

GOVERNMENT OF  
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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REGULAR PUBLIC HEARING

+ + + + +

WEDNESDAY

MAY 14, 2025

+ + + + +

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

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

FREDERICK L. HILL, Chairperson  
CARL H. BLAKE, Vice Chairperson  
CHRISHAUN SMITH, Commissioner  
JOSEPH IMAMURA, Zoning Commission Commissioner  
TAMMY STIDHAM, Zoning Commission Commissioner

BOARD OF ZONING ADJUSTMENT STAFF PRESENT:

KEARA MEHLERT, Secretary  
PAUL YOUNG, A/V Operations

The transcript constitutes the minutes from the Regular Public Hearing held on May 14, 2025.

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

(9:30 a.m.)

CHAIRPERSON HILL: Good morning, ladies and gentlemen. The Board of Zoning Adjustment's 5/14/2025 hearing will please come to order. My name is Fred Hill, Chairman of the District of Columbia Board of Zoning Adjustment. Joining me today are Board members Chrishaun Smith, Vice Chair Carl Blake, Zoning Commissioner Tammy Stidham and I believe Dr. Imamura.

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 at our decision meeting sessions.

If you're experiencing difficulty accessing Webex or with your telephone call-in, then please call our OZ hotline number at 202-727-5471 to receive Webex login or call-in instructions. At the conclusion of a decision meeting session I shall, in consultation with the Office of Zoning determine whether a full or summary order may be issued. A full order is required when the decision it contains is adverse to a party including an affected ANC. A full order may also be needed if

1 the Board's decision differs from the Office of Planning's  
2 recommendation. Although the Board favors the use of summary  
3 orders whenever possible, an Applicant may not request the Board  
4 to issue such an order.

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

14 All persons planning to testify either in favor or in  
15 opposition should have signed up in advance. They'll be called  
16 by name to testify. If this is an appeal, only parties are  
17 allowed to testify. By signing up to testify all participants  
18 will have completed the oath or affirmation as required by Y-  
19 408.7. Requests to enter evidence at the time of an online  
20 virtual hearing such as written testimony, additional supporting  
21 documents other than live video which may not be presented as  
22 part of the testimony, may be allowed pursuant to Y-103.13  
23 provided that the persons making the request to enter an exhibit  
24 explain, a) how the proposed exhibit is relevant, b) the good  
25 cause that justifies providing the exhibit into the record

1 including an explanation of why the requester did not file the  
2 exhibit prior to the hearing and pursuant to Y-206 and, c) how  
3 the proposed exhibit would not unreasonably prejudice any  
4 parties. The order of procedures for special exceptions and  
5 variances are in Y-409.

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

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

1 D.C. Official Code Section 2-575(b)(4) and/or deliberate on a  
2 case pursuant to D.C. Official Code Section 2-575(b)(13) but only  
3 after filing the necessary notice in the case of an emergency  
4 closed meeting after taking a roll call vote.

5 Madam Secretary, do we have any preliminary matters?

6 MS. MEHLERT: Good morning, Mr. Chairman, members of  
7 the Board.

8 Regarding the schedule today Application No. 21291 of  
9 HDR Holdings, LLC has been administratively rescheduled and re-  
10 noticed to June 11th, 2025. Application No. 21288 of Shilja Nair  
11 and Vijayalakshmi Vellayan has been postponed to June 25th, 2025  
12 and Application No. 21080 of Aulona Alia has been postponed to  
13 July 2nd, 2025.

14 Regarding late filings the Chairman has reviewed and  
15 granted waivers to all late filings into the applicable case  
16 record pursuant to Subtitle Y, Section 206.7 and Section 103.13.  
17 Any other late filings during the course of today's live hearing  
18 should be presented before the Board by the Applicant, parties  
19 or witnesses after the case is called. Any other preliminary  
20 matters will be noted when the case is called.

21 CHAIRPERSON HILL: Okay. Great. Thank you.

22 Good morning, everybody. I hope everyone is doing well  
23 today. Let's see.

24 Madam Secretary, can you call our first item of  
25 business.

1 MS. MEHLERT: The first in the Board's meeting session  
2 is Application No. 20184-B of Fort Lincoln-Eastern Avenue, LLC.  
3 This is the request by ANC 5C pursuant to Subtitle Y, Section  
4 700.2 for reconsideration of an order issued on April 1st, 2025  
5 that approved a one-year time extension to April 20th, 2026.

6 This is regarding a new residential development of 51  
7 townhouse dwellings in a theoretical lot subdivision located in  
8 Square 4325, Lots 44, 802 and Parcel 174/15 to a property bounded  
9 by Eastern Avenue, Bladensburg Road and Fort Lincoln Drive,  
10 Northeast. As a preliminary matter, there is a request also by  
11 ANC 5C to extend the filing deadline in Exhibit 15.

12 CHAIRPERSON HILL: Okay. Thanks you all.

13 So I'm sure we've all had a chance to review everything  
14 and also all of the information that we received from the Office  
15 of Zoning's Legal Department. Before we get to the motion to  
16 extend the deadline, I guess, I think that, first I don't even  
17 know if this actually before us properly. Like, so this is for  
18 a motion to waive, I'm sorry, a motion for reconsideration of a  
19 extension and under Y-700.2 it says, so Y-700.2, reconsiderations  
20 of final orders, rehearing after final order. The party may file  
21 a motion for reconsideration of a rehearing of any decision of  
22 the Board granting or denying an application or appeal.

23 So this isn't anything granting or denying an  
24 application of appeal. This is just simply a time extension  
25 which is really kind of an administrative decision. We're not

1 actually going back to review the case which the Board decided  
2 upon, it's just whether or not we feel that they met the criteria  
3 for us to grant the time extension and at the time, the Board  
4 reviewed the application and agreed that they met the criteria  
5 for us to grant them a time extension. We weren't going back  
6 and rehearing the case or rehearing any of the issues of the  
7 case.

8           So I think that this actually should be dismissed  
9 because it's not really before us, and as far as the extending  
10 the deadline, I suppose if I thought that this was something that  
11 would be properly before us then I would have been in favor of  
12 probably extending the deadline because there really wasn't, you  
13 know, that much difference in terms of whether or not it would  
14 prejudice the parties.

15           In terms of, again, Y-700.2, we could issue a waiver  
16 but I don't think that there's a good cause for a waiver for Y-  
17 700.2 in terms of reconsidering this decision by the Board before  
18 a time extension because, again, I don't think that it is a  
19 decision that we would be properly reviewing because it's not  
20 something we're supposed to be looking at in terms of the time  
21 extension and in addition to that, I think that it would prejudice  
22 the Applicant because this is something that goes live and  
23 effective when we issue the decision as opposed to a order where,  
24 I'm sorry, as opposed to an application where the Applicant has  
25 to wait for the order to be issued in order to move forward.



1 I will also say that in terms of the argument itself,  
2 just for the benefit of the ANC, that I think that the proposed  
3 development and the additional retail store fronts at those shops  
4 there at Dakota Crossing, I also don't think it constituted a  
5 substantial change of material facts that would undermine the  
6 Board's justification for approving the original application.

7 So even if we got this all the way through, I don't  
8 think that I would have been in favor of a reconsideration, or  
9 I'm sorry, would have been in favor of denying the time extension.  
10 But I think that, again, this is improperly before us so it should  
11 be dismissed.

12 I'm going to go around the table and hear if anybody  
13 has anything to add. May I start with you, Vice Chair Blake?

14 VICE CHAIRPERSON BLAKE: Sure. Thank you, Mr. Chair.

15 I, just for (indiscernible), I did not participate in  
16 the decision for the time extension but I have reviewed the  
17 complete record and I'm prepared to participate and vote in the  
18 post-hearing motion. There are a number of issues here which I  
19 think you have very well addressed and I agree with you that  
20 pursuant to Y-700.2 this is not appropriately before us. It is,  
21 this is more of a procedural motion and not a substantive  
22 application and therefore I do not believe that this applies for,  
23 that we should allow for the reconsideration.

24 So I also agree with the other points you made and I  
25 will be in support of your decision to deny the motion.

1 CHAIRPERSON HILL: Mr. Smith?

2 COMMISSIONER SMITH: I have nothing to add. I agree  
3 with the sentiments of you and the Vice Chair, and will vote to  
4 deny the reconsideration.

5 CHAIRPERSON HILL: Commissioner Stidham? And just for  
6 the record, again, I'm speaking that we should dismiss this.

7 COMMISSIONER SMITH: Sorry. Dismiss it. Sorry.

8 CHAIRPERSON HILL: Sure. No problem.

9 Commissioner Stidham?

10 ZC COMMISSIONER STIDHAM: I have nothing to add to what  
11 has already been said and I am also supportive of your decision  
12 to dismiss.

13 CHAIRPERSON HILL: Okay.

14 I'm going to make a motion to dismiss the motion for  
15 reconsideration and request, oh, sorry. I'm going to make a  
16 motion to dismiss the motion for reconsideration on Application  
17 No. 20184-B concerning the time extension as I do not believe  
18 this is before us properly as per Y-700.2 and ask for a second.  
19 Mr. Blake?

20 VICE CHAIRPERSON BLAKE: Second.

21 CHAIRPERSON HILL: The motion is made and seconded.  
22 Madam Secretary, can you take a roll call, please.

23 MS. MEHLERT: Please respond to the Chair's motion to  
24 dismiss the motion for reconsideration.

25 Chairman Hill?

1 CHAIRPERSON HILL: Yes.

2 MS. MEHLERT: Vice Chair Blake?

3 VICE CHAIRPERSON BLAKE: Yes.

4 MS. MEHLERT: Mr. Smith?

5 COMMISSIONER SMITH: Yes.

6 MS. MEHLERT: Commissioner Stidham?

7 ZC COMMISSIONER STIDHAM: Yes.

8 MS. MEHLERT: Staff would record the vote as four to  
9 zero to one to dismiss the Motion for Reconsideration in  
10 Application No. 20184-B on the motion made by Chairman Hill and  
11 seconded by Vice Chair Blake.

12 CHAIRPERSON HILL: Okay. Thank you.

13 And I'm going to, again, appreciate, I appreciate the  
14 efforts of the Office of Zoning's Legal Department in helping  
15 with that analysis. Let's see.

16 So what I'd like to propose you guys is I had some  
17 questions about some of the cases today and so what I'd like to  
18 do is do an emergency closed meeting so we can discuss with Legal  
19 some of the cases that are before, the cases that are before us  
20 today and if anybody has any questions about those cases.

21 So as Chairperson for the Board of Zoning Adjustment  
22 for the District of Columbia and in accordance with Section 406  
23 of the District of Columbia Administrative Procedures Act, I move  
24 that the Board of Zoning Adjustment hold a closed emergency  
25 meeting on 5/14/2025 for the purposes of seeking legal counsel

1 on cases that are scheduled for 5/14/2025, deliberate upon but  
2 not vote upon cases scheduled for 5/14/2025.

3 Is there a second? Mr. Blake?

4 VICE CHAIRPERSON BLAKE: Second.

5 CHAIRPERSON HILL: Madam Secretary, take a roll call,  
6 please.

7 MS. MEHLERT: Please respond to the Chair's motion to  
8 hold an emergency closed meeting with OZ legal counsel.

9 Chairman Hill?

10 CHAIRPERSON HILL: Yes.

11 MS. MEHLERT: Vice Chair Blake?

12 VICE CHAIRPERSON BLAKE: Yes.

13 MS. MEHLERT: Mr. Smith?

14 COMMISSIONER SMITH: Yes.

15 MS. MEHLERT: Commissioner Stidham?

16 ZC COMMISSIONER STIDHAM: Yes.

17 MS. MEHLERT: Staff would record the vote as four to  
18 zero to one. The motion passes.

19 CHAIRPERSON HILL: Thank you.

20 Mr. Young, if you could please send an invitation to  
21 all parties and, you know, all members and I will see you guys  
22 at the other meeting.

23 For the public, we're going to go have a discussion  
24 with the Office of Zoning's Legal Department and we'll be back  
25 as quickly as we can.

1 Thank you.

2 (Whereupon, there was a recess for an emergency closed  
3 meeting with legal counsel.)

4 CHAIRPERSON HILL: Madam Secretary, if you can call us  
5 back and then call our next order of business.

6 MS. MEHLERT: The Board is back from its emergency  
7 closed meeting with legal counsel and is returning to its meeting  
8 session.

9 The next case is Application No. 21240 of 71 Florida  
10 Ave 39, LLC. This is a self-certified application pursuant to  
11 Subtitle X, Section 901.2 for a special exception under Subtitle  
12 U, Section 203.1(J) to allow healthcare facilities. This is for  
13 a new 16 bed healthcare facility in an existing detached building.

14 It's located in the R-2 zone at 4237 Eads Street,  
15 Northeast, Square 5089, Lot 72. This hearing began on March 26th  
16 and was continued on April 23rd. On April 30th the Board  
17 rescheduled decision and requested additional information. And  
18 participating are Chairman Hill, Vice Chair Blake, Mr. Smith and  
19 Commissioner Stidham.

20 CHAIRPERSON HILL: Okay. Great. Thanks.

21 We've lost Commissioner Stidham for this discussion but  
22 I don't think we're going to decide today so what I've asked  
23 Commissioner Stidham to do is go ahead and watch this and when  
24 we actually come back for a decision, she'll be available for  
25 that.

1           So this is really kind of an opportunity for the Board  
2 to talk about this decision and see I think if there's any further  
3 clarification we might want from the Applicant. We did get some  
4 possible suggested conditions from the Applicant that seemed to  
5 try to address some of the Board's concerns on what we're supposed  
6 to be looking at for this case.

7           So I'd like to go over a couple of things real quick  
8 which is, again, this is a healthcare facility, right? This  
9 isn't an assisted living facility. This is an application for a  
10 healthcare facility. So that matters because there's a  
11 definition in zoning what the healthcare facility is. So that's  
12 something I just want to get out there.

13           The other is going through this list of conditions and  
14 seeing what things may or may not, again, the Board might want  
15 some specificity on as it comes to the things that we're supposed  
16 to be looking at which is, again, trash, traffic, you know, how  
17 this might affect the immediate community in terms of if this  
18 special exception were to be granted. Yeah. I was going to say  
19 something else but now I forgot. All right.

20           So, the first proposed issue that was put forward was  
21 the facility shall be a licensed assisted living facility with a  
22 maximum of 16 beds. I mean, so right off the bat I think, you  
23 know, the facility shall be, it's not something that's going to  
24 be licensed by us, it's going to be licensed somewhere else. But  
25 the facility shall be a healthcare facility with some kind of a

1 maximum that we're going to agree on. Is that correct? Would  
2 everybody agree with that? Okay.

3           So to the Applicant, again, and this is maybe something  
4 even the Office of Zoning's Legal Department can help me with,  
5 that first condition would be the facility shall be a healthcare  
6 facility with a maximum capacity of X which we're going to get  
7 to, actually I'm sorry, you can say with a maximum capacity of  
8 16 because what is before us, again, is an application for 16  
9 beds. So it's not something that we are going to change the  
10 application -- change the Applicant's application. However, if  
11 through this discussion we think that a different number of beds  
12 might be something that would be amenable to the Board, the  
13 Applicant can determine whether or not to change their  
14 application or just stick with the 16. So that's another thing  
15 that I wanted to throw out.

16           So that's that first condition and since I have the  
17 mike and I'm going to go around, everybody can also talk, I don't  
18 know where I am on this. Right? I really don't know. I mean,  
19 we're looking between eight, we're increasing from eight to  
20 sixteen. They can do eight by matter-of-right, right? And so  
21 they can do eight by matter-of-right. They're here for the  
22 additional eight. If it was an additional two, I mean it can go  
23 up to some number that's 300 or something. I don't know what  
24 the number is but, you know, it would have to be capped whatever  
25 it was. But I say that because I just don't know where I am.

1           So there shall be no, I'm sorry, there shall be no  
2 minimum age requirements for the guests, for the residents. We  
3 can't do that. That's not part of what, you know, the healthcare  
4 facility is what the healthcare facility is. So that's not even  
5 a condition that we could do. However, if the Board thinks that  
6 there is something that we, the Board, was trying to mitigate by  
7 a age requirement, we can go ahead and do that.

8           The service provider consistency. The facility shall  
9 have the same service provider as those used at 4237 Eads Street  
10 which is another facility that is up before us today and I think  
11 that other facility is going to have the same situation as this  
12 facility and that's why I know that the Commissioner is listening  
13 who's on the next one, and we aren't going to be able to do that  
14 because what if one facility sells and the other facility remains  
15 the same way.

16           Like, that doesn't address whatever our issues are,  
17 right? We have to figure out whatever our issues are and if that  
18 means foods delivering some way or housekeeping's delivering some  
19 way or the medical care is coordinated in some way, like, if  
20 there are hours or something, that's something we, the Board,  
21 have to figure out.

22           The next condition. Medical emergency protocol. The  
23 facility shall maintain a documented urgent care protocol along  
24 with state guidelines including triaging by on-site. You know,  
25 that's, again, getting into the minutia of how this is being



1 operated and it's not something that would address any of the  
2 issues that the Board has to look at in terms of the criteria.

3 Visitor management. This is something that we could  
4 try to figure out, how to mitigate the time of people that are  
5 coming in and out either as guests or visitors and so I think  
6 that's something we can kind of talk to and I'll, again, after I  
7 go through this list I'll let everybody have their discussion and  
8 then they can kind of share what their concerns are with the  
9 Applicant and figure how we may or may not be able to come to  
10 conditions that make us comfortable.

11 No. 7 and 8. Noise and quiet hours. I guess we're,  
12 again, trying to talk about activity that might be disturbing to  
13 the community and the immediate neighbors and that would also  
14 include this outdoor space use. So trying to figure out how to  
15 come up with something that addresses a concern about noise,  
16 right?

17 Parking and transportation. And this is for the  
18 Applicant, again. There's, like, four spots. It's unclear as  
19 to, you know, who gets the spots. How many for staff? How many  
20 for visitors? What's the allocation? Where they are actually  
21 are? We need to actually see them on the plat to actually know  
22 where they are and then the screening, I didn't really understand.  
23 I guess that is trying to alleviate some of the concerns of some  
24 of the neighbors but, like, what's the screening, where's the  
25 screening? Is it landscaping, is it a fence? And so that's more

1 particulars that the Applicant can kind of speak to.

2           The services. In terms of housekeeping, meal services  
3 and trash. These are things that, again, we need to kind of have  
4 beefed up. Like, when is it going to be picked up, you know,  
5 and how many, you know, how often is it going to be picked up?  
6 The hours it seems from six to ten seems a little bit  
7 unreasonable, meaning I don't think that they're going to get  
8 everything done by 10 a.m. every day, right? And so that seems  
9 as though that's something that would be not really doable and  
10 so I think that's something that we have to kind of talk through.

11           The time limit. I know that just from the discussions  
12 that we've had with OZLD that the Board is going to require some  
13 kind of a time limit and whether that ends up being five years,  
14 seven years, you know, ten years, you know, I don't know. But  
15 it seems as though, and this is now again for the Applicant that  
16 it seems like, you know, it's going to be around seven years  
17 perhaps if we start talking through this or something there'll  
18 be some kind of time limit. So if that has anything to do with  
19 the decision to move forward in this way, that's another thing  
20 that the Applicant can think about.

21           So I think I kind of touched on all of the issues and  
22 then just the last thing I would mention is that this is requiring  
23 a lot of work by the Board and so I say that also to the community  
24 which is that, you know, we happen to go through cases that are  
25 pretty simple maybe quickly, or it appears quickly, because we've

1 done our due diligence, we've read through the case files, and  
2 we're able to process things that are easily processed. This is  
3 not one of them, and that's why the Board is continuing to take  
4 a lot of time mentioning to the ANCs that sent all that  
5 transcripts which is very helpful, you know, 88 pages of  
6 transcript but it did show what had happened at those different  
7 ANC meetings and, again, brought up whether or not, you know, the  
8 outreach, whether the outreach was successful or not kind of was  
9 something that those transcripts spoke to.

10 So that's where I kind of am with everything and I'll  
11 turn to my Board members also to help me clarify how to direct  
12 the Applicant. Oh, I'm sorry. The last thing was that we will  
13 come back here on June 11th for all of -- I don't know what cases  
14 we have with this particular Applicant moving forward, but, oh,  
15 no, sorry, it's June 4th, June 4th. We'll come back on June 4th  
16 because there's a holiday. There's another thing that's going  
17 on next week and then we're going to have to really spend a lot  
18 of time as a Board with whatever possible conditions are being  
19 presented next, whether or not it alleviates the concerns of the  
20 Board.

21 So that's all I've got to say and I'll turn it over to  
22 Mr. Smith, if I might.

23 COMMISSIONER SMITH: Chairman Hill, you touched on I  
24 think most of the major concerns that I had about the list of  
25 conditions and I, you know, completely agree with your statements

1 on all of them.

2 On the question about where I am. Yeah, I am, was  
3 uncomfortable with the special exception in the other one because  
4 there is, I'm sensitive to the neighborhood's concerns. We've  
5 had several group home type facilities come up with special  
6 exceptions within this broader area of the city. So I am  
7 sensitive to some of those concerns that were raised about the  
8 amount of density.

9 But, you know, just as you stated within most  
10 residential zones these types of uses are allowed as a matter-  
11 of-right up to eight people. So it's presumed to be sort of  
12 residential in nature. This request for a special exception does  
13 allow us to mitigate the impacts of this type of use. Also I  
14 just want to put that out to the neighborhood that, yes, they  
15 are requesting a special exception but with the special exception  
16 it gives you reasonable control over certain types of impacts  
17 that you will see anyway if it's a matter-of-right.

18 You'll still see traffic if it's eight. You'll still  
19 see, you'll have noise concerns if it's just the maximum with the  
20 eight. You'll see trash pick-up. You'll see different food  
21 deliveries, even if it is eight. But at eight, you can't control  
22 it. But with the special exception, you can reasonably mitigate  
23 these impacts and it will force the Applicant to comply with  
24 those conditions. Hold their feet to the fire in a sense to be  
25 cooperative neighbors.

1           So I'd be a little bit more comfortable with moving  
2 forward with reasonable conditions on this particular case and  
3 the other case that we will have to deliberate that is also owned  
4 by the Applicant. I'm comfortable with the approach that you're  
5 taking with these conditions. I do believe that we need to tie  
6 down the hours for delivery or when housekeeping services will  
7 occur, any truck deliveries, any trash pick-up. They stated 6  
8 a.m. to 10 a.m. That may be reasonable for all of that to occur.  
9 If the Applicant, and the Applicant's put out their, you know,  
10 condition that this will occur during those hours. So if the  
11 Applicant is comfortable with conditioning that to occur within  
12 those hours, I'm comfortable with writing that explicitly as a  
13 condition.

14           We do need a condition about how often trash pick-up  
15 will occur that, you know, is it two times a week, three times a  
16 week. We need that minimum condition number of times a week that  
17 that would occur. Within one of the conditions that they  
18 recommended they show that there would be a waste disposal area.  
19 Just as you stated we need that shown on a plat as well as the  
20 four parking spaces, as well as the screening treatment, whether  
21 there's landscaping or a fence. That needs to be shown on a  
22 revised survey so that we can, and the Zoning Administrator can,  
23 effectively enforce that going forward.

24           Use of outdoor space. Maybe there's a condition that  
25 requires that no amplified sound occur to mitigate any noise that

1 may occur with 16 residents. I welcome the Applicant crafting  
2 some condition that speaks to that fact and some form of a  
3 condition about supervision of the residents to address some of  
4 the concerns that the residents may have, the surrounding  
5 residents may have of people that are living here that they  
6 wander, or walk off, leave the facility in some way, shape or  
7 form.

8 This condition about large gatherings. That's hard to  
9 quantify and I would rather not condition that so I'll leave it  
10 at that. I'm fine with the condition of a maximum of 16 beds.  
11 I'm not comfortable with the minimum age requirement. Just as  
12 you stated Chairman Hill, I think it would be fairly hard to  
13 enforce. I think other conditions that we're proposing like  
14 noise and whatnot can effectively get at some of the questions  
15 that were raised about that.

16 And I think that's all that I had, Chairman Hill.

17 CHAIRPERSON HILL: Okay. Give me one second. Let me  
18 just write this down.

19 (Pause.)

20 CHAIRPERSON HILL: Is it patient 16 beds? Sixteen  
21 beds? All right.

22 Vice Chair Blake?

23 VICE CHAIRPERSON BLAKE: Mr. Chair, I just wanted to  
24 clarify something. Are we going to have a continued hearing or  
25 are we going to make it, just have a decision meeting on that on

1 | that date?

2 |           CHAIRPERSON HILL: That's a very good question. I  
3 | think given all that's going on we could have a continued hearing.

4 |           VICE CHAIRPERSON BLAKE: Okay. The reason I said that  
5 | is that I would, I do agree with all the areas that you and Board  
6 | member Smith suggested to have greater clarity off of the  
7 | conditions. I think that it would be helpful to have just a  
8 | little written piece on each of the elements though.

9 |           For example, with regard to waste management. I would  
10 | like to just say we're going to do waste management X, Y and Z.  
11 | It'll be located in this spot reflected on the plan and these  
12 | are the hours in which it'll take place. A brief description of  
13 | each of those elements that they add and the condition that goes  
14 | with it would be very helpful because certain things would not  
15 | necessarily translate well into conditions, but it would be  
16 | helpful to understand the process.

17 |           For example, again, we talked about parking. How many  
18 | parking spaces will be devoted to staff? How many parking spaces  
19 | will be devoted to use for deliveries and when deliveries will  
20 | take place. That would be very helpful for us to understand,  
21 | whereas the time of the deliveries would be very helpful in terms  
22 | of the condition itself. Also the number of visitors that may  
23 | come and go, the times of visitations as opposed to set to meal  
24 | time would also be helpful. Just some greater elaboration on  
25 | what would be taking place and how that would translate into a

1 condition.

2 I don't think that there's anything else that, oh, also  
3 the number of staffing. I want to be clear on the staffing that  
4 will be there to the extent that there will be, and I do think  
5 we, visits. I wasn't clear as to whether they're going to be  
6 full time three people there or just partially or how that would  
7 happen. Certainly given the patient mix it would matter how much  
8 coverage is there. I'd be just curious to know just so we have  
9 a sense of the number of bodies that would be in that facility,  
10 you know, over 24/7, et cetera.

11 So those are the kind of things I would just like to  
12 be clear on in addition to the specific conditions which would  
13 follow that. And we could do a continued hearing to allow for  
14 the elaboration or we can just have a written statement which  
15 explains it so that, you know, the dots would connect for us a  
16 little better.

17 CHAIRPERSON HILL: Well, actually now that you brought  
18 this up I think the continued hearing is not such a bad idea  
19 because we can then talk about, actually I don't know when another  
20 one of these is coming up from this Applicant. Like, we could  
21 be talking about that at that time too. But I guess, you know,  
22 and I could do the thing, like, I'm not looking at this as if  
23 even though they have these many applications coming in, like,  
24 I'm not looking at it as a bunch necessarily.

25 Like, some things I am just because as you kind of go



1 through this you think of things and what your concerns may be  
2 but, you know, like there's two of these now in a 500 foot radius,  
3 right? That's the thing that also makes this more specific to  
4 what I'm kind of trying to figure out. Like, that one that's  
5 stand alone that doesn't have the, I might look at that  
6 differently, right? So I'm just throwing that out.

7 But I think we should come back for a continued hearing  
8 I suppose. On the 4th I think Madam Secretary said that it was  
9 easier so we could do a continued hearing on this one and then I  
10 guess put the other one on decision so that we just have one  
11 continued hearing. But, okay.

12 So I'm going to sum up. Okay? Oh, this is another  
13 thing kind of for the community in terms of some of the stuff  
14 that we heard about. Like, I looked at the diagrams and I looked  
15 at how many people are in the rooms and everything and, like,  
16 you know, a different agency will determine whether or not how  
17 many people can be in a room and what's appropriate for the  
18 number. Like, the Board of Zoning says, you know, you can do a  
19 cap of 16 but the agency might say, you know, you can only do  
20 this many, right?

21 And then I'm just kind of sharing with my Board members  
22 the difficulty I've been having with this a little bit is that  
23 who am I to say if, like, the best case thing you have is sharing  
24 a small room with somebody, you know, that may be better than  
25 not having a small room with somebody. So I'm very conflicted

1 on this one, right? From a personal standpoint, right? But  
2 that's not really what we're here for. Again, we're here for,  
3 you know, traffic, you know, adverse impacts to the neighborhood.  
4 I'm just kind of sharing things which is that those are things  
5 that are outside the Board's jurisdiction but I also thought  
6 about it. Okay.

7 So then to the Applicant, we would want new proposed  
8 conditions and, Madam Secretary, I'm going to look here. I guess  
9 the submissions would be by May 21st and responses from anybody  
10 would be on May 28th and then we'd come back for a continued  
11 hearing on June 4th. Is that accurate?

12 MS. MEHLERT: Yes. That would work.

13 CHAIRPERSON HILL: Okay.

14 So then what we would need from the Applicant by June  
15 5th, oh, sorry, by May 21st is these updated conditions that seem  
16 to address some of the concerns of the Board. Right?

17 And No. 1, the facility shall be a healthcare facility  
18 which will be capped at 16 beds.

19 There seems to be a lot of discussion about waste  
20 management. You know, how is it actually going to be happening?  
21 When is it going to be picked up? Daily, what time? I don't  
22 know what specificity you need to try to get into to make the  
23 Board feel comfortable.

24 Then, where is the trash going to be placed, as well  
25 as where are the parking spaces going to be on the plat? There's

1 four parking spaces, how are they going to be used. Two for  
2 visitors, two for staff? You know, you need to kind of figure  
3 that out and how you want to present that to the Board before we  
4 come back here again.

5 I guess the large gatherings is not something that was  
6 of a concern. However, there was a concern about staff and how  
7 they would supervise outdoor activities and there would be no  
8 amplified sound.

9 The housekeeping visits, like, again, when are they  
10 going to happen? How is it going to happen by, and whether or  
11 not six to ten is really feasible because I would not want to  
12 get in a situation where it makes the residents suffer if they  
13 can't get this done by ten and they have to, like, you know, push  
14 it off to the next day or the next day. I mean, this is where  
15 I'm a little bit confused about the conditions that we're putting  
16 forward to mitigate our concerns of the adverse impacts to the  
17 community. Okay?

18 Waste management, parking, times of visitation, staff,  
19 and I guess that's it. Am I missing anything?

20 (Pause.)

21 CHAIRPERSON HILL: Okay. Nobody's saying anything so  
22 I'm not missing anything.

23 VICE CHAIRPERSON BLAKE: Mr. Chair, I think the large  
24 gatherings, the issue was to better define large gatherings and  
25 also to better define quiet, the quiet time I think it was. What

1 exactly that meant and, you know, the hours and what that meant  
2 exactly.

3 CHAIRPERSON HILL: Mr. Smith, any further clarification  
4 on anything I said? Okay.

5 So I mean this is just now a process and I'm not even  
6 talking to the Applicant. Like, again, I don't know where I am  
7 with this, right? So I don't know if the votes are here. But I  
8 am sharing with, like, as Mr. Blake shared, if this were eight  
9 there would be no criteria other than what's in the regulations  
10 and how to operate these facilities. There wouldn't be anything  
11 new that would be placed on them in terms of when they can do  
12 things or how they can do things, right?

13 So I don't know if that bed number is ten, or fourteen  
14 that gets me more comfortable or maybe the votes are there for  
15 the eighteen. You know, I'm sorry, the 16. So, I don't know.  
16 Anyway, I think I've made myself as clear as I can be at this  
17 time and I think the Board has made its concerns known and so  
18 then if the Applicant puts all the submissions in by May 21st,  
19 the ANC responses by May 28th and then we'll come back for a  
20 continued hearing on June 4th.

21 Is that it from everybody? Okay. Madam Secretary, is  
22 that good?

23 MS. MEHLERT: Yes.

24 CHAIRPERSON HILL: Okay.

25 Then we will come back on June 4th for the continued

1 hearing. So I'm closing this portion of the hearing. Thank you.

2 Is Dr. Imamura with us for the day?

3 ZC COMMISSIONER IMAMURA: I am.

4 CHAIRPERSON HILL: Okay.

5 ZC COMMISSIONER IMAMURA: For as long as you'll have  
6 me.

7 CHAIRPERSON HILL: Yeah, well unfortunately I have my  
8 own problems today. Okay.

9 Then I think this next one will go pretty much, like,  
10 it'll be a let's do ditto and so, but I don't think we'll need  
11 to have a continued hearing necessarily. But let's go ahead and  
12 go through this next one, then let's take a break. Okay?

13 Mr. Smith, are you with us?

14 (No response.)

15 CHAIRPERSON HILL: Madam Secretary, if you can call our  
16 next case.

17 MS. MEHLERT: Next in the Board's meeting session is  
18 Application No. 21249 of 4231 Clay ST NE, LLC.

19 This is a self-certified application pursuant to  
20 Subtitle X, Section 901.2 for a special exception under Subtitle  
21 U, Section 203.1(J) to allow a healthcare facility for 16 persons.  
22 This is a new 16 bed healthcare facility in an existing building  
23 located in the R-2 zone at 4231 Clay Street, Northeast, Square  
24 5888, Lots 45 and 46.

25 This hearing was originally scheduled for March 26th

1 but was postponed at the ANC's request and on April 23rd the  
2 Board heard the merits and scheduled the application for  
3 decision. Participating are Chairman Hill, Vice Chair Blake, Mr.  
4 Smith and Dr. Imamura.

5 CHAIRPERSON HILL: Okay. Great. Okay. All right.  
6 Let's see. Okay.

7 So we had a lot of discussion about case 21240 and  
8 during that discussion we decided that we were going to come back  
9 for a continued hearing on June 4th. So what I would suggest  
10 is, Dr. Imamura, do you have any additional items to add about  
11 any of the things we talked about?

12 ZC COMMISSIONER IMAMURA: I do not, Mr. Chairman. I  
13 would then ditto.

14 CHAIRPERSON HILL: Okay. Very good.

15 So, all right. So then if the Applicant would like to  
16 submit whatever they plan on submitting for case No. 21240 on May  
17 21st and the responses by the ANC are due on May 28th, and we  
18 will actually come back for a decision on this case. And Madam  
19 Secretary, I'm looking at my fellow Board members because we can  
20 do the continued hearing on the previous one first and then  
21 whatever we end up discussing with that one, we can probably  
22 carry over to the next one in terms of a decision because I don't  
23 think we need a continued hearing on both cases because it'll  
24 just make the day longer for no reason.

25 So that would be my suggestion. Okay. So I see some

1 | hesitation but let's just try, okay, and if you guys want to re-  
2 | open it later, we can. So May 21st, responses due by the  
3 | Applicant. May 28th, response due by the ANC and we're going to  
4 | come back for a decision on this on 6/4. Okay. And then what  
5 | we'll do, Madam Secretary, is we'll do that other continued  
6 | hearing first before we come back for a decision on this. Okay?  
7 | Any questions? Okay.

8 | Let's have a quick break. Let's do ten minutes and  
9 | come back. Thank you.

10 | (Whereupon, there was a brief recess.)

11 | MS. MEHLERT: The Board is back from a quick break and  
12 | is now returning to its hearing session.

13 | The next case is Application No. 21279 of ARP Morse,  
14 | LLC. As amended, this is a self-certified application for a  
15 | special exception pursuant to Subtitle X, Section 901.2 under the  
16 | eating and drinking establishment requirements of Subtitle U,  
17 | Section 802.1(c) and pursuant to Subtitle X, Section 1000 for an  
18 | area variance from the live performance nightclub or dance venue  
19 | location requirements of Subtitle U, Section 802.1(c)(3).

20 | This is for a new eating and drinking establishment  
21 | with live performance in an existing detached building. It's  
22 | located in the PDR-1 zone at 400 Morse Street, Northeast, Square  
23 | 3589, Lot 29. As a preliminary matter, the Applicant has  
24 | submitted a request to waive the 30 day deadline for filing  
25 | supplemental submissions and modification of the application to

1 that variance relief, and I will also note that ANC 5D submitted  
2 their official report in support last night.

3 CHAIRPERSON HILL: Thank you.

4 If the Applicant can hear me, if they could they please  
5 introduce themselves for the record.

6 MR. FERRIS: Good morning. Lawrence Ferris with the  
7 law firm of Goulston & Storrs here on behalf of the Applicant.

8 CHAIRPERSON HILL: Great. Welcome, Mr. Ferris.

9 Let's see. So, Mr. Ferris, you're trying to get what  
10 into the record, again?

11 MR. FERRIS: Yes. So we'd like to designate our  
12 architect, Bruce Carlson, as an expert witness and then we've  
13 also requested a waiver for our supplemental submission to add  
14 the variance to the case just due to the timing of when we  
15 received the Zoning Administrator's guidance to add the variance,  
16 we weren't able to file it any earlier.

17 CHAIRPERSON HILL: Okay. And then what you did, and  
18 I'm looking at the report now, you presented the variance to the  
19 ANC?

20 MR. FERRIS: Correct. We reached out to them obviously  
21 when we filed the supplemental submission and asked if we could  
22 have some more of their time. So they were generous enough to  
23 have us to their meeting last night and then took a vote  
24 unanimously in support of the variance in addition to voting  
25 unanimously in support of the special exception last month.



1 CHAIRPERSON HILL: Okay. Great. Thanks.

2 Unless the Board has any issues, I'll go ahead and  
3 grant the waiver because of the timing from the information from  
4 the ZA as well as the fact that they already have spoken to the  
5 ANC about this, I feel the notice has been somewhat properly  
6 done. So I'm going to go ahead and do that unless my Board has  
7 any problems and if so, please speak up. Okay. Great. All  
8 right.

9 Mr. Ferris, if you want to go ahead and walk us through  
10 your client's application and why you believe they're meeting the  
11 criteria for us to grant the relief requested. I'm going to put  
12 15 minutes on the clock just so I know where you are, and you  
13 can begin whenever you like.

14 MR. FERRIS: Well, thank you, and, Mr. Young, you can  
15 feel free to pull up our presentation when you have a moment.

16 Again, good morning, Chair Hill and members of the  
17 Board. Lawrence Ferris with the law firm of Goulston & Storrs.  
18 Also with me from Goulston is my colleague, Jeff Utz, and joining  
19 us today is Scott Shaw of Alexandria Restaurant Partners, that's  
20 the property owner, as well as Dan Daley from Ten Five Hospitality  
21 which will be the operator of this new restaurant and live  
22 performance venue that we're requesting approval for, and then  
23 the project architect, Bruce Carlson, is also on with us today.

24 We're here today for the property, again, located at  
25 400 Morse Street, Northeast. This is at the corner of 4th and

1 | Morse Street on the south end of the Union Market district. This  
2 | is one of the historic buildings along 4th Street that was  
3 | constructed as a wholesale building back in the 1930s. The  
4 | Applicant acquired the building a couple of years ago and put a  
5 | great deal of effort into restoring the historic structure to  
6 | adapt it to a restaurant use which it is, was recently until a  
7 | couple of months ago the prior restaurant was closed down.

8 |           So we can walk through that detail more shortly. The  
9 | site is zoned PDR-1 like much of the Union Market neighborhood,  
10 | or it is part of the Union Market and it's also located in the  
11 | Union Market historic district and the building is considered a  
12 | contributing structure in the historic district. Next slide,  
13 | please.

14 |           So our application requests two areas of relief. First  
15 | we're requesting a special exception to allow an eating and  
16 | drinking establishment with a live performance venue pursuant to  
17 | Subtitle U, Section 802.1(c) to allow the Applicant to pursue a  
18 | new dining concept for the building that we're including live  
19 | musical performances on a portion of the first floor and then  
20 | second, as discussed, since our initial filing we've added an  
21 | area variance relief from the requirement under U-802.1(c)(3)  
22 | that there be no other live performance, nightclub or dance venue  
23 | within 1,000 feet of the property.

24 |           So currently there are no other entertainment uses  
25 | within 1,000 feet of the site. Our request was precipitated by

1 another application that was filed, that's BZA 21292, that was  
2 filed about three or four weeks after we filed our application  
3 requesting approval for an entertainment assembly use at 405  
4 Morse Street, which is within 1,000 feet of our site.

5 We learned about that application when we were meeting  
6 with the ANC Zoning Committee and reached out to the Zoning  
7 Administrator quickly thereafter to discuss the two applications  
8 being processed so closely together. The ZA ultimately  
9 recommended that we preemptively request a variance from the  
10 1,000 foot restriction just as a precautionary measure. So we  
11 added that to our application out of an abundance of caution just  
12 to avoid any potential issues during permitting.

13 You also saw, as we know, the waivers which we already  
14 discussed and then lastly there have been a couple of minor tweaks  
15 to the floor plan since our initial submission, primarily just  
16 reconfiguring some small demising walls and doors around one of  
17 the entrances and the kitchen area. So we would like to request  
18 that in the order approving the application reference the updated  
19 plans representing today, that's Exhibit 27, as the approved  
20 plans rather than plans in our original submission.

21 So before I hand it over to Mr. Shaw just to provide a  
22 little more background on the property, I would just note that  
23 we have a report in support from the Office of Planning. That's  
24 at Exhibit 25. OP recommends approval of both the special  
25 exception for the use and the area variance, and OP's report also

1 includes a note from DDOT that they reviewed the application and  
2 have no objection.

3           As I noted we also met with ANC 5D to present the  
4 proposed use and the requested relief and we presented to the ANC  
5 Zoning Committee on March 20th and then to the full ANC at their  
6 regular monthly public meeting on April 8, and the ANC voted  
7 unanimously in support of our special exception request at that  
8 meeting and, again, as I noted before we reached back out to the  
9 ANC about the additional request for a variance and we presented  
10 to the full ANC at their monthly meeting last night and the ANC  
11 voted again unanimously to support with the variance included.  
12 So the ANC was kind enough to file their report late last night  
13 right after our meeting so that would be in the record for today's  
14 hearing and that is at Exhibits 28 and 28A.

15           So with that quick overview, I will ask --

16           CHAIRPERSON HILL: Mr. Ferris?

17           MR. FERRIS: Yes.

18           CHAIRPERSON HILL: Real quick. Right. You're asking  
19 for the area variance because you don't know which one might come  
20 first?

21           MR. FERRIS: Right. I think that was essentially how  
22 the Zoning Administrator figured it was the best way to deal with  
23 the situation.

24           CHAIRPERSON HILL: Do you know if 21292 is also asking  
25 for an area variance?

1           MR. FERRIS: They are, yeah. They also added that to  
2 their application.

3           CHAIRPERSON HILL: Okay. Please go ahead and continue.

4           MR. FERRIS: So with that I will pass it over to Scott  
5 Shaw here from the ownership team just to provide a little more  
6 background on the property.

7           MR. SHAW: Thank you.

8           So is there some reason my camera's not on, Lawrence?  
9 I've got it turned on on my side.

10          MR. FERRIS: Scott, you may be able, at the bottom of  
11 your Webex app.

12          MR. SHAW: I've got it. Okay.

13          MR. FERRIS: Yes. There you go.

14          MR. SHAW: Sorry about that.

15          I'll make mine very short. First off, thank you all  
16 for taking the time here. I just want to cover three points here  
17 very briefly.

18          First off, kind of who we are. So I'm one of three  
19 owners of Alexandria Restaurant Partners. So we're a locally  
20 owned restaurant company. We have seven restaurants in Northern  
21 Virginia plus this location in Union Market, and all of our  
22 restaurants are different concepts by the way, full service, one  
23 of a kind restaurants.

24          Just two more points on the company. We're very, you  
25 know, by choice we're an employee first company. So 100 percent

1 of employee healthcare. We have a 401K for all of our employees  
2 and when we chose to close down the restaurant in anticipation  
3 of this change in February, we made sure to offer every single  
4 employee in our D.C. restaurant a transfer to one of our other  
5 restaurants. So we're kind of invested in the community of our  
6 people too.

7 A quick couple of points about the building itself. So  
8 my partners and I bought the building from the Kolker family and  
9 Bruce Pascal. They'd owned it since 1932 and we knew going in  
10 that this is a signature gateway building, subject to historic  
11 guidelines. So, you know, we wanted to do it right and we wanted  
12 to do more than the guidelines required. We engaged historic  
13 preservation consultants, two sets of architects and engineers,  
14 and we worked with both the D.C. Historic Preservation Office and  
15 the National Park Service.

16 The project was also approved for historic tax credits  
17 which, as you all know, is a really high standard. So we love  
18 this building. We love the neighborhood and we went to great  
19 lengths, everything from matching the bricks to the flag poles  
20 on top. We wanted to restore it to its glory and be that great  
21 gateway building.

22 The work required now to kind of flip the concept from  
23 Palett 22 to Desert 5 to incorporate the performance stage, it's  
24 not very expensive. There's nothing on the outside except for a  
25 new sign. Inside the only real significant modification is to

1 the interior wall along historic columns to return it to kind of  
2 its original storefront. So, if anything, we're making it even  
3 more historic. But we did go back to the HPO and the National  
4 Park Service to get these smaller modifications approved too. So  
5 we're dotting all the Is and crossing all the Ts.

6 And my last comment is just about sort of why we're  
7 doing this. So we are very long term investors in the Union  
8 Market. We own the building. We love the area, and the area,  
9 like, welcomed Palette 22. I mean, if you think about it's  
10 concentric circles, there's the neighborhood, there's D.C.,  
11 there's the DMV. The neighborhood really embraced Palette. A  
12 lot of them came to our closing week parties and stuff. But we  
13 struggled to draw people from the wider metro area, partly because  
14 we're not as kind of food forward as some of the other people  
15 like Stephen Starr, but also then we learned you've got to have  
16 something, you know, a bigger draw to get people in and from our  
17 time in the neighborhood we realized what's kind of a missing  
18 element in the neighborhood is some sort of entertainment to go  
19 kind of hand in hand with the food.

20 You know, we think that's the right place for this  
21 location and not just for us, but for the neighborhood because  
22 there's a lot of restaurants and creating something else to do  
23 when you're in Union Market would benefit all of us and the  
24 neighborhood.

25 We've known Dan for a while. I love his Desert 5

1 | concept. I've been up to it a couple of times in Brookland where  
2 | it's in a very similar neighborhood and it's treated as a cool  
3 | neighborhood institution so it's a fun place to go on Monday,  
4 | Tuesday, Wednesday, not just Friday, Saturday. So we reached out  
5 | to him and we're partnering. We're going to be, we're both the  
6 | landlords and 50 percent owners of the business and we're excited  
7 | to get open as soon as we can.

8 |           So, thank you.

9 |           CHAIRPERSON HILL: Great. Thank you, Mr. Shaw.

10 |           Mr. Ferris, when you all presented in front of the ANC,  
11 | did they have any concerns about noise or anything like that, or  
12 | soundproofing or anything like that?

13 |           MR. FERRIS: They didn't. They did ask about noise but  
14 | because all of the performance is going to be inside the building  
15 | and on the first floor and we're not permitted to have any  
16 | external performances or amplification. They didn't see any  
17 | issue with it.

18 |           CHAIRPERSON HILL: Okay. Great. Thank you.

19 |           And, Mr. Shaw, since I got the mike I don't mean to  
20 | be --

21 |           MR. SHAW: Yes.

22 |           CHAIRPERSON HILL: -- I don't mean to be sarcastic about  
23 | this and I hope it's doing very well. Theismann's is still  
24 | around?

25 |           MR. SHAW: Yeah. Theismann's is doing great. 1985



1 called it one of the restaurant facts (phonetic). So when we  
2 bought it we spent a million and a half doing a, you know, a  
3 makeover to kind of update it.

4 CHAIRPERSON HILL: Okay. At least Theismann's is still  
5 around. Okay. All right. Cool. All right.

6 Mr. Ferris, you can continue, please.

7 MR. FERRIS: Thank you.

8 We're going to pass it over to Dan Daley from Ten Five  
9 Hospitality.

10 MR. DALEY: Hi, everyone. I'm Dan Daley. I'm the  
11 managing partner at Ten Five Hospitality. Thanks to all the  
12 Commissioners for being present today and we appreciate your  
13 consideration on the matter.

14 I'm a D.C. local. Went to college here. I started a  
15 boutique hospitality firm about five years ago including  
16 (indiscernible). This is our first project in what's my hometown  
17 and we're incredibly excited about it. Desert 5 is a really  
18 vibrant restaurant and live music venue that was inspired by sort  
19 of the American southwest and it's located at sort of this  
20 intersection of dining and entertainment which is what we found  
21 guests in our purview really want.

22 It operates as a full service restaurant and the  
23 concept is also rooted in supporting emerging talent in the  
24 country music scene with obviously a strong emphasis on local  
25 artists. So this is sort of both a stage and a platform for

1 | amazing songwriter nights and special showcases that ideally  
2 | highlight the depth of musical talent that exists in this part  
3 | of the world. It's our third location. We have one in Los  
4 | Angeles and New York and we think it has the opportunity to be a  
5 | really awesome cultural hub that celebrates hospitality, music  
6 | and community all in equal measure and, yeah, can't wait to bring  
7 | it to this part of the country.

8 | CHAIRPERSON HILL: Great. Thank you, Mr. Daley.  
9 | Welcome back home. Mr. Ferris, you can continue.

10 | MR. FERRIS: Thank you.

11 | And then last up is Bruce Carlson, our architect.

12 | CHAIRPERSON HILL: Mr. Ferris, you need Mr. Carlson in  
13 | our book; is that correct?

14 | MR. FERRIS: Yes, please.

15 | CHAIRPERSON HILL: Where is his resume?

16 | MR. FERRIS: I am sorry. He is not in the Board's  
17 | book.

18 | CHAIRPERSON HILL: Right.

19 | MR. FERRIS: It's his first time presenting.

20 | CHAIRPERSON HILL: I see. Hold on.

21 | MR. FERRIS: His resume --

22 | CHAIRPERSON HILL: I got it. I see it. Okay.

23 | Unless the Board has any issues, I don't have any issue  
24 | with Mr. Carlson being admitted as an expert in architecture, as  
25 | he is an architect. Does the Board have any issues and if so,

1 | please let me know. Okay. Even though we have an architect with  
2 | us today. All right.

3 |           Go ahead, Mr. Carlson.

4 |           MR. CARLSON: Yes. Bruce Carlson of Miami, Florida.  
5 | Bruce Carlson AIA is the name of the firm. I've been in business  
6 | for over 40 years. I've been doing architecture ever since I've  
7 | graduated and it's my livelihood and love doing it.

8 |           The building, as everybody has mentioned the historic  
9 | aspect of it, we're doing very minor modification, basically  
10 | introducing a stage for entertainment and reducing the kitchen  
11 | so that the volume of people of occupants basically will not  
12 | change and, you know, allowing for the stage and the occupant  
13 | load to maintain itself.

14 |           We then needed to be able to open up that first floor  
15 | which brought the building back to its original storefront which  
16 | was basically where the occupants sold their ware with a covered  
17 | canopy at the front and so that was, we introduced that to the  
18 | Park Service to review showing them the old historic photographs  
19 | and got their approval on it. And basically that's what we're  
20 | doing, is just keeping the building the same.

21 |           CHAIRPERSON HILL: Great.

22 |           Mr. Carlson, let me interrupt you one second. Mr.  
23 | Ferris, I know that the Board has some timing issues later on  
24 | today so I'm just trying to move as efficiently as possible.

25 |           Mr. Young, could you drop that slide deck?

1                   And I know we have Dr. Imamura here with us. Dr.  
2 Imamura, do you have any questions of anybody?

3                   ZC COMMISSIONER IMAMURA: I do not.

4                   CHAIRPERSON HILL: Okay.

5                   I'm going to turn to the Office of Planning.

6                   MS. MYERS: Good morning. Crystal Myers with the Office  
7 of Planning.

8                   The Office of Planning recommends approval of the  
9 special exception and approval of the variance relief and can  
10 stand on the record of the staff report, but of course here for  
11 questions.

12                  Thank you.

13                  CHAIRPERSON HILL: Great. Thank you.

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

16                  (Pause.)

17                  CHAIRPERSON HILL: Okay.

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

19                  MR. YOUNG: We do not.

20                  CHAIRPERSON HILL: Mr. Ferris, would you like to add  
21 anything at the end?

22                  MR. FERRIS: No. Thank you for your time.

23                  CHAIRPERSON HILL: Okay.

24                  You guys, it was nice to see you all and good luck, and  
25 Mr. Young, if you could please close the hearing and the record

1 and excuse everyone.

2 (Pause.)

3 CHAIRPERSON HILL: Okay. Thanks.

4 I didn't have any particular issues with this  
5 application. I appreciate the, all of the effort that the  
6 Applicant has gone through to the outreach to the community and  
7 also going back to them after they added the area variance. I  
8 do believe that they're meeting the criteria for us to grant this  
9 particular relief. I will also rely on the Office of Planning's  
10 analysis and also the comments of the ANC, and so I'm going to  
11 be voting in favor of this application.

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

13 COMMISSIONER SMITH: I have nothing to add. I agree  
14 with your assessment of this case and will vote in support.

15 CHAIRPERSON HILL: Thank you.

16 Vice Chair Blake?

17 VICE CHAIRPERSON BLAKE: I have nothing to add. I'm  
18 in support.

19 CHAIRPERSON HILL: Dr. Imamura?

20 ZC COMMISSIONER IMAMURA: Thank you, Mr. Chairman.

21 I'm in agreement with you and just from an  
22 architectural point of view I appreciate the, and because we're  
23 time sensitive here, appreciate the time and effort they put into  
24 their preservation work for adaptive re-use. I think that's  
25 going to be successful project and appreciate the work that they

1 did.

2 CHAIRPERSON HILL: Okay. Thanks.

3 I graduated high school in 1986 from this area. Joe  
4 Theismann's is still around. That's just amazing. All right.  
5 Okay.

6 I'm going to make a motion to approve Application No.  
7 21279 as captioned and read by the secretary, oh, I'm sorry, not  
8 as captioned. I will approve Application 21279 as read by the  
9 secretary and ask for a second. Mr. Blake?

10 VICE CHAIRPERSON BLAKE: Second.

11 CHAIRPERSON HILL: Madam Secretary --

12 VICE CHAIRPERSON BLAKE: Make sure we mention the plans  
13 and the exhibit.

14 CHAIRPERSON HILL: Oh, thanks. I appreciate that.

15 So let me do that again. I'm going to make a motion  
16 to approve Application No. 21279 as captioned, including the  
17 updated plans that are in Exhibit 27, and ask for a second. Mr.  
18 Blake?

19 VICE CHAIRPERSON BLAKE: Second.

20 CHAIRPERSON HILL: Thank you.

21 Madam Secretary, if you could please take a roll call.

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

24 Chairman Hill?

25 CHAIRPERSON HILL: Yes.

1 MS. MEHLERT: Vice Chair Blake?

2 VICE CHAIRPERSON BLAKE: Yes.

3 MS. MEHLERT: Mr. Smith?

4 COMMISSIONER SMITH: Yes.

5 MS. MEHLERT: And Dr. Imamura?

6 ZC COMMISSIONER IMAMURA: Yes.

7 MS. MEHLERT: Staff would record the vote as four to  
8 zero to one to approve Application No. 21279 on the motion made  
9 by Chairman Hill and seconded by Vice Chair Blake.

10 CHAIRPERSON HILL: Thank you.

11 Madam Secretary, could you call our next one, please.

12 MS. MEHLERT: Next is Application No. 21281 of Matthew  
13 Littleton and Christine Rocchio. This is an application pursuant  
14 to Subtitle X, Section 901.2 for a special exception under  
15 Subtitle D, Section 5201, from the lot occupancy requirements of  
16 Subtitle D, Section 210.1, from the building area requirements  
17 for an accessory building under Subtitle D, Section 5002.1, and  
18 from the location requirements of Subtitle D, Section 5004.1(a)  
19 to allow an accessory building in a required rear yard.

20 This is for a new accessory building in the required  
21 rear yard of an existing detached principal dwelling. It is  
22 located in the R1-B zone at 4525 River Road, Northwest, Square  
23 1574, Lot 18, and as a preliminary matter the Applicant has  
24 requested to waive the filing deadline for updated plans as well  
25 as an updated letter of authorization. These are already in the

1 record.

2 CHAIRPERSON HILL: Great. Thank you.

3 If the Applicant can hear me, if they could please  
4 introduce themselves for the record.

5 MR. LITTLETON: Good morning everyone. This is Matt  
6 Littleton. I'm the homeowner at 4525 River Road. I'm here with  
7 my wife, Christine.

8 MS. ROCCHIO: Hi.

9 MR. LITTLETON: And then, Christine Kelly, our  
10 architect is actually on the line as well.

11 CHAIRPERSON HILL: Okay. Great. Thank you. Welcome  
12 to you both.

13 MR. LITTLETON: Thank you.

14 CHAIRPERSON HILL: Ms. Kelly, I'm sorry. Ms. Kelly,  
15 are you presenting to us? You're on mute, Ms. Kelly.

16 MS. KELLY: Can you hear me now?

17 CHAIRPERSON HILL: Yes.

18 MS. KELLY: Okay.

19 I do have the PowerPoint. I can do the presentation.

20 CHAIRPERSON HILL: Okay.

21 It'll have to, it'll have to be the one from the record.

22 MS. KELLY: That's correct, yes.

23 CHAIRPERSON HILL: And if you can please, again, walk  
24 us through your client's application and I'll put 15 minutes on  
25 the clock so I know where we are and you can begin whenever you



1 like.

2 MS. KELLY: Okay.

3 Good morning. I'm Christine Kelly. I'm the architect  
4 for the detached garage design at 4525 River Road, Northwest, and  
5 may I have the next slide, please.

6 My clients, as they have introduced themselves, Matthew  
7 and Christine are here as well and we are proposing replacing an  
8 existing one car detached garage which is shown on the plat on  
9 the left with a new more usable two car detached garage that is  
10 517 square feet. We started this process after we discovered  
11 that a new garage could not meet the 25 foot rear yard setback  
12 from the existing house. So since we knew we had to ask for a  
13 special exception we wanted to request a larger garage that would  
14 be a lot more useful for two cars as well as storage and be  
15 architecturally pleasing from both the house and the alley. And  
16 may I have the next slide, please?

17 There's several photos of the existing front of the  
18 house and the next slide showing the rear and existing garage.  
19 You can go ahead. Showing the rear of the existing house and  
20 then the next slide shows the garage, the existing garage. This  
21 is what we're replacing with the new garage. The alley has,  
22 there are several detached garages on the alley which you can see  
23 in the next photo and with the design of our garage we wanted to  
24 match the existing fabric of the alley and by keeping the garage  
25 as a one-story garage, we're not, we didn't want to impede the

1 natural light and air flow for not only our house, but also the  
2 neighboring homes.

3 And the next two slides have the plan and elevations  
4 of the garage. The next slide, please.

5 You can see the footprint of the garage as well as the  
6 one-story design. We have some clerestory windows added into a  
7 lot of architectural, just an appealing architectural view from  
8 the alley and from the house. We have support of the neighbors  
9 as well as the ANC and welcome your questions and comments today.

10 Thank you.

11 CHAIRPERSON HILL: Thank you, Ms. Kelly.

12 I'm going to, before I turn to my Board, turn to the  
13 Office of Planning.

14 MR. BRADFORD: Good morning, Chairman Hill, members of  
15 the Board. For the record, my name is Philip Bradford,  
16 Development Review Specialist with the Office of Planning. The  
17 Office of Planning is recommending approval of the requested  
18 special exception relief and stands on the record of the report  
19 in Exhibit 32.

20 Thank you, and I'm available for any questions.

21 CHAIRPERSON HILL: Thank you.

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

23 MR. YOUNG: We do not.

24 CHAIRPERSON HILL: Okay.

25 Does my Board have any questions for the Office of

1 Planning or the Applicant? Okay. Thanks.

2 I just want to make one note that it is 5201, it's  
3 under 5201, but I believe it's under 5201.2 and not 5201.1.  
4 However, this is all under 5201 so I think we're fine moving  
5 forward with the way things are.

6 And so, Ms. Kelly, thank you for your time and Mr. and  
7 Mrs. Littleton, I hope you guys enjoy your day. So I'm going to  
8 go ahead and close the hearing and the record.

9 Thank you so much.

10 MS. KELLY: Thank you.

11 (Pause.)

12 CHAIRPERSON HILL: Okay.

13 Again, this is one that I thought was pretty well tidy  
14 and straightforward in that I believe they're meeting the  
15 criteria for us to grant this particular relief. I will cite  
16 and rely on the Office of Planning's recommendation as well as  
17 that the ANC has weighed in and is in favor. I'm going to be  
18 voting in favor of this application.

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

20 COMMISSIONER SMITH: Nothing to add. I'm in support.

21 CHAIRPERSON HILL: Thank you.

22 Vice Chair Blake?

23 VICE CHAIRPERSON BLAKE: I'm in support. Nothing to  
24 add, sir.

25 CHAIRPERSON HILL: Thank you.

1 Commissioner Imamura?

2 ZC COMMISSIONER IMAMURA: This is straightforward,  
3 nothing to add.

4 CHAIRPERSON HILL: Thank you. I'm going --

5 VICE CHAIRPERSON BLAKE: Mr. Chair?

6 CHAIRPERSON HILL: Yes.

7 VICE CHAIRPERSON BLAKE: Mr. Chair, there's one thing  
8 I forgot. There is, in the ANC report I believe there is a  
9 provision, a request to have an inclusion of a rain barrel as a  
10 condition. I'm not in support of that. I think that was the  
11 only thing I would add.

12 CHAIRPERSON HILL: I appreciate that. Thank you so  
13 much, Mr. Blake.

14 And also, to the Applicant. As I understand, they have  
15 agreed to the ANC's condition about the rain barrel and that is  
16 something that I believe that they will continue to honor. But  
17 it is something that is not really something we can put as a  
18 condition because it doesn't necessarily relate to the  
19 regulations.

20 But I do appreciate that the ANC puts that particular  
21 item forward and that the Applicant has agreed to it. So thank  
22 you, Vice Chair Blake.

23 So I'll again continue to make a motion to approve  
24 Application No. 21281 as captioned and read by the secretary, and  
25 ask for a second. Mr. Blake?

1 VICE CHAIRPERSON BLAKE: Second.

2 CHAIRPERSON HILL: Motion made and seconded. Madam  
3 Secretary, if you can take a roll call, please.

4 MS. MEHLERT: Please respond to the Chair's motion to  
5 approve the application.

6 Chairman Hill?

7 CHAIRPERSON HILL: Yes.

8 MS. MEHLERT: Vice Chair Blake?

9 VICE CHAIRPERSON BLAKE: Yes.

10 MS. MEHLERT: Mr. Smith?

11 COMMISSIONER SMITH: Yes.

12 MS. MEHLERT: Dr. Imamura?

13 ZC COMMISSIONER IMAMURA: Yes.

14 MS. MEHLERT: Staff would record the vote as four to  
15 zero to one to approve Application No. 21281 on the motion made  
16 by Chairman Hill and seconded by Vice Chair Blake.

17 CHAIRPERSON HILL: Thank you.

18 Madam Secretary, could you please call the next case.

19 MS. MEHLERT: Next is Application No. 21289 of Saam  
20 Jahanbeen. This is a self-certified application for a special  
21 exception pursuant to Subtitle X, Section 901.2 under Subtitle  
22 D, Section 207.5 to allow the rear wall of a row dwelling to  
23 extend farther than ten feet beyond the farthest rear wall of any  
24 adjoining principal residential building on any adjacent  
25 property.

1           This is for a one-story cellar and rear addition to a  
2 principal row dwelling and is located in the R-3/GT zone at 4405  
3 Greenwich Parkway, Northwest, Square 1350, Lot 114.

4           CHAIRPERSON HILL: Thank you.

5           If the Applicant can hear me, if they could please  
6 introduce themselves for the record.

7           MR. SULLIVAN: Yes. Thank you, Mr. Chairman and Board  
8 members. Marty Sullivan with Sullivan & Barros on behalf of the  
9 Applicant.

10          CHAIRPERSON HILL: Thank you, Mr. Sullivan.

11          Mr. Sullivan, I'm in a bit of a time crunch today and  
12 I have reviewed your file and the record, and I understand what  
13 has brought you here for the .67 feet. And so, but if you could  
14 please summarize your client's application for us.

15          MR. SULLIVAN: Sure.

16          I can, do you want me to bring up the PowerPoint or  
17 summarize quicker than that?

18          CHAIRPERSON HILL: I think if you just summarize, Mr.  
19 Sullivan.

20          MR. SULLIVAN: Okay.

21          So we're asking for .67 relief past the ten foot rule  
22 because of an error done with the foundation. It's already mostly  
23 built. On wall check this was discovered, so it's basically less  
24 than a foot of relief from the ten foot rule. We have the support  
25 of the ANC as well.

1 CHAIRPERSON HILL: Great. Thank you, Mr. Sullivan.  
2 I'm going to turn to the Office of Planning, please.  
3 MR. BARRON: I apologize. This is not actually my case  
4 but I believe this is Shepard Beamon's case. He should be the  
5 one being pulled up.  
6 CHAIRPERSON HILL: Okay. Sure. Let's see.  
7 MR. BARRON: Apologies for the confusion.  
8 CHAIRPERSON HILL: Yeah, yeah. There we go. Hello,  
9 Mr. Beamon. If you could introduce yourself.  
10 MR. BEAMON: Yes. Good afternoon. Shepard Beamon for  
11 the record.  
12 Let's see. This is relief for the rear yard, rear  
13 addition requirements and OP finds that the request meets the  
14 criteria for Subtitles D and X, and recommend approval. Open for  
15 any questions.  
16 CHAIRPERSON HILL: Thank you.  
17 Mr. Young, do we have anyone here wishing to speak?  
18 MR. YOUNG: We do not.  
19 CHAIRPERSON HILL: Okay. All right.  
20 Mr. Sullivan, do you have anything at the end?  
21 MR. SULLIVAN: No, I do not. Thank you.  
22 CHAIRPERSON HILL: Okay.  
23 I didn't ask, but my Board doesn't have any questions,  
24 correct?  
25 (Pause.)

1 CHAIRPERSON HILL: Okay. All right.

2 Mr. Young, if you could please close the hearing and  
3 the record.

4 (Pause.)

5 CHAIRPERSON HILL: Okay.

6 This is more for the client of the attorney. Like, you  
7 had to go through this process. Like, you were past the ten feet  
8 so you're past the ten feet, so this is the process that you had  
9 to go through but I do understand how you got here and I do think  
10 that I can approve the .67, that it's not going to cause any  
11 additional shadowing, harm, et cetera, and I will agree with the  
12 Office of Planning's report recommendation as well as thankfully  
13 they did go through the entire process and go to the ANC, and  
14 the ANC was also in support. I'll be voting in support of this  
15 application.

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

17 COMMISSIONER SMITH: Nothing to add.

18 CHAIRPERSON HILL: Thank you.

19 Vice Chair Blake?

20 VICE CHAIRPERSON BLAKE: Mr. Chair, I agree with your  
21 analysis. I believe the Applicant has met the burden of proof.  
22 This is a very modest increase and unfortunately does not fall  
23 under the minor deviation allowance by 8304 for the Zoning  
24 Administrator. So it's in front of us and I do believe that it  
25 meets the standards for approval.



1 CHAIRPERSON HILL: Thank you.

2 Chairman, Commissioner Imamura?

3 ZC COMMISSIONER IMAMURA: Thank you for the promotion,  
4 sir. I agree with Vice Chair Blake this is a modest eight inches  
5 and I think pretty straightforward to me, and I'm guessing this  
6 is probably the fastest case that Mr. Sullivan's had.

7 CHAIRPERSON HILL: Okay. It's been quite quick. Okay.

8 I'm going to go ahead and make a motion to approve  
9 Application No. 21289 as captioned and read by the secretary, and  
10 ask for a second. Mr. Blake?

11 VICE CHAIRPERSON BLAKE: Second.

12 CHAIRPERSON HILL: Motion made and seconded. If you  
13 could take a roll call, Madam Secretary.

14 MS. MEHLERT: Please respond to the Chair's motion to  
15 approve the application.

16 Chairman Hill?

17 CHAIRPERSON HILL: Yes.

18 MS. MEHLERT: Vice Chair Blake?

19 VICE CHAIRPERSON BLAKE: Yes.

20 MS. MEHLERT: Mr. Smith?

21 COMMISSIONER SMITH: Yes.

22 MS. MEHLERT: And Dr. Imamura?

23 ZC COMMISSIONER IMAMURA: Yes.

24 MS. MEHLERT: Staff would record the vote as four to  
25 zero to one to approve Application No. 21289 on the motion made

1 by Chairman Hill and seconded by Vice Chair Blake.

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

3 You guys, as I mentioned I'm the one who has the problem  
4 and I basically have to be done at 1:45, and so if we could take  
5 a quick ten minute break just to like snack on something and then  
6 we'll come back. Or as quick as you can snack on something and  
7 then come back.

8 Thank you.

9 (Whereupon, there was a brief recess.)

10 CHAIRPERSON HILL: Okay. Thank you everyone.

11 And Vice Chair Blake has been so kind, that if I get  
12 completely stuck, he will continue.

13 Madam Secretary, if you could please call us back and  
14 our next case.

15 MS. MEHLERT: The Board is back from another quick  
16 break and returning to its hearing session.

17 The next application is case No. 21151 of Dinesh Tandon  
18 and Nidhi Tandon. As amended, this is a self-certified  
19 application pursuant to Subtitle X, Section 901.2 for a special  
20 exception under Subtitle C, Section 204.9 to allow a change from  
21 one nonconforming use to another nonconforming use and pursuant  
22 to Subtitle X, Section 1000 for an area variance or alternatively  
23 a use variance from Subtitle C, Section 204.9(c) to allow a non-  
24 residential use and the use variance from Subtitle C, Section  
25 204.1 to expand a nonconforming use.

1           This is for the conversion of a first floor and cellar  
2 of an existing two-story attached building from an existing  
3 nonconforming use currently a retail convenience store to a new  
4 nonconforming use as a restaurant and is located in the RF-1 zone  
5 at 2324 North Capitol Street, Northwest, Square 3124, Lot 143.  
6 This hearing was originally scheduled for July 24th, 2024 and has  
7 been postponed several times since. The Board has also previously  
8 granted party status in opposition to Evelyn Brown, Richard  
9 Smith, Malini Tolat, and Maya Kavalier, and the merits have not  
10 been heard yet.

11           CHAIRPERSON HILL: Okay. Great. Thank you.

12           Let's see. Could you repeat again the party status  
13 people in opposition people for me? Oh, I see. Never mind. I  
14 see it. I see it. Okay. Great. Thank you.

15           If the Applicant can hear me, if they could introduce  
16 themselves for the record.

17           MS. GIORDANO: Yes. Hello. This is Cynthia Giordano  
18 with Saul Ewing law firm representing the Applicant.

19           CHAIRPERSON HILL: Hi, Ms. Giordano. Welcome back.

20           MS. GIORDANO: Thank you.

21           CHAIRPERSON HILL: Okay.

22           Can Ms. Evelyn Brown hear me?

23           MS. BROWN: Here.

24           CHAIRPERSON HILL: Could you please introduce yourself  
25 for the record.

1 MS. BROWN: My name is Evelyn Brown. I am a 200 footer,  
2 60 feet from the Applicant's property.

3 CHAIRPERSON HILL: Okay. Great.

4 Ms. Brown, is your camera working?

5 MS. BROWN: Yes, it is. I'm trying to figure out what's  
6 going on.

7 CHAIRPERSON HILL: Okay. Well, while you're trying to  
8 figure that out, let me. Is Mr. Richard Smith here?

9 MR. SMITH: I am, and I'm trying to start my video.

10 CHAIRPERSON HILL: Okay. Great.

11 Could you introduce yourself?

12 MR. SMITH: My name is Richard Smith. I live at 19  
13 Bryant Street, Northwest, 71 feet approximately from Hillview  
14 Market, well within the 200 feet and I have advanced party status.

15 CHAIRPERSON HILL: Okay. Great.

16 MR. SMITH: Thank you.

17 CHAIRPERSON HILL: You're welcome. May I hear from,  
18 is it Ms. Tolat?

19 MS. TOLAT: Yes. Hello. I'm Malini Tolat. I live in  
20 15 Bryant Street, Northwest. I'm within 200 feet for sure, about  
21 50 feet I would think and I have advanced party status.

22 CHAIRPERSON HILL: Okay. Great. And Ms. Kavalier, if  
23 you could introduce yourself as well.

24 MS. KAVALIER: Hi. My name is Maya Kavalier. I live at  
25 8 Bryant Street, so next to the property approximately 21 feet

1 and I also have advanced party status.

2 CHAIRPERSON HILL: Okay. Great. Thank you.

3 You guys, this happened so long ago that I don't even  
4 remember doing the party status thing, right? So if I can just,  
5 I just want to mention something. Just because you're 200 feet  
6 doesn't mean you automatically get party status. You guys got  
7 party status because when we determined, when we did the party  
8 status we determined that you qualified, right?

9 MS. BROWN: Yes.

10 CHAIRPERSON HILL: So I can't remember. Was somebody  
11 going to speak on behalf of you guys or are you all speaking  
12 individually?

13 MS. KAVALER: So I have a presentation that essentially  
14 represents all of us and then I was going to pass off to the  
15 remainder of the party status members to offer a brief statement  
16 or call on witnesses.

17 CHAIRPERSON HILL: Got it. That sounds perfect. Thank  
18 you. All right.

19 Then, Ms. Giordano, what I'd like to ask for you is I  
20 guess I'm a little confused in that you kind of have an either/or  
21 and we don't really do an either/or. Like, you kind of have  
22 to -- at least unless I'm wrong and now I have to, I might want  
23 to talk to legal -- people come and they tell us what they want.  
24 They don't tell us whether they can get this or that. Do you  
25 know if you would be able to argue one or the other?

1 MS. GIORDANO: Well, my understanding was that the  
2 Office of Planning possibly in consultation with the Zoning  
3 Administrator had determined that a use variance was the  
4 appropriate form of relief. Maybe the Office of Planning can  
5 clarify that. So that's why I added use variance to the area  
6 variance.

7 CHAIRPERSON HILL: I see. Because --

8 MS. GIORDANO: And I can, I'm certainly prepared to  
9 argue that.

10 CHAIRPERSON HILL: Okay.

11 Can you all give me, you all give me just two minutes.  
12 Okay? I'll be right back.

13 (Pause.)

14 CHAIRPERSON HILL: Okay. I'm sorry. Thank you.

15 Ms. Giordano, are you back with us?

16 MS. GIORDANO: Yes.

17 CHAIRPERSON HILL: Okay. Great. Perfect.

18 So, right. So you're going to argue for a use variance  
19 and also the special exception. So if you want to go and walk  
20 us through your client's application.

21 MS. GIORDANO: Okay.

22 CHAIRPERSON HILL: And what's going to happen -- go  
23 ahead, Mr. Blake.

24 VICE CHAIRPERSON BLAKE: Mr. Chair, I was just going  
25 to ask is Ms. Giordano going to withdraw her request for the area

1 variance?

2 MS. GIORDANO: I guess so, if need be. I mean, the  
3 area variance and the use variance are similar to more of a matter  
4 of degree. So I think if we meet the use variance we'll meet  
5 the area variance. But that's fine. Just to kind of simplify  
6 things, I'm happy to do that.

7 CHAIRPERSON HILL: Okay. So we're withdrawing your  
8 request for an area variance and we're going to go and hear the  
9 argument for a use variance. Okay. Let's see.

10 So, Ms. Giordano, again, if you want to go ahead and  
11 walk us through your client's presentation --

12 MS. GIORDANO: Okay.

13 CHAIRPERSON HILL: -- and, Ms. Kavalier, what's going to  
14 happen is you will get your opportunity to also give your  
15 testimony and then basically everyone has a chance to ask  
16 questions of everybody and we do this in the most efficient way  
17 possible and trying to be as civil as possible, just to let you  
18 all know, and let's go ahead and hear from the Applicant. So  
19 Ms. Giordano, you can begin whenever you like.

20 MS. GIORDANO: Okay.

21 Can we also bring up the project architect, Olivia  
22 Akinsan?

23 CHAIRPERSON HILL: Olivia Akinsan. Okay. Mr. --

24 MS. GIORDANO: She should be signed up.

25 CHAIRPERSON HILL: Okay. I'll just let Mr. Young see

1 | if he can find her.

2 |           MR. YOUNG: I do not see her on so I'll have staff  
3 | reach out to her.

4 |           MS. GIORDANO: Thank you so much.

5 |           Okay. And also if Mr. Young could pull up the  
6 | PowerPoint. The PowerPoint is brief. We've submitted two pretty  
7 | lengthy statements in the record with exhibits so I'm hoping that  
8 | will also be something that the Board has had an opportunity to  
9 | review.

10 |           CHAIRPERSON HILL: We have, Ms. Giordano.

11 |           MS. GIORDANO: Okay. Thank you. All right. Next  
12 | slide, please.

13 |           Okay. So not to be too cute but, you know, sometimes  
14 | a picture is worth a thousand words and this is an ad from the  
15 | 1920s for the Sun Beam Market which was here at this property  
16 | for quite a long time up until the last I think five years, and  
17 | as you can see it was a full on grocery store. Next slide,  
18 | please.

19 |           This is sort of where they ended which is fairly typical  
20 | of a lot of these bodegas in the city and there may be successful  
21 | ones. I know the opposition has put some in the record. But  
22 | the fact of the matter is this particular market, this is, you  
23 | know, how it went and there were numerous C of Os in the record,  
24 | I think 23 in all. This property just kept changing hands and  
25 | eventually the last ownership gave up and could not really make



1 the economics work here.

2           So the Applicant purchased it in 2022. He had planned  
3 to open up more of an upscale market and felt if he could sell  
4 spirits, he could make it work. He went to the ABCA Board and  
5 unfortunately he was denied. So then he reverted to this  
6 restaurant concept and he has a very well respected highly  
7 acclaimed restaurant in NoMa which is 1.7 miles from this site  
8 and he knows how to run a restaurant. He thinks he can make this  
9 restaurant work here in this very small space. It would be the  
10 first floor and the basement. The first floor would be for  
11 dining. The basement would be mainly for support and preparation  
12 of meals, and that is what the proposal is. Right now it's a  
13 nonconforming use, basically a retail convenience store. So the,  
14 I'd like to pull up the next slide, please.

15           This is the requested relief. The special exception  
16 allows you to convert one nonconforming use to an other but the  
17 special exception also indicates that in this zone it should be  
18 residential. So we're seeking a variance, a use variance, from  
19 that provision of the special exception. Next slide, please.

20           This is an overview of the application. So  
21 theoretically, the way the nonconforming use regulations work,  
22 you have to basically have the same nonconforming use or, as I  
23 indicated, one that you can convert to legally under the  
24 regulations. So theoretically maybe it would be possible to  
25 convert this under the nonconforming use regulations to another

1 type retail use. But our feeling is that that is not feasible  
2 due to the very, very small size of the non-residential space in  
3 this building and the fact that there are alternative retail  
4 venues, very competitive, in the planned McMillan Reservoir  
5 Project and nearby.

6 The property has been in use, as I indicated, for a  
7 convenience store since the 1920s. It's not a sustainable use.  
8 The previous store was grocery is obsolete as a number of these  
9 convenience stores may be. The conversion to residential use is  
10 not feasible. It's inconsistent with the Bloomingdale historic  
11 district due to the building design which is commercial in nature  
12 and historic. These are the large show windows. The chamfered  
13 entrance from the corner, and we have submitted a report from  
14 Traceries which is, you know, a well known historic firm in the  
15 city, to basically review that issue. Next slide, please.

16 The Applicant is proposing to use the first and  
17 basement floor for the restaurant. The second floor will be  
18 residential. He is in the process of building out that space  
19 and has approved permits for that residential use. As I  
20 indicated, he has a successful and highly rated restaurant called  
21 Indigo in NoMa. He wants to re-use and rehabilitate this  
22 dilapidated property to create a restaurant with similar cuisine  
23 to Indigo.

24 Due to his established track record at Indigo, the  
25 proposed use in our opinion has the best chance of success as

1 compared to potential other retail uses or a continued  
2 convenience store use. The proposed use is not expected to have  
3 adverse external effects due to parking, traffic congestion,  
4 noise, trash, and will be a substantial improvement over the  
5 previous use and our supplemental submission goes into great  
6 detail in terms of those external effects and I can go over those  
7 if you like.

8 If not, I would like to turn to our architect if she  
9 is available now to just walk through the plans and some photos  
10 of the property.

11 CHAIRPERSON HILL: Great. Mr. Young --

12 MS. AKINSAN: Good afternoon.

13 CHAIRPERSON HILL: Oh. Great. Could you introduce  
14 yourself for the record.

15 MS. AKINSAN: Yes. Good afternoon members of the Board.  
16 My name is Olivia Akinsan. I am designer of the property located  
17 at 2324 North Capitol Street.

18 CHAIRPERSON HILL: Do you need another slide?

19 MS. AKINSAN: I'm sorry. I wasn't sure --

20 MS. GIORDANO: I'm sorry. Her photos are in the record  
21 128A.

22 CHAIRPERSON HILL: Okay. You want Mr. Young to pull  
23 up 128A?

24 MS. GIORDANO: Please.

25 CHAIRPERSON HILL: Okay.

1 MS. GIORDANO: And we'll follow that with 128B.

2 MS. AKINSAN: Okay.

3 CHAIRPERSON HILL: Okay. Ms. Giordano, just to let you  
4 know, I mean, Ms. Akinsan, if you could please be a little  
5 efficient with your presentation.

6 MS. AKINSAN: Oh, okay.

7 CHAIRPERSON HILL: There seems to be photos basically  
8 kind of showing a lot of the same thing.

9 MS. AKINSAN: Sure. No problem. I have just one  
10 sentence for what each photo is about.

11 Okay. So the subject is located in the Bloomingdale  
12 neighborhood. The zone for the property is RF-1. The scope of  
13 the project is to convert an existing two-story and basement  
14 corner convenience store into a restaurant. The first floor,  
15 basement floor and a three bedroom residential unit on the second  
16 floor. The intent is to use the space as is. There will be no  
17 expansions to the structure. This first slide shows the subject  
18 property. Next slide, please.

19 This shows the subject property again in comparison to  
20 North Capitol and Bryant Street. Next slide, please.

21 This shows an east view of the property from North  
22 Capitol Street before improvements. Next slide, please.

23 This shows a more northern view of the property from  
24 North Capitol Street with improvements. Next slide, please.

25 Showing a northern view of the property from North

1 Capitol Street with improvements. Next slide, please.

2 Shows an eastern view of the property from Bryant  
3 Street prior to improvements. Next slide, please.

4 Shows another eastern view of the property from Bryant  
5 Street with improvements. Next slide, please.

6 Shows a western view of the property from the alley  
7 prior to improvements. Next slide, please.

8 Next slide.

9 So, the next slide.

10 Shows another western view of the property from the  
11 alley prior to improvements. Next slide.

12 Shows a view of the subject from Bryant Street  
13 including the rear alley. Next slide.

14 Shows a direct rear view of the subject property from  
15 the alley prior to improvements. Next slide.

16 Shows a northern-eastern view of the property where the  
17 proposed sidewalk café will be located. Next slide.

18 Shows an eastern view of the property where the  
19 sidewalk café will be along Bryant Street. Next slide.

20 Shows a view along the side from North Capitol Street.  
21 Next slide.

22 Last slide shows the intersection from the subject  
23 property across. Okay. Okay. So, please next slide.

24 So this shows the proposal for the sidewalk café. The  
25 intended occupancy is 23 seats. Umbrellas and guard rails will

1 | be included. The guard rail will act as a buffer between  
2 | pedestrian traffic, creating an inner aisle for the sidewalk  
3 | patrons. Next slide, please.

4 | This plan shows the proposed site plan in comparison  
5 | to the adjacent properties on North Capitol Street. Next slide.

6 | This slide shows a location map and different vantage  
7 | points of the property. Next slide.

8 | So these next two slides show the demolition that will  
9 | occur on the basement and first floor. So we can go to the next  
10 | slide.

11 | And then go to the next slide.

12 | So this slide shows the kitchen utility stairs and  
13 | bathroom for the proposed restaurant. Next slide.

14 | This slide shows the proposed bar steps and ADA  
15 | bathroom for the proposed restaurant. We are aiming for a total  
16 | of 73 occupants. The breakdown is as follows; 15 occupants  
17 | standing, 40 occupants at tables and chairs and ten occupants at  
18 | the bar. These numbers do not include the sidewalk café  
19 | occupants. Next slide.

20 | This slide shows the existing elevations. Next slide,  
21 | please.

22 | Okay. The next three slides show the building façade  
23 | almost (audio interference) existing facades. This is rather  
24 | handsome row building built in 1920. The architecture is typical  
25 | of the neighborhood and in line with (audio interference)

1 commercial row house style prevalent in Washington, D.C. This  
2 property's intent or niche (phonetic) was and always has been for  
3 commercial use. Due to some current updates, the building is  
4 even more striking. These updates include (audio interference)  
5 power washing, new windows and doors and (audio interference) and  
6 glass store fronts on the first floor. And for the sidewalk  
7 café, the proposed chairs and umbrellas are also shown. So if  
8 we go to the next two slides, please.

9 Okay. So the next slide. This plan shows the section  
10 of the building with the internal stairs. Next slide.

11 This last slide shows more vantage points of the  
12 subject property and lastly, we wanted to address the noise levels  
13 in the area.

14 I first want to acknowledge that I am not a sound  
15 expert. According to the D.C.M.R the maximum noise level  
16 specified is 70 decibels for residential and 80 decibels for  
17 commercial. I took several readings with an app on my phone  
18 called a Decibel Meter. The average sound around 6:34 p.m.,  
19 while traffic was moving remained from about 80 decibels to 100  
20 decibels as is. Thus, the sound in the neighborhood is already  
21 over the allowed maximum noise (audio interference.) It should  
22 however be noted that the proposed umbrellas, (audio  
23 interference) plantings and wood benches would greatly help  
24 diffuse any additional sound from the sidewalk café. As I took  
25 readings in the evening after about 9 p.m., and the sound levels

1 | were even higher reaching about 102 decibels at times which  
2 | included sirens.

3 |           That's the end of the presentation.

4 |           CHAIRPERSON HILL: Thank you, Ms. Akinsan.

5 |           MS. AKINSAN: You're welcome.

6 |           MS. GIORDANO: Okay.

7 |           If we could circle back to the PowerPoint, I would  
8 | appreciate that, Mr. Young. Where we left off.

9 |           Okay. So as an overview, final Office of Planning  
10 | position is pending but DDOT has advised in a written report  
11 | submitted in the record that the proposed use will have no adverse  
12 | impact on the District's transportation network. ANC 5E has  
13 | taken no position on the application. They split basically.  
14 | There are numerous letters in the record, both in support and  
15 | opposition. I think I lost count at some point. So, next slide,  
16 | please.

17 |           Again, the proposed use. Let me just run through a few  
18 | details about it. The restaurant will abide by the following  
19 | conditions. Pursuant to its ABCA license, they went back to ABCA  
20 | after the spirits license as a retail license was denied, and  
21 | applied for a restaurant license to sell spirits, and it was  
22 | approved.

23 |           The ABCA Board instituted a number of conditions  
24 | including the following maximum hours for the interior, 7 to  
25 | midnight, outdoor café 10 to 10 p.m. on weekdays and 10 to 11 on



1 weekends and I would just note we submitted in the supplemental  
2 submission that these are maximum hours for no one further to be  
3 on the premises and the actual hours in terms of the kitchen are  
4 much earlier. They will stop serving about 10:30 p.m., bar and  
5 food. After that there will be cleaning staff on the site and  
6 everyone will leave by midnight.

7           Regarding deliveries. This has been an issue that has  
8 been raised by a number of people in the community. Their current  
9 location at Indigo actually started out as primarily a take-out  
10 and delivery venue. But as it became more successful, became  
11 more of a sit down restaurant. This particular location will be  
12 focused on sit down dining.

13           As far as take-out and delivery from this location, the  
14 proprietor will direct as much as feasible that traffic to Indigo  
15 which is just located down North Capitol Street into the area  
16 near Union Station and only a seven to eight minute drive. I  
17 think I posted the Google map on that. In addition, a single  
18 delivery platform will be utilized. In other words, he will work  
19 with one delivery platform so he can have better control over  
20 that service.

21           Trash collection. Trash will be fully enclosed in a  
22 receptacle at the rear and picked up five to six times weekly.

23           Regarding noise. Generally noise from North Capitol  
24 Street is more significant. Bryant Street is a 90 foot right-  
25 of-way, so these are not narrow residential streets. The noise

1 from North Capitol Street really just travels right down through  
2 the Bryant Street block and some of the surrounding blocks and I  
3 will post the readings that the architect took in the next slide.

4           Parking. Parking is available on North Capitol Street  
5 especially during non-rush hours. The traffic flow is going  
6 south down North Capitol Street in front of the subject property  
7 and it is, parking is restricted during the morning rush hour but  
8 it's available the rest of the time. The neighboring properties  
9 have residential permit parking but the neighboring properties  
10 also have adequate parking on site. We provided some photos of  
11 the properties on Bryant Street in particular, and also a base  
12 atlas map that just shows how long these lots are, how deep they  
13 are and there's room on the lots for parking and, indeed, many  
14 of the residents have more than ample parking space on site. So  
15 we do not believe that they will be adversely impacted by parking  
16 for the restaurant. Next slide.

17           Special exception criteria. Just generally, that the  
18 proposed use is consistent with the intent of the regulations.  
19 The intent of the special exception regulation which allows for  
20 some transitioning of nonconforming uses to other uses is to  
21 encourage actually the phasing out of the nonconforming uses and  
22 transitioning to more appropriate ones. In addition, special  
23 exception criteria also speak to no adverse impacts due to trash,  
24 noise, parking availability and I think we just covered those  
25 issues. Next slide, please.

1           Variance criteria. We can skip this but I just want  
2 to mention that the exceptional condition is more detailed here  
3 and that exceptional condition is the same for the area variance  
4 as the use variance. So I'm going to go ahead --

5           CHAIRPERSON HILL: Yeah, that's great. Ms. Giordano,  
6 please. This is what I'm most interested in.

7           MS. GIORDANO: Okay.

8           So the exceptional condition is the contributing  
9 historic designation of the property which presents a hardship  
10 for residential use because of the very large show windows on a  
11 very busy North Capitol Street and on Bryant Street large windows  
12 continue. The chamfered corner entrance basically funnels you  
13 right into the space. There's no real residential transition  
14 entering the space and in terms of substantial detriment, we kind  
15 of went through that already. Next slide.

16           The use variance. Okay. So the elements of proof for  
17 the use variance are similar to the area variance including the  
18 exceptional condition which I just went over. The property is  
19 historic. It's also very small. It has been operated as a mixed  
20 use property with the first floor being a commercial space since  
21 at least 1920 and the cellar space since 1979. By small I mean  
22 the usable square footage of the ground floor is approximately  
23 1,000 feet which is not a lot of space for a store or even a  
24 restaurant.

25           The exceptional hardship is a matter of degree. Again,

1 | you know, conversion to residential use is infeasible because of  
2 | the historic characteristics of the property leaving the  
3 | Applicant with untenable limited options for other types of uses  
4 | in this very small space and, again, the nonconforming use  
5 | regulations basically say you have to continue the use of the  
6 | property as is. That is, you know, what it was before and what  
7 | it was before was a convenience store which, in our view, is an  
8 | obsolete use here. It's very small. There is, you know, very  
9 | limited ability to expand offerings that have been traditional  
10 | to a lot of bodegas in the city and they tend to revert over time  
11 | to cigarettes, alcohol, lottery tickets, ATM machines, and  
12 | generally are not very desirable uses in the neighborhood.

13 |           So we don't believe that the continuation of that use  
14 | is in conformance with the intent of the regulations which allow  
15 | for some conversion of the nonconforming use to other uses, and  
16 | we believe that the restaurant use operated by an experienced  
17 | restaurateur is an improvement. Next slide, please.

18 |           This is, these slides really go to the architect's  
19 | presentation. The Noise Control Act. Next slide.

20 |           These are the maximum noise regulations in terms of  
21 | decibels for commercial and residential uses and the next slide  
22 | are the readings that the architect took in the various locations.  
23 | I think she's already gone over this but she's certainly available  
24 | for questions.

25 |           And that concludes our presentation.

1 CHAIRPERSON HILL: Thank you, Ms. Giordano. Okay.

2 Let me do this. Before I turn to my Board, I'm going  
3 to just go to the Office of Planning next and then we're going  
4 to hear from the party in opposition.

5 MR. BARRON: Good afternoon, Chairman Hill,  
6 Commissioners. For the record my name is Ron Barron, Development  
7 Review Specialist with the D.C. Office of Planning.

8 The Office of Planning filed a report at Exhibit 152  
9 recommending denial of the requested relief. In our report OP  
10 found that the Applicant had not provided sufficient  
11 justification for the amount and type of relief requested.  
12 Subsequently, the Applicant provided additional information to  
13 the record including a response to OP concerns raised in the  
14 original report. Given the time frame OP was not able to provide  
15 a supplemental report to the record. OP has also listened to  
16 the Applicant presentation in the hearing today.

17 Despite this additional information, OP is not able to  
18 change our initial recommendation. OP is strongly supportive of  
19 the appropriate re-use of existing buildings and of the  
20 provisions of new commercial uses in that sort of neighborhoods.  
21 OP brought forward the corner store provisions as part of ZR16  
22 to help facilitate this. However, maintaining the integrity of  
23 the zoning regulations and the integrity of the existing and  
24 often (phonetic) struggling neighborhood areas is also critical.

25 OP continues to find that the Applicant has not met the

1 very high standards of a use variance for the intensity of the  
2 use proposed, restaurant, bar, outdoor seating, delivery and  
3 take-out service, analysis of which is detailed in our report.

4 In the interest of time, I conclude my testimony here  
5 and I'm happy to answer whatever questions the Board or the  
6 Applicant may have.

7 CHAIRPERSON HILL: Thank you, Mr. Barron.

8 I just wanted to clarify. There was additional  
9 information that the Office of Planning received, however that  
10 matches the same information that you just heard from the  
11 Applicant and that hasn't changed the Office of Planning's  
12 recommendation, correct?

13 MR. BARRON: Correct, yes.

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

15 Ms. Kavalier, how do you say it?

16 MS. KAVALER: [Kav-aler].

17 CHAIRPERSON HILL: Thank you.

18 So, Ms. Kavalier, they basically used up 15 minutes and  
19 you get basically the same amount of time and so, again, I know  
20 you're not a zoning attorney, or I think you're not a zoning  
21 attorney.

22 MS. KAVALER: No. I feel like one now though.

23 CHAIRPERSON HILL: Right. But, I mean, you know, we're  
24 here for really the criteria for the relief that's being  
25 requested, but I'll go ahead and let you go through your

1 presentation as you have put it together, and you can begin  
2 whenever you like.

3 MS. KAVALER: Sure, and I will try to go through this  
4 as speedily as I can. I think we were anticipating a bit more  
5 time than 15 minutes so I will just kind of skip as  
6 (indiscernible).

7 CHAIRPERSON HILL: Ms. Kavalier, which exhibit is your  
8 presentation in again?

9 MS. KAVALER: Oh, gosh. It is, let me look it up,  
10 sorry. The updated presentation, I think it's 166, updated  
11 PowerPoint presentation from (indiscernible).

12 CHAIRPERSON HILL: That's perfect.

13 MS. KAVALER: Does that sound okay?

14 CHAIRPERSON HILL: Yes. I mean, go ahead and walk us  
15 through this as best you can. You know, if you go 15, 20 minutes,  
16 it's okay. It sounds like, you know, I don't want to get you  
17 too much out of your rhythm.

18 MS. KAVALER: Okay. Sounds good. I can just get  
19 started and then as it pulls up I'll just match it.

20 CHAIRPERSON HILL: Mr. Young, or yeah, or you can begin.

21 MS. KAVALER: All right. Thank you Chairman Hill, Mr.  
22 Blake, Mr. Smith, Dr. Imamura. Thank you for hearing me today.

23 I own, live at and work remotely, entirely remotely  
24 from the property directly next to 2324 North Capitol Street at  
25 8 Bryant Street, Northwest. I'm starting this presentation on

1 | behalf of our parties and then I'll continue on to my fellow  
2 | neighbors, if there's time.

3 |           I will skip the next slide, and then the next slide.

4 |           The application on page 6 of Exhibit 147 incorrectly  
5 | asserts the external impacts of the proposed restaurant use will  
6 | be no greater than the existing convenience store use. This  
7 | argument is based on the concept that they are changing from one  
8 | commercial use to another commercial use so nothing changes. It  
9 | fails to address how the change in use from store to restaurant  
10 | changes the character of the neighborhood. And we can skip to  
11 | the next slide, and skip to the next slide, slide 5.

12 |           The present character of the houses across the street  
13 | and down the block would be forever changed if the property were  
14 | to change from a store to a restaurant as they would lose their  
15 | privacy, peaceful enjoyment of their front yards and their homes  
16 | because of the huge increase in patrons as well as the huge  
17 | increase in operational hours. And we can skip to the next slide.

18 |           The request does not meet the burden of proof and  
19 | satisfy the questions what is exceptional or unique about the  
20 | property, how is that uniqueness causing practical difficulty or  
21 | undue hardship if the zoning were applied? What are the potential  
22 | adverse impacts on the neighbors and the zoning plan and how does  
23 | this impair the intent, purpose and integrity of the zoning plan.

24 |           It's extremely important for us to establish that the  
25 | neighbors want a business at this corner. We were on board with



1 the original proposal. I am a first time home buyer and I was  
2 so excited to have that original plan right next door to me.  
3 However, the proposed restaurant would lead to significant harm  
4 and that's why we are objecting to this change of use request  
5 and do not support a restaurant in any form. Next slide, please.

6 The supplemental documentation most recently filed  
7 asserts that the property is "exceedingly small" which prevents  
8 it from being operated as it's currently zoned. However, the  
9 property has over a century's worth of experience being operated  
10 as a retail store and it's in fact bigger than many other corner  
11 stores in Bloomingdale. The Certificate of Occupancy request is  
12 for 81 people indoors and a property that can comfortably  
13 accommodate 81 guests is not exceedingly small and this is in  
14 stark contrast to the houses on the block that are for single  
15 families or two family plats consistent with RF-1 zoning. Next  
16 slide, please.

17 We wish to agree with the report by the Office of  
18 Planning that the request does not meet the test for a variance.  
19 In fact, the news is full of restaurant closures in Washington,  
20 D.C. He has not addressed the higher failure rate of restaurants  
21 as compared to grocery stores, especially in this time of economic  
22 challenge. The Applicant provided nothing to substantiate the  
23 claim that it's not economically viable to run a store at this  
24 location. I have several examples to refute that claim including  
25 a new upscale corner shop with market and café that's forthcoming

1 from Lost Sock Market and it will occupy similar looking space  
2 very soon on 4th Street, Northeast. This is a very similar model  
3 to the Applicant's original plan which aligns with the current  
4 zoning rules and received neighborhood support, and which he  
5 claims is not economically viable. Next slide, please.

6 Another example is Odd Provisions which opened in 2016  
7 and was one of several in that generation of small markets  
8 catering to the local crowd, such as Union Kitchen Grocery, the  
9 Old City Market and Oven, Each Peach Market and Nido Market,  
10 among others. Incidentally, Odd Provisions is within two blocks  
11 of a Giant Supermarket and at 11th and Lamont Street is in a  
12 neighborhood that's in similar character to Bloomingdale without  
13 any high rises. The Applicant claimed that the store found in  
14 his initial plans in 2022 is unviable but he never performed any  
15 feasibility analysis or an economic study of what could be  
16 possible at this location. He ignores the successful 100 year  
17 history of store operation here. In fact, it's only been vacant  
18 since he bought it. Next slide, please.

19 Regarding the exceptional hardship related to the  
20 historic claims, there are no physical qualities to the structure  
21 that prevent it from being used as it's currently zoned. Here  
22 the above picture is an example of how he could execute a 100  
23 percent residential design. McMillan Development was long in the  
24 works before the Applicant purchased the property, therefore  
25 fears of competition from the McMillan Development should not be

1 considered relevant.

2           The Applicant references a plan for a large grocery  
3 store with additional large retail component in the nearby  
4 McMillan Reservoir site as part of his rationale for the non-  
5 viability of this plan. However, a small grocery store will be  
6 situated several blocks from Bryant Street and we have just  
7 received notice that the developers are negotiating to reduce the  
8 size of the McMillan store down to a minimum of 10,000 square  
9 feet when the average size grocery store in D.C. is 40,000 square  
10 feet. There's no guarantee that this grocery store will exist  
11 at all and the Applicant's actual location of the proposed store  
12 is farther from the Applicant's property than what is stated in  
13 Exhibit 128H. Next slide, please.

14           Here is a second example of the store that was  
15 successfully converted to residential use and this agrees with  
16 the Office of Planning's report statement that it would appear  
17 that other uses, some of which the Applicant previously examined,  
18 exist for reasonable use of this property. Next slide, please.

19           Again, the Applicant conducted no economic feasibility  
20 study or viability study of the original plan that had zoning  
21 regulation and neighborhood approval and because there's no proof  
22 or research supporting the non-viability of this original plan,  
23 which is the impetus for the new restaurant plan, we are simply  
24 expected to just accept his statement. And after the Applicant  
25 claimed at various ANC 5E and Bloomingdale Civic Association

1 meetings to be a successful business person, however we would  
2 expect a successful business person to conduct a market analysis  
3 of a proposed business before spending over \$1 million on a  
4 property. And I find it irrational to insist that a restaurant  
5 will be successful when RAMW reported the survey that found that  
6 44 percent of full service actual dining restaurants in D.C.  
7 expect to close in 2025. Next slide, please.

8           The Applicant sites the K Street location as proof that  
9 this location will be successful. Yet Bryant Street is a very  
10 different neighborhood than K Street and this proposed location  
11 is an entirely different business model. Bryant Street has no  
12 high rise buildings like K Street, and K Street provides no  
13 experience to running a bar and full service restaurant. If the  
14 Applicant's restaurant failed, the zoning relief remains and what  
15 replaces it and thus impacts the community is unpredictable.  
16 This is relevant because the Applicant has expressed concern of  
17 competition from McMillan as a rationale for this relief. What  
18 would happen if an Indian restaurant opens at McMillan when he  
19 claims that his business cannot survive competition? Next slide,  
20 please.

21           In order for the area variance to be approved, the  
22 Applicant must meet the burden of proof and this slide here  
23 details reasons for why his application fails to meet that  
24 standard. Next slide.

25           The proposal is not consistent with zoning or the

1 comprehensive plan. Unlike Red Hen or Big Bear which are either  
2 adjacent to or in MU-4 zoned areas which have often been compared  
3 to this property, 2324 is the blue dot you see here in a sea of  
4 RF-1 zone blocks with the closest MU-4 district being 0.4 or five  
5 blocks away. Additionally, granting this variance and special  
6 exception will introduce a liquor license on a 100 percent  
7 residential block with no commercial zoning within five blocks.  
8 Next slide, please.

9           The Office of Planning reports that the regulations are  
10 also intended to discourage the expansion of existing  
11 nonconforming use, particularly where other options exist.  
12 According to the plan, the application would expand on existing  
13 nonconforming and we ask that the Board discourage the change.  
14 The Office of Planning report recognized that the Applicant is  
15 proposing a full bar and outdoor seating as well as a pick-up  
16 delivery window which would anticipate delivery drivers as well  
17 as other local patrons and they said that these impacts to the  
18 immediate neighbors should be more fully addressed. However, I  
19 wish to point out that the Applicant cannot change or control or  
20 address the impacts of a commercial restaurant on an RF-1 zoned  
21 residential neighborhood. For example, he cannot make a parking  
22 lot, he cannot establish a loading zone for meal delivery drivers  
23 and he cannot be a traffic cop to facilitate shared ride drop-  
24 off. Next slide, please.

25           The Applicant has highlighted the success of the

1 original Indigo location as a rationale for why an additional  
2 location should be developed in our community. Again, Bryant  
3 Street is a very different location. It's RF-1 zoned with two  
4 and three-story rowhouses with front gardens. There's no  
5 commercial parking lot. We're not close to a metro and there  
6 are no current businesses that provide delivery/pick-ups. His  
7 business would introduce such to our street and thus change its  
8 character. Next slide, please.

9 I don't need to repeat the requirements of Title 11,  
10 Section 204.9, however the Applicant claims that the proposed  
11 restaurant use will not create any deleterious external effects  
12 and is not likely to generate any external noise, illumination,  
13 vibration, odor, design or siting effects. And this is  
14 categorically false and impossible. In fact, the Office of  
15 Planning report said, and I quote, "The Applicant argues that a  
16 change from a retail corner store use to a restaurant and bar  
17 use would not create substantial new detrimental conditions on  
18 the subject property. However, the Applicant's statement does  
19 not explain how the hours of operation, the handling of noise,  
20 trash, parking, and other potential adverse impacts would be  
21 handled."

22 Throughout the numerous meetings over the past many,  
23 many months, the Applicant has invited us to visit his K Street  
24 location as a way for us to see the way, to see what his restaurant  
25 is like so we have a better idea of what we could expect living

1 next to an additional location. Unfortunately, we found many of  
2 the concerns we have for our community to be occurring there  
3 already and as you can see from this photo here above, there's  
4 an Indigo patron illegally parked blocking the alley. Next slide,  
5 please.

6 So here we have a video, yes, sorry, next slide. One  
7 more.

8 And this, I believe this video is saved as a separate  
9 exhibit and that's Exhibit 153.

10 CHAIRPERSON HILL: Okay. I got that one. Thank you.

11 MS. KAVALER: And I can just keep going while you set  
12 that up.

13 CHAIRPERSON HILL: Just when you're finished through  
14 this we'll see if Mr. Young can get to 153.

15 MS. KAVALER: Okay. Cool.

16 And here you'll just hear the noise emanating from the  
17 patio of their K Street location and you'll see that even the  
18 enclosures around the patio do nothing to prevent the noise from  
19 emanating. In the supplemental information, the Applicant only  
20 lists the patio as a source of noise. He doesn't take into  
21 consideration all the other sources of noise that we have laid  
22 out.

23 The proposed change in use would create adverse  
24 external effects because the ambient noise level of the unit  
25 block of Bryant will be irrevocably changed by several factors

1 including new noise from the music and patrons' voices dining  
2 outside on the patio similar to what you're about to hear in this  
3 video. The music and patrons' voices inside each time the door  
4 opens, the many vehicles that will transport patrons, restaurant  
5 delivery trucks, food delivery vehicles especially with the  
6 motorcycles that tend to drive the wrong way down our one-way  
7 street, daily garbage truck visits that are appropriate for a  
8 commercial district, not a residential street, and continuous  
9 dumping of garbage including loud glass bottles.

10 I can pause to see if that video is ready.

11 CHAIRPERSON HILL: Okay.

12 (Pause.)

13 MS. KAVALER: I can also continue while that keeps  
14 going.

15 CHAIRPERSON HILL: Yeah. Mr. Young, why don't you, I  
16 mean, Ms. Kavalier, I think the Board can understand what -- I  
17 appreciate the video, like, I hundred percent believe and  
18 understand what you're going to show us in the video.

19 MS. KAVALER: Okay.

20 CHAIRPERSON HILL: You know?

21 MS. KAVALER: We'll be on the same page. It's fine.  
22 All right.

23 Furthermore, the Applicant suggests in his supplemental  
24 information that the noise --

25 CHAIRPERSON HILL: Mr. Young, if you could you bring



1 up where Ms. Kavalier is.

2 MS. KAVALER: Oh, sorry. I have it up on my screen.  
3 I apologize.

4 CHAIRPERSON HILL: I think you were on traffic.

5 MS. KAVALER: Yes. Noise. The Applicant suggests in  
6 his supplemental information that the noise will only be a problem  
7 for the house that is 90 feet away which is currently for sale.  
8 This is illogical as I am only 21 feet away and this will  
9 certainly impact me. I can currently hear when it's just one  
10 person on their patio speaking, so I can only --

11 CHAIRPERSON HILL: One more back, Mr. Young. Sorry.

12 MS. KAVALER: One more back. Sorry.

13 So I can only imagine what it will be like if there's  
14 33 seated guests on their patio which will be in concert with  
15 all the other noises I've listed earlier. And while the Applicant  
16 may only be interested in the impacts of this business, of the  
17 noise of this business on one home, I'm here representing the  
18 interests of those who live within 200 feet, the standard set by  
19 the BZA, who will be negatively impacted by the noise created by  
20 the restaurant and it's not just about one house, it's about our  
21 whole community.

22 Lastly, the Applicant states that North Capitol is  
23 always noisy and this is not true. It certainly does have periods  
24 where it is noisy such as during rush hour and then it quiets  
25 down. We would anticipate that the restaurant's dinner service

1 to be its busiest and therefore the loudest period of the day.  
2 This period would extend much beyond rush hour when the traffic  
3 has subsided and the neighborhood has returned to quiet. The  
4 noise coming from the restaurant at this time would represent a  
5 distinct change to our neighborhood and make it impossible to  
6 live peacefully in our homes. Next slide, please.

7 Air pollution and traffic incidents are expected to  
8 increase with the increase of motorcycles and food delivery  
9 trucks. Unlike K Street, we only have one lane of traffic on  
10 Bryant, so double parked vehicles will create back-ups and  
11 honking from impatient people stuck behind them. The delivery  
12 vehicles are expected to block and frequent the alley behind the  
13 restaurant as this is where the pick-up orders will be given.  
14 The alley often has children playing and families walking through  
15 it such as myself and my dog.

16 The closest alley, neighbors need to access their  
17 vehicles using this alley as well. The Applicant claims that he  
18 will be able to control the frequency of deliveries and thus  
19 reduce traffic by limiting it to a single platform and focusing  
20 the company's delivery requests from the rented K Street  
21 location. Because K Street is a rented property, we have no way  
22 of knowing how long that lease will last and once it ends it  
23 could be reasonably assumed that more deliveries will be taken  
24 from this location. Furthermore, limiting deliveries to any  
25 number of platforms is irrelevant to zoning and is not an area

1 that the BZA can have any oversight. Next slide, please.

2           There's no parking plan. The current and proposed use  
3 includes only two parking spots and that's located more than a  
4 mile from any metro station. Parking on North Capitol is  
5 prevented during rush hour and is otherwise dangerous and this  
6 will force drivers to naturally look to Bryant Street. There's  
7 no loading area for trucks or shared transport and more restaurant  
8 customers will need to park here than a store because the  
9 restaurant occupancy is high and customers will stay longer in a  
10 restaurant than they would with a corner store. Families walk  
11 through this alley with their children and dogs and children play  
12 here, so increased traffic would be dangerous.

13           In his supplemental information, the Applicant states  
14 that the neighboring properties all have one or more spaces.  
15 However, not all houses have parking and many houses have more  
16 vehicles than parking spaces and thus rely on street parking.  
17 Furthermore, even houses with parking spaces rely on street  
18 parking to accommodate visitors.

19           CHAIRPERSON HILL: Ms. Kavalier? I know, how do you say  
20 it again?

21           MS. KAVALER: [Kav-aler]. No worries.

22           CHAIRPERSON HILL: I don't know. Ms. Kavalier, you're  
23 past your 15 minutes --

24           MS. KAVALER: Okay.

25           CHAIRPERSON HILL: -- and I mean, by the way, you're

1 | doing a lovely job. Are you an attorney?

2 |           MS. KAVALER: No. But honestly I've done a lot of  
3 | research.

4 |           CHAIRPERSON HILL: Okay. You've had six months.

5 |           So I think that, you know, I mean we're here for a lot  
6 | of the issues that you're speaking of and your slide deck is very  
7 | easy to go through.

8 |           MS. KAVALER: Okay.

9 |           CHAIRPERSON HILL: I went through it before and I've  
10 | gone through it as you're actually, you know, walking through  
11 | your presentation so I understand everything that you have going  
12 | on. If I could just bring you to the conclusion slide and then  
13 | you said other people would like to talk.

14 |           MS. KAVALER: Sure. Of course. No, totally. I  
15 | appreciate your (indiscernible).

16 |           CHAIRPERSON HILL: It's slide 31, Mr. Young.

17 |           MS. KAVALER: Yes. There we go. That's fine.

18 |           We find it concerning that the Applicant tells people  
19 | that it matters if many people, most of whom don't live within  
20 | 200 feet of the site, testify that they want a restaurant on this  
21 | block of Bryant Street. I also find it interesting that some of  
22 | this restaurant's greatest supporters were also the greatest  
23 | opponents to the proposal to change the bus line to 1st Street  
24 | because of how it would impact their lives and their homes.

25 |           The Applicant does not meet the standards required of

1 area or use variance, including proving undue hardship and not  
2 creating deleterious effects to the neighbors. The proposed use  
3 does not conform with the comprehensive plan for the District of  
4 Columbia. We believe that Zoning Board would act in the best  
5 interest of the city and the neighbors to deny the requested  
6 relief, especially when a person has purchased a property with  
7 the intent to change the zoning of the whole neighborhood for his  
8 own financial gain.

9 We appreciate the time and attention the BZA has paid  
10 to this case as well as the ANC Commissioners who supported the  
11 concerns of nearby neighbors and we are grateful for the  
12 consideration of how the proposed restaurant would impact our  
13 quality of life.

14 Thank you so much.

15 CHAIRPERSON HILL: Thank you, and thank you for your  
16 presentation.

17 Let's see. You said your other members would like to  
18 say something?

19 MS. KAVALER: Yes. So we have Evelyn, we have Rich and  
20 we have Malini all have party status and then Evelyn also has  
21 Shaun Manning and Sylvia as witnesses. So we had it in order of  
22 ourselves to go to Rich first, Richard.

23 CHAIRPERSON HILL: Okay. Go ahead, Mr. Smith.

24 MR. SMITH: Mr. Chairman and members of the Board.  
25 Thank you for hearing my testimony today. My name is Richard

1 Smith. I live at 19 Bryant Street, Northwest, approximately 71  
2 feet from Hillview Market.

3 I am in full support of a corner store and coffee shop  
4 as originally presented and frequent a place called Aurora Market  
5 which coffee shop, market and has take away sandwiches and  
6 prepared foods at 500 Irving Street, near the hospital. I most  
7 strongly opposed a restaurant use at Hillview for which the zoning  
8 adjustment seemed to be required.

9 The Applicant contends there's no adverse impacts on  
10 our quiet residential neighborhood in terms of parking, traffic  
11 and noise and we've addressed that a great deal. I submitted  
12 Exhibit 149 and one of those photos was used in Maya's  
13 presentation. You may have seen them all before. What it shows  
14 is that there are Uber Eats cars and there are mopeds that are  
15 parked illegally and the Applicant has no way to control that.  
16 That's not his responsibility. However, that exhibit I put out  
17 to show that, you know, D.C. parking and D.C. traffic parks a  
18 certain way and that will be coming to our neighborhood.

19 I also was there for an extra, I was there for an hour  
20 and ten minutes. The Applicant states there will be a single  
21 delivery service going through the K Street location, however how  
22 is that going to be enforced? I don't think that's enforceable  
23 in any way after the Board rules and makes a decision and if I  
24 was a businessman I'd make use of both locations to maximize my  
25 delivery service, but even though he says it'll be just one

1 location.

2           The Applicant submitted a supplemental statement last  
3 week in which he states, hey, there's parking spots and garages  
4 behind your homes so there's adequate parking. Well, I've lived  
5 here for 13 years and myself, my wife, my neighbors, my tenants,  
6 my guests, all have lived a certain way with parking the way that  
7 it is, whether I park in my garage which is actually a shop or  
8 park on my patio, which is my back yard, the suggestion that  
9 there's adequate parking doesn't take into account how the  
10 neighborhood has been living this way and parking this way since  
11 I've lived here for 13 years.

12           So it's ludicrous to suggest that, oh, by the way  
13 there's a lot of parking spots, so there won't be any parking  
14 problems. We have renters moving in on Sunday. They're going  
15 to be bringing two extra cars so that'll be four of us, four for  
16 our house alone. So what have we got for parking?

17           So during my visit I went down and took those pictures  
18 in exhibit, I think it was 149, and while I was there I noticed  
19 91 people walking into the restaurant in the course of an hour  
20 and ten minutes. So that's 11 people walking in and walk back  
21 out, they're carrying bags. So let's say that there were 80  
22 people walking in over the course of an hour and ten minutes and  
23 seven of those came by Uber. That leaves 73 people over the  
24 course of an hour and ten minutes.

25           How are they going to get here? This is not a walkable

1 neighborhood like the other neighborhood is which is adjacent H  
2 Street and also has the large residential apartment complexes.  
3 They're going to drive here and that will cause noise. It'll  
4 cause parking problems. Will cause traffic and there's just no  
5 way about that and that was over the course of an hour. So let's  
6 step away from that for a second --

7 CHAIRPERSON HILL: Mr. Smith? Can I interrupt you for  
8 one second? I'm sorry. I appreciate, I mean, Ms. Kavalier, she  
9 did a good job in general with the presentation. The way the,  
10 well, the way the hearing runs is that the amount of time that  
11 the Applicant got is the amount of time that the opposition gets.

12 MR. SMITH: Okay.

13 CHAIRPERSON HILL: And so you've already kind of gotten  
14 to where their time was, and so I just want to --

15 MR. SMITH: Want to let me close?

16 CHAIRPERSON HILL: Yeah. If you wouldn't mind because  
17 then Ms. Brown says she has witnesses too and so I don't know  
18 what that means.

19 MR. SMITH: Well, we all would welcome a corner market  
20 and coffee shop. That would be ecstatic. A restaurant would  
21 have an extremely large adverse impact on the nature of our  
22 neighborhood, that's why I'm in opposition.

23 Thank you for your time.

24 CHAIRPERSON HILL: Thank you, Mr. Smith.

25 Ms. Kavalier, is Ms. Brown the last one to testify?



1 MS. KAVALER: There is also Malini as well, but I'm not  
2 sure, yeah. If Malini wants to skip or can speak briefly and  
3 then we can go to Evelyn.

4 CHAIRPERSON HILL: Ms. Brown, how --

5 MR. SMITH: Would like Malini for her audio.

6 CHAIRPERSON HILL: Okay.

7 Ms. Tolat, can you hear me?

8 MS. TOLAT: Yeah. I can hear you and I can be very,  
9 very brief.

10 CHAIRPERSON HILL: Okay. Go ahead.

11 MS. TOLAT: I just want to compliment everything that  
12 Maya has said and Richard has said but specifically for me I just  
13 wanted to point out, I have submitted a video which totally  
14 refutes the so-called evidence provided by the architect. She  
15 must have taken it on the North Capitol side. Bryant Street is  
16 very different. We don't get the noise as much. Yes, North  
17 Capitol is noisy but on our side it is much quieter. Please do  
18 review my video and see how it goes.

19 We all tend to use the outdoors a lot because this is  
20 kind of a community neighborhood. We meet on the street. We  
21 sit on our front stoop and we interact as a community, and all  
22 of that will change with the restaurant. I am diagonally across  
23 from it and I will totally lose any privacy seven days a week,  
24 going into late nights on weekends and, you know, weekdays as  
25 well as the fact that I sit outside but I also work from home

1 and both of my, you know, studios, my husband and I both work  
2 from home. They are street facing. We see a huge impact on our  
3 life and our lifestyle moving forward.

4 And I just want to say that, again, as Richard mentioned  
5 we welcome Mr. Tandon to consider a business opportunity that is  
6 in compliance with current zoning and the character of this  
7 neighborhood, but I really cannot accept that his business should  
8 be at the cost of mine and my neighbors' quality of life.

9 That's all I want to say, and I hope that, yeah, the  
10 Board will take into consideration all of our concerns and I'll  
11 hand over to Evelyn from here.

12 Thanks.

13 CHAIRPERSON HILL: Thank you. Ms. Brown, how much time  
14 do you think you need?

15 MS. BROWN: Shaun, you can have two minutes. Sylvia,  
16 two minutes, and I'll just do my closing statement if that's  
17 okay.

18 CHAIRPERSON HILL: Okay. Great. Thank you.

19 MS. BROWN: So, Shaun, you have two minutes and Sylvia,  
20 you have two and I'll do my closing remarks.

21 Shaun? Are you there?

22 CHAIRPERSON HILL: Ms. Brown, I'm sorry. I'm just  
23 trying to make sure. These are witnesses to your testimony --

24 MS. BROWN: Yes.

25 CHAIRPERSON HILL: -- and what are their names again?

1 MS. BROWN: Shaun Manning and Sylvia Baffour.

2 CHAIRPERSON HILL: Okay. I just got, Mr. Young is  
3 bringing them up.

4 MS. BROWN: Shaun Manning.

5 CHAIRPERSON HILL: Mr. Manning, can you hear me?

6 MR. MANNING: Can you hear me?

7 CHAIRPERSON HILL: Yes.

8 MR. MANNING: Okay. I'll be very quick and very brief  
9 because I think Maya and the other neighbors have covered  
10 everything that I was going to say.

11 I have been a resident at 36 Bryant Street, my wife and  
12 I, for over 20 years and I'm a property owner right next door to  
13 Maya as well. You know, years ago we petitioned, my wife and  
14 our neighbor who doesn't exist anymore, petitioned. We've grown  
15 up in this neighborhood for the past 20 years. We've watched it  
16 grow and improve.

17 I'm a little confused by the law speak that Mr. Tandon's  
18 lawyer just because, just like the lady said a second ago, Bryant  
19 Street is not affected by the noise as North Capitol and that  
20 noise does subside after rush hour. So, but we are also we are  
21 a one lane, one way in neighborhood. Delivery trucks, pick-up  
22 vehicles, taxis, so for all of those will back up traffic even  
23 more and as Maya pointed out, the honking from people who are  
24 disrespectful will only increase the noise level in this  
25 neighborhood. The rodent population is going to increase.

1 | There's nothing he can say or do about that. If you put  
2 | commercial garbage cans in, we will have a greater rodent  
3 | population.

4 | I ask that you vote no and thank you for your time.

5 | CHAIRPERSON HILL: Thank you.

6 | MS. BROWN: Sylvia Baffour.

7 | MS. BAFFOUR: Okay. Can everyone hear me?

8 | CHAIRPERSON HILL: Yes.

9 | MS. BROWN: Yes.

10 | MS. BAFFOUR: Okay. I'll be very brief.

11 | CHAIRPERSON HILL: Now you're on mute, Ms. Baffour.

12 | MS. BAFFOUR: It keeps doing that. That's weird. Okay.

13 | You can hear me now?

14 | CHAIRPERSON HILL: Yeah. Just don't touch anything.

15 | MS. BAFFOUR: Yes, real quick.

16 | So I echo everything that has already been said. I  
17 | don't want to be redundant. I've been in my property for 23  
18 | years and I'm sort of across North Capitol and within the 200  
19 | feet of the establishment, and I think that it's unfair that the  
20 | answers to the Office of Planning's objection about parking comes  
21 | down to insulting us and what we should be doing with garages.

22 | My husband and I don't have a garage. We have a back  
23 | yard with a fire pit, and I know other neighbors who don't use  
24 | their back yard for parking. The reality is in 23 years I've  
25 | never really had a problem with parking unless maybe someone's

1 | having a big party, but I've had two or three, two cars personally  
2 | smashed on North Capitol Street. My twin brother visiting had  
3 | his car smashed. It's pretty dangerous for us to just rely on  
4 | that as our sole parking and I think it's unfair for him to assume  
5 | that, you know, at his benefit we get to then figure out what  
6 | we're doing with our parking.

7 |           That to me is not a solution to the problem. He can't  
8 | build a parking lot and therefore he's not really introducing a  
9 | practical solution and I can foresee myself at night having to  
10 | park three blocks away and endanger myself walking home when  
11 | before I had no problems parking. So I echo everyone else and I  
12 | hope the Board will consider how much this is going to impact us  
13 | adversely along the way.

14 |           Thank you for your time.

15 |           MS. BROWN: Thank you, Sylvia.

16 |           CHAIRPERSON HILL: Thank you.

17 |           MS. BROWN: And my name is Evelyn Brown. I'm a 200  
18 | footer. I'm approximately 60 feet from the Applicant's property.  
19 | I am south of the 2324 location.

20 |           I won't duplicate. But I went door knocking. I've  
21 | talked to people in the neighborhood. That's how I met Sylvia,  
22 | Malini, Richard and all the other folks. So that's how we got  
23 | all of this started. But I knocked on doors. I shared flyers.  
24 | I listened to people talk and I shared my position and theirs.

25 |           The property, and so I really have no one-on-one

1 | contact with the Applicant in terms of outreach but I can say  
2 | that we in this neighborhood, we conducted a lot of outreach. I  
3 | don't see the benefit for the community. The business, converting  
4 | the property, I don't deem it appropriate for the health and  
5 | present character of the neighborhood.

6 |           And I wanted to point out one item in the Applicant's  
7 | response about the ABC license and to make sure that the  
8 | distinction and the context in which it's stated in here, that  
9 | they state it that it had no adverse impacts. The restaurant  
10 | had no adverse impact on the neighborhood. That was not a zoning  
11 | case, that was a Class D liquor license case. So I just wanted  
12 | to make sure that the context was clear.

13 |           The response completely neglects to recognize all of  
14 | the issues that we have basically raised. My personal safety, I  
15 | come in and out of my home through the back, through the alley.  
16 | My property is directly across from the Skaplars (phonetic) so  
17 | we share the alley.

18 |           The exhaust fumes. Nothing has been talked about in  
19 | terms of a full kitchen. Well, I'm concerned that those exhaust  
20 | fumes, the cooking, the smells and so forth will certainly be  
21 | coming into my home. We do not have sophisticated exhaust systems  
22 | and one of the Applicant's witnesses stated that he loved waking  
23 | up at 6 a.m. to the smell of curry. I responded I don't want to  
24 | smell curry. The other reason, I visited India, I was sick every  
25 | day until 1 o'clock in the morning and I stayed in the bathroom

1 with my head over the trashcan for two weeks, and I also suffer  
2 Lupus, so I'm just stating that.

3 The other one is that lack of loading, unloading,  
4 that's been addressed. Food and increased traffic, the  
5 restaurant, and finally the high levels of the background noise.  
6 I hear the noise directly from North Capitol and I would never  
7 object to a business owner seeking a reasonable profit, but not  
8 at the expense of the neighborhood's charm and ambience.

9 As mentioned, I am a long time resident. My family  
10 moved here in 1959 so we're going on 66 years. The original  
11 corner store, while it was a tolerable nuisance, it did not  
12 infringe upon my rights. I cannot say the same for the  
13 Applicant's plans and the adverse impacts identified. When the  
14 Applicant states that he believes the proposed use is a viable  
15 and he's willing to make a substantial investment to rehabilitate  
16 dilapidated property for a new commercial use that is consistent  
17 with the Le Droit Park historic district. My understanding, this  
18 BZA case is not about the willingness to make a substantial  
19 investment. Why? Because we too, the residents of this  
20 neighborhood, have already made substantial judicious investments  
21 and that have rebounded to our benefit up to this point. The  
22 siting of Indigo, these are two different operating environments  
23 and --

24 CHAIRPERSON HILL: Okay.

25 MS. BROWN: -- a judicious investment was made by the

1 Applicant, hopefully at the expense of successful senior citizens  
2 who made a good investment in their homes. These upstanding  
3 accomplished seniors, resident investors, tax paying residents,  
4 incoming property tax payers, are now being asked to pay a price  
5 for someone else's bad decisions. Caveat emptor, buyer beware.

6 The Applicant should have reviewed the zoning before  
7 he made the purchase. So, and I also believe and I was taught,  
8 he has a right to operate a business but his rights end where my  
9 rights begin, and my quality of life will certainly be affected  
10 if that restaurant with the outside dining and all of the other  
11 adverse impacts that have been addressed go into effect.

12 So I thank you for the opportunity to testify, and I  
13 sincerely ask that you not approve the Applicant's request, BZA  
14 case 21151.

15 Thank you very much.

16 CHAIRPERSON HILL: Okay. Thank you, Ms. Brown. All  
17 right.

18 Thank you all for your testimony. Mr. Young, do we  
19 have anybody here wishing to speak?

20 MR. YOUNG: Yes, we do. We have a number of people.

21 CHAIRPERSON HILL: Okay.

22 MR. YOUNG: How many do you want me to bring at one  
23 time?

24 CHAIRPERSON HILL: Do we have support and opposition,  
25 or is it just opposition?



1 MR. YOUNG: We have both.

2 CHAIRPERSON HILL: Okay. Let's do support first.

3 MR. YOUNG: Support first?

4 CHAIRPERSON HILL: You can bring them four at a time.

5 I mean, how many do you have?

6 MR. YOUNG: We have a lot. I'm not sure everyone is  
7 here but --

8 CHAIRPERSON HILL: Okay.

9 MR. YOUNG: -- there's at least ten.

10 CHAIRPERSON HILL: All right. Well, go ahead and give  
11 me the names as they come forward. Go ahead. You can do four  
12 at a time.

13 MR. YOUNG: How many do you want me to bring? Four?

14 CHAIRPERSON HILL: You can bring four at a time, yeah.

15 MR. YOUNG: And the first is Huma Imtiaz. Kyle  
16 Gardiner.

17 CHAIRPERSON HILL: You broke up, Mr. Young. I heard  
18 you say Kyle I think. I don't see a Kyle.

19 MR. YOUNG: The fourth is Lola Peres.

20 CHAIRPERSON HILL: Okay. Hold on. Lola Peres. Okay.  
21 And I guess it's Mark Stern. Okay. Great. Okay.

22 Everybody, I'm going to call you basically in the way  
23 that you were brought up, and as a member of the public you'll  
24 have three minutes to give you testimony and I'm going to be  
25 pretty tight on the time because we have a lot of people and we

1 have a lot of stuff to do, and I'm trying to get to a graduation  
2 and it doesn't look like that's going to happen exactly as I  
3 thought. But that's okay because Mr. Blake's going to take over  
4 for me.

5 So, let's go ahead and see, Ms. Imtiaz?

6 ANC COMMISSIONER IMTIAZ: Imtiaz. Thank you.

7 CHAIRPERSON HILL: Imtiaz.

8 ANC COMMISSIONER IMTIAZ: Members of the Committee, and  
9 I hope you get to graduation on time. I'll be brief.

10 CHAIRPERSON HILL: It's okay. It's cool. It's fine.  
11 I was just kind of teasing. Mr. Blake is going to take over for  
12 me so it's okay.

13 Ms. Imtiaz, could you introduce yourself for the  
14 record, and if everybody can mute unless you're testifying that'd  
15 be helpful please. And go ahead and introduce yourself for the  
16 record, and then you'll have three minutes.

17 ANC COMMISSIONER IMTIAZ: Sure. My name is Huma Imtiaz  
18 H-U-M-A I-M-T-I-A-Z. I am the Advisory Neighborhood Commissioner  
19 for 5E04 and am also the Chair of ANC 5E. I am testifying in my  
20 individual capacity as the Advisory Neighborhood Commissioner for  
21 5E04 which is located next to 5E05 which is what Hillview Market,  
22 2324 North Capitol Street is in.

23 I'm here to express my support for this application and  
24 hoping that the BZA today will approve it. I would also want to  
25 echo the residents of my Single Member District. We're incredibly

1 enthusiastic and supportive of this restaurant coming to the  
2 neighborhood and have been so for many years.

3           Here are the benefits that we see if the variance is  
4 granted. A restaurant is an amenity and beneficial to the  
5 neighborhood as well as for Ward 5's economic growth and the  
6 District at large. Having a restaurant serves an additional  
7 gathering space for residents and will further help create an  
8 inclusive diverse and welcoming space that we want our  
9 neighborhood to be known for.

10           We have already seen this to be true for the existing  
11 restaurants that exist in Bloomingdale. Right now residents  
12 including myself walk to nearby establishments of which we have  
13 a fair number and more foot traffic also helps our neighborhood  
14 feel livelier and safer.

15           Indigo 2, if granted the application, would also serve  
16 existing residents but also the new residents to the Park and the  
17 Reservoir District as well as the new housing that is coming in  
18 the Reservoir District parcel, also known popularly as the  
19 McMillan District. And similar to the K Street location, this  
20 Indigo will also have the benefit of serving an increased  
21 population.

22           I also want to add that we heard in community meetings  
23 from neighbors who live next to the Indigo on K Street, their  
24 other location, who had nothing but good things to say about the  
25 Applicants and their investment in the community. I also want

1 to just commend the Applicants. They have been active  
2 participants in community meetings for years. They have come to  
3 neighborhood events like Taste of Bloomingdale at the  
4 Bloomingdale Community Day and they've been very open and  
5 receptive to feedback from residents for years about what they  
6 have wanted.

7 I also just want to point out a couple of other things.  
8 We have already seen the closure of one corner market recently.  
9 We have seen store fronts on North Capitol that are either vacant  
10 or become cannabis stores that are operating illegally. I know  
11 ABCA is cracking down on those. Opening another corner store  
12 when one exists 44 feet away, literally across the street and  
13 we're going to get a new grocery store at Reservoir District does  
14 not make it seem like another corner store will be sustainable  
15 here.

16 And so this building has been vacant. The Applicants  
17 have done a lot of work at making this building look better. The  
18 sidewalk improvements are great and we're really hoping that this  
19 building, instead of staying vacant for longer, could be put to  
20 better use.

21 I also just want to say that as a community we should  
22 be encouraging more businesses to invest in Bloomingdale,  
23 especially in the long vacant spaces and really hoping that, you  
24 know, the concerns about rodents and trash, again. We have talked  
25 to the Applicants over and over again and I am fully satisfied

1 with their commitment to ensure that some of these concerns are  
2 addressed.

3 But thank you for your time. I'm happy to take any  
4 questions.

5 CHAIRPERSON HILL: Thank you so much, and thank you,  
6 Commissioner, for your service. Let's see. I'll see if my Board  
7 has anything in a minute.

8 Mr. [Gardian]? Is there [Gardian]? Oh, Gardiner. Mr.  
9 Gardiner, if you could introduce yourself for the record and  
10 you'll have three minute to give your testimony.

11 ANC COMMISSIONER GARDINER: Great. Thank you,  
12 Chairperson Hill, and thank you to the rest of the BZA as well.

13 My name is Kyle Gardiner. I am an ANC Commissioner as  
14 well, also for 5E. I'm the Single Member District representative  
15 for 5E01. I'm similarly speaking in my personal capacity today  
16 as a Commissioner because 5E as a whole did not take a stance on  
17 this matter.

18 I wish I were here to make all the obvious appeals to  
19 why the BZA should unquestionably approve the use for this  
20 property as a restaurant. At a time when there are near weekly  
21 articles about popular restaurants closing across the District,  
22 here is a neighbor who already operates a successful restaurant  
23 who seeks to open a walkable, small scale eatery along a major  
24 arterial which is in desperate need for investment.

25 If the Applicant is granted this exception, it's

1 | materially obvious that this will benefit the neighborhood, the  
2 | ANC and the District as a whole. Nobody reasonable contends  
3 | today that restaurants like Republic Cantina, Big Bear Café or  
4 | Red Hen, all restaurants in 5E which are immediately approximate  
5 | to RF-1 residential homes, are not huge boons to Truxton Circle  
6 | and Bloomingdale. Certainly in terms of property value and tax  
7 | revenue, but much more importantly because of the vibrancy and  
8 | dynamism (audio interference) to our shared spaces and to  
9 | probably the almost 100 neighbors who have submitted public  
10 | comment or attended ABCA, BZA, ANC or civic associated meetings  
11 | to speak in favor of Indigo 2, the future benefit of this  
12 | restaurant and the lack of adverse impact are materially obvious.

13 |           But I'm also keenly aware that a small minority of  
14 | neighbors, and to the Chairperson I really do want to emphasize  
15 | this. The folks that you heard from today who are speaking in  
16 | opposition are almost the only ones across all of 5E who have  
17 | spoken in opposition across literally dozens of meetings, should  
18 | not have veto authority over whether or not this vacant property  
19 | can be used to turn into a successful restaurant and I'm  
20 | particularly concerned by the Office of Planning's recommendation  
21 | of denial and so I want to use the remainder of my time to rebut  
22 | some of the concerns raised both by protestants and the Office  
23 | of Planning.

24 |           Principally, the Office of Planning argued that they  
25 | have not demonstrated that there are no other available uses

1 under the current market conditions for allowable uses for this  
2 property. I'll note that in 2025 at least two developers have  
3 come before the ANC because they needed to request changes to  
4 their current uses because they could no longer sustain a  
5 projected first floor retail that they had originally desired to  
6 place. I similarly have three retailers in my SMD who cannot  
7 staff corner stores because they cannot find tenants willing to  
8 take on such risks right now. The market for this just does not  
9 exist.

10 I recognize my time is coming low, but I certainly hope  
11 you allot some additional time for the points that I have to make  
12 here. The notion that they should have to submit some type of  
13 market analysis to sustain the notion that a restaurant is the  
14 only available use here is simply not something that's present  
15 in the Code and something that I would recommend against expecting  
16 of anyone seeking some type of special exception like this.

17 I'd also argue that the general notion that this is  
18 going to present adverse impacts relative to the status quo is  
19 spatially not true. The status quo is a neglected property that  
20 if this Applicant cannot convert into a restaurant, is likely to  
21 continue to change hands and continue to become more neglected  
22 as it's taken over by property owners who are not invested  
23 similarly in this community.

24 I am really concerned to think about what happens if  
25 you all vote to not approve this application today and one year

1 or three years down the line we are facing a property that is  
2 further neglected, further vandalized, has traffic, noise,  
3 garbage issues related to the fact that it's either --

4 CHAIRPERSON HILL: Okay. Mr. Gardiner? Mr. Gardiner?  
5 You've got to wrap it up. Sorry.

6 ANC COMMISSIONER GARDINER: Okay. Well, I would just  
7 close out by saying here that the standard which the Office of  
8 Planning is holding this against is fictional. It's holding it  
9 against an Applicant that does not exist. The reality is that  
10 this is a restaurant that's going to have incredible boon for the  
11 local area as well as the ANC as a whole --

12 CHAIRPERSON HILL: Okay.

13 ANC COMMISSIONER GARDINER: -- and if it's not used for  
14 this use, it's likely to become neglected and present greater  
15 adverse impacts than what is currently being proposed by the  
16 Applicant.

17 Thank you.

18 CHAIRPERSON HILL: Thank you. All right. You guys,  
19 by the way I've got ten other people on the line here.

20 So is it Ms. [Pu-rose]? Oh, Peres.

21 MS. PERES: Peres, yes. Lola Peres.

22 CHAIRPERSON HILL: Great.

23 Ms. Peres, could you go ahead and introduce yourself  
24 for the record and then you'll have three minutes to present your  
25 testimony as a member of the public, and you can begin whenever



1 | you like.

2 |           MS. PERES: Thank you.

3 |           My name is Lola Peres. I live one block from the  
4 | proposed restaurant. I'm at 100 Bryant Street at 1st Street at  
5 | the corner there and I don't want to be redundant because Huma  
6 | and Kyle made excellent points and that's exactly what I support  
7 | about this restaurant coming here.

8 |           I know the risks of change is something that people  
9 | have a hard time with as we listened to from the opposition, but  
10 | I think what we heard from the opposition were all worst case  
11 | scenarios of the worst order and some of them were just grossly  
12 | exaggerated, and I'll give you an example.

13 |           Bryant Street is a quiet street for the most part but  
14 | we do have a good deal of traffic already and we don't have the  
15 | walkability of south Bloomingdale in the north end. The idea of  
16 | a restaurant at the corner of North Capitol and Bryant Street  
17 | being such an adverse impact on us just does not seem to be true  
18 | and I think it was offensive to mention that people who opposed  
19 | a bus line change are now supporting this restaurant. There's  
20 | no connection between the two.

21 |           The other impact I feel that would be great is that  
22 | I've walked to the South Bloomingdale area where the restaurants  
23 | are at dinner time because I have been listening to the opposition  
24 | and I wanted to be open to what they were concerned about and I  
25 | believe these concerns are not fully founded because Mr. Tandon

1 has committed himself to address those concerns as best as  
2 possible.

3 I strongly support this restaurant and my concern is  
4 also what will be here if the restaurant is not, and that's what  
5 I'd like to say. We really strongly support his presence there.

6 Thank you.

7 CHAIRPERSON HILL: Thank you, Ms. Peres.

8 Mr. Stern, can you hear me?

9 MR. STERN: Can you hear me?

10 CHAIRPERSON HILL: Yes.

11 MR. STERN: Great.

12 CHAIRPERSON HILL: If you could introduce yourself for  
13 the record and you will also have three minutes to give your  
14 testimony.

15 MR. STERN: I am Mark Stern M-A-R-K S-T-E-R-N. I am a  
16 resident of Bloomingdale. I live on North Capitol Street,  
17 directly facing North Capitol Street about two blocks down from  
18 the location and I just cannot support strongly enough the  
19 Commission granting this variance.

20 In my view, the current zoning for this building  
21 reflects the past and the variance that has been requested here  
22 reflects the future. We see many, many new townhomes being  
23 constructed at McMillan every day. We have a huge apartment  
24 complex coming to McMillan in the near future. We, as a  
25 neighborhood, are poised to invite hundreds of new people to

1 share Bloomingdale with us. They deserve a world class place to  
2 eat and that is what the Applicants are offering here and trying  
3 to provide to us.

4 As someone who lives on North Cap I can tell you two  
5 things. First, it is really noisy already. That's just life on  
6 North Cap, but second it's changing. We're excited. We just  
7 got new street lights and crosswalks. It's becoming more  
8 residential. It's becoming more walkable. We deserve, like  
9 South Bloomingdale has already, a place where neighbors can  
10 congregate and eat and see each other and create a sense of  
11 community. Those hundreds of people who are moving in, they will  
12 already have a grocery store at their disposal.

13 Sorry, Lola, I think you need to mute?

14 CHAIRPERSON HILL: Yes, Mr. Stern. Yeah, Ms. Peres,  
15 go ahead and mute. Go ahead, Mr. Stern.

16 MR. STERN: Thank you, Lola.

17 Those residents, they will already have a grocery store  
18 available to them. We are now hearing that it may well be a  
19 smaller grocery store, one with organic and farmer's market style  
20 offerings, exactly what the handful of objectors here are seeking  
21 for this location. It's not going to happen. As others have  
22 said, there is already a corner store directly across the street  
23 from this site. Another corner store in the neighborhood a few  
24 blocks away recently closed and no one has come in to replace it  
25 to offer a substitute. We do not have a commercial real estate

1 market in Bloomingdale that can support what the objectors are  
2 looking for here.

3           There is no need for any kind of corner store here.  
4 What we need is a restaurant where we can have community and so  
5 I am saying on behalf, not just of current Bloomingdale residents,  
6 but of the many hundreds of residents who will be joining us in  
7 the near future, please do not allow a handful of objectors to  
8 veto this wonderful opportunity for our neighborhood, an  
9 opportunity for community, an opportunity for our local economy,  
10 something that so many of us have really flooded you with support  
11 for. I think you've seen all of the letters. Everyone I speak  
12 to about this is overjoyed and extremely enthusiastic it.

13           I understand a handful of people oppose it. That is  
14 always going to happen. They should not be allowed to weald a  
15 veto against overwhelming neighborhood and community support.

16           CHAIRPERSON HILL: Okay. Thank you, Mr. Stern. All  
17 right.

18           Mr. Young, who are the next, you have others in support?

19           MR. YOUNG: We do.

20           CHAIRPERSON HILL: Okay. Before you let these guys go,  
21 actually go ahead and let them go and bring up the other ones,  
22 please, Mr. Young, and give me their names.

23           MR. YOUNG: Okay. So next is Andrew Maloney, and then  
24 Chris Curry, Shen Yun is calling in by phone, and next is Meghan  
25 Robins. That's four.

1 CHAIRPERSON HILL: Okay. Thank you.

2 And just so everybody knows, like, it's not a handful  
3 of people that are opposed or not opposed and there is no veto  
4 thing going on. Like, we're taking testimony. There's a lot of  
5 people that are in support. The record is pretty clear that  
6 there is people in support, there's people in opposition. We're  
7 just trying to understand the regulations, right? I mean, we're  
8 not here again as a popularity thing and so just to let you all  
9 know, there is no veto thing going on.

10 Mr. Maloney, can you hear me?

11 MR. MALONEY: Yes, I can.

12 CHAIRPERSON HILL: Okay. Great.

13 If you could introduce yourself for the record and then  
14 you'll have three minutes to give your testimony and you can  
15 begin whenever you like.

16 MR. MALONEY: Absolutely. I appreciate it.

17 My name is Andrew Maloney. I am resident at 301 K  
18 Street, that is directly across from the current Indigo location  
19 and I cannot express how much I support Dinesh and Nidhi's efforts  
20 to try and open up a second location.

21 Based on my direct experience from living across for  
22 the last five years, I see Dinesh to be a dear friend, a great  
23 member of the community. He has been a wonderful person to reach  
24 out to. He has been kind and sharing and involved. Very  
25 amenable, very receptive to any comments, questions or concerns

1 with regards to his business.

2 With regard to some of my direct experience having  
3 lived for the last five years here at this location, part of the  
4 allure of actually buying this place five years ago was because  
5 it was across from a really well renowned restaurant. From as  
6 far as the experiences for some of the testimony that has been  
7 provided today, I can talk to a couple of different points.

8 The first would be traffic, both pedestrian and motor.  
9 From my experience I have seen minimal motor and pedestrian  
10 traffic, if at all, disruptions from a residential standpoint.  
11 I would like to add based on the testimony I've heard from folks  
12 who have been against this effort that there is actually a  
13 construction project at one end of the street and there's been  
14 another construction project on the other end of the street as  
15 well, in addition to another restaurant as well as operating  
16 across the street. But my experience with that in mind has been  
17 absolutely wonderful, as both as somebody who walks daily around  
18 the block, as somebody who's also driven as well around the  
19 restaurant, as somebody who's seen delivery drivers come and go,  
20 the disruptions have been incredibly minimal, if at all.

21 The second point, noise and pollution or, you know,  
22 noxious fumes that have been talked about. I have experienced,  
23 again, minimal to no disruptions. If anything, I have heard  
24 minimal noise in within reasonable hours. I've actually been  
25 quite surprised at the consistency at which the restaurant closes

1 and folks have actually departed and it has kept noise pollution  
2 to a minimal and incredibly undisruptive to my daily life, having  
3 been directly across the street for the last five years.

4 As far as smells, I have never experienced any sort of  
5 noxious issues while I have lived here. If anything, it's been  
6 rare and on occasion and it's actually been quite pleasant. I  
7 think it's a far cry to suggest that there is a disruption on  
8 the level of living in an entire immersive Indian environment as  
9 opposed to having an Indian restaurant just across the street.

10 As far as what we can consider or what I, you know,  
11 what I would like to add is it's just been a wonderful part of  
12 the community and a wonderful facet to have a restaurant like  
13 itself to provide and I cannot support this effort enough and  
14 have nothing but great things to say.

15 CHAIRPERSON HILL: Thank you, Mr. Maloney, and thank  
16 you for keeping to time.

17 Mr. Curry, can you hear me?

18 MR. CURRY: Yes, I can hear you.

19 CHAIRPERSON HILL: Great. If you could introduce  
20 yourself for the record and then you'll have three minutes to  
21 give your testimony, and you can begin whenever you like.

22 MR. CURRY: Sure.

23 My name is Chris Curry. I've lived in Bloomingdale for  
24 several years, about three blocks from the proposed location. I  
25 also walk my dog past this exact location almost daily, up and

1 down Bryant Street.

2           This morning actually as I walked by I was reminded of  
3 two things. The first thing is that there is plenty of street  
4 parking available on Bryant Street. Typically, at least recently  
5 I've been counting the number of spaces that are available and  
6 this morning I counted 25 available parking spots. It may also  
7 be worth reminding folks that everyone who lives on Bryant Street  
8 also has private parking behind their homes. These are very deep  
9 lots with plenty of room to park multiple cars as well as having  
10 a fire pit or other personal private space. So I don't see  
11 parking as a huge issue there.

12           The second thing that I was reminded of this morning  
13 was that this corner where Indigo was proposed is already  
14 incredibly loud. There's traffic noise, beeping, screeching  
15 tires, radios blaring and the notion that this small Indian  
16 restaurant would disrupt this corner is just wrong. So I  
17 appreciate the opportunity to speak but I hope that the BZA  
18 understands what exactly this proposed restaurant location  
19 currently looks and actually sounds like.

20           I'm also in the somewhat unique position in that I used  
21 to live directly across the street from the original Indigo  
22 location in NoMa. It's far from the raucous and chaotic business  
23 that some would have you believe. Similar to the person who  
24 previously spoke my experience is that it was very well run,  
25 neighborly, peaceful restaurant that had an extremely positive



1 impact on the residential area that it was located in.

2           So I support allowing Dinesh to move forward with this  
3 proposed restaurant as the alternative will likely be either an  
4 abandoned building or another failed corner store that sells  
5 cigarettes and beer.

6           So thanks for your time. Appreciate it.

7           CHAIRPERSON HILL: Thank you, Mr. Curry.

8           Mr. Yun, can you hear me, meaning the one on the phone?  
9 I think you hit star 6 to unmute.

10          MR. YUN: Is that better?

11          CHAIRPERSON HILL: Yes.

12          MR. YUN: Yes. Okay. Perfect.

13          CHAIRPERSON HILL: Could you introduce yourself for the  
14 record and then you'll have three minutes to give your testimony,  
15 and I'll let you know when you're getting close to the three  
16 minutes, and you can begin whenever you like.

17          MR. YUN: Right. Thank you, sir. My name is Shen Yun.

18          I, likewise, this morning counted. I live 251 steps  
19 from the front of the proposed site. I'm not sure how many feet  
20 that is. I think I qualify for the 200 foot party provision,  
21 but very, very close on Adams Street and I know you had asked  
22 about, you know, you're focused on the criteria and one of the  
23 ones I'd like to highlight is what they highlighted in the  
24 PowerPoint of transition of obsolete and unfeasible uses and  
25 that's an impairment.

1 I walk my dog by this site every morning. I walk up  
2 and down Bryant Street. I think it's a beautiful street and,  
3 you know, me and my partner live on Adams Street. We park in  
4 our garage. We also park on the street. We have two cars. We're  
5 not concerned with the parking provision. We're not concerned  
6 about the trash. Trash was picked up this morning. Outside of  
7 the ten minutes the garbage truck comes through you don't notice  
8 the trash being picked up.

9 So I think these, you know, I understand the concerns  
10 of those who live right across the alley but it just doesn't, it  
11 seems like the benefits here of transitioning and obsolete in  
12 (indiscernible) use of a building to a, what is a highly rated  
13 and well loved restaurant is just, it's a no brainer.

14 And also the question that I suppose is, you know, they  
15 were, at first everyone was on board because it was a coffee shop  
16 and little bodega, and then the concerns were that there was a,  
17 you know, it would bring riff raff and crime because of the  
18 alcohol license. Well now it's, now we've moved beyond the riff  
19 raff and crime to, well, now there's noise and trash. It seems  
20 like every step of the way Mr. Tandon has talked to the  
21 neighborhood and they find a new excuse, another new excuse, and  
22 a new excuse.

23 I have not talked to anyone via door knocking or flyers  
24 and I live right around the corner. However, I've had more  
25 communication with Mr. Tandon than anyone who has spoken so far

1 and that includes my Commissioner. So I think that we have a  
2 great opportunity to welcome a new restaurant, an opportunity  
3 that is only going to amplify with the McMillan project and I  
4 just don't see how this property gets better than this opportunity  
5 now.

6 I understand that it's a zoning use thing and that this  
7 is, this would change the neighborhood but our neighborhood is  
8 changing. We've been here for a couple of years, it continues  
9 to change for the better. This will make it better and I really  
10 hope that you, the Board, realizes that and takes a look at all  
11 the information. That is very, very apparent that everyone  
12 submitted a lot of information and there's some good information  
13 there. Take a look at it and help us change our neighborhood  
14 for the better.

15 Thank you.

16 CHAIRPERSON HILL: Thank you, Mr. Yun.

17 Is it Mr. [Robing], oh, Robins? Ms. Robins?

18 MS. ROBINS: Can you hear me?

19 CHAIRPERSON HILL: Yes. Could you introduce yourself  
20 for the record, and then you'll also have three minutes to give  
21 your testimony.

22 MS. ROBINS: Hey. My name's Meghan Robins. I live at  
23 20 Bryant Street on the unit block of Bryant Street with my wife  
24 and one, soon to be two children.

25 I've also been asked to speak on behalf of my neighbors

1 at 2319 North Capitol, directly across the street within 200  
2 feet. I myself --

3 CHAIRPERSON HILL: Ms. Robins?

4 MS. ROBINS: Yes.

5 CHAIRPERSON HILL: I'm sorry. You can't speak for  
6 somebody else unless there's something in the record in writing,  
7 so just go ahead and give your testimony.

8 MS. ROBINS: We can axe that part.

9 CHAIRPERSON HILL: That's okay.

10 MS. ROBINS: Speaking on behalf of myself and within  
11 300 feet of the building. Agreeing that this isn't a popularity  
12 contest, that the Board is tasked with applying specific  
13 regulations, I wanted to speak to the neighbor's perspective, as  
14 a neighbor, perspective on the adverse effects and the detriment  
15 to the public good.

16 And I would encourage the Board to consider a question  
17 which is compared to what? I think some of the neighbors in  
18 opposition are holding this impossible standard that there should  
19 be net zero impact in order for this to go through but what it  
20 should really be compared to is what the use would be without a  
21 zoning variance which may well be a corner store or it may not  
22 because it seems these corner stores really aren't economically  
23 viable these days and maybe it would just be a vacant abandoned  
24 building that's going to change hands again maybe multiple times  
25 or it seems the corner stores that are economically viable are

1 focused on cigarettes, booze, vapes.

2 I believe that a restaurant, especially one run by Mr.  
3 Tandon who has just made such a commitment to working with the  
4 neighbors and has this established track record of an existing  
5 very similar restaurant in a very similar neighborhood. I think  
6 that use would have far fewer adverse impacts and detriment to  
7 the public good than another corner store selling vapes, booze,  
8 lotto tickets. There's one just a block up on Channing. That  
9 corner is notorious for garbage and loitering. I don't see anyone  
10 bidding to buy this building and run this sort of bougie posh  
11 corner store that my neighbors seem to envision. I don't see  
12 them signing up to buy it and run that business. I'm not signing  
13 up to buy it and run that business.

14 And Mr. Tandon has a track record here. We have a  
15 direct comparison and this is such a wonderful opportunity for  
16 our neighborhood to have a walkable restaurant that we can meet  
17 our friends at, meet our neighbors at and enjoy the food.

18 I think that parking really isn't that big of an issue.  
19 There's plenty of space within our neighborhood and I just note  
20 that, like, residential parking is 50 bucks a year and it entitles  
21 us to park in our parking zone, but it certainly doesn't entitle  
22 us to the public street directly in front of our house. If you  
23 want a spot directly at your house that's what our parking spots  
24 behind our house are for and if we choose not to use them, that's  
25 up to us.

1           But I really don't think that these horrible adverse  
2 effects that some of the neighbors are noting are grounded in  
3 reality and the reality is that I just don't think it's viable  
4 for another corner store to open up there so I think we're looking  
5 at just a worse option keeping it with the status quo.

6           So I would ask that the Board consider transitioning  
7 away from an obsolete unfeasible use and allows this restaurant.

8           Thank you guys so much for your time.

9           CHAIRPERSON HILL: Thank you, Ms. Robins.

10          Thank you all for your testimony. Mr. Young, how many  
11 more do we have in support?

12          MR. YOUNG: I think we just have one more group of  
13 support.

14          CHAIRPERSON HILL: How many people in the group?

15          MR. YOUNG: Three.

16          CHAIRPERSON HILL: Okay. Give me a second actually.  
17 Can you, I want to talk to the Office of Planning and I want to  
18 talk to everybody because I'm going to have to leave, and we're  
19 going to take a break before we come back because I need to take  
20 a break before you all come back.

21          So, yeah, Mr. Barron, so what I think's going to happen  
22 for me is I'm going to have to watch the end of this, okay? And  
23 so I'm going to see what happens with the end of this and then  
24 if you all take a vote today or not, you know, I'm happy to also  
25 participate in a vote and if I participate in a vote, I'll be

1 able to participate in a vote on June 4th.

2 But, Mr. Barron, I guess I'm kind of hearing a little  
3 bit about, like, there's a corner store across the street and  
4 there's other. I mean, we all know, we've been here a long time,  
5 that the use variance is very difficult to overcome and you guys  
6 did have a lot of discussions with the Applicant in that, you  
7 know, they were talking about this, or you mentioned this was  
8 somewhat of a compelling case.

9 I don't think you're going to change anything that  
10 you're about to say, but I just wanted to hear your opinion on a  
11 couple of things. Just so even the people who are providing  
12 testimony, as well as the people in opposition, if this ever got  
13 to a place where there was a, you know, a restaurant there what  
14 this restaurant might look like is nothing possibly like what's  
15 being proposed. There might be different things that are put in  
16 terms of conditions that we were trying to do to, you know, keep  
17 adverse impacts from actually being adverse impacts.

18 But beyond that, they are trying to get over a pretty  
19 high bar, okay? The use variance is a very high bar to get over  
20 and I also want to say this since I do have a couple of minutes  
21 before I have to go, you know, I know the other restaurant also.  
22 Indigo, and it's a lovely restaurant and it sounds like the owner  
23 is a lovely owner and he's a very good member of the community  
24 but that's zoned for that. Like, that's why you guys are here.  
25 Like, this is something that is not within this zone.

1           So, you know, I'm sure the, you know, I'm sure the  
2 restaurateur is a great restaurateur. So, but my question I  
3 guess to the Office of Planning is that given this, you know,  
4 all this different information about corner stores and whether,  
5 what is another thing that, again, the Office of Planning, that  
6 this could become again? Can you clarify again what this could  
7 become? Residential obviously. It works for residential.

8           MR. BARRON: Under the, because it's in the RF-1 zone,  
9 the only avenue for having non-commercial uses on that or the  
10 most viable one would be the corner store regulations and under  
11 those regulations, they are principally by matter-of-right  
12 focused on grocery uses, the kind of convenience stores that the  
13 Applicant and other people have talked about.

14           But there are also other special exception uses that  
15 can be allowed that include things like coffee shops or other  
16 types of retail, or things that are not specifically just bodegas,  
17 those types of corner stores. So there are definitely, it's a  
18 small number of retail uses that could be done here --

19           CHAIRPERSON HILL: Okay. Right.

20           MR. BARRON: -- (indiscernible) uses that could be done.  
21 There are, it's more than just a bodega.

22           CHAIRPERSON HILL: Right. And you can go from  
23 nonconformity to nonconformity?

24           MR. BARRON: Correct, provided that the intensity is  
25 not greater than what the use was before. So it's possible to



1 use the original path that the Applicant had looked at with the  
2 special exception. I forget the chapter number that was cited  
3 off the top of my head. But there is a way that you can go from  
4 a nonconforming use to another nonconforming use. An example was  
5 there was a bank that we had done that had transferred to a  
6 clothing store. So there are ways that you can do it provided  
7 that the intensity is not greater than the original use that was  
8 there.

9 CHAIRPERSON HILL: Got it. Okay.

10 Dr. Imamura?

11 ZC COMMISSIONER IMAMURA: Thank you, Mr. Chairman.

12 Mr. Barron, you had mentioned coffee shop as a  
13 permissible use. What about a café? Is that too a permissible  
14 use?

15 MR. BARRON: There is a certain amount, there is a,  
16 what's the word I'm looking for, eating and drinking  
17 establishment provision that's in the corner store regulations  
18 that would allow for a very limited kind of café. Really the  
19 limitation is on what kind of food is prepared on-site.

20 However, if there was outdoor seating, again, that  
21 would be, that could be potentially still considered an expansion  
22 for the nonconforming use which would still require a use  
23 variance.

24 ZC COMMISSIONER IMAMURA: Okay. Very good.

25 I'm curious. I've heard café being used and curious

1 | what that threshold is where it tips the scales from café to,  
2 | you know, full service restaurant, so.

3 |           MR. BARRON: Typically it's whether or not there is  
4 | food being prepared on-site. So with the eating and drinking  
5 | establishment rules under the corner store regulations, you are  
6 | allowed to prepare cold food, you are allowed to reheat food, but  
7 | you are not allowed to cook food on-site. So having a full  
8 | service kitchen downstairs or ovens for baking, you would not be  
9 | allowed to do that as a matter-of-right or special exception  
10 | under those regulations.

11 |           ZC COMMISSIONER IMAMURA: All right. Very good. Thank  
12 | you, Mr. Barron. Thank you, Mr. Chairman, for your indulgence.

13 |           CHAIRPERSON HILL: Thank you. Okay.

14 |           What I'm going to do now is take a break and let's say  
15 | we'll take a ten minute break, okay, come back at 2:10. But I  
16 | just wanted to let the people in opposition as well as the  
17 | Applicant know what will now happen.

18 |           You're going to continue to take testimony from those  
19 | in support and opposition. Then there will be a chance for the  
20 | party in opposition to ask questions of the Applicant and/or the  
21 | Office of Planning and what I wanted to kind of, I mentioned this  
22 | ahead of time so that the person who is in Ms. Kavalier, since  
23 | she's kind of the organizer, if you could get her your questions,  
24 | if they could all just come from Ms. Kavalier, and the questions  
25 | kind of -- we're trying to keep them to zoning questions. I

1 mean, you guys aren't zoning experts, but we're here for the  
2 criteria that we're looking at within the zoning code and so  
3 that's what we're kind of trying to look at.

4 So try to do the best that you can and I know that Mr.  
5 Blake will guide you along, and we're going to try to be civil  
6 about it as what I would also try to point out because everybody  
7 just has a different opinion and we're here to just kind of  
8 process the regulations.

9 And then the Applicant will have the same opportunity  
10 to ask questions of the opposition and Office of Planning, and  
11 also ask the Applicant to be civil and try to move forward as  
12 best as we can, and then there will be a small conclusion from  
13 the party in opposition which I would hope Ms. Kavalier would  
14 please do, and then a small conclusion from the Applicant and  
15 then we'll see what happens.

16 And so with that, I wish you all the best. Thank you  
17 all very much for taking all this time. I know it's been, like,  
18 six months and a long way to go and so, and thank you, Mr. Blake,  
19 for covering for me. So we'll see you guys in about ten minutes.

20 (Whereupon, there was a brief recess.)

21 VICE CHAIRPERSON BLAKE: All right, Mr. Young. Can you  
22 call, let's see. Let's see.

23 Madam Secretary, are you there?

24 MS. MEHLERT: Yes.

25 COMMISSIONER SMITH: Okay. Let's call us back into

1 session.

2 MS. MEHLERT: Okay. The Board is returning from its  
3 break and is returning to its hearing session with Application  
4 No. 21151 of Dinesh Tandon and Nidhi Tandon.

5 VICE CHAIRPERSON BLAKE: Okay. All right.

6 We're going to start off kind of where we left off.  
7 We're going to continue taking testimony from the public. I  
8 think we have three or four more people who are going to speak  
9 in support. Then we're going to take testimony from the public  
10 in opposition. After that we're going to have the parties in  
11 opposition ask questions of the Applicant. This is our cross-  
12 examination session, and we're also going to have parties in  
13 opposition, any other, Ms. Kavalier, and others speak to any  
14 questions they have for the Office of Planning or the Applicant.  
15 The Applicant will then have an opportunity to ask questions of  
16 the Office of Planning as well as the parties in opposition.

17 After that the Board should feel free at any point to  
18 ask any a questions of anybody as it moves them. What I think  
19 is important, and I want to remind everybody as we go through  
20 this cross-examination session and finish this, we want to hear  
21 what you have to say and we want to make sure that you get your  
22 questions asked and answered. But ultimately your goal is for  
23 the Board to hear and understand the legally relevant facts of  
24 the case and it's our responsibility to apply those regulations.  
25 We're tasked with making that decision.

1           So, as we go through this if at some point, again, I  
2 want to hear what you have to say so we're going to hear them.  
3 But at some point if we go into an area that was not helpful, I  
4 will probably step in and ask just, and to redirect.

5           So, that said, let's continue, Mr. Young, if you can  
6 bring the next three or four folks in from in support from the  
7 public witnesses.

8           MR. YOUNG: Yeah. We have four left for support. The  
9 first is Joya Banerjee, and then we have Christina Cauterucci.  
10 Next is Judy Fung, and the last one in support is Jessica Lovejoy.

11           VICE CHAIRPERSON BLAKE: Okay. So we'll begin to take  
12 testimony in that order. So I guess the first one would be, let  
13 me see. Ms. Banerjee? Okay. Would you please state your name  
14 and your address. You have three minutes to provide your public  
15 testimony, and you may begin when you like.

16           MS. BANERJEE: Okay. Thank you.

17           My name is Joya Banerjee and my address is 46 V Street,  
18 Northwest.

19           I'm actually in the hospital in the emergency room  
20 right now with my toddler but I heard what some of the opponents  
21 of Indigo were saying and I was so appalled that I had to join.

22           I'm an Indian American homeowner, mother and business  
23 owner in Bloomingdale. I live two blocks away from the Indigo 2  
24 proposed site and I was so happy to find out that one of the only  
25 two good Indian restaurants in D.C. was opening around the corner

1 from my family's home in this veritable food desert.

2           Some of the naysayers who are testifying here have  
3 suggested that the Dinesh and Nidhi Tandon should open a  
4 convenience store instead of a restaurant which is patently  
5 absurd. A new supermarket will open one block away in the  
6 Reservoir District complex shortly and the neighborhood already  
7 has enough stores. The current bodegas are already hot beds of  
8 crime and gun point robberies. The low profit margins for a  
9 corner store make it highly unlikely that this property will find  
10 a new owner, in fact it will probably stay vacant for another  
11 five years. That will only serve to keep this part of North  
12 Capitol as it is as a blighted location.

13           We're talking about a desolate stretch of North Capitol  
14 with nothing but empty homes and run down buildings. While there  
15 are also homes there that are occupied, I'm sorry, I don't mean  
16 to suggest that, but I think what's most shocking to me is Ms.  
17 Evelyn Brown's comment that she doesn't want her home to smell  
18 like curry and that she has travelled to India and (audio  
19 interference). In 2025, that kind of racism is completely  
20 unacceptable. I've been to Jam Doung on North Capitol and got  
21 diarrhea. Does that mean that a Jamaican restaurant would make  
22 everybody sick? No.

23           I think that Indigo 2 would revitalize and reinvigorate  
24 the neighborhood, drawing important foot traffic. Just look at  
25 what the Red Hen, Big Bear and Boundary Stone have done to nourish

1 and revitalize our neighborhood. Opponents have also said by  
2 approving this opening it would open the floodgates for other  
3 businesses to operate here but they're ignoring the obvious.  
4 It's residentially zoned and this ridiculously long and  
5 bureaucratic process shows how difficult it would be for any  
6 future businesses to open up here.

7 To be honest, I have yet to hear any meaningful argument  
8 against Indigo 2's opening. All I have heard is selfish claims  
9 about people who are going to lose their street parking right in  
10 front of their house even though street parking is abundant in  
11 our neighborhood as well as public transport with no regard for  
12 the best interest of our community. Bloomingdale can only stand  
13 to benefit from Indigo opening here and I think we should be  
14 proud that an award winning restaurant wants to open up in our  
15 neighborhood.

16 Let me conclude there. Thank you.

17 VICE CHAIRPERSON BLAKE: Thank you very much for your  
18 testimony. Could we now have the testimony from Ms. Cauterucci.  
19 Is that right?

20 MS. CAUTERUCCI: Can you hear me?

21 VICE CHAIRPERSON BLAKE: Yeah. Would you please give  
22 your name and address for the record, and you have three minutes  
23 to provide your testimony.

24 MS. CAUTERUCCI: Thank you your time. My name is  
25 Christina Cauterucci. I live at 128 Bryant Street, Northwest.

1 I've been a Bloomingdale resident for the past 15 years  
2 and I purchased my home with my wife five years ago and we felt  
3 like the one downside of this beautiful part of our neighborhood  
4 was the lack of a good restaurant. We did have an abundance of  
5 convenience stores. There's about four or five within a quick  
6 walk from my home. So we were ecstatic to hear that just one  
7 block from our house, Indigo, a second location of one of our  
8 favorite restaurants in D.C. was going to be opening up something  
9 that the neighborhood sorely need as opposed to a convenience  
10 store which, as I mentioned, it seemed almost absurd that there  
11 would be two convenience stores right across the street from each  
12 other on North Capitol.

13 The opposition presented at this meeting. That doesn't  
14 seem to me to hold any water. Parking, street parking is so  
15 abundant in this part of Bloomingdale. Several blocks around the  
16 proposed location for the restaurant including my own only have  
17 houses on one side of the street so we're actually less densely  
18 populated than almost any other part of the neighborhood or the  
19 city which means that there's always a lot of empty parking spots  
20 around. We are also very well connected to public transit.

21 I also think a restaurant would be an incredible  
22 compliment to the vibrant new Reservoir District that's being  
23 built as opposed to a convenience store which, not only do we  
24 have so many of, but it's going to end up, it would end up being  
25 redundant with the grocery store that's planned as well.



1           When I think about the future of this neighborhood and  
2 the future of the life of my family, I love thinking about an  
3 area of North Capitol that feels safer because of the increase  
4 in presence and foot traffic and it would make me feel a lot  
5 safer around there at night if there were a restaurant there  
6 versus a convenience store, and I, you know, it's something that  
7 the neighborhood just doesn't have and we really need.

8           So thank you so much for your consideration and I'll  
9 end there.

10           VICE CHAIRPERSON BLAKE: Okay. Thank you very much for  
11 your testimony.

12           Ms. Fung? Would you please, Ms. Fung, yes. Would you  
13 please introduce yourself for the record and you have three  
14 minutes to provide your testimony.

15           MS. FUNG: Awesome. My name is Judy Fung. I am a  
16 homeowner and I have lived near the corner of V Street and North  
17 Capitol for several years. I plan to stay in Bloomingdale long  
18 term and I hope to raise my future children here.

19           I love this neighborhood and I care very deeply about  
20 the value of my home and the character of the Bloomingdale  
21 neighborhood and I only see the addition of Indigo, an incredibly  
22 popular and affordable Indian restaurant to be a value added to  
23 my neighborhood.

24           As a homeowner I do not think parking seems to be much  
25 of an issue. As has been mentioned by others, most houses have

1 parking in the back. So, for example, our condo can fit five  
2 cars in our back yard space. We don't need it, but it can. I  
3 just don't think it would have much more of an impact parking-  
4 wise than any other type of business and personally I think if I  
5 were going to eat at Indigo and lived outside the neighborhood I  
6 would take public transit considering how busy North Capitol is.

7 Even though Bloomingdale is not near a metro stop it  
8 is a walkable neighborhood. I personally do not travel by car  
9 for my everyday life. I travel by bus, bike, scooter or I walk  
10 and I don't think that it's true that most people would drive to  
11 Indigo, especially when it's accessible via multiple bus lines.  
12 So, for example, most people take public transit or they walk  
13 when going to the Bloomingdale farmer's market or Boundary Stone,  
14 just due to parking constraints. And I also want to echo what  
15 my fellow supporters said, we are not entitled to street parking  
16 as homeowners and our visitors are not entitled to street parking.

17 And second, I understand that the alternative to Indigo  
18 would be a convenience store that would sell alcohol, preserved  
19 foods. I don't see how this adds any value at all to our  
20 neighborhood. With all due respect we already have a plethora  
21 of stores like this in our neighborhood as referenced by the  
22 opposition's presentation earlier.

23 We will also have a grocery store that is soon to be  
24 opened in the Reservoir District, so we're not going to need  
25 another convenience store if we have easy access to a grocery

1 store and other similar businesses. I don't feel like another  
2 convenience store would succeed as a business and we could end  
3 up in a place where the lot is periodically vacant which does  
4 not look good for our neighborhood.

5 We're going to have to have something on this property.  
6 It's not conducive to a residential property. I personally do  
7 not want it to be a liquor store or a convenience store for the  
8 reasons I mentioned, so let's just make sure it's the best  
9 possible business there is which is Indigo, a Michelin Guide  
10 honored restaurant.

11 And then finally just as a woman, feeling safe in my  
12 neighborhood is very important to me and I feel like having a  
13 reputable restaurant with consistent foot traffic that is well  
14 lit and well maintained would only contribute to a safer  
15 environment.

16 So with that I'll just mention that I know this is  
17 during work hours, but I have talked to at least a dozen of my  
18 neighbors who have hoped to speak in support or are unable to  
19 join. Based on everything I've seen and heard, the majority of  
20 residents within two to three blocks of this establishment  
21 support it becoming a restaurant.

22 Thank you.

23 VICE CHAIRPERSON BLAKE: Thank you very much for your  
24 testimony. We appreciate that.

25 Next we'll hear from Ms. Lovejoy. Would you --

1 MS. LOVEJOY: Hi. Thank you, Commissioner Blake, and  
2 sorry I'm (indiscernible).

3 VICE CHAIRPERSON BLAKE: Okay. Okay.

4 Would you please state your name for the record, and  
5 you have three minutes to give your testimony.

6 MS. LOVEJOY: Excellent. Thank you.

7 Good afternoon. My name is Jessica Lovejoy and I'm  
8 here today in strong support of Indigo's application. My partner  
9 and I have lived in Bloomingdale for the past few years and we're  
10 now in nearby NoMa. We love this part of the city and are  
11 actively looking to buy a home in Bloomingdale, but a real major  
12 consideration for us and for many others as we've heard today is  
13 the lack of restaurants and vibrant public gathering spaces,  
14 especially north of Rhode Island.

15 You know, the South Bloomingdale, I love how somebody  
16 called it that, you know, has Big Bear and Red Hen and while we  
17 love these establishments there is so much need for investment  
18 activation north of Rhode Island and I think that it's a real,  
19 real, real consideration for us as we're looking to buy and set  
20 down roots here.

21 This is a thriving neighborhood with incredible  
22 potential, but too many store fronts remain empty or under-  
23 utilized. Bloomingdale has a number of small bodegas and markets,  
24 like many others have mentioned, and those are struggling to  
25 survive as it is. I think that the opposition's push for yet

1 another market does not reflect what this community really  
2 actually needs and it would only create more pressure on these  
3 existing small businesses that are already fighting to stay open.

4 I know the woman that runs the bodega on 1st and U. We  
5 have gotten to know her really well and she comes all the way in  
6 by bus from Bethesda to work at her store every day and, like, I  
7 would hate to see another market open to be competition for her.  
8 We need her in this neighborhood and this community and pushing  
9 for yet another market does not make any sense in my opinion. It  
10 just puts that pressure on and it's bad planning and bad  
11 economics.

12 Indigo is a proven community rooted business. Their  
13 first location is beloved, not just because of the food but  
14 because of the space they've created. That's really important  
15 to me, these third spaces. It's welcoming, it's diverse, it's  
16 full of life. It's exactly the kind of energy that North Cap  
17 needs and let's be clear, this is a major commercial corridor.  
18 People who choose to buy homes there, which we're considering  
19 doing should also have reasonable expectation that it'll be  
20 noisy, active, dynamic. That's what you get when you live in a  
21 city and it's part of what makes urban life so great.

22 So I just want to second what Joya has said about this  
23 process being kind of arduous and difficult, and what Christina  
24 said about this actually improving walkability and safety of the  
25 neighborhood, those things are also very important to me.

1           So I would hate to miss the opportunity to bring back  
2 life into this vacant space and support a small local business  
3 with a track record of success, building the kind of neighborhood  
4 that us residents new and long time can really enjoy.

5           So thank you for your time. Please approve this  
6 proposal.

7           VICE CHAIRPERSON BLAKE: Thank you very much for your  
8 testimony.

9           Mr. Young, if you could dismiss those witnesses and if  
10 you would invite the next, I think we're now to the public  
11 witnesses in opposition, if you would invite those to the dais.  
12 We have, I guess one to four. Four would be fine at a time.

13           Mr. Young, do you have four witnesses for me on the --

14           MR. YOUNG: We have six total. Do you want me to do  
15 three and three?

16           VICE CHAIRPERSON BLAKE: That'd be great. Thank you.

17           MR. YOUNG: Okay. The first is Kirby Vining. Next is  
18 Janice Smith.

19           MR. SMITH: I'm sorry. My wife, Janice Smith, will not  
20 be able to testify today. We thought it was going to be earlier  
21 today in the morning. She has an appointment that she's at so I  
22 apologize.

23           VICE CHAIRPERSON BLAKE: Okay. Thank you.

24           MR. YOUNG: Okay. So the next is Joseph Levesque.

25           VICE CHAIRPERSON BLAKE: Okay. Let's kick it off with

1 | these two. Mr. Vining, would you like to introduce yourself for  
2 | the record and your address, and you have three minutes to provide  
3 | your testimony.

4 |           ANC COMMISSIONER VINING: Thank you.

5 |           I'm Kirby Vining, ANC 5E06, Commissioner for  
6 | Stronghold. My personal address is 16 Franklin Street but it's  
7 | not relevant for these purposes because I'm speaking about a  
8 | consensus of my constituents directly opposite the location.

9 |           That area directly across the street in Northeast is  
10 | the 2300 and 2400 block of North Capitol Street and unit block  
11 | of Bryant Street, Northeast, dead end street, and my remarks are  
12 | a brief summary of the main points of my testimony, written  
13 | testimony, which is Exhibit No. 134.

14 |           ANC Commissioner's responsibility, arguably our only  
15 | responsibility, is to represent the concerns of residents on a  
16 | broad range of issues. Not being clairvoyant the only way to  
17 | find out my constituents' response to this proposed zoning use  
18 | change, nonconforming use change, was to ask them. I distributed  
19 | a flyer announcing both that the Applicant was requesting a zoning  
20 | permissions change to open a restaurant/bar at the property and  
21 | that I would be conducting a door-to-door survey of the Stronghold  
22 | residents in the area directly impacted by this change as defined  
23 | by the BZA.

24 |           The flyer, which is Exhibit A, asked the question. The  
25 | owner of the property has applied for zoning permission to operate

1 a restaurant/bar at that location and zoning permissions must be  
2 changed to do so. Do residents support the proposed change and  
3 if so, why, or oppose the change and, if so, why? Two thirds of  
4 the residents who responded to the survey spoke about aggravated  
5 traffic, trash and rodents which they see as the same thing and  
6 parking problems the proposed restaurant or bar use would cause  
7 in the neighborhood substantially worse than conditions with the  
8 predecessor convenience store, which is the meat of this case.  
9 One nonconforming use to another, are there any adverse impacts?  
10 Details of that are in my written testimony, Exhibit 134 with the  
11 Exhibits A to D.

12           The Applicant's statement makes the following claims  
13 concerning the proposed restaurant/bar use of the property which  
14 is the points of the Applicant's statement addressing 204.9 about  
15 the impacts being no greater or adverse than the existing  
16 convenience store use. This is contrary, the Applicant said  
17 there would be no adverse effects beyond that of the predecessor  
18 convenience store which is contrary to what two thirds of the  
19 survey residents responded, indicating that the proposed change  
20 would indeed have deleterious effects greater than those of the  
21 predecessor store with a negative impact on the quality of their  
22 life and neighborhood ordinance (phonetic).

23           The proposed use is appropriate for an MU-3 commercial  
24 area, but would be incompatible with this existing RF-1 where the  
25 Applicant's location is, R-3 directly across the street in the



1 Stronghold. This should be considered grounds for denying this  
2 application because, in fact, the nonconforming use change is the  
3 whole essence of this application.

4           The Applicant claims as a hardship that the property  
5 cannot be used for anything but the residential use or predecessor  
6 convenience store similar use. Any hardship here is self-  
7 inflicted or imaginary as the Applicant has no experience running  
8 anything at all at this location and does not cite evidence of  
9 what caused the predecessor store to close. The Applicant  
10 previously sought permission to open a liquor store and had an  
11 application before the Public Space Committee, ESC Case 10970771,  
12 to run a coffee and prepared food shop using the side patio for  
13 seating. These are two examples contrary to the Applicant's  
14 assertion that the location cannot be used for anything  
15 different. These grounds support denial of the hardship claim.

16           Finally, Stronghold and the entire surrounding area,  
17 both sides of North Capitol Street, is designated as a  
18 neighborhood conservation area and the generalized policy map for  
19 the comprehensive plan, the guiding philosophy for such areas  
20 states, this is a quote from the comprehensive plan. "To conserve  
21 and enhance established neighborhoods, alterations should be  
22 compatible with the character of each area. By law decisions of  
23 the Zoning Commission and the BZA are not to be inconsistent with  
24 the comprehensive plan."

25           That's my remarks. Thank you.

1 VICE CHAIRPERSON BLAKE: Thank you.

2 I have one quick question for you, Commissioner.  
3 Obviously, what was your experience with the ANC? Obviously the  
4 ANC was unable to come up with a position on this. Can you give  
5 me a sense of what transpired there?

6 ANC COMMISSIONER VINING: It was a tie vote. It's as  
7 simple as that. There was discussion but it was a tie vote which  
8 means the vote failed so the ANC as a whole took no position on  
9 the matter.

10 VICE CHAIRPERSON BLAKE: Okay.

11 But before the ANC was a recommendation from you; is  
12 that right?

13 ANC COMMISSIONER VINING: That was from ANC  
14 Commissioner Alice Thompson 5E05 who I don't think is here with  
15 us today. But that's the Commissioner and the SMD where the  
16 property is located.

17 VICE CHAIRPERSON BLAKE: And you're the adjacent SMD;  
18 is that right?

19 ANC COMMISSIONER VINING: Pardon?

20 VICE CHAIRPERSON BLAKE: You're adjacent to that? Is  
21 that right?

22 ANC COMMISSIONER VINING: Adjacent. Between 5E05 and  
23 5E06 are all the 200 footers. I have a significant number but  
24 they're (indiscernible) 5E05.

25 VICE CHAIRPERSON BLAKE: Okay. Okay. Okay. Thank you

1 very much.

2 I guess the question, one more time just to clarify  
3 this. The reason for the split vote, was there, obviously the  
4 issues came up just as they are today and we see that the  
5 community is relatively split in these public testimonies. Did  
6 you, that's the same experience that you had at the ANC level,  
7 correct?

8 ANC COMMISSIONER VINING: It was a split vote and I'm  
9 not sure it would be fair of me to characterize what was behind  
10 each of those votes.

11 VICE CHAIRPERSON BLAKE: Okay.

12 ANC COMMISSIONER VINING: I explained to the ANC the  
13 results of the survey there and I encouraged the Commission to  
14 support what we found among the 200 footers, but their decision  
15 is their decision.

16 VICE CHAIRPERSON BLAKE: Okay. Thank you very much.  
17 Thank you very much, and thank you for your service as ANC SMD.

18 All right. Mr. Young, would you call, the next would  
19 be Ms., let's see.

20 MR. YOUNG: Joseph Levesque is the next one.

21 VICE CHAIRPERSON BLAKE: Joseph Levesque (audio  
22 interference).

23 MR. LEVESQUE: Thank you (audio interference).

24 VICE CHAIRPERSON BLAKE: All right. Thank you very  
25 much. Would you please give your name for the record and your

1 address, and you have three minutes to provide your testimony.

2 MR. LEVESQUE: Okay. Thank you.

3 My name is Joseph Levesque and I've lived in  
4 Bloomingdale for 44 years at 111 W Street, Northwest. I'm the  
5 recording secretary for the Bloomingdale Civic Association and  
6 then I'd like to report that in June, 2024 Mr. Dinesh had made a  
7 presentation. That meeting was well publicized. He had actually  
8 made another presentation much earlier and we had a question and  
9 answer period after the presentation. There was a vote and it  
10 was not to support the zoning relief, as opposed, in opposition.

11 I've been living here 44 years. I've seen corner  
12 stores. I live half a block away from (audio interference).  
13 They've all been successful except for one. They come and go,  
14 as with owners. I've seen a lot of restaurants have closed. You  
15 know, they close, they re-open, they close, re-open. I was on  
16 the founding board of the North Capitol Main Street and we  
17 advocated, this is 30 years ago, we advocated for revitalizing  
18 the Bloomingdale historic district which is across from Rhode  
19 Island. But it was only for areas that were zoned commercial,  
20 not for areas that were zoned residential. We wouldn't have done  
21 that, I don't believe.

22 As far as the use variance goes, there's a landmark  
23 building. It's an old school, it's Gates School. It had huge  
24 windows and it became, it's a condo now and those large windows  
25 are a big bonus. People love them. They put an addition on and

1 made huge windows and are actually below ground so people can  
2 look in, and so the argument that there's, the windows are going  
3 to be a problem for residential use of conversion, I just don't  
4 get it. I don't support that.

5 A couple of people have mentioned that there's a  
6 grocery store is going to open a block away. McMillan Development  
7 starts a block away. The grocery store is more like a corner  
8 (audio interference) up by Michigan Avenue. It's not a block  
9 away and Commissioner Imtiaz mentioned that there's a corner  
10 store 44 feet away. It's, this is on the 2300 block. That corner  
11 store is up on the 2500 block and these are long blocks. It's  
12 in Northeast. It's not 44 feet away, it's more like 400 plus  
13 feet away and I'd just like to point out these inconsistent,  
14 these statements that are not accurate.

15 The zoning relief, priority should be given to, greater  
16 weight should be given to the people with party status. They're  
17 the ones that have to deal with the consequences of the noise  
18 and all the other issues that are going to be associated with  
19 opening a restaurant. Not someone that lives blocks away or  
20 someone that would like to have a restaurant. You know, okay,  
21 I'd like to have a restaurant too there, but there's a lot of  
22 restaurants in Bloomingdale and they're not far away. And there'd  
23 be some restaurants up at, hopefully, up in McMillan right next  
24 to the grocery store. It's only one area that would be commercial  
25 and it's at the very north end. Everything else would be

1 residential (indiscernible) the Park.

2           Yeah. I don't have a whole lot other than to say that,  
3 you know, most of the people who have opposed this variance  
4 relief, zoning relief, have really dealt with the issues at hand  
5 and that is the zoning problems. I think the reviewer got it  
6 right. It shouldn't be approved. I support that. I hope you  
7 also do support that recommendation and I have a few other things  
8 to say but I just can't seem to remember what they all are.

9           VICE CHAIRPERSON BLAKE: Mr. Levesque, your time is up  
10 now, but I thank you very much for your testimony.

11           MR. LEVESQUE: Thank you.

12           VICE CHAIRPERSON BLAKE: It's been very helpful.

13           MR. LEVESQUE: Thank you.

14           VICE CHAIRPERSON BLAKE: Mr. Young, would you please  
15 call our next witnesses.

16           MR. YOUNG: Next we have Betsy McDaniel who's calling  
17 in by phone, Pam Mendelson, and the last person is Alice Thompson.

18           VICE CHAIRPERSON BLAKE: Okay. We'll take them in that  
19 order then. We'll start out with Ms. McDaniel. Are you there?  
20 Ms. McDaniel, you're on the phone, correct?

21           MR. YOUNG: Yes, she is. There she is.

22           MS. MCDANIEL: Yes, yes, yes, Vice Chair Blake.

23           VICE CHAIRPERSON BLAKE: Okay. Thank you very much.  
24 Would you please identify yourself and your address, and you have  
25 three minutes to provide your testimony. We'll let you know if

1 | you're getting close.

2 | MS. MCDANIEL: Okay. Thank you.

3 | My name is Betsy McDaniel. I live on the 1700 block  
4 | of 1st Street, kind of between Big Bear and Red Hen and I bought  
5 | my house in 2008 and I've seen the neighborhood change a lot.  
6 | But I've always felt like we were able to respect the current  
7 | zoning, and right now there are, let's see, I think I counted  
8 | 27, we have 27 squares in the Bloomingdale historic district and  
9 | within those 27 squares we have at least 15 prepared food  
10 | establishments. That's one for almost every two squares and some  
11 | of our squares are very small and the remainder of our ANC have  
12 | counted at least seven more. So I don't think you can say we're  
13 | unfriendly to restaurants because we have quite a few I think  
14 | that are walkable.

15 | As the Chair pointed out earlier, this is not a  
16 | popularity contest. He also pointed out that we, our neighbors,  
17 | we're not zoning experts. But the Office of Planning reviewer  
18 | is the zoning expert in this case and I would ask that the Board  
19 | respect the zoning report and vote to deny this application.

20 | And conditions have been mentioned in this case and the  
21 | earlier cases today, and I can tell you conditions don't work.  
22 | I've seen many examples of where conditions do not work and one  
23 | of the things I'm most concerned about is the cellar use. They  
24 | want to build a kitchen, a full restaurant kitchen in the cellar  
25 | and their plans show that there was one already existing and I

1 don't think there was. The last C of O showed that the basement  
2 was not used and the plans that are in the file are, they show  
3 it says existing on basically a full kitchen down there, and  
4 that's just not true, and there's not one now and I don't think  
5 there was before.

6 So I just think that needs a little extra review too,  
7 even though the Office of Planning has already denied this  
8 application. And I think I've covered the rest of those things  
9 in my testimony, and I hope that the people are reading all the  
10 testimony that has been submitted, and thank you very much.

11 VICE CHAIRPERSON BLAKE: Great. Thank you very much.  
12 Yes, we definitely go through each of the testimony and there's  
13 a substantial amount in this case, and we look at the entire  
14 record to assess this.

15 So the next we have is Ms. Mendelson. Ms. Mendelson,  
16 are you there?

17 MS. MENDELSON: Now you can hear me?

18 VICE CHAIRPERSON BLAKE: Okay. Ms. Mendelson, would  
19 you please introduce yourself for the record, and you'll have  
20 three minutes to present your testimony. Thank you.

21 MS. MENDELSON: Thank you, Mr. Blake, and thank you  
22 rest of the Board. My name is Pam Mendelson. I live at 61 Bryant  
23 Street, just down the street.

24 I submitted a small video that demonstrates the current  
25 status of noise and parking availability on Bryant Street. I



1 took that video on Monday. I don't know, I know we won't play  
2 it now but as you can see in that, it's so quiet that I can walk  
3 down the middle of the street, not the sidewalk, middle of the  
4 street listening to the birds and looking at all the parked cars.  
5 I did not see a single vacant spot to park my car on that walk.

6 I submitted the video to refute unfounded assertions  
7 made in recent supplemental documentation that adding a  
8 commercial restaurant would not change the character of the  
9 neighborhood, and to refute the notion that the street has  
10 capacity to absorb use by 81 restaurant patrons, an unknown number  
11 of employees and temporary visitors, and also to refute the idea  
12 that the noise of commercial deliveries, daily garbage  
13 collection, engine noise from scooter deliveries, would not be a  
14 change of life to this peaceful RF-1 zoned neighborhood.

15 There are several deleterious effects that Maya didn't  
16 get a chance to address. One is the illumination that she's  
17 experiencing now from the current site before the patio is even  
18 put into place. In our PowerPoint presentation we also have a  
19 picture of the current Indigo. It's highly illuminated and this,  
20 and Maya provided the view from her bedroom window which is  
21 shockingly bright.

22 The other thing is with the design and siting problems.  
23 We're not going to be allowed to put a fence up for any kind of  
24 privacy because that patio abuts the alley and DDOT's not going  
25 to allow for any kind of condition to satisfy privacy issues, not

1 to mention the fact that there's never been a commercial kitchen  
2 on site and we can't even imagine what the zoning issues are  
3 going to be for that.

4 And then finally, on property values. I just want to  
5 say that some of the neighbors who rent their basement, their  
6 English basements have actually surveyed their prior renters and  
7 found that renters were taking a look at Google Maps to see if  
8 the properties they wanted to rent had proximity to businesses,  
9 just like this one because it was a condition that they wouldn't  
10 rent.

11 I want to say that Hillview Market proprietors wish to  
12 change the zoning of the built structure that they acquired  
13 knowing it was zoned and permitted for one use when they purchased  
14 the property and now requesting to do something else with it. I  
15 also want an Indian restaurant, just in an MU-4 zoned location.  
16 On this block I would like a café with a store, or any other  
17 business that's consistent with the current zoning for this site.

18 Approving the Applicant to go forward with a restaurant  
19 in an RF zone sets a precedent that any restaurateur need not  
20 search for a property where the activity is permitted, but rather  
21 a quiet one where the activity is not permitted, renovate the  
22 property for the purpose of the non-permitted activity and then  
23 claim the renovation investment justifies amending the zoning.  
24 This is not a precedent we want to set. Please, do not approve  
25 these zoning changes.

1 VICE CHAIRPERSON BLAKE: Thank you very much, Ms.  
2 Mendelson, for your testimony.

3 Ms. Thompson. You're on mute, Ms. Thompson. Would you  
4 please introduce yourself for the record, and you'll have three  
5 minutes to present your testimony. Thank you. Welcome back.

6 ANC COMMISSIONER THOMPSON: Yes. My name is Alice  
7 Thompson and I'm the Single Member District ANC for 5E05, and I  
8 have a PowerPoint and it's in Exhibit 136. I would like for it  
9 to be shown.

10 VICE CHAIRPERSON BLAKE: Not sure if we have enough  
11 time to do a whole PowerPoint.

12 ANC COMMISSIONER THOMPSON: Oh, but I have been here  
13 since 9 o'clock.

14 VICE CHAIRPERSON BLAKE: We have to.

15 ANC COMMISSIONER THOMPSON: Please.

16 VICE CHAIRPERSON BLAKE: Let's see. How long --

17 ANC COMMISSIONER THOMPSON: It's important for my  
18 PowerPoint to be shown.

19 VICE CHAIRPERSON BLAKE: You know what? You know what?  
20 Okay. Okay. Give me two seconds.

21 Board members, Chrishaun Smith, what do you think?

22 COMMISSIONER SMITH: Vice Chair Blake, we haven't  
23 traditionally done PowerPoints for this type of discussion. So  
24 if she can summarize the PowerPoint information within three  
25 minutes I will recommend that, not a PowerPoint.

1 VICE CHAIRPERSON BLAKE: Okay. I'm going, let's see.  
2 Let's see. I'm going to go with that unless Dr. Imamura, you  
3 have an objection for that?

4 ZC COMMISSIONER IMAMURA: I have no objection and  
5 concur with Board member Smith.

6 VICE CHAIRPERSON BLAKE: Okay.

7 So, Ms. Thompson, I'm going to ask that you diligently  
8 go through your summary of what your slides would tell us and  
9 we'll pay close attention, and are your slides in the -- they are  
10 in the presentation on the record?

11 ANC COMMISSIONER THOMPSON: Yes.

12 VICE CHAIRPERSON BLAKE: Okay. So what we'll do is  
13 I'll take a very close look at your slides.

14 ANC COMMISSIONER THOMPSON: In 136.

15 VICE CHAIRPERSON BLAKE: I'll very closely go through  
16 your slides and I'll encourage the other Board members to do so  
17 immediately, and you can go ahead and give your presentation.

18 Thank you.

19 ANC COMMISSIONER THOMPSON: All right. Oh, so the  
20 slides are not coming up?

21 VICE CHAIRPERSON BLAKE: We're not going to pull up the  
22 slides but we're going to listen very carefully and we are going  
23 to look at them.

24 ANC COMMISSIONER THOMPSON: Unfair. Okay.

25 So I am in opposition to this variance. My position

1 on this matter aligns with and is in support of the residents  
2 that live within 200 feet radius of the subjective property. As  
3 an ANC, it is my responsibility to support the people that live  
4 within this 200 foot radius and so I am very disappointed that  
5 so many people are saying that they're being selfish, that they're  
6 only thinking of themselves and that is not the case.

7 I think it's going to impact parking availability on  
8 the block because please keep in mind that this is a RPP  
9 neighborhood. I live in the 2300 block of 1st Street. Do you  
10 know where my car is parked right now? On Bryant Street. So it  
11 means that that block on Bryant Street is not strictly for people  
12 that live on Bryant Street. It's for anybody that has a RPP  
13 permit and we feel sure that there's going to be double parking  
14 because the street is very narrow.

15 I heard somebody say that Bryant Street was so wide.  
16 I measured it. Bryant Street is roughly about 24 feet wide. So,  
17 you know, because it only carries one lane of traffic so it's  
18 not that wide, so when people stop or try to go to this restaurant  
19 they're going to be double parked. And we feel sure that it's  
20 going to be excessive trash and increasing rodent activity and I  
21 know any time a restaurant puts fresh food in a dumpster, this  
22 is what rats love. I was neighborhood service for Agent 50.  
23 I've seen it and I know that it's going to take place.

24 Noise and pollution. If you have an outdoor café,  
25 people going to be talking. So you got 33 people sitting out

1 | there, they're going to be talking, they're drinking. Plus  
2 | there's traffic from cars, so their voices going to rise and if  
3 | you walk down the street people's voices rise when they're  
4 | talking, so the conversation is going to get loud even though  
5 | they may not have intended for it to get loud. But it's going  
6 | to get louder.

7 |           The exception should be denied because of the potential  
8 | precedent it would set for other future businesses. Right across  
9 | on North Capitol and Channing Street, Northeast, there's also a  
10 | little market and if this gentleman gets his exception, what's  
11 | going to prevent the other people from getting it. Everybody  
12 | knows Bloomingdale is a very small community. We are very small  
13 | and I also feel that he should not be asking for an exception  
14 | because he's a businessman and this is an RF-1 community. He  
15 | knew it was a RF-1 community and so now he wants for it to be  
16 | changed.

17 |           Now, just like everybody's familiar with 16th Street,  
18 | 16th Street is RF-1. I'm disappointed that zoning is even  
19 | considering this. I'm disappointed that ABRA gave him a permit  
20 | to open up a liquor store because RF-1 means RF-1. 16th Street,  
21 | Ward 4 starts at the 3900 block of 16th Street. It goes all the  
22 | way up to the District line. There's not one single liquor store,  
23 | little grocery store, little sandwich shop, there's nothing. So  
24 | all I'm saying is if you all can keep that consideration to 16th  
25 | Street, then this consideration should be kept to us. We should,

1 | if we are RF-1, that's what we are, RF-1.

2 |           So there was also surveys done and quite a few people  
3 | were opposed to this taking place. Now, as you can see, I  
4 | measured the alley. The alley row is about ten and a half feet  
5 | from the grassy little slope to No. 8 resident. That's  
6 | unfortunate for her because her privacy has been invaded and I  
7 | would say how would you like it if a restaurant was next door to  
8 | you?

9 |           Now, people ask me why I was not supporting this  
10 | restaurant. I voted against this establishment because I would  
11 | not want to live next door to a restaurant. I feel that more  
12 | people should have supported the residents in the 200 foot radius  
13 | because it's the right thing to do and we talked about, I heard  
14 | somebody make mention of the bus coming on 1st Street. I live  
15 | on the 2300 block of 1st Street. All of the people on 1st Street  
16 | signed a petition, opposed the bus coming. Why did they oppose  
17 | it? Because it would affect the way they would live. No one  
18 | wanted that bus stop to be in front of their house, so what's  
19 | the difference in these folks not wanting a restaurant that's  
20 | going to affect how they live. We have to be fair. Now, I feel  
21 | like it's pure selfishness on their part.

22 |           VICE CHAIRPERSON BLAKE: Okay, Commissioner --

23 |           ANC COMMISSIONER THOMPSON: Hold on. One second. I'm  
24 | not finished, sir.

25 |           VICE CHAIRPERSON BLAKE: All right.

1           ANC COMMISSIONER THOMPSON: So now, if you can look and  
2 see the restaurant and No. 8's house, it's ten feet. How would  
3 you like to live that close to a restaurant? And he's going to  
4 have 33 people sitting out on a patio. When people start  
5 drinking, they drop food. Okay? Now, I'm opposed to any kind  
6 of restaurant that's out on the street because drop food? Rats.  
7 I've been working with the rats in Bloomingdale ever since I  
8 became an ANC. We have rats. We have rats really bad.

9           So Mr. Tandon says they're going to clean up, but the  
10 truth of the matter is when people are eating and they drop food,  
11 that food stays to the next day. Those rats will grab that food  
12 so fast it won't be funny, and I just think it's unfair that we  
13 are in this type of environment that it doesn't matter what people  
14 that are closest to the establishments say because other people  
15 want it. But they don't live there and really zoning should say,  
16 hey, this is nice for you to say this but where do you live and  
17 (indiscernible) --

18           ZC COMMISSIONER IMAMURA: Mr. Vice Chair, time has  
19 expired for Ms. Thompson.

20           VICE CHAIRPERSON BLAKE: I agree it has. But one of  
21 the things I'd like to do is this. I appreciate your comments --

22           ANC COMMISSIONER THOMPSON: Yes.

23           VICE CHAIRPERSON BLAKE: -- and I notice in this  
24 proceeding we've had four ANC Commissioners of the --

25           ANC COMMISSIONER THOMPSON: They were, they supported



1 it. I opposed it.

2 VICE CHAIRPERSON BLAKE: But --

3 ANC COMMISSIONER THOMPSON: Okay? So I'm the one that  
4 should be speaking. This is my Single Member District.

5 VICE CHAIRPERSON BLAKE: I appreciate that and that's  
6 why I'm about to explain to --

7 ANC COMMISSIONER THOMPSON: Yes.

8 VICE CHAIRPERSON BLAKE: -- Dr. Imamura that we have had  
9 four members from the District and that one of the questions I  
10 asked earlier was what transpired at that meeting? We also had  
11 the Chairman of the ANC on the call earlier as in support.

12 ANC COMMISSIONER THOMPSON: Right.

13 VICE CHAIRPERSON BLAKE: So clearly we see there's some  
14 differences and I do want to have your opinion and --

15 ANC COMMISSIONER THOMPSON: Can I say something, sir?

16 VICE CHAIRPERSON BLAKE: -- to have that. So I'm going  
17 to give you a couple more minutes --

18 ANC COMMISSIONER THOMPSON: Let me say this.

19 VICE CHAIRPERSON BLAKE: -- (indiscernible) was very  
20 attractive.

21 ANC COMMISSIONER THOMPSON: Let me say this, please.

22 VICE CHAIRPERSON BLAKE: Would you please let me say  
23 this?

24 ANC COMMISSIONER THOMPSON: Yes.

25 VICE CHAIRPERSON BLAKE: With all due respect. I do,

1 I appreciate you. You've done a very good job, a very attractive  
2 slide show. I did look at it and I would love to have you finish  
3 your comments, but I want to make it very brief because we have  
4 a lot more to hear. We've had some tremendous testimony from  
5 the, everyone today --

6 ANC COMMISSIONER THOMPSON: Yes.

7 VICE CHAIRPERSON BLAKE: -- and it's, the record is very  
8 full. So if you're going to recommend and say things that we've  
9 already heard that's redundant. It's helpful but it's not  
10 (indiscernible). So I just want to make sure we continue to move  
11 forward.

12 ANC COMMISSIONER THOMPSON: Okay.

13 VICE CHAIRPERSON BLAKE: Okay?

14 ANC COMMISSIONER THOMPSON: Let me just say this.

15 VICE CHAIRPERSON BLAKE: And I'm going to let you finish  
16 up with your statements.

17 ANC COMMISSIONER THOMPSON: Okay.

18 VICE CHAIRPERSON BLAKE: (Indiscernible) and we do hear  
19 you loud and clear.

20 ANC COMMISSIONER THOMPSON: All right.

21 To hear me loud and clear. The Chairman of the ANC,  
22 she supported it. This is my Single Member District. I opposed  
23 it. So I should have been called first. I have been sending  
24 emails -- hold on, sir -- I've been sending emails to Mr. Reid  
25 and Mr. Young. I think they forgot about me. Okay? Now, maybe

1 | you're saying no but I came and unlock my computer so that I  
2 | could say, hey, I'm here.

3 |           VICE CHAIRPERSON BLAKE:   Okay.   Just to address that  
4 | point.

5 |           ANC COMMISSIONER THOMPSON:   Okay.   So let me finish up,  
6 | sir.

7 |           VICE CHAIRPERSON BLAKE:   No.   Let me, ma'am, let me  
8 | just finish.   Talking over me is not going to help.   What I was  
9 | going to say is this.   We have a procedure and the ANC has a  
10 | representative which can be the Chair or Vice Chair and they can  
11 | speak.   That's not the perspective that he presented himself.   He  
12 | did not speak in that perspective.   He spoke from the perspective  
13 | as a member of the community in support.

14 |           The way our order of presentation goes, the people in  
15 | support speak before the people in opposition.   So that's why,  
16 | as a member of the public, they did not speak as representatives,  
17 | they spoke as a member of the public as you are doing as well.  
18 | It's done in that order.   So it's not an issue of, you know, you  
19 | should have been preferenced, it's just the way that the procedure  
20 | is done and the Chairman does have some leeway in that but that's  
21 | kind of what it is.   Okay?   So I 'm going to leave it at that.

22 |           Board member Smith, did you have something you wanted  
23 | to say?

24 |           ANC COMMISSIONER THOMPSON:   Can I finish one thing  
25 | about the --

1 VICE CHAIRPERSON BLAKE: Okay. Let's do this. Can you  
2 finish in about two or three minutes, a minute or so? Would  
3 that --

4 ANC COMMISSIONER THOMPSON: Yes, thank you.

5 VICE CHAIRPERSON BLAKE: Okay. Thank you.

6 ANC COMMISSIONER THOMPSON: So anyway, I wanted to say  
7 that Bryant Street is a very long block and there are a lot of  
8 cars on there, but all of those cars are not the residents that  
9 live on Bryant Street. They're from different parts of  
10 Bloomingdale and so I'm just saying that we need to seriously  
11 consider the people that live closest to it because they're the  
12 ones that are going to be affected the most by it. My neighbor  
13 across the street she says, Alice, I heard that you said no. I  
14 said, let me ask you a question. How would you like to live next  
15 to the restaurant? Would you like that? You know what she told  
16 me? She said no.

17 So I have to just say that if it's not close to you,  
18 of course you want it. But if it's very close to you, you're  
19 not going to want it.

20 VICE CHAIRPERSON BLAKE: Okay. Are you, is that it,  
21 Ms.?

22 ANC COMMISSIONER THOMPSON: Yes.

23 VICE CHAIRPERSON BLAKE: Thank you so much for your  
24 testimony.

25 Mr. Young, do we have anyone else who wishes to testify?

1 MR. YOUNG: No, that's it.

2 VICE CHAIRPERSON BLAKE: Okay.

3 Let me see if I can see. Okay. So the next part, I  
4 appreciate all the testimony that's provided. Ms. Thompson, I  
5 appreciate your testimony as well as the others. It is very  
6 helpful for us to have this information. It helps us to  
7 understand the issues and concerns that underly the decisions.  
8 But, again, we focus on the key legally relevant issues and the  
9 Board has a lot of experience with this matter, so we're going  
10 through and sorting through this as well as everything else to  
11 get a feel for it, and we do definitely understand the issues  
12 and concerns that were raised. I think we have a pretty good  
13 idea of it from the testimony that was provided of the issues  
14 and concerns that have been raised.

15 Now, what we're going to do now is move into, believe  
16 it or not, the cross-examination section. The Chair did things  
17 a little bit out of order here but I'm going to continue that  
18 and we're going to do the cross-examination. What I'd like to  
19 do is have the parties in opposition ask any questions they have  
20 of the Applicant or the Office of Planning.

21 Now, and as to these questions again. The goal is to  
22 help the board deal with the legally relevant issues, not to  
23 convince yourself that it's right or wrong, but to help the Board  
24 look at its issues and make a decision. So if you want, in  
25 clarifying these questions back and forth, that's fantastic,

1 that's what we'd like you to do.

2 So with that, Ms. Kavalier?

3 MS. KAVALER: Hi.

4 VICE CHAIRPERSON BLAKE: I'd like to have you ask any  
5 questions you have of the Board, of the Applicant, or the Office  
6 of Planning and I'd also, I think to some extent the Chair had  
7 said you were going to act as kind of a spokesperson.

8 MS. KAVALER: Yes.

9 VICE CHAIRPERSON BLAKE: But the other members, people  
10 in opposition should also feel free to ask a question. If you  
11 want to direct something to them, that'd be fine. But I'd like  
12 to have you guys now address any questions you have to the  
13 Applicant and the Office of Planning.

14 MS. KAVALER: Sure.

15 Yeah. I have a list of questions. I think that might  
16 be more relevant for questions for us because I might individually  
17 not have all the answers that might need to be dispersed if they  
18 have questions for us.

19 VICE CHAIRPERSON BLAKE: Okay.

20 MS. KAVALER: We don't have any questions for the Office  
21 of Planning. Just for the sake of time we can skip that. We're  
22 in full agreement with the Office of Planning so that can be  
23 skipped. We do have a few questions for the Applicant, if that's  
24 okay, and, again, I'm not a lawyer so I don't, these questions  
25 might not be super specific to zoning so please feel free to

1 interrupt me if it's no a a question that should be asked. I  
2 would appreciate any guidance on that front.

3 VICE CHAIRPERSON BLAKE: Okay. And don't forget our  
4 questions deal primarily with the criteria that you saw for the  
5 variance that we saw. So those are our criteria, right? Okay.

6 MS. KAVALER: Okay. I'll do my best.

7 Were you, or was your client aware of the zoning of the  
8 property when it was purchased and was Indigo 2 part of the vision  
9 for this building at some point in the property's lifetime when  
10 it was purchased?

11 MS. GIORDANO: I don't know.

12 MS. KAVALER: How will the Applicant prevent the  
13 impacts of a restaurant in an RF-1 zone to the closest neighbors,  
14 such as myself who is directly next door?

15 MS. GIORDANO: I think our document speaks for itself.  
16 We have tried to limit deliveries. As far as trash is concerned,  
17 there is trash all along that alley that's left out for trash  
18 vehicles to pick up. It's really not much different. The idea  
19 with more frequent trash pick-up was that it would be small and  
20 similar to a residential size. But if more frequent is a problem,  
21 I'm sure the Applicant would be willing to do less.

22 MS. KAVALER: And can I ask, just going back to my  
23 earlier question, my first one. If you are not aware of the  
24 answer, can the Applicant himself answer the question?

25 MS. GIORDANO: He's not, he has not testified today so

1 he's not subject to cross-examination.

2 MS. KAVALER: Okay. And I apologize if I'm not super  
3 familiar with the specifics of the processes.

4 How can it be argued that the property is exceedingly  
5 small for a retail business if it has over a century's experience  
6 history of being a retail and it's bigger than other corner shops  
7 in Bloomingdale?

8 MS. GIORDANO: As I indicated, the ground floor is  
9 approximately 1,000 square feet. I think that speaks for itself.  
10 I don't know many retail outlets that are 1,000 square feet and  
11 as far as the ones that were listed in the PowerPoint, they were  
12 all 1,700 square feet and more. What's really relevant is what  
13 works here and it hasn't worked.

14 VICE CHAIRPERSON BLAKE: Ms. Kavalier, how many more  
15 questions do you have?

16 MS. KAVALER: Me?

17 VICE CHAIRPERSON BLAKE: Yeah.

18 MS. KAVALER: I have one, two, three, four, five, six.

19 VICE CHAIRPERSON BLAKE: Okay. Okay.

20 MS. KAVALER: I can try to skip some.

21 Was any work done on this to create a restaurant or to  
22 develop a restaurant before it came to the BZ Adjustment?

23 MS. GIORDANO: No.

24 MS. KAVALER: What was in the cellar at the time of the  
25 purchase?



1 MS. GIORDANO: It was part of the Hillview Market. I  
2 think it was storage but I don't know. The C of O says, I think  
3 it says storage.

4 MS. AKINSAN: I would like to elaborate on that a little  
5 bit. There was some kitchen equipment down there initially.

6 MS. KAVALER: Sorry. I totally missed that.

7 MS. AKINSAN: There was some kitchen equipment in the  
8 basement originally.

9 MS. KAVALER: Okay. That's not what the C of O showed.

10 VICE CHAIRPERSON BLAKE: She didn't say it was  
11 essentially operating. She said there was kitchen equipment  
12 there.

13 MS. AKINSAN: Yes.

14 VICE CHAIRPERSON BLAKE: And that's the architect who  
15 observed it.

16 MS. KAVALER: What work has been done on the basement  
17 since purchasing the property?

18 MS. GIORDANO: Olivia, can you answer that?

19 MS. AKINSAN: Very minor work. There was a lot of  
20 rubbish down there initially so he did a lot of demo. There  
21 might be some storage of equipment down there, but as far as  
22 construction not that much. There has been an internal stair  
23 that's going down from the first floor to the cellar floor.

24 MS. KAVALER: And did he build those stairs to the  
25 exterior?

1 MS. AKINSAN: What stair are you referring to?

2 MS. KAVALER: Sorry. The stairs that you just described  
3 in the exterior going down to the basement, did he build those  
4 stairs?

5 MS. AKINSAN: Yes, he did.

6 MS. KAVALER: And --

7 MS. GIORDANO: She said they were interior stairs. You  
8 asked about exterior.

9 MS. AKINSAN: Yes.

10 MS. KAVALER: Sorry. I'm asking about exterior. Was  
11 that built as part of this?

12 MS. AKINSAN: No, no. I was referring to the interior  
13 stairs.

14 MS. KAVALER: And did the Applicant construct any  
15 stairs to the exterior in the back alley?

16 MS. AKINSAN: Yes, he did.

17 MS. KAVALER: And what is the permit number associated  
18 with that?

19 MS. AKINSAN: I am not aware.

20 MS. KAVALER: Is there a permit number associated with  
21 that?

22 MS. AKINSAN: I am not aware.

23 MS. KAVALER: Okay.

24 VICE CHAIRPERSON BLAKE: Okay. So they have no, she  
25 has no answer to that question.

1 Yes, sir. Mr. Smith.

2 COMMISSIONER SMITH: Yeah. I'm trying to understand  
3 the line of questioning about (indiscernible).

4 MS. KAVALER: The point is that it was, there was no,  
5 this was done without any permit and that construction is supposed  
6 to have a permit. So he has a history of doing work that is not  
7 permitted.

8 COMMISSIONER SMITH: And I understand that but that's  
9 not the subject of the zoning concern before us.

10 MS. KAVALER: Okay. No, I appreciate, no I appreciate  
11 you --

12 COMMISSIONER SMITH: I just want to steer your line of  
13 questioning to --

14 MS. KAVALER: No.

15 COMMISSIONER SMITH: -- (indiscernible).

16 MS. KAVALER: No, I appreciate that. I'll move on.

17 COMMISSIONER SMITH: Okay.

18 MS. KAVALER: Thank you.

19 I guess just our final question. Is, if you could just  
20 please describe the current condition of each floor and their  
21 proposed use.

22 MS. GIORDANO: Olivia?

23 MS. AKINSAN: The proposed use for the cellar aka the  
24 basement, is going to be the kitchen area. It's going to have  
25 employee, no, bathrooms for the public, the internal stair. The

1 first floor is going to have a bar with restrooms and a stair as  
2 well and that would be leading down, and another stair that would  
3 be leading upstairs to the second floor. Currently, I mean  
4 construction is no longer in progress.

5 MS. KAVALER: Okay. And just for context, we see a  
6 construction worker there daily.

7 VICE CHAIRPERSON BLAKE: Is that your last question?

8 MS. KAVALER: Yes.

9 VICE CHAIRPERSON BLAKE: Okay. Great. Thank you.  
10 Let's see.

11 Do any of the Board members have questions for the  
12 Applicant at this point?

13 (Pause.)

14 VICE CHAIRPERSON BLAKE: Okay. I'm going to now have  
15 the Applicant, if they have any questions for the, have any of  
16 the parties in opposition, actually if they did have any questions  
17 for the Applicant?

18 MS. KAVALER: Sorry, if we have any questions for the  
19 Applicant?

20 VICE CHAIRPERSON BLAKE: Are there any other members,  
21 are they satisfied? Okay.

22 Then I'm going to turn now to --

23 MS. KAVALER: Sorry. I see Evelyn has her hand up.

24 VICE CHAIRPERSON BLAKE: Okay. Go ahead, Ms. Brown.

25 MS. BROWN: I have a question and I have to kind of

1 preface my remarks.

2 I was reading the zoning regulations. I would like to  
3 know why the Applicant purchased a piece of property for \$1.2  
4 million without researching the zoning requirements and when  
5 specifically I read that prior to your purchasing property  
6 there's a caution in the regulations. I don't know exactly where  
7 it is. It says if you anticipate purchasing a property and making  
8 a change in order to finalize a project, they caution you to make  
9 sure that you try to execute the outcome without requesting a  
10 zoning adjustment.

11 So expending \$1.2 million, what was the rationale, I'm  
12 just curious. It just has been bothering me as to why the  
13 Applicant, he did not do the homework prior to purchasing the  
14 property because it was RF-1 zoned.

15 MS. GIORDANO: There was a history that was included  
16 in our statement that the Applicant had originally envisioned an  
17 expanded kind of market that would include spirit sales and had  
18 gone to the ABRA Board to get that approved. It was denied. At  
19 that point he felt that the only other alternative use that was  
20 viable there was a restaurant and I don't think the regulations  
21 include the provision that you're talking about, but I could be  
22 wrong.

23 VICE CHAIRPERSON BLAKE: Okay. Thank you. Do you have  
24 any other questions?

25 MR. SMITH: Hi. Richard Smith. I have one or two.

1 VICE CHAIRPERSON BLAKE: Okay.

2 MS. SMITH: Yes, thank you. Richard Smith.

3 When, can you confirm or deny that when the Applicant  
4 purchased the store, he allowed Sun Beam Market to continue to  
5 rent the space and operate as a store for an additional year?

6 MS. GIORDANO: I'm not aware. No.

7 MR. SMITH: Okay. That was told to me by the store  
8 owners themselves and they said that when they left, they left  
9 because the Applicant raised his rent.

10 MS. GIORDANO: That's hearsay.

11 VICE CHAIRPERSON BLAKE: Okay.

12 MR. SMITH: Just hearsay.

13 VICE CHAIRPERSON BLAKE: That is.

14 MR. SMITH: Thank you.

15 VICE CHAIRPERSON BLAKE: Do you have any other  
16 questions?

17 MR. SMITH: No, that was it. Thank you.

18 VICE CHAIRPERSON BLAKE: Okay.

19 Ms. Giordano, I'm going to ask you. Do you have any  
20 questions for the parties in opposition?

21 MS. GIORDANO: I do not.

22 VICE CHAIRPERSON BLAKE: Okay. So what we're going to  
23 do now is I'm going to ask my Board --

24 MS. GIORDANO: I have a question for the Office of  
25 Planning. Is that --

1 VICE CHAIRPERSON BLAKE: Yes, please. Go ahead.  
2 Absolutely.

3 MS. GIORDANO: So can you cite to any, so what in your  
4 view are the alternatives here besides what is proposed and the  
5 existing convenience store use?

6 MR. BARRON: We are not proposing or recommending any  
7 alternative use. That's not --

8 MS. GIORDANO: I just mean under the, right, under the  
9 regulations or as the regulations permit.

10 VICE CHAIRPERSON BLAKE: Mr. Barron --

11 MR. BARRON: They permit numerous, they do permit quite  
12 a few different types of businesses. There are different types  
13 of retail that would be permitted by special exception. There  
14 are different types of cafes --

15 MS. GIORDANO: I can't, could you point to where those  
16 are in the zoning regulations?

17 MR. BARRON: Under the corner store regulations there  
18 are matter-of-right uses that are allowed and special exception  
19 uses that would be allowed that are not specifically a bodega  
20 use.

21 MS. GIORDANO: Okay. So under the corner store  
22 regulations?

23 MR. BARRON: Yes.

24 MS. GIORDANO: Would it be appropriate to pull those  
25 up? Section 255.

1 COMMISSIONER SMITH: No. We're not (indiscernible) to  
2 do that.

3 VICE CHAIRPERSON BLAKE: Mr. Smith, go ahead. You can  
4 say it.

5 COMMISSIONER SMITH: (Indiscernible) not party  
6 (phonetic) to this hearing.

7 VICE CHAIRPERSON BLAKE: I mean, I think a good point  
8 to make is that there are a lot of things that can be done under  
9 the corner store regulations. It's a fairly flexible regulation.  
10 For example, we mentioned that a kitchen could, actually a kitchen  
11 could actually be in a corner store. It's just a question the  
12 magnitude of it, the scale of it may be different. The intent  
13 for a corner store is to serve the community. That's the  
14 overriding part of the corner store. So within the context of  
15 that there are a number of functions that can take place in the  
16 context of that corner store. So I don't think it's that limited.

17 But if we go through the regulations you can find that  
18 and if the Applicant wishes to pursue, we don't know the outcome  
19 of this proceeding first of all. But to the extent that this  
20 Applicant decided to pursue other alternatives in the context of  
21 that, that's fine. It's also not our responsibility to provide  
22 the highest and best use for the property, you know. They should  
23 get a reasonable return.

24 So there are a lot of different ways we could look at  
25 this but I do think there are options under the corner store



1 provisions to do things which may or may not have been explored.

2 Mr. Smith, do you have another comment or, Dr. Imamura?

3 MS. GIORDANO: Can I just respond? The reason I asked  
4 is because, you know, what we're dealing with here under the  
5 regulations is whether there are any other viable uses and the  
6 corner store provisions are very narrow. They only, the only  
7 kitchen that you're allowed to have is one, is a microwave  
8 basically to re-heat food or to put sandwiches together. You  
9 can't cook any food on the premises under the corner store  
10 regulations.

11 They're extremely limited and I would just ask the  
12 Office of Planning if he's aware of the usage of those corner  
13 store provisions? I'm not aware of them being used. I've been  
14 doing zoning for 40 years in the city.

15 COMMISSIONER SMITH: Mr. Barron, you don't have to  
16 answer that question. There are a number of corner store special  
17 exceptions that we have approved and very recently at 203. But,  
18 again, if, I'll just leave it at that. We've approved them but  
19 that's not for deliberation at this particular time. Our point  
20 is to deliberate what is before us now, which is not a corner  
21 store.

22 VICE CHAIRPERSON BLAKE: Okay. Thank you very much,  
23 Mr. Smith, for clarifying that.

24 But, again, there are, I would encourage Ms. Giordano  
25 to take a very close look at the regulations in the recent cases

1 that we've looked at and some of the things that we've done. I  
2 do think there's some, there is substantial leeway in that for  
3 applications. I'm going to leave it at that. As Mr. Smith  
4 pointed out, you're here for a use variance and special exception.  
5 So that's where we are right now.

6 Well, at this point we're going to have, do you have  
7 any other questions, Ms. Giordano?

8 MS. GIORDANO: No. Thank you.

9 VICE CHAIRPERSON BLAKE: Okay. Thank you very much.

10 At this point I'm going to have closing statements,  
11 brief closing statements from the parties in opposition. This  
12 is just any last comment, brief comment, that the parties in  
13 opposition might want to make with regard to this hearing.

14 MS. KAVALER: Sure thing. Let me just pull up a couple  
15 of sentences.

16 Thank you to the BZA for allowing us the time and space  
17 to voice our concerns. We urge you to consider that the ANC took  
18 no stance on this proposal. The Bloomingdale Civic Association  
19 recommended, voted to deny, sorry, the BCA voted to deny this  
20 request and the OP recommended to deny this request.

21 The idea that a restaurant is the only viable option  
22 for this property is unsubstantiated and we have many other  
23 examples to suggest otherwise. It is not our responsibility to  
24 provide the Applicant with a business model for his property. A  
25 restaurant would represent an extreme change of use and

1 fundamentally change the way we live in our homes and threatens  
2 our property values.

3           While there are many who support this restaurant, they  
4 don't live close enough for the impacts to change how they live  
5 in their own homes. Unfortunately, I cannot say the same for  
6 myself or my neighbors with party status. Ultimately this is a  
7 zoning issue and not a popularity contest and we support a  
8 business at this property but not at the expense of our peace  
9 and the business must meet the standards set by the BZA.

10           The Applicant has not met the burden of proof that a  
11 restaurant does not create impacts greater than what it is  
12 currently zoned for and we urge the BZA to support the Office of  
13 Planning and the neighbors who would be most severely impacted  
14 by this change of use and to oppose this request, and maintain  
15 the RF-1 character of Bryant Street.

16           Thank you.

17           VICE CHAIRPERSON BLAKE: Thank you very much.

18           Ms. Giordano, would you like closing remarks, please?

19           MS. GIORDANO: Yes. Thank you.

20           The nonconforming use regulations are designed to  
21 basically phase out nonconforming uses that are not compatible  
22 with zoning and I would submit that this convenience store use  
23 is one such use. There is a reason. I don't think you need a  
24 market study to figure it out why a number of these stores start  
25 to rely on lottery tickets, alcohol, cigarettes and, you know,

1 other, vape, I don't know, cannabis, whatever it is, type sales  
2 that are not necessarily conducive to community compatibility and  
3 the ABRA record that was part of the case that denied the  
4 Applicant's request to start selling spirits as part of the  
5 convenience store is full of complaints by a number of these very  
6 same people about that market and markets like that including the  
7 one a block away that are conducive to loitering, rodents, trash  
8 and unsavory activities that the community doesn't want.

9           So, again, in terms of phasing out this use, we don't  
10 think that a market study is necessary to determine that a 1,000  
11 square foot ground floor space, non-residential space, is  
12 conducive to a lot of other uses that might be permitted under  
13 the zoning regulations. The corner store uses don't permit any  
14 kind of cooking, any sales of spirits. It's, you know, it's  
15 1,000 square feet. I don't know why anybody thinks that someone  
16 can make a go of that kind of space, particularly in a community  
17 like this where, you know, there isn't, it's not embedded within  
18 a residential neighborhood. It's right on North Capitol Street  
19 and you really need a destination like a restaurant to make that  
20 space work.

21           So that is what's before the Zoning Board in terms of  
22 external effects. I think we've addressed all of them, like the  
23 Office of Planning it asked us to and there has been, you know  
24 testimony from people who have direct experience with the  
25 availability of parking on the neighboring streets and to the

1 fact that, you know, there are problems now in the community and  
2 that this would be an asset.

3 That concludes my closing remarks.

4 VICE CHAIRPERSON BLAKE: Thank you very much.

5 Before I dismiss everyone I'll just check with my Board  
6 members to see if there's anything that you guys need before we  
7 go into the next phase of this hearing.

8 Mr. Smith?

9 COMMISSIONER SMITH: No.

10 VICE CHAIRPERSON BLAKE: Dr. Imamura?

11 ZC COMMISSIONER IMAMURA: Sure, Vice Chair.

12 No, there's nothing additional but I would like to just  
13 take a minute and let everybody know, whether you're in opposition  
14 or for a special exception here, thank you for your participation  
15 in the public process. This has been a long hearing. I also  
16 want to thank Vice Chair Blake for his leadership here to carry  
17 on after Chair Hill had to step out. But this is important and  
18 we take this very seriously. It's, you know, zoning isn't perfect  
19 and we appreciate your point of view.

20 VICE CHAIRPERSON BLAKE: Thank you, Dr. Imamura. All  
21 right.

22 I'm going to close the hearing and I'm going to close  
23 the record. You can dismiss the witnesses, Mr. Young.

24 (Pause.)

25 VICE CHAIRPERSON BLAKE: I am certain that the Chairman

1 would love to participate in this activity and in respect for  
2 that we will delay our deliberations and schedule a decision vote  
3 at a meeting session on June 4th.

4 Would that be fine, Madam Secretary?

5 MS. MEHLERT: Yes. Decision for June 4th is fine.

6 VICE CHAIRPERSON BLAKE: So there we have it. We'll  
7 reschedule the decision meeting on June 4th.

8 Is there anything else that we need to address today?

9 MS. MEHLERT: Nothing from staff.

10 VICE CHAIRPERSON BLAKE: This meeting is adjourned.

11 (Whereupon, the above-entitled matter went off the  
12 record at 3:34 p.m.)

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C E R T I F I C A T I O N

This is to certify that the foregoing transcript

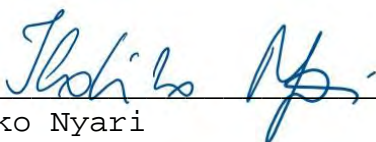
In the matter of: Public Hearing

Before: DC BZA

Date: 05-14-25

Place: Via Webex

was duly recorded and accurately transcribed under my direction; further, that said transcript is a true and accurate record of the proceedings.

  
\_\_\_\_\_  
Ildiko Nyari