my delight and to my neighbor's delights
23 Ching Ching Cha's residency has been a refreshing opposite
24 of that.

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1 The applicant has transformed this once
2 neglected space into a beautiful gallery whose walls are
3 adorned with handmade teapots. The space inside is alive
4 with the stories of the artisans who craft them.

5 Outside the gallery where once the unattended
6 and overgrown bush spilled out onto the sidewalks, well-
7 loved cared for gardens frame the gallery and they add
8 beauty to our street. To be sure, Ching Ching Cha is a
9 cultural ambassador, right? And fulfillment of that role
10 includes tea sales as well as service.

11 And Ching Ching Cha is not seeking to do
12 anything new. Pouring tea is a natural extension of the
13 art gallery use. And it is an appropriate use of the
14 variance as Ms. Wilson has indicated.

15 My final minute, just to add my perspective as
16 a lifelong business advocate. You know, Ching Ching Cha's
17 presence aligns, supports, and it lifts up the District's
18 larger mission to reenergize downtown and foster livable,
19 walkable communities where residents can live, work, and
20 play.

21 Just down the street from us is another
22 building which is boarded up, the 2100 block on N street.
23 It's 300 square foot of empty office that's been vacant
24 since 2019. And accompanying that vacancy are all the

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1 challenges that come with empty buildings including the
2 public safety ones.

3 And fortunately we're not here to discuss an
4 empty structure, right? Instead we're asking permission
5 to support Ching Ching Cha's simple request to conduct
6 everyday business. As you've heard today, this is a
7 showcase of multiple benefits that a thriving small
8 business can have with her neighborhood.

9 For that reason I'm proud to support her today.
10 She is a neighborhood jewel, a kind, considerate, and
11 generous neighbor, and I hope she's here for years to
12 come. Thank you and I'm available to answer any
13 questions.

14 BZA CHAIR HILL: Okay. Great. Does the Board
15 -- oh --

16 MR. M. JOHNSON: I'm the Commissioner for this
17 area, I also signed up.

18 BZA CHAIR HILL: Sorry Mr. -- Commissioner
19 Johnson. I didn't see you there or know that you were
20 with us. Can you hear me? What is going on with my feed
21 today? Commissioner Johnson, can you hear me?

22 MR. M. JOHNSON: I can hear you. Can you
23 hear me?

24 BZA CHAIR HILL: Yeah. Can you go ahead and
25 introduce yourself for the record please Commissioner?

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1 MR. M. JOHNSON: Yes. My name is Matt Johnson.
2 I'm the Commissioner for SMD 2B-06, and I am one of the
3 Commissioner Representatives in this matter.

4 BZA CHAIR HILL: Great. Commissioner, do you
5 want to go ahead and give us the testimony of the ANC?

6 MR. M. JOHNSON: Yes. At our meeting on May --
7 our regular May meeting which was duly noticed and had a
8 quorum we voted unanimously to support this special
9 exception. We -- I live just down the street from this
10 site, and I can also attest to the fact that it was long a
11 vacant use.

12 I'll also note that this neighborhood was
13 developed in the 1890's, a time before zoning existed and
14 when the mix of residential and commercial uses would have
15 been very common. I think it's unreasonable to consider
16 this as a space that is sort of out of compliance with the
17 idea of the neighborhood. A mixed use neighborhood is
18 exactly what Dupont Circle is intended to be and always
19 has been.

20 I have heard no messages from any residents
21 opposed to this. We've only heard support for this and as
22 I said the ANC did vote unanimously to support this. And
23 I think we can keep it short. You've heard lots of
24 testimony about this today and I appreciate your time in
25 this matter.

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1 BZA CHAIR HILL: Okay. Thanks, Commissioner.
2 All right. Let's see. Any questions -- Okay. If anybody
3 has any questions for anybody let me know.

4 MEMBER SMITH: I think I've got a question.
5 And it's a question not so much for the ANC as me going
6 back to Ms. Wilson probably because I did have a question
7 ready for you.

8 So my question is regarding those teapots. Are
9 they made onsite by the local artisans? Or Ms. Wong
10 either one.

11 MS. WONG: It is mostly from China, Japan,
12 Taiwan. You know, Asian countries by individual artists.
13 And I will go to those countries a couple of times a year
14 to sort it by myself, hand pick it one by one and bring it
15 back.

16 MEMBER SMITH: Okay. So in selecting those
17 teapots, I'm sure you have a you know, I'm sure they all
18 have very interesting histories, and you collect those
19 histories.

20 How do you, given that the teapots seem to be
21 the prominent feature of your art gallery, how do you
22 showcase them? Is there discussion on them? Do you have
23 a showcase on any of these to discuss each of these
24 individual teapots that you have bought?

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1 MS. WONG: As you see it from behind me, all
2 the teapots showcase beautifully on the shelf. And we
3 answer whatever questions you know, whoever you know,
4 guests come in and customer will ask. Yeah, to share you
5 know, and demonstrate how -- you know, the most important
6 part for us is you know, because a teapot as you see is,
7 the size is different, the looks are different. The use
8 is very specific.

9 And majority of the customer, they have never
10 seen anything like this. So it's quite important for us
11 to use tea and water to demonstrate what is this about.
12 What is the culture behind this? You know what does that
13 mean to us and how to share this.

14 And this is part of our daily life. And that's
15 why this is so important. It's not just the teapot
16 itself, the look of it, it's how to use it and what it
17 represents.

18 MEMBER SMITH: So for each of these individual
19 tea -- do you -- what you're explaining, is that part of
20 some type of showcase or that's only done when somebody
21 asks for tea for you to pour for them.

22 MS. WONG: No, we use it. Yes.

23 MEMBER SMITH: I'm trying to figure out which
24 one is --

25 MS. WONG: All of the teapots.

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1 MEMBER SMITH: It's kind of a chicken and an
2 egg thing. Is it -- are you doing the display when
3 somebody asks to taste tea?

4 MS. WONG: Mm-hmm.

5 MEMBER SMITH: Or is it the other way around?
6 You're showcasing the pot, and the tea is incidental to
7 the pot?

8 MS. WONG: I don't quite understand your
9 questions. I'm sorry. Can you repeat your question one
10 more time?

11 MEMBER SMITH: Ms. Wilson?

12 MS. WILSON: Sure. So yes, the tea is
13 incidental. The primary use of the space is a teapot
14 gallery. And she does do showcases for local universities
15 and stuff like that. The tea sales are a natural
16 extension then of this. Does that make sense?

17 MEMBER SMITH: You helped me a lot just then.

18 MS. WILSON: Okay.

19 MEMBER SMITH: Okay. Thank you.

20 MS. WILSON: Okay. Yeah.

21 MEMBER SMITH: I'm being completely honest with
22 you. Completely transparent. To me, the way it was
23 sounding before you just made that statement Ms. Wilson,
24 was that it was the other way around.

25 MS. WILSON: Okay.

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1 MEMBER SMITH: That yes, you --

2 MS. WILSON: Apologies for not being as clear.
3 Yes.

4 MEMBER SMITH: Yes. It was more so -- I'll
5 leave it at that. So I think you gave me the
6 clarification. Thank you.

7 MS. WILSON: Great. Thank you.

8 BZA CHAIR HILL: Okay. So I'm going to turn to
9 the Office of Planning because I have a question for you
10 real quick.

11 But Ms. Wong, I just wanted to have one. So
12 mom's from a country called Sikkim, next to Nepal and
13 Bhutan. So we're very familiar with tea and Darjeeling
14 and the different types of tea, and first flush, and all
15 the different things that are going on.

16 And your tea shop seems lovely. I don't know
17 how I've missed it all these years, but I'm sure there's
18 no reason why anybody is necessarily going to come forward
19 to argue about this particular request.

20 The thing that I kind of get difficult with,
21 and just so you know, it's like this is now going to carry
22 with the property. So if it turned into a different type
23 of museum, and I just want to understand, then they'd be
24 able to sell like -- and someone gave me an example the
25 other day. If it was like a fish museum and people were

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1 starting to sell fish. You know I mean, it's the problem
2 with the building and the permit that I'm trying to
3 understand.

4 So I'm going to turn to the Office of Planning
5 real quick to say, this is -- and this is where I get
6 confused of this particular use variance. This is now
7 tied to an extension of an art gallery. Correct? So like
8 this couldn't be now a prepared food shop without an art
9 gallery connection. Correct?

10 MR. BRADFORD: That's my understanding. That
11 they -- prepared food shop as a primary use wouldn't be
12 able to open. But I think that may be a DOB question, and
13 it wouldn't be OP's call on what sort of use change could
14 occur in the space.

15 BZA CHAIR HILL: Right. Like -- and Ms.
16 Wilson, you can help me in a second. But this is what my
17 problem, I'm just trying to figure this out, right? I
18 mean if this thing stayed a tea shop in perpetuity and for
19 generations was a tea shop. I'm just saying this carries
20 out forever, right?

21 So we're making a decision now that is going to
22 change the zoning on this property, right? And so Ms.
23 Wong, you may leave, and it could be another thing, and
24 the whole neighborhood may completely lose their mind as
25 to what now has happened and they're going to be, how

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1 could this possibly happen. And it's because it was a tea
2 shop and now it's selling -- I don't know what other
3 things it's selling -- in a prepared food manner with a
4 different type of gallery.

5 So I guess I'm trying to also feel more
6 comfortable with it, which is that if there were some kind
7 of conditions or limitations in terms of like percentages
8 of revenue based upon tea versus the artwork, or food
9 preparation. Like you're not serving food, you're just
10 serving -- and just so I'm clear, like it's tea and other
11 things or just the tea?

12 MS. WONG: Just the tea.

13 BZA CHAIR HILL: Okay. So -- Okay.

14 MEMBER SMITH: Tea is food.

15 BZA CHAIR HILL: Right.

16 MS. WILSON: And we're happy to have very
17 narrowly tailored conditions such as that can only serve
18 tea.

19 BZA CHAIR HILL: Right.

20 MS. WILSON: Something like that. You know,
21 we're happy to adhere to those narrowly tailored
22 conditions so it would stay, even if it runs with the land
23 it would stay this exact proposed use.

24 BZA CHAIR HILL: Right. And that's the only
25 reason why I'm kind of tied up here, right?

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1 MS. WILSON: Absolutely.

2 BZA CHAIR HILL: I mean, this is going with the
3 land. This is going with the property, right. And so --
4 I'll tell you what. Why don't we go ahead, and Mr. Young
5 if you could -- is there any questions for the witnesses?

6 Okay. Let's excuse the witnesses. Okay. And
7 then I'm going to have an emergency legal meeting real
8 quick. If you all don't mind, because I'm going to try
9 and see if I can get to something today, right?

10 And so let me read what I need to read which I
11 can get from, I think I have it here. It won't take long
12 I hope.

13 Ms. Mehlert can you send me the emergency
14 meeting reading?

15 MS. MEHLERT: Yes.

16 BZA CHAIR HILL: Thanks. Okay. All right.

17 As Chairperson of the Board of Adjustment for
18 the District of Columbia and in accordance with Section
19 407 of District of Columbia administrative procedures act,
20 I move that the Board of Zoning Adjustment hold a closed
21 meeting on 9/18/2024 for the purposes of seeking legal
22 counsel on case no. 21160, deliberate on but not vote on
23 case no. 21160.

24 Is there a second Mr. Smith?

25 MEMBER HILL: Second.

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1 BZA CHAIR HILL: The motion made and seconded.

2 Ms. Mehlert if you could please take a roll
3 call.

4 MS. MEHLERT: Please respond to the Chair's
5 motion to hold an emergency closed meeting.

6 Chairman Hill?

7 BZA CHAIR HILL: Yes.

8 MS. MEHLERT: Mr. Smith?

9 MEMBER SMITH: Yes.

10 MS. MEHLERT: Chairman Hood?

11 ZC CHAIR HOOD: Yes.

12 MS. MEHLERT: Staff will record the vote as
13 three to zero to two to approve the motion to hold an
14 emergency closed meeting motioned by Chairman Hill and
15 seconded by Board Member Smith.

16 BZA CHAIR HILL: Thanks. Ms. Mehlert, can you
17 send the other thing I have to read also? Thanks.

18 Okay. You guys we'll be back momentarily.

19 (Whereupon, the above-entitled matter went off
20 the record at 1:06 p.m. and resumed at 1:19 p.m.)

21 MS. MEHLERT: The Board is returning to
22 Application 21160 of Three Tables, The, LLC after an
23 emergency closed meeting with legal.

24 BZA CHAIR HILL: Okay. Great. I just want to
25 make sure, Chairman Hood are you there?

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1 ZC CHAIR HOOD: Yes, Chairman, I'm sorry. I
2 needed to turn my camera on.

3 BZA CHAIR HILL: Okay. Great. No problem. I
4 just wanted to make sure you're there.

5 So Ms. Wilson, this is what I'd like to do. So
6 again as I've stated my hesitancy with this is the
7 connection to it being an art gallery and not being a
8 prepared food shop. Meaning that's what the primary use
9 will end up possibly being.

10 And so the conditions that I'm trying to figure
11 out, and we kind of discussed them a little bit that I'll
12 share with you was, you know, the only thing that you can
13 prepare is tea, right? So that would be one thing, right?

14 But I don't want to -- I want you to have a
15 chance to talk with your client because I don't want to
16 just completely handcuff your client. Like maybe it's tea
17 and water, right? Like I -- whatever it is that you all
18 think can make the Board feel comfortable that this is
19 actually going to be an art gallery about teapots and
20 ancillary to that is going to be tea, right. It's not the
21 other way around, right?

22 And so the way the percentage -- you know,
23 there could be a percentage of sales on the art versus the
24 tea, right. Like it's an ancillary percentage. That
25 might be something that you could think about with your

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1 client. I definitely think for sure like tea and water,
2 or tea -- see and I'm like, maybe there's biscuits or
3 something. I don't know what goes with the tea, right?

4 So I just want to make sure you all have talked
5 about it a little bit and you're like okay, it's tea,
6 water, and whatever, right. And it's only a certain
7 percentage. And really what we're -- you know, we are
8 granting an ancillary addition to serve the tea, right.
9 Anyway I think I'm making myself clear.

10 And the reason why I'm also, I keep going with
11 this, I think the Zoning Administrator and the Department
12 of Buildings didn't exactly know what to do with this,
13 right. And so that's why we're kind of here, right?

14 And so what I just want to make sure of is that
15 we don't do something that 20 years from now is a problem
16 for the neighborhood because it's going to carry with the
17 building, right? And Ms. Wong seems to be nodding with me
18 that she also understands why we're just not blessing this
19 and going away.

20 So why don't you all talk, okay, and we'll come
21 back for a continued hearing just to discuss the
22 conditions. Okay. And I don't think you're having a
23 problem here, we just need to make sure that the Board
24 feels comfortable that again, it's an art gallery about

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1 teapots, and ancillary to that is tea and water and
2 cookies, whatever. You know. Okay. Okay.

3 Let me just make sure -- oh yeah, and like no
4 cooking onsite. Right. Because if cooking started to
5 come into play, then you'd have odors, trash, you know,
6 rats. There could be all kinds of different discussions
7 that we'd have to talk about. So those are the
8 conditions, that's what we're trying to avoid getting the
9 neighborhood into 20 years from now, right.

10 So okay. Did I miss anything from my fellow
11 Board members? Okay.

12 Ms. Wilson, do you have any questions?

13 MS. WILSON: I understand what you're
14 requesting.

15 BZA CHAIR HILL: Okay. Then when do you think
16 you'd like to come back Ms. Wilson, after discussing
17 things with your client?

18 MS. WILSON: When is the soonest we could get
19 back here? I know obviously time is a huge factor in this
20 for Ms. Wong.

21 BZA CHAIR HILL: Okay. Okay. That being the
22 case, Ms. Mehlert when do you think we could come back?

23 MS. MEHLERT: So I could recommend October 9th.
24 So the applicant would submit their responses by September
25 27th, next Friday with any optional response from the ANC

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1 the following Friday on the 4th and then continued hearing
2 on the 9th.

3 You have currently six hearing cases and an
4 appeal, possibly one of those might be postponed on the
5 9th, plus two meeting cases. And I mean the schedule is -
6 - the schedule is the schedule, so.

7 BZA CHAIR HILL: Okay. My only -- and I'm
8 fine. Ms. Wilson, the only reason why we're kind of
9 pausing is we have to give time for the ANC.

10 MS. MEHLERT: Yep. Yep.

11 BZA CHAIR HILL: If they want anything, right?
12 So even if you --

13 MS. WILSON: How about October 2nd wouldn't
14 work?

15 BZA CHAIR HILL: What's our caseload on the 2nd,
16 Ms. Mehlert?

17 MS. MEHLERT: There are currently eight hearing
18 cases and one expedited review case.

19 BZA CHAIR HILL: Okay. I mean if you can get
20 us something by Friday.

21 MS. WILSON: Absolutely.

22 BZA CHAIR HILL: You can talk with the client.
23 Then that means the ANC can have until the 27th. Right,
24 Ms. Mehlert?

25 MS. MEHLERT: Yes.

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1 BZA CHAIR HILL: And then you could come back
2 on the 2nd.

3 MS. WILSON: That would be wonderful. Thank
4 you.

5 BZA CHAIR HILL: All right. Okay. So then
6 okay. So then give us whatever your thoughts are by the
7 20th. And then the Board's going to -- I mean obviously
8 Ms. Wilson help us all out, right? Like don't -- you know
9 it's pretty clear, right. Lock it in to whatever you
10 need. Don't try to get more than you need, and the Board
11 will probably be able to go along with it.

12 If it starts to get a little wonky, and we get
13 a little confused as to how this is going down, and I'm
14 talking to Ms. Wong also, because you're going to be
15 talking with your attorney, is that you know, the easiest
16 thing, whatever, give us on the 20th. Anything back from
17 the ANC on the 27th, and we'll come vote on the 2nd.
18 Okay?

19 Yeah, go ahead, Ms. Wong.

20 MS. WONG: All I am asking for is serve tea and
21 sell tea. Nothing else. I don't even want the cookies.
22 That is all I'm asking for.

23 BZA CHAIR HILL: No, that's cool. And I think
24 that's great. And so really then the problem is, again,
25 it has to be an ancillary, right? It's not like tea is 80

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1 percent of the sales and art is 20 percent, right? Even
2 if it were just tea, that's great. But we have to know
3 that it's an ancillary component to the art itself because
4 it's an art gallery. Okay? Okay.

5 MS. WONG: Hundred percent, yeah.

6 BZA CHAIR HILL: Okay. All right Ms. Wilson,
7 you know what we're saying so give us something on the
8 20th. Okay.

9 MS. WILSON: I understand. Great.

10 BZA CHAIR HILL: Throw some percentages in
11 there, something that makes the Board feel comfortable.
12 We'll see you for a decision, Ms. Mehlert, on 10/2.

13 MS. MEHLERT: And continued hearing?

14 BZA CHAIR HILL: I think, I mean, I don't know.
15 Do you all need a continued hearing? I'm looking to my
16 board members. I take it back. Let's do a continuing
17 hearing just in case there's some questions about the
18 conditions. Okay. So 10/2 continued hearing. Okay. And
19 hopefully it will be very --

20 Oh, Chairman Hood, can you join us for that
21 day? Okay. All right. Okay. We'll see you guys on
22 10/2. Okay. Close the hearing and the record.

23 MS. WILSON: Thank you.

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1 BZA CHAIR HILL: Thank you. Closing the
2 hearing and the record except for what was requested by
3 the Board.

4 Okay. That's that. Okay. So, oh man,
5 everything just keeps going to the pile. Okay. Let's
6 see. Okay. We've got two more. And then it's 1:30. Do
7 you all just want to try to do the two more? Okay. Okay.
8 So everybody hopefully has snacked. Okay.

9 Let's go ahead and go with the next one.

10 MS. MEHLERT: Next is Application No. 21161 of
11 Equilibrium 465 Mellon, LLC. This is a self-certified
12 application pursuant to Subtitle X Section 1002 for a use
13 variance from Subtitle C Section 204.1 to expand a non-
14 conforming use.

15 This is to create two additional dwelling units
16 in the cellar level of an existing 10 unit apartment house
17 located in the R-3 zone at 465 Mellon Street, Southeast,
18 Square 5996, Lot 34.

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

22 MR. DeBEAR: Good afternoon, Chair Hill. This
23 is Eric DeBear from Cozen O'Connor, land use counsel on
24 behalf of the applicant.

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1 BZA CHAIR HILL: Okay. And who is here with
2 you Mr. DeBear?

3 MR. DeBEAR: Ms. Felder is the project
4 architect if she could just introduce herself?

5 BZA CHAIR HILL: Great. Ms. Felder?

6 MS. FELDER: Good morning, everyone. My name
7 is Tenika Felder. I am the architect of record for this
8 project.

9 BZA CHAIR HILL: Great. Okay. So Mr. DeBear,
10 we read the record and the filing. And I understand a lot
11 of the things that your discussing in your argument.

12 What I'd like to direct you to if you could is
13 you know, we have to look at this as though it's a new
14 application. So just go ahead and make your argument for
15 the use variance, okay, and the argument that you're going
16 to have for your client as to how they're meeting the
17 criteria for this particular relief being granted around
18 this time.

19 And so I don't think there's going to be a lot
20 of -- well anyway, just go ahead and make your argument
21 for the application. I'm going to put 15 minutes on the
22 clock so I know where we are, and you can begin whenever
23 you like.

24 MR. DeBEAR: All right. If Mr. Young could
25 bring up the presentation that was filed in the record.

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1 You can move to the Next slide, please.

2 This property is located in the R-3 zone.

3 Next slide, please.

4 The property is improved with an existing 10
5 unit apartment building. You can see a couple of images
6 here. I would just note to the Board that the scope of
7 work is going to be, you see in the bottom two images
8 where the boarded up former parking spaces are located.

9 Next slide, please. So to go over the recent
10 history of this case, in January 2018 a virtually
11 identical application was filed for this property under
12 BZA case 19720. As part of that application, as in this
13 application the applicant requested to add two units to
14 the existing 10 unit apartment building.

15 The Board approved that application and found
16 that the use variance standard had been met.
17 Unfortunately the applicant was not able to file a
18 completed building permit application within the two-year
19 vesting period. As you can note, that fell around April
20 2020 which was the beginning of COVID so that definitely
21 impacted the vesting of that prior order here.

22 Next slide, please. The proposal now is again
23 the same as what we saw six years ago, to convert unused
24 storage space on the existing building cellar level to two
25 additional units. This would not constitute any

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1 structural expansion of the building. However, new window
2 penetrations would be added, and three surface parking
3 spaces that had historically been provided at the property
4 will be added along the alley.

5 Next slide, please. The Office of Planning is
6 recommending approval finding that we've met the standard
7 for a use variance. DDOT has no objection. I did also
8 want to address the ANC. We've worked fairly extensively
9 with the SMP Commissioner Joy Doyle.

10 We met with her several times to discuss the
11 project and our client's plans for renovating the
12 property. Unfortunately we were scheduled to present to
13 the full ANC in June, but they did not actually hold a
14 meeting that month. She also attempted to get us on the
15 September agenda but that was not possible.

16 And so the letter of support in the record is
17 from Commissioner Doyle, and it does acknowledge our good
18 faith effort to discuss this project with the ANC and also
19 acknowledges the support that she personally has for this
20 application.

21 Next slide, please. This is an image of the
22 site plan. Again, we're not changing the footprint or
23 envelope of the existing building.

24 Next slide, please. Here's the cellar level.
25 This is the scope of work as I noted earlier. On the left

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1 you can see in the red dotted area the unused storage
2 space that would be the subject of -- or would be where
3 the two additional units would be located.

4 On the bottom right you can see the existing
5 condition of that cellar space. You can see that it is
6 extremely dilapidated and uninhabitable in its current
7 form. My understanding from our client is that it has not
8 been used by the building in many, many years so it is
9 just sitting remaining idle.

10 Next slide, please. This is the proposed
11 cellar level. As you can see on that right side where
12 that storage space is would be converted to two new units.
13 That is the subject of this request.

14 Next slide, please. So the use variance
15 standard, what we are seeking is an expansion of the
16 existing non-conforming apartment use. You are generally
17 prohibited from extending a use intensity. So we're not
18 increasing land area or gross floor area, but we are
19 adding two units to the existing 10-unit apartment
20 building.

21 Next slide, please. Working through the burden
22 in general, the Board should follow what it found six
23 years ago which is that there is a unique condition that
24 creates an undue hardship. These factors have not
25 changed. The building remains, or the cellar level, the

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1 portion that would be converted remains completely unused
2 and uninhabitable. And this would create an undue
3 hardship in that the space would remain unused without
4 this variance relief.

5 The only factor in our opinion that the Board
6 should be looking at is the third prong of the variance
7 test which is consistency with the zone plan and no
8 adverse impact. And as we see from the letter form the
9 SMD Commissioner and given the type of request we're
10 looking at here which is not again, changing the
11 structure, there should be no adverse impact or negative
12 impact to the zone plan.

13 Next slide, please. Looking through the
14 exceptional and unique conditions on their own merits we
15 have a variety of what we believe to be exceptional
16 conditions. Certainly as a confluence of these factors.
17 The existing floor layout mainly that there are of course
18 10 units in the building currently. Nonetheless, having
19 underutilized cellar space as we discussed.

20 The topography of the building lends itself to
21 converting this floor area into usable space. As I noted,
22 it is above grade at the rear portion where the storage
23 space is located however, it is actually below grade
24 toward the front of the building along 5th and Mellon
25 Street.

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1 There is also an existing load bearing wall
2 which we can see in a moment. That would, that bisects
3 the cellar level. Ms. Felder can speak to that if the
4 Board needs further information. But this basically
5 creates a hardship in either combining that space with the
6 existing unit as well as there are -- there is a utility
7 and laundry room and core that cannot be moved.

8 This is also a large lot. It's appropriate for
9 additional density. And there are existing tenants in the
10 building. And this means that it would be a hardship to
11 attempt to combine this cellar space with other units
12 because it would potentially result in the displacement of
13 tenants and certainly would create challenges in doing so.

14 And then finally to one of Chair Hill's points,
15 the permitting history can be considered a factor when the
16 Board looks at exceptional unique conditions. The prior
17 approval and the challenges related to the COVID-19
18 pandemic, which is really what created the issue with not
19 being able to vest the prior order. And again, we don't
20 have any change in circumstances here. It is the exact
21 same application.

22 And so the Board can look at that, and we've
23 seen that in past cases that the Board can look at
24 permitting history as a factor in assessing exceptional
25 and unique conditions that result in an undue hardship.

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1 Next slide, please. Again, when you start
2 talking about the undue hardships and the nexus to those
3 unique conditions, the unused storage space cannot
4 reasonably be converted to ancillary residential uses.
5 Again, it is currently in poor, poor condition and
6 uninhabitable. So to renovate it to provide an ancillary
7 use where the building already has a utility room, laundry
8 room, and exterior parking as well as exterior recreation
9 space. Again it's a large lot with substantial grassy
10 area on it.

11 There simply is no ancillary use that this
12 space would be reasonable to convert to. In other words,
13 it would take a substantial amount of work to provide a
14 service that isn't necessarily needed by the current
15 residents.

16 In addition to that as I mentioned, because of
17 that load bearing wall that you can see on that bottom
18 right image that's highlighted in the yellow dotted line
19 it would be a hardship to combine this unit with the
20 existing cellar unit to maintain 10 total units in the
21 building.

22 This would also create an unreasonably large
23 unit. It would be about 75 percent of the core plate
24 which is just simply not consistent with the other unit
25 sizes in this building. Again as I mentioned previously

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1 in terms of combining this space with units above, there
2 are existing tenants in the building and so that would
3 create a significant disturbance to that.

4 And then of course there are other uses in the
5 R-3 zone but none of them are compatible with an existing
6 apartment building. So you have things like an emergency
7 shelter or an institutional religious based use. That
8 would not be appropriate for this size of space in an
9 existing residential building.

10 Next slide, please. And finally, on the third
11 prong of the use variance test, again this is a
12 residential area. It's an existing apartment building so
13 we'd be maintaining that residential use and only modestly
14 increasing the amount of density here from 10 to 12 units.
15 There is no structural expansion, and we will continue to
16 meet the parking requirements.

17 And as I noted earlier, while we don't have an
18 ANC resolution per say, we do have extensive outreach with
19 the SMD Commissioner and a letter from her supporting this
20 project.

21 And with that you can move to the final slide
22 Mr. Young, and we can open it up to any questions the
23 Board might have.

24 BZA CHAIR HILL: Thank you, Mr. DeBear. Before
25 I turn to my Board can I hear from the Office of Planning?

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1 MR. BEAMON: This is Shepard Beamon with the
2 Office of Planning. We reviewed the application for the
3 proposed two units and find the request meets the use
4 variance criteria for Subtitle X for the expansion of a
5 non-conforming use. We recommend approval as stated in
6 the record. And with that I will conclude and take any
7 questions.

8 BZA CHAIR HILL: Thank you. Before I do that,
9 also Mr. Young is there anyone here wishing to speak?

10 MR. YOUNG: We do not.

11 BZA CHAIR HILL: Okay. I am going to open it
12 up to my Board. Do you all have any questions for the
13 applicant or the Office of Planning? Okay. All right.

14 Mr. DeBear, do you have anything you would like
15 to add at the end?

16 MR. DeBEAR: I don't. I appreciate the Board's
17 time this afternoon.

18 BZA CHAIR HILL: Okay. Great. All right.
19 Thank you. I'm going to close the hearing and the record
20 and excuse everyone. Okay. I'm going to agree with the
21 argument that the applicant had put forth concerning those
22 basement units and that they are meeting the variance
23 standard.

24 I will also agree with the argument that the
25 Office of Planning is making in terms of again how they're

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1 making the standard for the use variance. And you know, I
2 do think those basement units, I think you know, the
3 cellar there, that they are meeting the criteria, and I
4 can vote in favor of this application.

5 Mr. Smith, is there anything you'd like to add?

6 MEMBER SMITH: I agree with the same arguments
7 stated by the applicant and Office of Planning, and the
8 reasons why they have met the burden of proof for us to
9 grant the use variance and I will support it as well.

10 BZA CHAIR HILL: Thank you.

11 Chairman Hood?

12 ZC CHAIR HOOD: I would agree Mr. Chairman with
13 everything I've heard, and I think the case -- I really
14 appreciate Mr. DeBear's comments as well. And I'll be
15 voting in support of this plan.

16 BZA CHAIR HILL: Thank you. Thank you,
17 Chairman Hood. I will also note again that the ANC, we
18 did hear from them although because of scheduling issues
19 that I do believe the applicant tried to work around we
20 have just a letter from the, one of the Commissioners.

21 So I'm going to make a motion to approve
22 Application No. 21161 as captioned and read by the
23 Secretary and ask for a second.

24 Mr. Smith?

25 MR. SMITH: Second.

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1 BZA CHAIR HILL: Motion's been made and
2 seconded.

3 Ms. Mehlert, would you take a roll call?

4 MS. MEHLERT: Please respond to the Chair's
5 motion to approve the application.

6 Chairman Hill?

7 BZA CHAIR HILL: Yes.

8 MS. MEHLERT: Mr. Smith?

9 MEMBER SMITH: Yes.

10 MS. MEHLERT: Chairman Hood?

11 ZC CHAIR HOOD: Yes.

12 MS. MEHLERT: Staff would record the vote as
13 three to zero to two to approve Application 21161 on the
14 motion made by Chairman Hill and seconded by Board Member
15 Smith.

16 BZA CHAIR HILL: Okay. Great. Thank you.

17 Chairman Hood, I believe you are done with us.
18 Is that correct?

19 ZC CHAIR HOOD: That's it for me.

20 BZA CHAIR HILL: I wish you all -- I wish you a
21 lovely afternoon.

22 ZC CHAIR HOOD: All right, thank you. You all
23 have a great rest of the day. Take care.

24 BZA CHAIR HILL: Thank you. Thank you.

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1 All right, Commissioner Stidham welcome back
2 from vacation.

3 COMMISSIONER STIDHAM: Thanks.

4 BZA CHAIR HILL: Thank you.

5 And, Ms. Mehlert, if you want to call our last
6 case.

7 MS. MEHLERT: The last case today is
8 Application No. 21152 of Baldwin House Cooperative
9 Association. This is a self-certified application
10 pursuant to Subtitle X Section 901.2 for a special
11 exception under Subtitle U Section 320.1B to allow a
12 community service center.

13 This is a new community service center on the
14 ground floor of an existing three story apartment house
15 with six units existing and eight units are planned. It's
16 located in the RF-1 zone at 2570 Sherman Avenue,
17 Northwest, Square 2864, Lot 831.

18 The hearing began on July 17th and was
19 continued to allow notice to ANC 1E. And participating
20 are Chairman Hill, Board Member Smith, and Commissioner
21 Stidham.

22 BZA CHAIR HILL: Great. Thank you.

23 If the applicant can hear me if they can please
24 introduce themselves for the record.

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1 MR. WALLACE: Good afternoon to the members of
2 the board. My name is Derick Wallace for the record and
3 I'm here on behalf of the applicant, Baldwin House.

4 BZA CHAIR HILL: Great. Mr. Wallace, could you
5 explain to the Board what has happened since the last time
6 you were here?

7 MR. WALLACE: So since we were here last we
8 reached out to ANC 1E to make sure they were notified of
9 the application, and we know that our counterparts in the
10 Office of Zoning did the same. They, ANC 1E responded to
11 the application saying that they were comfortable with
12 deferring to the ANC that the property is in, and we have
13 that reflected in the record in Exhibit 33 in the record.

14 BZA CHAIR HILL: Okay. And then since the last
15 time you were here, there was something about flexibility
16 to reconfigure the community center, the community
17 services center within the cellar level. Has that been
18 done, or you still need that flexibility?

19 MR. WALLACE: We would still need that
20 flexibility. That was in the, our initial request in the
21 application, or in the supplemental statement.

22 BZA CHAIR HILL: Okay. Okay. And then the
23 Office of Planning had again -- Mr. Wallace I remember we
24 went through a lot of this, but it was a little bit of a
25 while ago.

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1 Like so the hours of operation, right, from 9
2 a.m. to 9 p.m. Saturday with special events ending at 10
3 p.m. and then it says special events including free store
4 cookouts, indoor and outdoor movie screenings, and the
5 number -- and the total number of said special events not
6 to exceed two per month.

7 Was the applicant in favor of those conditions?

8 MR. WALLACE: Yes, the applicant was.

9 BZA CHAIR HILL: Okay. All right. Let me hear
10 from the Office of Planning first, please.

11 MR. JURKOVIC: Good afternoon, Chairman. We
12 have no updates and continue to stand on the record of our
13 report.

14 BZA CHAIR HILL: Okay. Thank you. Mr.
15 Jurkovic, could you introduce yourself for the record? I
16 butchered the name again, I'm sure.

17 MR. JURKOVIC: Yes. It's Michael Jurkovic,
18 Development Review Specialist for the Office of Planning.

19 BZA CHAIR HILL: I'm getting closer. Okay.
20 Let's see.

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

23 MEMBER SMITH: I have a question.

24 BZA CHAIR HILL: Yeah sure. Go ahead, Mr.
25 Smith.

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1 MEMBER SMITH: And this is to Mr. Jurkovic.
2 And this is a question that I brought up in the previous
3 hearing about the hours of operation. So it seemed like
4 the Office of Planning was tying the hours -- so the
5 special events aren't tied to the stated hours of
6 operation. So that would be a separate condition. Am I
7 right?

8 So these special events can occur until 10?

9 MR. JURKOVIC: The way we wrote it is the hours
10 of operation were just one condition including the hours
11 of operation extended to 10 p.m. for those events. But --

12 MEMBER SMITH: Okay. And Mr. Wallace, the way
13 the condition is with the special events where it said
14 include free store cookouts, indoor/outdoor movie
15 screenings. Are there any other special events that you
16 think you may have? Because I think some of the concern I
17 had was allowing for some level of flexibility in these
18 special events instead of just tying it down to those
19 particular ones.

20 So are these the only special events that,
21 types of special events you have? Free store cookouts,
22 indoor/outdoor movie screenings.

23 MR. WALLACE: And I think we talked about this
24 at the last hearing. Some of that specificity was kind of
25 an outgrowth of our ongoing conversation with the Office

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1 of Planning. On behalf of the applicant we would prefer
2 more flexibility in the event that you know additional
3 events come up.

4 But if we have to specify then those are the
5 programs that we would hope are classified as special
6 events. So it's in a conversation between the Office of
7 Planning. We would prefer more flexibility so that we you
8 know, if we end up doing something outside of that, that
9 there's no issue there.

10 MEMBER SMITH: Okay. Mr. Jurkovic would you be
11 amenable to a condition that says special events that may
12 include but shall not be limited to free store cookouts,
13 indoor/outdoor movie screenings? Or does that conflict
14 with any concerns that you may have about adverse impacts?

15 MR. JURKOVIC: We really haven't contemplated
16 that, but at this moment I don't see any large issues with
17 being a little bit more flexible with that wording. I
18 think the applicant has thought thoroughly on how they
19 could you know, continue with the set events that they
20 have listed that would impact neighbors.

21 MEMBER SMITH: Okay.

22 MR. JURKOVIC: I would imagine they would do
23 the same with any other event they would plan.

24 MEMBER SMITH: Okay. All right. I guess we'll
25 discuss that as a Board. So thank you.

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1 BZA CHAIR HILL: Okay. I would agree with the
2 way you're thinking about this Mr. Smith.

3 I mean, Mr. Wallace basically your client just
4 needs the two special events per month, correct?

5 MR. WALLACE: Correct.

6 BZA CHAIR HILL: Until 10 o'clock. Yeah. So I
7 think whatever -- now I'm tired again. Whatever last
8 words you just said Mr. Smith. As all other that can
9 apply, or something. Whatever. That sounded good to.
10 But we can get to that. We can start talking.

11 Mr. Young is there anyone here wishing to
12 speak?

13 Okay. Mr. Wallace, is there anything you'd
14 like to add at the end?

15 MR. WALLACE: No. I just want to thank the
16 Board for their time and consideration.

17 BZA CHAIR HILL: Okay. And I remember we had a
18 very good hearing with your client and everything, so you
19 know, I wish them all the best of luck. And again, you
20 know they're younger than me and so I wish all the young
21 people including Mr. Smith all the help they can get.

22 Okay. All right. Thanks Mr. Wallace.

23 MR. WALLACE: Thank you.

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1 BZA CHAIR HILL: I'm going to close the hearing
2 and the record. Don't worry Mr. Smith. You won't get
3 that joke for a whole lot longer.

4 MEMBER SMITH: I know. I don't get it much
5 now.

6 BZA CHAIR HILL: That's right. The TV screen,
7 apparently it adds a lot of things. I was like you know -
8 -

9 MEMBER SMITH: It takes off about five or ten
10 years, right?

11 BZA CHAIR HILL: I know. Some people look
12 younger, some people look older. I don't know. All
13 right. You know, Mr. Smith why don't you go ahead and
14 help me with the deliberations here mainly because I've
15 been talking a lot today and also I appreciate the extra
16 worry to your condition, and I will wait to hear what you
17 have to say.

18 MEMBER SMITH: Sure. I agree with everything
19 that has been provided by the Office of Planning and the
20 applicant regarding how they meet the burden of proof for
21 us to grant it, the special exception, and it will not
22 have substantial adverse impacts.

23 I'm comfortable with the condition for the
24 standard hours of operation. I'm sure that was you know,
25 that was fleshed out between the two parties and the ANC.

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1 But I did want to provide some level of flexibility in the
2 type of special events that may occur at this particular
3 site that may be beneficial for this type of use and to
4 the broader community at large.

5 So I did want to modify the Office of
6 Planning's proposed conditions, one of them anyway
7 regarding -- it's condition number 3 in the said report
8 that they provided. I would recommend to phrase it as
9 special events including but not limited to free store
10 cookouts, indoor/outdoor movie screenings et cetera.

11 BZA CHAIR HILL: And two per month.

12 MEMBER SMITH: And two per month, yes.

13 BZA CHAIR HILL: All right. Okay. I will
14 agree with that discussion.

15 Commissioner Stidham?

16 COMMISSIONER STIDHAM: I completely agree, too.
17 I was going to suggest the same. So I'm ready to support
18 too.

19 BZA CHAIR HILL: Thank you, Commissioner.
20 Thank you for taking the time today. I know it's been
21 kind of like a busy day for you.

22 Let's see. So I'm going to let our esteemed
23 colleagues at legal help us with the wording with the
24 order. But the hours of operations are 9 a.m. to 9 p.m.
25 with some special events ending at 10 p.m. and then as Mr.

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1 Smith mentioned about the special events including but not
2 limited to free store cookouts, indoor and outdoor movie
3 screenings with the number of the special events limited
4 to two per month.

5 I would make a motion to approve Application
6 No. 21152 as captioned and read by the Secretary with
7 those noted conditions and ask for a second.

8 Mr. Smith?

9 MR. SMITH: Second.

10 BZA CHAIR HILL: The motion made and seconded.

11 Ms. Mehlert, could you take a roll call,
12 please?

13 MS. MEHLERT: And I just wanted to clarify.
14 Did you want to include design flexibility in your
15 approval?

16 BZA CHAIR HILL: Thank you. Thank you. Yes.
17 And the interior design flexibility as requested by the
18 applicant and as discussed by the Office of Planning in
19 their report concerning the community services center
20 within the cellar level so long as the area dedicated to
21 the use doesn't exceed 969.5 square feet.

22 And then the motion has been seconded and now
23 if you'll take a roll call.

24 MS. MEHLERT: Please respond to the Chair's
25 motion to approve the application.

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1 Chairman Hill?

2 BZA CHAIR HILL: Yes.

3 MS. MEHLERT: Mr. Smith?

4 MEMBER SMITH: Yes.

5 MS. MEHLERT: Commissioner Stidham?

6 COMMISSIONER STIDHAM: Yes.

7 MS. MEHLERT: Staff would record the vote as
8 three to zero to two to approve Application 21152 on the
9 motion made by Chairman Hill and seconded by Board Member
10 Smith.

11 BZA CHAIR HILL: Okay. Great. Thank you.
12 Okay. You guys unless you all have anything else.

13 Ms. Mehlert, do we have anything else?

14 MS. MEHLERT: Nothing else.

15 BZA CHAIR HILL: Okay. The Board is adjourned
16 and see you all next week.

17 (Whereupon the above-entitled matter went off
18 the record at 1:55 p.m.)

19

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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: 09-18-24

Place: teleconference

was duly recorded and accurately transcribed under
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