

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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REGULAR PUBLIC HEARING

+ + + + +

WEDNESDAY

OCTOBER 2, 2024

+ + + + +

The Regular Public Hearing of the District of Columbia Board of Zoning Adjustment convened via Videoconference, pursuant to notice at 9:35 a.m. EDT, Frederick L. Hill, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

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

ZONING COMMISSION MEMBER PRESENT:

ANTHONY J. HOOD, Chairperson
JOSEPH IMAMURA, AOC Designee

OFFICE OF ZONING STAFF PRESENT:

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

OFFICE OF PLANNING DEVELOPMENT REVIEW STAFF PRESENT:

RON BARRON
SHEPARD BEAMON
MAXINE BROWN-ROBERTS
CRYSTAL MYERS

OFFICE OF ZONING ATTORNEY ADVISORS PRESENT:

CARISSA DEMARE, ESQ.

The transcript constitutes the minutes from
the Regular Public Hearing held on October 2, 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. The Board of Zoning Adjustment will come to order. Today is 10/2/2024.

My name is Fred Hill, Chairman of the District of Columbia Board of Zoning Adjustment. Joining me today are Board Members Chrishaun Smith and Zoning Commissioners Anthony Hood, Dr. Imamura, and Rob Miller.

Today's meeting and hearing agenda are available on the Office of Zoning's website. Please be advised that this proceeding is being recorded by a court reporter and is also webcast live via WebEx and YouTube Live. The video of the webcast will be available on the Office of Zoning's website after today's hearing.

Accordingly, everyone who is listening on WebEx or by telephone will be muted during the hearing. Also, please be advised that we do not take any public testimony during our meeting sessions.

If you're experiencing difficulty accessing WebEx or with a telephone call-in, then please call our OZ hotline number at (202) 727-5471 to receive WebEx call-in instructions.

At the conclusion of a decision meeting session, I shall, in consultation with the Office of Zoning, determine

1 whether a full or summary order may be issued. A full order
2 is required when the decision it contains is adverse to a
3 party, including an affected ANC.

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

9 In today's hearing session, everyone who is
10 listening on WebEx or by telephone will be muted during the
11 hearing. Only persons who have signed up to participate or
12 testify will be unmuted at the appropriate time.

13 Please state your name and home address before
14 providing oral testimony or your presentation. Oral
15 presentation should be limited to a summary of your most
16 important points. When you're finished speaking, please mute
17 your audio so that your microphone is no longer picking up
18 sound or background noise.

19 Once again, if you're experiencing difficulty
20 accessing WebEx, call our OZ hotline number at (202) 727-5471
21 to sign up to testify.

22 All parties planning to testify in either favor
23 or in opposition should have signed up in advance. They will
24 be called by name to testify. If this is an appeal, only
25 parties are allowed to testify. By signing up to testify,

1 all participants completed the oath and affirmation as
2 required by Subtitle Y 408.7.

3 Requests to enter evidence at the time of an
4 online virtual hearing, such as written testimony or
5 additional supporting documents other than live video, which
6 may not be presented as part of testimony, may be allowed
7 pursuant to Y 103.13, provided that the persons making the
8 request to enter an exhibit explain:

9 A, how the proposed exhibit is relevant; B, the
10 good cause that justifies allowing the exhibit into the
11 record, including an explanation of why the requester did not
12 file the exhibit prior to the hearing pursuant to Y 206; and
13 C, how the proposed exhibit would not unreasonably prejudice
14 any parties.

15 The order of procedures for special exceptions and
16 variances are pursuant to Y 409. The order of procedures for
17 an appeal is pursuant to Y 507.

18 At the conclusion of each case, an individual who
19 is unable to testify because of technical issues may file a
20 request for leave to file a written version of the planned
21 testimony to the record within 24 hours following the
22 conclusion of public testimony in the hearing.

23 If additional written testimony is accepted, then
24 the parties will be allowed a reasonable time to respond as
25 determined by the Board. The Board will then make its

1 decision at its next meeting session, but no earlier than 48
2 hours after the hearing.

3 Moreover, the Board may request additional
4 specific information to complete the record. The Board and
5 the staff will specify at the end of the hearing exactly what
6 is expected and the date when persons must submit the
7 evidence to the Office of Zoning. No other information shall
8 be accepted by the Board.

9 Finally, the District of Columbia Administrative
10 Procedure Act requires that the public hearing on each case
11 be held in the open, before the public.

12 However, pursuant to Section 405(b) and 406 of
13 that act, the Board may, consistent with its rules of
14 procedures and the act, enter into a closed meeting on a case
15 for purposes of seeking legal counsel on a case pursuant to
16 DC Official Code Section 2-575(b)(4) and/or deliberate on a
17 case pursuant to DC Official Code Section 2-575(b)(13), but
18 only after providing necessary public notice in the case of
19 an emergency closed meeting after taking a roll call vote.

20 Madam Secretary, do we have any preliminary
21 matters?

22 MS. MEHLERT: Good morning. In terms of the
23 schedule today, Application No. 21163 of Kaeli
24 Michels-Gaultieri has been postponed to October 9, 2024.

25 Also, the Chairman has reviewed and granted

1 waivers to allow late filings into the applicable case
2 records pursuant to Subtitle Y Section 206.7 and Section
3 103.13.

4 Any other late filings during the course of
5 today's live hearing should be presented before the Board by
6 the applicant, parties, or the witnesses after the case is
7 called. Any other preliminary matters will be noted when the
8 case is called.

9 BZA CHAIR HILL: Thank you.

10 All right. Good morning, everybody. Nice to see
11 everyone in this virtual world.

12 (Whereupon, the above-entitled matter went off the
13 record at 9:40 a.m. and resumed at 9:43 a.m.)

14 BZA CHAIR HILL: Okay, great. I kind of have a
15 hard stop today at 5:00, so I'm going to do my best to get
16 us moving along. I think there's a chance it could be a
17 later day, but I hope not.

18 So that being said, if you could call our next
19 item, Madam Secretary?

20 MS. MEHLERT: Sure. Next the Board will address
21 party status requests for Application No. 21101 of Mendomas,
22 LLC. This is a self-certified application pursuant to
23 Subtitle X Section 901.2, for a special exception under
24 Subtitle U Section 203.1(h), to allow daytime care use.

25 This is a child development center for 82 children

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1 and 20 staff in a detached building. It's located in the
2 R-1B zone at 245 Peabody Street Northwest, Square 3388, Lot
3 811.

4 And there are three requests for party status in
5 opposition from Genell Anderson, Brandon Jamison, and Joshua
6 Toll. Each request also includes a request to accept an
7 untimely filing, since these were all submitted after the
8 originally scheduled hearing date.

9 BZA CHAIR HILL: Okay, great. Let's see. Could
10 the Applicant introduce themselves for the record if they can
11 hear me, please?

12 MS. WILSON: Alex Wilson from Sullivan & Barros,
13 on behalf of the Applicant in this case.

14 BZA CHAIR HILL: Okay. Is it Ms. Anderson, Mr.
15 Anderson? I don't know. Can you hear me?

16 MS. ANDERSON: Genell. Can you hear me?

17 BZA CHAIR HILL: Yes, I can hear you.

18 MS. ANDERSON: Okay, great. I'm Genell Anderson.
19 I'm at 211 Peabody Street Northwest.

20 BZA CHAIR HILL: Okay, great. Ms. Anderson, does
21 your camera work?

22 MS. ANDERSON: Um.

23 BZA CHAIR HILL: That's okay. That's okay if it
24 doesn't.

25 MS. ANDERSON: Hold on, hold on. I think I was

1 supposed to click this, right? Sorry about that. Did I do
2 that right?

3 BZA CHAIR HILL: There we go. Great.

4 MS. ANDERSON: All right.

5 BZA CHAIR HILL: Ms. Anderson, I don't know if
6 you've seen the regulations as to what party status means or
7 why you should be granted party status. However, do you
8 think you could tell me why you're more uniquely affected
9 than the rest of the general public?

10 MS. ANDERSON: Well, because I am in the middle
11 of 2nd Place and 2nd Street, right between the proposed
12 development and the charter school. And I truly believe that
13 because we're in R-1B. And the purpose of R-1B is to protect
14 quiet, residential areas now developed and to promote
15 suitable environment for family life. I've done some --

16 BZA CHAIR HILL: Ms. Anderson?

17 MS. ANDERSON: Yes.

18 BZA CHAIR HILL: Ms. Anderson, I'm sorry to
19 interrupt. We're just talking about party status right now.

20 MS. ANDERSON: Okay.

21 BZA CHAIR HILL: You've made your statement, and
22 I appreciate that. Let me just kind of work through this as
23 best I can.

24 Is Mr. Jamison around?

25 MR. JAMISON: This is Brandon Jamison here. I'm

1 the homeowner at 223 Peabody Street.

2 BZA CHAIR HILL: Okay, great. Thank you, Mr.
3 Jamison. Let's see. Mr. Jamison, again, the same question
4 to you. Could you tell me why you think you're more uniquely
5 affected than the general public?

6 MR. JAMISON: Sure. I own the home that's
7 directly adjacent to the property at 245 Peabody Street
8 Northwest. So I'm right next door.

9 I think that should the proposed CDC move forward,
10 I think I'm likely and my wife's likely to be impacted more
11 than any other neighbors in the area, particularly given the
12 fact that we are right next door. We have public parking
13 that we rely on right out front.

14 BZA CHAIR HILL: Okay. Mr. Jamison, I appreciate
15 it. I think you're going to get -- I think this will all
16 work out. I'm just trying to figure out the party status
17 issue, and then we'll come back to testimony.

18 MR. JAMISON: Okay.

19 BZA CHAIR HILL: Mr. Toll, can you hear me?

20 MR. TOLL: Yes, Chairman Hill. This is Joshua
21 Toll.

22 BZA CHAIR HILL: Great. Mr. Toll, where are you
23 located, please?

24 MR. TOLL: I'm at 6001 3rd Street Northwest. I'm
25 the homeowner there, along with my wife. And my back yard

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1 is directly next to the property at issue, including my
2 garage.

3 BZA CHAIR HILL: Okay, great. Thank you.

4 Okay. So just so you guys know where we are --
5 and I'm going to let the Applicant chime in here in a minute
6 -- what we're trying to determine is party status. And so
7 what that means is, if you were given party status, that
8 means that -- thanks for the time, Mr. Toll.

9 If you were given party status, you would be
10 allowed to testify as a party. That means that the Applicant
11 would make a presentation. You would then have an
12 opportunity to make a presentation. You would have an
13 opportunity to ask questions of the Applicant. You would
14 have an opportunity to ask questions of the Office of
15 Planning.

16 The Office of Planning is also going to give a
17 presentation. And then the Board -- and you'll be able to
18 ask questions of the Applicant, and the Applicant will be
19 able to ask questions of you.

20 And then at the end, depending upon time
21 constraints, sometimes we let those who are given party
22 status give a conclusion. The regulations only state that
23 the applicant gives a conclusion, but we tend to, in the
24 beginning, allow the parties that have party status to give
25 a conclusion. So in the beginning here now, what the Board's

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1 trying to figure out is whether or not we think you should
2 be eligible for party status.

3 In addition to that, your filings were late. And
4 when I say late, I mean that the original case was -- I don't
5 know. I can't remember when it was originally scheduled.
6 Your party status filing should have come in 14 days before
7 the original case.

8 And so I'm trying to figure out a little bit as
9 to why you're late. I'll start with that, and I'll start in
10 the same order of the introductions.

11 Ms. Anderson, can you explain why you were late?

12 MS. ANDERSON: I'm late because by the time I
13 attended the meeting, the group meeting, I found out that the
14 traffic statement was not completed. And so then there was
15 a postponement. And so I ended up filing -- I believe it was
16 8/12 or something like that originally.

17 So I was really dependent on our commissioners to
18 really run this thing, to try to help us out, but then I
19 found out -- and then it was postponed after our first
20 meeting. The Applicant postponed it from May to June, I
21 guess. There was a postponement.

22 And so I figured, well, let me hear what they have
23 to say in July. And nothing has changed. So then I said,
24 well, I need to fend for myself. I've been here since 1993.

25 BZA CHAIR HILL: Okay.

1 MS. ANDERSON: I need to present this myself.

2 BZA CHAIR HILL: Okay, great. Mr. Jamison, the
3 same question for you.

4 MR. JAMISON: Yes. I was relying on my ANC,
5 Michael Cohen, to represent my interests before the BZA. My
6 understanding is that my ANC's recommendations and written
7 report will be given great weight by the BZA.

8 My commissioner submitted a draft resolution that
9 included and reflected the concerns that I have as a neighbor
10 immediately adjacent to the property at 245 Peabody Street,
11 but his recommendation was not accepted within the last
12 couple of weeks.

13 The Commission dismissed and disregarded all of
14 my personal concerns and those of my neighbors as part of
15 that public meeting that was conducted. So as a result of
16 that, I am now pursuing party status to make sure that my
17 concerns and those of my neighbors are accurately reflected
18 in the record.

19 BZA CHAIR HILL: Thank you, Mr. Jamison.

20 Mr. Toll, the same question.

21 MR. TOLL: Yes. Thank you. Really, two things.
22 Firstly, I've attended every meeting that I've been invited
23 to. And we attended a meeting in July wherein me and other
24 neighbors raised serious concerns with the traffic study that
25 was conducted by the Applicant. We raised a number of

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1 questions. We were told that they would collect additional
2 data, perform some revisions.

3 And I would note that the revisions to the traffic
4 study were not submitted until September 19th. So we've had
5 very little time to study those revisions. And once we did,
6 we came to the conclusion that the traffic study was still
7 inherently flawed. We were able to get our request in only
8 a week after the traffic study was submitted.

9 And then secondly, I would emphasize that, as has
10 been stated, I was relying on my ANC. And it wasn't until
11 I attended a meeting on September 23rd that I, very
12 disturbingly, saw that the full ANC completely bulldozed our
13 concerns as neighbors who would be affected by this project,
14 which was very surprising.

15 That was really over the objection of our
16 representative, Michael Cohen. This event all took place on
17 September 23rd, and I got my request in three days later.

18 BZA CHAIR HILL: Okay, Mr. Toll. Thank you. And
19 I neglected -- is the commissioner here or one of the
20 commissioners?

21 MS. JOHNSON: Tiffani Nichole Johnson for ANC
22 4B-06 is on the call.

23 BZA CHAIR HILL: Okay, Commissioner Johnson. How
24 are you?

25 MS. JOHNSON: I'm good. And you?

1 BZA CHAIR HILL: Good. Good, thank you.

2 Okay. All right. Ms. Wilson, before the Board
3 starts to deliberate about party status, does the Applicant
4 have anything they'd like to say?

5 MS. WILSON: Yes, just a few things to add. So
6 this hearing was originally scheduled in April. We had a
7 meeting in February where we received a large number of
8 concerns and comments.

9 We ended up pushing this twice to continue the
10 discussions with the neighbors. And so I know sometimes the
11 Board does make exceptions in a first hearing, but this is
12 the third scheduled date.

13 There is no waiver of the deadline simply because
14 the person opposing lives next door, and certainly not
15 because there was an ANC vote less than two weeks before a
16 hearing. That does happen all the time. And so granting
17 party status in this case would prejudice only the Applicant.

18 We have no issues with the neighbors having
19 additional time to present beyond the typical three to five
20 minutes. It's about the formal party status requests that
21 will then push this to a full order, and it does feel like
22 these are last-minute requests given the time line here. So
23 it would prejudice the Applicant if party status requests
24 were granted.

25 BZA CHAIR HILL: Okay, all right. Commissioner

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1 Johnson, do you have anything you'd like to say about the
2 party status?

3 MS. JOHNSON: If I may just reiterate -- what my
4 formal testimony will state is that the concerns of the
5 neighbors were not dismissed at all in our resolution.

6 BZA CHAIR HILL: Okay. Commissioner, I'm just
7 trying to --

8 MS. JOHNSON: I defer to Ms. Wilson with regard
9 to party status.

10 BZA CHAIR HILL: Okay. Thanks, Commissioner.

11 So just so you guys know, Mr. Jamison, it's okay.
12 We're going to try to figure this out. Just so you all know,
13 if party status is granted and even if it's not granted, I'm
14 going to put this case at the end of the day. And so there's
15 going to be time for you all to think about what you want to
16 present as testimony one way or the other.

17 Okay, let's see. Dr. Imamura and Mr. Smith, these
18 are my thoughts on this particular issue. As far as the
19 waiving of the deadline, I don't really mind the deadline so
20 much in this particular case insofar as it has been postponed
21 a lot. And so I can understand why the public didn't
22 necessarily know what they wanted to do or what they didn't
23 want to do.

24 It was in April, then it was in February, and then
25 it was whenever it was. So you would have had to know that

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1 you were going to oppose this back in April. I think as a
2 member of the public, it might have been a little confusing.

3 However, I don't necessarily think that Ms.
4 Anderson is any more uniquely affected than some of the other
5 people on the street. What I would advise -- so I would be
6 voting against Ms. Anderson.

7 However, I would advise that if -- I will be
8 voting, however, or at least recommending party status for
9 Mr. Jamison and Mr. Toll because I think they are adjacent
10 enough to the property to understand that that is more of a
11 unique situation. And I think that that has been the
12 practice of the Board overall, but again, the waiver is not
13 because they are adjacent properties.

14 The waiver is because I think that, from the
15 testimony, it seems fair enough that they did apply last
16 week. This thing has been going around for a little while,
17 so I don't have an issue with that in this case. Although,
18 as I will say, I have voted against party status for being
19 late many times.

20 So those would be my thoughts. I'm going to turn
21 to Mr. Smith next.

22 MEMBER SMITH: We have voted against party status
23 for untimely filing for party status, but I agree with your
24 assessment on this, given that this has been continued
25 multiple times. There's been additional dialogue that has

1 been occurring since then.

2 Regarding the party status of Mr. Toll and Mr.
3 Jamison, I agree with you based on the testimony and based
4 on their unique position. Being that they're directly
5 adjacent to the property in question, I am inclined to give
6 party status.

7 And I agree with you that, based on the testimony
8 of Ms. Anderson, I'm not inclined to grant party status given
9 her distance away. There are multiple properties between her
10 and the property in question currently. And based on what
11 I heard, it didn't rise to the level that she was more
12 uniquely affected.

13 So I am inclined to grant party status to the two
14 that I just recently spoke about and to deny it to Ms.
15 Anderson.

16 BZA CHAIR HILL: Thank you.

17 Dr. Imamura?

18 COMMISSIONER IMAMURA: Thank you, Mr. Chairman.
19 I'll try to be succinct. I am in agreement with you and
20 Board Member Smith. I believe that Mr. Jamison and Mr. Toll,
21 due to their adjacency to the property, are more uniquely
22 affected.

23 I'm unconvinced by Ms. Anderson and her location
24 that she, too, is uniquely affected. So I'm certainly not
25 in support of Ms. Anderson, but again, in support of Mr.

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1 Jamison and Mr. Toll.

2 In terms of their untimely filing, as you pointed
3 out, Mr. Chairman, there's been a number of delays here. So
4 in order to follow this entire thread, you would have had to
5 know that you were opposing this at the very beginning.

6 It sounds as if they were willing to give the
7 Applicant some grace to make some improvement for their
8 traffic management study until they finally decided to file
9 in opposition. Given that there's already been some dialogue
10 here, it's just really a matter of aligning the timing here.
11 And it just didn't work out this time.

12 Anyhow, I'm prepared to vote in support of Mr.
13 Jamison and Mr. Toll.

14 BZA CHAIR HILL: Okay, great. Mr. Jamison, Mr.
15 Toll, do you guys know each other?

16 MR. TOLL: Yes.

17 MR. JAMISON: Yes.

18 BZA CHAIR HILL: Okay. And then do you know Ms.
19 Anderson?

20 MR. TOLL: Yes.

21 MR. JAMISON: Yes.

22 BZA CHAIR HILL: Okay, great. So then what I
23 would suggest -- we're going to have our day. And our day
24 is going to go on however long our day is going to go on.
25 The staff can maybe let you know how it's looking as to when

1 you might be coming on. I would suspect it's not going to
2 be any earlier than 1:00, 2:00.

3 And so if you all want to talk together, Ms.
4 Anderson can also be a witness for you or whatever you want
5 to do. And if you could kind of determine who would be the
6 presenter, the main presenter and then the other people can
7 give their testimony during your presentation, that would be
8 helpful to the Board. You don't want to necessarily repeat
9 all the same stuff, but still, everyone should have an
10 opportunity to give their testimony.

11 And also, Ms. Anderson, if you choose not to be
12 a witness or you don't want to be a witness, then you can
13 have three minutes as a member of the public to give your
14 testimony, but you can't do both. So just decide which way
15 you want to go. Either be a witness with Mr. Jamison and Mr.
16 Toll, or just give your three minutes of testimony on your
17 own.

18 Let's see. Did you all have any questions on
19 anything I just said?

20 Okay. All right, then I'm going to go ahead and
21 make a motion. I don't know if I have to make a motion,
22 Madam Secretary, but make a motion to -- I'll make the same
23 motion all the way around and then just try to get a second.
24 I'm making a motion to allow all of the party status filings
25 into the record. So that's number one.

1 Number two, I'm making a motion to deny party
2 status to Ms. Anderson; and then I'm making a motion to give
3 party status to Mr. Jamison and Mr. Toll, and ask for a
4 second.

5 Mr. Smith?

6 MEMBER SMITH: Second.

7 BZA CHAIR HILL: The motion has been made and
8 seconded, Madam Secretary. Could you take a roll call,
9 please?

10 MS. MEHLERT: Please respond to the Chair's three
11 motions to grant the request for untimely filing, deny party
12 status in opposition to Genell Anderson, and grant party
13 status in opposition to Brandon Jamison and Joshua Toll.

14 Chairman Hill?

15 BZA CHAIR HILL: Yes.

16 MS. MEHLERT: Board Member Smith?

17 MEMBER SMITH: Yes.

18 MS. MEHLERT: Dr. Imamura?

19 COMMISSIONER IMAMURA: Yes.

20 MS. MEHLERT: Staff will record the vote as 3-0-2
21 on the motions made by Chairman Hill and seconded by Board
22 Member Smith.

23 BZA CHAIR HILL: Okay, great. And I'll just kind
24 of make a point to everybody on this call. What you're
25 trying to do is focus on zoning issues.

1 Now, obviously, you all are not experts in zoning.
2 So I would imagine you'll try to do your best to keep it to
3 zoning issues, but if you think it's really not a zoning
4 issue, then we really don't want to hear about it.

5 I've seen some stuff in the record that's talking
6 about people's reputation and what people think of people and
7 all that stuff. That's not anything that we're going to be
8 talking about. And if it is, I'm going to stop you, just so
9 everybody knows.

10 All right, then we'll see you guys later this
11 afternoon. I'm going to close this portion of the hearing.
12 If you all get together and talk, that's great. And if you
13 can somehow resolve it with Ms. Wilson by 1:00, that's even
14 better. Try to do what you can do.

15 MR. TOLL: Sorry, Chair Hill. Will we get a phone
16 call from your staff alerting us as to when we should be back
17 on?

18 MS. MEHLERT: Yes.

19 BZA CHAIR HILL: We're going to do our best. It's
20 not going to be exact.

21 I don't even know if they have a phone number, Ms.
22 Mehlert, that they can call.

23 MS. MEHLERT: They can call the hotline number,
24 the (202) 727-5471, but staff will call when the case before
25 this one is going on so they have some heads up.

1 MR. TOLL: Thank you.

2 BZA CHAIR HILL: Great. Okay, great. All right,
3 you guys have a nice morning.

4 MR. TOLL: Thank you very much.

5 MR. JAMISON: Thank you.

6 MS. ANDERSON: Thank you.

7 BZA CHAIR HILL: Okay. That's that. Let's keep
8 chugging along.

9 MS. MEHLERT: Next in the Board's hearing session
10 is Application No. 21160 of Three Tables, The, LLC.

11 As amended, this is a self-certified application
12 pursuant to Subtitle X Section 1002, for a use variance from
13 Subtitle U Section 401, to allow a prepared food shop and
14 retail use in an existing non-conforming use, currently an
15 art gallery, on the first floor of an existing building.
16 It's located in the RA-2/DC zone at 1314 21st Street
17 Northwest, Square 69, Lot 228.

18 This hearing began on September 18th.
19 Participating are Chairman Hood, Board Member Smith, and
20 Chairman Hood.

21 BZA CHAIR HILL: Okay, great. Chairman Hood,
22 welcome. Is this a continued hearing? Yes, okay.

23 All right. If the Applicant could please
24 introduce themselves for the record?

25 MS. WILSON: Hi. Alex Wilson from Sullivan &

1 Barros, on behalf of the Applicant in this case.

2 BZA CHAIR HILL: Okay. Ms. Wong, do you want to
3 introduce yourself for the record?

4 MS. WONG: My name is Hollie Wong, owner of Ching
5 Ching Cha.

6 BZA CHAIR HILL: Okay, great. Ms. Wong, I love
7 the angle of the thing in the back. It's very artistic.

8 MS. WONG: Thank you.

9 BZA CHAIR HILL: You're welcome.

10 Okay. All right, let me see. Ms. Wilson, can you
11 tell us about some of -- can you outline these proposed
12 conditions and how you got to them?

13 MS. WILSON: Absolutely. So at the hearing, the
14 discussion was, how can we very narrowly tailor the
15 conditions to only allow this use?

16 And so the current approved use is an art gallery,
17 which is defined as an establishment that derives more than
18 50 percent of its income from the display and sale of objects
19 of art. One of the things we were debating with DOB is this
20 already meets this definition. We're just trying to add the
21 tea pouring and tea sales.

22 So the intent of the condition we proposed is not
23 to restrict or overburden that art gallery use, but to ensure
24 that this is maintained, that the principal use is
25 maintained.

1 BZA CHAIR HILL: I've got you.

2 MS. WILSON: That was the main request. And then
3 the rest are just related to what can be served and how it
4 can be served.

5 BZA CHAIR HILL: Yes, I see the conditions.

6 Is the Commissioner here?

7 MR. JOHNSON: Commissioner Matt Johnson, 2B-06.
8 I am here.

9 BZA CHAIR HILL: Great. Commissioner Johnson, did
10 you have any testimony to give?

11 MR. JOHNSON: I would just say that the Commission
12 does not have any objections to this application. We voted
13 unanimously to support it, and we hope that the Zoning
14 Commission will do the same.

15 BZA CHAIR HILL: Great. Thank you.

16 Is the Office of Planning here?

17 MR. BRADFORD: Yes.

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

20 MR. BRADFORD: Philip Bradford, Development Review
21 Specialist, the Office of Planning.

22 BZA CHAIR HILL: Thanks, Mr. Bradford. Mr.
23 Bradford, does the Office of Planning have any comments
24 concerning the proposed conditions?

25 MR. BRADFORD: No. The Office of Planning has

1 nothing to add.

2 BZA CHAIR HILL: Okay. Thank you.

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

4 Okay. I'm looking to my fellow Board Members.

5 Do you all have any questions to anybody and do you have any

6 comments before we deliberate about the conditions to anyone?

7 Okay, great. All right. I'll just kind of talk

8 through this a little bit. I thought that the conditions

9 were very succinct, and I appreciate the time that the

10 Applicant and her attorney has gone through in the process.

11 I do think that it really ties to the art gallery aspect, and

12 it makes me feel more comfortable with the application.

13 Before I excuse everyone, do my fellow Board

14 Members have anything they want to ask anybody?

15 Okay. All right. Then I'm going to close this

16 hearing and the record, and excuse everyone. Thank you.

17 Chairman Hood, are you just with us here for this

18 one?

19 ZC CHAIR HOOD: Yes, it's this one.

20 BZA CHAIR HILL: Is it? It's going to be a long

21 day, Chairman Hood. Chairman Hood, you're missing a day.

22 ZC CHAIR HOOD: Well, it's nothing I haven't

23 missed in the past.

24 BZA CHAIR HILL: All right. So I thought the

25 conditions, as I said -- I'm going to read over them.

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1 Actually, I'll read over them during the motion. I'm
2 comfortable with the conditions.

3 I was very concerned -- not concerned --
4 understanding how this was going to be tied to an art gallery
5 and not a prepared food shop -- sorry -- tied more to an art
6 gallery and not necessarily a restaurant or something like
7 that.

8 It's because this is going to run with the land.
9 So it is an art gallery, and it's going to stay an art
10 gallery, but there's just these conditions to be able to sell
11 tea in a way that's tied to the art gallery.

12 There was a letter in opposition concerning -- I
13 think it was rats and other things that really applied more
14 to a restaurant. I didn't think that that was necessarily
15 going to happen here because it was so tied to the art
16 gallery.

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

18 MEMBER SMITH: Well, I agree with you. My concern
19 was the same concerns that you raised. And I think the
20 conditions tie this use down to it continuing to be primarily
21 -- the primary use will be an art gallery.

22 With these particular conditions, it's showing
23 that the prepared food portion of this particular use will
24 remain ancillary to the primary use. So I'm comfortable with
25 moving forward with the use variance with these particular

1 conditions.

2 BZA CHAIR HILL: Thank you.

3 Chairman Hood?

4 ZC CHAIR HOOD: Yes. Thank you, Mr. Chairman.

5 I think, as stated by both you and Board Member Smith, the
6 conditions really help us get over that hurdle, which gave
7 us some pause.

8 And I think, as noted, this is a well-needed and
9 well-adored use for this community. So I'm glad with the
10 conditions, we were able to make this happen as opposed to
11 being an art gallery, which it looks like has overwhelming
12 support.

13 And I did look at the opposition, as you stated,
14 Mr. Chairman, about the rats. I don't know if we can germane
15 that to one particular business, not in the District of
16 Columbia. Thank you, Mr. Chairman.

17 BZA CHAIR HILL: Thank you, Chairman Hood.

18 Okay. I'm going to make a motion, then. Well,
19 I'm going to deliberate a little bit.

20 I appreciate the analysis that the Office of
21 Planning has provided, as well as the time that the ANC has
22 spent working with this, as well as the letters of support
23 that have been put forward by the community and the testimony
24 that we took in support of this the last time we were
25 together.

1 I'm going to make a motion to approve Application
2 No. 21160 as captioned and read by the Secretary, including
3 the conditions that: the maximum permitted number of seats
4 that may be occupied for any tea service is 17 seats;

5 Two, permitted beverage sales are limited to water
6 and tea; three, permitted food sales are limited to tea,
7 biscuits, and cookies, and no other food items are permitted
8 to be sold;

9 Four, the approved food and beverage item -- tea,
10 water, tea biscuits, and tea cookies -- may not be consumed
11 on-premises or taken to go. Tea may be consumed on-premises.
12 They're not to be taken to go. Tea may be taken to go in any
13 form -- loose tea, tea bags, brewed and poured into a to-go
14 cup.

15 Cooking equipment shall be limited to only that
16 equipment necessary to prepare and serve tea and accompanying
17 pre-made tea biscuits or cookies. No baking or cooking of
18 any biscuits or cookies is permitted on-site. The yearly
19 revenue from food and beverage sales may not exceed the
20 yearly revenue from the pottery gallery sales, artisan tea
21 wares, handicrafts, and unique gift items.

22 And ask for a second. Mr. Smith?

23 MEMBER SMITH: Second.

24 BZA CHAIR HILL: Motion made and seconded, Madam
25 Secretary. Would you take a roll call, please?

1 MS. MEHLERT: Please respond to the Chair's motion
2 to approve the application with conditions.

3 Chairman Hill?

4 BZA CHAIR HILL: Yes.

5 MS. MEHLERT: Board Member Smith?

6 MEMBER SMITH: Yes.

7 MS. MEHLERT: Chairman Hood?

8 ZC CHAIR HOOD: Yes.

9 MS. MEHLERT: Staff will record the vote as 3-0-2
10 to approve Application 21160 with conditions on the motion
11 made by Chairman Hill and seconded by Board Member Smith,
12 with two Board Members not participating.

13 BZA CHAIR HILL: Great. Thank you, Chairman Hood.
14 You have a good day.

15 ZC CHAIR HOOD: All right, you all have a great
16 day. Thank you.

17 BZA CHAIR HILL: Okay, give me one second. Oh,
18 Commissioner Miller. Everybody's here today. I'm all over
19 the city. Everybody is showing up. There's all kinds of
20 stuff. All right, give me half a second.

21 Okay. Madam Secretary, you can call our next
22 case.

23 MS. MEHLERT: Next is Application No. 21164 of
24 Christopher Mak. As amended, this is a self-certified
25 application for an area variance, pursuant to Subtitle X

1 Section 1002, from the rear yard requirements of Subtitle F
2 Section 207.1 and, pursuant to Subtitle X Section 901.2, for
3 special exceptions:

4 Under Subtitle U Section 421, to allow a new
5 residential development; under Subtitle C Section 305.1, to
6 allow multiple primary buildings on a single record lot; and
7 under Subtitle F Section 201.4, to allow an increase in floor
8 area ratio for a voluntary inclusionary development.

9 This is a new, six-unit apartment house with two
10 stories of cellar, including one IZ unit, on the same lot as
11 an existing apartment house. So five units in a
12 semi-detached building and two stories with basement. The
13 project is located in the RA-1 zone at 113 Wayne Place
14 Southeast, Square 6117, Lot 52.

15 This hearing began on July 31st. The Board
16 requested additional information from the Applicant and
17 continued the hearing to today. Previously participating
18 were Chairman Hill, Board Members John and Blake, and
19 Commissioner Miller. I believe Board Member Smith has
20 read-in and is participating today.

21 MEMBER SMITH: Correct.

22 BZA CHAIR HILL: Can you say that again, Mr.
23 Smith? I'm sorry.

24 MEMBER SMITH: Yes. I've read into the record and
25 have been sufficiently briefed. I will participate in this

1 particular case.

2 BZA CHAIR HILL: Thank you, Mr. Smith.

3 Could the Applicant please introduce themselves
4 for the record?

5 MR. MAK: Hello. I'm Christopher Mak. I'm the
6 owner of the building.

7 BZA CHAIR HILL: Great. Mr. Mak, do you have an
8 attorney or you're just trying to do this on your own?

9 MR. MAK: I'm here presenting on my own. I have
10 a team here with my architect and project manager, but I'll
11 be presenting it on my own.

12 BZA CHAIR HILL: Okay. I'm going to just talk to
13 my Board Members here a little bit because, Mr. Mak, there's
14 still some information that's missing from this before we can
15 actually, I think, hear this properly.

16 So the architect, who's your architect?

17 MR. MAK: Denver Terrance. He's on the call.

18 BZA CHAIR HILL: Mr. Terrance, could you introduce
19 yourself for the record?

20 MR. TERRANCE: Good morning. I'm Denver Terrance,
21 representing Mr. Mak here as the architect of record.

22 BZA CHAIR HILL: Great. Thanks, Mr. Terrance.

23 So what I've been understanding is that you all
24 haven't completely met the C 305.2 requirements. So
25 basically, what you're asking for is a theoretical lot

1 subdivision, and then you want to put a building on those two
2 lots.

3 You have to show us how the developmental
4 standards are not met for each theoretical lot. Where is it
5 that you need the relief for each individual lot? There is
6 no indication currently of the lot occupancy or the FAR on
7 each theoretical lot.

8 So we don't have the numbers that we could even
9 waive. We still don't have really what the numbers are for
10 each one of those individual theoretical lots.

11 Do you understand that, Mr. Mak?

12 MR. MAK: I guess my understanding was the
13 theoretical lot lines were more for the side yard variance.
14 Section 305.1 and 305.2 list a lot of the requirements under
15 a theoretical subdivision, but FAR and lot occupancy for each
16 individual theoretical lot should be considered as a whole
17 for the entire lot.

18 BZA CHAIR HILL: They need to be thought of for
19 each individual lot. And so you need to put a chart together
20 for each individual lot, for the lot occupants in the FAR for
21 each individual lot.

22 It shouldn't take the architect very long. And
23 so I think that's something that we could get into the record
24 relatively easily, and then you could make your case.

25 MR. MAK: Okay.

1 BZA CHAIR HILL: Mr. Terrance, do you understand?

2 MR. TERRANCE: I do understand. I think what Mr.
3 Mak said is how we interpreted. We were just doing a FAR for
4 the complete lot, not for each theoretical lot, but you're
5 right. It would be just a matter of plugging in some
6 numbers, doing some math to get the FAR for each particular
7 theoretical lot.

8 BZA CHAIR HILL: Okay. Give me one second here.

9 Madam Secretary, you're not talking about this
10 case for the ANC and the Office of Planning, correct?

11 MS. MEHLERT: That was the previous one.

12 BZA CHAIR HILL: Okay, got you. Thank you.

13 MS. MEHLERT: The ANC Commissioner is here for
14 this case as well.

15 BZA CHAIR HILL: Great. Commissioner, can you
16 hear me? And if so, could you introduce yourself for the
17 record?

18 MS. WILLIAMS: Thank you. I am Commissioner
19 Lakiah Williams, and I am here with ANC 8D-08.

20 BZA CHAIR HILL: Thank you, Commissioner.

21 MS. WILLIAMS: You're very welcome.

22 BZA CHAIR HILL: Let me see. Let's see how this
23 goes real quick. Mr. Smith and Commissioner Miller, would
24 you agree with everything that I've said?

25 MEMBER SMITH: Yes, I agree with everything that

1 you said. On the C 305.48(c), the table of zoning
2 information including required and proposed development
3 standards, that's kind of in line with what you're stating
4 here.

5 I didn't see it within the record. I believe Ms.
6 John may have asked for that in the previous hearing. So
7 since some of that's still outstanding, we maybe can't decide
8 this today, but I'm happy to continue with the testimony.

9 BZA CHAIR HILL: Mr. Terrance, did you see that
10 about the table? That's what I'm talking about.

11 MR. TERRANCE: I did not, but as we speak, I'm
12 punching numbers now to produce the FAR for each individual
13 theoretical lot.

14 BZA CHAIR HILL: I don't have that regulation in
15 front of me, Mr. Smith. Is there a table?

16 MR. MILLER: Mr. Chairman?

17 BZA CHAIR HILL: Go ahead, Commissioner Miller.

18 MR. MILLER: I'm sorry to interrupt.

19 Mr. Terrance, while you're looking toward the FAR
20 for each theoretical lot, could you also provide, when you
21 provide that other information, each theoretical lot's lot
22 occupancy as well?

23 MR. TERRANCE: For sure.

24 MR. MILLER: Thank you.

25 MEMBER SMITH: I believe there's even more

1 development standards other than that.

2 Mr. Terrance, did you provide the side yards, the
3 required side yards?

4 BZA CHAIR HILL: I'm sorry to interrupt you, Mr.
5 Smith.

6 Do you see the regulation that Mr. Smith is
7 referring to, Mr. Terrance, and it outlines the table?

8 MR. TERRANCE: Yes. We looked at it some time
9 ago. The actual side yard and rear setbacks, we did consider
10 that for each theoretical lot. And we produced a graphic
11 site plan that shows the relief we're requesting there.

12 MEMBER SMITH: Okay.

13 BZA CHAIR HILL: I'm trying to look up the
14 regulation.

15 MR. TERRANCE: Just to go through real quickly,
16 the only areas that we were not meeting the required setbacks
17 was for the rear yard setback for the new building, where
18 Zoning required it to be 20 feet. We were not able to get
19 20 feet, but we were able to get 13 feet in the rear yard
20 setback for the second theoretical lot.

21 BZA CHAIR HILL: So it's C, a table of zoning
22 information including required and proposed development
23 standards. It's the table that we're missing.

24 MR. MAK: Okay. Yes. I know we included a table
25 of the zoning information on the cover sheet of our site

1 plan. As we mentioned, we understood that to be applicable
2 to the whole lot and not theoretical lots independently. So
3 we can update that.

4 BZA CHAIR HILL: Got you, okay. Give me one
5 second here. I'm looking for the ANC.

6 Commissioner, do you want to give us your
7 testimony?

8 MS. WILLIAMS: Absolutely. Commissioner Williams
9 here. We voted with no objections on our 9/26 meeting this
10 past week. And we all voted unanimously for that particular
11 meeting in support of the project.

12 BZA CHAIR HILL: Okay. I'm looking at my fellow
13 Board Members. I guess we can have the hearing and then just
14 wait for that information before we make a vote. What would
15 you guys like to do?

16 MR. MAK: Yes, we can do that.

17 BZA CHAIR HILL: No. I'm sorry. I'm looking at
18 my Board Members.

19 MEMBER SMITH: Give me two seconds. Let me look
20 at their site plan really quickly because, obviously, I
21 wouldn't want to make this decision on the fly, given that
22 there are additional development standards that may need to
23 be reviewed.

24 BZA CHAIR HILL: I'd rather now -- now you've
25 already made me uncomfortable. So let's go ahead, and we'll

1 continue this. Okay.

2 So Mr. Terrance, get all of that information
3 that's necessary within C 305.2, okay? And then we'll come
4 back.

5 Madam Secretary, when could we come back?

6 MS. MEHLERT: Well, you could come back on the
7 23rd of October.

8 BZA CHAIR HILL: How many cases on the 23rd?

9 MS. MEHLERT: There are six hearing cases, one
10 expedited review, and one decision case.

11 BZA CHAIR HILL: Okay. Why do I think that you
12 said the 23rd was not going to be easy?

13 MS. MEHLERT: There's two cases that have party
14 status that day.

15 BZA CHAIR HILL: Okay. What about the 30th?

16 MS. MEHLERT: The 30th, there are seven hearing
17 cases.

18 BZA CHAIR HILL: But no party status?

19 MS. MEHLERT: There is one appeal. There's one
20 appeal.

21 BZA CHAIR HILL: Okay. Commissioner Miller, I
22 hate to do this. Do you mind coming back on the 23rd?

23 MR. MILLER: Sorry, Mr. Chairman. I would prefer
24 another date if possible.

25 BZA CHAIR HILL: Okay.

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1 MR. MILLER: It happens to be my birthday. I
2 think I am there for one case, but I was hoping that would
3 be a brief one and early on. If it's early on with the other
4 case I'm on, it could work.

5 BZA CHAIR HILL: If you have to be here anyway,
6 Vice-Chair Miller --

7 MR. MILLER: Yes, I'll have to be there. If you
8 can put them together first -- I don't know. I haven't
9 looked at the schedule. I don't know what you might have
10 promised other people. So if we can look at that, yes.

11 BZA CHAIR HILL: Commissioner, that will be our
12 birthday present to you.

13 MR. MILLER: Thank you. That's a very wonderful
14 present.

15 BZA CHAIR HILL: Mr. Smith?

16 MEMBER SMITH: I'm looking at the site plan here
17 just to provide some additional clarification. I do see your
18 zoning table, but I think it's just an open question of
19 whether that table is -- is that the theoretical lot, or is
20 that the entire lot currently?

21 So you probably want to drill down into this a
22 little bit more and provide that development standard
23 information for the theoretical lot, just provide that
24 clarification so we can move forward.

25 That would be helpful for the Office of Planning,

1 too, because they may want to take a look at this again just
2 to make sure that you're requesting the adequate relief
3 that's needed, just to be sure.

4 BZA CHAIR HILL: Each individual theoretical lot,
5 that's what we're looking for. And then now what Mr. Smith
6 is saying is that you might need more relief perhaps. I
7 don't know. And so then you've got maybe check again with
8 the Office of Planning real quick.

9 Is the Office of Planning here? Mr. Beamon?

10 MR. BEAMON: Yes.

11 BZA CHAIR HILL: Great. Could you introduce
12 yourself for the record?

13 MR. BEAMON: Yes. Shepard Beamon with the Office
14 of Planning.

15 BZA CHAIR HILL: Great. Mr. Beamon, Mr. Terrance
16 will try to get with you before we come back on the 23rd to
17 make sure, with the two individual theoretical lots, that
18 there's no more issues.

19 Mr. Terrance, I didn't look at this one just yet,
20 but the site plan has to be for both individual theoretical
21 lots. And then if the Office of Planning wants to provide
22 a supplemental, they may. Otherwise, we have it in there if
23 there's not anything else they need to add.

24 Madam Secretary, is there any dates I need to give
25 in order to get us back here by the 23rd?

1 MS. MEHLERT: If the Applicant could submit their
2 filings by October 10th, then the ANC and OP could submit by
3 the 17th if they wanted to.

4 MR. TERRANCE: That should be no problem. We'll
5 have our information.

6 BZA CHAIR HILL: And I've got to look to my fellow
7 Board Members also, Mr. Smith -- thank you -- or Mr. Miller.
8 Is there anything else? I don't want to do this again.
9 Commissioner Miller?

10 MR. MILLER: I agree with everything that's been
11 said. I appreciate the Applicant's responses to these
12 requests.

13 I also appreciate the Applicant working with the
14 ANC 8D since our last hearing in July to garner their
15 support, and I appreciate all the work that the ANC has done
16 in this case. I appreciate the Applicant's previous
17 responses to Office of Planning's previous requests prior to
18 that hearing and going forward.

19 In addition to all of the things that you've
20 outlined, that zoning table and each theoretical lot, do we
21 need a grading plan? Is a grading plan in the record? You
22 said is there anything outstanding. I want to make sure we
23 have everything, and they don't have to go back again and
24 respond.

25 I guess I'm asking the Office of Planning and the

1 architect. Does U 421.4, which the new residential
2 development is seeking relief under, and the C 305.4(g)(5),
3 which is the multiple primary buildings on a single lot, do
4 they require grading plan, an existing grading plan and
5 final? Do we need that in the record if it isn't there?

6 BZA CHAIR HILL: That's what it says. Actually,
7 I'm just going to cut to what I understand also. Thank you,
8 Vice-Chair Miller.

9 The grading plan, existing and final for each
10 theoretical lot. Okay, Mr. Terrance?

11 MR. TERRANCE: Got it, got it.

12 BZA CHAIR HILL: Thank you, Commissioner Miller.
13 Thank you, Mr. Smith.

14 Commissioner Williams, are you running unopposed?

15 MS. WILLIAMS: No.

16 BZA CHAIR HILL: Are you running unopposed?

17 MS. WILLIAMS: I am not running.

18 BZA CHAIR HILL: You're not running?

19 MS. WILLIAMS: No.

20 BZA CHAIR HILL: Was it one term? How many terms?

21 MS. WILLIAMS: It was one term.

22 BZA CHAIR HILL: One term? Are you moving out of
23 the SMD?

24 MS. WILLIAMS: I am not. I'll still be around.

25 BZA CHAIR HILL: We lost you right away, huh? All

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1 right. Thanks for the two years.

2 MS. WILLIAMS: No problem.

3 BZA CHAIR HILL: All right. Anyone else before
4 we let everybody go? Okay. We'll see you guys back here on
5 the 23rd.

6 And Commissioner Miller, I'm sorry. We'll see you
7 then, too. We'll do it first thing, okay?

8 MR. MILLER: Have a great rest of your day.

9 BZA CHAIR HILL: Thank you.

10 MR. TERRANCE: Thank you.

11 BZA CHAIR HILL: Are you gone, Commissioner
12 Miller, or are you still with us?

13 MR. MILLER: I think so, unless there's something
14 that --

15 BZA CHAIR HILL: No. You've got one more.

16 MR. MILLER: -- says I need to be here for
17 something.

18 BZA CHAIR HILL: Maybe I'm wrong.

19 MR. MILLER: I think I'm --

20 MS. MEHLERT: You're done for today, Commissioner
21 Miller.

22 MR. MILLER: Thank you. I'll consider myself
23 dismissed. Thank you.

24 BZA CHAIR HILL: Thank you. Bye-bye.

25 All right. Well, if that's the case, I thought

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1 I was going to -- okay. What number are we on? Okay. If
2 that's the case, let's take a quick break. Get a coffee.
3 See you all in ten minutes.

4 (Whereupon, the above-entitled matter went off the
5 record at 10:32 a.m. and resumed at 10:49 a.m.)

6 MS. MEHLERT: The next case in the Board's hearing
7 session is Application No. 21010 of NL 1271 5th ST, LLC. As
8 amended, this is a self-certified application pursuant to
9 Subtitle X Section 901.2, for special exceptions:

10 Under Subtitle C Section 703.2, from the minimum
11 parking requirements of Subtitle C Section 701.5; under
12 Subtitle C Section 909.2, the loading requirements of
13 Subtitle C Section 901.1; under Subtitle C, Section
14 1501.1(d), to allow a eating or drinking establishment
15 located within penthouse-habitable space; and under Subtitle
16 G Sections 207.14 and 5200, from the rear yard requirements
17 of Subtitle G Section 207.9.

18 This project is a new, seven-story building with
19 basement, penthouse, and roof deck, for use as a hotel with
20 approximately 130 hotel rooms, with an eating/drinking
21 establishment and ground floor retail and/or service uses.
22 The project is located in the PDR-1 zone at 1271 5th Street
23 Northeast, Square 3591, Lot 3.

24 This hearing was originally scheduled for December
25 13, 2023, and was postponed twice at the Applicant's request.

1 At the July 31st hearing, the Board postponed the hearing to
2 today.

3 BZA CHAIR HILL: Great. Thank you.

4 Let's see. If the Applicant can hear me, could
5 they please introduce themselves for the record?

6 MR. UTZ: Jeff Utz, Land Use Counsel for the
7 Applicant.

8 (Simultaneous speaking.)

9 BZA CHAIR HILL: I'm sorry.

10 MR. ALLEN: It's all right. Reynolds Allen with
11 EDENS, the Applicant.

12 BZA CHAIR HILL: Okay. So Mr. Utz, I think we're
13 going to have a disagreement here, but we can talk through
14 it. I still think that this is not something that we can
15 necessarily vote on, or at least I'm not comfortable voting
16 on it.

17 I know that the last time you were here, you guys
18 were still going through the Zoning Commission, I think. I'm
19 not even sure where you were, but the order's not in effect
20 at this point. And I still know that you don't know probably
21 when it's going to be in effect. It may be probably -- I'm
22 just taking a guess -- January or February. I don't know
23 exactly.

24 I'm looking at my Board Members. I know that Mr.
25 Smith, who I work with all the time, we definitely haven't

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1 approved anything when we're not really allowed to approve
2 anything yet. And you'd still have to wait for DOB anyway
3 before you could actually get your permits until the thing
4 went into effect.

5 I don't mind, I guess. This is where Mr. Smith
6 -- I know if Ms. John or Mr. Blake may be here, I might have
7 gotten a different answer. I don't know what Mr. Smith
8 thinks to hearing the case since everybody's here and then
9 we can vote when it takes into effect -- and I'll let Mr. Utz
10 argue his case -- or just kicking it down again until the
11 order takes into effect.

12 And before Mr. Smith gives us his opinion and/or
13 Commissioner Imamura, we'll let Mr. Utz give us his argument.

14 MR. UTZ: Thank you, Chair. So you would like me
15 to go ahead and kind of encapsulate our position on this now?

16 BZA CHAIR HILL: Yes, Mr. Utz. I saw the whole
17 thing about like timing and blah, blah, blah, but you can't
18 get your permits anyway until this takes effect. So I don't
19 see what that does for you, but you can go ahead and make
20 your argument.

21 MR. UTZ: Sure. Thank you. Well, thank you all
22 for putting this on the agenda. I know that there was some
23 discomfort last time, so we do appreciate the opportunity to
24 talk today.

25 We did submit, essentially, an overview of our

1 argument on this point on September 3rd. That's Exhibit 27
2 in the record. I can run through the highlights on that.
3 I'm happy to talk about this.

4 There's kind of a lot here, and there's a lot
5 behind why we need this to go forward now, the Applicant
6 needs this to go forward now, on the kind of business side
7 of it. And I can let Reynolds speak to this more after I
8 provide the legal overview.

9 There is a very time-sensitive sequence of events.
10 We wouldn't even prepare construction drawings to submit for
11 permit before we have certain assurances that we have the
12 Board's approval, if we're so fortunate as to get it. So
13 there is this kind of sequence where we wouldn't even be able
14 to approach DOB to submit for permit because our drawings
15 wouldn't be ready.

16 We would actually wait to have our entitlements
17 in place from the Board before we would start typically on
18 construction drawings and make that very significant
19 investment to even get in a place where we could file for
20 permit. So there's this kind of sequential, essentially
21 regimented due to the investment necessary, a process that
22 still awaits this project.

23 So this is a key step. It is the current key step
24 for us. That's what's behind the urgency, and then the other
25 part of that is the business underpinning of the project

1 itself.

2 Financing is very difficult to get in this
3 environment. The Applicant has that arranged, and so there's
4 a certain inertia that needs to encompass that to make this
5 project go forward as soon as possible while all those
6 factors are in place. I can let Reynolds speak to that a
7 little more.

8 MR. ALLEN: Yes, thank you. Thank you, Jeff.

9 And thank you for letting us speak today on this.
10 We understand that if a vote was taken, it would still be
11 contingent on the Zoning order being issued. And we are
12 comfortable with that risk and that understanding, primarily
13 because we need to remove this uncertainty to be able to move
14 the project forward.

15 With the uncertainty of knowing if the special
16 exceptions will be granted, we can't move forward to get a
17 partner in place. We can't move forward to get financing in
18 place with that partner. Therefore, the project just stalls
19 and does not move forward until this is determined.

20 So we would ask that the Board considers reviewing
21 it, taking a vote on it, conditioning it on that written
22 order. That would allow us to then know there is support,
23 and we would be able to proceed forward.

24 Just for additional context, EDENS did not develop
25 this project alone. We are not hotel developers. We have

1 hotel partners lined up waiting for this decision to
2 determine if they will proceed forward or not. And until
3 that happens, we can't move anything forward.

4 So I plead with the Board to consider at least
5 hearing it, taking a vote, and conditioning that vote on the
6 written order being issued and finalized, which we have
7 received a lot of community support. We've received support
8 from all of our neighbors. We've got the Zoning Commission
9 approval in place and just awaiting that order.

10 So if that's possible, we would be very
11 appreciative in order to see how we can make this project
12 continue forward. We've been trying to get to this point for
13 nearly two years.

14 MR. UTZ: And I can provide some more of the legal
15 backing behind why we believe the Board is able to move
16 forward with a hearing and a vote today.

17 If we could pull up the presentation, we do have
18 some slides that just kind of show the property, so putting
19 it in context, but then there is one particular slide that
20 might be helpful to show some thoughts around maybe --

21 BZA CHAIR HILL: Mr. Utz, is that in Exhibit 31?

22 MR. UTZ: Yes.

23 BZA CHAIR HILL: Which slide?

24 MR. UTZ: We could just pull up the first page for
25 now, but then I do think we can quickly turn after some other

1 remarks to slide 3. It just kind of shines a light on
2 something in particular.

3 So this rationale is in Exhibit 27, which is from
4 September 3rd, but it kind of gives an overview of why we
5 think the Board can hear this today and, ideally, could take
6 a vote today.

7 First, as you mentioned, Chair Hill, the Zoning
8 Commission has taken final action in the map amendment case.
9 That happened on September 12th. At the time of our hearing
10 on the 31st, the Zoning Commission had taken proposed action,
11 but not final action. So there is that additional level of
12 certainty now that didn't exist then.

13 The issuance of a written order is next, and that
14 is going to be administrative. Although, as you mentioned,
15 waiting for that issuance is going to cause significant
16 delay, and it is very likely harmful for this project.

17 Secondly, the relief here actually does not depend
18 on the zone in effect. We are seeking relief for a
19 penthouse, eating and drinking establishment use, which would
20 be the case no matter the zone. We are seeking relief for
21 parking and loading. That would apply whether the zone is
22 MU-8B or PDR-1.

23 And finally, the rear yard relief is required in
24 both zones. And the formula for that rear yard is the same
25 in both zones. The uses contemplated are matter-of-right in

1 both zones, although the parameters of the project would be
2 different. It would actually be smaller under
3 matter-of-right. So to the extent a modification would be
4 needed, it would come in as a smaller set of asks.

5 Third, the zoning regulations are set up to allow
6 an applicant to apply the zoning regulations in effect at the
7 time of the Board's vote or at the time of an application for
8 a building permit.

9 There is language in Subtitle A that sets up that
10 dynamic. In this instance, the Applicant would be applying
11 the MU-8B provisions, which in all likelihood would be those
12 in effect at the time the application is in for a permit.

13 Fourth, the Board regularly does approve
14 applications while there are pending changes to the Zoning
15 Regulations or entitlement approvals that are required
16 before, or at the same time, a BZA approval can be
17 implemented.

18 There are about a half-dozen or more pending
19 amendments right now that could affect the status of pending
20 BZA cases, but it typically doesn't hamper the Board's
21 ability to go forward with those and make the decisions that
22 they make.

23 The Board also hears and approves cases that are
24 contingent on other approvals, including the Public Space
25 Committee, the Old Georgetown Board, the Historic

1 Preservation Review Board, or others. A case before the
2 Board that also requires HPRB approval could not proceed as
3 proposed and approved by the Board unless and until HPRB
4 signs off on that project as well.

5 If the Board would approve a project and HPRB
6 subsequently does not approve a project, then that applicant
7 would need to be returned to the Board for a modification
8 approval. The same is true here. If somehow the Zoning
9 Commission's map amendment is overturned, which we think is
10 exceedingly unlikely here, the Applicant would have the
11 ability to return to the Board to modify the project.

12 Fifth, it is noteworthy that the Zoning Commission
13 also hears cases and grants zoning relief and approves
14 projects in a similarly at-risk or contingent posture. A PUD
15 that is accompanied by a map amendment is reviewed by the
16 Commission before the map amendment becomes effective.

17 And the Commission regularly does grant approval
18 for building envelopes, including zoning relief, prior to the
19 effectiveness of a PUD-related map amendment when the
20 building envelopes depend on those map amendments to be
21 permitted. In these cases, the map amendments do not become
22 effective until the recordation of a covenant with the
23 Recorder of Deeds, which typically happens well after the
24 Commission votes and even after the order comes out.

25 In fact, the PUD covenant needs the order attached

1 to it to be recorded and effectuated. So the Commission
2 makes this sort of determination all the time before the map
3 amendment is actually even approved, let alone effectuated.

4 Lastly -- and this is where it would be great to
5 show slide 3, please -- the Applicant is willing to expressly
6 condition the effectiveness of the Board's order, if we would
7 be so fortunate as to get it.

8 Can you go one more slide, please? Thank you.
9 That's good. That's the one that we are talking about right
10 now.

11 We would be willing to insert this condition that
12 would expressly dictate that the effectiveness is based on
13 the Zoning Commission's issuance of a written order amending
14 the map amendment. That condition can address the concern
15 about ripeness here. The Zoning Regulations don't require
16 that condition. It's just suggested to provide an extra
17 level of comfort here.

18 In sum, we understand this is a bit unusual in
19 nature, but we do request that there is a hearing today. We
20 would love to present the application. And we would really
21 appreciate the opportunity to get a vote from the Board.

22 BZA CHAIR HILL: Okay. Thanks, Mr. Utz. I'll
23 tell you what, Mr. Utz. I'm going to do the best I can. I'm
24 going to go have an emergency meeting right now and talk to
25 legal, and then see what others' thoughts are. And we can

1 talk about it.

2 There's no reason why I would care. I should say,
3 as I said the last time, it looks like a great project.
4 We've reviewed the record already. We know the area. I
5 don't live far away.

6 I'd love to move forward, but the issue that I'm
7 having is kind of the precedent that I'm setting. You've
8 made a very nice argument, and I agree with it to a certain
9 extent. So let me do my little thing here.

10 Do you all mind if I do the emergency meeting?
11 And if so, raise your hand.

12 Okay. As Chairperson of the Board of Zoning for
13 the District of Columbia, in accordance with 407 of the
14 District of Columbia Administrative Procedure Act, I move
15 that the Board of Zoning Adjustment hold a closed meeting on
16 10/2/2024 for the purposes of seeking legal counsel on
17 Application No. 21010, to deliberate upon, but not vote on,
18 21010.

19 Is there a second, Mr. Smith?

20 MEMBER SMITH: Second.

21 BZA CHAIR HILL: The motion made and seconded.
22 Madam Secretary, take a roll call, please?

23 MS. MEHLERT: Please respond to the Chair's motion
24 to hold an emergency closed meeting with legal.

25 Chairman Hill?

1 BZA CHAIR HILL: Yes.

2 MS. MEHLERT: Board Member Smith?

3 MEMBER SMITH: Yes.

4 MS. MEHLERT: And Dr. Imamura?

5 COMMISSIONER IMAMURA: Yes.

6 BZA CHAIR HILL: Okay, great. Sorry. Go ahead,
7 Madam Secretary.

8 MS. MEHLERT: Staff will record the vote as 3-0-2
9 to hold the closed meeting.

10 BZA CHAIR HILL: Thanks.

11 As it appears the motion has passed, I hereby give
12 the notice to the Board of Zoning. We'll recess this meeting
13 today at 10/2/2024 at 11:05 to hold a closed emergency
14 meeting pursuant to the District of Columbia Administrative
15 Procedure Act. A written copy of this notice will be posted
16 in the Jerrily R. Kress Memorial Hearing Room at this time.

17 Okay, see you guys in a little bit. Thank you.

18 (Whereupon, the above-entitled matter went off the
19 record at 11:05 a.m. and resumed at 11:15 a.m.)

20 MS. MEHLERT: The Board has returned from its
21 emergency closed meeting on Application No. 21010 of NL 1271
22 5th ST, LLC.

23 BZA CHAIR HILL: Okay, great. Thanks.

24 Before we deliberate on whether or not we're going
25 to hear this today, does the Board have any questions of the

1 Applicant?

2 Okay. Then in that case, who would like to start
3 the deliberation? I can sum up what I know.

4 Go ahead, Mr. Smith.

5 MEMBER SMITH: So I appreciate the comments that
6 were provided by Mr. Utz, the Applicant, regarding this.
7 Based on the information at hand, the Board of Zoning
8 Adjustment is only allowed to act on the zone as it exists
9 at the time of when we're reviewing and approving that
10 particular case.

11 The zoning that exists at this particular time is
12 PDR-1. So the request before us is special exceptions for
13 a zone that, while the map amendment has been approved by the
14 Zoning Commission, it is currently not in effect.

15 I believe that at this particular time, we cannot
16 legally act on the requests before us for the special
17 exceptions for the MU-8 zone. So at this particular time,
18 my position is to continue this until after that zone has
19 been enacted. That's my particular position.

20 BZA CHAIR HILL: Thank you, Mr. Smith.

21 Dr. Imamura?

22 COMMISSIONER IMAMURA: Chairman, I certainly
23 appreciate and am empathetic of the situation of the
24 Applicant.

25 Mr. Utz, thank you for your perspective and point

1 of view. I agree with Board Member Smith, as much as I'd
2 like to help expedite.

3 I understand your strategy here. Once the order
4 is written, you can act immediately. It also provides some
5 assurances for investors, as you explained, but we have a
6 process here. It's something that we've got to follow. I'm
7 personally happy to hear the merits after the zoning law has
8 been issued.

9 I've reviewed your application here. In my mind,
10 down the road it may be a pretty straightforward case, but
11 right now, I don't believe that the Board is in a position
12 or has the authority to review this absent an official Zoning
13 order issued.

14 BZA CHAIR HILL: Okay. Thanks.

15 I will repeat what was said by my other colleagues
16 in terms of I will agree with them. And at the same time,
17 I appreciate, Mr. Utz, what you're trying to do for your
18 client. It is something that we have never done before. And
19 so, I don't want to start to do it now, really.

20 I will, again, reiterate what I think I kind of
21 said the last time, but I'll be a little bit more clear about
22 it. You have gone through the process and your client's gone
23 through the process wherein they've already presented before
24 the ANC, and they have received approval. They've already
25 presented before the Office of Planning, and they have

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1 received approval. They've already presented before the
2 Zoning Commission, and they've received approval.

3 So I'm kind of speaking to the people that are
4 your investors or have concerns about moving forward. I
5 obviously can't say what the Board is necessarily going to
6 do, but all indications look as though it'll be a
7 straightforward case when this order is published.

8 What I suggest as to when it is put into effect
9 is take a guess as to when -- and Mr. Utz, you might know
10 better than I, if you have any idea as to when this thing
11 might take effect. Do you know when it might take effect?

12 MR. UTZ: We don't. It is a guessing game for us.
13 It probably is Q1 2025, although we're not certain. It's
14 really up to the Office of Zoning at this step.

15 We've drafted the order, and it exists in the
16 record. And it is fairly straightforward. That case was
17 also supported all across the line, by all stakeholders.
18 Theoretically, it could be streamlined, but it is kind of a
19 first-come, first-served sort of queue. So we're kind of
20 subject to that instrumentality.

21 If there would be an appetite for it -- it sounds
22 like this is not what was just discussed, but if there would
23 be an appetite for it, we would appreciate the opportunity
24 to have a hearing today and perhaps not to vote, if that
25 would be --

1 BZA CHAIR HILL: I appreciate it, Mr. Utz. Even
2 that, Mr. Utz, doesn't seem to be -- if I thought it would
3 really help you necessarily, I don't even know if I could
4 convince my fellow Board Members, to be quite honest, because
5 it would be something then we would have to have an argument
6 with the next person that comes down the line that's in a
7 similar situation.

8 And so I'm not inclined to do that. What I am
9 inclined is to do everything I can to make this as efficient
10 and feasible for your client.

11 So what I would suggest is we'll go ahead -- I
12 doubt you'll be ready, but we'll go ahead and put you on for
13 maybe -- what do you think is -- you can have the first
14 hearing in January if you want. I don't know if you think
15 that -- and then you just go ahead and postpone if you still
16 don't have what you need.

17 Mr. Utz, I'm looking to you. What do you think
18 would be the earliest that you'd even have a shot?

19 MR. UTZ: I do think it's feasible that the order
20 is out in that time frame. So we would take the earliest
21 hearing that we could get along those lines.

22 BZA CHAIR HILL: The first one is the 22nd of
23 January, I believe, correct, Madam Secretary? What does the
24 22nd of January look like for us right now?

25 MS. MEHLERT: It is open.

1 BZA CHAIR HILL: Okay, great. Dr. Imamura, you're
2 smiling. Our stuff is jammed up so far that even the first
3 one in January is not -- whatever.

4 Mr. Allen, I'll get to you.

5 Ms. Mehlert, that's what you've got.

6 So go ahead, Mr. Allen.

7 MR. ALLEN: This is just a question generally to
8 everybody. Is there a chance that this could happen sooner?
9 I am dancing here to try to keep this project alive.

10 Is it possible that there would be an opportunity
11 to be on November or December? And if those who are working
12 on the written order can help move it along quickly, that we
13 could come in sooner?

14 BZA CHAIR HILL: Mr. Utz is shaking his head as
15 though he thinks that that's a possibility.

16 Mr. Utz, I will do my best to at least put you in
17 a situation where you can say yes or no.

18 And Mr. Allen, I know that how you got yourself
19 to this point is not what we also want for you, but we're
20 doing the best we can. If you know somebody different or
21 some other way to get that thing sooner, there you go, but
22 now I just made somebody else have a problem.

23 So Mr. Utz, what do you think? November? I don't
24 know.

25 MEMBER SMITH: We can kick it to November and see

1 if the order is out, but if the order is not out, you're
2 kicked again. So if you want to just try to keep it on the
3 calendar at an earlier date on the hope that an order comes
4 out, we can do that, but we will not act on this before the
5 order.

6 MR. UTZ: That would be our preference, yes, if
7 we could be inserted onto a November date.

8 BZA CHAIR HILL: That's fine. So then we're in
9 October whatever, right.

10 And I'm just looking at Madam Secretary. If this
11 is as clean as possible, it's still going to take me 20
12 minutes. I have to think about what we've got. So you let
13 me know, Madam Secretary, where I can find 20 minutes.

14 MS. MEHLERT: You may be able to find it on
15 November 20th.

16 BZA CHAIR HILL: Okay, great, just before
17 Thanksgiving. So let's do 11/20, and let's see if we're all
18 thankful.

19 MEMBER SMITH: Well, let's not promise 20 minutes.
20 We really haven't heard the merits. So whatever it takes.

21 BZA CHAIR HILL: I'm trying to plan my day, and
22 I agree, Mr. Smith.

23 Mr. Utz, you're still going to have to earn your
24 money, apparently, when you come back to us. So don't cheat
25 us. Don't cut us short. All right, so we'll start you on

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1 the 20th and see what happens.

2 MR. UTZ: Thank you.

3 BZA CHAIR HILL: And I would like to reiterate,
4 for the record, yes, Mr. Smith. I am very much going to take
5 a very close look at the regulations as they are before me
6 when this case actually does come before us. And I want to
7 be very clear to that. I did not mean to be flippant.

8 All right. We'll see you guys on 11/20,
9 hopefully.

10 MR. UTZ: Thank you.

11 BZA CHAIR HILL: Thank you.

12 All right, let me see. Yes, Mr. Smith, I
13 appreciate that clarification. I don't want anybody to be
14 like, really?

15 MEMBER SMITH: Right.

16 BZA CHAIR HILL: Okay, that's that. We actually
17 haven't done anything today yet. I think we did an expedited
18 review of something. I don't know. We did something.

19 Okay, let's have a hearing. Go ahead, Madam
20 Secretary.

21 MS. MEHLERT: Application No. 21173 of Kara
22 Naseef. This is an application pursuant to Subtitle X
23 Section 901.2 for a special exception under Subtitle D
24 Section 5201, from the rear yard requirements of Subtitle D
25 Section 207.1.

1 This is for a one-story rear deck addition to an
2 existing, two-story, attached, principal dwelling located in
3 the R-3 zone at 4458 Greenwich Parkway Northwest, Square
4 1351, Lot 174.

5 This was removed from the July 24th Expedited
6 Review Calendar at the request of ANC SMD Commissioner JP
7 Szymkowicz for 3D-07. There was also an incomplete request
8 for party status from Commissioner Szymkowicz. However, the
9 ANC Chair submitted a letter noting ANC is not weighing in
10 on this case, and Commissioner Szymkowicz had not heard any
11 opposition.

12 BZA CHAIR HILL: Great. Thank you.

13 If the Applicant is here, if they could please
14 introduce themselves for the record?

15 MS. NASEEF: Hi. This is Kara Naseef from 4458
16 Greenwich Parkway Northwest.

17 BZA CHAIR HILL: Okay, Ms. Naseef. Are you
18 presenting before us?

19 MS. NASEEF: No. I don't have anything additional
20 to present unless you had any questions for me.

21 BZA CHAIR HILL: Okay. We'll get to you in one
22 second then, Ms. Naseef. Is your camera working?

23 MS. NASEEF: I am trying to figure that out.

24 BZA CHAIR HILL: Okay. We'll give you a second,
25 then.

1 Is the Commissioner here? Is anyone here other
2 than the Applicant? I see the Office of Planning, and we'll
3 get to them once I get hear -- okay, great.

4 All right. Ms. Naseef, I know you were first with
5 us for expedited review. Then, as you know how this all
6 happened, we got to this point. So now we're actually having
7 a hearing.

8 All you have to do is tell us about your project,
9 and tell us a little bit about what you understand the
10 regulations are. And we will go on from there. So please
11 go ahead and tell us about your project.

12 MS. NASEEF: Great. So we need to replace the
13 rear deck of our townhome. We moved in two years ago, and
14 the wood is just deteriorating. When we replace the deck,
15 we would like to expand it by just about a foot to be
16 consistent with the decks of our neighbors immediately on
17 either side.

18 My understanding is that the reason we have to
19 have a hearing is that, because our lot is so small, there
20 are regulations around having a deck. And so we would be
21 able to replace the current deck at the exact size under the
22 regulations, but wouldn't be able to expand it at all without
23 a zoning exception. And so that's what we're requesting.

24 BZA CHAIR HILL: Great. Thank you, Ms. Naseef.

25 Could I hear from the Office of Planning, please,

1 before I turn to my Board?

2 MS. MYERS: Good morning. Crystal Myers with the
3 Office of Planning. The Office of Planning is recommending
4 approval of this case.

5 I will note that we asked for the Applicant to
6 submit professionally drawn plans to complete the record by
7 the hearing date, and they have done so. So the Office of
8 Planning is satisfied and can stand on the record of the
9 staff report. Thank you.

10 BZA CHAIR HILL: Thank you, Ms. Myers.

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

12 MR. YOUNG: No, we do not.

13 BZA CHAIR HILL: Okay. Do my fellow Board Members
14 have any questions for Ms. Naseef and/or the Office of
15 Planning?

16 Go ahead, Dr. Imamura.

17 COMMISSIONER IMAMURA: Just a comment. Ms.
18 Naseef, I just want to thank you for going through this
19 process.

20 I know it probably seems a little ridiculous for
21 a one-foot extension of your existing deck, but it is what
22 it is. It's an experience. And it's one that, for all
23 citizens in DC, I think it's important to have an
24 understanding of how Zoning works.

25 Anyhow, I just wanted to say thank you. Good luck

1 on your deck. I've shown my cards.

2 BZA CHAIR HILL: All right, thank you. Thank you,
3 Dr. Imamura.

4 All right. Ms. Naseef, is there anything you
5 would like to add at the end?

6 MS. NASEEF: No, that's all. Thank you for your
7 consideration.

8 BZA CHAIR HILL: Okay, thank you. All right, I'm
9 going to go ahead and close the record of the hearing and
10 excuse everyone, please.

11 I don't think if I were to do this on my own, I
12 would be so professional as to say, thank you for your
13 consideration. I would just be so happy to leave. I
14 wouldn't even be so smart as this. I'd just be like, I've
15 got to go.

16 Okay. I reviewed the record. I think it's really
17 straightforward. As Dr. Imamura said, it could have been an
18 expedited review, but it just kind of happened to get gummed
19 up a little bit.

20 And so I would agree with the analysis that the
21 Office of Planning has provided, the argument that the
22 Applicant has provided, and also that the ANC doesn't have
23 any issues, although they're not in the record as something
24 that we can give great weight to them. And I'm going to be
25 voting to approve.

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1 Mr. Smith?

2 MEMBER SMITH: No comments. I agree with your
3 statements.

4 BZA CHAIR HILL: Thank you.

5 Dr. Imamura?

6 COMMISSIONER IMAMURA: Thank you. I'm in
7 agreement with you, Mr. Chairman. I'm prepared to vote in
8 support. I'm glad that it's 12 inches. If it were six
9 inches, that would drive me absolutely bonkers.

10 BZA CHAIR HILL: Okay, great. All right. I'm
11 going to make a motion to approve Application No. 21173 as
12 captioned and read by the Secretary and ask for a second.

13 Mr. Smith?

14 MEMBER SMITH: Second.

15 BZA CHAIR HILL: The motion has been made and
16 seconded. If you could please take a roll call vote, Madam
17 Secretary?

18 MS. MEHLERT: On the motion to approve the
19 application, Chairman Hill?

20 BZA CHAIR HILL: Yes.

21 MS. MEHLERT: Board Member Smith?

22 MEMBER SMITH: Yes.

23 MS. MEHLERT: Dr. Imamura?

24 COMMISSIONER IMAMURA: Yes.

25 MS. MEHLERT: Staff will record the vote as 3-0-2

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1 to approve Application 21173 on the motion made by Chairman
2 Hill and seconded by Board Member Smith, with two other Board
3 Members not participating.

4 BZA CHAIR HILL: Great. Madam Secretary, you may
5 call our next case.

6 MS. MEHLERT: Next is Application No. 17552-A of
7 Benedictine Foundation in the St. Anselm's Abbey School.

8 This is a self-certified request pursuant to
9 Subtitle Y Section 704 for a modification with hearing, Order
10 No. 17552, and pursuant to Subtitle X Section 902.1 for
11 special exceptions under: Subtitle U Section 203.1(m), to
12 allow an addition to a building at an existing private
13 school; and Subtitle X Section 104, to allow modification of
14 a private school plan.

15 It's a one-story addition to an existing building
16 at an existing private school, located in the R-1B zone at
17 4501 South Dakota Avenue Northeast, Square 3977, Lot 133.

18 And as preliminary matters, the Applicant has
19 proffered two expert witnesses: Julianna von Zumbusch as an
20 expert in architecture and Ed Foley as an expert in
21 architecture.

22 BZA CHAIR HILL: Okay, great. If the Applicant
23 can hear me, if they could please introduce themselves for
24 the record?

25 MR. CORRIGAN: John Corrigan. I'm the principal

1 of St. Anselm's Abbey School, but I'm not sure if I was
2 supposed to talk or if my representative was there.

3 BZA CHAIR HILL: That's all right, Mr. Corrigan.
4 Go ahead, Ms. Shiker.

5 MS. SHIKER: Good morning. And thank you, John.
6 He was very excited to be here. He had to step
7 out of class to get here on time. So good morning. I am
8 Christine Shiker with the Law Firm of Holland & Knight. I'm
9 representing St. Anselm's Abbey School for this private
10 school modification.

11 We do have John Corrigan, who is the Headmaster
12 of St. Anselm's, here today. We have representatives from
13 CGS Architects that we're just referencing their requested
14 expert status, and then Mark Cummings, the Director of
15 Finance and Operations, from St. Anselm's here today. Thank
16 you.

17 BZA CHAIR HILL: Great. Thanks, Ms. Shiker. Who
18 did you want expert status for again, please?

19 MS. SHIKER: So we had proffered both Ed Foley and
20 Julianna von Zumbusch from CGS Architects. Julianna is going
21 to do the presentation, so I think that we could look to her.
22 Again, she could answer any questions if you have any.

23 BZA CHAIR HILL: That's all right. Do you know
24 which exhibit it's in that has --

25 MS. SHIKER: Yes. Both her and Ed's resumes are

1 at Exhibit 10 and 11.

2 BZA CHAIR HILL: Exhibit 10 and 11?

3 MS. SHIKER: That's what it shows on my screen.

4 BZA CHAIR HILL: Okay. All right, maybe I'm in
5 the wrong file. Okay, let's see.

6 Mr. Foley, I see you. And then who's the other
7 architect? I'm sorry.

8 MS. SHIKER: Julianna von Zumbusch.

9 Julianna, does your camera work?

10 MS. VON ZUMBUSCH: I'm getting the camera to work.
11 I'm working on it now.

12 BZA CHAIR HILL: Okay. Ms. von Zumbusch and Mr.
13 Foley, give me one second.

14 Do you guys, Mr. Smith or Dr. Imamura, have any
15 questions for the two people that are being proffered as
16 expert witnesses?

17 MEMBER SMITH: No, no questions.

18 COMMISSIONER IMAMURA: I'm satisfied with their
19 resume.

20 BZA CHAIR HILL: Okay. I want to get ahead of
21 this anyway in case they both come back at some point in
22 time.

23 So you guys have both been knighted as experts in
24 architecture. Congratulations.

25 All right. Ms. Shiker, do you want to go ahead

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1 and tell us why you believe your client -- excuse me.

2 Mr. Corrigan, do you want to go ahead and
3 introduce yourself for the record?

4 MR. CORRIGAN: Yes. My name is John Corrigan.
5 I'm the Headmaster of St. Anselm's Abbey School. We are a
6 Benedictine school in Washington, DC, 4501 South Dakota
7 Avenue. We've been here since 1942, celebrating our 83rd
8 year. The monastery has been here for 100 years. It just
9 celebrated its 100th-year anniversary.

10 BZA CHAIR HILL: Well, that's wonderful.
11 Congratulations. Thank you for being with us here today.

12 Okay. Ms. Shiker, do you want to go ahead and
13 walk us through your client's application, why you believe
14 they're meeting the criteria for us to grant the relief
15 requested? I'm going to put 15 minutes on the clock just so
16 I know where we are. And you can begin whenever you'd like.

17 MS. SHIKER: Mr. Young, if you could please bring
18 up the PowerPoint presentation at Exhibit 26? Thank you so
19 much.

20 Again, good morning. We are pleased to be here
21 before you today to present on this application requesting
22 approval for a modification to the private school plan for
23 this school.

24 Next slide, please.

25 The campus is a large site located at 4501 South

1 Dakota Avenue Northeast. Please note on this plan, north is
2 plan left, so it's rotated. That's South Dakota Avenue
3 running diagonally across the bottom corner of the screen.
4 The campus is zoned R-1B. Therefore, we are here to do a
5 modification under the special exception for the private
6 school plan.

7 Next slide, please.

8 The application will result in the construction
9 of a single-story addition to the main academic building.
10 The addition is less than 10,000 square feet and will provide
11 important space that's needed for the existing school
12 population. There is no increase in students or faculty and
13 staff as part of this request.

14 We are pleased to have the Office of Planning's
15 support. We also are pleased to have DDOT expressing no
16 objections to the addition. We have ANC 5A's support for the
17 application, which is in the record at Exhibit 25. And we
18 also have a letter from the Queen's Chapel Civic Association.
19 Their letter of support is in the record at Exhibit 15.

20 Next slide, please.

21 This is the current site plan for the campus,
22 again with north being on plan left. And at this point, I'll
23 ask Ms. von Zumbusch to walk through briefly the proposed
24 improvements. Thank you.

25 MS. VON ZUMBUSCH: Hi there. It looks like my

1 video is working now, so pleased to meet you all. Just to
2 orient you, as Ms. Shiker gave a great introduction, the area
3 that we are discussing is really in the center of the plan.

4 Our proposed development is a 10,000-square-foot
5 addition, which will be primarily for library. It's located
6 where there is an existing basketball court that is not
7 planned to be replaced.

8 So if you see, there are three main areas of
9 construction on the site. On the bottom of the plan is a
10 gymnasium for performance arts. Right above that is the
11 monastery, which is an active monastery with about 12 monks.
12 And then to the left is the primary education campus. And
13 that's really where we're tying in.

14 So we can go next.

15 You can see in orange, that is the area where we
16 have the proposed addition. As we mentioned, primary use
17 will be library. It is also replacing some ancillary office
18 and support staff spaces, which will be replacing some
19 temporary trailers that are currently on the site.

20 Next.

21 This is the floor plan to give a sense of the
22 scale. As indicated, those are support spaces for the
23 existing student body. One other program component that will
24 be here is the admissions offices for the space. There is
25 a small student chapel that is also replacing an existing

1 student chapel. So no expected visiting members from the
2 outside community, but really just serving the existing
3 student body.

4 Next.

5 This is a small aerial view that gives a sense of
6 the scale of the project. It is located in the center of the
7 site. The setback is greater than the adjacent building that
8 it's tying into. There's a fairly forested area that
9 separates this from 16th Street to the north, so there should
10 be very little impact to the adjacent community.

11 Next, please.

12 This is the view from the existing drive. One
13 item to note, since we don't have any increased student or
14 staff capacity, we are maintaining all of the existing
15 traffic pattern and parking that are on-site, which are
16 currently in compliance with the existing BZA.

17 Next, please.

18 This is just another additional supplementary view
19 to give a sense of the scale and feel of the project, which
20 will be using similar materials to the existing structures
21 on-site and existing academic campus. We are matching the
22 height of the existing building adjacent for the primary roof
23 structure, and then with a small tower element that meets
24 within the zoning exceptions for small projections, such as
25 a tower.

1 And I think that's our overview of the project.

2 MS. SHIKER: Can you go to the next slide, please?

3 Thank you.

4 So thank you very much. As indicated on this
5 slide and the next slide, the application meets the burden
6 of proof for a modification to a private school plan. We've
7 gone through the different elements here.

8 Specifically, the proposed addition will not
9 increase the number of students or the faculty and staff.
10 The addition is modest in size, having less than 10,000
11 square feet.

12 It really is intended just to improve the student
13 experience and enhance the school's sense of connectivity and
14 community through bringing these additional facilities in.
15 The addition, as Ms. von Zumbusch noted, is not visible from
16 outside of the campus.

17 Next slide, please.

18 Again, the use is not objectionable for all of
19 these different reasons. Furthermore, the proposed addition
20 does not trigger any additional parking requirements. The
21 school continues to require 89 spaces and provide 160 spaces.
22 The school use site will be in harmony with the Zoning
23 Regulations as it continues the existing use that's been in
24 place for decades.

25 Next slide, please.

1 The St. Anselm's team has worked very closely with
2 the community and started this outreach even before it
3 submitted the application. As I had mentioned, ANC 5A and
4 the Queen's Chapel Civic Association both supported the
5 application and have letters in the record. We also
6 presented the application to the North Michigan Park Civic
7 Association earlier in September, and there were no issues
8 or concerns at that meeting as well.

9 So with that, we would open it up for any
10 questions that the Board may have. Thank you very much.

11 BZA CHAIR HILL: Thank you, Ms. Shiker, for your
12 presentation. And you might have mentioned this, but just
13 to be clear, your client is still comfortable with the
14 existing conditions that the enrollment shall not exceed 280,
15 that the total number of staff shall not exceed 70, and then
16 the minimum 87 parking spaces shall be available at the site
17 for the school's use, correct?

18 MS. SHIKER: Yes. We are not proposing any
19 changes to the past order. That's correct.

20 BZA CHAIR HILL: Okay. Thank you. Thank you.

21 Do my fellow Board Members have any questions of
22 the Applicant?

23 Okay. May I turn to the Office of Planning, then?

24 MR. JESICK: Thank you, Mr. Chairman and members
25 of the Board. My name is Matt Jesick, presenting OP's

1 testimony in this case. The Office of Planning can rest on
2 the record and is happy to support this request for special
3 exception relief for St. Anselm's.

4 BZA CHAIR HILL: Okay, great. Thank you. Mr.
5 Jesick, I haven't seen you in a long time also. It's nice
6 to see you.

7 MR. JESICK: Good to see you.

8 BZA CHAIR HILL: All right. Does anybody have any
9 questions for the Office of Planning?

10 Okay. Mr. Young, is there anyone here wishing to
11 speak?

12 Okay. Ms. Shiker, do you have anything you'd like
13 to add at the end?

14 MS. SHIKER: No. We would just ask that the Board
15 deliberate on this so that hopefully St. Anselm's can move
16 forward with this next exciting adventure for their school.
17 Thank you.

18 BZA CHAIR HILL: Thank you. Thank you, Ms.
19 Shiker.

20 All right. Thank you, everybody. I'm going to
21 close the hearing and the record. You're all excused.

22 Would someone else like to begin the deliberation?

23 MEMBER SMITH: I was going to defer to you, Dr.
24 Imamura.

25 BZA CHAIR HILL: Dr. Imamura, you haven't been

1 with us for a while. Come on.

2 COMMISSIONER IMAMURA: Board Member Smith is the
3 ranking member here.

4 BZA CHAIR HILL: All right. I'll start, and then
5 we'll let Board Member Smith clean up my comments.

6 So again, I appreciated the presentation that the
7 Applicant had put forward. I thought that they did a lovely
8 job with explaining how they're meeting the criteria. I
9 think all of the existing conditions are remaining in place.

10 I think that the analysis that the Office of
11 Planning had put forward was also helpful for me, as well as
12 the support that they've achieved with the ANC. And I will
13 be voting in favor of this application.

14 Mr. Smith?

15 MEMBER SMITH: I agree with everything you just
16 said, Chairman Hill. This is, to me, a fairly
17 straightforward application for both of these areas of relief
18 of this modification.

19 I agree with the testimony that was provided at
20 the hearing, as well as what was provided by the Office of
21 Planning within their staff report, and that the existing
22 conditions will continue to carry forward to avoid any
23 adverse impacts that may presumably affect the surrounding
24 properties.

25 This is a fairly large property. What the

1 Applicant is requesting, I do not believe, would have any
2 form of adverse impact on any adjacent property owners.

3 I'll note that the ANC has voted in support of the
4 -- one of the ANCs has voted in support of the application,
5 ANC 5A. So with that, I will give OP's staff report great
6 weight and support the application.

7 BZA CHAIR HILL: Great. Thank you.

8 Dr. Imamura?

9 COMMISSIONER IMAMURA: Thank you, Mr. Chairman.
10 I'm in agreement with everything that's been said. I would
11 only add that it's a nice design. I appreciate the
12 architectural vocabulary and materiality of it. I'm prepared
13 to vote in support.

14 BZA CHAIR HILL: Great. Thank you, Dr. Imamura.

15 All right. I'm going to make a motion to approve
16 Application No. 17552-A, as captioned and read by the
17 Secretary, including the existing conditions of:

18 One, the total enrollment shall not exceed 280
19 students; two, the total number of staff shall not exceed 70;
20 three, a minimum of 87 parking spaces shall be made available
21 on the site for the school's use; and ask for a second.

22 Mr. Smith?

23 MEMBER SMITH: Second.

24 BZA CHAIR HILL: The motion has been made and
25 seconded. Madam Secretary, if you could take a roll call?

1 MS. MEHLERT: Please respond to the Chair's motion
2 to approve the application with the existing conditions from
3 the original order.

4 Chairman Hill?

5 BZA CHAIR HILL: Yes.

6 MS. MEHLERT: Mr. Smith?

7 MEMBER SMITH: Yes.

8 MS. MEHLERT: And Dr. Imamura?

9 COMMISSIONER IMAMURA: Yes.

10 MS. MEHLERT: Staff will record the vote as 3-0-2
11 to approve Application 17552-A with conditions on the motion
12 made by Chairman Hill and seconded by Board Member Smith,
13 with two Board Members not participating.

14 BZA CHAIR HILL: Thank you.

15 All right. I'm just going to keep chugging along
16 because I know that the last case we're going to have is
17 going to take a little bit more time. So let's see if we can
18 get through the next cases before lunch, and just see how it
19 goes.

20 If you could call our next case, please, Madam
21 Secretary?

22 MS. MEHLERT: Next is Application 21172 of 1321
23 Anacostia Rd SE, LLC. This is a self-certified application
24 pursuant to Subtitle X Section 901.2, for a special exception
25 under Subtitle U Section 421, to allow new residential

1 development.

2 This is a third-story addition to an existing,
3 two-story, semi-detached building, currently a four-unit
4 apartment house, and creation of four new dwelling units.
5 This is located in the RA-1 zone at 1321 Anacostia Road
6 Southeast, Square 5507, Lot 18.

7 BZA CHAIR HILL: Okay, great. Thank you.

8 If the Applicant could hear me, if they could
9 please introduce themselves for the record?

10 MR. WILLIAMS: Members of the Board, my name is
11 Zach Williams, Land Use Attorney at Venable, representing the
12 Applicant. With me today is the Applicant, Matt Medvene, and
13 the architect, Ryan Petyak.

14 BZA CHAIR HILL: Great. Thank you, Mr. Williams.
15 Welcome back.

16 Also, Mr. Medvene, welcome back.

17 MR. MEDVENE: Nice to see you again.

18 BZA CHAIR HILL: All right. Okay. If you want
19 to go ahead and walk us through your application, Mr.
20 Williams, and why you believe your client is meeting the
21 criteria for us to grant the relief requested? And you can
22 begin whenever you'd like.

23 MR. WILLIAMS: Sure thing. Mr. Young, can we pull
24 up the presentation? Great, thank you. We can go to the
25 next page, please.

1 So this application is to expand an existing
2 apartment house, a four-unit apartment house, to eight units
3 at 1321 Anacostia Road Southeast. This is in the RA-1 zone,
4 as shown on the zoning map. The property is located
5 mid-block on Anacostia Road Southeast, between 30th Street
6 and Minnesota.

7 Next slide, please.

8 Here's a survey showing the existing property.
9 It's a pretty large lot, a little over 6,000 square feet of
10 land area. As I mentioned, it's an RA-1 zone lot. This is
11 an existing two-story, semi-detached apartment house on the
12 lot with four units currently. There's alley access in the
13 rear. We're looking to expand this to eight units total.

14 Next slide, please.

15 Here's some photos of the current conditions of
16 the structure. As you can see, it's a semi-detached
17 structure, two stories. I should note that all of the
18 structures on this side of the block are similar apartment
19 houses, just like this.

20 Next slide, please.

21 Here's the proposed site plan. We'll start here.
22 The only changes to the site layout are to add three parking
23 spaces. The footprint will stay exactly the same. We also
24 have some landscaping here, some grading, which we've
25 included in our plan set as well. You can see that as well

1 in the site plan here.

2 Next slide, please.

3 The relief that is requested here is simply to add
4 four units to the existing apartment house. All of the other
5 work will be by-right and permitted in the RA-1 zone without
6 relief.

7 Next slide, please.

8 Under the special exception standards that the
9 Board is very familiar with, we first must ensure that the
10 relief is in harmony with the general purpose and intent of
11 the Zoning Regulations.

12 Here, as we know, the RA-1 zone allows for
13 low-to-moderate-density developments such as this. The
14 project, as I mentioned, will meet all of the development
15 standards in the RA-1 zone. And while this is maybe not
16 technically part of the standard, I did want to mention we'll
17 be adding solar panels on the roof for the new addition as
18 well.

19 Next slide, please.

20 The second important standard here is that the
21 relief would not adversely affect neighboring properties.
22 Light, air, and privacy are typically the standards we look
23 at.

24 Here, as I mentioned, the footprint will remain
25 exactly the same. The only changes to the site are a

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1 third-level addition. The other two units will go in the
2 cellar.

3 And as I mentioned, apartment and multi-family
4 residential buildings are very common in this neighborhood.
5 In fact, every single structure on this block is an apartment
6 building.

7 Next slide.

8 We have some shadow studies here to show there's
9 very limited impact from a shadow standpoint from this
10 project. Here are the existing studies.

11 And if we go to the next slide, you can see very
12 little impact. The worst is at the Winter Solstice, but just
13 that. It's just a sliver, a little triangle on the right
14 side there, in the bottom right-hand corner. Other than
15 that, there's very little impact from this addition.

16 Next slide, please.

17 I did want to mention -- I know every case is
18 different and every case stands on its own, but I did want
19 to mention that just across the street, in 2020 the Board
20 approved another eight-unit apartment house. That was a
21 brand new, ground-up construction.

22 Here's a picture of it from the architectural
23 renderings. This was just across the street and just, I
24 think, goes to the point that these style and scope of
25 apartment houses are typical in this area.

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1 Next slide, please.

2 I did want to touch on our attempts at ANC and
3 community outreach. We did not meet with the ANC in this
4 case, but it's not for lack of trying. We started reaching
5 out on June 12th. And as you can see, we continue to reach
6 out regularly every couple of weeks through August and
7 through September.

8 We did get a response back from Commissioner Adams
9 in late August acknowledging receipt, but we never were added
10 to an agenda despite our requests. And the ANC didn't
11 indicate any interest in us presenting. We attached all the
12 revised plans.

13 And with that, before I forget, we did make a
14 motion in the record to file revised plans within 30 days of
15 the hearing. That was in response to some comments from DDOT
16 and the Office of Planning.

17 I want to make sure those get into the record,
18 Chairman Hill. I neglected to mention that at the beginning
19 of my presentation.

20 BZA CHAIR HILL: Let me interrupt you, Mr.
21 Williams, real quick.

22 Madam Secretary, are those the ones that are in
23 22?

24 MS. MEHLERT: I would ask the Applicant to
25 confirm.

1 MR. WILLIAMS: That's correct. That's Exhibit 22.
2 Those are the current plans.

3 BZA CHAIR HILL: Okay. I don't remember the
4 motion, but unless my fellow Board Members have any problems,
5 we always want to see the most recent plans. And so I have
6 no problem allowing those into the record.

7 If my fellow Board Members have any issue with
8 that, if they could please speak up? Hearing none, okay.

9 Mr. Williams, you may continue. Thank you for
10 pointing that out.

11 MR. WILLIAMS: We've also reached out to neighbors
12 in person, through phone, and through email. It's a little
13 tricky here since these are all apartment houses. So we
14 haven't been able to -- well, we haven't heard any opposition
15 yet. And we haven't been able to get any folks engaged on
16 this.

17 As far as I'm aware, there aren't any folks that
18 are in attendance to speak today, although I'll wait to hear.
19 So we've definitely cataloged our attempts here to engage the
20 community and the ANC. Folks either haven't shown interest
21 or have not opposed the project.

22 So that's where we are as we sit here today. I
23 would note, as mentioned, the Office of Planning has
24 recommended support for the application. And that concludes
25 my presentation. Thank you.

1 BZA CHAIR HILL: Thank you, Mr. Williams. Mr.
2 Williams, do you know why the ANC was kind of -- is typically
3 this ANC a little difficult to get in touch with? I don't
4 remember.

5 MR. WILLIAMS: I think it depends. I thought
6 maybe it was the summer time, and that could be what it was.
7 But from June through the end of September, other than that
8 one acknowledgement of our outreach, they never showed any
9 interest.

10 And at one point, I emailed the entire ANC, so
11 every single commissioner. Initially, I started with our SMD
12 and the chair. I expanded to the whole ANC. That generated
13 the one response we got, but that was all we got,
14 unfortunately.

15 BZA CHAIR HILL: Okay, thank you. Before I turn
16 to my Board, may I turn to the Office of Planning?

17 MR. BEAMON: Good afternoon, Board Members.
18 Shepard Beamon with the Office of Planning. We've reviewed
19 the application for the proposed four additional units.

20 We find that this request meets the special
21 exception criteria for Subtitles U and X. Therefore, we're
22 recommending approval, as stated in our report. And I will
23 rest on the record and take any questions.

24 BZA CHAIR HILL: Thank you.

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

1 All right. Does my Board have any questions of
2 the Applicant or the Office of Planning? Dr. Imamura?

3 COMMISSIONER IMAMURA: Thank you, Mr. Chairman,
4 just a brief comment. I just want to applaud the Applicant
5 for a couple things.

6 One, I appreciate you bringing up the precedent
7 for BZA Case 49984. That's very helpful just to provide
8 context. I also appreciate your honesty about your efforts
9 to reach out to the ANC, as frustrating as that probably was.

10 I noted that you said that you've had a hard time
11 engaging with the neighbors. That's where the honesty part
12 comes in. So I appreciate your forthrightness on that and
13 the fact that you thoroughly documented your emails to the
14 ANC.

15 So that's regrettable. And the neighborhood has,
16 unfortunately, been under-served by the Commission if they
17 don't respond to these kinds of outreach efforts. Anyhow,
18 thank you very much.

19 That's all I have, Mr. Chairman.

20 BZA CHAIR HILL: Thank you. I'll second the note
21 for Mr. Williams and the future applications. It is always
22 great to see just how you've reached out to the community,
23 whatever has taken place, as you know, Mr. Williams.

24 And I guess, Mr. Williams, one comment is if you
25 did -- I'm trying to think whether it was -- if you want to

1 put that into the record maybe before the hearing, it
2 sometimes is helpful, definitely on expedited review, to know
3 what has happened with the ANC if anything. So just an FYI.

4 All right. Anyone else?

5 Okay, great. All right. I'm going to go ahead
6 and close the hearing and the record. Thank you all for
7 coming, and thank you for your presentation.

8 Okay. I thought the presentation was done very
9 well, actually. And I thought that the plans were easy to
10 understand. I appreciate the shadow study. That was
11 actually helpful to me. And I think that they are also
12 meeting the criteria for us to grant this particular relief.

13 I will also agree with the Office of Planning's
14 recommendation, and also that DDOT had no objection. I will
15 note for the record, again, the outreach efforts that the
16 Applicant has made, which is always necessary for us to at
17 least understand what has gone on before approving or
18 disapproving anything, knowing what's going on with the
19 community. So I will be voting in favor of this application.

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

21 MEMBER SMITH: In this case, I do agree that they
22 have met the provisions for us to grant the special
23 exceptions from 421, the new residential development
24 standards. They provided the information about school zone
25 attendance. Rarely is that an issue, and it's not an issue

1 in this particular case.

2 The provisions of light, air, parking, recreation,
3 landscaping, as you stated, that was helpful for them to
4 provide the shadow study. It shows that it would not have
5 an undue impact on the surrounding properties.

6 Parking, they're proposing to construct three
7 parking spaces. So they're not asking for any relief from
8 the minimum development standards. They're in compliance
9 with that particular provision, and they provided us with a
10 very thorough landscape plan.

11 So with that, I give OP's staff report great
12 weight and support the application.

13 BZA CHAIR HILL: Thank you.

14 Dr. Imamura?

15 COMMISSIONER IMAMURA: Nothing further to add, Mr.
16 Chairman. I'm in agreement with everything that's been said.
17 I think this is pretty straightforward and complete.

18 BZA CHAIR HILL: Thank you.

19 All right. I'm going to go ahead and make a
20 motion to approve Application No. 21172 as captioned and read
21 by the Secretary and ask for a second.

22 Mr. Smith?

23 MEMBER SMITH: Second.

24 BZA CHAIR HILL: The motion has been made and
25 seconded. Madam Secretary, if you would take a roll call,

1 please?

2 MS. MEHLERT: Respond to the Chair's motion to
3 approve the application. Chairman Hill?

4 BZA CHAIR HILL: Yes.

5 MS. MEHLERT: Board Member Smith?

6 MEMBER SMITH: Yes.

7 MS. MEHLERT: And Dr. Imamura?

8 COMMISSIONER IMAMURA: Yes.

9 MS. MEHLERT: Staff will record the vote as 3-0-2
10 to approve Application 21172 on the motion made by Chairman
11 Hill and seconded by Board Member Smith, with two Board
12 Members not participating.

13 BZA CHAIR HILL: Okay, great. Let's see. All
14 right, let's go ahead and have our next case. And then we'll
15 probably take lunch, if that's good with everybody.

16 MS. MEHLERT: Next is Application No. 21175 of
17 Andrew Brady and Benjamin Fishel.

18 This is a self-certified application pursuant to
19 Subtitle X Section 901.2, for a special exception under
20 Subtitle E Section 207.5, to allow the rear wall of a rear
21 building to extend farther than 10 feet beyond the farthest
22 rear wall of an adjoining principal dwelling on an adjacent
23 property.

24 This is for a one-story rear addition to an
25 existing, two-story rear building in the RF-1 zone at 49

1 Adams Street Northwest, Square 3124, Lot 84.

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

4 MR. GROFF: I'm representing the Applicant, the
5 owners of the house, as the architect. My name is Brad
6 Groff.

7 BZA CHAIR HILL: Okay. Mr. Groff, if you have
8 been watching the hearings today, if you could go ahead and
9 walk us through your client's application, why you believe
10 they are meeting the criteria for us to grant the relief
11 requested?

12 Wait a minute. Hold on. Madam Secretary, which
13 number was this case again?

14 MS. MEHLERT: This is 21175.

15 BZA CHAIR HILL: Okay. All right. Again, it's
16 the day that keeps on giving. Okay, Mr. Groff, again, yes,
17 I'm sorry. If you could please go ahead and walk us through
18 your client's application.

19 Why you believe they're meeting the criteria why
20 the grant is requested. I'm going to put fifteen minutes on
21 the clock so I know where we are and you can begin whenever
22 you like.

23 MR. GROFF: Sure, shall I share my screen or are
24 you going to?

25 BZA CHAIR HILL: Did you already put your

1 presentation in the file?

2 MR. GROFF: They did.

3 BZA CHAIR HILL: Okay, great. Then Mr. Young will
4 bring it up.

5 Application No.21175

6 MR. GROFF: Okay. So, appreciate everyone's time
7 today. We are applying for an exemption to the, special
8 exception that requests a building beyond ten feet beyond the
9 neighbors back of house.

10 All other setbacks are being met, including side
11 and rear. We're within the bulk and the height requirements,
12 and this is an open air screened-in porch. The notices have
13 been sent to all neighbors.

14 We've received three letters of support from
15 adjacent and immediate neighbors. We presented to both the
16 ANC 5E and the Civic Association in Bloomingdale and received
17 support from both within the first hearing.

18 The applications for both a deck and the rear
19 extension have been submitted to the building department
20 under review. And so, this exception would just be for the
21 dimension.

22 If you go to the site plan, we'll show the actual
23 dimension beyond the adjacent neighbor. Ten feet is allowed.
24 It's a nineteen foot past the existing neighbor. And so, the
25 ask is for nine feet beyond that.

1 The light and air requirements have been met based
2 on the orientation of the property. There's no shadow cast
3 on either of the neighbor's property and the design of the
4 structure is in keeping with the integrity of the condition
5 of the neighborhood.

6 There's some further more detailed drawings in the
7 next few slides just to provide additional support, but
8 that's it.

9 BZA CHAIR HILL: Mr. Groff is that I don't
10 understand. Is that the end of your presentation?

11 MR. GROFF: Yes, that's the end of the
12 presentation. Thank you.

13 BZA CHAIR HILL: Okay. I'm going to take a look
14 at your slide deck. Does the Board have any questions of the
15 applicant?

16 MEMBER SMITH: I do have one. Just one.

17 BZA CHAIR HILL: Sure, go ahead please, Mr. Smith.

18 MEMBER SMITH: Mr. Groff, yes, we have notice and
19 support from 51, 53, 45 Adams. Was there anything that came
20 in, or have you heard anything from the neighbor at 47?

21 MR. GROFF: So, the other neighbor, the property
22 is abandoned. There was notice put in the mailbox, sent in
23 the mail, and we made attempts to contact the estate that's
24 in holding of the abandoned property at this point, but we
25 had had no response.

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1 They've lived there for over four years and
2 there's been no one in the house.

3 MEMBER SMITH: Okay. So you said no one's been
4 living, you said no one's been living in house. That's what
5 you said?

6 MR. GROFF: Yes.

7 MEMBER SMITH: Okay. And it's being held by an
8 estate. Is that what you said?

9 MR. GROFF: An estate or another entity. We're
10 not sure of the exact entity.

11 MEMBER SMITH: Okay, all right. That's all I need
12 to know. Thank you.

13 MR. GROFF: I also just forgot to mention one, one
14 small point within the zoning text. There is allowance for
15 this special exception to be granted given all of the
16 requirements that we presented if they are met and there is
17 precedent for this to be approved under special exception
18 within the neighborhood.

19 MEMBER SMITH: Okay. Thank you for that. No
20 further questions, Chairman Hill.

21 BZA CHAIR HILL: Thank you. Dr. Imamura.

22 COMMISSIONER IMAMURA: Chairman, I don't think I
23 have any other questions either.

24 BZA CHAIR HILL: Thank you. Can I hear from the
25 Office of Planning, please?

1 MR. BARRON: Good afternoon, Commissioners. For
2 the record, my name is Ron Barron, Development Review
3 Specialist, the D.C. Office of Planning. Office of Planning
4 supports approval of the requested special exception.

5 We believe the addition would be in harmony with
6 the general purpose of the RF-1 zone, and would unlikely have
7 an adverse impact on the privacy and use of neighboring
8 properties.

9 We can, we'll be happy to rest on our report in
10 the record at Exhibit 33, and I'm happy to answer any
11 questions
12 you may have.

13 BZA CHAIR HILL: Great, thank you. I had a
14 question for you, Mr. Barron. Now, when we, when the first,
15 when the 10-foot rule thing started, like, started.

16 I mean, like, if this were enclosed and heated or
17 air-conditioned or whatever, then they would have to come
18 back before us again. Correct?

19 MR. BARRON: So if it was enclosed, my
20 understanding is that if it was enclosed with solid walls,
21 then if they were to redo it as a, as a walled-in structure,
22 then, yes, they would have to get relief.

23 There is some question as to whether or not relief
24 is actually required, given the fact that it's essentially
25 a two-level deck with the lower level screened in. However,

1 we were unable before the hearing to get any solid
2 determination from the Department of Buildings, so we decided
3 to proceed with the, with the hearing.

4 BZA CHAIR HILL: Okay, thanks.

5 MR. BARRON: So, yes.

6 BZA CHAIR HILL: Yes, I was just curious because
7 I can't remember. Anyway, right, if it got enclosed, they'd
8 be back. Yes.

9 MR. BARRON: I did just get a note from Joel who
10 told me, who mentioned that this relief should cover it, so
11 they shouldn't have to get additional relief if they did.

12 BZA CHAIR HILL: Right. So if this was enclosed,
13 this is the relief that they're getting that.

14 MR. BARRON: Yes. Yes. So the question was
15 whether or not it actually applied. It needed to apply to
16 this deck, but if they were to convert it into an enclosed
17 end structure, then likelihood, this would be the relief they
18 would need for it.

19 BZA CHAIR HILL: Right. So they can enclose this
20 now without coming back to us. Is that correct?

21 MR. BARRON: That is what I'm being told.

22 BZA CHAIR HILL: Right.

23 MR. BARRON: Yes.

24 BZA CHAIR HILL: Okay. All right. Okay. Does
25 anyone else have anything? Okay, I'm going to close the

1 hearing and the record and excuse everyone. Thank you.

2 MR. YOUNG: Ask if there were any public
3 witnesses.

4 BZA CHAIR HILL: I'm sorry. Thanks, Mr. Young.

5 MR. YOUNG: We do not have any.

6 BZA CHAIR HILL: Thank you. Is there anyone here
7 from the public? And Mr. Young has said there's no one here
8 from the public. Thank you, Mr. Young. All right. I'm
9 going to go ahead and close the hearing on the record.

10 MR. GROFF: Thank you for your time.

11 BZA CHAIR HILL: Thank you. Okay. I'm looking
12 at you, Mr. Smith, because like I see it every week. I'm
13 going to vote in favor of this, but I'm a little bit
14 confused, right?

15 Like if this were an enclosed addition that's going
16 back more than the ten feet, I wonder if we would have had
17 more discussion than just a porch that is going to be
18 enclosed.

19 And so, it might be something that, and I
20 appreciate that the Office of Planning is apparently
21 listening. That if the Office of Planning could kind of
22 h e l p e d m e u n d e r s t a n d .

23 And you could reach out to the Office of Zoning
24 because I'm not clear as to, you know, what the Office of
25 Zoning thoughts would necessarily been if this were an

1 enclosed structure. And then, I'm confused as to what they
2 then could or couldn't do with that second floor.

3 I assume they couldn't do anything with it. They
4 couldn't build an enclosure on the second floor because then
5 they'd be back before us again I would assume.

6 MEMBER SMITH: Yes, they would.

7 BZA CHAIR HILL: Right. So based upon this, the
8 enclosure of a screen porch and the, the explanation that the
9 applicant has given, I don't have any issues with this
10 particular relief.

11 I would also agree with the ANC in terms of their
12 support and also agree with the Office of Planning's
13 analysis, given what is before us. Still a little anyway
14 given, given what is before us, I will be voting in favor of
15 this application, Mr. Smith.

16 MEMBER SMITH: I agree Chairman Hill, which
17 assessment on this and I was slightly uncomfortable with it,
18 but what I'll note is that you know, the people that are most
19 affected by this are the adjacent property owners.

20 We have letters in the record from all the
21 adjacent property owners except for at forty-seven and it
22 sounds like someone passed away and it's, it's vacant, it's,
23 it's being held in an estate.

24 But the, the people that would be most directly
25 impacted as relates to light air privacy are in support of

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1 this, this particular application. And I'll note that it is
2 a fair, it's fairly open.

3 It's a glass structure, and you know, the, the
4 wrinkle with this is if they can't, if they just remove the,
5 the glass, but it is as open as it can be short of, short of
6 it being just stringing, just stringing mesh material of some
7 form.

8 So I am fairly comfortable with moving forward,
9 and if they were to build anything on the top, they would
10 have to come back before us. We are approving this subject
11 relatively for it to be substantially in compliance with the
12 architectural plans.

13 So I'm fairly forward with going, fairly
14 comfortable with moving forward with this particular
15 application in support.

16 BZA CHAIR HILL: Great. Thank you, Mr. Smith.
17 Dr. Imamura. I lost Dr. Imamura.

18 MEMBER SMITH: Yes. It looks like he froze.

19 COMMISSIONER IMAMURA: Yes. All right. I'm in
20 that place. All right. Clearly some connectivity issues.
21 I'm in agreement with everything that's been said, and
22 prepare to vote, of course.

23 BZA CHAIR HILL: Great. Thank you. All right.
24 I'm going to make a motion to approve application number
25 21175 as captioned and read by the secretary and ask for a

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1 second, Mr. Smith?

2 MEMBER SMITH: Second.

3 BZA CHAIR HILL: Motion has been made and second,
4 and Madam Secretary to roll call, please.

5 MS. MEHLERT: It's just on the chair's motion to
6 approve the application. Chairman Hill?

7 BZA CHAIR HILL: Yes.

8 MS. MEHLERT: Board Member Smith?

9 MEMBER SMITH: Yes.

10 MS. MEHLERT: Commissioner, Dr. Imamura?

11 COMMISSIONER IMAMURA: Yes.

12 MS. MEHLERT: Staff would record the vote as 3-0-2
13 to approve Application 21175 on the motion made by Chairman
14 Hill and second by Board Member Smith with two board members
15 not participating.

16 BZA CHAIR HILL: Great. If it's okay with you
17 guys can we just take a quick little break and then come back
18 and do the last. Can we take a quick little break, come
19 back, do one case, then have lunch, and then come back and
20 do the one that I think is going to take a little bit of
21 time.

22 Okay, we'll just take a quick little break. Thank
23 you. And then, call our next case.

24 (Whereupon, the above-entitled matter went off the
25 record at 12:18:51 p.m. and resumed at 12:26:22 p.m.)

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1 MS. MEHLERT: The Board has returned to from a
2 brief recess, brief break to its hearing session. Next is
3 application number 21186 of D.C. Department of General
4 Services as amended.

5 This is an application pursuant to Subtitle X §
6 1002 for Area Variances from Subtitle A § 301.3 to allow new
7 buildings not located on a record lot. And from Subtitle C
8 §303.1 to allow four new buildings with no street frontage.

9 This is for four new buildings on a tax lot
10 without street frontage, including an office building,
11 parking garage structure, fuel station, maintenance building,
12 logistics warehouse, two-vehicle storage buildings, and a
13 pump test area with canopy on the same tax lot.

14 This is located in the PDR-1 zone at 3 DC Village
15 Lane Southwest, Square 6264, Lot 804.

16 BZA CHAIR HILL: Okay, thank you. If the
17 applicant could hear me, if they could please introduce
18 themselves for the record.

19 MR. GIANNIOTIS: Hello, members of the Board, can
20 you hear me?

21 BZA CHAIR HILL: Yes.

22 MR. GIANNIOTIS: Slight echo. Here we go. My
23 name is Spiro Gianniotis of Alphatec PC. I'm also here with
24 James Gapinski of AMT Civil Engineers. I'm here on behalf
25 of the D.C. Department of General Services, the applicant.

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1 BZA CHAIR HILL: Okay. Mr. Gianniotis, so if you
2 could explain to us why you believe your client is meeting
3 the criteria for us to grant this particular relief.

4 It's a little bit confusing, but I'm going to
5 follow along as best I can with your argument and your
6 application, and you can begin whenever you like.

7 Application No. 21186

8 MR. GIANNIOTIS: Sure. Thank you. Can we please
9 pull up the slides? Thank you very much. We are pleased to
10 be here today to present you the DGS project for the new FEMS
11 and OSSE Fleet Maintenance Facility at DC Village.

12 We have favorable recommendations from the Office
13 of Planning, DDOT, and ANC 8D and are unaware of any
14 opposition to this application. Consequently, in the
15 interest of time in your schedule, we will make an
16 abbreviated presentation focusing on the burden of proof for
17 Area Variances we seek.

18 But we will, of course, elaborate on any aspects
19 of the project that you like. Next slide, please. The DGS
20 project before you involves a replacement of obsolete and
21 dysfunctional buildings at DC Village campus and replacing
22 them with new facility for FEMS and OSSE.

23 The proposed development is demolition of two
24 existing MPD structures and one existing OSSE trailer and
25 parking lot. And the construction of the new facilities is

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1 the new FEMS fleet maintenance facility.

2 The fleet logistics warehouse facility, the FEMS
3 heated vehicle storage and covered parking, and the FEMS and
4 OSSE shared fueling station, the FEMS and OSSE parking
5 structure, the OSSE parking structure, and the OSSE
6 administration and employee facility.

7 The site is located east of 295 across from the
8 DC Water's Blue Plains Treatment Plant. The redevelopment
9 site is circled in red and is just one small part of DC
10 Village.

11 Well, this site plan shows many streets within DC
12 Village, they are all private internal streets and are not
13 located on the highway plan for the District of Columbia.
14 Next slide, please.

15 The zoning map on the left of the slide shows the
16 property within the PDR-1 district. As you'll note, the lack
17 of street frontage for Lot 804, which is the site of the
18 proposed redevelopment.

19 As determined by the office, by the zoning
20 administrator's office, we need two areas of relief. First
21 one is Subtitle A § 301.3 relief from the requirement that
22 each new structure be located on its own lap of record.

23 And Subtitle C § 303.1 relief from the requirement
24 that each record lot have at least one street lot line on a
25 public street or a public access easement approved by DDOT.

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1 And as applied to this DGS project, DGS site does
2 not have any street frontage. Consequently, DGS cannot
3 obtain its own record lot. Our project cannot meet either
4 requirement due to the landlocked nature of the lot. Next
5 slide, please.

6 You are all very familiar with a standard overview
7 for an Area Variance listed here in the following slides.
8 I will demonstrate how we meet each of these standards. Next
9 slide, please.

10 Under the first problem of the Area Variance test,
11 the property is affected by exceptional and extraordinary
12 conditions. Lot 804 is landlocked and surrounded by other
13 district government parcels that make up DC Village.

14 DC Village was developed for D.C. facilities
15 beginning in the early 1900s. A home for the aged and
16 infirmary and expanded throughout the Twentieth Century, but
17 the D.C. government was not subject to zoning until 1990 for
18 D.C. Code § 1-306.07.

19 Consequently, DC Village was developed without the
20 need for any record lots or street frontage. The site is
21 exceptionally large at roughly 10.4 acres, but is one of the
22 few remaining sites in the district zone PDR-1, which can
23 accommodate production, distribution, and repair facilities.

24 While the site does not have any public street
25 frontage, it is well served by an internal network of private

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1 roads. Finally, the comprehensive plan for Southeast
2 Southwest plan specifically calls out DC Village for
3 redevelopment.

4 Comprehensive plan recognizes need to redevelop
5 and modernize DC Village site with the immediate priority
6 being reorganized of existing uses and more efficient use for
7 district operations. Next slide, please.

8 Under the second problem of the variance test, the
9 owner will encounter practical difficulties if the zoning
10 regulations are strictly applied. If relief from the record
11 lot street frontage requirements are not granted, DGS could
12 not obtain a building permit to replace outdated MPD and OSSE
13 facilities.

14 This limited and valuable PDR zone property over
15 ten acres in size will be rendered unusable and would create
16 difficulty in fulfilling immediate priority of a
17 comprehensive plan to reorganize existing district uses at
18 DC Village. Next slide, please.

19 Under the third prong of the variance test, the
20 granting of the variance will not cause any substantial
21 detriment to the public good or impairment to the intent,
22 purpose, and integrity of the zoning map or zoning
23 regulations.

24 Variance relief to allow construction on the tax
25 spot will allow DGS to replace obsolete existing district

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1 buildings with modernized facilities to better serve the
2 public good.

3 And the proposed PDR uses are consistent with the
4 zoning map and surrounding uses and will allow continuation
5 of these historical uses on the site. Next slide, please.
6 Based on the foregoing, we believe we have met the burden
7 proof for the Area Variance belief.

8 We respectfully request the Board to grant our
9 application. We are also prepared to show you slides of the
10 proposed building, which are part of the record at Exhibit
11 62.

12 Otherwise, we are happy to answer any questions
13 you may have. Thank you.

14 BZA CHAIR HILL: Thank you. All right. Thank
15 you, Mr. Gianniotis. Let's see before I turn to my board,
16 can we hear from the Office of Planning, please?

17 MR. BRADFORD: Good afternoon Chairman Hill,
18 members of the Board for the record. My name is Philip
19 Bradford, Development Review Specialist with the Office of
20 Planning.

21 The Office of Planning recommends approval of the
22 requested Area Variances and finds the request meets the
23 criteria in Subtitle X and we stand on the record of the
24 report and I'm available for any questions.

25 BZA CHAIR HILL: Thank you. Mr. Gianniotis,

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1 what's the square footage of these buildings? Of this one
2 building?

3 MR. GIANNIOTIS: FEMS maintenance facility, is
4 about 70,000 square feet. It's a one story facility to keep
5 the FEMS apparatuses and top line service, the fire trucks,
6 the bumper trucks and the ambulances, as well as, some of the
7 sprinter vans.

8 The logistics building, which is the warehouse is
9 about 30,000 square feet. The OSSE parking garage is about
10 120,000 square feet. That's for both levels. And then, the
11 OSSE administrative building is about 18,000 square feet,
12 20,000 square feet.

13 BZA CHAIR HILL: Wow. Incredible. Okay. Mr.
14 Young, is there, is there anyone here wishing to speak?
15 Okay. Do my board members have any questions for anybody?

16 Okay, Mr. Gianniotis, I don't think you've
17 presented before to us, have you?

18 MR. GIANNIOTIS: I've had once before on a much
19 smaller scale project, and it's nice to see some of you
20 again.

21 MR. GIANNIOTIS: I've had once before on a much
22 smaller scale project, and it's nice to see some of you
23 again. This was many years ago for me.

24 BZA CHAIR HILL: Okay, all right. Okay. All
25 right. Well, thank you very much for your presentation and

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1 I'm going to go ahead and close the record and the hearing
2 and excuse everyone please, Mr. Young.

3 Okay. For me, I did think it was actually kind
4 of even though it's just a large lot. And I mean, I mean,
5 that's like hundreds of thousands of square feet. I mean,
6 just like big buildings. So, but I think that they are
7 meeting the, the criteria for us to grant this.

8 I thought that, you know, it was, it was well
9 walked through in terms of the exceptional extraordinary
10 conditions, the practical difficulty, and the no substantial
11 detriment to the public good.

12 I mean, this is a land-locked plot of 10.4 acres,
13 and they needed to reorganize to help what is being pushed
14 forward by the comp plan, and so I do appreciate the
15 presentation and the Office of Planning's recommendation, as
16 well as, their analysis.

17 And although I don't think we had anything
18 directly from the ANC in this particular case, I will be
19 voting in favor or maybe I did. I'm sorry, wait. I see
20 maybe I was wrong.

21 Yes. Yes. So the ANC was actually in favor, and
22 I'm sorry that I missed that, but we don't have, I think, the
23 correct paperwork to deem it a great weight, but there is
24 something here in the record from the chair, Wendy Hamilton,
25 and I'm going to be voting in favor of this application. Mr.

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1 Smith.

2 MEMBER SMITH: I have nothing to add, Chairman
3 Hill, I will support the application, as well.

4 BZA CHAIR HILL: Thank you. Dr. Imamura.

5 COMMISSIONER IMAMURA: I agree with your analysis,
6 Mr. Chairman, and also in agreement that the presentation was
7 well done, Very succinct and straightforward, very simple,
8 so very helpful to prepare to vote support.

9 BZA CHAIR HILL: Thank you. Thank you. Okay. I'm
10 going to make a motion to approve application number 21186
11 as captioned by the secretary and ask for a second, Mr.
12 Smith?

13 MEMBER SMITH: Second.

14 BZA CHAIR HILL: The motions we need and second.
15 And, Madam Secretary, if you take a roll call, please.

16 MS. MEHLERT: Please respond to the chair's motion
17 to approve the application. Chairman Hill?

18 BZA CHAIR HILL: Yes.

19 MS. MEHLERT: Board Member Smith?

20 MEMBER SMITH: Yes.

21 MS. MEHLERT: Dr. Imamura?

22 COMMISSIONER IMAMURA: Yes.

23 MS. MEHLERT: Staff and the present vote is 3-0-2
24 to approve application 21186 on the motion made by Chairman
25 Hill and second by Board Member Smith with two vote board

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1 members not participating.

2 BZA CHAIR HILL: Great. Thank you. Okay, if you
3 guys want to try to take lunch and let's try to take thirty
4 minutes. So I'll come back at 1:10 p.m. Okay. Thank you.
5 Bye-bye.

6 (Whereupon, the above-entitled matter went off the
7 record at 12:39 p.m. and resumed at 1:16 p.m.)

8 BZA CHAIR HILL: If you could call us back on our
9 next case.

10 MS. MEHLERT: The Board has returned has returned
11 from its lunch recess and is returning to its hearing
12 session. The next case is Application No. 21101 of Mendomas,
13 LLC. This is a self-certified application pursuant to
14 Subtitle X Section 901.2 for a special exception under
15 Subtitle U Section 203.1(h) to allow a daytime care use.
16 This is for a child development center for 82 children and
17 20 staff in a detached building.

18 The project is located in an R-1B zone at 245
19 Peabody Street, Northwest, Square 3388, Lot 811. The
20 published hearing was originally scheduled for May 1st and
21 postponed twice at the applicant's request and then the ANC's
22 request and then earlier today, the Board denied party status
23 in opposition to Genell Anderson and granted party status in
24 opposition to Brandon Jamison and Joshua Toll.

25 BZA CHAIR HILL: Okay, great. Thank you. Let's

1 see. Can the applicant hear me and if so, could they please
2 introduce themselves for the record?

3 MS. WILSON: I'm from Sullivan & Barros on behalf
4 of the applicant and I'm happy to introduce my team as well.

5 BZA CHAIR HILL: Okay.

6 MS. WILSON: So Ms. Marily Medrano is here. She's
7 the owner and founder of Estrellitas Montessori School. Ms.
8 Maria Cristina Encinas is the operations director. I'm also
9 here with Dave Bloom from District Architecture, who is a
10 project architect, as well as Nicole White, who is our
11 transportation expert. And we'd also like to proffer her as
12 an expert and she's testified in front of this board numerous
13 times.

14 BZA CHAIR HILL: So is she not listed as an expert
15 then, Ms. Wilson?

16 MS. WILSON: She should --

17 MS. MEHLERT: She is in our witness book.

18 BZA CHAIR HILL: I guess she's already listed then
19 as an expert in transportation, Ms. Wilson, so thank you.

20 Okay. Let me see here. Let's see. Mr. Jamison,
21 can you hear me?

22 MR. JAMISON: Yes, I can. Can you hear me?

23 BZA CHAIR HILL: Yes. Could you introduce
24 yourself for the record?

25 MR. JAMISON: Yes. My name is Brandon Jamison.

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1 I'm the homeowner at 223 Peabody Street, Northwest, which is
2 right next door to 245 Peabody Street. Thank you.

3 BZA CHAIR HILL: Thank you. Mr. Toll, can you
4 hear me?

5 MR. TOLL: Yes.

6 BZA CHAIR HILL: Could you please introduce
7 yourself for the record?

8 MR. TOLL: Thank you. For the record, I'm Joshua
9 Toll, homeowner at 6001 3rd Street, Northwest, which is also
10 adjacent to 245 Peabody. Thank you.

11 BZA CHAIR HILL: Okay. Did you all have an
12 opportunity to talk with one another over the morning and do
13 you know who is going to begin the presentation or lead the
14 presentation?

15 MR. JAMISON: We did, Mr. Hill. I'm going to
16 start off. Mr. Toll -- we've got a few witnesses that will
17 present as well, and provide their own presentations and
18 statements. And Mr. Toll has his own presentation.

19 BZA CHAIR HILL: Okay. I'm going to try to figure
20 this out. So the way this normally works, I think, and I
21 don't need to necessarily go talk to legal. I know Ms.
22 Wilson, you know it. You had to provide your witnesses ahead
23 of time, so I don't exactly know who you mean by witnesses.
24 I know that the person that was denied party status, Ms.
25 Anderson, was somebody who I thought maybe you guys would use

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1 as a witness or present.

2 When you say witnesses, who else do you mean, Mr.
3 Jamison?

4 MR. JAMISON: It would include Ms. Anderson; my
5 wife, Tara Jamison, who was noted as a witness in my
6 application for party status; and then Ms. Safa
7 Ansari-Bayegan, who I believe also submitted a request to
8 provide witness statement, testimony.

9 BZA CHAIR HILL: Mr. Toll, go ahead, speak up.

10 MR. TOLL: Yes, she was noted as my witness. It's
11 just going to be myself and my wife, and Ms. Ansari-Bayegan.
12 And then we would like to call Genell Anderson.

13 BZA CHAIR HILL: Okay, so the way again this
14 normally works is you all kind of have the same amount of
15 time as the applicant. So the applicant is kind of going to
16 dictate how long this goes to a certain extent, although I'm
17 not really going to rush it one way or the other. Everyone
18 is going to get an opportunity to speak, but that's just kind
19 of how it works, right? So you all together will get kind
20 of the same amount of time as the applicant. Okay? So just
21 keep that in mind and again, we want to hear from everybody.
22 I'm just trying to make sure this is done in an efficient way
23 so that the board understands the time that it's committed.

24 Okay. Is the Commissioner here?

25 MS. JOHNSON: Yes, Commissioner Tiffany Nicole

1 Johnson, ANC 4B-06. I am in the adjacent area, directly
2 across the street from the proposed child development center.

3 BZA CHAIR HILL: But Ms. Johnson, you're in the
4 ANC that this property is in, correct?

5 MS. JOHNSON: No. I am in the adjacent one, right
6 across the street.

7 BZA CHAIR HILL: Okay.

8 MS. JOHNSON: The ANC as a whole, but not the
9 Single Member District.

10 BZA CHAIR HILL: Got it. You're in the adjacent
11 SMD.

12 MS. JOHNSON: Correct.

13 BZA CHAIR HILL: You're in the same ANC.

14 MS. JOHNSON: Yes.

15 BZA CHAIR HILL: Okay. I wanted to make sure.
16 Okay. Great. Okay, so then as the representative for your
17 ANC, you are a party, an automatic party, and then you get
18 to give presentation, you get to give -- ask questions, et
19 cetera. And usually the order I go in is the applicant,
20 parties in support and opposition, go to the ANC. That's
21 just kind of the way I've been doing it.

22 So with that, I think everybody knows what they're
23 going to do.

24 Ms. Wilson, you may go ahead and give us your
25 presentation and explain to us why you believe your client

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1 is meeting the criteria for us to grant the relief requested
2 as per the zoning regulations, and you may begin whenever you
3 like.

4 MS. WILSON: Great. Thank you so much. Mr.
5 Young, could you please pull up the presentation. And it's
6 relatively thorough just given the circumstances. Next
7 slide, please, when you have a chance. Thanks much.

8 The property is located in the R-1B zone. It's
9 currently approved for the building that was purposed as a
10 church.

11 BZA CHAIR HILL: Ms. Wilson?

12 MS. WILSON: Yes?

13 BZA CHAIR HILL: If I can just pause for a second.
14 I appreciate that you said that it's relatively thorough and
15 I just noted that it's 67 slides long.

16 MS. WILSON: I won't be reading that. I'm just
17 going to go quickly through the presentation.

18 BZA CHAIR HILL: Okay, just checking.

19 MS. WILSON: Don't worry. I don't want to read
20 half of this.

21 BZA CHAIR HILL: Just trying to make sure I know
22 where I am.

23 MS. WILSON: Okay. So it's currently approved for
24 the building that was purposed as a church. It was used as
25 a church up until its current vacancy. And the building has

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1 been vacant for some time. I think we heard seven years at
2 the ANC meeting. Ms. Marily Medrano purchased the property
3 in 2023. She's the owner and applicant. She is proposing to
4 upgrade and slightly expand the building and convert it to
5 a child development center, Estrellitas Montessori, which she
6 will also own. She will also operate it with Ms. Maria
7 Christina Encinas.

8 The proposed upgrades and addition are well below
9 the matter of right envelope and require no relief. However,
10 child development center use requires special exception for
11 approval. The Office of Planning is recommending approval.
12 DDOT has no objection. ANC 4B voted to support with no
13 objection. The SMD abstained but he did not object. And the
14 continuing resolution that he wrote was also in support and
15 there was never any resolution proposed to oppose the
16 childcare. And Commissioner Johnson can speak more about in
17 her testimony.

18 And we do have one letter in support from a
19 neighbor at 219 Peabody, next to Ms. Anderson who currently
20 has a child enrolled at one of the other Estrellitas
21 locations and who would appreciate local childcare. And he
22 also attested to the capability of the leadership of
23 Estrellitas.

24 Next slide, please.

25 So Ms. Medrano and Ms. Encinas successfully

1 operate Estrellitas on Colorado Avenue in D.C. and in Takoma
2 Park, Maryland. And this will be a third location and a
3 second location in the District. There have been some
4 assertions that the other schools are closing and everyone
5 is moving here, but Estrellitas is not moving the 200 plus
6 children from both schools to this location. This location
7 will be capped at 82 students.

8 They are in the process of renegotiating a lease
9 for the Maryland location. Those families are looking to stay
10 put. It's looking promising. If that lease falls through,
11 they will move somewhere else near that location, but not to
12 this proposed location.

13 Originally, the intention was maybe to move some
14 families from the wait list off those locations to this new
15 school. That is no longer the case for a number of reasons.
16 We clearly communicated this at the ANC meeting, so that
17 neighbor concern has been addressed and the goal is to and
18 always has been to have the bulk of the children come from
19 the local community. There's no way to move children over
20 any time soon because either they will be off the wait list
21 or hopefully have found a new daycare location before this
22 process is over. And then certainly they're not closing that
23 Colorado Avenue location. They had BZA approve that fairly
24 recently so they have no intentions of abandoning that
25 location.

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1 What they are proposing is, as I said, 82 children
2 ages 6 months to 5 years. There is no school in the
3 immediate area within 1,000 feet serving this specific
4 population of kids from 0 to 3 in this type of school. I
5 know the neighbors had mentioned the charter school across
6 the street. We will address that in great detail. But it
7 does serve kids 3 through 5 and pre-K.

8 We also are proposing five parking spaces on site
9 solely to be used by staff which exceeds the parking
10 requirements. There are also four bike spaces proposed for
11 parents outside and one long term for staff inside. As Ms.
12 White, our traffic expert, will discuss in her presentation,
13 there is a designated PUDO, pick up drop off area, along
14 Peabody for parents. Additionally, as will be discussed in
15 this presentation, there are other extensive conditions
16 proposed after many months of discussions with the SMD and
17 community and the main concerns relate to the charter school
18 on the 100 block of Peabody and traffic.

19 Before I get into the rest of the presentation,
20 just for some context and reasoning behind these conditions,
21 they did not come out of thin air. The uses permitted via
22 special exception. Presumably the goal of this type and
23 other types of community serving special exception uses such
24 as corner stores and retirement homes, is to create more
25 inclusive and walkable neighborhoods and therefore hopefully

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1 cut down on the need to use a car. And so in designing the
2 condition to any approval, it was our goal to make it very
3 clear up front to parents applying to the daycare and daycare
4 employees of the conditions of the neighborhood and of the
5 conditions of any order so they can make an informed decision
6 about daycare choices and employment choices. And what is
7 great about being in a neighborhood where there isn't this
8 zero to three care is you may want to move your kid from
9 existing daycare that's miles away and walk to this new
10 facility.

11 We heard from a parent at the ANC meeting who said
12 he planned to do just that. Unless you and/or a partner work
13 in the exact same location, are working five days a week
14 fully in office, not remote, you typically look for a daycare
15 closer to home. Because if there are days you don't go into
16 the office or work from home or your partner may have to take
17 them or you switch off, it makes more sense for most people
18 to have daycare close to home. It's the same reasoning as
19 to why public schools are based on where you live, not where
20 you work. So parents and guardians are typically motivated
21 to find daycare closer to the home. And it's our goal to
22 encourage that and discourage vehicle use. And we intend to
23 do that for a TDM plan as will be discussed in more detail
24 by Ms. White, but also by prohibiting the alley use and
25 having strict policies for vehicles and encouraging other

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1 modes of transportation. And this will directly correlate
2 to who will choose this school. Because if you are a parent
3 or guardian who commutes to work five days a week in a
4 vehicle, you would likely be looking for a daycare that had
5 parking. Upon learning that this daycare does not have
6 parking available for parents and has a very strict drop off
7 policy which it advertises is probably not going to be the
8 daycare for your kids.

9 (Audio interference)

10 BZA CHAIR HILL: Ms. Wilson, Ms. Wilson, can you
11 guys hear me?

12 MS. WILSON: Yes.

13 MR. TOLL: Turned it off.

14 BZA CHAIR HILL: Okay, great. You started
15 breaking up like 30 seconds ago.

16 MS. WILSON: Oh, it's me?

17 BZA CHAIR HILL: Yes, sorry.

18 MS. WILSON: I'm going to stop my video. Is that
19 more helpful?

20 BZA CHAIR HILL: Yes, that's fine.

21 MS. WILSON: I've been having computer issues all
22 day. I'm so sorry.

23 BZA CHAIR HILL: No problem.

24 MS. WILSON: So the people who are choosing to go
25 to this daycare are going to be those who are less likely to

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1 need cars as compared to other daycares as they have parking.

2 Next slide, please. Oh, no.

3 Can you all hear me?

4 BZA CHAIR HILL: Yes.

5 MS. WILSON: Okay, sorry. My computer is lagging.

6 So Ms. Medrano and Ms. Encinas are proposing 82 children with
7 20 staff. So this slide is from Google Maps which shows the
8 subject property and the alley surrounding the property and
9 I believe that alley actually goes all the way up to
10 Quackenbos and then to 2nd Street to the east and if you go
11 to the IM Google Maps it appears that many do have off-street
12 parking, metered or paved area or accessory garage. Mr.
13 Toll's property is to the west across the alley. And so he
14 appears to have an accessory garage. And most of these
15 properties also have alley access.

16 Next slide, please.

17 Thank you. So these are just some photos of the
18 subject property. The homes to the right of the subject
19 property is owned by the Jamisons and the bottom left is a
20 view of the subject property from the alley to the west.
21 The rear to the property to the west and the garage of the
22 property to the west abuts the alley. It's on the right hand
23 side of the photo. The photo on the right hand side there's
24 some garbage cans down there and that's the approximate
25 location of the garage.

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1 And so one of the conditions is that no parent be
2 able to block or use this alley and blocking or using the
3 alley will result in expulsion from the school and this will
4 be in the handbook and the owners have provided phone numbers
5 and emails so that if anyone decides not to follow the rules,
6 then the neighbors can immediately let the school know and
7 the school can terminate enrollment and it will be a
8 straight-forward process.

9 Next slide, please. If you could please go to the
10 next slide. Those are just some additional photos. Thank
11 you.

12 For the special exception, there are four criteria
13 for approval and then the main contention is that the first
14 and the fourth which relate to traffic. The neighbor
15 objections are predicated on the notion that this use is
16 going to cause objectionable traffic, especially in
17 combination with the charter school on the 100 block of
18 Peabody. There has also been allegations and letters that
19 we have not been transparent with our proposal because, for
20 example, in our initial statement, we noted we expect most
21 kids to arrive by foot or nonvehicle-related methods and that
22 was and really is the expectation, given these conditions.

23 Ideally, the daycare would serve more children
24 from the neighborhood who could walk. However, for the
25 transportation statement, we modeled the mode split, meaning

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1 the split in arrival between cars, bikes and on foot. We
2 modeled that off the Colorado Avenue location in which they
3 did parent surveys and coordinated it with DDOT and that
4 Colorado Avenue site is different because there's a parking
5 lot for parents to utilize. So the proportion of car usage
6 may even be a bit higher than what we would expect for this
7 site.

8 But even using the parent survey data from the
9 Colorado Avenue site which may be on the higher end of
10 vehicle use, the transportation study done by Ms. White shows
11 that Estrellitas will not create objectionable traffic
12 conditions, nor unsafe conditions for pick up and drop off.

13 Next slide, please.

14 The next conditions are relatively straight
15 forward. I don't think this one has been controversial, but
16 the children will be walked in small groups using these
17 methods. The small groups will help limit noise and so there
18 are not -- there's no danger to individuals traveling between
19 any play areas to the center and facility.

20 Next slide, please.

21 Requirement 3. Fencing has been provided and
22 design was also updated based on feedback and there's a
23 designated PUDO area per DDOT as will be shown on the
24 transportation presentation and we, of course, are amenable
25 to other comments or suggestions as the board deems

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1 necessary.

2 Next slide, please.

3 So this in the other requirement at issue for the
4 neighbors. This says if there is another CDC within 1,000
5 feet, the Board can approve only if it finds that the
6 cumulative effect will not have an adverse impact on the
7 neighborhood due to traffic, noise, or operation. So all this
8 is saying is if you consider that K-3 program for the 3 to
9 5-year olds at the charter school is a CDC, which is a very
10 small fraction of the overall kids in that school, the board
11 just has to consider the cumulative impact from the 3 to
12 5-year-old program at the charter school combined with us,
13 not the entire charter school.

14 So we've actually gone above and beyond this to
15 address the cumulative impacts from the entire school as this
16 was the neighborhood's number one complaint. So the traffic
17 study has been tailored and the conditions tailored to
18 mitigate cumulative impacts based on the transportation study
19 which includes the charter school. That was at the
20 neighbors' request. It's not just our school. It's not just
21 our school plus the 3-to-5-year-old program which would
22 probably not have a huge overlap. We did it based on the
23 entire school and it shows that there are no adverse impacts
24 that would be created in terms of traffic as confirmed by
25 DDOT.

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1 Next slide, please.

2 This just shows the relative locations between the
3 subject property and Capital City Public School which has
4 multiple means of access since it's next to a commercial
5 corridor and a cross section of streets.

6 Next slide, please.

7 This is the C of O and all that I could find on
8 Access DC for charter school. I don't see a C of O for a
9 CDC. The charter school has children ages 3 to 5 on their
10 C of O. They've had it since 2012. The only reason the C
11 of O is to add a theater and if it distinguishable from the
12 proposed child care use because it's a ladder use and not
13 serve ages 0 to 3.

14 Next slide, please.

15 Regardless, the proposal has been reviewed for
16 this charter city in mind and that top of mind. It appears
17 that this school is being used as a reason to deny this case.
18 There's not a formal C of O and even though having a CDC
19 within a 1,000 feet is still okay, as there are not
20 cumulative objectionable impacts regarding traffic and noise.
21 It's a similar condition to the first one as the general
22 special exception requirements. So this requirement would
23 be to study the impacts from this specific pre-K program, not
24 the school as a whole in conjunction with the proposed use.
25 And so they mentioned we went above and beyond this

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1 requirement. An objective traffic study reviewed by DDOT and
2 an analysis from DDOT was provided. It was conducted during
3 a midweek school day and it shows that even with the existing
4 conditions at Capital City, the traffic conditions will not
5 rise to a level of objectionable due to the cumulative
6 effects. It was specifically studied and there's no need to
7 further delay any process. This one has gone on about nine
8 months due to the fact that the charter school exists. We
9 did our analysis knowing that. The analysis and conditions
10 proposed entirely consider the existence of the school, the
11 entire school, not just the pre-K program. And the neighbor
12 concerns related to these cumulative impacts were considered
13 as well, whether or not it's a formal CDC. Given that,
14 surely if we just considered the pre-K program which is all
15 we are required to do, the data would continue to show no
16 adverse impacts on traffic.

17 To say that we did not consider the school as part
18 of the analysis is entirely untrue and to say that the ANC
19 approval, traffic study, and other conditions were proposed
20 and created without considering the effects, the cumulative
21 effects, is also untrue. What is true is there is no DOV
22 issues C of O for a CDC for that charter school and that
23 every analysis was done and condition provided specifically
24 knowing the neighbors were concerned about this charter
25 school.

1 Next slide, please.

2 BZA CHAIR HILL: Ms. Wilson?

3 MS. WILSON: Yes.

4 BZA CHAIR HILL: I don't know if you want to take
5 five minutes or we want to take five minutes, but the record
6 is pretty full in that we've all reviewed the record and I
7 appreciate what you're trying to do.

8 MS. WILSON: Okay.

9 BZA CHAIR HILL: No, no, no. I just want to
10 clarify. We've had 15 minutes and I've gone through 14
11 slides and so I flipped through your side deck and I think
12 a lot of it is helpful, but it's already in the record and
13 so I need to know, do you want to take a couple of minutes
14 and figure out how you want to condense this to where you're
15 only going to another 15 minutes?

16 MS. WILSON: I know how to do it and I really
17 appreciate that comment. Thank you so much.

18 BZA CHAIR HILL: I'm just going to pause and
19 finish my statement, but I appreciate it, is that running
20 through your traffic study person. I think we know all of
21 the issues that so far the parties in opposition have put
22 forward. We've seen the ANC report. We've seen the Office
23 of Planning's report. So with that, I go ahead and see if
24 you can get me through the rest of your presentation in
25 another 15 minutes which will give me half an hour which

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1 everybody else will get half an hour.

2 MS. WILSON: I can do that.

3 BZA CHAIR HILL: Okay.

4 MS. WILSON: Can we jump to slide 26 please, or
5 25?

6 So these are just the proposed conditions to any
7 order and Ms. Wright will talk about a tenth one that we're
8 going to propose to prevent staff from parking on the block
9 and make sure that's in the Employee Handbook.

10 Next slide, please. Could you go to the next
11 slide, please? Thank you.

12 This is just a repeat. This is in the record.
13 It's the Employee Handbook language.

14 Next slide, please.

15 I just want to touch on this. One of the main
16 requests is why don't we do 12 kids or 24 kids? There is no
17 direct limit on CDCs per the zoning regulations. It's
18 governed by the building code regulations. And so we are not
19 proposing the maximum number of children that could be
20 proposed on the site which is 170 if we maxed out the
21 footprint and so with that, I will turn it over to --

22 BZA CHAIR HILL: Why are you only for building the
23 82 and not the 170?

24 MS. WILSON: I was going to turn it to over Ms.
25 Medrano to talk about that. But the idea is being able to

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1 balance an appropriate amount of space for each child,
2 quality space with the proposed addition and the financial
3 -- and still able to meet the financial impacts from this.

4 So I'm going to turn it over to Ms. Medrano and
5 to Ms. Encinas to discuss that a little more. And then we
6 will turn it over to Ms. White for the traffic presentation.

7 MS. MEDRANO: Good afternoon. Thank you so much.

8 MS. WILSON: Could you please go to slide 31?
9 Thank you so much.

10 MS. MEDRANO: Yes. My name is Merily Medrano and
11 I've been working in public charter education for over 20
12 years now and we started a part of a program Spanish immersion
13 Montessori back in 2008 and we've extended the program since
14 we have a lot of families on the waiting list, we extended
15 to Takoma and now we have a lot of families, over 164
16 families on the waiting list for our D.C. location. And for
17 these reasons, we are trying to extend the services for some
18 of the families that came around that area to our current
19 location, Colorado Avenue.

20 So we saw the opportunity to purchase this
21 building since it was advertised as a childcare center and
22 we considered the community we're serving and where is the
23 need for children. Like I said, this is for children 3 to
24 5 years old. So we found that location perfect for the
25 extension of what we're doing right now and the reason of the

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1 82 children is because we want to have a building that offers
2 a quality service for the children during the day and in that
3 time making sure that they have indoor space as well.

4 We could request or have more children because of
5 this age, but we don't want to do that but at the same time
6 we want to have a place with the quantity of children that
7 makes sense to have a business in order to serve the
8 community. Again, some of the families are around that
9 neighborhood can already travel to the current location and
10 they're driving. So having the school close to them would
11 minimize that. Our philosophy originally was that make sure
12 that we are able to serve our direct community, people that
13 work and go to work and having better peace of mind knowing
14 that their children are safe and are well taken care of
15 during the day until they return from work.

16 I will pass this on to Ms. Encinas.

17 MS. CRISTINA ENCINAS: Yes, I know it's limited
18 time. My name is Cristina Encinas. I all the curriculum
19 for, for us. It was important to have this space not only
20 for the children be doing the education piece, but also for
21 recreation and the community together. So that's why we
22 didn't go beyond the -- to 170 because the extra space is
23 actually for the recreational and community use for the
24 families who will attend Estrellitas Montessori school.
25 Thank you.

1 MS. WILSON: Thank you. Could we go to slide 33
2 and with that we'll turn it over to Ms. White who is our
3 traffic expert.

4 MS. WHITE: Hi, I'm Nicole White, principal with
5 Symmetra Design. We're located at 727 15th Street,
6 Northwest, Washington, D.C. I have 24 slides. I'll try to
7 get that down to half, if possible, but -- so we'll skip
8 around.

9 So first just to note that we prepared a
10 transportation statement in accordance with DDOT's
11 comprehensive transportation review guidelines. We submitted
12 an initial transportation statement in June. We met with the
13 neighbors in July, received some good feedback, and at the
14 request of the community went back and collected some
15 additional data when school reopened in September and that's
16 why we submitted a revised transportation statement in
17 September.

18 So DDOT has indicated that they have no objection
19 to the approval -- next slide, please -- to the approval of
20 the application with three conditions. I can go into our
21 response to the conditions, but there's no objection from the
22 applicant on that. I do have some information about the
23 conditions later in my presentation.

24 Next slide.

25 And we can skip over the transportation networks.

1 BZA CHAIR HILL: Ms. Wilson, can you hear me?

2 MS. WHITE: I'm sorry, I didn't hear that.

3 BZA CHAIR HILL: I said Ms. Wilson, can you hear
4 me?

5 MS. WILSON: Yes, I can.

6 BZA CHAIR HILL: Are those three DDOT conditions
7 part of the ten conditions?

8 MS. WILSON: I believe so. Nicole, can you --

9 MS. WHITE: I don't know the ten conditions.

10 MS. WILSON: So we referred DDOT conditions in the
11 ninth condition, so we're happy to incorporate.

12 BZA CHAIR HILL: I just was curious. Okay.

13 MS. WILSON: Absolutely, yes. Those will be
14 included.

15 BZA CHAIR HILL: All right, Ms. White. Thank you.
16 I'm sorry to interrupt.

17 MS. WHITE: Okay, no problem.

18 So, we'll skip over the transportation network,
19 understand that you went through the report and generally
20 understand the multi-modal conditions.

21 And we'll go to the next slide, please. And you
22 understand that the project meets the requirements of
23 parking. And that I do want to focus on this slide for a
24 second just to reiterate that parent pick-up/drop-off would
25 occur on Peabody. And the parking spaces would be reserved

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1 for staff, and accessed through the alley for the staff.

2 We can go to the next slide, which is loading and
3 trash removal. And that has not been an issue, so I'll go
4 to the next slide in the interests of time.

5 And we'll go to the slide that focuses on the
6 community comments from the July 16th meeting. So, we can
7 go forward a slide, please.

8 Okay, thank you.

9 And so, we met with the community in July. And
10 then in response to that meeting, Commissioner Cohen sent a
11 succinct email that summarizes really three comments that we
12 heard from the community which are focused on the use of the
13 alley, and stacking on Peabody Street, particularly
14 considering Capital City Public Charter School existing
15 activity, and also just to make sure there was on street
16 parking availability for staff pick-up/drop-off and residents
17 in the area.

18 So, the next slides I'll focus in on our response
19 to, to these concerns that we received.

20 Okay. So, I stated earlier the Parent Handbook
21 would include policies and consequences related to using the
22 alley for drop-off/pick-up activity.

23 Also, the next slides will show how there would
24 not be a need to use the alley because there is adequate
25 space for pick-up/drop-off activity to occur on Peabody

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1 Street where it would be designated.

2 So, I'll go through that activity. If we can go
3 to the next slide, Peabody Street stacking.

4 All right. So, the neighbors expressed concern
5 that the daycare cars will prevent the consistent flow of
6 two-way traffics on a local road. Per Commissioner Cohen,
7 this street also has a steady flow of drivers heading
8 eastbound to drop and pick up students at Capital City Public
9 Charter School.

10 So, the next slides I will outline some arrival
11 and departure data for the daycare based on activity at the
12 existing Colorado Avenue daycare facility owned by
13 Estrellitas. That was used for us to really get a good
14 understanding which to supplement what we had already done
15 in the June transportation in terms of transportation data.

16 If we can go to the next slide, please.

17 Okay. I just wanted to start with a high level
18 comparison of the daycare versus the charter school.

19 So, the charter school has over 1,000 students.
20 The daycare would have 82 students.

21 The charter school has this discrete start and
22 dismissal time, from 8:15 to 8:30 for arrival, and 3:30 for
23 dismissal on most days, except for 1:30 p.m. on Wednesdays.

24 So, unlike a school, the daycare does not have an
25 arrival and dismissal bell. Instead, activity is dispersed

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1 over a longer period of time based on schedule of the
2 parents.

3 So, I also wanted to show we have the impact area
4 for the Capital City Public Charter School shown in blue.
5 This is where we have observed a lot of the parking during
6 pick-up/drop-off activity. Whereas, we are proposing the
7 area in red for the primary pick-up/drop-off activity
8 associated with the daycare.

9 Okay. We can go to the next slide. And here's
10 where I'm going to -- I'll talk a little bit in detail and
11 then try to go quickly through this, but I think it's
12 important.

13 So, after the July meeting, Estrellitas they were
14 asked to obtain sign-in/sign-out data for students so that
15 we could really understand the arrival and departure patterns
16 of students. So, this slide is showing the arrival period
17 for four days in May. And we used that to come up with an
18 overall average.

19 As this wrap indicates, students started to arrive
20 as early as 7:15. And the last arrival was two-and-a-half
21 hours later at 9:45. So, this really just is showing this
22 dispersed period of arrival with a peak happening over a
23 1-hour period. And this is for the Colorado Avenue location.

24 For the afternoon, if you go to the next slide,
25 the departure period for students -- next slide, please --

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1 thank you -- the departure period for students at the
2 Colorado Avenue location lasted for almost four hours.
3 Students started to depart as early as 2:00 p.m. The peak
4 activity occurred from around 5:00 p.m. to 6:00 p.m.

5 Next slide. Okay. So, we used this Colorado
6 Avenue data to determine what would happen at the Peabody
7 location. The blue line represents Colorado Avenue, the red
8 line represents Peabody because Peabody has 82 students
9 whereas Colorado has 150. So, I'm just showing you, trying
10 to quickly walk through our methodology to get us to a couple
11 slides down here.

12 Next slide, please.

13 So, again, the information that we originally had
14 was based in sign-out -- sign-in and sign-out sheets for
15 every student in the daycare. We know that every student
16 will not arrive by vehicle. So, we had to make some
17 adjustments for mode split and auto occupancy to get from
18 person trips to vehicle trips.

19 So, the red line is showing person trips. The
20 green line is showing vehicle trips with that 62.6 mode
21 split.

22 By the way, this information is very consistent
23 with what we have in terms of national rates from the
24 Institute of Transportation Engineers. So, it is a really
25 good way to validate our earlier transportation statement.

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1 Next slide, please. And this is, I think, the
2 final graphic slide here. But I think this is really helpful
3 to understand conditions.

4 So, this is the same curve, the vehicle arrival
5 rate that we expect for Peabody. The curve to the left
6 represents what would happen in the morning. You can see
7 there's a 15-minute arrival period for Capital City Public
8 Charter School. And we look at that compared to what we
9 expect for the arrival pattern.

10 The graph on the right shows the 3:30 dismissal
11 period for Capital City Public Charter School. And during
12 this time only one parent would be expected to pick up their
13 child.

14 Instead, the activity associated with the daycare
15 would really start to happen about 90 minutes later.

16 Okay. Next slide, please.

17 In addition to looking at, looking at the
18 sign-in/sign-out data there was a request to understand how
19 long each parent would park during drop-off and pick-up
20 period.

21 BZA CHAIR HILL: Sorry.

22 MS. WHITE: Bless you.

23 So, we went to the Colorado Avenue location in
24 September and noted the arrival and departure time for every
25 parent vehicle. The average duration of stay for the parked

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1 vehicles was 4.3 minutes during the morning, and 11.1 minutes
2 during the afternoon. Most parents took 5 minutes in the
3 morning and 9 minutes in the afternoon.

4 Okay, next slide.

5 All right. Since we understand the arrival and
6 departure times of each vehicle at the Colorado Avenue
7 location, we could also determine the accumulation of total
8 vehicles at any one time. So, the graphs on this slide
9 represent a snapshot in time for every 5 minutes during the
10 morning and afternoon.

11 The graph on the left tells us that there are not
12 expected to be more than three parent vehicles parked at a
13 time. So, the similar methodology was used where we scaled
14 --

15 BZA CHAIR HILL: Ms. White. Ms. White, you guys
16 are at 30 minutes. And I don't know where you are in your
17 slide deck. But I just want to let you know you're at 30
18 minutes.

19 And I think what might also be helpful, Ms.
20 Wilson, is that if you all go through your slide deck and
21 then we're going to listen to everybody else, and the Board
22 is able to ask questions, it might be more helpful to
23 actually specify where we are in this slide presentation.
24 Thank you.

25 MS. WHITE: Okay. Let's, let's jump ahead then.

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1 MEMBER SMITH: I've got a question while we're on
2 this slide.

3 The projected P.M. pick-up -- and I saw this in
4 DDOT's slide -- is projecting, what, about close to 11
5 vehicles between 5:20 and 5:30. Is that 11 vehicles,
6 different vehicles for each of those 5-minute intervals?

7 MS. WHITE: No. That is, so, the slide, a few
8 slides ago we talked about parents staying for about 11
9 minutes. And so, they're dwelling in, you know, they're
10 staying in a parking space for a time.

11 And, so, if you were to take a picture, like from
12 an airplane, every 5 minutes, we're saying every 5 minutes
13 there could be some of the same cars but there would be no
14 more than 11 cars parked since some may go and some may come.
15 But at any snapshot in time there would be 11 vehicles
16 parked.

17 MEMBER SMITH: So, in this particular instances
18 there would be 11 vehicles during that time that could
19 presumably be in association with the child development
20 center in that short block, in the portion that you propose
21 for the pick-up?

22 MS. WHITE: Yes. Eleven spaces that would be
23 occupied.

24 MEMBER SMITH: Eleven occupied. Okay.

25 MS. JOHNSON: Am I -- Commissioner Johnson -- am

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1 I allowed to speak?

2 BZA CHAIR HILL: Sure. Go ahead, Commissioner.

3 MS. JOHNSON: So, I just wanted to state that
4 there is parking on Kansas Avenue in the 59-6,000 block of
5 Kansas Avenue, and the 5800 block of Third Street, NW. So,
6 there could potentially be a situation where not all of these
7 cars are parked on Peabody Street because there's always
8 available spaces. Even with Cap City teachers and some
9 students parking there, there is always ample space.

10 BZA CHAIR HILL: Okay.

11 MS. JOHNSON: And it's only a block away.

12 BZA CHAIR HILL: Commissioner, I'm sorry to
13 interrupt you.

14 I guess if you could hold your comments, I guess,
15 for your presentation portion, that would also be helpful.

16 MS. JOHNSON: Okay, thank you.

17 BZA CHAIR HILL: Just because, you know, I don't
18 want everybody to be talking at the same time.

19 Okay, go ahead.

20 And to my fellow board members, again, and Ms.
21 White and Ms. Wilson, don't get me wrong. I appreciate all
22 the information that's here.

23 MS. WHITE: Okay.

24 BZA CHAIR HILL: I guess I'm just trying to get
25 at, like, it is a lot of information that also is in the

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1 record. But I'm pointing out to my fellow board members,
2 while this slide presentation is going on if you all have a
3 question on a particular slide, go ahead and ask it now, I
4 suppose.

5 MS. WILSON: And if I may, I think we'll have Ms.
6 White finish up. And then if there are separate questions
7 about the architecture, since it's technically all by right,
8 then we can answer those, too, if that's okay.

9 BZA CHAIR HILL: Great.

10 Go ahead, Ms. White.

11 MS. WHITE: Okay. We can, we can jump ahead from
12 this slide. And, again, I'm happy to come back and answer
13 questions. But, again, the takeaway is the accumulation of
14 the parked vehicles that we would expect at any tone time.

15 Next slide, please.

16 Okay. So, this slide is showing at three
17 different peak periods the number of vacant spaces in sort
18 of that key area, the prime pick-up/drop-off area, if you
19 will, that's outlined in red in the map. And from 8:15 to
20 9:15 we show that there were 20 available spaces; 4:45 to
21 5:45, 25.

22 3:00 p.m. to 4:00 p.m. the number went down
23 because of the dismissal time of Capital City Public Charter
24 School.

25 The next-to-last column is showing what we're

1 projecting to be the total parking demand associated with
2 staff and pick-up/drop-off. And in each case that total
3 parking demand is less than the available supply.

4 Let's pause here because this is new information.

5 I went out and did an additional observation
6 yesterday, and then we talked as a team. And we, this is the
7 tenth condition that we want to propose.

8 So, whereas we were in this table including the
9 nine staff parking spaces, overflow I'll say, because the
10 five spaces, you know, meets the zoning requirement, but we
11 do expect some additional demand on street, the proposed
12 additional condition is that they would not be able to use
13 what we're calling this sort of key or prime pick-up/drop-off
14 area.

15 Instead -- and I appreciate the ANC commissioner
16 for what she suggested in terms of available parking spaces
17 on Kansas Avenue, and then if we go to the next slide --
18 we're suggesting that we would, Estrellitas would include in
19 the Employee Handbook that they would not, or parents would
20 not be able to park in that area. And, instead, I'm thinking
21 they should focus more on the areas to the west so that there
22 is no competition in terms of the Capital City Public Charter
23 School.

24 So, during the peak times we found just in the
25 three blocks on both sides of the street here to the west,

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1 that there were over 60 spaces that could be used by staff.
2 So, we sort of displaced them, creating even more space
3 available for parents during that pick-up/drop-off period.

4 So, we think that that would be helpful to the
5 neighbors and for Capital City Public Charter School.

6 We can go to the next slide. This is in the
7 record, the next slide, the pick-up/drop-off space part of
8 the DDOT report.

9 And then, again, that we agree with the -- the
10 next slide, please -- the three conditions. We support them.
11 The TDM plan, definitely won't read all of the detail, but
12 the applicant is okay with that and suggested that. The
13 short-term bicycle spaces are shown in our report and in the
14 architect's plan.

15 And what was not in our original study was the
16 long-term bicycle space. But we, per DDOT's comment, divided
17 the space to a storage room inside.

18 So, that concludes my abbreviated presentation and
19 I'm happy to answer questions.

20 MS. WILSON: Thank you, Ms. White.

21 That concludes our presentation. We are happy to
22 answer any questions, including any questions related to the
23 plan.

24 BZA CHAIR HILL: Okay, great.

25 All right. Looking at board members. So, I mean,

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1 I'm going to point out to my board members, and also those
2 other members of the party sides people in this particular
3 case, you know, we're looking at Subtitle U, 203, the special
4 exceptions. Okay? Those are one of the things we're looking
5 at, and then Subtitle X, 901, the special exceptions. Those,
6 those are the criteria that we look at.

7 And I know that they're talking a lot about the
8 parking and the traffic, which is very helpful. So, if my
9 fellow board members have any questions on any of those,
10 would you -- or, if you have any questions about anything
11 that just happened, do you want to do questions now or are
12 you going to wait until we hear from everybody?

13 MEMBER SMITH: I think I have two questions.

14 BZA CHAIR HILL: Go ahead.

15 MEMBER SMITH: The first one, what was this
16 building used for previously? This was some kind of, looks
17 like a church?

18 MS. WILSON: It was --

19 MS. JOHNSON: It was the Mennonite church.

20 BZA CHAIR HILL: Who's answering?

21 MEMBER SMITH: Okay.

22 BZA CHAIR HILL: Who's answering?

23 MS. JOHNSON: This is Commissioner Johnson.

24 Before the redistricting, this location was in
25 my single member district. It was a former church. The

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1 church dissolved, and the property has been vacant.

2 Other individuals have come in trying to utilize
3 it for purposes that the community, and myself as well, felt
4 were not in cohesive nature of our community. And so, we had
5 asked previously could a child development center come into
6 this location? And Medomas, the applicant, fell into our
7 laps.

8 BZA CHAIR HILL: Mr. Smith, what was your second
9 question?

10 MEMBER SMITH: Well, the second question had to
11 do with the demand, the parking demand.

12 Ms. White, your calculations of available parking,
13 does that factor in I'm assuming there was some kind of
14 parking study that was done based on how much available
15 parking currently exists now, in a way?

16 Did you factor that in about the parking demand
17 along that block and the adjacent blocks at this, at this
18 particular time during the week?

19 MS. WHITE: Yes. So, there was an earlier slide
20 that showed that prime survey area, the pick-up/drop-off area
21 that we looked at. And so, in that area we observed a number
22 of vacant parking spaces during each time period, in the
23 morning drop-off, during -- which also somewhat coincided
24 with the Capital City Public Charter School, during Capital
25 City Public Charter School's dismissal time, and also during

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1 the 5:00 p.m. to 5:30ish time period when the daycare pick-up
2 would take place.

3 And so, we have accounted for, I think I showed
4 20 to 25 vacant spaces in that area, a little less during
5 other times during the --

6 MEMBER SMITH: Okay.

7 MS. WHITE: -- Capital City Public Charter School
8 dismissal time.

9 MEMBER SMITH: Okay. And I think my last question
10 is, how does, how does the organization typically regulate,
11 and typically parents, is a typical amount of time that they
12 typically sit, sit there for pick-up and drop-off, how has
13 the organization typically in their other sites attempt to
14 regulate that to try to keep it to those shorter times?

15 MEMBER SMITH: I think our observation was just
16 really capturing the human dynamic of what it takes to -- I
17 mean, I think it might be hard to say you must get in and out
18 in 5 minutes or less. I mean, we're talking about the
19 infants in some cases. And so --

20 MEMBER SMITH: Agreed.

21 MS. WHITE: -- it's really understanding over, you
22 know, 40 vehicles during this long period of observation, how
23 long they are taking in the morning. They are just in and
24 out. They're on their way to work.

25 It is surprising to see, some people took

1 literally 1 minute and some took 4 minutes. And during the
2 afternoon maybe there's a little more talking, maybe there's
3 a little more debrief of what the child did in daycare that
4 day, and so that naturally takes longer.

5 MEMBER SMITH: That's what I'm more concerned
6 about. I'm more concerned about the afternoon. There's more
7 lingering that's occurring. And there's a bigger clutch of
8 parents coming to pick up and drop off their kids during
9 certain times, during that particular time.

10 Because everybody's, for the most part, getting
11 off pretty much around the same time. The daycare center's
12 closing, there's a hard stop, so there's less staggering
13 that's occurring in the afternoon.

14 So, I just wanted to see how they had typically
15 regulated that at some of these other sites, if there were
16 any issues.

17 MS. MEDRANO: I can share some of the experience
18 that we're going to have and how we'll handle it.

19 They pick-ups start after 3:00-3:30 and they're
20 staggered. Not everybody comes at the same time.

21 And how we do the dismissal is that the parents
22 arrive and we call the children and they wait at the door.
23 So, that makes the dismissal easier. And instead of the
24 parent walking all the way to the classroom and taking chat
25 with the teacher, and chat with other parents and all that.

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1 So, usually it's quick. And like Nicole shared
2 with you, this current location we have 150 families in the
3 dismissal. There's more kids.

4 And that is my experience. Like I said, they
5 don't have a specific time of dismissal that they would
6 close, you know, at 5:00 and everybody has to leave at 5:00.
7 Parents start arriving from 3:00, 3:30, 4:45, you know, the
8 most of the parents that we studied and Ms. Nicole shared
9 with you.

10 MEMBER SMITH: Okay. Okay, that's all the
11 questions that I have now, for now, Chairman.

12 BZA CHAIR HILL: Thank you.

13 Dr. Imamura?

14 COMMISSIONER IMAMURA: Thank you, Mr. Chairman.

15 I just have one question for Ms. White, and one
16 comment.

17 One, I thought the slides were very helpful. And
18 I was hoping you'd actually crosswalk it with the Charter
19 School's arrival and departure. So, that was very helpful.

20 So, well done on preparing the slides.

21 And as an architect, I generally don't get into
22 that. It's very difficult for me to get interested in
23 transportation issues, but you managed to be successful. I'm
24 all in on this.

25 My question for you, though, and I understand you

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1 might have a different bent on this, but what is the
2 threshold for what would be objectionable?

3 So, my point is are we 50 percent below that? And
4 I know that this is relatively subjective. And I don't think
5 we've got DDOT here. Obviously, we have people who are in
6 opposition that say it is objectionable, the data that you
7 just presented; right? The intensity there in my
8 neighborhood is just a lot, it's consistent, right, with the
9 departure of the charter school, then, you know, the letter
10 got a development center here.

11 But what is objectionable? And how is that
12 relative to where we're at with the numbers that you've
13 shown?

14 MS. WHITE: So, the first threshold that we look
15 at is part of the scoping process with DDOT is the amount of,
16 the number of peak vehicle trips in any direction. And so,
17 because that number was less than 25 in the peak direction,
18 then we're not even triggered to look at traffic analysis.

19 So, that's the first threshold, which starts to
20 indicate that the activity, the trip generation is relatively
21 low in this case and, therefore, no need to look in detail
22 at traffic analysis.

23 In terms of parking, what I would consider
24 objectionable is if we exceeded the parking supply based on
25 the pick-up and drop-off operations, and that the residents

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1 wouldn't have a place to park. But based on those
2 observations, there is adequate space to park.

3 COMMISSIONER IMAMURA: Okay. I appreciate that.

4 The other question, I was wondering if -- this
5 might be for you, Ms. White, or the architect -- and I'm
6 curious. I noticed this 90 degree parking at five spaces.
7 Curious. I always believe there's a design solution to solve
8 most anything. Why wasn't -- or maybe you did consider angle
9 parking, parking to squeeze in maybe an additional space or
10 two.

11 Just walk me through at least the iteration that
12 you investigated that option.

13 MR. BLOOM: Yeah, sure. This is Dave Bloom. I'm
14 with District Architecture.

15 Can you hear me?

16 COMMISSIONER IMAMURA: Yes.

17 BZA CHAIR HILL: Yes.

18 MR. BLOOM: Great. Thank you.

19 So, we arrived at five parking spaces as, you
20 know, if you're an architect you kind of know the push and
21 pull between developing a building, the square foot size of
22 the building, what's leftover in terms of the rear yard,
23 meeting the zoning requirements for parking, or exceeding the
24 zoning requirements for parking and ADA parking. There's a
25 bunch of different sort of issues that we try to come

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1 together with a coherent solution.

2 We did look at angled parking. It actually took
3 up slightly more space, especially when we take into account
4 we need the 5-foot aisle for the accessible parking space.
5 And so that's how we ended up with the 90 degree parking to
6 try to fit in as many as we could.

7 COMMISSIONER IMAMURA: Okay. Appreciate the
8 answers.

9 It is a push and pull. But, clearly, this is a
10 pretty significant issue for the neighborhood; right? And
11 to your point, as parking becomes leftover space in the rear
12 yard, right, but here it needs to be sort of a comprehensive
13 design solution. Right? So, whereas parking is a priority
14 and it is an important issue, where that would probably, or
15 could, impact the program of the building. Right?

16 So, I'm certain, or at least I hope that you all
17 walked through that iteration through, yeah, your design
18 solution.

19 All right, Mr. Chairman, that concludes all the
20 questions that I have. Thank you.

21 BZA CHAIR HILL: Thank you.

22 Mr. Jamison, can you hear me?

23 MR. JAMISON: I can, yes.

24 BZA CHAIR HILL: Do you have any questions?

25 MR. TOLL: Chairman Hill, as one of the parties

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1 I was going to take the lead. We spoke before. I was going
2 to take the lead on asking questions of Ms. White and Mr.
3 Bloom.

4 BZA CHAIR HILL: That's all right, Mr. Toll.
5 That's okay. I got confused, then. I thought Mr. Jamison
6 was leading.

7 So, you're leading the questions and he's leading
8 the presentation?

9 MR. TOLL: Correct.

10 BZA CHAIR HILL: Okay. I missed that part.

11 MR. TOLL: That's all right.

12 BZA CHAIR HILL: Go ahead, Mr. Toll.

13 MR. TOLL: Okay. Thank you.

14 Could I have Exhibit 28, which is the
15 transportation statement, brought up onto the screen.

16 Okay, great. And if you can just, right, if you
17 can just make that a little bit bigger. And my first
18 question is about the bottom of the page, last paragraph.

19 Okay, right.

20 So, Ms. White, can you hear me?

21 MS. WHITE: Yes, I can.

22 MR. TOLL: Okay. So, let me, this is your
23 transportation statement that you've submitted; correct?

24 MS. WHITE: Yes.

25 MR. TOLL: Okay. And let me bring your attention

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1 to the final paragraph on the first page.

2 What you state here is that according to you this
3 is not triggering the threshold of 25 vehicle trips in the
4 peak direction. Is that correct?

5 MS. WHITE: Yes.

6 MR. TOLL: Okay. Now, if 25, if the actual demand
7 did exceed 25 vehicle trips, then that would trigger the
8 requirement to conduct a traffic impact analysis. Is that
9 correct?

10 MS. WHITE: In accordance with the DDOT
11 guidelines, yes.

12 MR. TOLL: And a traffic impact analysis is a much
13 more comprehensive traffic study than what you performed; is
14 that correct?

15 MS. WHITE: It would look at traffic analysis at
16 some intersections to be scoped with DDOT.

17 MR. TOLL: So, it is more comprehensive than what
18 you did; correct?

19 MS. WHITE: That, that's correct.

20 MR. TOLL: Okay. Now, the reason that you
21 concluded that there were fewer than 25 vehicle trips is
22 based on a number of assumptions that you made; correct?

23 MS. WHITE: Correct.

24 MR. TOLL: Okay. And if we could go to the
25 following page. And, I'm sorry, the following page again,

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1 the third page.

2 Okay. So, let me ask you about the mode split.

3 What you state here is that the mode split was
4 provided by the applicant based on parent and staff surveys
5 from another daycare. Is that correct?

6 MS. WHITE: Correct.

7 MR. TOLL: Okay. And that means that you did not
8 study other daycares in the area to determine what mode split
9 existed there. Is that correct?

10 MS. WHITE: Correct.

11 MR. TOLL: And you relied on a single source of
12 information from the applicant itself. Is that correct?

13 MS. WHITE: No.

14 MR. TOLL: Okay, I'm sorry. How is that not
15 correct?

16 MS. WHITE: We also looked at census data.

17 MR. TOLL: Okay. And where is that contained in
18 your report?

19 MS. WHITE: On the page 3, the footnote, census
20 data from U.S. Census Bureau, 5-year estimates.

21 MR. TOLL: Okay. And where is the actual data
22 provided in the report?

23 MS. WHITE: We don't have it but can certainly
24 share it.

25 MR. TOLL: Okay. So, it's not in your report;

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1 correct?

2 MS. WHITE: Just the reference that we used census
3 data.

4 MR. TOLL: Okay. But no explanation; correct?

5 MS. WHITE: Correct.

6 MR. TOLL: Okay. Now, you would agree with me
7 that the DDOT Guidance for Comprehensive Transportation
8 Review states that "a variety of sources provide insight into
9 various travel assumptions but, typically, no single document
10 or source provides a complete projection of future travel
11 demand."

12 Do you agree with that statement?

13 MS. WHITE: I don't have the exact CTR guidance
14 in front of me, but I will trust what you're saying.

15 MR. TOLL: Okay. However, to gather most of your
16 data in this case you did use a single source, which is the
17 Colorado Avenue location; correct?

18 MS. WHITE: For mode split?

19 MR. TOLL: Yeah. No, for the general conclusions
20 that you make regarding not only mode split but also time
21 spent at the location. All that data was based on your
22 observations of Colorado Avenue; correct?

23 MS. WHITE: Well, so the --

24 MS. JOHNSON: I object. I object. Can we have
25 the actual language that you're referring to?

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1 BZA CHAIR HILL: I'm sorry, who just spoke up?

2 MS. JOHNSON: This is Commissioner Johnson. I'm
3 just trying to ascertain what the correct language is.

4 MR. TOLL: I don't think she's permitted to
5 object. I'm sorry, I'm not --

6 BZA CHAIR HILL: Hey, hey, you guys, hold on.

7 All right. Let me just clarify a couple of
8 things.

9 We're not a, I don't want to say a tribunal, we're
10 not a court. We're just an administrative hearing. And I
11 do the best I can to get through this.

12 MR. TOLL: Okay.

13 BZA CHAIR HILL: So, Commissioner, Mr. Toll is
14 just asking some questions, and I'm trying to follow along
15 with the questions. And, actually, at least Ms. White seems
16 to be able to answer them.

17 So, just let me kind of get through this with Mr.
18 Toll. And then, Ms. Johnson, if you have any questions you
19 can.

20 MS. JOHNSON: Understood. Thank you.

21 BZA CHAIR HILL: Thank you.

22 Mr. Toll, what was your next question?

23 MR. TOLL: My question was the conclusions in the
24 slides that we just saw, as well as the traffic statement,
25 are largely based on observations at the Colorado Avenue

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1 location. Is that correct?

2 MS. WHITE: So, if I can answer that.

3 MR. TOLL: Sure.

4 MS. WHITE: We -- the original transportation
5 statement was based on trip generation rates from the
6 Institute of Transportation Engineers, which is the industry
7 standard, which is based on numerous daycare centers.

8 So, that's what the initial trips were based on.

9 We also looked at the Colorado Avenue location.
10 And when we collected data from the sign-in/sign-out sheets
11 it was very consistent with the Institute of Transportation
12 Engineers Trip Generation Manual.

13 In terms of mode split, we obtained parent and
14 staff information from the Colorado Avenue location. We
15 coordinated extensively with DDOT. I don't want to say
16 extensively, but multiple times. We coordinated with DDOT
17 on this mode split. We made adjustments to the mode split,
18 considering there are different factors.

19 And, in fact, my Table 1 in the transportation
20 statement outlines our review of how conditions were slightly
21 different from Colorado Avenue to Peabody, so that we could
22 make those adjustments and coordinate them with DDOT.

23 And, in fact, in the June transportation statement
24 versus the September transportation statement we made a minor
25 adjustment to trip generation, based on guidance from DDOT,

1 to look at a more weighted mode split.

2 So, I feel very comfortable in coordinating with
3 DDOT and looking at all of this information, that we have
4 really good data in terms of mode split and trip generation.

5 BZA CHAIR HILL: Okay. Mr. Toll. Mr. Toll.

6 MR. TOLL: Yes.

7 BZA CHAIR HILL: How many questions do you have
8 in general?

9 MR. TOLL: I'm trying to keep this as brief as I
10 possibly can. It's not too lengthy.

11 BZA CHAIR HILL: How many questions? We're
12 already lengthy, Mr. Toll.

13 How many questions to you have in general left?

14 MR. TOLL: I would say about eight additional
15 questions.

16 BZA CHAIR HILL: Eight additional questions.

17 Are they all related to Ms. White?

18 MR. TOLL: Yes.

19 BZA CHAIR HILL: Okay. And then are there any
20 more questions from your group?

21 MR. TOLL: I don't think we have any more
22 cross-examination questions.

23 BZA CHAIR HILL: Okay.

24 MR. JAMISON: I only actually have one, one
25 question.

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1 MR. TOLL: Sorry.

2 BZA CHAIR HILL: Mr. Jamison?

3 MR. TOLL: Yes.

4 BZA CHAIR HILL: Okay. Mr. Jamison, who is your
5 question going to be directed to?

6 MR. JAMISON: Ms. White.

7 BZA CHAIR HILL: Okay. Why don't you go ahead and
8 ask your question now, Mr. Jamison.

9 MR. JAMISON: Okay. I believe it was during your
10 presentation, Ms. White, that there was a reference to a
11 parking lot at the Colorado Avenue location. So, my question
12 has to do with the extent to which that parking lot was taken
13 into account in conducting your traffic analysis.

14 There seemed to be a suggestion that the absence
15 of a parking lot at the Peabody location would discourage and
16 dissuade parents from coming to the location at Peabody which
17 I guess would tamp down the traffic concerns and issues
18 there.

19 But from my perspective that creates more concerns
20 in that the absence of a parking lot here at the Peabody
21 location will actually lead to higher congestion, and it
22 would not discourage parents from utilizing the location at
23 Peabody Street.

24 MS. WHITE: So, so our mode split was 60 point
25 something odd percent, or 62.6 percent, I think, for, for

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1 students. And that was primarily based on Colorado Avenue
2 mode split information for parents, and adjusted.

3 There was no adjustment considered because there
4 as a parking lot in terms of there being fewer vehicles. I
5 think Ms. Sullivan spoke earlier suggesting that she thought
6 it was reasonable to assume that if parents didn't have
7 access to a parking lot like they did at Colorado, then the
8 numbers that we assumed in our transportation statement might
9 be even less because there wouldn't be a parking lot.

10 BZA CHAIR HILL: Okay. All right, go ahead, Mr.
11 Toll.

12 MR. TOLL: Okay. Let me ask you about the vehicle
13 occupancy rate of 1.6 persons per vehicle. Do you see that
14 noted on this page?

15 MS. WHITE: Yes.

16 MR. TOLL: Okay. Let me represent to you that you
17 have Figure 13 there. However, Figure 13 is traffic crash
18 data. So, am I correct that that's a mistake on citation?

19 MS. WHITE: That should be Figure 13 of the CTR
20 guidelines, not of our report.

21 MR. TOLL: Okay. And those --

22 MS. WHITE: So, we're referencing that we are
23 sourcing the DDOT's guidelines, their auto occupancy factor
24 of 1.60. So, that is the Figure 13 in our case.

25 MR. TOLL: Okay. And that information is not

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1 provided here; correct?

2 MS. WHITE: We can easily pull that.

3 I mean, you extracted something from the
4 guidelines earlier, so the same Figure 13 could be obtained
5 from those guidelines.

6 MR. TOLL: Okay. So, that's based on a study that
7 was conducted in 2017; is that correct?

8 MS. WHITE: DDOT's guidelines?

9 MR. TOLL: Yes.

10 MS. WHITE: Don't know that off the top of my
11 head.

12 MR. TOLL: Okay. Do you know when the study was
13 conducted?

14 MS. WHITE: I don't know when they obtained the
15 1.6. I mean, it's in their guidelines.

16 MR. TOLL: Okay. And so the 1 --

17 MS. WHITE: Their 2022 guidelines, yes.

18 MR. TOLL: Right.

19 So, the 1.6 persons per vehicle, does that include
20 the parent who's driving?

21 MS. WHITE: No. That is -- I mean, this is, this
22 would include -- actually, I don't know for sure. But this
23 would include the fact that since it's for a school, I'm sure
24 that it would consider that the children have siblings, which
25 is the case of Estrellitas.

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1 MR. TOLL: Okay. So, this only works, though,
2 that -- I mean if 60 percent of the students enrolled have
3 a sibling also enrolled; is that correct? That's what that
4 number means?

5 MS. WHITE: Not 60 percent. It's that for every
6 car that comes that there are 1.6 students in the car. And
7 so --

8 MR. TOLL: Right. You're saying it's 60 percent.

9 MS. WHITE: Sixty percent?

10 MR. TOLL: Sixty percent -- I'll move on.
11 Clearly, you're not following the math.

12 But my question is --

13 BZA CHAIR HILL: No, Mr. Toll. Mr. Toll, I'm kind
14 of following what you're saying.

15 It's 1.6 per vehicle. I don't know what you're
16 talking about with the 60 percent.

17 MR. TOLL: So, that means that, essentially, if
18 we have 10 vehicles, that means that you're claiming that
19 there will be 16 kids in the 10 vehicles; correct?

20 MS. WHITE: Okay. I see what you're saying.

21 MR. TOLL: Right. Right. Which means that the
22 way that that math works out, if four vehicles have one kid
23 --

24 BZA CHAIR HILL: Okay, Mr. Toll, I'm going to stop
25 you one second.

1 Go ahead and continue asking your questions so
2 that you can get to your presentation. Because a little bit
3 of this stuff, I mean, I almost want to talk to DDOT. So,
4 kind of like you're really getting into the weeds on this --
5 I'm sorry, this exhibit.

6 You seem to think that it's wrong in a lot of
7 ways, so I'm trying to follow along with what you're
8 proposing is wrong. And then I really have to kind of cross
9 in with DDOT's report.

10 But go ahead and ask your next question.

11 MR. TOLL: Okay. My question is, is there any
12 part of this report provided for the proposition that 60
13 percent of the students enrolled will also have a sibling
14 enrolled?

15 MS. WHITE: No, we didn't do any data collection
16 beyond the DDOT guidance.

17 MR. TOLL: Okay.

18 MS. WHITE: For that, for that auto occupancy
19 factor.

20 MR. TOLL: Right. And if that 1.6 number is too
21 high, that does affect your calculations; correct?

22 MS. WHITE: Yeah. Any adjustment to 1.6 would
23 have an impact.

24 MR. TOLL: Okay. So, if we have, my next question
25 is if we have the 82 students and 60 percent are going by

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1 auto, that's 49 students who are traveling by auto; is that
2 correct?

3 MS. WHITE: I'm sorry. Repeat that, please?

4 MR. TOLL: Right. We have the 82 students. And
5 per your mode split, 60 percent are traveling by auto to the
6 daycare. That's 49 students; correct?

7 MR. TOLL: Okay. And then if we divide that by
8 1.6, if your number's correct, that gives 30 vehicle trips;
9 correct?

10 MS. WHITE: I'm not clear on where you're getting
11 with this. So, yeah, okay, your math.

12 MR. TOLL: Okay, 30 vehicle trips. And that
13 exceeds the threshold of 25; correct?

14 MS. WHITE: Only the problem is your calculation
15 doesn't consider the fact that there is an arrival and
16 distribution over a time period. So, it's not all in one
17 hour. And so, your math is just assuming everybody's coming
18 in one hour.

19 MR. TOLL: Okay. Well, let's talk about that for
20 a moment because --

21 BZA CHAIR HILL: Mr. Toll. Mr. Toll, I'm doing
22 my best to help you with this. I need to get to your
23 presentation also.

24 MR. TOLL: Okay.

25 BZA CHAIR HILL: And you seem to be presenting as

1 you're asking questions.

2 What quest -- I'm going to let you have three more
3 questions, Mr. Toll. Go ahead and ask your questions.

4 MR. TOLL: Okay. Question one is that the arrival
5 window is larger at Colorado Avenue than the proposed arrival
6 window at 245 Peabody; correct?

7 MS. WHITE: The arrival window is larger at
8 Colorado versus Peabody? I'm not sure where you're getting
9 that information.

10 MR. TOLL: Well, you provided on the slide that
11 it would be 7:45 to 9:15 at Peabody; correct?

12 MS. WHITE: Yeah, that was the --

13 BZA CHAIR HILL: Are you talking about, Mr. Toll
14 --

15 MS. WHITE: Are you talking about the arrival
16 patterns?

17 MR. TOLL: No. I'm talking about the arrival
18 window provided on the slides that Ms. Wilson covered.

19 BZA CHAIR HILL: I'm sorry, which slide are you
20 talking about? Do you know?

21 MR. TOLL: Yeah, I do. Sorry. I have it right
22 here.

23 BZA CHAIR HILL: All right.

24 MR. TOLL: It was the school versus daycare
25 pick-up/drop-off indicated a 7:45 to 9:15 drop-off period for

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1 Peabody.

2 BZA CHAIR HILL: Do you know the slide?

3 MR. TOLL: These aren't numbered, unfortunately,
4 so I can't give you a number.

5 BZA CHAIR HILL: So, tell me again what your
6 question is?

7 MR. TOLL: So, the 7:45 to 9:15 drop-off period
8 at 245 Peabody is shorter window than what you observed at
9 Colorado Avenue; correct?

10 MS. WHITE: I don't understand the question.

11 MS. ENCINAS: It's 7:30. We open at 7:30. Sorry.

12 BZA CHAIR HILL: All right, hold on. I'm sorry,
13 hold on.

14 Let Ms. White try and answer the question. And
15 I'm trying to understand the question also.

16 Go ahead.

17 MS. WHITE: I don't understand your question. I'm
18 sorry.

19 BZA CHAIR HILL: Okay.

20 MR. TOLL: Right. I can repeat it.

21 So, the 7:45 to 9:15 drop-off period which is
22 stated on the slide for 245 Peabody, that 90-minute window
23 is shorter than the drop-off window that you observed at
24 Colorado Avenue, which was actually 2.5 hours; correct?

25 MS. WHITE: I don't see -- I'm looking for the

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1 7:45 that you're talking about. I'm looking for the slide.

2 MR. TOLL: It's on the slide entitled school vs.
3 Daycare pick-up/drop-off that Ms. Wilson just covered. I'm
4 sure she can give us the slide number.

5 MS. WHITE: Oh, okay. Yeah that's sort of like
6 the -- that's the, where we're seeing the peak activity for
7 the daycare. It's not saying that it starts at exactly 7:45.

8 MR. TOLL: Okay.

9 MS. WHITE: I'm just noting that versus 8:15 to
10 8:30, which was the Capital City Public Charter School, that
11 the peak activity seemed to occur closer to 7:45 to 9:15.

12 MR. TOLL: Okay. I just have two more questions,
13 Chairman Hill, if that's okay.

14 BZA CHAIR HILL: Sure, Mr. Toll.

15 MR. TOLL: The next question is that you would
16 agree with me that DDOT categorizes Colorado Avenue as a
17 collector road, whereas DDOT characterizes Peabody as a local
18 road, which are different; correct?

19 MS. WHITE: I do not know the vehicle
20 classification. But I would assume that you're correct.

21 MR. TOLL: Okay. And then, finally, your study
22 did not assess how the alley next to 245 Peabody is actually
23 used by neighbors, and how it might be used by parents, not
24 to drop off or to pick up, but just to go through if traffic
25 conditions are objectionable on Peabody. You did not assess

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1 how the alley would be used; is that correct?

2 MS. WHITE: We did not. We said the staff would
3 use the alley and that the alley would be used by trash
4 pick-up/drop-off, and that parents would be restricted per
5 the handbook from using the alley.

6 MR. TOLL: But it is a public alley, so the
7 parents can drive through it; correct?

8 MS. WHITE: They could drive through it if they
9 -- but they could not do pick-up/drop-off in the alley.

10 MR. TOLL: Okay. Okay, thank you.

11 BZA CHAIR HILL: Okay. All right, thank you, Mr.
12 Toll.

13 All right. Commissioner, can you hear me?

14 MS. JOHNSON: I can hear you.

15 BZA CHAIR HILL: Do you have any questions for the
16 applicant?

17 MS. JOHNSON: Yes.

18 When we met, I'll start at the bottom and work my
19 way up, when we met back in July and discussed specifically
20 the alley usage, what was your response? And was that
21 incorporated into the final traffic safety assessment?

22 MS. WHITE: Is that question of anyone in
23 particular?

24 MS. JOHNSON: That was a question, I guess I will
25 point it to Ms. Wilson.

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1 MS. WILSON: I was not -- I did not attend the
2 July meeting, so I can't speak to that.

3 But we have a condition proposed that will
4 prohibit parental use of the alley. And we're happy to
5 propose a stricter condition in the handbook, such as parents
6 are not allowed to use the alley. And we have an --

7 MS. JOHNSON: How would that be imposed?

8 MS. WILSON: Within our handbook, it's on slide
9 25, it's also proposed condition to the order. So, when this
10 is approved it would be a condition to the order that we have
11 to adhere to, and show that we're putting the language in the
12 handbook.

13 And so, the parents would have to read this. And
14 it's under slide 26 in my presentation. It's under
15 termination of enrollment of parents if they fail to abide
16 by the written policies and guidelines, including the parking
17 guidelines and use of the alley, could result in termination
18 of the program.

19 And then we have the specific things talking about
20 pick-up and drop-off. But, we could also prohibit use of the
21 alley.

22 And, so, I'm not going to read all of this off
23 verbatim, but it shows parking spaces are exclusively for the
24 use of the staff --

25 BZA CHAIR HILL: Okay, Ms. Wilson, I'm sorry.

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1 MS. WILSON: Yeah.

2 BZA CHAIR HILL: I think you answered the
3 question.

4 MS. WILSON: Okay.

5 BZA CHAIR HILL: What's your next question?

6 MS. JOHNSON: My next question is with regard to
7 trash pick-up, what steps are being taken -- and you kind of
8 insinuated about that so I'll, I'll move on to a different
9 one.

10 What, if any, information do you have regarding
11 Capital City being a charter school versus a child
12 development center?

13 MS. WILSON: On slide 12 of our presentation is
14 the C of O for the charter school. And it includes 1,000
15 students, or 1,020 students, ages 3 through 18, from early
16 childhood to 12th grade.

17 And then I went on Access DC and looked up the C
18 of O, child occupancy and use, and I still didn't see a child
19 development center. Regardless, we considered the school in
20 making our calculations regarding traffic.

21 MS. JOHNSON: Could that be because the
22 documentation that was provided was for an out of school time
23 care versus a full child development center?

24 MS. WILSON: Perhaps. I didn't investigate it
25 further than finding the C of O's because that was the rel

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1 -- that was relevant for this proceeding. And we considered
2 the whole school in our process. So, it wasn't relevant to
3 go that far with respect to Condition No. 4 requirements.

4 MS. JOHNSON: My colleague did, and uploaded it
5 as a part of his exhibit. But it specifically says that the
6 most recent C of O is for out of school time placement.

7 So, I just wanted to add that to the record as
8 well.

9 Thank you.

10 BZA CHAIR HILL: Okay. Thank you, Commissioner.

11 Okay. All right, let's see now. So, Mr. Jamison,
12 can you hear me?

13 MR. JAMISON: Yes, I can hear you.

14 BZA CHAIR HILL: Okay, great.

15 Do you want to go ahead and give us your
16 presentation?

17 MR. JAMISON: Sure. Do you have a sense of how
18 much time we get on our end, and maybe Mr. Toll and our
19 witnesses?

20 BZA CHAIR HILL: Yep. You'll have 40 minutes.

21 MR. JAMISON: Okay. Great, thank you.

22 So, let me go ahead and dive in. First of all,
23 I just want to thank the board for providing me and Mr. Toll
24 party status. As I've indicated before, I'm a homeowner at
25 223 Peabody Street, right next door to 245.

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1 I sought party status to oppose the 82-child, 20
2 staff member CDC as proposed, not because of any kind of
3 personal animus towards Ms. Medrano or Ms. Encinas. I've met
4 both of them. They are both very pleasant. And I appreciate
5 their efforts to bring child care to Washington, D.C.

6 But my concerns arise from the size of the
7 proposed CDC and the negative implication that it will have
8 for the traffic safety on the local road that is Peabody
9 Street, and the surrounding areas. And that's particularly
10 in light of the traffic challenges that we currently in the
11 emanating out of Capital City PCS, which is only a mere block
12 away. And that's located at 100 Peabody Street, NW.

13 So, just to kind of walk you through, the
14 applicant is seeking a special exception, as we all know,
15 under Subtitle U-203(h). And that section prescribes that
16 "the facility shall be located and designated to create no
17 objectionable traffic condition and no unsafe condition for
18 picking up and dropping off persons in attendance."

19 The CDC proposed fails to satisfy this
20 requirement.

21 The CDC in accordance with the applicant's own
22 traffic statement indicates that it will attract at the very
23 least 65 vehicle trips, both during A.M. peak hours and P.M.
24 peak hours to the 200 block of Peabody Street, and it will
25 do so simultaneously with the drop-off time and near the

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1 drop-off -- near the pick-up time for students at the Capital
2 City PCS which, as I indicated, has already generated a
3 number of substantial traffic problems and safety concerns
4 within the neighborhood over the years.

5 The impact on the traffic, parking -- traffic,
6 parking, and safety situation in the 200 block of Peabody
7 Street cannot be overstated. As the increased vehicle trips
8 to and from the proposed CDC will result in the occupation
9 of most, if not all, parking spaces in the block preventing
10 two-way traffic from advancing, and creating conditions ripe
11 for automobile and pedestrian accidents.

12 The first major point that I would like to make
13 is that should an emergency arise during these peak A.M. and
14 P.M. hours for the proposed CDC and Capital City PCS, the
15 ability for fire trucks, ambulances, police cruisers to
16 navigate through the street to tend to individuals who may
17 be injured or in harm's way will be severely hampered if not
18 precluded entirely.

19 There's simply no way for a large ambulance, fire
20 truck, or police cruiser to make its way through Peabody
21 Street, NW, if there is often traffic and if both sides of
22 the street are occupied by parked vehicles.

23 Second, the risk to pedestrians is particularly
24 elevated for those individuals who park on the south side of
25 Peabody Street and then have to traverse Peabody Street to

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1 get to 245 Peabody Street where the proposed CDC would be
2 located. Those parents and guardians will obviously be
3 transporting young children across the street. And this
4 proposed CDC is located between 2nd Street and 3rd Street,
5 NW, and there is no crosswalk between these streets, and
6 there's no proposal to have a traffic control officer there
7 to provide safe passage to the CDC.

8 To ensure the safe passage of these pedestrians
9 across Peabody Street, one or more crosswalks would need to
10 be incorporated between 2nd and 3rd Street, and traffic
11 control officers would need to be present, as I said, to
12 ensure safe passage of those pedestrians.

13 But there are no assurances that these safety
14 measures will be adopted. And as an illustration for my
15 concern here, I would like to note that even given the
16 traffic problems that are arising out of the Capital City PCS
17 at 100 Peabody Street, NW, and the existence of broad
18 community support for a traffic control officer there at the
19 intersection of 2nd Street and Peabody Street, NW, the
20 traffic control officer who was previously assigned to that
21 location has been removed recently without notice and
22 explanation.

23 In addition, even if there were guarantees of the
24 incorporation of the additional crosswalks between 2nd Street
25 and 3rd Street, and the present of traffic control officers,

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1 which there are no guarantees of that, paradoxically, the
2 implementation of those additional safety measures would only
3 further exacerbate the traffic congestion that's being
4 created from the Capital City PCS. And this would now be
5 exacerbated and enhanced by the establishment of a CDC at 245
6 Peabody Street.

7 The third point I'd like to make is that the
8 influx of traffic into the 200 block, 100 block, and
9 surrounding areas will place an even greater burden on an
10 already strained transportation system, and that regularly
11 results in dangerous vehicles in the area, which residents
12 have to bear the costs of this.

13 I can just speak to my own experience here over
14 the last few months where my vehicle was sideswiped during
15 the A.M. peak hours when a car, what cars typically do, they
16 try to dive into any kind of open space in order to allow a
17 vehicle to cross their face on Peabody. It was a particular
18 instance where whoever was driving that vehicle obviously
19 miscalculated and sideswiped my vehicle and caused \$1,300 of
20 damage to my vehicle. And I've also had damage to a side
21 mirror of my vehicle.

22 And I know I have neighbors who had had similar
23 experiences and they've had to come out of pocket to redress
24 those damages.

25 I think for these reasons and others, 59

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1 residents, including those on the 200 block of Peabody
2 Street, 5900 block of 2nd Place, NW, and the 6000 block of
3 2nd Street and 3rd Street, NW, have all signed off on a
4 petition which is included in the record at Exhibit 34, and
5 I think another, another exhibit as well, expressing their
6 opposition to this application for a special exception to use
7 245 Peabody Street as a CDC for 82 children and 20 staff
8 members.

9 I'd also like to highlight that the additional
10 traffic, as I've said previously, will eliminate most, if not
11 all remaining free parking spaces during the A.M. and P.M.
12 hours, further exacerbating congestion in and around the 200
13 block of Peabody Street because a car will no longer be able
14 to duck in behind parked vehicles to create space for
15 oncoming traffic vehicles.

16 I'd also like to highlight some of the flaws and
17 omissions that I noted in the Office of Planning's September
18 20, 2024, memorandum recommending approval of the request for
19 a special exception. Subtitle Y, section 405.5 of the
20 regulations state that the Board shall give great weight to
21 the written report of the Office of Planning. But given the
22 flaws in the admissions and in their memorandum, I do not
23 believe that the BZA should pay deference to their
24 recommendation.

25 And one example that I would provide of a flaw or

1 omission in their memorandum is that it states that they are
2 recommending approval of the requested special exception
3 under Subtitle U, section 203.1(h), on the stating that the
4 transportation issues related to the transportation network
5 improvements can be mitigated through an assigned 10-space
6 drop-off and pick-up area which will only allow for
7 short-term 15-minute parking from 7:00 a.m. to 6:00 p.m. in
8 front of the property at 245 Peabody Street, NW.

9 That statement appears to conflict with other
10 information in the record where the applicant indicates that
11 will be only using three short-term drop-off and pick-up
12 parking spots in front of the property at 245 Peabody; that
13 the Office of Planning's assumptions are incorrect, and the
14 applicant will not be designating 10 short-term parking
15 spaces in front of the property to diminish the negative
16 impacts on the transportation network. And the analysis on
17 the basis for their recommendation should be visible.

18 On a related personal note, if the Office of
19 Planning's assertion is correct that the applicant will
20 designated 10 parking spaces in front of the property as
21 short-term parking, this will be extremely problematic to me
22 and my, my neighbors who are directly next door to the
23 property at 245 Peabody Street, because there is only
24 approximately enough space in front of 245 Peabody for three
25 parking spaces. An additional seven short-term parking

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1 spaces would encroach on the parking space directly in front
2 of my home. And further down the way it is going east, and
3 effectively eliminates our ability to utilize those parking
4 spaces during weekdays, as we would have to have our cars
5 moved from those spaces by 7:00 a.m. the next day to allow
6 for that short-term 15-minute parking.

7 Furthermore, the Office of Planning's memorandum
8 recommending approval is based at least in part on a finding
9 that a CDC is not present within 1,000 feet of 245 Peabody
10 Street, NW. As has been alluded to here throughout this
11 hearing, I recently discovered that Capital City PCS was
12 granted a CDC license effective September 13, 2024, noting
13 that Capital City PCS with a capacity for 84 children from
14 ages 3 to 5 years in age.

15 As I've indicated before, Capital City PCS is a
16 mere block away from the property at 245 Peabody Street and
17 is well within 1,000 feet of the property.

18 Both the Office of Planning's memorandum and the
19 ANC 4B's adopted resolution, and this is No. 4B-24-0906,
20 recommended approval of this special exception, indicating
21 that there is no other CDC within 1,000 feet of the proposed
22 CDC at 245 Peabody Street.

23 As a result, both the Office of Planning and the
24 ANC 4B concluded that the application was in compliance with
25 Section 203.1(g) of subtitle U. So, thus the issuance of the

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1 CDC license to Capital City PCS in September of this year
2 directly affects the applicant's compliance with Section
3 203.1(g) of Subtitle U.

4 And the fact that the Capital City PCS now holds
5 a CDC license magnifies to me for this board to evaluate the
6 extent to which multiple CDCs within a 1,000 foot radius of
7 each other would have an adverse impact on the neighborhood
8 due to traffic, noise, operations, or other similar factors
9 set forth under Section 203.1(g) of Subtitle U.

10 And I would argue that there is not sufficient
11 information in the record to make a determination on whether
12 the current application complies with Section 203.1(g) of
13 Subtitle U.

14 The party will be requesting relief as part of
15 this hearing. We will be requesting a full traffic impact
16 analysis as the number of peak hour vehicle trips generated
17 in the applicant's traffic statement is conveniently set just
18 below the 25 vehicle trips, and the peak direction standard
19 which is required to trigger a traffic impact analysis.

20 And it goes without saying that the applicant
21 contracted for the traffic statement that will support its
22 request for a special exception under Subtitle U, Section
23 203.1(h).

24 In addition, it's this party's intention to
25 present its own traffic study in conjunction with the traffic

1 impact analysis in response to the applicant's updated
2 traffic statement.

3 And, finally, I would note that the delay -- that
4 a delay in the issuance of a final order here is warranted
5 until the parties have had an opportunity to flesh out the
6 implications of having another CDC within 1,000 feet of the
7 property at 245 Peabody Street, NW.

8 So, now I'd like to turn my presentation over to
9 my wife and witness Tara Jamison.

10 MS. JAMISON: Can you hear me?

11 BZA CHAIR HILL: Yes, Ms. Jamison. Could you
12 introduce yourself for the record before you begin?

13 MS. JAMISON: Sure. So good afternoon. My name
14 is Tara Jamison and I own the property at 223 Peabody Street,
15 NW, which is directly next door to 245 Peabody Street, NW,
16 and shares a property line. I oppose the applicant's DC
17 Board of Zoning application for 245 Peabody Street, NW,
18 submitted to the Board by Mendomas, LLC, on January 26, 2024.
19 I implore the BZA to disapprove Mendomas, LLC's application
20 for leave under Section 901.2, special exception under the
21 zoning regulations. The application does not meet the zoning
22 regulations' special exception condition that a facility
23 shall be located and designed to create no objectionable
24 traffic condition and no unsafe condition for picking up and
25 dropping off persons in attendance.

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1 The initial and updated transportation statements
2 are insufficient and fail to adequately consider the existing
3 traffic conditions on Peabody Street NW due to the close
4 proximity of Capital City Public Charter School. The
5 applicant uses data extrapolated from 5331 Colorado Avenue
6 site to determine vehicle trips but doesn't consider those
7 underestimated trip numbers and aggregate with the Capital
8 City PCS trips.

9 The only estimates derived from actual observation
10 at the 245 Peabody Street NW site are related to parking
11 within a limited survey area. While there may be capacity
12 for parking during the day, the CDC would consume nine spaces
13 for employees and take over three spaces indefinitely
14 creating a concentration of vehicles near the Peabody Street
15 NW and 3rd Street NW intersection. This will make the
16 majority of the 200 block of Peabody Street NW only passable
17 by one vehicle exacerbating the same issue experienced on the
18 100 block of Peabody Street NW. There will be clear
19 stretches down the block where vehicles will have to squeeze
20 through to pass one another endangering people and property.

21 There are glaring issues and inconsistencies in
22 the applicant's transportation statement dated September 19,
23 2024. On page one, quote, The project is projected to
24 generate 106 peak hour total trips and 22 peak hour vehicle
25 trips in the peak direction. This is above the district's

1 threshold of 100 person trips but below 25 vehicle trips in
2 the peak direction. The project's vehicle trip generation
3 in the peak hour did not trigger the traffic impact analysis
4 component of the CTR/Transportation statement, end quote.

5 The p.m. peak outbound auto trips for 245 Peabody
6 Street NW is 22. That's only three trips below the threshold
7 requiring a TIA. Just minimal adjustments to the applicant's
8 assumptions could result in a totally different outcome, and
9 an outcome that the applicant was very likely trying to avoid
10 in order to minimize cost in effort and to preserve project
11 plans. If we had the benefit of a TIA, we would understand
12 how the adjacent intersections will be impacted. This is
13 important since the intersection at Second Street NW and
14 Peabody Street NW has documented safety and traffic issues
15 due to Capital City PCS's operations, and the intersection
16 at 3rd Street NW and Peabody Street NW is a busy thruway for
17 vehicles, bicycles, and pedestrians.

18 If we had the benefit of a TIA, we would be able
19 to evaluate the mix of arterials, collectors, and local
20 streets providing access to the site. This is important
21 because the applicant is incorrectly equating the traffic
22 conditions at 5331 Colorado Avenue NW, a collector street
23 adjacent to a minor arterial street with the traffic
24 conditions at 245 Peabody Street NW, a local street.

25 If we had the benefit of a TIA, you would have the

1 turning movement count to assess data on vehicles, bicycles,
2 pedestrians, and trucks at all the intersections in the TIA
3 study area. This is important because we would then be able
4 to determine the actual volume of various modal activities
5 and adequately consider the safety of pedestrians and
6 bicycles due to the project's increased vehicular traffic and
7 parking saturation. Without this information, we are
8 subjecting a residential neighborhood to a business that will
9 disrupt the quiet residential area based on questionable trip
10 generation assumptions projected by a firm paid for by the
11 applicant in support of their application.

12 On page 11, quote, Although no bicycle parking
13 spaces are required, short-term bicycle parking spaces are
14 planned to be installed on the west side of the front porch
15 with access from the public alley, end quote. The applicant
16 plans for bike traffic in the alley which contradicts their
17 assurances that the alley will not be used by customers or
18 as a part of the site's operations.

19 On page 18, quote, There will be different doors
20 to pick up that will be explained once you sign a contract
21 with our school and to facilitate the process, end quote.
22 There is only one door on Peabody Street NW. The applicant
23 clearly plans for pedestrian traffic in the alley to enter
24 the facility which contradicts their assurances that the
25 alley will not be used by customers or as part of the site's

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1 operation. This means strollers, wheelchairs, and other aids
2 for transporting children will be rolled through the alley.

3 Generally, the basis for estimating trips is
4 unreliable and inconsistent. In the applicant's statement,
5 page three, quote, It is anticipated that most, if not all,
6 children served will arrive on foot as the school is intended
7 to serve the local community, end quote. In the
8 transportation statement on page three, quote, The mode split
9 was provided by Estrallitas Montessori based on parent and
10 staff survey results from another daycare owned and operated
11 by the applicant in DC, end quote. And then the
12 transportation statement on page 19, quote, Peabody Street
13 vehicle trips during drop-off and pick-up were projected
14 using person trips obtained from sign-in/sign-out sheets May
15 24 at the existing school at Colorado Avenue, end quote.

16 The critical issue comes down to one flawed
17 assumption that a CDC that serves 82 children and 20 staff
18 will only result in 21 vehicle trips on Peabody Street NW
19 from 8:15 to 9:15 each day. Vehicle trip data from a center
20 located on and near main corridors with various multi modal
21 transportation options is not transferrable to a future
22 center located on a local road two substantial blocks away
23 from the closest bus line. The Peabody Street NW site will
24 experience significantly more vehicle trips than the Colorado
25 Avenue West site. It's common sense that as you decrease

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1 transportation options and limit convenience, families will
2 resort to vehicle use, especially if the children are infants
3 and toddlers and they're moving from the applicant's center
4 in Takoma Park, Maryland to D.C.

5 The applicant's dismissal of the notion that they
6 did not intend on renewing a lease in Takoma Park and would
7 move those operations to D.C. as a revisionist history.
8 During a July 2024 community meeting, the applicant
9 acknowledged that they plan to close their location in Takoma
10 Park, Maryland and move those operations to 245 Peabody
11 Street NW site. Subsequently changing your answers after the
12 fact in order to question the validity of concerns raised
13 during this hearing, I believe, is disingenuous.

14 Thank you for the opportunity to be heard.

15 BZA CHAIR HILL: Thank you, Ms. Jamison. Mr.
16 Jamison?

17 MR. JAMISON: Yes.

18 BZA CHAIR HILL: Is Ms. Anderson available? Mr.
19 Young, do you see Ms. Anderson? Oh, there we go. Ms.
20 Anderson, can you hear us?

21 MS. ANDERSON: Can you hear me?

22 BZA CHAIR HILL: Yes.

23 MS. ANDERSON: Okay. Perfect.

24 MR. JAMISON: Actually, let me step back -- we had
25 coordinated prior to this hearing during the recess. Mr.

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1 Toll, did you want to go now and then call Ms. Anderson after
2 you do your presentation?

3 MR. TOLL: Yes. Be myself followed by Safa
4 Ansari-Bayegan and then Ms. Anderson, and we'll be very
5 brief, cause I see the clock ticking down there. May I
6 proceed?

7 MR. JAMISON: Yes, please.

8 MR. TOLL: Okay. Thank you. If I could have
9 Exhibit 49 pulled up so that we could all see that. I want
10 to just very briefly speak. And thank you, Chair Hill and
11 distinguished members of the Board, for hearing from me
12 today. I want to very briefly speak to supplement the
13 concerns raised by talking about what I think will be
14 dangerous traffic conditions created in the alley next to 245
15 Peabody.

16 I understand that the applicant has stated that
17 they are going to do their best to prohibit parents from
18 using the alley for pick-up and drop-off. However, what
19 remains the case is that -- okay, right, so if you could
20 just, yes, make that a little smaller? Right. So this first
21 picture is a view from my garage. You can see that that
22 white line on the left is the edge of my garage. You can see
23 that it opens up onto the alley, and then we're looking right
24 at 245 Peabody. So that's where I'm going to be attempting
25 to back out each morning.

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1 Then if we go to the next page, this is the right
2 turn that I would be taking. You can see that Peabody Street
3 there that I have to navigate the additional alley, and if
4 there were obviously parents who were double-parked to
5 effectuate pick-up or drop-off, they would obviously be
6 blocking my path. And you can also see that Peabody Street
7 is very narrow. There is cars on both sides. There's not
8 enough space if there's cars on both sides for two-way
9 traffic. And then we can go to the next slide.

10 This shows the other direction of the alley to the
11 left of my garage. This shows that the alley hooks around
12 and ultimately does connect to Quackenbos. And then next
13 slide, please? And this is offered for comparison to the
14 next slide. Right. This is a view of Third Street. You can
15 see that there's dividing line, yellow line. There's room
16 for cars parked on both sides of the street and then traffic
17 in both directions, obviously a much bigger street than
18 Peabody.

19 So briefly, the concerns that I wanted to raise
20 -- you can stop sharing. The concerns I wanted to raise
21 regarding the alley are that even if we accept the applicant
22 that they will do their best to prohibit parents from using
23 the alley for pick-up and drop-off, what we have, as stated,
24 is that they are planning to install bike racks along the
25 side of the building on the alley, so people, neighbors such

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1 as myself who are attempting to use the alley to drive to
2 work will be navigating that with bikers coming in the
3 opposite direction, which I think is potentially quite
4 dangerous.

5 We also know that there will be an ADA drop-off
6 location. To the extent that students have mobility
7 concerns, they will be dropped off in order to be able to
8 access the ramp, which will further clog the alley and cause
9 objectionable and unsafe conditions.

10 And we also know that -- I think that the -- I
11 would respectfully submit to the Board that the conditions
12 proposed by the applicant to prevent pick-up and drop-off are
13 insufficient. They state there will be a warning assessed
14 and then possible expulsion, but I don't -- with all due
15 respect, I think expulsion is such an extreme remedy that I
16 think we can all question whether that would be actually
17 used. Certainly, monetary penalties would be more effective.
18 Those are not being proposed here.

19 What's also not being proposed is someone who will
20 actually be onsite at the alley to prevent parents from
21 actually stopping there. I attended a meeting back in July
22 of this year where I raised that possibility. I was told
23 that it would be considered. However, that does not appear
24 to have been actually effectuated, and my concern is that,
25 as stated by Mr. Jamison, once you have congestion, once the

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1 available parking spots on Peabody are taken, it's not going
2 to be possible for there to be two-way traffic on Peabody.
3 That is going to put additional pressure on the alley. It
4 will be very difficult to prevent parents from using the
5 alley once they figure out that if they use Quackenbos, they
6 can actually take the alley right to where the daycare is
7 located, so you are going to have parents driving in the
8 alley at the same time as your potential bikers. You'll also
9 have staff trying to park. You'll also have me and other
10 neighbors trying to use the alley for -- to actually be able
11 to exit our garages and drive to work. And then once per
12 week, you have DC Public Works trying to pick up our trash.
13 All of this together is not tenable in such a small alley and
14 is going to create unsafe conditions.

15 I'd now like to call Safa Ansari-Bayegan if she
16 could be promoted to be a presenter.

17 MS. JOHNSON: As the Commissioner, am I able to
18 state something for the record?

19 BZA CHAIR HILL: Yes. One second, Commissioner.
20 Mr. Young, can you first drop this slid deck? Okay. And
21 there was somebody that Mr. Toll was trying to bring up.

22 MR. TOLL: Yes. Safa Ansari-Bayegan. She'll just
23 want to briefly present.

24 BZA CHAIR HILL: Okay. And Commissioner -- I mean
25 you're welcome to -- if you wouldn't mind, I mean I can't see

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1 you so if you want to try to turn your camera on, that be
2 great but --

3 MS. JOHNSON: Oh.

4 BZA CHAIR HILL: -- you're going to have a chance
5 to ask questions of the presenter, and then you're going to
6 have a chance to give your presentation. So you can talk
7 about anything you want during your presentation.

8 MS. JOHNSON: All right. Thank you.

9 BZA CHAIR HILL: Okay. Thanks. Okay. Mr. Toll,
10 who were you speaking about and do you see them?

11 MR. TOLL: Safa Ansari-Bayegan. It's my wife.

12 BZA CHAIR HILL: Okay. Great.

13 MR. TOLL: There she is. Okay.

14 MS. ANSARI-BAYEGAN: Good afternoon.

15 BZA CHAIR HILL: Could you introduce yourself for
16 the record and then give your presentation?

17 MS. ANSARI-BAYEGAN: Yes. My name is Safa
18 Ansari-Bayegan and I am a homeowner at 6001 3rd Street NW,
19 which is adjacent to 245 Peabody Street. Good afternoon,
20 Chairperson Hill and members of the Board. Thank you for the
21 opportunity to speak very briefly today. I would like to
22 present testimony in opposition of the applicant's proposal
23 for 245 Peabody NW.

24 I would like to note for the record that I'm also
25 the mother of a young child who will most likely be entering

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1 Montessori school in the coming years, and I believe in this
2 school model, and I'm not opposed outright to an additional
3 CDC opening in the neighborhood but am concerned that this
4 one in particular, as its being proposed and the size of it,
5 will create unsafe conditions for the neighborhood and the
6 young children who will be dropped off and picked up in
7 gridlock traffic on a street that was not designed to
8 withstand such concentrated traffic.

9 I want to emphasize today to the Board that the
10 facility will be located and designated in this particular
11 area to create -- I apologize, objectionable traffic
12 conditions and unsafe conditions for pick-up and drop-off of
13 persons in attendance. The determination before the Board
14 today really rises and falls with the traffic study that has
15 been submitted, the statement, and that it is based on a
16 number of assumptions that is not, respectfully, objective
17 and shouldn't be the approval of -- the basis for approval
18 of a project of this size.

19 The proposed school project should have triggered
20 a comprehensive transportation review and a traffic impact
21 analysis. And just because we are marginally lower at 22
22 peak hour vehicle trips in the peak direction per the traffic
23 statements, those are not being triggered here. And those,
24 I just want to highlight, are based on significant
25 assumptions that would impact the vehicle trip number. One

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1 page one, one of the assumptions is that drop-off and pick-up
2 would be staggered depending on parental needs. We have no
3 additional information for what those parental needs might
4 be in this area. That assumption is also -- there's no
5 further basis for that being the case at this Peabody
6 location except the questionable assertion on page 20 that
7 it is unlike a K-12 school.

8 On page three, the mode split again was provided
9 by the applicant, and there's reliance on that single source
10 and does not provide a complete production of future travel
11 demand which is inconsistent with best practices per DDOT
12 guidance. On page three, drop-off and pick-up data is based
13 on activity at the existing Colorado School. I will not
14 make any repetitions today. I think it's been accurately
15 established that there are significant differences between
16 that location and the proposed one on Peabody and that those
17 differences have not been appropriately accounted for in the
18 study.

19 On page three, table 2 mode split, the study
20 presumes that more than a quarter of students will walk to
21 school and only 12 percent will cycle. That is almost 37
22 percent of student traffic being non-auto and respectfully,
23 that's a highly contrite number based on dissimilar
24 conditions at the Colorado Avenue location, and a CTR and TIA
25 would be highly likely to prove this assumption to be untrue.

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1 Finally, on page three, peak hour vehicle
2 generation data is formulated on the basis of a number of
3 questionable assumptions as discussed previously. And so at
4 a minimum, this Board should require the applicant to
5 supplement the record with a CTR and a TIA.

6 The approval of the relief, again, rises and falls
7 on a finding that it would not pose objectionable traffic
8 conditions and unsafe conditions for picking up and dropping
9 off young children. And I contend that on this record, the
10 BZA cannot make such a finding. I will also note for the
11 record that I would urge the BZA to look closely at the
12 applicant's Exhibit 24C regarding conditions required for
13 smaller CDCs that have been approved, which are far more
14 robust than what the applicant is proposing underscoring the
15 lack of response to neighborhood concerns regarding both
16 traffic, parking, and unsafe conditions as well as alley use.

17 Thank you for your time and for allowing me to be
18 heard today.

19 MR. TOLL: Thank you. We will now call Ms. Genell
20 Anderson, and that will be our final witness.

21 MS. ANDERSON: Can you pull up my slide? I just
22 want to use one slide while I'm speaking, the first slide,
23 please.

24 BZA CHAIR HILL: I think it's Exhibit 48.

25 MS. ANDERSON: I can start and you'll see the

1 slide. It's just one slide that I'm going to use right now.
2 I am less than 200 feet east of the church. I have been in
3 the neighborhood since 1993. The CDCs are 560-feet apart.
4 That's not a lot. The applicant stated the neighbors appear
5 to try to use the school as a reason for denying the case
6 even though there is no formal C of O and even though having
7 a CDC within 1,000 feet is okay as long as there are no
8 cumulative objectionable impacts regarding traffic and noise.
9 We've gone over that.

10 I'm concerned about the volume of traffic. I'm
11 concerned about congestion. We don't have options as the
12 Colorado CDC. Understand that we have a 28-foot side street
13 of single-family detached homes. Colorado and 14th Street
14 have resources. They have a bus roundabout. There's a bus
15 stop, bike path, traffic lights. Parents are walking from
16 apartment buildings to bring their child to the CDC. That's
17 not happening on Peabody Street. We have none of those
18 amenities and if we did, the street is too small, too narrow.

19 As it is now, children are riding their bikes on
20 the sidewalk because the street is not safe. Peak time
21 typically -- industry standard is the same for both CDCs --
22 will be the same -- 8:15 to 8:45. If there is an emergency,
23 EMS or fire trucks will not be able to make it through. Like
24 I said, I've been for -- since 1993. I am a senior and
25 things can happen. I want to be able -- I want EMS or a fire

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1 truck to get to me in real-time. Once a proposed CDC is open
2 for business, it will be impossible to maneuver the tiny
3 street.

4 Let me read to you an email from a resident on
5 Second and Peabody to the CDC across the street and the
6 response. I'm a neighbor by the school. The traffic during
7 school dismissal has gotten worse, parents blocking
8 intersections, blocking crosswalks, blocking homeowners,
9 driveways and even pulling into driveway, mine. I have
10 personally seen parents speeding down these narrow streets,
11 600 block of Second Street. It is only a matter of time that
12 a child will be hit by a car. My question is, does the
13 school have some type of security plan in place when the
14 school crossing guard is absent? I do know that our ANC
15 Commissioners have spoken to the school about the traffic
16 situation. Something has to change because it's getting
17 worse, especially the parents who have no respect for parking
18 legally and slowing down in a school zone. I have attached
19 pictures. And I'm not going to go through that. I'm going
20 to skip that paragraph. I am very concerned about this
21 traffic situation. Can we please do something? Please,
22 let's work together to make it safe for the children.

23 And here's the response from the head of school.
24 Good afternoon, Ms. So and so. Thank you for reaching out
25 and sharing your concerns. I have added our Director of

1 Facilities and Chief Operating Officer on this thread as
2 well. As we have been voicing these same concerns, we have
3 been in conversation with Tiffani and Councilwoman Lewis
4 George regarding our safety concerns once we learned, at the
5 start of the school year, that we would not be granted
6 crossing guards as previously had -- as we previously had for
7 Second Street and Peabody Street. This was shocking to us
8 as we didn't have a heads up or much follow-up regarding that
9 decision. We have also voice our worries to our School
10 Resource Officers regarding parents not following the speed
11 limits and parking illegally causing dangerous situations for
12 students and other families. This is the head of school
13 writing this. We have increased our staff presence outside
14 as best as possible to support dismissal, and we have sent
15 numerous reminders to our families regarding speeding and
16 parking -- I don't think the handbook is going to help in
17 245's case -- letting them know that our neighbors will be
18 calling for ticketing. We've asked MPD to ticket cars as a
19 consequence of illegal parking and to also be present to
20 hopefully deter speeding and/or illegal parking.
21 Unfortunately, after five weeks of school, we have not been
22 able to garner support from MPD or DDOT as requested by us,
23 Tiffani, and Councilwoman Lewis George. We, too, are
24 concerned for our students' safety and hope that
25 collaboratively something can be figured out.

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1 Finally, keep in mind I say to you do not approve
2 this renovation of the church in R-1B. R-1B, as you know,
3 was created to protect quiet residential areas and promote
4 suitable environment for family life. Item 4 of the special
5 exception regulations state more than one child/elderly
6 development center or adult day treatment facility in a
7 square or within 1,000 feet of another child elderly
8 development center or adult day treatment facility may be
9 approved only when the BZA finds that the cumulative effect
10 of these facilities will not have an adverse impact on the
11 neighborhood due to the traffic, noise, operations, or other
12 similar factors.

13 The reason I'm putting this picture up is because
14 this is a view to the east towards the CDC, Capital City
15 Charter School. And if you notice, cars are parked on both
16 sides and then there are cars inching their way down Peabody
17 Street. There is a bus -- and I'm right across the street
18 from the bus -- there's a bus staged because he cannot make
19 it down the street. So he's been there for a while just
20 sitting. What happens when there is an emergency and an EMS
21 or a fire truck has to go down the street?

22 I implore you, this is not right. I'm for
23 daycare. My kids were in daycare. But to have 80 students
24 -- to have 80 -- well, first, the applicant said 80 and then
25 it became 82. You know, decide on that. We -- there are too

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1 many kids. Also, why build a facility that can hold 170 kids
2 if you're only going to cap it at 82? Anyway, thank you for
3 listening to me.

4 BZA CHAIR HILL: Thank you, Ms. Anderson. Okay.
5 Let me drop that slide deck first if you wouldn't mind, Mr.
6 Young. Okay. Great. Mr. Jamison, you're at your time. Is
7 that good?

8 MR. JAMISON: Yes. That concludes our
9 presentation. Thank you.

10 BZA CHAIR HILL: Okay. Great. Thank you. All
11 right. Do my fellow Board members have any questions of the
12 party in opposition? Go ahead, Dr. Imamura.

13 COMMISSIONER IMAMURA: Thank you, Mr. Chairman,
14 Mr. Toll, Mr. Jamison, Ms. Anderson. I know, Ms. Anderson,
15 you said you've been living there since 1993 I think,
16 somewhere thereabouts. Mr. Toll, forgive me, I forgot how
17 love you've lived at your residence.

18 MR. TOLL: I don't think I stated that. We moved
19 here in July of 2022, so we've been here for over two years.

20 COMMISSIONER IMAMURA: Okay. And Mr. Jamison, how
21 long have you been at your residence?

22 MR. JAMISON: February of 2023, last year.

23 COMMISSIONER IMAMURA: Okay. Great. So this
24 question, I guess, may be for Ms. Anderson then. What was
25 the traffic like when the church was in existence there seven

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1 years ago?

2 MS. ANDERSON: We didn't have a problem with the
3 church at all. It was a small congregation, a Mennonite
4 congregation. The pastor lived next door. So they met --
5 and also, a lot of the members lived in the neighborhood.
6 My neighbor, Ms. Miner, went to the church, and she would
7 also take the kids a couple of doors down. So it was truly
8 a neighborhood facility. If you want me to talk about the
9 CDC, I could, because Rabove was a middle school at one point
10 and then it -- the school bought it and it slipped through
11 us, because we just figured that not that many kids would be
12 at the school, but then the school started to grow and grow
13 and grow. And now most of our ANC meetings are spent trying
14 to figure out what the heck are we going to do. We keep
15 compromising, turned Peabody Street to a -- okay. I'm going
16 to stop. I see --

17 COMMISSIONER IMAMURA: Thank you, Ms. Anderson.
18 I appreciate it. All right. Mr. Chairman, that's all I had.

19 BZA CHAIR HILL: Okay. Mr. Smith, do you have any
20 questions? Okay. Let's see. Commissioner, can you hear me?

21 MS. JOHNSON: Yes.

22 BZA CHAIR HILL: Do you have any questions of the
23 party status in opposition?

24 MS. JOHNSON: Just a couple of questions. From
25 a 4B-06 perspective, what has already --

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1 BZA CHAIR HILL: Who are you asking the question
2 to, Commissioner? Sorry.

3 MS. JOHNSON: Oh. My apologies. Genell Anderson,
4 what has been done already to try and abate some of the
5 concerns that you raised regarding parking along Second
6 Street and Second Place?

7 MS. ANDERSON: According to the application?

8 MS. JOHNSON: No. What --

9 MS. ANDERSON: Are you referring to the
10 application?

11 MS. JOHNSON: No, not the application. What has
12 already been done to date from an ANC perspective to mitigate
13 some of the traffic common concerns that have not already
14 been addressed by DDOT?

15 MS. ANDERSON: I'm not -- answer -- well, let me
16 answer it this way. I know when Walmart came in place, we
17 -- you did talk to the -- to DDOT and they put the humps in
18 place, right, in the street. And because the police would
19 -- there's a precinct a couple of doors down and so the
20 police would zoom down to get to 7-Eleven or wherever they
21 wanted to go, those humps were put in place. Also, on --
22 there were crossing guards at Second Place and a crossing
23 guard placed at Blair and Peabody. Now we don't have a
24 crossing guard at Second Place and Peabody, right? And also
25 --

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1 MS. JOHNSON: I understand that and I will --

2 MS. ANDERSON: Okay.

3 MS. JOHNSON: -- get to that in moment.

4 MS. ANDERSON: Okay.

5 BZA CHAIR HILL: Why don't you -- I'm sorry,
6 Commissioner, cause we're going to have your testimony in a
7 minute, so this is just kind of questions I guess. Did you
8 have any other questions?

9 MS. JOHNSON: Well, I also wanted to ask Mr.
10 Jamison or any of the individuals, do you regularly receive
11 my newsletters that give information about things going on
12 in the community? Because if you had, you would have heard
13 that DDOT is the one that took away the safety officer at
14 Second and Peabody.

15 MS. ANDERSON: No --

16 MS. JOHNSON: And I have been advocating
17 extensively to get that individual back.

18 BZA CHAIR HILL: Okay. So I guess the question
19 is -- and then Mr. Smith's about to add -- do you guys get
20 the email? That's all the question was.

21 MS. ANDERSON: We all get the email.

22 BZA CHAIR HILL: Okay.

23 MS. ANDERSON: We get the email from our ANC 07
24 Commissioner as well but I'm not --

25 BZA CHAIR HILL: Okay.

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1 MS. ANDERSON: -- I'm not understanding what this
2 has to do with putting a large development on Peabody Street.

3 BZA CHAIR HILL: Okay. Sorry Commissioner, I'm
4 going to let you give your presentation. So do you want to
5 go ahead and give your presentation to the Board? Or you --

6 MS. JOHNSON: Great. Thank you so much. Just
7 testimony. For those who don't know, my name is Tiffani
8 Nichole Johnson. I am the Commissioner for ANC 4B-06 and
9 effective commissioner whose single-member district is
10 adjacent on the opposite side of the street from this
11 proposed location. Before the redistricting, this location
12 was also within my single-member district, and I am here
13 today on behalf of ANC 4B to support the BZA application
14 21101 pursuant to the Commission's Resolution 4V2406 which
15 is Exhibit 47A and was approved by the Commission on
16 September 23rd. And pursuant to that Resolution, I am
17 authorized to speak on this matter.

18 We approved supporting the applicant's request for
19 a special exemption for a proposed child development center.
20 No commissioners opposed this Resolution. We have always
21 felt that there was a community-wide need to reactivate this
22 site. As the Commissioner who dealt with this for many
23 years, there were attempts to turn this site into an
24 apartment building. I listened to my constituents when that
25 recommendation was unanimously opposed. Now we have a

1 further proposal for a child development center, and the vast
2 majority of my constituents unanimously supported this
3 effort.

4 The Commission's Resolution makes note of the fact
5 that there are no other child development centers within the
6 1,000 block feet of this location. While Capital City is
7 listed as a CDC, that license is for their before and after
8 school programs. The license clearly states that. I am
9 concerned that my fellow constituent failed to mention that
10 aspect to our constituents. Capital City has always been
11 offering before and after school care. They have never
12 reached out stated that they were converting to a child
13 development center.

14 As the ANC Commissioner representing the area that
15 includes Capital City, I can attest that they have held
16 themselves out to be a public charter school and never a CDC.
17 They offer this service as a good steward of the community
18 and responsive to the community's needs. I will admit that
19 while Capital City being in our community has raised
20 challenges, they have done the best that they can under the
21 confines of the law to mitigate those concerns.

22 The bigger issue is not what one school or one CDC
23 can achieve. My Commission has been vocal on our request for
24 additional support from the Department of Transportation and
25 from the Department of Public Works to fully implement all

1 of the regulations that currently exist to protect
2 individuals who reside in the area and individuals who might
3 work in the area. We have made myriad resolutions regarding
4 this issue, my most current one, Resolution 4B230604
5 requesting additional support from the Department of
6 Transportation and from the Department of Public Works to
7 fully implement all of the issues that I've already put into
8 place such as residential parking placards, such as ensuring
9 that our Kansas Avenue would be open to parking, such as
10 making sure our Third Street would be open to parking for all
11 of our teachers.

12 I want to acknowledge that Commissioner Cohen and
13 I reached out to our respective constituents. We held
14 meetings with the applicant, and the Commission has equally
15 listened to everyone's concern. Many of the issues that are
16 going to be addressed tonight are from my previous
17 constituents, and I hope they know that I initially had my
18 own reservations about this for the same reasons that they
19 did. But after going to the meetings, after talking with my
20 fellow constituent, I felt that this is a process that we
21 need in our community. I feel that holding the applicant and
22 the Department of -- DDOT accountable for the revised
23 transportation demand plan that we, as constituents, asked
24 for and holding our government officials accountable to their
25 promises to provide additional traffic-calming efforts, the

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1 community will see a decrease in the traffic-calming issues
2 that we have experienced by the presence of Capital City and
3 the hypothetical CDC.

4 And during this last meeting that we had, I felt
5 confident in the CDC's ability to not only listen and
6 corroborate the community's concerns but also a willingness
7 for further dialogue. I do want to thank my fellow
8 Commissioners for supporting this application and to all the
9 residents for their input and concerns regarding this. It
10 is what is best for Manor Park. That is what we all want to
11 achieve. While we may not always agree, I look forward to
12 continued discussions to occur as this process moves forward.

13 For the reasons stated above, I support ANC 4-B's
14 supported unanimously vote in support of this BZA
15 application.

16 BZA CHAIR HILL: Okay. Thank you, Commissioner.
17 Questions from Mr. Smith. I see his hand up. Please, go
18 ahead, Mr. Smith.

19 MEMBER SMITH: Okay. I think I have a couple
20 questions. Thank you for your testimony, Ms. Johnson. Just
21 one comment before I get into questions. The R-1B zone only
22 allows for single-family detached. There was no -- an
23 apartment can't be built here, just for full clarification.

24 Two questions. In the letter from the ANC, there
25 were -- you said it is -- it was unanimous but there were

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1 three abstentions. Can you provide some insight on the
2 reason for those three abstentions?

3 MS. JOHNSON: Well, we have a process within ANC
4 4B that we would like to receive all potential resolutions
5 ahead of time. What occurred in this instance was the
6 resolution was received passed that date, and we literally
7 only had 24 hours to review it, make edits, vote on it,
8 etcetera. The majority of individuals decided that we needed
9 to make some edits on it. The commissioner of record did not
10 state one way or the other that he was for or against those
11 edits, so a motion was made during that meeting to proffer
12 the revised resolution.

13 MEMBER SMITH: Okay. That's helpful.

14 MS. ANDERSON: Can --

15 MEMBER SMITH: I'm sorry, go ahead.

16 MS. ANDERSON: -- can I make a comment on that?

17 BZA CHAIR HILL: Let -- Ms. Anderson, give me a
18 second.

19 MS. ANDERSON: Okay.

20 BZA CHAIR HILL: Mr. Smith -- and actually, you
21 can't, Ms. Anderson, so it's okay. Go ahead.

22 MEMBER SMITH: My next question is regarding some
23 of the discussion that may have happened at the ANC prior to
24 this letter. You provided, I think in some of your testimony
25 -- a lot of the testimony that I heard that you had directly

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1 asked to Ms. Anderson and to Mr. and Mrs. Jamison regarding
2 traffic-calming and the speed humps and the crossing guards,
3 a lot of the testimony that I'm hearing today doesn't
4 necessarily relate to traffic specifically. It's about
5 parking and pick-up and drop-off, and I think I heard some
6 question -- you know, concerns about queueing.

7 What were some of these discussions that happened
8 at the ANC? You said that you feel that the CDC has
9 sufficiently persuaded you that they will address some of
10 these concerns that were raised, and it sounds like most of
11 these concerns relate to parking and, again, pick-up and
12 drop-off and the queueing. What was some of the -- what was
13 said at the ANC? What were some of the concerns that was
14 raised by the ANC? What were some of the measures that were
15 brought up at the ANC to address some of those concerns?

16 MS. JOHNSON: Well, I apologize if my initial
17 testimony wasn't sufficient. This has been an ongoing
18 problem with regard to parking for everyone in that
19 community. What I have done is try and reach out to my
20 constituents to ask do you want your particular street
21 rezoned for private parking. And the problem that comes in
22 is half of my street in my single-member district, the other
23 half is in Commissioner Cohen's. So we would have to have
24 a meeting of the minds to ensure that their parking is set
25 for a particular period of time. If that discussion needs

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1 to occur, I am more than welcome to it. I have done it over
2 in -- on Oglethorpe Street NW. I'm welcome to that but that
3 is a situation that we have right now.

4 But we also have ample parking along Kansas Avenue
5 and Third Street NW which are both in my F&D up to the 5900
6 block. It is still ample parking and only a block away from
7 the proposed location of the child development center.

8 MEMBER SMITH: And that was raised at the ANC?
9 And -- Kansas Avenue from the same kind of dropping off
10 children less than five years old is fairly far to be, you
11 know, completely transparent about this. So what was the --
12 what was --

13 MS. JOHNSON: It wasn't --

14 MEMBER SMITH: -- some of the discussion that may
15 have had --

16 MS. JOHNSON: -- it was not fully raised at the
17 NAC level.

18 MEMBER SMITH: Okay. So there wasn't any other
19 concerns raised at the ANC level about parking beyond the
20 residential parking --

21 MS. JOHNSON: There was concern from parking from
22 residents, but there was not concern about once I'm gone,
23 who's going to be in my space, how long are they going to be
24 there, et cetera. But I then also issued the same mantra
25 that I am saying tonight is that there is ample parking along

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1 the thoroughfare which is Third Street as well as Kansas
2 Avenue.

3 MEMBER SMITH: Okay. Thank -- you -- I think
4 that's all the questions that I have. It sounds like it was
5 raised in some way, shape, or form there but --

6 MS. JOHNSON: It was.

7 MEMBER SMITH: -- but it doesn't --

8 MS. JOHNSON: What -- the issue that was not
9 raised ever before documentation was submitted was the
10 licensure of Capital City.

11 MEMBER SMITH: Okay. And that -- there's no need
12 to get into that because this is completely separate from --
13 that's completely separate from the application at hand. So
14 thank you.

15 MS. JOHNSON: Well, it's --

16 MEMBER SMITH: Those are all the questions that
17 I --

18 MS. JOHNSON: -- it's been raised and discussed
19 in the record, so I just wanted to put it out there that this
20 issue was never raised to me privately, to me through any of
21 my constituents, or to the ANC that somehow Capital City was
22 now just a child development center when they have been a
23 whole public charter school for over a decade.

24 MEMBER SMITH: Okay. Thank you. Duly noted.
25 Thank you.

1 MS. JOHNSON: Thank you.

2 MEMBER SMITH: That's all the questions I have,
3 Chairman Hill.

4 BZA CHAIR HILL: Thank you, Mr. Smith. Dr.
5 Imamura, do you have any questions? Okay. Mr. Jamison, do
6 you have any questions?

7 MR. JAMISON: I think Ms. Johnson had alluded to
8 raising certain concerns regarding to traffic in the area to
9 the Office of Planning. I wanted to ask whether or not those
10 same concerns were reflected in Commissioner Cohen's draft
11 resolution which was ultimately rejected by the ANC.

12 MS. JOHNSON: I have this rejected resolution in
13 front of me. We received this with little more than, I would
14 say, 24, give it maybe 48, hours' notice to review this. The
15 ANC has guidelines that we follow in terms of when a
16 resolution can be submitted so that we have time to review
17 it, make edits, et cetera. We were in a 24-hour crunch time
18 and the edits that I had submitted three days earlier were
19 rejected. So that is how we came upon the situation that his
20 initial resolution was not the final burden that was reviewed
21 and approved by our committee. All of the proper processes
22 were followed regarding amending the agenda, voting on,
23 approved, seconded. So I do apologize that some constituents
24 feel that by eliminating the resuscitation of all of the
25 issues, it was not needed. We discussed that in the current

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1 version of the resolution that was approved. We acknowledged
2 that we had meetings, private meetings, public meetings, back
3 and forth discussions regarding all of the constituents'
4 concerns.

5 BZA CHAIR HILL: Commission, I'm sorry, I've got
6 to get --

7 MS. JOHNSON: Yes.

8 BZA CHAIR HILL: -- to the Office of Planning yet,
9 so let's try to make our answers as concise as possible with
10 all of this. Mr. Jamison, do you have any more questions?

11 MR. JAMISON: I'm good for now. Thank you.

12 BZA CHAIR HILL: Okay. All right. I want to turn
13 to the Office of Planning. So what's going to happen next,
14 the Office of Planning is going to give their report.
15 Everybody will get a chance to ask questions of the Office
16 of Planning. The applicant will then have a chance to give
17 rebuttal. There will then be questions only on rebuttal.
18 This is not an opportunity to restate your case. I just want
19 to let you know, you guys, we're at 2 hours and 45 minutes
20 right now -- is how long this hearing has gone on, okay, so
21 meaning it's a full hearing. We're going to hear from
22 everybody, and we'll have plenty of -- we will not be
23 deciding this today. We're going to have to chew on this and
24 take a look at everything and so, you know, the Board will
25 have a chance to digest all the testimony.

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1 But I would like to take a quick break, okay? So
2 let's take a quick like 10-minute break and we'll come right
3 back, okay? Thank you.

4 (Whereupon, the above-entitled matter went off the
5 record at 3:41 p.m. and resumed at 3:52 p.m.)

6 MS. MEHLERT: Application No. 21101 of Mendomas,
7 LLC.

8 BZA CHAIR HILL: Thank you. Okay, so, like I said
9 before, I'm trying to be able to wrap this up by five o'clock
10 because there is kind of a stop going on at five o'clock.
11 And that means that this hearing would have gone on four
12 hours. And so, I think that's a fair amount of time to hear
13 the hearing. So, just pointing that out to everybody. I'm
14 going to hear from the Office of Planning now. Thank you.

15 MS. BROWN-ROBERTS: Good afternoon, Mr. Chairman
16 and members of the BZA. This is Maxine Brown-Roberts from
17 the Office of Planning, on the proposed daytime care at 245
18 Peabody Street, NW.

19 As outlined in our report, Office of Planning
20 recommends approval of the child development center for up
21 to age -- children and 20 staff members, with the conditions
22 of approval recommended by the applicant and DDOT, which are
23 proffered to generally mitigate any potential impacts to the
24 CDC, related to pickup and drop-off of children, traffic,
25 noise, and operations. The proposal would also be in harmony

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1 with Intent Office on Regulations.

2 In response to statements made regarding stuff in
3 the OP report, our report was submitted to the BZA on
4 September 20th. And earlier than that when we researched for
5 other CDCs in the area, the Capital City Charter School was
6 not listed as a CDC, but as a charter school. And so, we
7 were not aware of that.

8 If the BZA wants us to go back and take a look at
9 that, we could take a look at that also. However, I think
10 that the issues related to traffic and the pickup and
11 drop-off, the applicant and DDOT also took the Capital City
12 Operational School into consideration.

13 Secondly, for the off-street parking restriction
14 we quoted, these were submitted in the applicant's
15 transportation statement. And we also stated in our report
16 that traffic matters are deferred to DDOT's recommendation,
17 and if their recommendation is for a larger area, we will
18 defer to that.

19 Thank you, Mr. Chairman. And that's all I have.
20 And I'm open to questions.

21 BZA CHAIR HILL: Thanks, Ms. Roberts. Does my
22 Board have any questions for the Office of Planning?

23 Okay, let's see, Mr. Jamison, do you have any
24 questions for the Office of Planning?

25 MR. JAMISON: Chairman, I raised this question

1 earlier during my presentation.

2 In the Office of Planning's memorandum, it
3 indicates that the applicant will set aside a ten short-term,
4 fifteen-minute parking spots directly in front of the
5 location at 245 Peabody Street.

6 There's sufficient room for maybe three parking
7 spots or so directly in front. So, the additional seven
8 spots would have to spill into the parking spots directly in
9 front of my home, and then kind of further on east down
10 Peabody Street.

11 So, I wanted to confirm that that was not an
12 error, that information that's reflected in the Office of
13 Planning memorandum. Because I did see in the record, other
14 indications that the applicant just intended to utilize the
15 three spots in front of 245 Peabody Street for short-term
16 parking.

17 MS. BROWN-ROBERTS: As we said, I think we've got
18 that information from the applicant's submission. However,
19 it may have been an error, and we would defer to what is it
20 the applicant and DDOT are recommending.

21 BZA CHAIR HILL: Ms. Wilson, do you know what?
22 I'm a little confused also. Can you clarify what the
23 applicant and DDOT are recommending about those ten parking
24 spaces?

25 MS. WHITE: It's three parking spaces. So, maybe

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1 the number ten was from an initial demand calculation. But
2 the idea is 60 feet in front of the daycare.

3 BZA CHAIR HILL: Where is the three listed?

4 MS. WHITE: It is listed in DDOT's report I'm
5 pretty sure.

6 BZA CHAIR HILL: Okay, because I see the ten from
7 the other -- I see the Office of Planning's report.

8 MS. WHITE: I feel like I read it in DDOT's
9 report. But it is shown in one of the slides that shows the
10 zone on the curbside restrictions of where it has been
11 proposed.

12 BZA CHAIR HILL: Okay. So, it's three spots, Mr.
13 Jamison. What's your next question, Mr. Jamison?

14 MR. JAMISON: Let's see. I think Ms.
15 Brown-Roberts acknowledged that the Office of Planning was
16 not aware that there is another CDC within a thousand feet
17 of the CDC that's being proposed at 245 Peabody Street.

18 And I think, Ms. Brown-Roberts, you indicated that
19 the Office of Planning would be willing to go back and
20 evaluate the extent to which that additional CDC has an
21 impact on, I think, your recommendation to approve the
22 application? Is that correct?

23 MS. BROWN-ROBERTS: Well, if that's something that
24 the BZA wants us to do. However, as I also stated, that that
25 is in relation to the traffic and the parking and all that.

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1 And I also think that those were taken into consideration in
2 the applicant's study. And also, in DDOT's evaluation.

3 So, I don't know that that would make a difference
4 to us because those are things that are really related to
5 traffic and parking, which are mainly for DDOT's
6 recommendation.

7 BZA CHAIR HILL: Okay. Mr. Jamison, they're
8 basically saying if we ask them to, they will. What's your
9 next question, sir?

10 MR. JAMISON: That's all I have for now. Mr.
11 Toll, did you have any additional questions on the -

12 (Simultaneous speaking.)

13 MR. TOLL: No questions, thank you.

14 BZA CHAIR HILL: Thanks. Ms. Wilson, do you have
15 any questions of Office of Planning? For the record, she's
16 saying no. Commissioner Johnson, do you have any questions
17 for the Office of Planning?

18 MS. JOHNSON: We hear the information that states
19 that Capital City is deemed a child development center.

20 MEMBER SMITH: She didn't, Ms. Johnson, she didn't
21 specifically state that. She said that if the Board wants
22 the Office of Planning to go back and take a look at it to
23 see if they are classified as a CDC, they will do it.

24 But again, you can back and, let's say, for the
25 sake of argument, that it's not. It doesn't kill any

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1 consideration for any future CDC. And I'm telling this to
2 the public.

3 It doesn't stop us from evaluating this. All it
4 simply does is require the Office of Planning to analyze the
5 cumulative effect. The cumulative effect is, in essence,
6 what we're all talking about now, traffic and parking.

7 What she is saying is that -- and this is not to
8 you, Ms. Johnson, this is more so to some of the questions
9 that was raised -- that was already analyzed in the traffic
10 study that was evaluated by DDOT.

11 MS. JOHNSON: I just want to make sure that it's
12 not on the record that Capital City is a CDC, when it is not
13 classified as such.

14 MEMBER SMITH: It isn't on the record as far as
15 within the record of somebody submitting it saying that it
16 is a CDC. The Office of Planning has not done that
17 evaluation.

18 We can request as a Board for them to do that
19 evaluation. But within the record, there is a letter from
20 the S&D officer that serves the S&D, that this property is
21 --

22 MS. JOHNSON: My fellow colleague. All right, I
23 just wanted to make sure that the record was correct.

24 (Simultaneous speaking.)

25 MEMBER SMITH: It's in the record. We cannot

1 remove it. The record's correct in the sense that there's
2 a letter from your colleague that states that that's a CDC.

3 We can't change that. If we want the Office of
4 Planning to evaluate it, we can. And the Board can request
5 that. But it's not within her staff report.

6 MS. JOHNSON: But that recommendation is not
7 correct on the record from his fellow colleagues. But I
8 defer.

9 BZA CHAIR HILL: What I think you're asking,
10 Commissioner -- now, I'm even ask for clarity and I'm going
11 to go to the Office of Planning -- Ms. Brown-Roberts,
12 somewhere during this hearing, somebody said something about
13 this now being a CDC, that other school. Right? That they
14 applied for it, or it was granted five days ago, or whatever
15 days ago. Do you know if that's in fact the case?

16 MS. BROWN-ROBERTS: I don't. When I checked it,
17 which was before September, it was not. But I can check
18 again and see if it that has occurred subsequently.

19 BZA CHAIR HILL: Okay, got it. Okay.

20 MS. JOHNSON: I will reiterate that that
21 information was never presented to me as the applicable
22 subsequent party, or the Commission, to state that there was
23 a CDC in that jurisdiction. Because there hadn't been any
24 and there still isn't any, unless you consent to this.

25 BZA CHAIR HILL: Commissioner, we're not

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1 consenting one way or the other to whether there is or isn't
2 a CDC.

3 MS. JOHNSON: I'm just saying that --

4 BZA CHAIR HILL: That's okay. I'm just saying,
5 like, we don't have that kind of authority anyway. So --

6 MS. JOHNSON: I'm saying that the fact that there
7 was this CDC application from Cap City is news to me, as of,
8 like, yesterday.

9 BZA CHAIR HILL: That's fine. That's fine.
10 That's fine. Okay. Okay. So, no more questions for the
11 Office of Planning? Great. Mr. Young, is there anyone here
12 wishing to testify? Okay, who do we got?

13 MR. YOUNG: We have just one who is here, and
14 that's Michael Cohen.

15 BZA CHAIR HILL: Okay, great. Can you bring up
16 Mr. Cohen?

17 Mr. Cohen, can you hear me?

18 MR. COHEN: I am. Can you hear me?

19 BZA CHAIR HILL: Yeah, are you a commissioner?

20 MR. COHEN: I am. I am a commissioner.

21 BZA CHAIR HILL: Okay. Are you a commissioner in
22 the adjacent ANC?

23 MR. COHEN: No, this is my single-member district.

24 BZA CHAIR HILL: Oh. Are you testifying then as
25 a member of the public?

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1 MR. COHEN: Correct.

2 BZA CHAIR HILL: Okay. All right. All right, Mr.
3 Cohen, you can go ahead and give us your name and address,
4 and then you'll have your three minutes to testify.

5 MR. COHEN: Great. My name is Michael Cohen, I
6 live at 248 Quackenbos Street, NW, Washington, DC, 20011.
7 I'd like to note that I'm here as a public witness, as the
8 resolution that I put forward before ANC-4B was not adopted
9 by the Commission.

10 So, I'm not the commissioner of record for this
11 case, even though this issue is in my single-member district.

12 So, therefore, essentially, I'm here on behalf of
13 myself and the residents of 4B of seven, and not ANC-4B.

14 So, let me first admit I'm not a zoning expert.
15 I'm grateful that you all are. This project has gone on for
16 about nine months, during which time I've been acutely
17 involved, involving neighbors in meetings, newsletters,
18 emails, conversations. I want to thank the neighbors, thank
19 the applicant as well.

20 Here's the bottom line the way that I see it.
21 There are two sides to this issue, right? Some folks tend
22 to support daycares in general, and then there's this issue
23 of this being a daycare project.

24 I think that what I've found is the entire
25 Commission has supported daycares. No one on the Commission

1 wants to not support a daycare, right? No one's going to
2 vote against a daycare.

3 But the project itself has raised some significant
4 red flags for me, specifically related to the size and
5 enrollment as it relates to this project. And that has been
6 something that I raised with the applicant over time. And
7 I think it's been very challenging.

8 From my perspective, there is an objectionable
9 traffic condition that already exists due to Capital City
10 Public Charter School at the 100 block of Peabody. It exists
11 on Peabody, it pushes into the 200 block of Peabody, it
12 exists on Second Street, it exists on Quackenbos, it exists
13 in alleys. I think that Ms. Anderson read a note from -- we
14 have a school, Capital City Public Charter School.

15 And so, these are all issues that I raised with
16 the Commission. The timeline's got a little wonky. ANC-4B
17 requested an extension, the applicant requested an extension.
18 We kind of got down to the wire. I presented a resolution
19 --

20 MS. JOHNSON: Michael, I do have to defer. And
21 I'm not sure if that's even possible.

22 (Simultaneous speaking.)

23 BZA CHAIR HILL: Commissioner? Commissioner?
24 Commissioner? You're not allowed to interrupt him. He's
25 allowed to provide his testimony. You can ask questions

1 after he provides his testimony.

2 MS. JOHNSON: Okay. Thank you.

3 BZA CHAIR HILL: Go ahead, Mr. Cohen.

4 MR. COHEN: Yeah. So, I forgot where I was. But
5 essentially, the resolution I presented before the entire
6 Commission expressed great concern. It was generally
7 supportive of the idea of a daycare. The size and scope of
8 this, it expressed general concern.

9 The Commission as a whole did not want to
10 incorporate that concern. They wrote their own resolution,
11 which I abstained from voting on because, again, I'm not
12 going to vote against a daycare.

13 But this daycare project in particular, I felt had
14 the opportunity to create this cumulative traffic condition
15 where one already exists, and I couldn't not see it creating
16 that condition, with another one being in existence.

17 BZA CHAIR HILL: Okay. Thank you, Mr. Cohen.
18 Does the Board have any questions of the witness? No. Does
19 Mr. Jamison have any questions of the witness?

20 MR. JAMISON: I do not.

21 BZA CHAIR HILL: Okay. Commissioner, you had a
22 question of the witness.

23 MS. JOHNSON: Yes. I wanted to know, Michael,
24 what is the standard procedure for sending our executive
25 committee draft resolutions before our private meeting?

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1 BZA CHAIR HILL: Commissioner? Commissioner? The
2 question is not about -- you just have to question his
3 testimony. It's not about how you guys do your work, or
4 whatever happened before. Like, did you have a question
5 about his testimony?

6 MS. JOHNSON: Yes, I do. And it's the same
7 question.

8 BZA CHAIR HILL: What's the question?

9 MS. JOHNSON: Michael?

10 BZA CHAIR HILL: Not Michael. What's the
11 question?

12 MS. JOHNSON: Commissioner Cohen, what is the
13 proper protocol for submitting documentation to our executive
14 committee for review ahead of the planning commission?

15 MR. COHEN: Ahead of the planning commission?

16 MS. JOHNSON: Ahead of the planning meeting.

17 MR. COHEN: So, there are times -- there are some
18 requirements where we're required to either present the
19 resolution at the planning meeting, or discuss the resolution
20 at the planning meeting.

21 When we were at the planning meeting, I explained
22 that there was a meeting that was going to be taking place
23 after the planning meeting, and that the resolution hadn't
24 been written yet. This is all --

25 BZA CHAIR HILL: Let me interrupt you guys.

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1 MR. COHEN: Yes.

2 BZA CHAIR HILL: Commissioner, I don't know how
3 you all's commission works. I am trying to just get through
4 my testimony. A member of the public gave some testimony.
5 Not as a commissioner, as a member of the public.

6 Do you have any questions for this member of the
7 public and his testimony?

8 MS. JOHNSON: I'm concerned that the protocol that
9 we have established for years is not being properly relayed
10 by Commissioner Cohen.

11 BZA CHAIR HILL: Okay. I don't think that that's
12 what he was giving testimony to. But do you have another
13 question, Commissioner?

14 MS. JOHNSON: I do also have a question regarding
15 what steps have been taken to ameliorate the concerns
16 regarding some of the issues that we have experienced along
17 the Peabody corridor.

18 BZA CHAIR HILL: Okay. Commissioner, I'm not
19 really sure who you're asking the question to. Like, a
20 member of the public has given testimony. And so, I think
21 you've asked your questions of that member of the public, and
22 now you seem to be giving testimony in some capacity, with
23 how --

24 MS. JOHNSON: I am asking questions of what has
25 been done thus far, and who is the responsible party for

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1 ameliorating those concerns.

2 BZA CHAIR HILL: Who are you asking the question
3 to?

4 MS. JOHNSON: I'm asking the question to Michael
5 Cohen, or I can ask it to the predecessor, Brandon Jamison.

6 BZA CHAIR HILL: We're currently in public
7 testimony. And so, I'm not really sure -- we went through
8 all the questions in terms of the presentation. And so, I'm
9 just trying to hear if you have any questions about the
10 testimony that Mr. Cohen just gave.

11 MS. JOHNSON: All right.

12 BZA CHAIR HILL: Okay. All right, so, I'm going
13 to go ahead and excuse the witness.

14 MR. COHEN: Thank you.

15 BZA CHAIR HILL: All right. Let me see, where are
16 we? Okay. So, we are now in rebuttal. So, Ms. Wilson, do
17 you have any -- I think the Board's going to have some
18 questions -- okay? -- at least I know I'm going to -- about
19 some of these conditions.

20 And do you have any rebuttal, Ms. Wilson?

21 MS. WILSON: To present some rebuttal points. And
22 then, also I do have a closing, and I'll reserve that for
23 myself.

24 BZA CHAIR HILL: Okay. Okay.

25 (Simultaneous speaking.)

1 BZA CHAIR HILL: Give me a second. Give me a
2 second. Give me a second.

3 MS. WHITE: Sure.

4 BZA CHAIR HILL: So, the way this works is, this
5 is rebuttal testimony to all of the testimony that has
6 happened before. The applicant is the applicant. They're
7 giving the application to the Board.

8 Now, the applicant has an opportunity to refute
9 any of the stuff that was said about any of the testimony
10 they gave, which is now what Ms. White is about to do.

11 Then, all of the parties will have an opportunity
12 to ask questions only about the rebuttal. Not, again, about
13 giving testimony -- we're not starting at the beginning
14 again. These are just questions that you might have on the
15 rebuttal. Ms. White, please give your rebuttal.

16 MS. WHITE: Thank you. Just wanted to reiterate
17 that the scope and methodology used for the transportation
18 statement are consistent with industry standards and DDOT CTR
19 guidelines.

20 The calculations were approved by DDOT. I'm happy
21 to clarify if the Board has any further questions about our
22 assumptions. I don't want to get into all the details, given
23 the time.

24 Also reiterating that the dismissal for the
25 Capital City Public Charter School occurs about ninety

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1 minutes earlier than the peak time of departure for the
2 daycare.

3 During the morning drop-off for the daycare, the
4 process is expected to last only four minutes. And we know
5 this from our Colorado Avenue surveys.

6 Thus, we have projected from all of data
7 collection, the following parking demand associated with
8 parent pickup/drop-off vehicles:

9 During the morning peak hour, three vehicles.
10 During the time period when Capital City Public Charter
11 School will dismiss, one vehicle. During the pickup time,
12 around 5:00 to 5:30 p.m., the maximum cars parked would be
13 eleven vehicles.

14 During the time when that maximum number of parked
15 vehicles -- eleven -- are parked, our survey of conditions
16 on Peabody between Second Place and Third Street indicate
17 there would be 25 vacant spaces. So, 25 vacant spaces for
18 the eleven parent cars.

19 As we heard from Commissioner Johnson, there's
20 adequate parking in the area. Additionally, our survey
21 indicated 60-plus spaces west of Third Street. The idea is
22 these would be used for staff, and not necessarily parents.
23 The spaces on Peabody from Second Place to Third Street are
24 expected to be most desirable for use by parents.

25 Thus, we have proposed an additional condition,

1 as I mentioned earlier, regarding staff parking, to help the
2 concern with parking. Staff will be restricted from parking
3 on Peabody between Second Place to Third Street and this
4 would clear up any concern about parking on Peabody. They
5 would be permitted to park west of Third Street.

6 There were comments about the alley. Just
7 reiterating that the handbook would restrict parents from
8 using their vehicles to pick up and drop off students in the
9 alley.

10 Regarding bicycle parking, the short-term bicycle
11 parking spaces were coordinated with DDOT in the location to
12 provide safe access for bicyclists. So, we would expect
13 there could be use of the alley for bikes, but not for
14 pickup/drop-off by vehicles. And that concludes my rebuttal.

15 BZA CHAIR HILL: Okay, does the Board have any
16 questions concerning the rebuttal of Ms. White?

17 MEMBER SMITH: I do have a question. I don't
18 think I've seen as a professional planner, a lot of usage of
19 surveys from any particular site versus the ITE numbers. And
20 you're saying that the average time for pickup was based on
21 parent surveys at another site.

22 What is the average number based off of ITE?
23 Because that seems to me that would be the most scientific
24 number to use. I'm sorry, Ms. White, you're on mute.

25 MS. WHITE: Thank you. Thank you for that

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1 question. So, to clarify, the trip generation was based on
2 instituted transportation engineers, trip generation rates
3 for lane use.

4 So, we did use that. We submitted that in the
5 June transportation statement. We were asked by the
6 community to look at Colorado Avenue. So, we pulled from
7 that the sign-in/sign-out sheets. We looked at that. And
8 that aligned very well with the instituted trip generation
9 manual. The institute of transportation engineer's --

10 (Simultaneous speaking.)

11 MEMBER SMITH: Okay. Just quick question before
12 we -- so, that question came from the community, not from
13 DDOT.

14 MS. WHITE: That is correct. DDOT concurs with
15 our assessment.

16 MEMBER SMITH: Okay.

17 MS. WHITE: And the transportation statement, by
18 the way, for September, was also based on ITE. We were just
19 providing this additional information to really show, because
20 ITE focuses on the peak one-hour. So, this other additional
21 information really shows us what happens from 2:00 p.m. on.
22 And so, we could see how that looks compared to Capital City
23 Public Charter School.

24 There were questions about the mode split. I
25 think that's what you're asking about. And that was based

1 on parent surveys from the Colorado Avenue location. So,
2 that was coordinated with DDOT. We made adjustments to that.

3 And particularly, we made adjustments to staff
4 data and updated the trip generation based on tweaked mode
5 split for coordinating with DDOT.

6 MEMBER SMITH: And DDOT did not require you
7 explicitly to use the ITE data based on mode splits. They
8 allowed that adjustment.

9 MS. WHITE: Yes. So, ITE provides the trip
10 generation, but not the mode split. So, the mode split is
11 more specific to, like, this urban setting, because daycare
12 rates in ITE is based on more suburban.

13 MEMBER SMITH: Okay. And DDOT doesn't have that
14 something as a template. They pretty much rely on the data
15 that a private party may provide for them, in this particular
16 instance.

17 MS. WHITE: Yeah.

18 (Simultaneous speaking.)

19 MEMBER SMITH: As part of their own analysis.

20 MS. WHITE: Yeah. But it's definitely coordinated
21 and it's based on the specific location. So, in this case
22 we even provided a table where we compared the Colorado
23 Avenue location transportation characteristics to the
24 Peabody, so that we could validate and adjust the modes, but
25 accordingly, when we coordinated with DDOT.

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1 MEMBER SMITH: Okay.

2 MS. WHITE: The other, since you asked, the other
3 factor that had been questioned was the auto occupancy rate,
4 which is the 1.6, and DDOT CTR guidance that's based on
5 daycare. The auto occupancy for different uses, we used day
6 care, and that's based on national household transportation
7 survey data.

8 MEMBER SMITH: Okay, that's what I need to know.
9 Because I think you're exactly right. That's what was being
10 questioned as part of the testimony for this particular case.
11 So, I'm glad to hear that that was based on ITE data and
12 based on reliable data that DDOT accepts as part of their
13 review for this particular type of project. So, thank you.

14 BZA CHAIR HILL: Go ahead, Dr. Imamura.

15 COMMISSIONER IMAMURA: Chairman, I promise to be
16 brief. For Ms. White or Ms. Medrano. This may go back to
17 previous testimony, but there's a question here.

18 Is the current development center closing on
19 Colorado -- no. Okay. But you do have people that are on
20 a waiting list. Is that right? Is that what you said
21 earlier?

22 MS. MEDRANO: Yes.

23 COMMISSIONER IMAMURA: And presumably, they may
24 actually end up at this location?

25 MS. MEDRANO: And some of the families that

1 applied and are on the waiting list live on that area, on
2 that neighborhood.

3 COMMISSIONER IMAMURA: Okay. So, essentially,
4 we're talking about, in terms of, like, the extrapolated data
5 that Ms. White took, is really from the same clientele that
6 will be carried over. So, that's what I wanted to know.
7 Thank you very much. That's all I have, Mr. Chairman.

8 BZA CHAIR HILL: Okay, thank you. Mr. Jamison,
9 do you have any questions concerning the rebuttal testimony?

10 MR. JAMISON: Question for Ms. White about the
11 assumption that it'll take parents and guardians four minutes
12 to drop off infants and toddlers. So, children from ages
13 zero to five.

14 It's a little bit hard to believe as a father with
15 ha couple of children. So, I just wanted to flesh out
16 exactly what that was based on, and whether any of these
17 parents were utilizing the parking lot at the Colorado Avenue
18 location, which obviously would not be present at the Peabody
19 Street location.

20 MS. WHITE: So, yes, we did base it on the
21 Colorado Avenue location. We based it on the arrival time
22 and the departure time of each vehicle, for cars that were
23 parked not only in the parking lot but also in the street.
24 So, it was a mix of cars in the parking lot and on the street
25 and how long it took.

1 We noted when a car arrived, and then when that
2 car departed, to get that dwell time.

3 BZA CHAIR HILL: Okay, Mr. Jamison, is that it?

4 MR. JAMISON: Give me one second. Mr. Toll, do
5 you see -- I know we have an additional question. I'm just
6 trying to locate --

7 BZA CHAIR HILL: Sure, that's all right. And back
8 in the day, you all would have been in the same hearing room.
9 That's unbelievable. You would be sitting right next to each
10 other.

11 MR. JAMISON: Okay.

12 BZA CHAIR HILL: I mean, if you all could, like,
13 make it a succinct question. I mean, Ms. White just gave
14 very succinct rebuttal about how she came about her numbers.
15 Mr. Toll, do you have any questions about the rebuttal?

16 MR. TOLL: Yes. Ms. White, you mentioned in the
17 morning your projection was three vehicles would be at the
18 245 Peabody location. Is that what you said?

19 MS. WHITE: Yes.

20 MR. TOLL: And that's based on an assumption that
21 the distribution at Peabody would be the same as the
22 distribution at Colorado. Correct?

23 MS. WHITE: Yes.

24 MR. TOLL: And that's not taking into account any
25 of the differences between the locations. Correct?

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1 MS. WHITE: That is assuming that they would have
2 similar arrival and departure patterns, correct.

3 MR. TOLL: Thank you.

4 BZA CHAIR HILL: Okay. All right. Oh,
5 Commissioner Johnson, do you have any questions concerning
6 rebuttal?

7 MS. JOHNSON: I just had a question. Is the issue
8 -- and I guess this is for Mr. Toll, is the issue that
9 there's not a reliable, accessible transportation point?
10 Because that would be incumbent upon DDOT.

11 BZA CHAIR HILL: Commissioner, I apologize. This
12 is just questions concerning Ms. White's rebuttal.

13 MS. JOHNSON: Okay, my apologies.

14 BZA CHAIR HILL: That's all right. Okay. All
15 right. So, where we are is we've done everything we're
16 supposed to do, and now I think this is what I'd like to do.
17 Okay?

18 Like, it's been four and a half hours -- no, three
19 and a half hours. So, three and a half hours, and I think
20 we've heard from everybody. And I'm still a little unsure
21 as to what I think is helpful for me.

22 So, what I'd like to do, Ms. Wilson, is -- and I'm
23 looking at my fellow Board members and I don't really believe
24 I'm about to say this out loud -- but I might want a little
25 bit of a continued hearing -- okay? --insofar as just to

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1 understand the conditions. Okay?

2 Like, we've had everybody's testimony. We've gone
3 through all of this. I'm kind of interested in hearing from
4 the Office of Planning also, whether in fact this other
5 school is now a CDC. Okay? And just knowing, right?

6 And then, Ms. Brown-Roberts, are you there?

7 MS. BROWN-ROBERTS: Yes.

8 BZA CHAIR HILL: Thank you. I wish people called
9 me that around the house. That'd be so great. Mr. Chairman.

10 So, if you could please -- I just want to know
11 what it is. Right? Okay? If it is in fact the CDC. Right?
12 And if it is, if you could please go ahead and give us an
13 evaluation based upon that now, it being a CDC. Right?

14 Now, in the regulations, it clearly says that even
15 if it is a CDC, the Board of Zoning may find that the
16 cumulative effect of these facilities would not have an
17 adverse impact on the neighborhood due to traffic noise and
18 operations of similar factors. Which, to my colleague Mr.
19 Smith's point, is what we're already talking about. Okay?

20 So, I doubt that the Office of Planning's report
21 is going to be a whole lot different. But I will go ahead
22 and let the Office of Planning supplement that after finding
23 out whether this is or isn't a CDC.

24 If it's not a CDC, then I don't need a
25 supplemental report. Right? Then, Madam Secretary, I'd love

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1 to have DDOT here. Okay? And so, we can go ahead and talk
2 to DDOT. Because the traffic stuff -- and Ms. White, by the
3 way, if you ever get recruited for an actual trial, you
4 should take it. Right? Like, you are a great witness.
5 Okay?

6 MS. WHITE: Thanks.

7 BZA CHAIR HILL: You are calm and you're able to,
8 like, answer the questions. Like, I would hate to be in a
9 trial against you. Right?

10 But DDOT -- I'm not the expert. Right? And so,
11 DDOT -- and Mr. Toll, you're doing a great job, by the way,
12 also. I don't know if you have traffic background or not,
13 but you must somewhere have traffic background in your
14 background, because I have no idea half the stuff you're
15 talking about either.

16 So, we're going to have DDOT here, okay? And
17 then, the conditions, the conditions are basically all we're
18 talking about, right? The adverse impact is really the
19 traffic. Okay?

20 You guys have to convince the Board and this
21 community that this is not going to be an adverse impact.
22 Right? Or an objectionable impact.

23 I'd like to point out that the regulations don't
24 say impact. There will be an impact. It's whether or not
25 this is objectionable. Okay? And objectionable,

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1 unfortunately, is decided by the Board. Right?

2 So, I would love to delve a little bit more into
3 the conditions that you guys put forward. Okay? And I don't
4 think I have the capacity to do it right now after three
5 hours. Okay? And so, I think I would like to have a
6 continued hearing just on the conditions, and just to hear
7 from DDOT, and just to hear whether or not this is a CDC.

8 And if it is a CDC, Ms. Brown-Roberts, or Madam
9 Secretary, somebody could ask DDOT whether we need any
10 supplemental information from them. Okay?

11 So, that's all that. Okay? Commissioner, are you
12 trying to raise your hand?

13 MS. JOHNSON: Please. What is it in the statute
14 that is concerning you regarding Capital City not being a
15 CDC?

16 BZA CHAIR HILL: I don't know if it is or isn't
17 a CDC. If it is a CDC, then it's within the thousand feet,
18 so it's triggering more of a look-see. And somebody said in
19 here that it was a CDC.

20 Somebody said it's a CDC after like the Office of
21 Planning took a look. But either way, it doesn't matter.
22 If it isn't a CDC, it isn't a CDC. And I'll let you raise
23 your hand.

24 MS. JOHNSON: I'm trying to understand what,
25 within the confines of the statute, is up for interpretation,

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1 so that I can bring that back to my constituents, and my
2 commissioner.

3 BZA CHAIR HILL: That's fine. I'm trying to
4 answer your question. And I see your hand, Ms. Encinas. I
5 see your hand. Commissioner, I'm referring to U-203.1(b)(4).
6 Right? Which says, more than one facility within a thousand
7 feet can still be approved by the Board, if we find that the
8 cumulative effect is not an adverse condition.

9 And so, I don't know if there is -- somebody made
10 some statement somewhere along these three hours, that this
11 thing now is a CDC. Or they applied. I heard it somewhere.

12 And so, I just want the Office of Planning to tell
13 me whether or not that's the case. And if it is the case,
14 they'll take a look at H4 and tell me whether or not that
15 changes anything. Right?

16 And what I'm saying is, I doubt it does. So, Ms.
17 Encinas, you had your hand up?

18 MS. CRISTINA ENCINAS: I think -- I mean, does the
19 -- because I have worked in both charter schools and early
20 childhood centers -- there are two different -- and I think
21 that's what you're saying, CDC, they are a child development
22 center?

23 BZA CHAIR HILL: I don't know if they are or not.

24 MS. CRISTINA ENCINAS: No, a charter school, it's
25 a different --

1 BZA CHAIR HILL: No, I know what a charter school
2 is. I thought somewhere -- it doesn't matter.

3 MS. CRISTINA ENCINAS: Okay.

4 BZA CHAIR HILL: I thought somewhere they applied
5 to be a CDC, is where the testimony was somewhere.

6 (Simultaneous speaking.)

7 MS. JOHNSON: That was documentation that was
8 submitted. But there's confusion as to what that
9 documentation actually means.

10 (Simultaneous speaking.)

11 BZA CHAIR HILL: Commissioner? Commissioner?
12 Commissioner? Commissioner? It doesn't matter. I'm asking
13 the Office of Planning now whether it is or it isn't. The
14 Office of Planning will tell us. Okay?

15 So, regardless, we're all going to come back here
16 again. So, I'm looking at my Board members now. Okay? So,
17 the conditions that the applicant is proposing, I kind of
18 want to go over them a little bit more in detail at a
19 continued hearing, with DDOT. Okay? So we can understand
20 if this is or isn't going to create an objectionable
21 condition.

22 And so, I'm looking at my fellow Board members.
23 Okay? Because I don't have an answer. I don't have a clear
24 answer right now. And I don't know if me going to get to
25 review this record next week or something, is going to

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1 provide any clarity on me, because I would want to know more
2 about the conditions.

3 So, then I guess the only other thing I would
4 mention, that I know we had thought about or somebody talked
5 about, was that there had been before in the past, Ms.
6 Wilson, for other similar types of institutions that the
7 Board has approved.

8 Some of the conditions have been, like, somebody's
9 out there at pickup and drop-off times. Right? Okay?
10 That's a condition, right? And I got a thumbs-up, right?
11 So, there's somebody there to mitigate any kind of problem,
12 and that's a required condition. Right?

13 Now, the other one that I hate to say is, there
14 might be a time limit to this. Okay? As to whether or not
15 -- and you can argue for or against when we come back -- and
16 the time limit that I would think would be more like a
17 ten-year time limit, because there is financial things
18 connected with the time limit. Right? You can't make an
19 investment and make your money in five years.

20 So, I don't know, I'm just throwing this stuff out
21 for the rest of my fellow Board members, okay? We're trying
22 to figure out any kind of mitigating conditions. And if
23 there is, any objectionable conditions.

24 So, I don't think we need anything further in
25 terms of a conclusion, until we come back for the

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1 supplemental.

2 Now, these are my thoughts. And I'm looking to
3 my fellow Board members, do you all think this sounds
4 logical? Mr. Smith.

5 MEMBER SMITH: Logical to me. I'll be honest with
6 you, I am concerned about tying this down a little bit more
7 regarding the parking and pickup and drop-off. It's a little
8 too open-ended for me, especially given there is or will be
9 a CDC, but it's at least at school. There's a lot of pickup
10 and drop-off in association with this school.

11 So, there may be broad parking concerns. I'm not
12 disputing the numbers that Ms. White provided. But what I
13 am concerned about is tying down that pick-up and drop-off
14 a little bit more. So, I agree with Chairman Hill.

15 Ms. Wilson, you have done great work with a lot
16 of CDCs in the District over many years. So, take a look at
17 some of those conditions that may have been applied, and see
18 if we can apply some additional conditions. Think a little
19 bit outside the box for a minute, given the size and scale
20 of this particular CDC.

21 I would also open this up, take a look at parking
22 again. I know you provided five parking spaces. But maybe
23 there's an opportunity to provide more, provide some
24 additional parking around the corner from the side that
25 you're proposing.

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1 (Simultaneous speaking.)

2 MS. WILSON: They're already provided.

3 MEMBER SMITH: Ms. Johnson, you may want to mute
4 yourself.

5 There may, even to some of your playground space,
6 where you may can maneuver that to the size, and it sounded
7 like you may do some offsite playground arrangements as it
8 is now.

9 Take a look at that and provide some additional
10 analysis when we return on -- if you can provide more or not
11 provide more. Maybe you can convert some of that parking
12 maybe you're providing, into compact parking spaces. I think
13 I saw two.

14 Maybe playing around with it, you can get some
15 additional yield in some way, shape, form. And I think
16 that's all that I ask. And I agree with Chairman Hill, we
17 probably want to have DDOT here at the next hearing. So,
18 that's where I'm at.

19 BZA CHAIR HILL: Okay, thanks. Dr. Imamura, do
20 you have any further clarity that you'd like to see from the
21 applicant?

22 COMMISSIONER IMAMURA: Mr. Chairman, no further
23 clarity that I'm looking for. I want to applaud Board Member
24 Smith in search for design solution that gets us a little
25 closer to what everybody's looking for.

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1 And Chairman Hill, I have not been successful in
2 asking my family to call me Commissioner. But anyway, that's
3 a work-in-progress. But that's all I have and I'm amenable
4 to looking at the conditions a little more closely.

5 BZA CHAIR HILL: Okay. So, I think that what has
6 been stated before is that no one's opposed to childcare.
7 No one's opposed to daycare. The concern is the possible
8 objectionable results of traffic and this particular
9 institution here. Right?

10 What the Board is charged with is trying to
11 mitigate those factors, if there are any. So, Ms. Wilson,
12 again, I'd like to dive down into the conditions the next
13 time we're here.

14 Because just to let everybody else know, the
15 applicant doesn't suggest conditions, and then we determine
16 whether -- although it somehow happens that way -- the
17 Board's the one that actually sticks conditions on the
18 application.

19 Like, if the Board said, we want somebody out
20 there X hours and X hours, then the applicant has to do it
21 or they don't get approved.

22 So, we're trying to figure out what may or may not
23 work, and what may make the Board comfortable one way or the
24 other.

25 So, Ms. Brown-Roberts, just so I can still

1 investigate in my head, so if this is or isn't a CDC, I just
2 want to know, and if it does or not trigger the thousand-feet
3 thing. Okay? And if it does trigger the thousand-feet
4 thing, then give us a little bit of a supplemental report on
5 that. Okay?

6 MS. BROWN-ROBERTS: That's correct. Okay, Mr.
7 Chairman.

8 BZA CHAIR HILL: Thank you. And then, Madam
9 Secretary, if you could work with the Office of Planning, and
10 if that thousand feet does get triggered, if you can just
11 find out from DDOT if it changes anything with DDOT. Okay?
12 I don't even know who talks to who or how it works. But
13 just, okay?

14 And then, I guess, Ms. Wilson, if you want to try
15 to submit anything after you've listened to all this,
16 concerning also the Board -- what's it called -- tightening
17 up the conditions, or doing whatever you think -- I think
18 we're going to talk about it regardless the next time around,
19 right?

20 But if you can get to a point where you think the
21 Board might be more comfortable with it, great. And I am
22 kind of a little curious about whatever the bike rack thing
23 was talked about in the alley, and the door over on the
24 alley. I'm just kind of curious as to whatever that meant,
25 when we come back, unless you have an answer now.

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1 Ms. Wilson? Did I lose Ms. Wilson? Ms. Wilson,
2 can you hear me? I think you should go to turning your
3 camera off, perhaps. Ms. Wilson, you're muted. And you
4 should probably turn your camera off. Can you hear us?

5 MS. WILSON: I can hear you. My computer is so
6 slow.

7 BZA CHAIR HILL: No, that's okay. Did you hear
8 everything that we said?

9 MS. WILSON: Yes. And we're taking notes and we
10 can go back through the record and we'll tighten up the
11 conditions and submit something by the date you offer.

12 BZA CHAIR HILL: And then, if you can also just
13 clarify with me how that alley is supposed to be used, as
14 well as there was a bike rack that was brought up and a door
15 on that side. And just how that alley may or may not be
16 used, or something.

17 MS. WILSON: Yep. Absolutely.

18 BZA CHAIR HILL: Okay, great. All right. Okay,
19 now let's look at the calendar. So, Madam Secretary, how
20 would this all play out?

21 MS. MEHLERT: I mean, I guess how long do we think
22 we -- like, OP and the applicant -- need to review these
23 items? You could put this on November 13th as a continued
24 hearing. There are five cases scheduled for that day.

25 BZA CHAIR HILL: Okay. So, let's work backwards

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1 from November 13th then.

2 MS. MEHLERT: So, the applicant could submit by
3 November 30 --

4 BZA CHAIR HILL: You mean October 30th.

5 MS. MEHLERT: October 30th, and then the parties,
6 including ANC, parties-in-opposition, and then OP
7 supplemental, by November 6th.

8 BZA CHAIR HILL: Okay. And then, we can ask DDOT
9 to come on the 13th.

10 MS. MEHLERT: Yes.

11 BZA CHAIR HILL: And I can't remember, is that
12 where we put Commissioner Miller's stuff earlier? No.

13 MS. MEHLERT: No. That is actually, Dr. Imamura
14 is scheduled for the 13th.

15 BZA CHAIR HILL: Oh, great. Perfect. All right,
16 then let's try -- if we can, we'll try to do this first.
17 Okay? First thing in the day. So, everybody knows where
18 you're going to be. And then, you can finish and move on
19 with your day. Let's see. Yeah, that's it.

20 MS. JOHNSON: Will documentation be provided to
21 all ANC commissioners for 4B?

22 BZA CHAIR HILL: Madam Secretary, I guess you're
23 saying that it's submitted into the record which day again?
24 The 30th. October 30th the party will submit. And I believe
25 the party then has to submit to all the other parties.

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1 Correct?

2 MS. MEHLERT: Correct. Anything needs to be
3 served to all the parties. That includes the ANC.

4 BZA CHAIR HILL: Commissioner, you'll get it on
5 the --

6 MS. JOHNSON: I just want to make sure that all
7 parties in the Commission are going to receive that
8 documentation. Or am I incumbent to submit that to them?

9 BZA CHAIR HILL: This I don't know. Madam
10 Secretary, do you know where it goes to?

11 MS. MEHLERT: The requirement is that parties
12 serve the ANC, and that means serving the full ANC. So,
13 typically, we recommend sending to the ANC's general mail
14 address. I think most applicants as a courtesy also serve
15 sometimes the chair and the SMD that the subject property's
16 located in.

17 MS. JOHNSON: Okay.

18 (Simultaneous speaking.)

19 MS. JOHNSON: So, I should receive that
20 documentation by October 30th.

21 MS. MEHLERT: Correct.

22 MS. JOHNSON: Okay, perfect. Thank you.

23 BZA CHAIR HILL: Okay.

24 MR. TOLL: Chair Hill, will the parties be able
25 to ask questions of DDOT at the next hearing?

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1 BZA CHAIR HILL: Yeah, I hate to say it.
2 Everybody gets asked questions of everybody else about the
3 supplemental portion. We're not going back about anything,
4 right? All we're going to talk about is what's going to be
5 presented next. And then, whatever happens with DDOT.

6 And then, what happens is, the Board probably
7 still will decide that day. The Board will then go back and
8 look at all of the testimony. Right? We'll go back and look
9 at this record, as well as whatever happens supplemental, and
10 then the Board will come back with a decision.

11 MR. TOLL: Sorry to interrupt. Will the parties
12 have a chance to submit proposed findings of fact and
13 conclusions of law?

14 BZA CHAIR HILL: I don't think so. Unless the
15 Board asks for it. But I don't know if the Board's going to
16 ask for it.

17 What usually happens now is, like, they go ahead
18 and, you guys will get -- so, the 30th we'll get more
19 conditions, or whatever, right? We'll get something from the
20 applicant.

21 Then, on the 6th everybody else will get to tell
22 the Board what they think of those submissions. And then,
23 the Office of Planning is also going to give us a
24 supplemental, if necessary, on the 6th.

25 And I guess we'll get something from DDOT maybe

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1 on the 6th also, Madam Secretary?

2 MS. MEHLERT: We can ask. We can include them in
3 terms of submitting a supplemental report as well.

4 BZA CHAIR HILL: Okay, great. And then, you all
5 are going to be able to come back for the supplemental
6 hearing, and you can ask questions about anything that was
7 submitted.

8 And we're going to do this again but on the
9 supplemental information.

10 MS. JOHNSON: Do the supplemental documents allow
11 supplemental specs that he's proffering?

12 BZA CHAIR HILL: Yeah. So, I think I'm answering
13 your question, but I'm sorry if I'm not.

14 On the 30th the applicant's going to submit the
15 information. Then, you all will have a week to respond to
16 that information.

17 MS. JOHNSON: Understood. Thank you.

18 BZA CHAIR HILL: Okay. Mr. Toll, is that helpful?

19 MR. TOLL: Yes. Just to note that we would very
20 much appreciate the opportunity to do so, submit findings of
21 fact and conclusions of law.

22 But we understand that that's at the Board's
23 discretion.

24 BZA CHAIR HILL: Okay. Yeah, and actually, I know
25 that the Office of Planning's legal department is listening.

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1 You all can help me with that the next time, because I know
2 that we've asked for it before, but rarely. And so, you can
3 just clarify that with me.

4 Okay. All right. So then, we are done, unless
5 I see my fellow Board members raising their hands. Okay.
6 All right everybody, we'll see you again then on November
7 13th. And Ms. Wilson, I do have one quick question from you.

8 Like, I am aware of how financing works and how
9 projects work. And this is now going to kick your client
10 back another month until the 13th, to at least find out
11 what's going on. How is that going to affect your client?

12 MS. WILSON: I mean, I don't know where to start
13 with that one. Because we're also probably looking at a full
14 order. So, I'm not sure.

15 BZA CHAIR HILL: Yeah, I can't do anything about
16 that.

17 MS. WILSON: Yeah yeah, I'll have to defer to
18 Marilyn and Christina, how does that month impact you.

19 BZA CHAIR HILL: Anyway, it's okay, Ms. Wilson.
20 I was just curious about financing and stuff. But I can't
21 do anything about it anyway.

22 MS. WILSON: Mm-hmm. Yeah.

23 BZA CHAIR HILL: All right. So, we'll see you
24 guys on the 13th. Okay?

25 (Chorus of thank you.)

1 BZA CHAIR HILL: Okay, thank you. Thank you all.

2 MS. JOHNSON: Thank you. Have a good evening.

3 BZA CHAIR HILL: Thank you, you too. So, just to
4 be clear, just to be clear, I am closing the hearing, except
5 for those supplemental items that the Board has requested.
6 Okay, thank you. Bye-bye.

7 (Whereupon, the above-entitled matter went off the
8 record at 4:47 p.m.)

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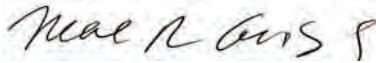
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Before: DC BZA

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