

GOVERNMENT OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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REGULAR PUBLIC HEARING

+ + + + +

WEDNESDAY

JUNE 4, 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
CHRISHAUN SMITH, Commissioner
CARL H. BLAKE, Commissioner
ANTHONY J. HOOD, Zoning Commission Chairperson
ROBERT E. MILLER, Zoning Commission Vice Chair
TAMMY STIDHAM, Zoning 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 June 4, 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, to the Board of Zoning Adjustment. Today is 6/4/2025. This public hearing will please come to order. My name is Fred Hill, Chairman of the District of Columbia Board of Zoning Adjustment. Today joining me are Board members Chrishaun Smith, Vice Chair Carl Blake, Chairman Anthony Hood, Vice Chair Rob Miller and Zoning Commissioner Tammy Stidham.

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 present 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

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

6 In today's hearing session everyone who is listening
7 by Webex or by telephone will be muted during the hearing and
8 only persons who have signed up to participate or testify will
9 be unmuted at the appropriate time. Please state your name and
10 home address before providing oral testimony or your
11 presentation. Oral presentations should be limited to a summary
12 of your most important points. When you're finished speaking
13 please mute your audio so that your microphone is no longer picking
14 up sound or background noise. All persons planning to testify
15 either in favor or in opposition should have signed up in advance.
16 They'll be called by name to testify. If this is an appeal, only
17 parties are allowed to testify. By signing up to testify, all
18 participants completed the oath or affirmation as required by Y-
19 408.7.

20 Requests to enter evidence at the time of an online
21 virtual hearing such as written testimony or additional
22 supporting documents other than live video which may not be
23 presented as part of the testimony may be allowed pursuant to Y-
24 103.13 provided that the persons making the request to enter an
25 exhibit explain, a) how the proposed exhibit is relevant, b) the

1 good cause justifies allowing the exhibit into the record
2 including an explanation of why the requester did not file the
3 exhibit prior to the hearing pursuant to Y-206, and how the
4 proposed exhibit would not unreasonably prejudice any parties.
5 The order for special exceptions and 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 accepted, 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.

15 Moreover, the Board may request additional specific
16 information to complete the record. The Board and the staff will
17 specify at the end of the hearing exactly what is expected and
18 the date when persons submit their evidence to the Office of
19 Zoning. No other information shall be accepted 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 Section
23 405(b) and 406 of that Act, the Board may, consistent with its
24 rules and procedures and the Act, enter into a closed meeting on
25 a case for purposes of seeking legal counsel on a case pursuant

1 to 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 providing the necessary public notice in the case of an
4 emergency 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 There is just one change to the schedule today.
9 Application No. 21209 of 304, 306, 308 K Street, LLC has been
10 postponed to September 10th, 2025. Regarding late filings, the
11 Chairman has reviewed and granted waivers to allow late filings
12 into the applicable case records pursuant to Subtitle Y, Section
13 206.7 and Section 103.13. Any other late filings during the
14 course of today's live hearing should be presented before the
15 Board by the Applicant parties or witnesses after the case is
16 called. Any other preliminary matters will be noted when the
17 case is called.

18 CHAIRPERSON HILL: Okay. Great. Thank you.

19 Good morning everyone. I am actually not on the first
20 decision so I will go ahead and turn this over to Vice Chair
21 Blake and I will pop back on afterwards. Thank you.

22 VICE CHAIRPERSON BLAKE: Yes. Madam Secretary, would
23 you call the first case for us now?

24 MS. MEHLERT: The first case in the Board's meeting
25 session is Application No. 21292 of Oak at Morse Street, LLC and

1 Sung H. Cho Trustee. As amended, this is a self-certified
2 application pursuant to Subtitle X, Section 901.2 for a special
3 exception under Subtitle U, Section 802.1(e) to allow an
4 entertainment assembly and performing arts use, and pursuant to
5 Subtitle X, Section 1000 for an area variance from Subtitle U,
6 Section 802.1(e)(3) to allow any portion of a property with
7 entertainment assembly and performing arts uses to be in the same
8 square within a radius of 1,000 feet of another property
9 containing a live performance nightclub or dance venue.

10 This is for a new entertainment assembly and performing
11 arts use in two existing two-story attached buildings on
12 contiguous lots. It's located in the PDR-1 zone at 405 and 407
13 Morse Street, Northeast, Square 3588, Lots 15 and 16. This case
14 was heard on May 21st and the Board requested additional
15 submissions from the Applicant and the ANC and closed the record.

16 Participating are Vice Chair Blake, Mr. Smith, and
17 Chairman Hood.

18 VICE CHAIRPERSON BLAKE: Thank you, Madam Secretary.

19 This application proposes to construct and operate a
20 new entertainment event space and music venue on the second floors
21 of two existing buildings on contiguous lots located in a PDR-1
22 zone Union Market. When I first looked at this case it was a
23 little bit confusing based on the information we had. But I
24 found the testimony provided by the Applicant as well as the
25 supplemental information which contained more complete diagrams

1 and renderings, gave me a much better understanding of the project
2 and what's being asked of us.

3 The Applicant submitted some additional information
4 which is primarily renderings, some information from the HPRB and
5 also we had asked the ANC if they wished to add any additional
6 commentary to provide us to fill out the record. The ANC did
7 not provide that additional information, however we know that
8 they were notified by the Zoning Office and for whatever reason
9 they did not respond.

10 That said I want to just go through this a little bit
11 and talk about this particular case. The PDR-1 zone allows eating
12 and drinking establishments to have live performances that comply
13 with the special exception criteria in Subtitle U, Section 802.
14 Among other things, Section 802 requires that the Applicant
15 demonstrate that the use shall be located and designed so that
16 it is not likely to become objectionable to the neighboring
17 property because of noise, traffic, parking, loading, the number
18 of attendees, waste collection or other objectionable conditions.
19 In this case I believe the property generally complies with all
20 the criteria of Subtitle U, Section 802 except for location
21 requirement which is the reason for the variance request.

22 I want to just go through a couple of things because,
23 again, it clarified for me some of the things that I saw in this.
24 For example, the subject property will serve as a private event
25 space so only be booked for discreet events on a regular unlimited

1 | schedule. There'll be a maximum capacity of 240 people. This
2 | venue will only operate on the second floors of the two abutting
3 | buildings.

4 | Access will only be provided from the rear alley. There
5 | will be an open deck facing Morse Street and a 16 foot louvered
6 | roof system covering the venue that will be hidden behind a
7 | parapet wall and will not be visible from the streets. All
8 | performances will occur inside the building and no external
9 | amplification is proposed. During live performances, all windows
10 | and exterior doors will be kept closed to minimize noise spills.

11 | Importantly, the subject property is not abutting a
12 | residential use or residential zone. There are generally
13 | warehouses near and the closest residential use is across the
14 | alley which is south of the subject property. Considering these
15 | factors, as I said before, I believe the proposal complies with
16 | the criteria, all the criteria of Subtitle U, Section 802 except
17 | the location requirement.

18 | So in looking at the area variance, this is a difficult
19 | variance to meet to some extent because it's a little bit
20 | complicated in the sense of how it came about and last
21 | participants did so based on an abundance of caution. But I'm
22 | going to credit the Office of Planning's analysis on how the
23 | Applicant has met the first prong of the area variance test, that
24 | is the critical factor here.

25 | But also in looking at this I tried to evaluate the

1 second and third prongs of the area variance test and I tried to
2 consider the intent of the PDR zone as well as the intent of the
3 location requirement and I thought about the cumulative effect
4 of the two venues on neighboring properties. The production
5 distribution repair zones are primarily for heavy commercial and
6 light manufacturing activities, however the regulations allow for
7 the development of compatible uses such as office and retail. It
8 also allows for the development of entertainment venues so long
9 as they comply with the special exception criteria of Subtitle
10 U, Section 802, and both venues generally comply with the
11 criteria.

12 While the legislative history of the location
13 requirement isn't completely clear, it is reasonable to interpret
14 the intent of that regulation to protect PDR and residential
15 zones and to avoid undue concentration of live of performance and
16 nightclub or dance venues.

17 The establishment at 400 Morse will be designed
18 primarily as a restaurant with a live music component, designed
19 to enhance the dining experience. The restaurant will have
20 regular business hours. In contrast the subject property will
21 serve as a private event space so it will only be booked for
22 discreet events on an irregular or limited schedule. So it should
23 not regularly be operating at the same time as the establishment
24 at 400 Morse Street. These operational difficulties between the
25 two uses should mitigate the potential noise or crowding or

1 traffic impacts.

2 Well, I also looked at the maximum number of attendees,
3 on 400 Morse Street it's only 295 and the maximum capacity of
4 the subject property is slightly, it's slightly lower at 240
5 people. That brings a total capacity or total potential for
6 about 535. And you put that in context, that's less than half
7 the capacity of the Lincoln Theater, the 9:30 Club or for that
8 matter the ballroom at the Ritz Carlton. So it's not a
9 particularly large venue even when you aggregate them.

10 So considering these factors I believe the relief can
11 be granted without substantial detriment to the public good and
12 without substantially impairing the intent, purpose and integrity
13 of the zoning plan. I give great weight to the Office of
14 Planning's recommendation for approval. Unfortunately, as I said
15 there is no report from ANC 5D to accord great weight, however I
16 know the ANC is well aware of the venue and the proposal and the
17 Applicant has testified that they have presented to the Zoning
18 Subcommittee at least in 5D and the ANC has been duly notified.
19 So I'll be voting in support of the application.

20 Mr. Smith, do you have anything you want to add?

21 COMMISSIONER SMITH: Vice Chair Blake, you have
22 provided a very, very thorough analysis on the merits of this
23 particular case and the reasons why I also support granting them
24 the special exception and the area variance. I do believe they've
25 met all the prongs and the special exception criteria to be able

1 to grant both, so I will support as well.

2 VICE CHAIRPERSON BLAKE: Thank you.

3 Chairman Hood?

4 ZC CHAIRPERSON HOOD: Thank you, Vice Chair and Board
5 member Smith.

6 I agree with everything you say. You definitely have
7 recapped it very well and I will just say I appreciate the
8 additional submissions as you've already stated from the
9 Applicant. They helped me understand this case better and I will
10 be voting in support of this application. Thank you.

11 VICE CHAIRPERSON BLAKE: Thank you, Vice Chair, I mean
12 Chairman Hood.

13 Madam Secretary, okay. So having completed
14 deliberations I'd like to make a motion to approve the application
15 as read and captioned by the Secretary, and ask for a second.
16 Mr. Smith?

17 COMMISSIONER SMITH: Second.

18 VICE CHAIRPERSON BLAKE: Okay. Madam Secretary, we've
19 deliberated and the motion's been made. Would you please conduct
20 a roll call vote?

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

23 Vice Chair Blake?

24 VICE CHAIRPERSON BLAKE: Yes.

25 MS. MEHLERT: Mr. Smith?

1 COMMISSIONER SMITH: Yes.

2 MS. MEHLERT: And Chairman Hood?

3 ZC CHAIRPERSON HOOD: Yes.

4 MS. MEHLERT: Staff would record the vote as three to
5 zero to two to approve Application 21292 on the motion made by
6 Vice Chair Blake and seconded by Mr. Smith.

7 VICE CHAIRPERSON BLAKE: Thank you, Madam Secretary.
8 Mr. Chair, please come back.

9 ZC CHAIRPERSON HOOD: Thank you. You all have a good
10 day.

11 CHAIRPERSON HILL: Okay. Great.

12 Vice Chair Miller, welcome.

13 ZC VICE CHAIRPERSON MILLER: Good morning.

14 CHAIRPERSON HILL: Good morning. Okay.

15 Madam Secretary, if you can call our next order of
16 business, please.

17 MS. MEHLERT: Next in the meeting session is
18 Application No. 20915-A of Takoma Lot 5, LLC. This is a request
19 pursuant to Subtitle Y, Section 705.2 for a two year extension
20 of the validity of the order in Application 20915. This project
21 is for a nine unit apartment house in a new three-story detached
22 building. It's located in the RA-1 zone at 6905 Willow Street,
23 Northwest, Square 3359, Lot 52, and I'll just note that the ANC
24 Chair submitted a resolution in support yesterday in Exhibit 11.

25 CHAIRPERSON HILL: Great. Thank you, Madam Secretary.

1 So I've had a chance to review the record and I didn't
2 really have any issues with this particular time extension
3 request. I would agree with the Applicant's reasoning that is
4 also summarized in the Office of Planning's report under C, and
5 then also am glad that they had an opportunity to meet with the
6 ANC and the ANC had a chance to submit something into the record.
7 I also would note that there's no substantial change to this
8 application, so I'll be voting to approve.

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

10 VICE CHAIRPERSON BLAKE: I have nothing to add. I
11 agree with your assessment and the Office of Planning's
12 assessment in this case, and will support.

13 CHAIRPERSON HILL: Thank you.

14 Vice Chair Blake?

15 VICE CHAIRPERSON BLAKE: Mr. Chair, I'm in support of
16 the two year time extension.

17 CHAIRPERSON HILL: Thank you.

18 Vice Chair Miller?

19 ZC VICE CHAIRPERSON MILLER: I agree that good cause
20 has been demonstrated for this time extension.

21 CHAIRPERSON HILL: Okay. Great. Thank you.

22 I'm going to go ahead and make a motion to approve
23 Application No. 20915-A as captioned and read by the secretary,
24 and ask for a second. Mr. Blake?

25 VICE CHAIRPERSON BLAKE: Second, Mr. Chair. I want to

1 make sure that the, we're extending the validity ending June
2 21st, 2027; is that correct?

3 CHAIRPERSON HILL: It is June 21st, 2027, yes. Thank
4 you so much. That is correct.

5 CHAIRPERSON HILL: And ask for a second.

6 VICE CHAIRPERSON BLAKE: Second.

7 CHAIRPERSON HILL: Great. Thank you, Mr. Blake.

8 Madam Secretary, if you could go ahead and take a roll
9 call.

10 MS. MEHLERT: Please respond to the Chair's motion to
11 approve the application.

12 Chairman Hill?

13 CHAIRPERSON HILL: Yes.

14 MS. MEHLERT: Vice Chair Blake?

15 VICE CHAIRPERSON BLAKE: Yes.

16 MS. MEHLERT: Mr. Smith?

17 COMMISSIONER SMITH: Yes.

18 MS. MEHLERT: And Commissioner Miller?

19 ZC VICE CHAIRPERSON MILLER: Yes.

20 MS. MEHLERT: Staff would record the vote as four to
21 zero to, yeah, four to zero to one. Sorry. To approve
22 Application No. 20915-A on the motion made by Chairman Hill and
23 seconded by Vice Chair Blake.

24 CHAIRPERSON HILL: Great. Thank you.

25 Madam Secretary, you can call our next order of

1 business, please, when you get a chance.

2 MS. MEHLERT: Next is an application pursuant to
3 Subtitle X, Section, or sorry, Application No. 21306 of Helen
4 Jackson and Zakiya Jackson. This is on the expedited review
5 calendar. It's an application pursuant to Subtitle X, Section
6 901.2 for a special exception under Subtitle D, Section 5201 from
7 the location requirements of Subtitle D, Section 5004.1(a) to
8 allow an accessory building in a required rear yard.

9 This is for a rear addition to an existing two-story
10 detached principal dwelling with two existing accessory
11 structures in the rear yard. It's located in the R1-B zone at
12 1142 44th Place, Southeast, Square 5361, Lot 841, and there were
13 two late filings that included an additional letter in support
14 from the ANC SMD Aaron Harris and a letter from the Applicant
15 discussing their outreach to the neighbors.

16 CHAIRPERSON HILL: Okay. Great. Thank you.

17 I'm just reading the new submissions. Okay. All right.

18 I've had a chance again to review the record and in
19 general I didn't have any main concerns about this particular
20 application or (indiscernible) I should say. I did agree with
21 the, I will agree with the Office of Planning's analysis and the
22 comments that they have given. We did get a letter from the SMD
23 but not the ANC because it seems as though, according to the SMD,
24 the ANC did not take a formal position on this.

25 There is something in the record that has been put

1 forward from the Applicant concerning their neighbor notification
2 outreach in which they seem to be indicating, again, how much
3 outreach they have put forward, and so I didn't have any issues
4 with this, and I'm going to be voting to approve the application.

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

6 COMMISSIONER SMITH: Nothing to add. I will vote in
7 support.

8 CHAIRPERSON HILL: Mr. Blake?

9 VICE CHAIRPERSON BLAKE: Yeah. I'm going to vote in
10 support of this application, Mr. Chair. I believe that we can,
11 given the information in the record, the plat, the plans, I
12 believe we can understand the impact of the requested relief
13 without testimony and it's appropriate for the hearing consent
14 calendar.

15 The fact that the ANC has not weighed in I think, again,
16 they explained it by saying that they were not able, did not meet
17 and I think the SMD Harris's input at Exhibits 22 and 29 really
18 substantiate that and as you pointed out as well, the input from
19 the Applicant about their neighborhood outreach does allay some
20 concerns I don't have about that. I would be voting in favor of
21 the application.

22 CHAIRPERSON HILL: Thank you.

23 Vice Chair Miller?

24 ZC VICE CHAIRPERSON MILLER: Yes. Thank you, Mr.
25 Chairman. I concur with my colleagues and am prepared to support

1 the application.

2 CHAIRPERSON HILL: Thank you. All right.

3 I'm going to make a motion to approve Application No.
4 21306 as captioned and read by the secretary, and ask for a
5 second. Mr. Blake?

6 VICE CHAIRPERSON BLAKE: Second.

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

9 MS. MEHLERT: Please respond to the Chair's motion to
10 approve the application.

11 Chairman Hill?

12 CHAIRPERSON HILL: Yes.

13 MS. MEHLERT: Vice Chair Blake?

14 VICE CHAIRPERSON BLAKE: Yes.

15 MS. MEHLERT: Mr. Smith?

16 COMMISSIONER SMITH: Yes.

17 MS. MEHLERT: Commissioner Miller?

18 ZC VICE CHAIRPERSON MILLER: Yes.

19 MS. MEHLERT: Staff would record the vote as four to
20 zero to one to approve Application 21306 on the motion made by
21 Chairman Hill and seconded by Vice Chair Blake.

22 CHAIRPERSON HILL: Okay. Great.

23 Madam Secretary, can you tell me which case is next?

24 MS. MEHLERT: Next I believe is Application 21151 in
25 the Board's meeting session.

1 CHAIRPERSON HILL: Okay. Give me a minute. Oh, yeah.
2 Okay.

3 Go ahead if you want to call our next case again, Madam
4 Secretary, and I think Commissioner Miller, you're not on this
5 one.

6 ZC VICE CHAIRPERSON MILLER: I'm not sure.

7 CHAIRPERSON HILL: 21151.

8 ZC VICE CHAIRPERSON MILLER: I'd be happy not to be on
9 it.

10 CHAIRPERSON HILL: I think it's Dr. Imamura.

11 ZC VICE CHAIRPERSON MILLER: Okay.

12 CHAIRPERSON HILL: Dr. Imamura, but he's not with us
13 so we'll see how this goes.

14 MS. MEHLERT: So next is Application No. 21151 of Dinesh
15 Tandon and Nidhi Tandon. As amended, this is a self-certified
16 application pursuant to Subtitle X, Section 901.2 for a special
17 exception under Subtitle C, Section 204.9 to allow a change from
18 one nonconforming use to another nonconforming use, and pursuant
19 to Subtitle X, Section 1000 for a use variance from Subtitle C,
20 Section 204.9(b) to allow a non-residential use.

21 This is for the conversion of the first floor and cellar
22 in an existing two-story attached building from an existing
23 nonconforming use as a retail convenience store to a new
24 nonconforming use as a restaurant. It's located in the RF-1 zone
25 at 2324 North Capitol Street, Northwest, Square 3124, Lot 143.

1 This public hearing was originally scheduled for July
2 24th, 2024. It was postponed several times and heard on May
3 14th, 2025. The Board closed the record and scheduled for
4 decision on that date, and participating are Chairman Hill, Vice
5 Chair Blake, Mr. Smith and Dr. Imamura, however Dr. Imamura is
6 not participating today.

7 CHAIRPERSON HILL: Okay. Great. Thank you.

8 There's been some construction here so if you all hear
9 some noise, I apologize for it. So I left at the very end of
10 this hearing and I went back and watched the end of the hearing
11 so I've seen all of it and am prepared to continue to discuss
12 and deliberate on this.

13 Unfortunately, I just don't think the Applicant has
14 made the case in order to meet the high standard, or sorry, the
15 high bar I guess for which to, the three prongs for the use
16 variance. I didn't see anything necessarily exceptional about
17 the property that they can't make use of the property within the
18 confines of the regulations that they find themselves in and so,
19 and also the special exception as it kind of is so much tied to
20 the use variance, I wasn't able to also agree with their argument
21 concerning the special exception.

22 So I am unfortunately, well, I shouldn't say
23 unfortunately. I'm not going to be able to vote for it because
24 I don't think that they were able to meet the criteria of, again,
25 I mean, use variance is the highest standard that we basically

1 have and I think that they are going to be able to make use of
2 the property without it needing to be this type of a intensity
3 in terms of a restaurant.

4 I would like to make a couple of comments however. I
5 guess that I do, I went back again and watched the testimony and
6 for the Applicant and the, yeah, the Applicant, I guess. Like,
7 you know, I apologize that some of the testimony got a little
8 bit, you know, oddly out of line in terms of what zoning
9 requirements kind of have to say. I mean, what the community
10 has kind of said in terms of the overall type of restaurant and
11 the Applicant, or the restaurant that was proposed here it sounds
12 like they're a very nice restaurant, a very good neighbor in the
13 current place that they are and that I apologize if there was
14 some, again, odd commentary to the testimony that came forward.
15 In fact, my mother is from a country called Sikkim, or a state
16 of India, and so it was kind of interesting some of the comments
17 concerning the type of restaurant that was going to be put into
18 that neighborhood.

19 However, as I said, I don't think that they meet the
20 criteria for us to grant this variance. I do think that there
21 is perhaps a corner store alternative that they might be able to
22 do, however, I don't know if that would be something that would
23 still meet the needs of this particular Applicant. I think under
24 U-254.14 there are special exceptions that might be able to allow
25 for some type of eating and drinking establishment but that would

1 really have to be neighborhood serving. It wouldn't be something
2 that would be like a destination type of place. I mean, the
3 whole point of the corner store that also can be, again, under
4 special exception some eating and drinking establishment, it has
5 to be kind of serving the neighborhood as something that we, as
6 a Board, have also focused upon when we're going through the
7 special exceptions.

8 However, I'm not giving any type of advice to
9 necessarily do that because I don't necessarily know, again, as
10 all of the applications go, I don't know if that would pass either
11 but that's just another type of thought process as I was going
12 through and hearing about this. And so, I guess with that, again,
13 I think that the, you know, I think the restaurant where it is
14 currently now is serving the community well and they're an
15 upstanding member of the community and they seem to be doing very
16 well, and I know the restaurant and I think it's a nice restaurant
17 but it's just not something that I think would work out in terms
18 of meeting the criteria for us, for me, to vote in favor of the
19 use variance or the special exception. So with that I'm going
20 to voting to deny the application.

21 Mr. Smith, may I hear your thoughts?

22 COMMISSIONER SMITH: Sure. So I too, I want to preface
23 this conversation in that I agree with you, and you listened back
24 to the hearing, there was a lot of colorful conversation that
25 occurred amongst some of the residents, well one resident I think

1 made a very enlightened comment that honestly went viral to be
2 completely transparent about it, across the District and I do
3 want to say and to reiterate what she said that I'm very aware
4 the restaurant seems to be they are very, you know, upstanding
5 community member where they're located now, very popular
6 restaurant and there was just a lot of cultural language about
7 the type of restaurant that would be located here, and that is
8 beyond the scope of zoning. That's not something that we would
9 even touch to evaluate, so I apologize for some of those comments
10 that was received or was heard at that hearing.

11 But nonetheless, and also and cognizant of a lot of the
12 comments that we received from the broader neighborhood that they
13 feel that this area is a restaurant desert of sorts and they
14 greatly value having some form of a restaurant relatively within
15 walking distance or in close distance to them. But unfortunately
16 that's not necessarily a zoning evaluation either. What we're
17 tasked with is this is a use variance. It is the highest level
18 of relief that this Board can grant so we have strict criteria
19 on how we would evaluate a variance to allow this type of use
20 and a food desert is not one of them.

21 I do not believe that the Applicant has met the burden
22 of proof for us to grant the variances based on the testimony
23 provided by the Applicant regarding the three prongs and I won't
24 belabor it beyond that. I think Chairman Hill, you have expounded
25 on the reasons why and I thankfully agree with your testimony on

1 that. There are additional options for the owner of the building
2 to be able to use the building. It may not be an eating and
3 drinking establishment of this particular scale. There was an
4 evaluation of the corner store provisions and they can utilize
5 the corner store provisions but maybe not for an eating and
6 drinking establishment of this particular scale. I do believe
7 there are other options within the zoning ordinance where they
8 can use the building.

9 So I do not believe they've met the use variance test
10 and, as you stated, the special exception request that heavily
11 ties to the use variance, so I will also recommend denial for
12 the use variance as well as the special exception.

13 CHAIRPERSON HILL: Thank you.

14 Vice Chair Blake?

15 VICE CHAIRPERSON BLAKE: Mr. Chair, I agree with the
16 comments made in your assessment as well as that of Board member
17 Smith, and I would just echo that while the zoning compliant uses
18 may be limited, the Applicant really has not made a compelling
19 or comprehensive argument that even when taken together these
20 constitute an extraordinary or exceptional situation or condition
21 and with respect to the property that meets the test for a
22 variance as an undue hardship or for that matter as a practical
23 difficulty if it were the lower standard for an area variance and
24 it pretty much, as stated in the Office of Planning report, the
25 nature of the proposed use, a full service restaurant with a bar

1 and dedicated delivery window would potentially create
2 significant external effects that are not anticipated for this
3 zone, particularly with regard to noise, traffic, parking, and
4 loading.

5 So for that reason I too will be in support of denying
6 the application for both the, the request for both the variance
7 and the special exception.

8 CHAIRPERSON HILL: Thank you. All right.

9 I'm going to make a motion then to deny Application No.
10 21151 as captioned and read by the secretary, and ask for a
11 second. Mr. Blake?

12 VICE CHAIRPERSON BLAKE: Second.

13 CHAIRPERSON HILL: The motion is made and seconded.
14 Madam Secretary, take a roll call, please.

15 MS. MEHLERT: Please respond to the Chair's motion to
16 deny the action.

17 Chairman Hill?

18 CHAIRPERSON HILL: Yes.

19 MS. MEHLERT: Vice Chair Blake?

20 VICE CHAIRPERSON BLAKE: Yes.

21 MS. MEHLERT: Mr. Smith?

22 COMMISSIONER SMITH: Yes.

23 MS. MEHLERT: Staff would record the vote as three to
24 zero to two to deny Application 21151 on the motion made by
25 Chairman Hill and seconded by Vice Chair Blake.

1 CHAIRPERSON HILL: Great. Let's see now. Okay.

2 Madam Secretary, I think we have another Commissioner
3 joining us for the next one. I believe, is Commissioner Stidham
4 around?

5 MS. MEHLERT: Commissioner Stidham is joining for the
6 next case. She said she would be here at 10:15. I don't know if
7 you want to take like a break?

8 CHAIRPERSON HILL: Okay. Yeah, yeah. Let's take a
9 quick break. We'll come back at 10:15.

10 MS. MEHLERT: Okay.

11 CHAIRPERSON HILL: Thank you very much.

12 (Whereupon, there was a brief resume.)

13 CHAIRPERSON HILL: All right, Madam Secretary. If you
14 can please call our next case.

15 MS. MEHLERT: The Board is back from a quick break and
16 is going into its hearing session for the next case.

17 This is Application No. 21240 of 71 Florida Ave 39,
18 LLC. This is a self-certified application pursuant to Subtitle
19 X, Section 901.2 for a special exception under Subtitle U, Section
20 203.1(J) to allow a healthcare facility use for 16 persons. This
21 is a new 16 bed healthcare facility in an existing detached
22 building Located in the R-2 zone at 4237 Eads Street, Northeast,
23 Square 5085, Lot 72.

24 This hearing began on March 26th and was continued to
25 April 23rd. The decision meeting began on April 30th and it was

1 continued to May 14th when the Board re-opened the hearing and
2 requested additional submissions. Participating are Chairman
3 Hill, Vice Chair Blake, Mr. Smith and Commissioner Stidham.

4 CHAIRPERSON HILL: Okay. Great. Thank you.

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

7 MS. WILSON: Hi. Alex Wilson from Sullivan & Barros
8 on behalf of the Applicant in this case.

9 CHAIRPERSON HILL: Great. Thank you. Good morning,
10 Ms. Wilson.

11 Commissioner, is it Orendoff? Can you hear me?

12 ANC COMMISSIONER ORENDOFF: Yes.

13 CHAIRPERSON HILL: Okay. Great.

14 Could you introduce yourself for the record?

15 ANC COMMISSIONER ORENDOFF: Yes. Kimory Orendoff, ANC
16 Commissioner 7F03, and I'm trying to get my camera to boot up.

17 CHAIRPERSON HILL: Okay. Great. Thank you,
18 Commissioner.

19 Commissioner, are you the only one with us today? There
20 was another Commissioner.

21 ANC COMMISSIONER ORENDOFF: I believe Commissioner
22 Nelson is trying to chime in, but I do know she's running in
23 between meetings. She said she would try to jump in once the
24 case was called.

25 CHAIRPERSON HILL: Okay. Great. So we'll see.

1 So, and, Commissioner, I'm sorry. What was the other
2 Commissioner's name again?

3 ANC COMMISSIONER ORENDOFF: Commissioner Nelson, 7F 04.

4 CHAIRPERSON HILL: Great. Mr. Young, if you want to
5 keep an eye out for that Commissioner if she happens to pop in.

6 Ms. Wilson, so I'm sure you've been following all of
7 us in terms of the deliberation and everything we did and I saw
8 the things that have been put in the record. But could you just
9 summarize what has happened since the last time you were with us?

10 MS. WILSON: Absolutely.

11 So as requested by the Board we submitted a more
12 detailed set of conditions in Exhibit 56. The thought process
13 behind the conditions was, first, let's take into consideration
14 what the Board said at the last meeting, update those accordingly
15 and then also go through the record again to see the concerns
16 raised by the ANC and neighbors, directly address those to the
17 extent possible within the special exception criteria while
18 keeping in mind that some of those concerns could or would be
19 present in a by-right scenario with eight beds or even a single
20 family home. And so how do we balance these community concerns
21 with quality of life for the residents and I think the conditions
22 reflect that and they're focused on items that are legally
23 relevant and present in the standards for approval.

24 I did have a chance to review the ANC's updated
25 resolution. We truly appreciate the ANC has reconsidered the

1 | proposal and moved to a position of conditional support with a
2 | majority of our conditions proposed being referenced in the
3 | resolution. There are a couple of different points. The resident
4 | limit being the main point. The ANC requests a limit of ten
5 | residents where we are continuing to request 16. We believe this
6 | is not materially different, given the extensive controls in
7 | place. For example, there are four parking spaces on-site. There
8 | are only three staff members present at a time with one visitor
9 | vehicle maximum at a time. Therefore, visitors and staff will
10 | park entirely on the site.

11 | And then in terms of housekeeping and meal service,
12 | this would be present whether we had eight, ten or sixteen
13 | residents and at the same intensity once a day. So we were happy
14 | to provide conditions restricting when the services must occur
15 | but they would occur whether we had eight, ten or sixteen. So
16 | even a by-right scenario would have the same housekeeping and
17 | meal service, for example, but with no conditions.

18 | And then the other point. The ANC sought a five year
19 | time limit and we respectfully request a seven year term should
20 | the Board feel a time limit is appropriate and it's a modest
21 | difference but it reflects the investment and operational
22 | continuity required for this type of facility and it still
23 | preserves the same oversight that the Board would have for future
24 | renewal.

25 | And so, again, grateful for the ANC. I believe we're

1 much closer to consensus than where we started and hopefully
2 these conditions have been refined, they're enforceable and that
3 have demonstrated our good faith efforts to address concerns
4 while still providing needed housing and quality of life for
5 these residents.

6 CHAIRPERSON HILL: Okay. Thank you. Let's see.

7 I'm going to kind of go around and do some of this.
8 Mr. Young, is someone from the Office of Planning with us? Oh,
9 I see.

10 MR. YOUNG: I see Ms. Brown-Roberts on the witness list
11 but she is not on, so we're having staff contact her.

12 CHAIRPERSON HILL: Okay. Great. Thanks.

13 Commissioner Orendoff?

14 ANC COMMISSIONER ORENDOFF: Yes, sir.

15 CHAIRPERSON HILL: Do you want to summarize also? I
16 mean, I see the things that you guys, and thanks for taking all
17 the time that you have taken for this, but do you want to
18 summarize what you have put in the record or is there anything
19 you'd like to add?

20 ANC COMMISSIONER ORENDOFF: I just want to put in the
21 record that we are on a standstill with the ten beds and the
22 reason that we are on a standstill with the ten beds because the
23 Applicant has not proven that they have maximized the facility
24 that they're using at this present day.

25 We're looking at the ten beds and we're looking at the

1 five years that gives them enough time to come back to the Zoning
2 or to be considered for an upgrade of 16 beds or if they reach
3 the threshold for that maximum. So we're looking at five years
4 and a ten bed max. That's just where we stand.

5 CHAIRPERSON HILL: Okay. Great. Thank you,
6 Commissioner.

7 I guess we'll still look for the Office of Planning.
8 So what I was going to try to do is, Mr. Young, were there
9 witnesses here?

10 MR. YOUNG: Yes, we do.

11 CHAIRPERSON HILL: Okay.

12 Before if I could, and I saw your hand up, Mr. Blake,
13 can I just real quick I want to go through the witnesses and see
14 what questions you all may or may not have, and then we may
15 actually do an emergency closed meeting so I can speak to legal
16 and then that's my plan.

17 Mr. Young, can you tell me who the witnesses are?

18 MR. YOUNG: Yes. We have Yolanda Sorto, and I'm not
19 sure if Senai Medhani is with the Applicant or not.

20 CHAIRPERSON HILL: Ms. Wilson, Senai Medhani's with
21 you?

22 MS. WILSON: Yes, correct. He's with us.

23 CHAIRPERSON HILL: Okay. So I guess it's just Ms.
24 Sorta then?

25 MR. YOUNG: One more. Makeda Okolo. And that's it.

1 CHAIRPERSON HILL: Okay. Great. Okay.

2 Ms. Sorto, can you hear me?

3 MS. SORTO: Yes. Can you hear me?

4 CHAIRPERSON HILL: Yes. If you could do me a favor and
5 please introduce yourself and then as a member of the public
6 you'll have three minutes to give your testimony, and you can
7 begin whenever you like. I think, Mr. Young, do you have a clock
8 on there somewhere? Oh, there we go. Great. So now there's a
9 clock on the screen there, Ms. Sorto, and please go ahead.

10 MS. SORTO: Thank you. Good morning members of the
11 Board, Commissioners, and community.

12 My name is Yolanda Sorto and I live at 4236 Eads Street.
13 I bought my house two years ago. I live directly across the
14 street from the property where they are proposing to open these
15 facilities and I'm here today to speak in opposition to this
16 application. I didn't have the opportunity last time because I
17 forgot I had to sign up to testify so I didn't want to miss this
18 time to share my thoughts and my feelings about this proposal.

19 And I just moved here because the area is quiet and
20 peaceful and felt like a family neighborhood where we can raise
21 a family and let our children play outside. I want to highlight
22 that on the right side of my house there is already a transitional
23 home operated under Project Nehemiah and it's less than 300 feet
24 away. There is a similar healthcare facility on Clay Street and
25 this doesn't feel like a neighborhood anymore. It's turning into

1 something commercial. They are saturating our block and I'm very
2 concerned about the reality of this higher frequency of parking
3 and traffic and a safety risk because we cannot predict the
4 behavior of all the visitors. Visitors can be disrespectful and
5 facilities like this will bring more foot traffic and possibly
6 (audio interference) and littering.

7 In fact, my driveway has been blocked more than once
8 by visitors from the transitional home. If another facility
9 opens across the street this issue will only get worse and this
10 type of facility impacts the character of our neighborhood. As
11 homeowners and residents we submitted several letters in
12 opposition because we are the ones who will deal with more cars,
13 more strangers and noise and the daily disruptions.

14 And this isn't about saying no to the healthcare
15 facility, it's about how many are being allowed so close together
16 in a residential zone. These (indiscernible) will create an
17 over=concentration of such facilities. Please consider the
18 impact on the people who actually live here and I respectfully
19 ask the Board to deny this application and help us protect and
20 preserve the residential character of our neighborhood.

21 Thank you for your time.

22 CHAIRPERSON HILL: Thank you, Ms. Sorto. Let's see.
23 Ms. Okolo, is it Okolo? Okolo. Do you hear me?

24 MS. OKOLO: I can hear you. Can you hear me okay?

25 CHAIRPERSON HILL: Yes, I can. Perfectly. Thank you.

1 Do you want to go ahead and introduce yourself for the
2 record and then you'll also have three minutes as a member of
3 the public and you can begin whenever you like.

4 MS. OKOLO: Sure. Thank you. Good morning everyone.

5 My name is Makeda Okolo and I'm a owner resident of
6 4247 Eads Street, Northeast. I have lived in the neighborhood
7 for the past eight years and I live just three doors down on the
8 same side of the street as the property that we're discussing.

9 I remain opposed to the application 21240 as currently
10 submitted. I will say that while I continue to remain opposed
11 to the Applicant's request for 16 beds I do support ANC 7F's
12 resolution which calls for ten beds. As you all know we've
13 labored this quite a bit but the developer currently owns another
14 facility which is 500 feet away with only four residents and I
15 continue to be concerned about their inability to demonstrate a
16 capacity to operate at a threshold within their reach and, you
17 know, for me it really calls into question whether or not they
18 can even foresee the potential impacts with the request for Eads
19 Street.

20 As previously stated I remain concerned about increased
21 traffic, hazardous waste disposal, increased emergency activity
22 as well as a change in the culture and the nature of our
23 neighborhood, as Ms. Sorto mentioned. With respect to parking,
24 I read through their responses and continue to find it really
25 hard to believe that they'll sufficiently manage visitor parking

1 assuming that all hypothetical 16 patients had residence at the
2 same time. What happens if someone just drives up? They're
3 going to park on the street. They're not going to go through
4 the alley and park in the back and that's going to directly impact
5 me.

6 I've personally visited this type of facility in a
7 neighborhood before and I've been a part of larger groups where
8 we went in to wish our loved ones happy birthday, so I speak from
9 personal experience as I share what I anticipate being risks
10 associated with visitor use and while I would prefer that this
11 property not be used for this use at all, I would envision that
12 ten beds is more likely to be sufficiently managed. I continue
13 to be concerned about the cumulative impacts associated with two
14 properties within 500 feet of each other plus the halfway house
15 that's across the street and there's just going to be a lot
16 happening.

17 So I also request that the Applicant receive the
18 shortest possible renewal length to allow the community another
19 opportunity to weigh back in and I hope that anyone who's
20 listening that can have a voice and a say in ensuring enforcement
21 of whatever terms are rendered at the end of this, do that and
22 don't just turn their backs on this and on us, and so I hope that
23 the Commission hears the concerns of the community, the concerns
24 of the ANC and takes it seriously and works to protect us to the
25 maximum extent of your power and your purview.

1 Thank you.

2 CHAIRPERSON HILL: Thank you, Ms. Okolo.

3 Ms. Sorto, that transitional home is across the street
4 from you?

5 MS. SORTO: It's right on, it's on my right side and
6 4237 is in front of my house.

7 CHAIRPERSON HILL: Okay. Great. Okay. Thanks.

8 MS. SORTO: And I just want to add that Ms. Nelson is
9 on the line.

10 CHAIRPERSON HILL: Okay.

11 MS. SORTO: Yes.

12 CHAIRPERSON HILL: Okay. Great. Thanks, Ms. Sorto.

13 Does the Board or the Applicant have any questions for
14 the witnesses?

15 (Pause.)

16 CHAIRPERSON HILL: Okay. All right.

17 I'm going to let the witnesses go. Thank you all for
18 taking the time to be with us.

19 Commissioner Nelson, can you hear me?

20 ANC COMMISSIONER NELSON: Yes, I can. How are you
21 today?

22 CHAIRPERSON HILL: I'm doing well, thank you. How
23 about yourself?

24 ANC COMMISSIONER NELSON: I'm doing all right.

25 CHAIRPERSON HILL: Good. You want to just --

1 ANC COMMISSIONER NELSON: I'm in between appointments
2 so I apologize for my tardiness.

3 CHAIRPERSON HILL: That's all right, Ms. Nelson, I mean
4 Commissioner. I think Commissioner Orendoff and all the stuff
5 that you've put in the record is substantial and enough. But do
6 you want to introduce yourself for the record?

7 ANC COMMISSIONER NELSON: Yes, I can. My name is
8 Commissioner Nelson and the two proposed applications are
9 bordering my SMD which greatly impacts my residents, and so I'm
10 here to continue to advocate on behalf of our community.

11 CHAIRPERSON HILL: Great. Thank you.

12 All right, Commissioner. And, Commissioner, also if
13 you've got to pop off to another meeting, like, again, I think,
14 you know, we have another Commissioner with us and there's a lot
15 of stuff in the record but you're more than welcome obviously to
16 be with us, even if you go on mute and you need to say something
17 just, you know, unmute yourself and let me know. All right.

18 So what I'd like to do with my Board members is I wanted
19 to go into an emergency meeting because I wanted to ask legal
20 some advice. However, before I do that I think, Mr. Blake, did
21 you have a question now?

22 VICE CHAIRPERSON BLAKE: Mr. Chair, there are a couple
23 of things that I just wanted to get clarification on from an
24 operational perspective at the facility. That could be done
25 after but it would be, for me it would be helpful just to get a

1 sense --

2 CHAIRPERSON HILL: Yes. Go ahead, sure. Ask your
3 questions. Please.

4 VICE CHAIRPERSON BLAKE: Okay.

5 The question for the Applicant is could you just
6 explain a little bit more about the housekeeping perspective and
7 times, in terms of the timing they'll come and where they'll park
8 and so forth and will they park on the street and enter from
9 that? How many vehicles would you anticipate for that? How many
10 people? Just to get a sense of it, of how the housekeeping would
11 be conducted.

12 MS. WILSON: Sure.

13 Mr. Eyob is on the attendee's list. I can answer part
14 of that question but he would have the most information since the
15 housekeeping already occurs on Clay Street. It's my
16 understanding that yes, a vehicle parks directly in front of the
17 property and then goes in through the front, so it would be street
18 parking. I don't --

19 CHAIRPERSON HILL: Mr. Young? Is Mr. Eyob around there
20 somewhere? Oh, there we got, I got him.

21 Mr. Eyob, can you hear me and if so, could you introduce
22 yourself for the record?

23 MR. EYOB: Good morning. My name is Aaron Eyob. I'm
24 the owner and the Applicant of this case number.

25 CHAIRPERSON HILL: Okay. Great.

1 Mr. Blake, I'm sorry. Did you get your answer from Ms.
2 Wilson?

3 VICE CHAIRPERSON BLAKE: In part, yes. If you could
4 just elaborate a little bit on how that is conducted in terms of
5 housekeeping. Where the housekeeper is parked? The number of
6 vehicles and so forth, how long they're there? I think, as one
7 of the witnesses pointed out you're only at about 50 percent
8 capacity there now. If you could elaborate how that might be
9 different with the scenario of the larger number of residents.

10 MR. EYOB: So now we have on Clay Street it's actively
11 working. We have parking in the back so we usually use the
12 parking in the morning. So usually the housekeeping come between
13 6 and 7:30, so they use that spot. Then after that we use that
14 spot for the, the same spot for the visitors. So technically
15 they don't park in the front of the street so we use the parking
16 of the spot for the parking in the back.

17 And regarding having the four, it's various because we
18 work with Medicare/Medicaid and the hospitals and so it sometimes
19 could be eight, sometimes could be seven, sometimes could be four
20 but it does depend on how short the people stay, how concise. It
21 cannot be dependent on the Applicant or (indiscernible) because
22 it's four today. A couple of months ago a day was eight, nowadays
23 for some of the residents they choose to go to hospital or choose
24 to go to the family member, so it's different. So it cannot be
25 because today we have four, it can be maybe (indiscernible) so

1 | that depend on because we work with the hospitals and some of,
2 | we have people. So technically we don't use the street parking.
3 | All of the parking is in the back of the house.

4 | VICE CHAIRPERSON BLAKE: Okay.

5 | And with regard to the meal delivery services, you
6 | don't have a loading zone so I suspect you do, again, come from
7 | the front of the building or would that also come from the rear
8 | and how would that change, I guess how would that change if it
9 | were a larger, would that be sufficient with a larger number of
10 | people?

11 | MR. EYOB: No. It's the same because we put them on
12 | the schedule timing. They all come also in the back, even the
13 | meals and it's almost like getting mail like from UPS or USPS.
14 | It would not take a second to drop off the meal and to go, maybe
15 | take like ten to fifteen minutes.

16 | VICE CHAIRPERSON BLAKE: Okay. Thank you very much.
17 | Those are the questions I had.

18 | CHAIRPERSON HILL: Okay. Thanks, Mr. Blake, and
19 | actually now that you mentioned I do have a couple of questions.
20 | Okay.

21 | Mr. Eyob, so in the property that you guys are talking
22 | about right now, is there any -- you don't have this set up as a
23 | facility now, correct? There's not the eight beds or any beds
24 | there, correct?

25 | MR. EYOB: It's set up already for 16 beds right now.

1 CHAIRPERSON HILL: No. But I'm saying you're not
2 operating it in any --

3 MR. EYOB: No.

4 CHAIRPERSON HILL: -- way, right? Because the other
5 property, it is already operating with eight beds, correct?

6 MR. EYOB: Correct.

7 CHAIRPERSON HILL: Okay. So the other property is
8 already, okay. Okay. Sure, hold on one second.

9 Go ahead, Commissioner Orendoff. You're on mute.

10 ANC COMMISSIONER ORENDOFF: Yes. To the Board. We
11 asked the developer and the gentleman that's speaking now to just
12 give us a tour. So we were denied the tour. We walked around
13 the property before we had our last meeting in May, before our
14 meeting and, you know, I had walked up on the property just a
15 little bit just to look around it. The next day, next couple of
16 days we've got a sign up saying no trespassing because when I
17 walked on the property somebody had came out and I knew it was
18 the property because they said it was empty, but when I walked
19 on the property somebody came out. This was supposed to be empty
20 vacant property. But this property had somebody in it.

21 So they came out. They didn't say, and I think they
22 knew it was me because I let them know. I said it's the
23 Commissioner walking around. I told them I'm with the Commission.
24 I even put my face on the ring cam so they could know it was me.
25 But they still have yet to let us walk around just to see the

1 set up with the 16 beds.

2 CHAIRPERSON HILL: I got you. I got you, Commissioner.
3 I mean, they don't have to give you a tour of the inside if they
4 don't want to and so, again, like, they're just trying to do
5 whatever they're trying to do with their property and so, you
6 know. But I hear you.

7 ANC COMMISSIONER NELSON: Commissioner Hill, can I, I'm
8 sorry. Let me, can I interject real quick?

9 CHAIRPERSON HILL: Sure.

10 ANC COMMISSIONER NELSON: I don't think the issue is,
11 the issue, I mean it would have been nice to be able to see but
12 if you just heard the testimony, they said that it's empty. When
13 they received correspondence from us, they said that there's
14 somebody living there --

15 CHAIRPERSON HILL: All right. And --

16 ANC COMMISSIONER NELSON: -- that is why we could not
17 see it.

18 CHAIRPERSON HILL: That's right.

19 Commissioner Nelson, all I was trying to figure out is
20 whether they're operating currently as this type of facility, and
21 the answer is no. If there's somebody in the house, then there's
22 somebody in the house. But I appreciate it.

23 Mr. Lawson, can you hear me from the Office of Planning,
24 and I saw other people's hands up. Give me a second.

25 (Pause.)

1 CHAIRPERSON HILL: Mr. Lawson? Can he hear me?

2 MS. BROWN-ROBERTS: Hello?

3 CHAIRPERSON HILL: Hi. Is this Ms. Brown-Roberts?

4 MS. BROWN-ROBERTS: This is Ms. Brown-Roberts.

5 CHAIRPERSON HILL: Oh, great. Can you introduce

6 yourself Ms. Brown-Roberts?

7 MS. BROWN-ROBERTS: Hi. This is Maxine Brown-Roberts

8 from the Office of Planning.

9 CHAIRPERSON HILL: Thanks, Ms. Brown-Roberts.

10 Ms. Brown-Roberts, I'm having kind of a lot of trouble

11 with this one. I'm trying to figure out where I am with it,

12 right? And so, you know, you all are recommending approval. You

13 don't think that it's going to meet the issues of adverse impact

14 enough that you guys think that we should deny this. There's

15 the transitional home that's nearby, right? I mean, you guys

16 looked at the transitional home as well, correct? Or thought

17 about it?

18 MS. BROWN-ROBERTS: We were informed about the

19 transitional home.

20 CHAIRPERSON HILL: Okay. Okay.

21 And so you guys took that into account when you were

22 making your analysis?

23 MS. BROWN-ROBERTS: Yes, Mr. Chairman.

24 CHAIRPERSON HILL: Okay. All right. So that's it.

25 Does anybody --

1 MS. BROWN-ROBERTS: It's a different type of facility.

2 CHAIRPERSON HILL: No, I got it. I 'm just trying to
3 figure out whether or not the Office of Planning took that into
4 consideration and you did. Does, I thought Commissioner Stidham,
5 you had your hand up?

6 ZC COMMISSIONER STIDHAM: I just wanted to ask the
7 Applicant a little bit more on the deliveries. That it really
8 is just housekeeping and food? What about medical supplies and
9 medications, visits by other doctors that are personal to the
10 patients?

11 MS. BROWN-ROBERTS: Are you talking to me?

12 ZC COMMISSIONER STIDHAM: No. I'm sorry, Ms. Brown-
13 Roberts. I was speaking to the Applicant. Apologies.

14 MR. EYOB: Yes. This residents what we have in place.
15 They are like anybody else. They still go to the doctor office.
16 They can still pick up medication their way in the pharmacy so
17 there is not any impact that somebody would make special visit
18 for them. So they still make an appointment, they go to dentist,
19 doctor office or (indiscernible). Just like everybody else that
20 would ever go to this facility.

21 ZC COMMISSIONER STIDHAM: Okay. Thank you.

22 MR. EYOB: Thank you.

23 VICE CHAIRPERSON BLAKE: Along those lines, clarify for
24 me. When a patient is, when a resident is picked up to go to
25 the facility, do you transport them or do they have some type of

1 service that picks them up and if so, is that done in the front
2 and how does that work exactly with the comings and goings of
3 the residents?

4 MR. EYOB: So they have a made to access for anyone
5 with special need. So they come in the back. We have a
6 handicapped ramp in the back and the parking spot for them, so
7 they access in the back. Every activity is done inside of the
8 property.

9 VICE CHAIRPERSON BLAKE: Okay. Thank you very much.

10 I have a question for the ANC Commissioner as well and
11 this question is, you arrived at the number of ten. The Applicant
12 is seeking permission for 16. Can you talk a little bit about
13 how you determine the number ten would mitigate the impact versus
14 sixteen? I just (indiscernible) how you determined ten is the
15 right number.

16 ANC COMMISSIONER NELSON: Commissioner Orendoff, do you
17 want me to or do you want to talk about that?

18 ANC COMMISSIONER ORENDOFF: Defer to you, Commissioner
19 Nelson.

20 ANC COMMISSIONER NELSON: Okay.

21 So we've had some long discussions with the community
22 members as well as kind of just reviewed some of the discussions
23 that you all had as a Commission about this situation. So
24 recognizing that the Applicant is entitled to eight beds legally,
25 without our consent or your, you know, any type of zoning

1 requirements, they're going to operate whether we agree with it
2 or not, right?

3 I think that the conversations that we had to have with
4 the community and also just requesting the information the Board
5 has shared through their questioning is what is something that,
6 how do we compromise with also being fair to the current character
7 of the community and not overwhelming them with commercialized
8 spaces in their community in a residential area?

9 And so with the granting of two per resident we felt
10 like, 1) it is giving you beyond the eight that you're, you know,
11 entitled to but also staying true to the residential feel of the
12 space and also being able to have a conversation with, you know,
13 coming up with what kind of operation procedures and parking. We
14 can have a voice about with, you know, the Applicant and their
15 representatives where we've had some difficulty being able to
16 build a rapport with them.

17 The other piece is that, you know, I know you didn't
18 ask about this but I do want to reiterate. They're asking for
19 ten years. I think that's a little obsessive and we're asking
20 for five to, you know, just be able to build rapport and relations
21 for them to show us that they are actually a part of the community
22 and not just coming in and commercializing our community.

23 VICE CHAIRPERSON BLAKE: Thank you.

24 I do believe, Commissioner, that the Applicant in
25 today's hearing said seven years and I did reference the ten

1 initially. But Ms. Wilson did say seven in today's session which
2 is closer to your five.

3 I have one last question for the Applicant. That
4 question is, can you please tell me, again, and I know we've
5 talked about this a little before, the process by whereby you the
6 licensing and the authorization to have 16 beds as and to the
7 extent where you stand currently in that process for approval and
8 the likelihood of the permission for 16 beds. Have you seen that
9 structure previously and is that something that the Department
10 of Health typically authorizes?

11 MR. EYOB: Correct. So we have a meeting with the DOB
12 and the Department of Health, DOH, so they are informed of
13 understanding having 16 beds and they did all the work doing the
14 property to determine if that's a fit with the neighborhood also.
15 So they are waiting for approval from BZA zoning.

16 VICE CHAIRPERSON BLAKE: Sorry. You're saying they
17 have reviewed it and they're waiting for BZA approval?

18 MR. EYOB: Yes. Because we have, we can get a license
19 as a matter-of-right for eight but since they make initial visit
20 in our discussion and meeting with them, we are intending to
21 apply for 16. So they know that the process to go to the BZA,
22 so they are waiting for this process to happen.

23 VICE CHAIRPERSON BLAKE: Okay. Do you know that, did
24 you get an indication of their comfort level with 16, either DOB
25 or DOH?

1 MR. EYOB: Correct.

2 VICE CHAIRPERSON BLAKE: You've got a, they did say if
3 we approve it they feel, they would be comfortable with that?

4 MR. EYOB: Correct.

5 VICE CHAIRPERSON BLAKE: Do you have anything that
6 documents that or explains that or anything like that?

7 MR. EYOB: We did a walkthrough with them. Before you
8 sign the initial application, you can request a walkthrough with
9 them. They will come, they will send an inspector. They measure
10 the (indiscernible), they see the ability (phonetic), so that's
11 why from our initial meeting. But I don't know if we can
12 specifically ask them to provide us document.

13 VICE CHAIRPERSON BLAKE: Okay. Thank you very much.

14 CHAIRPERSON HILL: Commissioner Stidham?

15 ZC COMMISSIONER STIDHAM: Sorry. Another question for
16 the Applicant related to parking, and I know we've, like, been
17 talking to death about four parking spaces but the math isn't
18 really adding up for me.

19 So you have three staff people. You're going to use
20 one of those spaces for visitors during the visitor hours.
21 However, you're also going to use that space for meal deliveries,
22 housekeeping, and for pick-up of individuals who need to go to
23 doctor's appointments. So all of that could coalesce at the same
24 time, leaving the fact that you need more than four parking spaces
25 because of that fact. I mean, you could have two individuals

1 | who are going to the doctor at the same time and you already have
2 | a conflict with also a visitor coming in.

3 | So help me better understand how you've thought this
4 | through to make four parking spaces work without impacting the
5 | neighborhood.

6 | MR. EYOB: So per the DOB requirement or the DOH
7 | requirement is only need two staff on-site all the time for 16
8 | residents. So the third staff is as a back-up, so it could be
9 | flexible, it could be part time, could be on and off. So that
10 | space is still going to be available to use to anybody the access
11 | ability, whoever want to go to the doctor's office or want to
12 | deliver or any other, so the two is maximum to have two staff
13 | all the time but the third one is an extra person.

14 | MS. WILSON: And then two. So I don't think it would
15 | be an adverse impact if housekeeping services and meal delivery
16 | services had to park on the street for a very limited amount of
17 | time, as specified in the conditions. The conditions don't
18 | specify where housekeeping and meal delivery services are going
19 | to take place, but the housekeeping services and meal delivery
20 | services could be part of a single family home. It could be part
21 | of an eight residents facility or a ten residents facility.

22 | And so I think what Mr. Eyob is saying is likely in the
23 | course of things they'll have an extra spot there but I don't
24 | think that should be a condition that the meal delivery and
25 | housekeeping services have to park there. Just adding that in.

1 I don't think it's an adverse impact compared to the by-right
2 scenario, I guess.

3 ZC COMMISSIONER STIDHAM: And putting in, you know,
4 also I believe you said trash pick-up daily from six to something
5 which is also the same time frame for the meal delivery and the
6 housekeeping. So having, that's a lot happening all about the
7 same time period.

8 MS. WILSON: Right. I think the trash pick-up would
9 occur at a similar time frame that typical trash pick-up would
10 and we can reduce the trash pick-up if you think it's too much
11 going on. We just heard concerns about trash so that was to
12 mitigate trash.

13 ZC COMMISSIONER STIDHAM: No, I'm just --

14 MS. WILSON: Yeah.

15 ZC COMMISSIONER STIDHAM: -- I'm not suggesting, I mean
16 you're going to need daily trash pick-up because you can't have
17 it hanging out in the alley. But what I'm trying to better
18 understand is that a lot of these things you have timed off to
19 be at the same time or within the same time period.

20 MS. WILSON: Sure.

21 ZC COMMISSIONER STIDHAM: So I'm just trying to
22 understand how you thought this business through and being able
23 to accommodate all of that around the same period of time in
24 addition to the other things that are happening in the house, the
25 housekeeping, meal delivery, the trash pick-up, the visitation,

1 people going to the doctor, et cetera.

2 MS. WILSON: Sure.

3 So we have a visitor policy and I'll defer to Mr. Eyob
4 to talk about how this actually occurs because there's pretty big
5 windows here. The housekeeping services shall take place in the
6 morning between the hours of 6 a.m. and 11 a.m., and, again,
7 we're happy to more narrowly tailor it. We had a condition that
8 said 7 a.m. to 9 a.m. and then we can have the meal delivery
9 service before 7 a.m. But when we put that into the last set of
10 conditions it was deemed too narrow.

11 So we're happy to revise the conditions so that the
12 meal delivery service and housekeeping won't overlap, although I
13 don't think that's likely to occur and, again, Aaron, does that
14 often happen where you have the meal delivery service, trash and
15 housekeeping services taking place at the exact same time? Like
16 at 7:15 a.m.?

17 MR. EYOB: No. The meals would take, like, between ten
18 to fifteen minutes between drop-off so would not take any time.
19 The housekeeping will follow but everybody's on a schedule to
20 come on that day so they know what exactly the time is.

21 ZC COMMISSIONER STIDHAM: Okay. I'm just, I was just
22 trying to understand the choreography and how you approach this.
23 So, thank you.

24 CHAIRPERSON HILL: Okay. Great.

25 Mr. Eyob, I have just one final question. You guys,

1 the other facility is functioning with eight people, correct?

2 MR. EYOB: Correct.

3 CHAIRPERSON HILL: Okay. And there's, I think there's
4 a bunch of other applications that you have coming down with us.
5 Is that the only property that you're currently operating is this
6 type of facility, or are some of the others also being operated
7 at the eight person level?

8 MR. EYOB: No, that's the only one.

9 CHAIRPERSON HILL: Okay. So all the other ones haven't
10 been opened yet?

11 MR. EYOB: Not yet.

12 CHAIRPERSON HILL: Okay. Okay. Okay.

13 Anybody have any final questions before I do a little
14 emergency meeting here?

15 Go ahead, Mr. Blake.

16 VICE CHAIRPERSON BLAKE: I just want to make sure I can
17 confirm your site selection process. What exactly is the criteria
18 that you use to determine the sites that you want to put these
19 facilities in?

20 MR. EYOB: This site. We owned this site for a couple
21 of years and we've been developing them to this level slowly but
22 it's not like right away we got them. They've been existing with
23 us. Actually we, Clay Street since 2018 and Eads Street 2017,
24 so we've been holding these properties building them slowly to
25 this level.

1 VICE CHAIRPERSON BLAKE: So they're purchased as,
2 they're being repurposed for this and it's not like you chose
3 these particular neighborhoods because it fit well with
4 particular criteria for your -- it just happened to be the places
5 that you have?

6 MR. EYOB: Initially we had a meeting with the Health
7 Department. There's a meeting there between those
8 (indiscernible) assisted living for resident and most of the
9 residents have been pushing back to another state. So that's our
10 initially discussion with the Health Department. We reached out
11 to them. We asked them where is the need, so they forecast this
12 area is more need and more resident need help to be close to
13 their family members, to if they go out their colleague they can
14 be able to visit them. For example, for Clay Street the resident
15 they have visitors and their family members which is evident to
16 assisting with time (phonetic) of life.

17 VICE CHAIRPERSON BLAKE: Okay. Thank you.

18 CHAIRPERSON HILL: Okay. All right. Okay.

19 As Chairperson for the Board of Adjustment for the
20 District of Columbia in accordance with Section 407 of the
21 District of Columbia Administrative Procedures Act, I move that
22 the Board of Zoning Adjustment hold a closed emergency meeting
23 on 6/4/2025 for the purposes of seeking legal advice from our
24 counsel on case No. 21240 and/or deliberate upon but not vote on
25 case No. 21240 for the reasons cited in D.C. Official Code Section

1 2-575(b)(13).

2 Is there a second? Mr. Blake?

3 VICE CHAIRPERSON BLAKE: Second.

4 CHAIRPERSON HILL: Madam Secretary, could you please
5 take a roll call?

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

8 Chairman Hill?

9 CHAIRPERSON HILL: Oh, yes. I'm sorry.

10 MS. MEHLERT: Vice Chair Blake?

11 VICE CHAIRPERSON BLAKE: Yes.

12 MS. MEHLERT: Mr. Smith?

13 COMMISSIONER SMITH: Yes.

14 MS. MEHLERT: Commissioner Stidham?

15 ZC COMMISSIONER STIDHAM: Yes.

16 MS. MEHLERT: Motion passes four to zero to one.

17 CHAIRPERSON HILL: Thank you.

18 I hereby give notice that the Board of Zoning
19 Adjustment will recess this proceeding on this date at 10:59 a.m.
20 to hold a closed meeting pursuant to District of Columbia
21 Administrative Procedures Act. A written copy of this notice
22 will be posted in the Jerrily R. Kress Memorial Hearing Room at
23 this time.

24 Okay. You guys, we're going to jump on to another call
25 and we'll come back. Thank you.

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

3 CHAIRPERSON HILL: Okay. Madam Secretary, want to call
4 us back in.

5 MS. MEHLERT: The Board is back from its emergency
6 closed meeting with legal counsel and is returning to Application
7 No. 21240.

8 CHAIRPERSON HILL: Okay. Great.

9 Does the Board have any final, what I'm going to ask --
10 do we still have Commissioner Orendoff?

11 (Pause.)

12 CHAIRPERSON HILL: Or then Commissioner Nelson maybe?

13 ANC COMMISSIONER NELSON: I'm here.

14 CHAIRPERSON HILL: Okay. Great.

15 ANC COMMISSIONER ORENDOFF: I'm here also. Sorry, I
16 was on a conference call but I told them I'll call you guys back.

17 CHAIRPERSON HILL: Okay.

18 So real quick, Commissioner Orendoff and Commissioner
19 Nelson, I'm just going to ask for a summary. I mean, do you all
20 have anything that you'd like to leave us with at the end here?

21 ANC COMMISSIONER ORENDOFF: Well, my concerns (audio
22 interference) --

23 (Pause.)

24 CHAIRPERSON HILL: I lost Commissioner Orendoff.
25 Commissioner Nelson --

1 ANC COMMISSIONER ORENDOFF: -- and that's because,
2 again, as the ANC Commissioner, oh. Am I back in?

3 CHAIRPERSON HILL: Yeah, you're back in.

4 ANC COMMISSIONER ORENDOFF: Okay.

5 No I stand with my constituents against this but
6 because it's already on the table and it's been going through the
7 motions with the city and Department of Health and all that, I
8 know where we are. But just the fact that some of the
9 constituents have come on and their concerns, just the young lady
10 just talking about somebody blocking her parking, like with just
11 the one that's there already, I hope you guys consider the
12 constituents. That's all my heart is about, my people.

13 I love Clay Street. AME Church is there where I grew
14 up at and to see that turn into anything but a nice residential
15 cluster of streets from 42nd to 44th the way they've always been,
16 you know, I would just like -- I will be walking through as these
17 facilities start to operate and I can do my Commissioner report
18 because, again, the same concerns that you guys were having as a
19 Commission in reference to delivery, parking, just everything
20 that they just proposed on the table that, to me, on that street
21 is just going to be a problem with 16 beds, okay?

22 Bringing it down to ten beds, I think that should be
23 the threshold and the five year is where I stand with my
24 colleagues.

25 CHAIRPERSON HILL: Okay. Thank you.

1 Commissioner Nelson? Anything else?

2 ANC COMMISSIONER NELSON: Yeah. I just echo what
3 Commissioner Orendoff said. I think that having our residents
4 come in, our constituents come in every single meeting to show
5 that they're very passionate about, you know, what happens in our
6 community. We really hope that you take that into account as
7 well as the resolution that we submitted in response to the
8 Applicant and their representatives.

9 I do want to also just note a comment that was made
10 earlier by the, through the Planning Office, the woman, I'm sorry
11 I missed her name. But she came in and she said took in
12 consideration that the halfway house was there but you can go
13 back into the previous recordings and listen and they did not
14 take that halfway house into consideration when they made their
15 recommendation initially because they testified and said that it
16 wasn't required because it's two different facilities.

17 So I do want to, you know, just again reiterate that,
18 you know, this is a residential community and the
19 commercialization of it is becoming over-saturated in that space,
20 and whatever considerations you all take into account we
21 appreciate you all taking the time out of your schedules to, you
22 know, continue to ask important questions to the Applicant as
23 well as us and the community members and, you know, reiterating
24 it.

25 If you do decide to grant we're going to ask for no

1 more than ten beds in each residence and for five years. I know
2 there was a discussion for seven years, you know, my stance is
3 no more than five years, just to kind of really see if this, you
4 know, (audio interference) model is fit for our community.

5 Thank you for your time.

6 CHAIRPERSON HILL: Thank you. All right.

7 Ms. Wilson, do you have anything you'd like to add at
8 the end?

9 MS. WILSON: I do have something brief.

10 The main thing I'd like to address is we've heard a lot
11 about this being a commercial use and the use is residential in
12 nature. Even in the zoning regulations it's a residential use
13 category. It's permitted for up to eight by-right. It's intended
14 to benefit the neighborhood and the residents. We want it to
15 feel like a home for the residents and the residents in the area
16 so that they can continue to attend their own churches and doctors
17 in the area that they currently live, but just with some help
18 and not have to move out of the District as not everyone can
19 afford to stay here, you know, as they become seniors in a market
20 rate apartment.

21 And I'll add that the home will appear to be a home.
22 It's not going to be changed. It's not going to appear to be a
23 commercial facility. The intent is not to bring a business to
24 the neighborhood but to address a need, as Mr. Eyob testified to.

25 Thank you for all of your time and for all of your work

1 on this. We really appreciate it.

2 CHAIRPERSON HILL: Thank you. Okay.

3 Commissioner Stidham, I forget. You've got to leave
4 at noon?

5 ZC COMMISSIONER STIDHAM: I have some flexibility. I'm
6 good.

7 CHAIRPERSON HILL: Okay.

8 So what I want to do is I want to take a five minute
9 break and then we'll come back. Okay? So I'm closing this
10 hearing. I'm closing the record and we're going to come back
11 and deliberate in five minutes.

12 Thank you.

13 (Whereupon, there was a brief recess.)

14 CHAIRPERSON HILL: Madam Secretary can you call us back
15 in when you get a chance and the case and wherever we are.

16 MS. MEHLERT: The Board is returning from a quick break
17 and is returning to Application No. 21240.

18 CHAIRPERSON HILL: Okay. Thanks. Okay.

19 So I appreciate the opportunity to have been able to
20 talk with OZLD about some of the legal issues around this
21 particular case. I'm going to kind of talk through some of my
22 thoughts and then turn it over to you all and see where you all
23 are.

24 And some of the things that have been brought up are
25 suggestions that, or things that we had kind of thought about

1 | when we were talking to Legal and so if I take credit for some
2 | of the suggestions, please you guys let me know if it was your
3 | suggestion and you all can take credit for it.

4 | I'm referring back to the conditions page that is in
5 | Exhibit 56. So, again, to summarize we had a lot of hearing, a
6 | lot of testimony. I appreciate the ANC coming forward and
7 | participating to the level that they've participated in. I
8 | appreciate the community actually taking so much interest in this
9 | case and I hope that the community understands that we're doing
10 | our best to take into consideration all of the things that are
11 | being put before us and, you know, we're District residents,
12 | volunteers more or less as well and so, you know, we're just
13 | trying to do our civic duty, if you will, to kind of work through
14 | these cases.

15 | So I was kind of, I didn't know where I was, right?
16 | And I was even maybe more a no than anything and just saying go
17 | ahead and do your eight beds by-right. But what some of my
18 | colleagues had mentioned in previous parts of the hearing was
19 | that if this were an eight bed facility by-right there is no
20 | conditions that would be there. They would do whatever they
21 | wanted to do and could do whatever they wanted to do. So there
22 | was some benefit to having conditions so that the community would
23 | have some kind of input on what was going on there, right?

24 | So the application that is before us is for a 16 bed
25 | facility, right? I don't think that the Board necessarily, it

1 can, but I don't think we necessarily have a place -- I don't
2 feel comfortable messing with what's before us. You either vote
3 it up or you vote it down, right, in terms of the number of beds,
4 right? So we're kind of talking about, at least in my mind,
5 we're talking about the 16 beds and whether or not we think the
6 16 beds are going to have an adverse impact to the point that it
7 should be denied or are conditions possible that could possibly
8 make it palatable and we can see what happens in terms of the
9 adverse impact under zoning.

10 I'm going to cut to the chase which is going to kind
11 of make me able to vote in favor of this if we get to all this.
12 There was the time limit that got thrown out there, right? At
13 one point it was ten years, at one point it was seven years, at
14 one point the ANC wanted five years. I think it was Vice Chair
15 Blake who also suggested a community liaison.

16 So a community liaison would be somebody who would be,
17 somebody who is a representative of the Applicant and they would
18 go once a quarter to an ANC meeting. So they would have to come
19 once a quarter, check in, hear what the ANC has to say and see
20 how things are going if this were to pass and then they would
21 get feedback, right? If there was a time limit then the Applicant
22 would have to come back before the BZA and the community would
23 also get a chance to then see how it was going, right?

24 Again, this is something that I will agree with what
25 the Applicant put forward. It's a residential use, right? The

1 hope is that these are people that are in the community that now
2 have a place to stay, right, and age there in the community.
3 That is what is the thought and you all can talk about it as much
4 as you want to talk about it because I didn't think I was going
5 to talk this long and I still have a lot more things to say.

6 So I've been conflicted with all of this because,
7 again, the point is people need a place to go and supposedly this
8 is a need that the Health Department or whatever it is that
9 determine whether or not it's the right size for things or whether
10 things are, you know, kept up to date, you know, that is with
11 experts that are in a different area that should be looking out
12 for the health and wellbeing of the people that are there and so
13 if they think that two people fit in one of those rooms as opposed
14 to one person being out on the street or somewhere else, I don't
15 know. Right? That's beyond me. And so that's something that
16 DOB will determine, again, whether or not the facility is capable
17 of handling the 18 people. We're trying to think whether or not
18 the adverse impacts of the 18 people are outside of zoning.

19 While I continue to struggle with this and I think it
20 was Commissioner Stidham who pointed out, again, there's a
21 transitional home, there will be this facility and then there
22 will be another facility that is what is the next deliberation
23 all within 500 feet. So that's where, again, I'm kind of torn,
24 right? You have the Office of Planning that has done their
25 analysis. DDOT, Transportation Department, has done their

1 analysis. DDOT has said this is fine. There's not going to be
2 any adverse impacts to the transportation. DDOT has blessed
3 this. So supposedly the experts with transportation have said
4 yes. This is fine, right? You got the four parking spaces, all
5 that stuff, right? So DDOT, Office of Planning, they've given
6 us their expertise as to why they think this works and we're now
7 trying to figure out if we're comfortable with it and what
8 conditions we might put in place that make it something we're
9 comfortable with.

10 So to me, again, the community liaison puts something
11 on the Applicant to have to deal with the ANC, right, and give
12 feedback. Then it's the term, right? The term, I mean I'm kind
13 of torn on the term to be quite honest. I mean, I think, you
14 know, if the ANC is going to get their 16 beds and if the 16 beds
15 go to the other one as well and if these conditions kind of go
16 down I think the five years, which some discussion has been, it
17 may sit more difficult for the Applicant but they I guess could
18 go back to eight beds if they wanted to and not even do the --
19 so I'm stuck between five and seven years, whether it's six years,
20 five years, seven years. I mean, to me, the ANC asked for five
21 years, I guess we can go ahead and see if that's something that
22 they were suggesting.

23 I say that again because the hope is, is if they come
24 back in five years and this thing gets up and running in five
25 years and the Applicant proves that this is a community benefit,

1 people are there, they're, you know, providing benefit to the
2 people that need this, the ANC should be in support and there
3 would be no time limit after that. You know, they've established
4 themselves, right?

5 So now to go through the conditions, and I'm going to
6 turn it over to Mr. Smith, then Mr. Blake, then Commissioner
7 Stidham to add anything else. For me, it seems the conditions
8 1, 2 and 3 that are in Exhibit 56 are understandable and I can
9 get behind. Condition No. 4 I found to be difficult to understand
10 how that is creating really an adverse impact for the community
11 meaning also, you know, who gets to come, when they get to come.

12 I think there was some discussion about, you know, if
13 a church group comes, you know, and wants to have caroling or
14 something in the winter, you know, do we really want to be putting
15 ourselves in a situation where we're trying to get into the
16 minutia of how this business is being operated to best serve
17 their patients, right?

18 So I'm of the, you know, just strike the visitor policy
19 all together because they're going to have to meet with the ANC
20 every, four times a year and there's going to be a five year time
21 limit. So they're going to have to figure out this visitor policy
22 stuff and it seems to me, again, that I don't want to, again,
23 want to get involved in whether or not somebody has their family
24 member coming over and how many times. I mean, it just sounds
25 way too institutionalized for me to kind of figure that out. But

1 we'll see how that one goes for you guys.

2 Conditions 5 and 6 seem reasonable and understandable.
3 So I will be fine with 5 and 6.

4 No. 7, and I do appreciate the Office of Zoning if this
5 order does get written helping us determine how to word this, but
6 No. 7 having some kind of, I guess it was flexibility with the
7 trash because this has to be somehow, what's the word, adhered
8 to, right? There has to be, somebody has to watch this if this
9 would actually to take place so I mean it seems a little, the
10 window seems a little bit tight and so, you know, maybe you go
11 from seven to nine, seven to ten, I don't know. We can kind of
12 talk about that if that's where we get with this discussion, what
13 some of (indiscernible), or maybe six to ten, I'm sorry, six to
14 ten window for the trash.

15 No. 8. You know, there's a fence that I think we need
16 more specificity on in terms of if, you know, what kind of fence.
17 So, like, you know, we could say it's a solid fence six feet in
18 the rear so that that was as per zoning, so to protect the privacy
19 of the rear yard. So that's, again, something that you all can
20 talk me through as we go through this if we get to where we get
21 to.

22 No. 9. I think as was kind of suggested, like, daylight
23 hours might be for outdoor activities, right? I mean, again,
24 these are people that are supposedly in their final years, you
25 know, and so if they want to hang out until sunset, I mean that

1 sounds like, anyway. So I thought the daily, the light thing,
2 the daylight was a nice suggestion and, again, I don't think the
3 signs are necessary because, you know, people if they want to
4 smoke, I guess they, you know, if they're 85-years-old smoke a
5 cigarette, you know. And so, you know, anyway. So I have a
6 little bit of a problem with that and so that's with the daylight
7 hours and then, right.

8 Then the community liaison, so the community liaison
9 would be another thing and then the term limit. So that's kind
10 of where some of the sticking points that maybe we can walk
11 through and/or at least I've expressed my thoughts as to how I've
12 gotten here and I want to, again, specify to the community, like,
13 you know, we're here tasked here to see whether it fits within
14 zoning and what the adverse impacts are, and the struggle that
15 I've continued to have with this is that, again, this is
16 supposedly a community facility that's helping the community with
17 people that need a place to go at market rate, and so that's how
18 this thing is even kind of working out. I mean, obviously it's
19 a business but also it's supposed to be a business helping people.
20 So that's where I get kind of confused as to what my expertise
21 is and somebody else's expertise. So I think I've finished
22 talking.

23 Mr. Smith, may I turn it to you?

24 COMMISSIONER SMITH: Yeah, that was a lot.

25 You know, I agree with most of what you said regarding

1 this. We've been discussing this for a couple of weeks regarding
2 the special exception nature of this particular case. I am
3 comfortable with the application with reasonable conditions to
4 mitigate some of the adverse zoning impacts and it sounds like
5 while I understand that the ANC is uncomfortable with it, they
6 have changed their position and said that they would support it
7 with the conditions given that this use can operate as a matter-
8 of-right, it is considered a residential use. It can operate as
9 a matter-of-right with eight individuals. I think the requested
10 special exception would give them some material control on
11 affecting some of these adverse impacts that they would get
12 regardless, such as, you know, the additional traffic that would
13 occur.

14 I, like you, and, again, I think we need to tie this
15 down with conditions, I, like you, am comfortable with in Exhibit
16 56 conditions 1, 2 and 3. The property owner, the Applicant is
17 proposing four parking spaces and they're proposing that those
18 parking spaces will be dedicated in a particular way three to
19 staff, one to a visitor. I do think that that attempt to control,
20 you know, some of the traffic impacts and as you stated, DDOT is
21 comfortable with this application that it would, as presented,
22 mitigate some of these traffic impacts that would occur.

23 So I'm comfortable with those three conditions. One
24 of the sticky wickets is this fourth condition that talks about
25 the visitor policy and parking. I, like you, am comfortable with

1 adjusting that condition to probably dawn to dusk, sun up, sun
2 down, however we want to word that and as opposed to hours because
3 the type of sunlight changes throughout the year. So I think
4 I'm comfortable with modifying the condition to speak to sun up
5 to sundown. I think that was the recommendation.

6 I'm fine with the condition about housekeeping which
7 is No. 5. The condition about meal delivery. The condition
8 regard, No. 7 regarding trash pick-up. I'm mostly comfortable
9 with that condition trash pick-up shall occur six times per week
10 Monday through Saturday within the enclosure as specified within
11 the plat in Exhibit 26A. I'm fine with that particular condition.
12 No. 8, I think we probably need to adjust that. I think we just
13 need to state, and this is regarding the privacy fence, we just
14 need to state that the Applicant shall construct and maintain a
15 six foot solid privacy fence enclosing the rear yard. Not tie
16 it to Exhibit 21G because I don't think they give that level of
17 specificity. That just says the color and type of fence that it
18 is, not necessarily the height. So I think we don't need to tie
19 it to an exhibit, just say they shall maintain a six foot solid
20 fence enclosing the rear yard.

21 The question about daily activities. I think that we,
22 and I welcome hearing from the rest of my Board members, some of
23 this I think does not address adverse zoning impacts, I think
24 it's too broad in scope. But I do think the first part of the
25 condition that speaks to daily activities occurring between

1 certain hours, that is a reasonable condition and maybe we should
2 tie that to the visiting hours. Maybe that should be also dawn
3 to dusk in some way, shape or form.

4 The term limit. I am comfortable with the
5 recommendation of the ANC to have a five year term. I believe
6 they'll be able to get this up and running within that time frame
7 and they can come back and we can modify the condition and leave
8 within five years. But I want to acknowledge the concerns of
9 the neighborhood by recommending their five year condition.

10 I also support adding a condition that you stated that
11 would require a liaison attend ANC meetings or have regular dialog
12 with the City League and the neighborhood, not the City League,
13 the ANC. Sorry, wrong jurisdiction. The ANC, going forward the
14 concerns or questions that the ANC may have going forward. So I
15 am comfortable with that condition as well.

16 And with those conditions where we land I will support
17 the application.

18 CHAIRPERSON HILL: Thank you, Mr. Smith.

19 Vice Chair Blake?

20 VICE CHAIRPERSON BLAKE: I largely agree with the
21 comments that both you and Board member Smith made on this issue.
22 I do support the application with conditions because I believe
23 the Applicant has met the burden of proof. I'm not sure about
24 the internal functioning of this facility is within the purview
25 of the Board, as you pointed out, and I would leave that to the

1 expert bodies such as DOB and DOH to sort through those matters.

2 Our concern, like you said, is really with the
3 potential impact on neighboring properties and I generally agree
4 with the Office of Planning's analysis and conclusion, but I
5 believe additional conditions are necessary to avoid the adverse
6 impacts but most importantly to make sure of the compatibility
7 with the surrounding residential environment and that kind of
8 meets the overriding thing to ensure the compatibility with the
9 surrounding residential environment. And I acknowledge the fact
10 that the regulations do not necessarily fully capture the
11 institutional impact of other properties that are uses, that do
12 not fall within this exact category and I do think that is
13 something that, you know, for future reference could be
14 addressed.

15 But I do think that the Applicant has met the burden
16 that with the proper conditions and time frame will give the
17 Applicant an opportunity to refine the business model such that
18 with the community input such that it is a palatable solution for
19 the community and a good business strategy. So I think together
20 given the fact that the Chairman mentioned if this is a needed
21 service, we just got to figure out how to make it work within
22 the context of the community and be sensitive to community needs.

23 So the ANC has identified a bunch of issues, the
24 traffic, density, parking, commercialization, hazardous waste,
25 facility's operating conditions, all those sorts of things and

1 he heard opposition from express traffic, issues about traffic
2 noise, loitering and safety and risk, and I do think that, you
3 know, we've addressed all those issues. As you pointed out, you
4 know, the Applicant's asking for 16, a capacity of 16. Again,
5 expert bodies can determine if that's right or not. I do believe,
6 and I understand the ANC's desire for ten, but I don't think the
7 ANC really did provide any evidence to really support that
8 reduction to that number. So, you know, I too have some concerns
9 but I'm going to have to leave it up to DOB and DOH to determine
10 what's right and appropriate for that.

11 I agree with all the conditions that we talked about.
12 On the visitor policy I think, Mr. Chairman, you talked about
13 striking that provision completely and, Mr. Smith, I think you
14 had talked about the dawn to dusk approach similar to the outside,
15 you said outside properties. I believe a good balance here is
16 to allow for visiting hours maybe a little, maybe a different
17 window for visiting hours, you know, after the minutia of the
18 day, the trash collection, all that kind of stuff, and service
19 is done maybe extending into early evening.

20 So I am comfortable that maybe it's, I don't know, we
21 can talk about it, service ten to or eleven to nine or something
22 like that. But at some type of window that allows for visitors
23 and I definitely have issues with limiting the number of visitors
24 that come because I think it's important that, you know, people
25 have a life and in you're in a convalescing situation it's nice

1 to have family visit, and I see (indiscernible) to restrict that.

2 I have no issues with the housekeeping. Meal delivery
3 provisions nor the trash pick-up. I do believe that there is
4 screening that's provided for that with the roll down track in
5 the garage door at the back and, again, the window for that could
6 be, you know, at any point during the course of the morning. But
7 I do think it's important that all the activities are staged in
8 such a way that they really don't substantially conflict.

9 With regard to the privacy fence, I agree that more
10 specificity on that is appropriate and Board member Smith, I
11 think you completely suggested the exact measurements for that
12 and the surrounding rear yard. Obviously the fence should be
13 consistent with a residential appearance so as not to distract.

14 There was also an issue that the ANC actually brought
15 up about hazard material waste, hazard material disposal. Again,
16 I would leave that up to the appropriate agencies to deal with
17 that. But to the extent that that is on the front porch, perhaps
18 maybe provide some type of screening to, again, create more of a
19 residential (indiscernible) for the residential character.

20 Condition 9. Again, I would agree with your assessment
21 that during daylight hours is appropriate given the fact that
22 daylight hours vary substantially and who would not want to have
23 the opportunity to be outside during, you know, the summer hours
24 when the sun's out for a little longer. I would be hard pressed
25 to limit that to eight to five.

1 So, and then the signage. You know, to me actually the
2 signage I think it's an interesting approach. Maybe there could
3 be a policy that the facility suggest that the residents (audio
4 interference), but as far as signage having signs around that
5 says don't sit, don't do, don't do, does not feel residential to
6 me. If I had posted signs all over the place it would seem like
7 I'm in an institutional environment and I think that signs like
8 that are probably not that attractive unless they're hidden, but
9 if they're hidden you can't see them. So I think that that's,
10 you know, I'm not in big support of having signage all over the
11 place. And, again, I am very much supportive of the liaison. I
12 believe that this will allow us to have the relationship, the
13 interaction between the community and the facility to try to come
14 up with a, ultimately come up with a solution that makes sense.

15 Now, we talked about the term being, you know, five,
16 seven, ten years. The more I think about it I like the idea of
17 the liaison and I like the idea of a short term because I do
18 think that this can be resolved in a way but you need to be
19 interacting to do it and I think the liaison meeting quarterly
20 does that, facilitates the interaction and the fact that we have
21 a relatively short time limit of five years means we'll get this
22 figured out sooner rather than later. There's no reason to drag
23 out bad practices for seven or ten years. Let's get this thing
24 on track so that, as the Chairman pointed out, we can just be
25 done with a time limit and we can come up with conditions that

1 really do apply because frankly we haven't had these things to
2 deal with in the past.

3 And with that I would, again, be in support of the
4 application.

5 CHAIRPERSON HILL: Thank you.

6 Commissioner Stidham?

7 ZC COMMISSIONER STIDHAM: So that's been a lot and I
8 generally agree with the comments of all the other Board members
9 have made. And I too am prepared to support with conditions and
10 to ensure compatibility with the neighborhood.

11 I will say that I was not supportive of this at all and
12 really felt that it should be denied. But I think that the
13 conditions and the reasons that Chairman Hill brought up related
14 to ensuring the compatibility with the neighborhood and that
15 these conditions are a much better way of ensuring that than
16 denying it and allowing for the matter-of-right use without any
17 conditions around it. I don't feel that provides sufficient
18 protections for the neighborhood and truly does not give a sense
19 of compatibility.

20 Moving through them, you know, I agree that the
21 capacity is, that's not our decision to make, that another body
22 makes that decision and then hoping that they make the right
23 decision based on the size of this particular residential unit
24 and will make the right decisions there.

25 And I'm good with 2 in the parking spaces, 2 and 3

1 related to parking spaces. I completely agree about 4 with Board
2 member Blake making them more hospitable hours to allow for
3 visitation and to let the rest go. Something, sort of visiting
4 hours between ten and nine or eleven and nine to allow family
5 members to after their daily work and ensuring that people that
6 are residents here do get the visitation as they are living here.
7 This is where they live.

8 I'm fine with housekeeping. I'm fine with meal
9 deliveries, trash collection. As to the fence I completely agree
10 with Board member Smith's recommendations for language around the
11 fence, to be very explicit about the expectations and not depend
12 on what is currently there. And also agree with Board member
13 Blake in relation to the outdoor activities and the daily hours
14 to be compatible with the summer and the change of time frankly
15 throughout the year when it's daylight at different hours of the
16 day to allow that time.

17 And then wholeheartedly agree with the idea of having,
18 requiring a liaison and for the term limit five years to give
19 the facility time to get up and going and to be in working with
20 the community to ensure it's compatible and that issues are dealt
21 with in a timely fashion and not allowed to fester and become a
22 problem for the neighborhood.

23 So I think that is everything and prepared to support
24 with those added conditions.

25 CHAIRPERSON HILL: Okay.

1 I'm going to try to make a motion and work through the
2 conditions and you all can help me if I get, and we can decide
3 as we go along. I again mention that this has been I think a
4 very difficult decision for the Board and so the Applicant should
5 realize that this actually has taken us a lot of time and so the
6 fact that they're even here at this point, I want to reiterate
7 that a few of us, myself included, and I guess Commissioner
8 Stidham was going to vote no and so the Applicant can decide
9 whether they want to move forward with the application the way
10 it is with the conditions or do what they need to do as a matter-
11 of-right.

12 So, yeah. And then to the ANC, again, you know,
13 hopefully the five years you all come back with a positive report
14 the next time they're here, right, and it's working out and it
15 is actually a community benefit, so there we go. All right.

16 I'm going to make a motion to approve Application No.
17 21240 as captioned and read by the secretary, including the
18 conditions that are in Exhibit 56 as I'm about to go through
19 them.

20 Conditions 1, 2 and 3 are fine the way they are.

21 Condition 4, what I would propose and I appreciate OZLD
22 kind of following me along on this one because we're going to
23 have a little bit of a discussion here. I'm still kind of stuck
24 on the, I was going to strike it, right? And then because, and
25 I kind of like the same thing that we're going to do with the

1 outdoor activities which is dawn to dusk. I mean, I understand
2 what you guys are saying as, like, the services that are going
3 on with housekeeping and meal delivery and all that that's
4 happening in the morning, but to me what if people can't come
5 until, like, you know, when it's sunrise to see your loved one.
6 I mean, it's not like there's going to be a ton of people there
7 every day, right? And so they just come at seven, they see their
8 loved one and then leave, right, before work. And so my vote
9 would be, again, that dawn to dusk is the visiting hours.

10 Is everyone okay with that?

11 ZC COMMISSIONER STIDHAM: I just, for those who can
12 only visit after working hours I worry that dusk, you know, in
13 the winter dusk is 5:30.

14 CHAIRPERSON HILL: True. So then you want to do 7 a.m.
15 to 9 p.m.?

16 ZC COMMISSIONER STIDHAM: Yes.

17 COMMISSIONER SMITH: That's fine.

18 CHAIRPERSON HILL: Visiting hours will be 7 a.m. to 9
19 p.m. and all the other stuff they're just going to have to figure
20 out during the liaison part and the time limit. So visiting
21 hours would 7 a.m. to 9 p.m. Okay.

22 Then Nos. 5 and 6 seem fine.

23 No. 7 is about the trash and when trash should be picked
24 up and I think we're going to mention, 1) that the hazardous
25 materials, if they are to be placed outside, will be screened,

1 and then the trash pick-up hours will be from, like, I don't want
2 to say six to eleven. I have to be realistic. My trash doesn't
3 get picked up until, like, noon, right, some days, right? And
4 so, you know, just so they're compliant I would say, you want to
5 say six to eleven or what do you all think about the hours? I
6 mean, I'm kind of making a joke. Like, literally my trash gets
7 picked up sometimes at one, two, I mean I don't have any control
8 as to when the trash gets picked up, right?

9 ZC COMMISSIONER STIDHAM: Well, they're hiring a
10 private company, right? I don't know if that changes the control.
11 But anyway, I would agree to give it a little bit more flexibility
12 to ensure that it's happening.

13 CHAIRPERSON HILL: Let's do six to eleven is the trash
14 window. Okay? And the hazardous material will be screened.

15 No. 8. They will have a solid six foot fence in the
16 rear yard to enclose the rear yard, and that's No. 8.

17 ZC COMMISSIONER STIDHAM: I would just add solid, six
18 foot solid.

19 CHAIRPERSON HILL: Right. Six foot solid fence
20 enclosing the rear yard. So what I understand it's rear yard,
21 that means if it's the rear yard. It's not the front yard, it's
22 the rear yard, right, and that means whenever, you know, it kind
23 of encircles the rear yard, correct? That's what we're saying?

24 VICE CHAIRPERSON BLAKE: Would it include the side
25 yard?

1 CHAIRPERSON HILL: Yeah. It would be the side yards,
2 like the front of the rear yard, the side of the rear yard and
3 the back of the rear yard.

4 Is that what you were saying, Mr. Smith?

5 COMMISSIONER SMITH: Yes.

6 CHAIRPERSON HILL: Okay. Right.

7 So there will be an enclosure. There will be a six
8 foot high solid fence enclosing the rear yard which means, again,
9 from the front of the rear yard, the sides of the rear yard and
10 the back of the rear yard. The front yard is the front yard,
11 but the rear yard. Okay? Okay. So that's that one.

12 No. 9.

13 VICE CHAIRPERSON BLAKE: Mr. Chairman?

14 CHAIRPERSON HILL: Yes.

15 VICE CHAIRPERSON BLAKE: Would that include the side
16 yards as well?

17 CHAIRPERSON HILL: Yeah. The side yards of the rear
18 yard if that is clear. I don't know.

19 VICE CHAIRPERSON BLAKE: So not the side yard?

20 COMMISSIONER SMITH: You're saying we probably need to
21 play with the wording on that. But I think OZLD, I think they
22 get our point on that one. Enclosing the side yard, the rear
23 and side yard behind the front façade.

24 CHAIRPERSON HILL: Yeah. Whatever, like, I think OZLD
25 will be able to hopefully figure -- I'm just saying, like, again,

1 I don't think they need to have side yard fencing all the way up
2 and down the side yards. We're trying to enclose the rear yard
3 is what I understood the thing to be. So, like, whatever the
4 rear yard ends up being, that needs to be enclosed with a six
5 foot solid fence.

6 VICE CHAIRPERSON BLAKE: Okay. (Indiscernible)
7 certainty, absolutely.

8 CHAIRPERSON HILL: Then the daily outdoor activities
9 will be from sun up to sundown, okay? That's daily outdoor
10 activities which are different than the visiting hours.

11 There will be a community liaison that will meet once
12 a quarter with the ANC to report on activities and get feedback.

13 And then the final condition is that there would be a
14 five year term. Am I missing anything? Okay. I'm then going
15 to ask for a second.

16 Mr. Blake?

17 VICE CHAIRPERSON BLAKE: Second.

18 CHAIRPERSON HILL: Okay. The motion has been made and
19 seconded. Madam Secretary, take a roll call, please.

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

22 Chairman Hill?

23 CHAIRPERSON HILL: Yes.

24 MS. MEHLERT: Vice Chair Blake?

25 VICE CHAIRPERSON BLAKE: Yes.

1 MS. MEHLERT: Mr. Smith?

2 COMMISSIONER SMITH: Yes.

3 MS. MEHLERT: Commissioner Stidham?

4 ZC COMMISSIONER STIDHAM: Yes.

5 MS. MEHLERT: Staff would record the vote as four to
6 zero to one to approve Application 21240 with conditions, on the
7 motion made by Chairman Hill and seconded by Vice Chair Blake.

8 CHAIRPERSON HILL: Thank you.

9 Commissioner Stidham, I didn't think there was any way
10 we were going to get to 12:30.

11 ZC COMMISSIONER STIDHAM: No worries, no worries. I
12 built in some flexibility. Thank you.

13 CHAIRPERSON HILL: Okay. All right. Okay.

14 See you later, Commissioner Stidham.

15 ZC COMMISSIONER STIDHAM: All right. Bye bye. You
16 guys have a good day.

17 CHAIRPERSON HILL: All right. And Commissioner Miller
18 is there. So now I'm looking to what you all want to do. I
19 mean, I'd love to just get through this as quickly as we can but
20 maybe we take a little snack break and try to eat a snack, or do
21 you just want to go and take, like, I was going to say let's take
22 a 15 minute break. If you've got some crackers, go eat some
23 crackers and then we'll come back. Is that relatively okay?
24 What do you all want to do?

25 (Pause.)

1 CHAIRPERSON HILL: Okay. Sorry, Commissioner Miller.
2 Is that okay with you?

3 ZC VICE CHAIRPERSON MILLER: Yes.

4 CHAIRPERSON HILL: Okay. I didn't know you'd be here
5 this long, Commissioner Miller. Okay.

6 ZC VICE CHAIRPERSON MILLER: I didn't either.

7 CHAIRPERSON HILL: Yes, sorry. Okay. We'll come back
8 in 15 minutes.

9 (Whereupon, there was a brief recess.)

10 CHAIRPERSON HILL: Okay. Madam Secretary, could you
11 call us back in, please.

12 MS. MEHLERT: The Board is back from its quick break,
13 and which case would you like me to call next? I believe --

14 CHAIRPERSON HILL: Yes, yes. What I'd like to do, and
15 if the Board doesn't mind, I'm going to go ahead and move the
16 next case which was involving Dr. Imamura, to the end of the day,
17 and also I've asked OZLD, I'm sorry, I've asked the Zoning people
18 to go ahead and write up a summary of the conditions that we
19 talked about on the previous case and at the end of the day
20 actually we can even decide whether we want to kick it down the
21 road until next week where Dr. Imamura might join us, or just go
22 ahead and work through.

23 So in that case, let's go ahead and move that 21249 to
24 the end of the day and I think the next one is 21237, I believe,
25 Madam Secretary.

1 MS. MEHLERT: Yes. Next is in the Board's hearing
2 session. It's Application No. 21237 of Yasmin Khan. As amended,
3 this is a self-certified application pursuant to Subtitle X,
4 Section 901.2 for special exceptions under Subtitle E, Section
5 204.4 from the rooftop or upper floor element requirements of
6 Subtitle E, Section 204.1 to allow removal of rooftop
7 architectural elements original to the building.

8 Also under Subtitle E, Section 207.5 to allow the rear
9 wall of a row building to extend farther than ten feet beyond
10 the farthest rear wall of any adjoining principal residential
11 building on any adjacent property and under Subtitle E, Section
12 5201 from the rear yard requirements of Subtitle E, Section 207.1
13 and from the lot occupancy requirements of Subtitle E, Section
14 210.1, under Subtitle E, Section 320.2 to allow expansion of an
15 existing apartment house and pursuant to Subtitle X, Section 1000
16 for a variance from Subtitle C, Section 303.4 to allow operation
17 of a new lot with street frontage less than 30 feet to be used
18 and occupied by an apartment house.

19 This project is a third-story addition to an existing
20 two-story attached building, currently a four unit apartment
21 house. It's located in the RF-1 zone at 1311 6th Street,
22 Northwest, Square 480, Lot 833, and as a preliminary matter the
23 Applicant has requested to allow a late filing submitted less
24 than 30 days. This would just submit a description of the changes
25 to their revised plans in Exhibit 33.

1 CHAIRPERSON HILL: Okay. Thank you.

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

4 MR. TERAN: My name is Eric Teran and I'm the architect
5 for the owner.

6 CHAIRPERSON HILL: Okay. Great.

7 Mr. Teran, why are your plans late?

8 MR. TERAN: We had some modifications that we did in
9 May because we were trying to get a hold of both neighbors and
10 we tried and tried through email and knocking on the door but
11 they wouldn't allow us to determine what the roof structure was
12 and if we do a third party addition, we have to confirm that,
13 you know, our addition is not impacting any snow loads on to
14 their roof.

15 And because we couldn't get hold of them, we decided
16 to re-do the third floor and that, you know, when we go through
17 the plans you'll see how the third floor there's some inventions
18 and that's to, you know, to fix that snow load calculations and
19 make sure everything's fine.

20 CHAIRPERSON HILL: Okay. Great.

21 I'm going to go ahead and allow the plans into the
22 record and, Mr. Teran, I guess your application is the reason why
23 I asked the secretary to read all into the stuff instead of me,
24 because you've got a lot of stuff that you're asking for.

25 So go ahead and walk us through your application and

1 | why you believe we should grant the relief requested. I'm going
2 | to put 15 minutes on the clock so I know where we are and you
3 | can begin whenever you like.

4 | MR. TERAN: Thank you. Yes, it's the most I've ever
5 | asked for so it's exciting. Paul, (indiscernible) the
6 | presentation, I don't know if you can bring that up or I could
7 | give you the exhibit numbers.

8 | CHAIRPERSON HILL: Is it in the record or you don't
9 | know?

10 | MR. TERAN: I just emailed it to him, so it's just a
11 | combination of the exhibits. Exhibit 5, 11, 33 and 34.

12 | CHAIRPERSON HILL: Okay. Okay.

13 | Madam Secretary, can you drop that into the record for
14 | the Board, but I'm going to ask you to go ahead and continue,
15 | Mr. Teran?

16 | MR. TERAN: Thank you.

17 | So as the secretary just mentioned, all the relief
18 | we're requesting and I will go over them again. As we go through
19 | the presentation I'll point some of this out.

20 | So the main thing, you know, is it's an existing four
21 | unit and we're requesting it to remain four unit even though it's
22 | in the RF-1 zone and since we're expanding it, that's why we're
23 | here for this exception. Next slide, please.

24 | So here is the, you know, the neighborhood plan. The
25 | first and second floors the areas are remaining intact and we're

1 building a third floor, and that third floor, as we will see
2 through the plans, we are proposing it to be farther than the
3 ten feet allowed which does reduce the rear yard setback and does
4 have a lot occupancy of 69.2 percent rather than 60 percent.
5 Next slide, please.

6 So here are the site photos. The building in question
7 is the one in the middle in white and the two on each side are
8 the adjacent buildings. There's only three buildings in this
9 row. Next slide, please.

10 And this is looking at it from the alley. The white
11 building there on the top left, that's the existing two-story
12 structure. (Indiscernible) see it on the right and in the bottom
13 two you can see it more from, on the south side. And so those
14 walls are remaining intact. Next slide, please.

15 And this is just more of the back yard just so you can
16 see the condition it's in. The previous owner did not do a good
17 job. It's in very bad condition and I know that was one of the
18 concerns of the neighbor to the north. Next slide, please.

19 And just some more, just so you can see how it's
20 deteriorating. Next slide, please.

21 And so here are the existing plans. The cellar, that's
22 a small mechanical room. Also originally that (indiscernible)
23 but in the original application we had an entire basement or
24 cellar that was under the existing first floor. However, talking
25 to contractors, you know, like the cost, and the noise and

1 disturbance that it caused to the neighbor to the north, we
2 decided to just keep the existing cellar as is. On the first
3 floor it was two units originally so you can see it's a full gut.
4 Next slide, please.

5 And this is the second floor where the other two units
6 were located and once again, it's a full gut. Next slide, please.

7 So these are the floor plans. So that's going to be
8 the cellar. It's going to be a laundry area and a storage area.
9 Next slide, please.

10 So this would be the first floor, or the ground floor
11 which is comprised of unit A and it will also have a parking
12 space in the back. So it's a three bedroom. Next slide, please.

13 The second floor is basically the same as the first
14 floor and this is unit B. You can see here in the bottom left
15 there's a weird cut-out right behind the kitchen. That, I don't
16 know how that happened or when it happened but the neighbors
17 actually built into that space. So we're keeping it and we're
18 just going to have a fire wall going around that. So it's the
19 first time I've seen that. Next slide, please.

20 Unit C. So here you can see there's two inventions,
21 one on the south side is the front invention and the one on the
22 south side is the front and the one on the north is in the middle.
23 So basically they're less than around 15 feet or less you don't
24 have to provide snow load calculations. Anything more than 15
25 feet you do and since we couldn't get that information from the

1 neighbors we had to adjust these plans. And here now we have
2 Unit C is a one bedroom unit and unit D is a studio unit. And
3 then here you can see at the back the property, you know, it's
4 at an angle at the back so at one side we are within the 20 foot
5 limit, which is 14 foot 7. However, on the north side, you know,
6 it's over the 20 feet. Next slide, please.

7 And this is just the roof plan. Next slide, please.

8 So here are the elevations. This is another request
9 we had to remove that rooftop element. The ANC is actually very
10 happy that we're doing that and not doing one of those, you know,
11 one of those, you know, ones that are three feet back with typical
12 siding. They prefer this look so we're matching the, you know,
13 the style of the windows and the brick and we're taking that all
14 the way to the top. And then the one on the right is a rear
15 elevation. Next slide, please.

16 So this is the site elevation on the north side. You
17 can see that, you know, we are pushing back that third floor past
18 the ten feet but they're, and (indiscernible) on the second floor
19 is not really that much more but they don't have a third floor.
20 Next slide, please.

21 And then this is the one to the south where we are
22 lining the party walls and then that's everything you see there
23 with the windows, that's about ten feet from the property line.
24 Next slide, please.

25 Here are just some sections. You can see that we're

1 keeping the existing cellar and where the units, how they line
2 up. Next slide, please.

3 And there's just another section. Next slide, please.

4 And so here are some 3D elevations. The two on the top
5 and the bottom left are from the front and I believe we're still
6 in keeping within the same scale of the buildings to the left
7 and to the right. We have the architectural feature at the top
8 that we're moving from where it is now and just moving it to the
9 top of the roof and then we have the review on the bottom right
10 which is the back where you can see we're keeping the existing
11 two stories. And then you see the third floor, it'll push the
12 shoulder (phonetic) further back. Next slide, please.

13 Just more views from the back. I think probably the
14 one on the bottom right you can see a little bit how we're
15 extending past the existing second floor of the neighbor to the
16 north. I guess the top right gives a good view as well. Next
17 side, please.

18 So here's some shadow studies where we do the
19 summer/winter solstice. This is at 9 a.m. in summer. Our
20 building is in the middle. So on the right is what could be
21 proposed by matter-of-right and the left would be what we're
22 proposing. So you see on the top left there there's a little
23 red square, so that would be the initial shading which is actually
24 on the rooftop. So they don't have access to that so I don't
25 really see that as being an issue. Next slide, please.

1 So at twelve where there's minimal impact once again
2 on the roof. Next slide, please.

3 And this is at 3 p.m. where once again there's shading.
4 However, it's all on the roof of the neighbor to the south as
5 well. Next slide, please.

6 So this is at winter. So the sun is very low at 9
7 a.m., there is no additional shadowing from the matter-of-right
8 and the proposed. Next slide, please.

9 And here again 12 p.m., no additional shading. Next
10 slide please.

11 And once again, just because of the angle of the sun
12 from what's matter-of-right to proposed not causing any
13 additional shadows to the properties to the north and the south,
14 and I think that's it. Right, Paul? Is there one more slide?
15 I think that's it.

16 So, you know, we've received unanimous support from the
17 ANC. Unfortunately, we have not been able to reach our neighbors,
18 the neighbor to the south. We emailed back and forth a couple
19 of times, myself and the owner. However, he seems to disappear.
20 The neighbor to the north, you know, we knocked on his door. He
21 was upset we were disturbing him, so the ANC member, Ms. Berry,
22 reached out to him I believe but we haven't really been able to,
23 you know, speak to him directly.

24 So we agreed, you know, we're not going to have any
25 windows, we're not affecting any lights or shadows to either

1 | property and, you know, it's a four unit building. I think it
2 | would be bad to make it from the four to two. I know D.C. doesn't
3 | want to lose housing and I think we are making these units much
4 | better than what they were before.

5 | And that's basically it. I'm happy to present and I'm
6 | happy to answer any questions.

7 | CHAIRPERSON HILL: Thanks.

8 | Mr. Teran, maybe I got a little confused. You presented
9 | before the ANC before you decided that you needed a variance; is
10 | that correct?

11 | MR. TERAN: Yes. Oh, yes, the front yard. That one.
12 | Yes.

13 | So the 30 feet is required and now we only have, you
14 | know, it's only 24 feet. You know, it's been like that always
15 | so it's an existing condition.

16 | CHAIRPERSON HILL: But when you presented to the ANC
17 | you presented it in this design?

18 | MR. TERAN: Correct.

19 | CHAIRPERSON HILL: Okay.

20 | Can I, before I turn to my Board can I hear from the
21 | Office of Planning?

22 | MR. BEAMON: Good afternoon. Shepard Beamon with the
23 | Office of Planning.

24 | OP has reviewed the application for the requested
25 | special exception and variance relief to construct a third-story

1 on the attached four unit apartment house but not to increase the
2 number of units and find the request meets the criteria for
3 Subtitles E, U and X. OP finds that the additional should not
4 have adverse impacts on the adjacent property and the property
5 presents pre-existing conditions that result in an exceptional
6 condition that would prohibit the site from being compliant with
7 the zoning regulations.

8 Therefore, OP recommends approval of the special
9 exception and the area variance relief as stated in our report
10 in Exhibit 23, and I can take any questions.

11 CHAIRPERSON HILL: Thank you.

12 Once again, before I turn to my Board, Mr. Young, is
13 there anyone here wishing to speak?

14 MR. YOUNG: Yes. We have one witness.

15 CHAIRPERSON HILL: Could you give me that person's
16 name, please.

17 MR. YOUNG: Yes. John Robinson.

18 CHAIRPERSON HILL: Okay. Great.

19 Mr. Robinson, can you hear me?

20 (Pause.)

21 CHAIRPERSON HILL: Mr. Robinson, can you hear me?

22 MR. ROBINSON: Can you hear me?

23 CHAIRPERSON HILL: Yes, yes. Thank you.

24 MR. ROBINSON: Okay.

25 CHAIRPERSON HILL: Thank you.

1 MR. ROBINSON: I couldn't get my camera on, but anyway.

2 CHAIRPERSON HILL: That's all right, Mr. Robinson.

3 MR. ROBINSON: Okay.

4 CHAIRPERSON HILL: Mr. Robinson, if you want to go
5 ahead and introduce yourself and give us your home address, and
6 then as a member of the public you'll have three minutes to give
7 your testimony, and you can begin whenever you like.

8 MR. ROBINSON: Okay.

9 My name is John Robinson. I grew up at the property
10 on the north end of this proposed construction. My family owns
11 Robinson Funeral Home. We've been here, we've been the owners
12 here since 1942 when my dad and mom purchased it. We operate a
13 funeral home here and we are concerned about the added weight to
14 the adjoining walls going up two floors or three floors, and
15 we're wondering about the safety of adding that weight to that
16 proposal to add another floor onto the building, and how will
17 they prevent the weakening of the adjoining walls with this new
18 structure.

19 And they talk about accessing. I talked to the owner
20 and he called me and he wanted to come in but it was inconvenient.
21 We were having funerals at that time. But I wanted to know, they
22 said something about they needed access to see how venting system
23 was coming from gas and what they would have to do to the
24 adjoining wall.

25 And I just wanted to, I saw some of the plans and I

1 was wondering about the parking for the additional people that
2 are going to be living here. He mentioned in the plan one parking
3 space and how many additional people will be living there. There
4 are no current parking spaces there on the lot, and everyone in
5 the alley has parking there, and I was wondering about during the
6 construction phase how will workers drop things off. They can't
7 park in this alley behind the buildings because everybody's, it's
8 a dead end alley. And I was wondering about construction workers.
9 Where will they park? There's limited parking on both sides of
10 the street, the east side of 6th Street and the west side of 6th
11 Street.

12 These are my concerns about the construction and what
13 I've seen about it. I haven't had an opportunity to examine the
14 plans or let my engineer architect look at them and reference the
15 structural effect on our property. But basically that's my
16 concern.

17 Thank you for allowing me to speak.

18 CHAIRPERSON HILL: Sure. Thanks, Mr. Robinson. Thanks
19 for joining us and for how long you all have been in the city.

20 Mr. Teran, are you working on this project until the
21 end?

22 MR. TERAN: Yes. I'm with the owner during construction
23 as construction administration.

24 CHAIRPERSON HILL: Okay. Have you ever been in touch
25 with Mr. Robinson yet?

1 MR. TERAN: I haven't been able to get a hold of him
2 yet.

3 CHAIRPERSON HILL: Okay. Do you have contact
4 information for Mr. Robinson?

5 MR. TERAN: The owner does.

6 CHAIRPERSON HILL: Pardon?

7 MR. TERAN: I believe he has his phone number.

8 CHAIRPERSON HILL: Okay. So a couple of things.

9 One, I think, Mr. Robinson, the building code is what
10 is going to be protecting your building in terms of any kind of,
11 you know, how they do things, right? And so I think that's
12 something that maybe Mr. Teran can give you a little bit more,
13 as the architect, information on during construction.

14 What I would ask though, Mr. Teran, is, again, if you
15 work with Mr. Robinson if this were to move forward in terms of,
16 again, construction, times, how deliveries will take place, make
17 sure it doesn't interrupt his family's business and any other
18 questions he may have. Are you able to do that, Mr. Teran?

19 MR. TERAN: Definitely. Right now we're looking at
20 some contractors so one of the stipulations will be that they
21 have to be able to work with Mr. Robinson and I think, you know,
22 if Mr. Robinson is having a funeral procession, you know, we
23 can't do deliveries or have, you know, workers parking there
24 taking up all the spaces. And also, you know, definitely can't
25 deliver to the back. I agree with him, that would be a mess.

1 So that will be definitely something we work with the
2 contractor and we can bring in Mr. Robinson within that
3 conversation.

4 CHAIRPERSON HILL: Mr. Robinson, do you have Mr.
5 Teran's contact information?

6 MR. ROBINSON: No, I don't. I welcome to get it though.

7 CHAIRPERSON HILL: Okay.

8 Madam Secretary, can you put Mr. Robinson in touch with
9 Mr. Teran?

10 MS. MEHLERT: Yes.

11 CHAIRPERSON HILL: Okay.

12 Mr. Robinson, the Office of Zoning will reach out to
13 you and put you in contact with Mr. Teran and he'll be able to
14 answer your questions and work with you during construction.

15 MR. ROBINSON: Sounds good.

16 CHAIRPERSON HILL: Thank you, Mr. Robinson. Thank you
17 for joining us today. All right. I'm going to excuse Mr.
18 Robinson. All right.

19 Now I'm back to the Board. Do you guys have any
20 questions for the Applicant and/or the Office of Planning? I see
21 Mr. Blake's hand up. I'll go ahead and go to you first, Mr.
22 Blake.

23 VICE CHAIRPERSON BLAKE: One quick question for the
24 Applicant, actually two. First question is to clarify. He said
25 there are no parking spaces? There is one parking space, correct?

1 MR. TERAN: Currently there's none I guess legally
2 shown. So we are proposing to have one in the back.

3 VICE CHAIRPERSON BLAKE: Okay. But there is, there
4 will be a space? Okay. Cool.

5 Second question is can you tell me how we got here? I
6 understand that this preceded the zoning regulations, but I don't
7 quite see any indication. I mean, the C of O you have here does
8 state it's, you know, it's a four unit building but that was a C
9 of O from 2020 which, my indication is that it's before. Can
10 you just tell me how we kind of, how you believe we got here?

11 MR. TERAN: The owner came to me. You know, he showed
12 me that C of O, that it's existing four units and that he wanted
13 to expand the building and as I informed him if we did that, you
14 know, we'd have to go through the special exception process, you
15 know, since we're expanding the four units and that's not by
16 matter-of-right anymore.

17 I think he bought the property in 2023 so I think it's
18 been basically, I think, 2024 I'm sorry. He had the tenants move
19 out, so I don't think he's gone through the process of obtaining
20 another C of O.

21 VICE CHAIRPERSON BLAKE: Okay. But do we know how we
22 got to the four unit? What time that actually took place? Were
23 there any records for construction or anything that gives me an
24 indication that we got here appropriately?

25 MR. TERAN: I don't know. I looked. I know the owner

1 | looked as well at the history. He just knows that we just have
2 | that C of O for four. But I don't, I couldn't find anything.

3 | VICE CHAIRPERSON BLAKE: You looked in the DOB records
4 | and you could not find anything, any permits for construction,
5 | nothing, ever?

6 | MR. TERAN: Not, I mean I could try again. But I didn't
7 | find anything the first time around.

8 | VICE CHAIRPERSON BLAKE: Okay. Thank you.

9 | CHAIRPERSON HILL: Thank you, Mr. Blake. Does anyone
10 | else have any questions?

11 | Vice Chair Miller?

12 | ZC VICE CHAIRPERSON MILLER: Thank you, Mr. Chairman,
13 | and thank you, Mr. Beamon, for the Office of Planning report and,
14 | Mr. Teran, for your presentation today in bringing this
15 | application forward.

16 | So the building currently has four units and it's going
17 | to, and you're proposing to have four units. Are they occupied
18 | right now, or no?

19 | MR. TERAN: No. When the new owner bought it, my
20 | client, they removed all the tenants I believe, or I don't know
21 | if he bought it vacant.

22 | ZC VICE CHAIRPERSON MILLER: And the four units that
23 | are there existing, how many bedrooms? You're proposing three
24 | bedrooms for first floor, three bedroom unit on the second floor
25 | and then on the third floor a one bedroom unit and a studio, so

1 that's --

2 MR. TERAN: About eight.

3 ZC VICE CHAIRPERSON MILLER: -- I guess that's eight
4 bedrooms.

5 MR. TERAN: Yes.

6 ZC VICE CHAIRPERSON MILLER: Or seven and a half if you
7 call the studio a half. How many bedrooms are there currently
8 in these units?

9 MR. TERAN: I want to say it's probably about five.
10 We'd have to look back at the demo plans.

11 ZC VICE CHAIRPERSON MILLER: So there won't be an
12 increase --

13 MR. TERAN: It's about five.

14 ZC VICE CHAIRPERSON MILLER: -- there won't be an
15 increase in the --

16 MR. TERAN: Yes.

17 ZC VICE CHAIRPERSON MILLER: -- occupancy beyond even
18 the third floor addition, there will be an increase in the
19 occupancy?

20 MR. TERAN: Correct.

21 ZC VICE CHAIRPERSON MILLER: Okay. All right. Thank
22 you very much.

23 CHAIRPERSON HILL: Anyone else? Okay.

24 Mr. Teran, do you have anything to add at the end?

25 MR. TERAN: No. Thank you allowing me to present.

1 Hopefully we can, this one was quicker than the last one.

2 CHAIRPERSON HILL: Thank you. All right.

3 I'm going to go ahead and close the hearing and the
4 record. Please excuse everyone. Thank you, Mr. Young.

5 (Pause.)

6 CHAIRPERSON HILL: Okay.

7 Even though it was a little bit of a unique application
8 in terms of all of the relief that had also been requested, I
9 understand how they're kind of getting here. I understand how
10 they have the four units. They're trying to keep it the four
11 units and then all of the relief needed to be able to do this
12 and move forward.

13 I didn't have any issues necessarily with the
14 shadowing. I appreciate the shadow studies as they were helpful
15 and the additional shadowing being to the rooftops. I didn't
16 have any issues with, I think it was, like, I'm not exactly sure
17 how much beyond the third, let's see. Right. I didn't have any
18 problems with the additional extension beyond the ten feet as,
19 again, because of the shadow study that was put forward. I
20 appreciate the analysis of the Office of Planning has put forward
21 and their report and their recommendation as well as that of the
22 ANC, and I 'll be voting to approve this application.

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

24 COMMISSIONER SMITH: Nothing to add. I agree with your
25 statements on this case and will vote to support.

1 VICE CHAIRPERSON BLAKE: Thank you.

2 Mr. Blake?

3 VICE CHAIRPERSON BLAKE: Mr. Chairman, I agree with
4 your analysis in this application. The only thing that I would
5 add to the confluence of factors and the extraordinary or
6 exceptional condition is the zoning history which I believe may
7 have contained -- I would just add the zoning history to that.

8 Thank you.

9 CHAIRPERSON HILL: Thank you, Mr. Blake.

10 Vice Chair Miller?

11 ZC VICE CHAIRPERSON MILLER: Thank you, Mr. Chairman,
12 and I concur with your comments and all the comments of my
13 colleagues. And I appreciate your dialog with Mr. Robinson.

14 Thank you.

15 CHAIRPERSON HILL: Thank you, Vice Chair Miller.

16 And I also will note that if the Office of Zoning could
17 please contact Mr. Robinson and make sure that Mr. Robinson and
18 Mr. Teran work together and since we do see Mr. Teran often, I
19 hope that he continues with his good reputation in order to work
20 with Mr. Robinson.

21 So all that being said, I'm going to make a motion to
22 approve Application No. 21237 as captioned and read by the
23 secretary, and ask for a second. Mr. Blake?

24 VICE CHAIRPERSON BLAKE: Second.

25 CHAIRPERSON HILL: Motion made and seconded. Madam

1 Secretary, take a roll call, please.

2 MS. MEHLERT: Please respond to the Chair's motion to
3 approve the application.

4 Chairman Hill?

5 CHAIRPERSON HILL: Yes.

6 MS. MEHLERT: Vice Chair Blake?

7 VICE CHAIRPERSON BLAKE: Yes.

8 MS. MEHLERT: Mr. Smith?

9 COMMISSIONER SMITH: Yes.

10 MS. MEHLERT: Commissioner Miller?

11 ZC VICE CHAIRPERSON MILLER: Yes.

12 MS. MEHLERT: Staff would record the vote as four to
13 zero to one to approve Application No. 21237 on the motion made
14 by Chairman Hill and seconded by Vice Chair Blake.

15 CHAIRPERSON HILL: Thank you.

16 Madam Secretary, could you call our next case?

17 MS. MEHLERT: Next in the Board's hearing session is
18 Application No. 21280 of Matthew Bosserman. This is an
19 application pursuant to Subtitle X, Section 901.2 for a special
20 exception under Subtitle E, Section 5201 from the lot occupancy
21 requirements of Subtitle E, Section 210.1.

22 This is for a second floor rear deck addition with
23 spiral stair to grade to an existing two-story attached building.
24 It's located in the RF-1 zone at 903 R Street, Northwest, Unit
25 2, Square 363, Lot 2010.

1 CHAIRPERSON HILL: Great. Thank you.

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

4 MR. BOSSERMAN: Can you hear me?

5 CHAIRPERSON HILL: Yes.

6 MR. BOSSERMAN: We also have (audio interference) on
7 the line. I think she's going to be a part of the presentation
8 as well.

9 MS. DAVIS: Yes. My presentation should be in the
10 record. Matt, why don't you go ahead and introduce yourself and
11 then I'll introduce myself.

12 MR. BOSSERMAN: Good afternoon everyone, and apologies
13 for my background. I've had to join in between meetings. I'm
14 Matthew Bosserman. I'm the resident of the property in question.
15 I've been the property owner for the last two and a half years
16 and a resident of D.C. for much longer than that and I'm excited
17 to answer any questions that you all might have today.

18 CHAIRPERSON HILL: Great. Thank you.

19 Ms. Davis, can you introduce yourself for the record?

20 MS. DAVIS: Absolutely. My name is Beth Davis. I am
21 here on behalf of Mr. Bosserman.

22 CHAIRPERSON HILL: Okay. Great.

23 MS. DAVIS: And, I'm sorry. Go ahead.

24 CHAIRPERSON HILL: That's okay. Ms. Davis, you're an
25 expeditor?

1 MS. DAVIS: I'm a permit consultant and I work with a
2 lot of different clients in a lot of different capacities. I
3 act as owner's agent on this project.

4 CHAIRPERSON HILL: Okay.

5 And you have a request to, Madam Secretary, am I on the
6 right case? There's a request for an untimely filing?

7 MS. DAVIS: Yes. It was my presentation and also the
8 staff requested some additional information on the ownership of
9 the property, and I requested to be able to upload that as well.

10 CHAIRPERSON HILL: Okay.

11 Yeah. We were a little confused on the ownership as
12 to whether or not --

13 MS. DAVIS: I completely understand. Yes. Would you
14 like me to explain that first?

15 CHAIRPERSON HILL: No, no.

16 MS. DAVIS: Okay.

17 CHAIRPERSON HILL: Go ahead and go through your
18 presentation and then during your presentation you can just
19 explain the situation.

20 MS. DAVIS: Absolutely. Not a problem.

21 CHAIRPERSON HILL: Mr. Young, if you want to pull that
22 up. Thank you. Go ahead, Ms. Davis.

23 MS. DAVIS: Again, my name is Beth Davis. I'm here on
24 behalf of the Applicant, Matthew Bosserman, regarding a special
25 exception request for 903 R Street, Unit 2, and we can go to the

1 next page.

2 This is an owner occupied primary residence and the
3 proposal is to demolish the existing rear deck and construct a
4 new 14 by 12 foot Trex composite deck with a spiral staircase
5 for yard access. The request includes a minor three percent
6 increase over the by-right occupancy and the deck will remain
7 within the existing footprint of the previously existing rear
8 access stair. Next slide.

9 As shown here, the previous structure is minimal. It
10 is also outdated and it provides limited utility for ongoing use
11 for the resident. Next slide.

12 This is the proposed plat showing the proposed layout.
13 The new deck and spiral stair are fully contained within the rear
14 yard. They don't encroach on adjacent properties or alleys.
15 Next slide.

16 This is the elevation of the proposed deck. It's
17 designed to be durable, visually appealing and also to be mindful
18 of the neighbor below. As we were discussing this is a two unit
19 building. The upstairs is owned by Mr. Bosserman. The lower
20 unit is owned by Ms. Dawn Junk who has provided a letter of
21 support in the record.

22 The building is called The Leonard Condominium but the
23 full ownership of the entire building and the parking spaces are
24 equally divided between Ms. Junk and Mr. Bosserman. So just for
25 ownership purposes, this is how it's set up. The upstairs belongs

1 to Mr. Bosserman, the downstairs belongs to Ms. Junk and I think
2 when they initially did the condo documents, they named it The
3 Leonard Condominium but there is no entity with that name in the
4 District. We can go to the next slide.

5 These photos show a similar rear deck existing on a
6 neighboring home. Our design as these are fully in keeping with
7 the neighborhood character and will allow for light and air for
8 all of the neighbors as well as most specifically the downstairs
9 neighborhood. Next slide.

10 And this is just another photo of that rear deck on the
11 neighbor's property. As I mentioned, there's no loss light, air
12 or privacy for adjacent residents including the basement unit and
13 we can move to the next slide.

14 You can go to the next slide, sorry. That was just
15 what I said.

16 I did want to note that the ANC did vote to unanimously
17 approve this project but I did not see their paperwork in the
18 record, so I'm including this screenshot of the official minutes
19 of the April ANC meeting. They did vote six to zero to zero to
20 support the project. And we can go to the next slide.

21 This is the current condition of the property. Before
22 signing on with his current designer and contractor, Mr.
23 Bosserman had contracted with a different team who did begin work
24 without correct approvals as the ANC raised this as a question,
25 not necessarily a concern, but a question during our meetings.

1 I did want to ensure we were fully transparent. And last slide.

2 In summary, this is a small enhancement to Mr.
3 Bosserman's primary residence. It is designed in harmony with
4 the zoning intent, has no adverse impacts and has the support of
5 the closest neighbor, being the lower unit owner.

6 And please ask any questions you might have, and we
7 thank you for your time.

8 CHAIRPERSON HILL: Okay. Thank you, Ms. Davis.

9 Yes. I see that the person in support who is the
10 downstairs neighbor is in Exhibit 25 and the ANC 2G did give
11 their report in Exhibit 20. However, thank you for the
12 screenshot.

13 Before I turn to my Board, may I turn to the Office of
14 Planning?

15 MR. JESICK: Thank you, Mr. Chairman and members of the
16 Board. My name is Matt Jesick, presenting OP's testimony in this
17 case, and the Office of Planning is happy to rest on the record
18 in support of the application. I'm happy to take any questions.

19 Thank you.

20 CHAIRPERSON HILL: Thank you, Mr. Jesick. Mr. Young,
21 is there anyone here wishing to speak?

22 MR. YOUNG: (Audio interference).

23 CHAIRPERSON HILL: Okay. I think you said no.

24 MR. YOUNG: Sorry. I said yes, we do not.

25 CHAIRPERSON HILL: Okay. Great. Thank you. All right.

1 Does my Board have any questions for the Applicant
2 and/or the Office of Planning?

3 (Pause.)

4 CHAIRPERSON HILL: Okay. All right, Ms. Davis, you
5 seem to be humming along here.

6 VICE CHAIRPERSON BLAKE: I have one quick question, Mr.
7 Chairman, one quick question.

8 CHAIRPERSON HILL: Sure. Go ahead.

9 VICE CHAIRPERSON BLAKE: Did we miss the ownership
10 issue? I just want to make sure you clarified that. I just
11 wanted to make sure we clarified that. I want to make sure we
12 clarify that to your satisfaction. Are you good with that?

13 CHAIRPERSON HILL: Are you talking to me? Oh, Ms.
14 Davis?

15 VICE CHAIRPERSON BLAKE: Yes.

16 CHAIRPERSON HILL: Ms. Davis, I think you clarified
17 how the ownership is conveyed; is that correct?

18 MS. DAVIS: It's a, I'm sure you're all familiar with
19 PropertyQuest. There's a screenshot from PropertyQuest that I
20 believe is the last exhibit in the record and it shows how the
21 property is broken up into units and parking spaces, and the two
22 primary owners are Mr. Bosserman and Ms. Junk. This is applied
23 for on Lot 2 which is the general larger or the full lot itself,
24 not the condominium lots because it does affect shared space.

25 CHAIRPERSON HILL: Okay.

1 VICE CHAIRPERSON BLAKE: Okay.

2 A quick question for you in that context. Now, I
3 noticed that in the letter from Ms. Junk, the address is wrong
4 and it appears it's a Pennsylvania telephone number. Is this,
5 could you just kind of just explain to me a little bit. Maybe
6 it's no big deal. I just want to make sure I'm clear to what
7 that (indiscernible).

8 MS. DAVIS: Matt, can you speak to that? I wasn't the
9 one --

10 MR. BOSSERMAN: Yes.

11 MS. DAVIS: -- who (indiscernible) the letter so I'm
12 going to let him speak to that.

13 MR. BOSSERMAN: I certainly can. I think your question
14 was in regards to Ms. Junk's residency. She does have a
15 Pennsylvania phone number. She owns property in Pennsylvania.
16 She also owns several properties in D.C., but she's the primary
17 owner and resident of Unit No. 1 below me.

18 VICE CHAIRPERSON BLAKE: Okay. And did, who submitted
19 that letter to the record from her?

20 MS. DAVIS: I believe I submitted the letter. It came
21 directly forwarded from her.

22 VICE CHAIRPERSON BLAKE: Okay. Thank you very much.

23 MS. DAVIS: Yes. I just looked in my record. I was
24 the one that submitted that.

25 CHAIRPERSON HILL: Okay. Great. Thank you. All right.

1 Anyone else? Okay. Ms. Davis, I'm going to go ahead
2 and close the record, close the hearing and excuse everyone
3 please, Mr. Young.

4 (Pause.)

5 CHAIRPERSON HILL: Okay. Thank you.

6 As has been discussed, there was some questions
7 concerning ownership and then also waiting for some kind of
8 feedback from the ANC. I will also, I appreciate the report that
9 the Office of Planning has put forward and I will agree with
10 their analysis of it. I do appreciate the ANC which oddly enough
11 is my ANC but not my SMD, is in favor of this application. I
12 don't have any issues or concern with this. I believe they're
13 meeting the criteria for us to grant this and I will be voting
14 in favor.

15 Is there anything else you'd like to add, Mr. Smith?

16 COMMISSIONER SMITH: Nothing to add.

17 CHAIRPERSON HILL: Vice Chair Blake?

18 VICE CHAIRPERSON BLAKE: I'm in support of the
19 application, Mr. Chair.

20 CHAIRPERSON HILL: Thank you.

21 Vice Chair Miller?

22 ZC VICE CHAIRPERSON MILLER: I concur with your
23 comments and agree with the Applicant that this is really minimal
24 minor relief, and appreciate the OP and ANC 2G unanimous support
25 which existed in the last case as well, 21280.

1 So, thank you.

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

3 Then I'm going to go ahead and make a motion to approve
4 Application No. 21280 as captioned and read by the secretary, and
5 ask for a second. Mr. Blake?

6 VICE CHAIRPERSON BLAKE: Second.

7 CHAIRPERSON HILL: Motion made and seconded. Madam
8 Chair, if you could please, Madam Secretary, if you could please
9 go ahead and take a roll call.

10 MS. MEHLERT: Please respond to the Chair's motion to
11 approve the application.

12 Chairman Hill?

13 CHAIRPERSON HILL: Yes.

14 MS. MEHLERT: Vice Chair Blake?

15 VICE CHAIRPERSON BLAKE: Yes.

16 MS. MEHLERT: Mr. Smith?

17 COMMISSIONER SMITH: Yes.

18 MS. MEHLERT: Commissioner Miller?

19 ZC VICE CHAIRPERSON MILLER: Yes.

20 MS. MEHLERT: Staff would record the vote as four to
21 zero to one to approve Application No. 21280 on the motion made
22 by Chairman Hill and seconded by Vice Chair Blake.

23 CHAIRPERSON HILL: Madam Secretary, if you want to call
24 our next one?

25 MS. MEHLERT: Next is Application No. 21293 of Square

1 Fifteen Development, LLC. This is a self-certified application
2 pursuant to Subtitle X, Section 901.2 for a special exception
3 under Subtitle E, Section 5201 from the side yard requirements
4 of Subtitle E, Section 208. It's for a new third floor and three-
5 story rear addition to an existing two-story semi-detached
6 principal dwelling.

7 It's located in the RF-1 zone at 1109 4th Street,
8 Northeast, Square 805, Lots 21 and 800, and I'll note that the
9 ANC 6C submitted their report supporting the application
10 yesterday which is in Exhibit 24.

11 CHAIRPERSON HILL: Great. Thank you.

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

14 MR. SULLIVAN: Thank you, Mr. Chairman and Board
15 members, Marty Sullivan with Sullivan & Barros on behalf of the
16 Applicant.

17 CHAIRPERSON HILL: Okay. Great.

18 And it looks like Commissioner Eckenwiler is with us
19 as well. Commissioner, could you introduce yourself for the
20 record?

21 ANC COMMISSIONER ECKENWILER: Good afternoon, Mr.
22 Chairman. Can you hear me okay?

23 CHAIRPERSON HILL: Yes, I can. Thank you.

24 ANC COMMISSIONER ECKENWILER: Excellent. Mark
25 Eckenwiler, Vice Chair, ANC 6C appearing on behalf of the ANC.

1 CHAIRPERSON HILL: Okay. Great. Well, welcome back.

2 Mr. Sullivan, if you want to walk us through your
3 client's application and why you believe they're meeting the
4 criteria for us to grant the relief requested. I'm going to put
5 15 minutes on the clock so I know where we are, and you can begin
6 whenever you like.

7 MR. SULLIVAN: Thank you. If we could load the
8 PowerPoint presentation, please.

9 The property is 1109 4th Street, Northeast. Next
10 slide, please.

11 The property is in the RF-1 zone. It is improved with
12 a single family row dwelling, well it's actually semi-detached
13 now. It was originally a row dwelling. The Applicant seeks
14 approval for a third-story addition on top and a three-story rear
15 addition.

16 The addition was under construction pursuant to permit
17 approval as a matter-of-right addition. It was believed that it
18 was straddling each of two side property lines but upon a later
19 wall check inspection a faulty survey was discovered and the
20 footprint of the addition has been actually constructed, and the
21 existing building was two feet off of the south property line and
22 also two feet over the north property line.

23 To solve the north property line issue, the Applicant
24 has acquired a two foot wide tax lot that existed on the north
25 side and is seeking this relief. So special exception relief is

1 for a foot of side yard relief for the extension up and back
2 where three feet is required for an extension of a nonconforming
3 side yard, this provides two feet. Next slide, please.

4 Office of Planning recommending approval. You'll hear
5 from Commissioner Eckenwiler, ANC 6C is in support and we have
6 letters of support from both adjacent neighbors. Next slide,
7 please.

8 So here you can see there's a very thin lot, Lot 800.
9 The current lot is record lot 21. These lots are going to be
10 consolidated into a new record lot. Next slide, please.

11 This is the rear of the property. The rear addition
12 goes just ten feet past the furthest rear wall of these two
13 buildings or the shortest rear wall of these two buildings so
14 there's no relief from the ten foot rule. Next slide, please.

15 Here is the plat again and you can see Lot 800 there,
16 the two foot strip. The effect of the mistake in the survey and
17 it lines up, the building lines up actually with what we're
18 proposing now. So their consolidation will actually bring the
19 existing building into alignment with its property lines. Next
20 slide, please.

21 Next slide, please.

22 Or actually if you could go back one slide. Sorry, Mr.
23 Young. You see how far the addition goes past the neighboring
24 property to the south which actually isn't adjoining but it's
25 just ten feet past. Next slide, please.

1 Next slide, please.

2 Next slide.

3 Next slide, please.

4 This is the existing elevations. Next slide, please.

5 And here's the proposed elevations. It's set back on
6 the front so there's no impact on the architecture elements of
7 the corners and in the back you can see the addition from the
8 side section there. Next slide, please.

9 So the request is just for a foot of relief. So we're
10 compliant with the special exception criteria. Next slide,
11 please.

12 Light and air being extended with just an extra foot.
13 The adjacent property has no windows facing the addition and the
14 addition complies with the ten foot rule so for these reasons,
15 there's no undue impact on neighboring light and air and the
16 addition does not have north or south facing windows also so no
17 impact on privacy and the rear addition is modest in scale
18 complying with the ten foot rule, and so from the street and the
19 alley the addition will read as a cohesive extension of the
20 original dwelling and preserving the character, scale and pattern
21 along the streetscape. Next slide, please.

22 I think that's probably it. Yes. Thank you.

23 CHAIRPERSON HILL: Okay. Thank you.

24 Commissioner Eckenwiler, can you hear me?

25 ANC COMMISSIONER ECKENWILER: I can, Mr. Chairman.

1 CHAIRPERSON HILL: Would you like to give us the ANC's
2 testimony?

3 ANC COMMISSIONER ECKENWILER: Sure, Mr. Chairman.

4 Very briefly, you have our letter in support in the
5 record at Exhibit 24. I don't see any reason to dwell on it.
6 Frankly for a unopposed case like this normally we wouldn't even
7 have a witness, but this case has such unusual facts that I
8 thought I would show up just in case the Board has any questions.
9 With that, I have no additional testimony.

10 CHAIRPERSON HILL: Okay. Great. Thanks, Commissioner,
11 and thanks for taking the time to show up. Let's see.

12 Does the Board have any questions of the Applicant
13 and/or the ANC? Okay. We'll see how this goes.

14 May I hear from the Office of Planning, please.

15 MR. MITCHUM: Hi. This is Joshua Mitchum with the
16 Office of Planning.

17 We are in agreement with the Applicant's statements and
18 we are in support of the application, and we can rest on our
19 submitted staff report and I'm available for any questions.

20 Thank you.

21 CHAIRPERSON HILL: Okay. Thank you.

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

23 MR. YOUNG: We do not.

24 CHAIRPERSON HILL: Okay.

25 Does the Board have any questions of the Office of

1 Planning?

2 (Pause.)

3 CHAIRPERSON HILL: Okay.

4 Mr. Sullivan, do you have anything you'd like to add
5 at the end?

6 MR. SULLIVAN: No. Thank you, Mr. Chair and Board
7 members.

8 CHAIRPERSON HILL: Okay. All right.

9 Thank you, Commissioner, for joining us. If you could
10 please close the hearing and the record. Bye, Commissioner
11 Eckenwiler.

12 (Pause.)

13 CHAIRPERSON HILL: Okay.

14 Even though some of this was a little odd in trying to
15 follow along and figure out how what was being requested and
16 asked of and why, I actually understand now where we were, or
17 are I should say, and am in agreement with the analysis the Office
18 of Planning has put forward as well as that of the ANC and the
19 testimony of the Applicant, and I will be voting in favor of this
20 application.

21 May I turn to Mr. Smith?

22 COMMISSIONER SMITH: I agree with the Office of
23 Planning's analysis. It's a fairly straightforward case and
24 noting that the adjacent property owners that would be most
25 affected by this addition are in support of the application so

1 that, you know, no (indiscernible) or concerns that I may have.
2 So I will be in support of the application as well.

3 CHAIRPERSON HILL: Thank you.

4 Mr. Blake?

5 VICE CHAIRPERSON BLAKE: Mr. Chair, I have nothing to
6 add. I'm in support of the application.

7 CHAIRPERSON HILL: Thank you.

8 Vice Chair Miller?

9 ZC VICE CHAIRPERSON MILLER: Thank you, Mr. Chairman.

10 Yes, I concur with your comments and Board member, the
11 other Board members and I'm prepared to support the application.
12 I appreciate the Applicant's community outreach.

13 CHAIRPERSON HILL: Thank you, Vice Chair Miller. All
14 right.

15 I'm going to go ahead and make a motion to approve
16 Application No. 21293 as captioned and read by the secretary, and
17 ask for a second. Mr. Blake?

18 VICE CHAIRPERSON BLAKE: Second.

19 CHAIRPERSON HILL: Motion is made and seconded. Madam
20 Secretary, can you take a roll call, please?

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

23 Chairman Hill?

24 CHAIRPERSON HILL: Yes.

25 MS. MEHLERT: Vice Chair Blake?

1 VICE CHAIRPERSON BLAKE: Yes.

2 MS. MEHLERT: Mr. Smith?

3 COMMISSIONER SMITH: Yes.

4 MS. MEHLERT: Commissioner Miller?

5 ZC VICE CHAIRPERSON MILLER: Yes.

6 MS. MEHLERT: Staff would record the vote as four to
7 zero to one to approve Application No. 21293 on the motion made
8 by Chairman Hill and seconded by Vice Chair Blake.

9 CHAIRPERSON HILL: Okay. If you could call our next
10 case, please.

11 MS. MEHLERT: Next is Application No. 21294 of Brynn
12 and Robert Kurtzman. This is a self-certified application
13 pursuant to Subtitle X, Section 901.2 for a special exception
14 under Subtitle D, Section 207.5 to allow the rear wall of an
15 attached building to extend more than ten feet beyond the farthest
16 rear wall of an adjoining principal residential building on an
17 adjacent property.

18 This is for a two-story rear addition plus rear deck
19 to an existing two-story attached principal dwelling. It's
20 located in the R-3/GT zone at 2219 Observatory Place, Northwest,
21 Square 1301, Lot 946.

22 CHAIRPERSON HILL: Thank you.

23 Can the Applicant hear me and if so, if they could
24 introduce themselves for the record.

25 MR. WILSON: Good afternoon, Mr. Chairman. My name's

1 Paul Wilson. I'm the architect and agent for the owners.

2 CHAIRPERSON HILL: Okay, Mr. Wilson. I assume you're
3 going to be presenting to us?

4 MR. WILSON: Yes, I am.

5 CHAIRPERSON HILL: Okay. If you want to go ahead and
6 walk us through your client's application, why you believe
7 they're meeting the criteria for us to grant the relief. I'm
8 going to put 15 minutes on the clock so I know where we are, and
9 you can begin whenever you like.

10 MR. WILSON: Okay. Thank you, Mr. Chairman. Members
11 of the Board. If I could have the slide presentation, please.

12 This is a really straightforward application. If I
13 could have the next slide, please.

14 What we're proposing is a 12 and a half foot two-story
15 rear addition on this property. It's located on Observatory
16 Place. Actually the, we're going to remove an existing rear
17 deck, construct a two-story addition and the site actually drops
18 off in the rear so it's actually a three-story addition on the
19 rear. If I could have the next slide, please.

20 The building plans. The genesis of the project was to
21 add a bedroom to the basement level, expand the first floor so
22 we have a kitchen and a separate dining room and then on the top
23 story adding a primary suite to the rear of the house, the bedroom
24 and a bath and to do that we have to extend beyond the ten foot
25 envelope of the house, the houses that are adjoining. If I could

1 have the next slide, please.

2 Okay. The only relief requested here is from D-207.5
3 to exceed the maximum allowable ten foot extension. We are going
4 to 12 and a half feet so it's an additional 2.5 feet beyond the
5 allowable and here are the special exception criteria. If I
6 could have the next slide, please.

7 We've included shadow studies for the record showing
8 the increased shadow from the proposed addition. I think it's
9 pretty minimal, especially considering the fact there's already
10 a deck on the property and the difference between a matter-of-
11 right ten foot addition and the proposed 12 and a half feet is
12 pretty minor. If I could have the next slide, please.

13 And the next slide.

14 Next slide, please.

15 So as far as privacy, use and enjoyment of the
16 neighboring property shall not be unduly compromised or have side
17 windows as a zero setback situation. My clients have been in
18 contact with the neighbor at 2221 and there's an email of support
19 in the record. They've also spoken to their neighbors at 2217.
20 They have contacted, really didn't voice any objection. The
21 property is currently listed for sale, so that's the neighbor
22 outreach. Next slide, please.

23 And then the proposed addition or accessory structure
24 shall not substantially visually intrude upon the character,
25 scale and pattern of the houses. This is a rear view of the

1 alley. It's a little hard to see 2221 because there's a fence
2 and a large tree. But these houses were all built at the same
3 pattern and scale and we do not believe another two and a half
4 feet beyond what we can build as a matter-of-right is a major
5 intrusion on the neighborhood. Next slide, please.

6 For support, like I said, we have emails from the
7 immediate neighbor to the north. Outreached to the property
8 owner to the south. ANC 3B is in support and Office of Planning
9 recommends approval.

10 And that's all I have I think. I'd be happy to answer
11 any questions.

12 CHAIRPERSON HILL: Thank you. All right.

13 Before I turn to the Board could I hear from the Office
14 of Planning?

15 MR. BARON: Good afternoon, Chairman Hill,
16 Commissioners. For the record my name is Ron Baron, Development
17 Review Specialist with the D.C. Office of Planning.

18 The Office of Planning recommends approval of the
19 requested special exception. The proposed two-story addition
20 would be in harmony with the general purpose and intent of the
21 R-3/GT zone and it would be unlikely to affect adversely the use
22 and privacy of neighboring properties. We're happy to rest on
23 our report submitted to the record at Exhibit 29 and I'm available
24 to answer any questions you may have.

25 Thank you.

1 CHAIRPERSON HILL: Thank you.

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

3 MR. YOUNG: We do not.

4 CHAIRPERSON HILL: Okay.

5 Does the Board have any questions of the Applicant

6 and/or the Office of Planning?

7 (Pause.)

8 CHAIRPERSON HILL: Okay. All right.

9 Mr. Wilson, I'm going to excuse you. I hope you have

10 a nice day.

11 MR. WILSON: Thank you very much.

12 CHAIRPERSON HILL: Thank you.

13 MR. WILSON: Good afternoon.

14 CHAIRPERSON HILL: Good afternoon. I'm going to close

15 the hearing and the record. Mr. Young, if you could please let

16 everyone go. Okay.

17 I hate using the thing straightforward again but this

18 looked very straightforward to me. I mean, it's two and a half

19 past. They provided shadow studies that I don't think are going

20 to affect anyone adversely and I also appreciate all of the

21 community outreach that they have done including reaching out to

22 the neighbors and also then the ANC. I will agree with the Office

23 of Planning's report and their analysis as well as that of the

24 ANC and vote in support.

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

1 COMMISSIONER SMITH: I agree with your statements and
2 will vote in support.

3 CHAIRPERSON HILL: Thank you.

4 Vice Chair Blake?

5 VICE CHAIRPERSON BLAKE: Support as well, and don't
6 have anything else to add.

7 CHAIRPERSON HILL: Thank you.

8 Vice Chair Miller?

9 ZC VICE CHAIRPERSON MILLER: I concur. Thank you.

10 CHAIRPERSON HILL: Okay. Thank you.

11 I'm going to make a motion to approve Application No.
12 21294 as captioned and read by the secretary, and ask for a
13 second. Mr. Blake?

14 VICE CHAIRPERSON BLAKE: Second.

15 CHAIRPERSON HILL: Motion is made and seconded. Madam
16 Secretary, take a roll call.

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

19 Chairman Hill?

20 CHAIRPERSON HILL: Yes.

21 MS. MEHLERT: Vice Chair Blake?

22 VICE CHAIRPERSON BLAKE: Yes.

23 MS. MEHLERT: Mr. Smith?

24 COMMISSIONER SMITH: Yes.

25 MS. MEHLERT: Commissioner Miller?

1 ZC VICE CHAIRPERSON MILLER: Yes.

2 MS. MEHLERT: Staff would record the vote as four to
3 zero to one to approve Application 21294 on the motion made by
4 Chairman Hill and seconded by Vice Chair Blake.

5 CHAIRPERSON HILL: Okay. Great. Thank you.

6 Commissioner Miller, I believe you are off the hook.

7 ZC VICE CHAIRPERSON MILLER: I am. Thank you. Have a
8 good rest of the day.

9 CHAIRPERSON HILL: Thank you. You as well.

10 ZC VICE CHAIRPERSON MILLER: Okay. Thank you.

11 CHAIRPERSON HILL: Bye bye. All right.

12 We have one more case and I think actually though,
13 Madam Secretary, you have, or I'm sorry, we have a decision before
14 us and I had asked if staff had an opportunity to write up the
15 discussions that we had from a similar case, I can't remember the
16 number that's before us right now, but is staff able to email
17 that to us?

18 MS. MEHLERT: I believe the conditions were sent to the
19 Board. The list of conditions.

20 CHAIRPERSON HILL: Okay. You are correct. Thank you.
21 All right.

22 Do you want to go ahead and call our decision case,
23 please.

24 MS. MEHLERT: Sure. This is in the Board's meeting
25 session. It's Application No. 21249 of 4231 Clay Street NE, LLC.

1 This is a self-certified application pursuant to Subtitle X,
2 Section 901.2 for a special exception under Subtitle U, Section
3 203.1(J) to allow a healthcare facility use for 16 persons. This
4 is for a new 16 bed healthcare facility in an existing building.
5 It's located in the R-2 zone at 4231 Clay Street, Northeast,
6 Square 5088, Lots 45 and 46.

7 This was heard on April 23rd and the Board scheduled
8 for a decision on May 14th. The Board re-scheduled the decision
9 and requested updated conditions from the Applicant as well as
10 any ANC response. Participating are Chairman Hill, Vice Chair
11 Blake, Mr. Smith and Dr. Imamura.

12 CHAIRPERSON HILL: Thank you.

13 So just to be clear, I was speaking about some of the
14 work that the Board had done earlier today on Case 21240 that is
15 a similar case with the same Applicant and we, the Board, had
16 gone through extensive deliberations in order to understand what
17 we thought what might be some conditions that work around anything
18 that might be of an adverse impact for this particular project
19 given that there are, there's another healthcare facility within
20 500 feet that is something that the Office of Planning had also
21 taken into consideration when they were given their report.

22 I will also again note as in the previous deliberation
23 that we had heard from DDOT in terms of what they thought about
24 any kind of adverse impact on the traffic that might happen or
25 the parking from this type of a facility and they were also in

1 favor of the application.

2 Also I remember, as we were deliberating before, that
3 we, the Board, was deferring to DOB and also the healthcare
4 experts as to how many people really would be allowed to be in
5 this facility, even if the Board were to say it is able to do 16
6 and the healthcare people in D.C. might say that maybe there's
7 less that should be in this facility.

8 The ANC was wanting, I believe on the last one and also
9 probably on this one, they were looking for maybe ten residents
10 rather than sixteen and I had stated in the last discussion that
11 the application before us is the application that is before us.
12 I mean, the Board can also work through different conditions and
13 criteria, however in this case I think it was more either vote
14 16 up or just vote it down and then you go to the eight by-right
15 number.

16 The other thing that the Board had mentioned was that
17 whether it was ten or eight, if it were eight, there are no
18 conditions that would be put forward and then the community would
19 live with whatever it is that the property owner was able to do
20 within, you know, the regulations they have to go under a matter-
21 of-right situation. There was a lot of different conditions that
22 we put forward and I believe the Office of Zoning has sent those
23 conditions to the Board to be able to look through together.

24 The one question I actually had for, actually Madam
25 Secretary, if you can just help me on the one thing. Is the four

1 parking spaces, is that what was in plat in Exhibit 26A as you
2 all have referred to it, because I'm just trying to pull it up?
3 Do you know if it was 26A? If my fellow Board members even know.
4 Let me look here.

5 MS. MEHLERT: The updated plat is in Exhibit 26A.

6 CHAIRPERSON HILL: Okay. Great. Thank you.

7 So the items that you all mentioned in this
8 informational email that you were sending to the Board, those are
9 all referencing the case record in 21249, correct?

10 MS. MEHLERT: No. Those were from 21240. So if you,
11 I can look at the current case for those. That looks like it's
12 in 21A for 21249.

13 CHAIRPERSON HILL: Give me a second. Sorry.

14 (Pause.)

15 CHAIRPERSON HILL: So my fellow Board members, it's
16 been a long day for me, so you all can tell me what you think in
17 terms of -- I just want to make sure, I get a little confused.
18 It is, oh, yeah, 21A, 21A is where the plat is. Okay. So the
19 plat's in 21A and then the -- I don't think, is there anything
20 that shows the hazardous material should be shown in a screen
21 enclosure? Is that also 21A?

22 VICE CHAIRPERSON BLAKE: That was it.

23 CHAIRPERSON HILL: Pardon?

24 VICE CHAIRPERSON BLAKE: I believe the hazardous
25 material comment was added.

1 CHAIRPERSON HILL: Right. No, but they're referring
2 to a plat somewhere and so I don't know, there's no plat in 21249
3 that shows the screening of the material. I think there's just
4 no plat for this one that shows. We can just say the hazardous
5 material. Okay.

6 So these are the conditions as I understand them, and
7 I'm going to read through them before we, and just so we're
8 discussing this.

9 It is, again, the healthcare facility shall have a
10 maximum capacity of 16 residents.

11 Four parking spaces shall be maintained at the rear of
12 the property and screened, as shown in plat Exhibit 21A. Three
13 of the four parking spaces shall be reserved for staff members.
14 One space shall be reserved for visitor parking.

15 Visiting hours shall be from 7 a.m. to 9 p.m.

16 Housekeeping services shall take place in the morning
17 between 6 a.m. and 11 a.m.

18 Meal delivery services shall take place in the morning
19 and drop-off shall be completed by 9 a.m.

20 The Applicant shall hire a private trash contractor to
21 collect trash from the property from the outside. Trash pick-up
22 shall occur six times a week, Monday through Saturday, and shall
23 be collected between the hours of 6 a.m. and 11 a.m.

24 Hazardous material shall be stored in the screened-in
25 enclosure at the rear of the property.

1 The Applicant shall maintain a six foot solid privacy
2 fence enclosing the yards behind the front façade of the building.

3 Daily outdoor activities in the rear yard area and deck
4 shall not begin before sun up and shall be concluded at sundown.

5 The Applicant shall designate a community liaison that
6 shall attend ANC meetings on a quarterly basis.

7 The order shall be valid for five years.

8 Am I missing anything in terms of our discussions for
9 this particular case?

10 COMMISSIONER SMITH: No. But I do agree with you that
11 the exhibit that they referenced doesn't show a fence or the
12 screening. This is an old plat.

13 CHAIRPERSON HILL: I understand. I understand. I'm
14 just saying we're going to, I'm going to, you know, shall be at
15 the rear of the property, period. Meaning, again, we're talking
16 them what the condition is.

17 COMMISSIONER SMITH: Well, I wasn't making necessarily
18 reference to the fence thing. I think it was more so a question
19 about Condition 2, four parking spaces shall be maintained at the
20 rear of the property and screened. The question about screened
21 as shown on the plat.

22 CHAIRPERSON HILL: Oh, okay.

23 VICE CHAIRPERSON BLAKE: The thing, the screening
24 though related to the gate, the metal gate that comes down.
25 That's the screening that they're actually talking about.

1 COMMISSIONER SMITH: Okay. And that's what they --

2 VICE CHAIRPERSON BLAKE: (Indiscernible).

3 COMMISSIONER SMITH: -- make reference to in the
4 pictures? Okay. I'm fine with the condition.

5 CHAIRPERSON HILL: Yeah. And maybe we'll take, you
6 know, when we're reviewing the order if we have any questions
7 about it, but the screening is the metal gate you're saying,
8 right? It's just, the metal gate's going to come down. Is that
9 correct, Mr. Blake?

10 VICE CHAIRPERSON BLAKE: Yes. That's my understanding.

11 CHAIRPERSON HILL: Okay. And then I'm not going to
12 reference a plat or anything concerning the screening of the
13 trash or the hazardous material.

14 I was a little confused about this meal delivery
15 service. Was it shall be completed by 9 a.m.? Is that what we
16 had talked about on the previous one? Is that, okay. I think
17 that's what the Applicant, is that what the Applicant had put
18 forward in the last one? I'm just trying to figure out if 9 a.m.
19 is feasible and I would assume it could be, or would be. Or do
20 you all want to give them until 10 a.m.? I don't remember what
21 the previous conditions had or let me look. Do they have
22 suggestions conditions in this one also? Give me a moment. They
23 had the same condition, sorry. Yeah. They say by 9 a.m. So,
24 okay. So that's fine. All right.

25 Does anybody have anything else to add? Okay. So I'm

1 going to repeat the conditions one more time for the OZLD and
2 they can help us if, and staff, if we're somewhat confused.

3 I'm going to make a motion to approve Application No.
4 21249 as captioned including the conditions that are:

5 1. The healthcare facility shall have a maximum
6 capacity of 16 residents.

7 2. More parking spaces shall be maintained at the rear
8 of the property and screened with a garage door or a door, that's
9 what the screening is, as shown in Exhibit 21A.

10 3. Three of the four parking spaces shall be reserved
11 for staff members. One space shall be reserved for visitor
12 parking.

13 4. Visitor hours shall be from 7 to 9 p.m.

14 5. Housekeeping services shall take place in the
15 morning between the hours of 6 a.m. and 11 a.m.

16 6. Meal delivery services shall take place in the
17 morning and the drop-off shall be completed by 9 a.m.

18 7. The Applicant shall hire a private trash contractor
19 to collect trash from the property from the alley side. Trash
20 pick-up shall occur six times a week, Monday through Saturday,
21 and shall be collected between the hours of 6 a.m. and 11 a.m.
22 Hazardous material shall be stored in a screened-in enclosure at
23 the rear of the property.

24 8. The Applicant shall maintain a six foot solid
25 privacy fence enclosing the rear yards behind the front façade

1 of the building.

2 9. Daily outdoor activities in the rear yard area and
3 deck shall not begin before sun up and shall be completed at
4 sundown.

5 10. The Applicant shall designate a community liaison
6 that shall attend ANC meetings on a quarterly basis; and,

7 11. The order shall be valid for five years.

8 Do I get a second, Mr. Blake?

9 VICE CHAIRPERSON BLAKE: Second.

10 CHAIRPERSON HILL: Motion made and seconded. Madam
11 Secretary, take a roll call.

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

14 Chairman Hill?

15 CHAIRPERSON HILL: Yes.

16 MS. MEHLERT: Vice Chair Blake?

17 VICE CHAIRPERSON BLAKE: Yes.

18 MS. MEHLERT: And Mr. Smith?

19 COMMISSIONER SMITH: Yes.

20 MS. MEHLERT: Staff would record the vote as three to
21 zero to two to approve Application 21249 with conditions, on the
22 motion made by Chairman Hill and seconded by Vice Chair Blake,
23 with Dr. Imamura not participating.

24 CHAIRPERSON HILL: Okay. Great. Thank you.

25 Madam Secretary, do we have anything before the Board?

1 MS. MEHLERT: There is nothing else from staff.

2 CHAIRPERSON HILL: Okay. Thank you very much. I hope
3 you have a good day and we are adjourned.

4 (Whereupon, the above-entitled matter went off the
5 record at 2:00 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: 06-04-25

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.

Cassandra Holland

Cassandra B. Holland