

GOVERNMENT OF
THE DISTRICT OF COLUMBIA

+ + + + +

BOARD OF ZONING ADJUSTMENT

+ + + + +

REGULAR PUBLIC HEARING

+ + + + +

WEDNESDAY

JUNE 11, 2025

+ + + + +

The Public Hearing of the District of Columbia Board of Zoning Adjustment convened via teleconference, pursuant to notice at 9:39 a.m. EDT, Frederick L. Hill, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

FREDERICK L. HILL, Chairperson
CHRISHAUN SMITH, Board Member
CARL H. BLAKE, Vice Chairperson
TAMMY STIDHAM, Commissioner
GWEN WRIGHT, Commissioner

BOARD OF ZONING ADJUSTMENT STAFF PRESENT:

KEARA MEHLERT, Secretary
PAUL YOUNG, A/V Operations, Host

The transcript constitutes the minutes from the Regular Public Hearing held on June 11, 2025

HUNT REPORTING COMPANY
Court Reporting and Litigation Support
Serving Maryland, Washington, and Virginia
410-766-HUNT (4868)
1-800-950-DEPO (3376)

T-A-B-L-E O-F C-O-N-T-E-N-T-S

Case No. 21250
Fikremariam Mengesha 6

Case No. 21310
Eleonora Cavagnero 61

Case No. 20821-A
1717 E. Street NE, LLC

Case No. 21285
Dana and Dominic Ju 65

Case No. 21291
HDR Holdings, LLC 73

Case No. Application No. 21295
Justin Ryan Gomez and Jesse Martinez Jr.....89

Case No. 21296
2928 Georgia Avenue Associates, LLC and
Negril DC, Inc.
..... 147

Case No. 21297
District of Columbia Department of General
Services 155

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

(9:39 a.m.)

CHAIRPERSON HILL: Good morning, ladies and gentlemen. Board of Zoning Adjustment's 6/11/2025 meeting will please come to order. My name is Fred Hill, Chairman of the District of Columbia Board of Zoning Adjustments. Joining me today are Board Members Carl Blake, Crishaun Smith;, Zoning Commissioners Tammy Stidham and Gwen Wright. And I believe that's it today.

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 it 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, everybody who is listening on Webex or by telephone will be muted during the hearing. Also, please be advised that we do not take any public testimony at our decision meeting session. If you are 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 the 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 a decision it contains is adverse to a party, including an affected ANC. A full order may also be needed if

HUNT REPORTING COMPANY
Court Reporting and Litigation Support
Serving Maryland, Washington, and Virginia
410-766-HUNT (4868)
1-800-950-DEPO (3376)

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

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

14 Once again, if you're experiencing difficulty, please
15 call the hotline number that's listed on the screen. All persons
16 planning to testify either in favor or in opposition should have
17 signed up in advance. They will be called by name to testify.
18 If this is an appeal, only parties are allowed to testify. By
19 signing up to testify, all participants completed the oath or
20 affirmation as required by Subtitle Y-408.7.

21 Requests to enter evidence at the time of an online
22 virtual hearing such as written testimony or additional
23 supporting documents other than live video, which may not be
24 presented as part of the testimony, may be allowed pursuant to
25 Y-103.13, provided that the person making the request to enter

1 and exhibit explains, a) how the proposed exhibit is relevant,
2 b) the good cause that justifies allowing the exhibit into the
3 record, including explanation of why the requestor did not file
4 the exhibit prior to the hearing pursuant to Y-206, and c) how
5 the proposed exhibit would not unreasonably prejudice any
6 parties. The order of procedures for a special exceptions and
7 variances are in Y-409.

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

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

1 a case for purposes of seeking legal counsel on a case pursuant
2 to D.C. Official Code section 2-575(b)(4), and/or deliberate on
3 a case pursuant to D.C. Official Code 2-575(b)(13), but only
4 after providing the necessary public notice in the case of an
5 emergency closed meeting after taking roll call vote.

6 Madam Secretary, do we have any preliminary matters
7 today?

8 MS. MEHLERT: Good morning, Mr. Chairman, members of
9 the Board.

10 Regarding today's schedule, Application No. 21273 of
11 Livingston Developers Group, LLC, has been withdrawn.

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

19 CHAIRPERSON HILL: Okay, great. Thank you. Good
20 morning, everybody. Hold on one second.

21 Okay. I think we are going to start with Commissioner
22 Stidham because that's the only one she has today. And so
23 Commissioner Wright, we will see you shortly.

24 And Madam Secretary, you can call our case.

25 MS. MEHLERT: The first case is in the Board's hearing

1 session. It's Application No. 21250 of Fikremariam Mengesha. As
2 amended, this is a self-certified application pursuant to
3 Subtitle X, section 901.2, for special exceptions under Subtitle
4 U, section 203.1(j) to allow a healthcare facility used for 14
5 persons and under Subtitle C, section 703.2 from the minimum
6 vehicle parking space requirements of Subtitle C, section 701.5.

7 This is for a new 14-bed healthcare facility in an
8 existing one-story-with-basement building. It is located in the
9 R-2 zone at 7410 Eastern Avenue Northwest, square 3178-E, lot
10 115. This hearing began on May 7th. The Board requested
11 submissions and scheduled a continued hearing. And participating
12 are Chairman Hill, Vice Chair Blake, and Commissioner Stidham.

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

16 MS. WILSON: Hi. Alex Wilson from Sullivan and Barros
17 on behalf of the applicant in this case.

18 CHAIRPERSON HILL: Okay. Hi, Ms. Wilson. Let's see.
19 Okay. Give me a minute. All right. Ms. Wilson, do you want to
20 go ahead and walk us through what happened since the last time
21 you were with us?

22 MS. WILSON: Absolutely. So the hearing was postponed
23 so that we could attend the ANC meeting. We unfortunately were
24 not given an opportunity to attend, but I can go over our summary
25 of the submissions and sort of some responses to -- I've seen

1 some recent opposition filed, so I'd like to just walk through
2 that as well.

3 Since our last hearing, we filed proposed conditions
4 tailored to address neighborhood compatibility and mitigate
5 concerns in the record. We did see the resolution from the ANC.
6 And although some of the concerns were not directly tied to the
7 special exception criteria, we provided a written response to
8 each of those concerns. We provided a summary of the operations
9 describing the scale of the facility, the staffing model. And
10 we've also provided the updated plat and the trash agreement to
11 the record. Trash will be stored on the property, and enclosed,
12 and will be collected by a private trash collection company from the
13 alley six times a week.

14 Although there was initially limited opposition, there
15 have been concerns raised in the record in the last week. So we
16 have everyone's information now, and Mr. Eyob can make himself
17 available to those neighbors. There are two neighbors nearby
18 that submitted some concerns, and so that's what I'm focused on
19 here, since those are the nearby neighbors. We've also included
20 a community liaison condition in that list we submitted. And so
21 in response to some of the questions and concerns raised by the
22 neighbors and those raised by the ANC, I wanted to clarify some
23 points on the record.

24 So this is not a high-volume medical facility. So
25 these are residents who will be living here. They will be

1 elderly. They will not be driving. And then so staff and visitor
2 traffic will be limited and off peak. And the scale of the house
3 in proposal is modest. We are not adding to the house and
4 maximizing the lot or building a brand new facility. We're well
5 under the maximum allowed by the special exceptions. The number
6 of residents has been coordinated with DOH. And this is designed
7 to continue to appear to be a house and designed for residential
8 compatibility. These will be older residents, perhaps those
9 currently in the community who can no longer afford to live alone
10 either from a physical or financial standpoint but don't want to
11 leave the community. And so this fills that need. It's
12 affordable senior housing that accepts Medicare.

13 Parking seems to be the biggest concern from what I've
14 reviewed in the record. It's something we've had to think through
15 as well. Right now, there is a driveway on site. It's located
16 in the building restriction line, so it's in public space. In
17 terms of the policy reasons behind that needing to be closed,
18 I'll defer to DDOT. I see that someone from DDOT is here today.
19 But it may actually result in an overall increase to the parking
20 available in the area. By putting that curb back, you might get
21 one or two on-street parking spaces instead of the one off-street
22 parking space that currently is in public space.

23 I'll also point out that across the street, there
24 appear to be no parking restrictions. That corner lot is
25 currently vacant and there appears to be ample street parking

1 directly across, on the other side of Eastern. Most of the nearby
2 properties on Eastern have private parking, and there is two-
3 hour parking available on the side of Eastern where the property
4 is located for deliveries and visitors. The daily visitors to
5 the site will be two staff members, morning meal delivery, and
6 morning housekeeping. There will be trash, but that occurs from
7 the alley. The residents don't drive. So at most, a car for
8 each staff member, two cars total, will be there all day. If
9 this were a single-family home, you might also expect one or two
10 cars.

11 The two staff members will be encouraged to park on the
12 other side Eastern, which appears to have available street
13 parking in nearly every photo, so there should be no spillover
14 into the adjacent residential streets. Additionally, the
15 applicant will look for incentives to encourage public transit.
16 There's a pre-tax commuter benefits program, for example. So if
17 the Board wants as a condition, the applicant can encourage
18 employees to park on the other side of Eastern and provide the
19 information to the employees, if they are interested.

20 The other daily visitors will be the meal delivery
21 service and housekeeping. The meal delivery service is a very
22 quick drop off at the front door, five to ten minutes. They can
23 use any parking, as the restrictions nearby have a two-hour limit.
24 The applicant will make sure they're not double parked. I'm not
25 sure if the Board wants to add that as a condition. But just

1 that the applicant shall supervise meal delivery and communicate
2 to the service provider to not double park, something to that
3 effect.

4 In terms of housekeeping, the housekeeping services
5 should take under two hours as well, and they would be able to
6 use the street parking in front of the property or other street
7 parking available. This would be no difficult than for a single-
8 family home that would employ housekeeping services. There are
9 no other special deliveries. This is a residence, not a medical
10 facility. So these services are not necessarily unique to this
11 use, as many families have housekeeping and order delivery. The
12 facility just organizes it for these particular residents in this
13 case.

14 In terms of visitors, visitors would likely not stay
15 more than two hours. And so the available street parking with
16 two-hour limits in front of the property and down the block would
17 be appropriate to visitors, similar to a visitor for a single-
18 family home in the area or for a facility that only has eight
19 beds and is permitted by right.

20 Again, DDOT is here to comment on this. But based on
21 the information and the mitigation from the conditions, the
22 assisted living residence should not create any adverse traffic
23 or parking concerns compared to a single-family home or by right,
24 assisted living use. And the nature of the public parking in
25 the area can support this use, even with that curb closing, given

1 that many homes have private parking and there is street parking
2 available.

3 And finally, we very safely meet the parking special
4 exception criteria. We are only required to meet one of the
5 categories in this case. And so without the curb cut, there's
6 no way to physically provide parking on site, given the topography
7 along the alley and relative location of the existing house.

8 That is my summary. I believe the owner is on in the
9 attendees list if there are any questions for him as well.

10 CHAIRPERSON HILL: Okay. Thanks, Ms. Wilson. Let me
11 do a couple things. Ms. Wilson, I forget, is this the one that
12 has eight beds now?

13 MS. WILSON: No. This is not operational now.

14 CHAIRPERSON HILL: You know, there was a picture that
15 got submitted in the record that looks like there's a lot of cars
16 in a parking area. I can't understand if that -- do you know --
17 that's not the current applicant's -- what is that picture of?
18 You don't know, do you?

19 MS. WILSON: Do you know what exhibit it's in?

20 CHAIRPERSON HILL: Yeah.

21 MS. WILSON: Oh, there were letters submitted this
22 morning that I haven't seen. So hold on.

23 CHAIRPERSON HILL: Sara Green. Let me look.

24 MS. WILSON: Green. Okay.

25 CHAIRPERSON HILL: 39. 39.

1 MS. WILSON: I don't know. I'll have to see. Mr.
2 Eyob, are you on? Aaron, are you on?

3 UNIDENTIFIED SPEAKER: Actually, that's
4 (indiscernible).

5 MS. WILSON: Oh, it looks like this is -- okay. So
6 this is the rear of another property.

7 VICE CHAIR BLAKE: That's a picture of a facility,
8 another location. It has, I think it's five residents in it,
9 and they were illustrating the amount of cars that were involved
10 with that. It's a letter from one of the residents in opposition.

11 CHAIRPERSON HILL: Okay. But that -- and thank you,
12 Vice Chair Blake. That's not one of your client's property's,
13 is it, Ms. Wilson? You don't know?

14 MS. WILSON: I don't -- it's certainly not one of the
15 ones we're working on. But no, I don't think so, and I can look
16 it up. But I think she's just illustrating it's a --

17 CHAIRPERSON HILL: Okay. I'll figure it out.

18 MS. WILSON: -- one nearby.

19 CHAIRPERSON HILL: All right. Let's see, I see
20 Commissioner Johnson. Is Commissioner Johnson here?

21 COMMISSIONER JOHNSON: Yes. I'm here on behalf of ANC
22 4B.

23 CHAIRPERSON HILL: Okay. Great. Could you introduce
24 yourself for the record, Commissioner?

25 COMMISSIONER JOHNSON: Hi, Tiffani Nicole Johnson.

1 Commissioner for 4B06 and also vice chair of the commission.

2 CHAIRPERSON HILL: Okay. Great. Commissioner, would
3 you like to give us your testimony?

4 COMMISSIONER JOHNSON: So on behalf of ANC 4B, we are
5 opposed to this 14-bed, what is now being called an assisted
6 living facility in a residential area. The ANC allowed for the
7 attorneys to present at our April hearing. They did not attend.
8 They sent a consultant in their stead who was using the attorney's
9 work product. They were not able to answer any of the questions
10 to the Commission's satisfaction or to the community's
11 satisfaction.

12 And we have grave concerns that this is nothing more
13 than opportunistic warehousing of individuals with physical and
14 perhaps mental disabilities. It is going to be a detriment to
15 those individuals and to the community. And we are ultimately
16 opposed. I do not believe that the Department of Health or the
17 HRLA would allow for this type of environment for any individuals
18 who might need -- who might have significant mobility and health
19 issues. There is no allowance for onsite medical staff. And
20 saying that oh, well, the visitors will only be there for two
21 hours and only three -- three individuals can have visitors a
22 day, it's a violation of those individual's rights.

23 I could go on, but ultimately, the community has spoken
24 in great detail, as has the Commission, in opposition to this.
25 I understand that there are other similar facilities in Ward 7

1 that the BZA has also approved, and I hope that you do not do
2 that this time because I doubt that those facilities would be
3 ultimately approved by the Department of Health. So with that,
4 if you have any questions, I'm happy to respond.

5 CHAIRPERSON HILL: Okay. Thanks, Commissioner. Okay.
6 Before I turn to my Board also, let's see, DDOT -- the person
7 from DDOT is here? Could you introduce yourself for the record,
8 please?

9 MR. OZBERK: Yes. Good morning, Chairman Hill, and
10 members of the Board. For the record, my name is Erkin Ozberk.
11 I am the development and new program manager with the District
12 Department of Transportation.

13 CHAIRPERSON HILL: Okay. Thank you. All right. So
14 in terms of -- let me see if I'm missing anybody. No, I think
15 I'm okay. In terms of the testimony that that Commissioner is
16 giving, I see the resolution that the ANC put forward. I also
17 see the exhibits that the applicant has put forward in terms of
18 communication with the ANC. And so I think that, you know, the
19 record speaks for itself on those issues. DDOT has their report
20 in there, and I think we wanted DDOT to come because we wanted
21 to see if any of the Board members had any questions for DDOT.

22 Do any of the Board members have any questions for
23 DDOT? Commissioner Stidham?

24 COMMISSIONER STIDHAM: I understand that DDOT's
25 recommendation for removal of the curb cut, which would remove

1 access to the existing driveway. Can you help me understand the
2 reasoning for the removal of the curb cut?

3 MR. OZBERK: Yes. Absolutely. Thank you. So yeah,
4 in our March 14th report, which is in the record as Exhibit 19,
5 we did recommend approval of the parking relief for the one space
6 on the condition that the applicant close the existing curb cut
7 and driveway to Eastern Avenue, and restore the former driveway
8 to green space subject to DDOT approval. And I understand that
9 Member Stidham, you had raised this question in the May 7th
10 hearing as well.

11 And so the applicant is seeking relief from the one
12 space. They state they are unable to accommodate their parking
13 on private property due to the topography of the rear alley.
14 Parking in public space does not satisfy the zoning requirement,
15 and vehicle parking between the building and the curb in public
16 spaces also is not permitted by district regulations. So while
17 DDOT supports the relief, we don't support vehicle parking in the
18 driveway in public space. By closing the curb cut, that would
19 enable a space -- public space to both be compliant with district
20 standard between the building and the sidewalk. It could be
21 restored to basically a front yard kind of standard, while also
22 supplying additional curbside space for one or two additional
23 parked vehicles in the road. So when the curb cut goes away, a
24 car can then parallel park in front of the property where that
25 driveway used to be.

1 So it's a one-to-one kind of conversion, if you will.
2 The driveway itself was only 15 feet long, in which case many
3 vehicles would project out into the sidewalk, blocking the
4 sidewalk if they are parked there. In addition to us not wanting
5 vehicles parked -- if a vehicle is going to be parked in public
6 space, it should be parked on the curb. I hope that helps answer
7 the sort of rationale question.

8 COMMISSIONER STIDHAM: Yes. So I'm just trying to
9 understand the -- okay. I was just looking at the pictures. So
10 the portion of the driveway that is the same width as the
11 sidewalk, that is the portion of the driveway that's in public
12 space? So there was never any approval for that driveway to go
13 in that covered the curb cut to allow for the driveway to take
14 place and use of the public space? I'm just trying to understand
15 why we would --

16 MR. OZBERK: Sure. Standards change over time. We
17 have a lot of curb cuts and driveways in public space that are
18 several decades old that would not be allowed today. And so when
19 there are changes made to properties, we are always requiring
20 applicants to bring their public space up to current standard.
21 In this case, this is current standard. This property also has
22 alley access. We do not allow curb cuts on properties with alley
23 access.

24 COMMISSIONER STIDHAM: And the adjacent property seems
25 to have a driveway like five feet away.

1 MR. OZBERK: Correct. If they were to come in for an
2 application, we would make the same request of them, assuming
3 they have alley access, which I believe they do.

4 COMMISSIONER STIDHAM: Okay. All right. Thank you.

5 CHAIRPERSON HILL: Mr. Blake?

6 VICE CHAIR BLAKE: Sure. I have a question for the
7 Department of Transportation. To the extent that this
8 requirement for one parking space, is that really reflective of
9 just a residential building in the zone, or is it reflective of
10 a facility with 14 residents? What is the criteria and basis
11 for that requirement? That's one of my first questions.

12 MR. OZBERK: I believe it is the zone but I could double
13 check that.

14 VICE CHAIR BLAKE: Okay. So it's not necessarily
15 reflective of what -- the actual activity that's going to take
16 place. And your recommendation that -- for the curb cut issue
17 is really a functional fact that you don't want -- it shouldn't
18 be a public space for parking? But it's not reflective of the
19 fact that it's a residential space that will have 14 residents,
20 but rather the fact that it's a residential building in a
21 residential zone, and therefore, it -- you know, I've looked at
22 the standard for approval, obviously, from our perspective. But
23 I just want to make sure I understand why it would not have an
24 adverse impact on the network given the magnitude of use or the
25 intensity of use.

1 MR. OZBERK: Right. So our support of the parking
2 relief itself relates also to the location of the property. The
3 property sits about 1,000 feet as the crow flies from Georgia
4 Avenue. That's less than an eighth -- that's less than a quarter
5 of a mile, which is about a five-minute walk. Georgia Avenue is
6 what's understood to be a priority bus corridor, according to
7 zoning. Which when we are reviewing applications, we're always
8 looking at proximity of destinations to, you know, some of our
9 higher order transit. Georgia Avenue is also the busiest bus
10 line in the city. It serves 20 to 25,000 people a day. So given
11 its relationship to that transit amenity, as well as the
12 availability of on-street parking in the neighborhood, we thought
13 that the single parking relief request was supportable.

14 VICE CHAIR BLAKE: And in terms of the parking in the
15 neighborhood, so I understand it that there is a parking permit
16 required for at least one side of the street. Because these
17 are -- this is a residential property and these are residents,
18 wouldn't they qualify for residential permits? I understand that
19 the applicant does not intend to have residents or guests that
20 would use public -- that would have cars, but as it is a
21 residential building, and if I had a residence in that building,
22 would I be eligible for a parking permit?

23 MR. OZBERK: My understanding is yes, residents with
24 addresses that are in the RPP eligibility database can apply for
25 and receive parking permits from the DMV. Now, there is a cost

1 | implication associated with the number -- so there's sort of,
2 | like, I think it's \$70 a year for the first vehicle and then
3 | additional vehicles has an increasing cost associated with them,
4 | so -- which is related to some recent change to the code a few
5 | years ago.

6 | VICE CHAIR BLAKE: I mean, technically, they would be
7 | available. They could get up to 14 spaces of residential parking
8 | if they --

9 | MR. OZBERK: I don't know if it's capped. I don't know
10 | if it's capped, but I do know that the price increases.

11 | VICE CHAIR BLAKE: And also, the residents there,
12 | there's also a disability permit, which allows you to reserve
13 | spaces on the street. Would they be eligible for those as well
14 | since they'd be elderly and likely disabled? I just want to make
15 | sure I clarify that.

16 | MR. OZBERK: It -- yeah. I mean, there's a -- there's
17 | a special process for the dedicated disability parking space.
18 | And it would be available to residents the same way that RPP
19 | would be available to residents.

20 | VICE CHAIR BLAKE: Right. Is there any definition of
21 | residents other -- I mean, it seems to me these guys, given the --
22 | could potentially qualify. Do you have any -- I want to clarify
23 | how they would qualify if they could qualify for that. I mean,
24 | I just -- I know it's probably not the case, but I just imagine
25 | 14 reserved spaces because they qualify would be kind of tough

1 on the neighborhood. So I want to make sure what is really
2 actually available to them. I understand their intention is not
3 there but I want to make sure if that's an availability to them.

4 MR. OZBERK: So it would probably be a better question
5 for the DMV who administers that program. But my understanding
6 of the residency requirement is some proof of residency. So
7 whether that's a utility bill or driver's license or something
8 that states that you reside at that address, not that you're
9 just -- and I don't know the longevity of the residents there.
10 If they're there temporarily for rehabilitation kind of program
11 or if they're there long term as full-time residents.

12 VICE CHAIR BLAKE: Would the employees be eligible for
13 the reserved parking?

14 MR. OZBERK: No. They -- you know, if, for example,
15 if the employee lives elsewhere in the district or in Maryland,
16 you know, that's where they live.

17 VICE CHAIR BLAKE: So they would park, as they point
18 out, across the street where it's available parking?

19 MR. OZBERK: Or I believe it's two hours for a non-RP
20 in front of the property at present. So two-hour parking or --
21 is what is there for non-permit holders today.

22 VICE CHAIR BLAKE: Okay.

23 MR. OZBERK: In an unrestricted area.

24 VICE CHAIR BLAKE: One question I have too on the
25 loading requirement. Now, it appears that the ramp is located

1 in public space. Are you aware of the fact? Has that been
2 approved at this point or not?

3 MR. OZBERK: There has been no public space application
4 or approval for any component of this project yet. In our report,
5 we highlighted a few items that the applicant would need approval
6 for and sort of made some recommendations around how they should
7 set up their application to be compliant with our standards.

8 VICE CHAIR BLAKE: Would the ramp have to be approved?

9 MR. OZBERK: Yes. It would have to be approved as a
10 fixture. I think it's a chair lift, if I recall correctly, in
11 the front -- yeah, the front of the property. Yes. It's a kind
12 of structure so it would have to be approved as a fixture in
13 public space.

14 VICE CHAIR BLAKE: Okay.

15 MR. OZBERK: Which we have in various places sometimes.
16 But there's certain design components we like to ensure to kind
17 of minimize the, sort of, impact visually and physically on the
18 neighborhood.

19 VICE CHAIR BLAKE: Okay. To the extent that they had
20 to do loading from the front and to use the chair lift into, say,
21 MetroAccess or something like that or some type of vehicle, they
22 would not be entitled to reserve space in front of their building
23 though? They would just have to park wherever or double park to
24 accommodate that loading; is that correct?

25 MR. OZBERK: When you say loading, are you referring

1 to, like, people, you know, individuals? Or like goods and
2 equipment?

3 VICE CHAIR BLAKE: Individuals. Individuals. We'll
4 talk about the goods and services later, but individuals is what
5 I'm talking about.

6 MR. OZBERK: I don't believe so. The -- the way that --
7 I mean, there could be a -- like, a no parking area, you know,
8 signed as sort of red P, no parking, which is a place where
9 loading can occur because it's not parking. It's loading. It's
10 short-term activity. But that would have to be at the request
11 of the property owner to change the curbside or when they're
12 coming in for their public space permits to close the curb cut
13 and install the chair lift, that could be part of the curbside
14 signage, which would have to be updated anyways to reflect the
15 changes happening there. So that would probably be part of that
16 conversation at public space permitting down the line.

17 VICE CHAIR BLAKE: Okay. I think that is my last
18 question for the DDOT. Thank you, Mr. Chair.

19 CHAIRPERSON HILL: Thank you. Commissioner Stidham?

20 COMMISSIONER STIDHAM: So just a follow-up on the
21 loading. In looking at your report and what Commissioner Blake
22 was referring to, he was talking about the loading of people, so
23 if they were picked up for doctor's appointments, etcetera. But
24 I believe in your report it said that loading must take place in
25 private space. So is loading from the sidewalk in front of the

1 | house, isn't that public space? Because you were just talking
2 | about the curb cut being in public space.

3 | MR. OZBERK: So when we refer to loading, we're
4 | typically referring to sort of goods and services activity.
5 | And --

6 | COMMISSIONER STIDHAM: So would that include the meal
7 | delivery and housekeeping? Are you considering those goods and
8 | services?

9 | MR. OZBERK: We typically don't consider residential
10 | delivery a loading function. Like, Amazon packages, that sort
11 | of thing, isn't considered a loading function. Or like, food
12 | delivery, like, Grubhub, etcetera.

13 | COMMISSIONER STIDHAM: Right. So more when you're
14 | talking about loading, you're talking more about what you would
15 | typically experience for a retail service, right? Where it's --

16 | MR. OZBERK: Something commercial. Correct.

17 | COMMISSIONER STIDHAM: -- goods provided to a
18 | restaurant, commercial activity? Okay.

19 | MR. OZBERK: Yeah. And that's kind of our standard
20 | language related to loading. We don't always know what the
21 | loading requirements are of a business, but we expect it to occur
22 | on private property.

23 | COMMISSIONER STIDHAM: Okay. All right. Thank you
24 | very much.

25 | VICE CHAIR BLAKE: Mr. Ozberk, just for clarification

1 on my part again, like, DDOT looks at the intensity of the use,
2 right? I mean, when you give your opinion as to whether or not
3 you think this is going to have adverse impacts on traffic,
4 they're looking -- you're looking at the application on a whole;
5 is that correct?

6 MR. OZBERK: We are, to the extent that we -- to the
7 extent of the information that we have provided to us. But we
8 are also, you know, trying to stay within our lane as it relates
9 to the relief requested strictly for BZA. And in this case, that
10 was the parking relief. And I mean, we do look at it
11 holistically, and I think our report speaks to that in terms of
12 the impacts on, sort of, the immediate public space around this
13 property and how the parking relief might impact current or future
14 public spaces around the property.

15 CHAIRPERSON HILL: Okay. Yeah, go ahead, Mr. Blake.

16 VICE CHAIR BLAKE: To that end, would you consider 14
17 simultaneous visits, 14 cars to coming to visit 14 residents at
18 the same time burdensome on the neighborhood?

19 MR. OZBERK: It -- I mean, that depends. It's -- I'm
20 not sure I understand whether that's, like, expected -- it wasn't
21 clear that that is expected to be a regular occurrence at this
22 facility. So for example, you know, there are homes with several
23 people that live in them and they don't necessarily receive --
24 like, if there's six people living in a house next door to me,
25 they don't necessarily receive six visitors in six cars every

1 day. They might on a birthday or party or special occasion.
2 It's not clear that this facility is expected to receive that
3 kind of traffic.

4 VICE CHAIR BLAKE: Understood. But I think in that
5 structure you just talked about it's a family of related people,
6 potentially, whereas these are 14 unrelated people potentially
7 with, you know, you wouldn't necessarily just come for a party.
8 It would just a simultaneous -- just a happenstance. The
9 applicant has some verbiage in their condition limiting the
10 visitation, but the Board is hesitant to be that restrictive in
11 actual visitation. So that was one of my questions was to deal
12 with the issue of could you possibly see that and have that and
13 factor it in. Thank you.

14 MR. OZBERK: Yeah. I think maybe the better answer to
15 your question is the application didn't trigger a traffic study
16 that would have assessed that question more seriously.

17 VICE CHAIR BLAKE: What level of intensity of use would
18 have triggered that?

19 MR. OZBERK: So there are -- again, it sort of depends
20 on the use. But there are square footage requirements and related
21 to, like, retail or office or a number of employees. This use
22 is a little different than what we typically see. But the number
23 of employees would have triggered -- potentially triggered a
24 traffic study. The number of residents would not. The number
25 of units could. The number of residents would not.

1 VICE CHAIR BLAKE: What's the number of units that
2 would have triggered that?

3 MR. OZBERK: It would -- it would be like double digits.
4 It sort of depends again on location and --

5 VICE CHAIR BLAKE: I appreciate it. It seems that the
6 regulations really don't capture this type of use really well and
7 there really aren't any hard and fast rules to capture this
8 particular type of use. I think that's kind of where we're ending
9 up. Is that right?

10 MR. OZBERK: I would maybe -- my observation from,
11 again, listening to the May 7th hearing and, sort of, seeing a
12 few of these cases is that the zoning, sort of, understands the
13 by right nature of this use, so it's eight residents as sort of
14 fitting within the residential character of the zone. And going
15 beyond that requires more discretionary, sort of, analysis.

16 VICE CHAIR BLAKE: Thank you very much. I appreciate
17 you joining us today.

18 MR. OZBERK: Sure.

19 CHAIRPERSON HILL: Yeah. Mr. Ozberk -- am I
20 pronouncing it correct, Ozberk?

21 MR. OZBERK: Ozberk.

22 CHAIRPERSON HILL: Ozberk. Okay. Great, thanks. Mr.
23 Ozberk, I guess the -- again, what the Board has been struggling
24 with is, again, what we're supposed to be looking at in terms of
25 the impacts on the -- or the increase in the request in terms of

1 the number of people, as well as now in this particular case,
2 removal of the parking. But if they were to have done this by
3 right, which is just again, the eight people, they would still
4 have the driveway there, correct? Like, nothing would change?

5 Hold on, Ms. Wilson.

6 MR. OZBERK: If --

7 CHAIRPERSON HILL: They could leave it there if they
8 wanted to?

9 MR. OZBERK: If they came in for public space permits,
10 which I think they may have needed to for other things in their --
11 like, related to the chair lift or other things, we would have
12 required that at that time as well.

13 CHAIRPERSON HILL: Got it. For even the --

14 MR. OZBERK: The public space permitting component
15 would. A lot of times in our BZA reports, we try to make sure
16 that the applicants and others are aware of things that, you
17 know, DDOT or other reviewers will be looking at further down the
18 line in permitting. And to ensure that, if there are design
19 components of the building itself, particularly those that might
20 be related to the relief being requested, that they are not in
21 conflict with permitting requirements down the line. So that's
22 part of our due diligence, and it's sort of the thread of this
23 process to ensure that we are not creating problems down the line
24 in permitting as well.

25 CHAIRPERSON HILL: Got it.

1 Commissioner Stidham?

2 COMMISSIONER STIDHAM: I'm just curious, if they are
3 operating it as by right, and they come in for a public space
4 for the other things that they need, could they come in for public
5 space to allow the driveway to remain? Because they have the
6 garage --

7 MR. OZBERK: They could request -- they could request
8 that. They could request that. They do have a garage. It's my
9 understanding from some plans that we saw that that garage is to
10 be converted to other space. And it's also our experience that
11 these older garages are not used for car storage, regardless of
12 the use. In fact, often families take them over for other stuff,
13 which is fine. But yeah.

14 COMMISSIONER STIDHAM: So they could -- they could make
15 a request for the driveway to stay?

16 MR. OZBERK: Right. So the Public Space Committee
17 is -- kind of functions in a similar way as the BZA in terms of
18 allowing for relief, if you will, from public space standards
19 sometimes if there's like a 100-year-old tree in the way and they
20 can't meet our standard or something like that. But they're also
21 looking for a rationale that still ensures, sort of, safety and
22 the aesthetics of our public realm. I will mention that, just
23 from a rationale perspective, one of our main concerns with
24 driveways and curb cuts in public space is any kind of backing
25 maneuver across sidewalk is something that's a safety issue and

1 that we try to limit and eliminate everywhere we can in the
2 District. So single-vehicle driveways require that in one
3 motion, whether entering or leaving, someone is backing through
4 that space. And that is something that we try to make sure
5 doesn't happen everywhere we can.

6 COMMISSIONER STIDHAM: Okay. Thank you.

7 CHAIRPERSON HILL: Okay. Let's see. Commissioner
8 Johnson, do you have any questions for DDOT?

9 COMMISSIONER JOHNSON: (No audible response)

10 CHAIRPERSON HILL: Thank you.

11 Ms. Wilson, do you have any questions for DDOT?

12 MS. WILSON: I just want to clarify that the existing
13 driveway -- and if I'm correct, Mr. Ozberk -- does not count as
14 a legal parking space because it's in public space. That's
15 correct, right?

16 MR. OZBERK: Correct. And that is a zoning -- done by
17 zoning. So it's --

18 MS. WILSON: Exactly.

19 MR. OZBERK: -- two things. One, zoning doesn't count
20 parking spaces --

21 MS. WILSON: Yeah.

22 MR. OZBERK: -- that are not on private property. And
23 also, DDOT does not allow vehicles to park in public space in
24 that way.

25 MS. WILSON: Right. So even if we did a by right use

1 with eight people, there's still the one parking space
2 requirement. And so the driveway still wouldn't meet that and
3 we would -- we would still be here for this relief, I guess, even
4 if the use were a by right eight-person use.

5 MR. OZBERK: Correct. Yes. And --

6 MS. WILSON: Okay.

7 MR. OZBERK: -- I think that answers, maybe, Mr.
8 Blake's question or Hill's question earlier about, you know, if
9 this were -- if this were not exceeding the residents component,
10 there would still be relief required for the parking space.
11 Correct.

12 MS. WILSON: Right. Okay. Thank you.

13 CHAIRPERSON HILL: Mr. Blake?

14 VICE CHAIR BLAKE: I have two questions for your. First
15 of all, doesn't a garage exist currently? Because the garage
16 would be the required space and you'd cross public space to get
17 to it. So if the garage -- it wouldn't be sitting in front of
18 the garage that would be the parking space. It would be in the
19 garage. So does there still exist a garage?

20 MS. WILSON: Mr. Eyob, is that garage being used for
21 vehicle parking as an operable garage or what is that now, Aaron?

22 CHAIRPERSON HILL: Mr. Eyob, can you introduce yourself
23 for the record also? Thank you.

24 MR. EYOB: Aaron Eyob.

25 CHAIRPERSON HILL: Did you hear the question, Mr. Eyob?

1 Is the garage being used for parking now?

2 MR. EYOB: No.

3 CHAIRPERSON HILL: Okay.

4 VICE CHAIR BLAKE: But does it still have a garage? Is
5 it still configured as a garage or has it been configured in
6 another way?

7 MR. EYOB: It's configured another way.

8 VICE CHAIR BLAKE: Okay. Because they -- you have
9 permits and everything. But what did you do to it? You did
10 something to it or just you bought it that way?

11 MR. EYOB: No. We bought it that way.

12 VICE CHAIR BLAKE: Okay. And it's, what, a bedroom or
13 something?

14 MR. EYOB: Yeah. It's a bedroom.

15 VICE CHAIR BLAKE: Okay. So there is no -- the
16 conversion took place, and you removed the parking space at some
17 point in the past?

18 MR. EYOB: Right.

19 VICE CHAIR BLAKE: Okay. Thank you. The other thing
20 is, is there a requirement from the Department of Health on
21 parking? I remember in the last case we talked about there was
22 a requirement of two parking spaces for the 16. Is there a
23 requirement for that in this case from the Department of Health?

24 MR. EYOB: No.

25 VICE CHAIR BLAKE: Why would that be different?

1 MR. EYOB: Because most of the residents, they don't --
2 they don't drive, and if there's a drop off or a pick up, it
3 would take like a, between like a minute, between like two, three
4 minutes at the moment. And so technically, there is no need for
5 any parking for the residents.

6 VICE CHAIR BLAKE: Okay. But that's why it was -- the
7 slight difference in the business plan is what made --
8 necessitated the two spaces by Department of Health in the other
9 case?

10 MR. EYOB: Correct.

11 VICE CHAIR BLAKE: Okay. Thank you very much for that
12 clarification.

13 CHAIRPERSON HILL: Mr. Eyob, what was the difference --
14 I'm following up on Mr. Blake's question now. What is it that
15 the Department of Health, why did they need -- what was it that
16 the business plan was different that you needed two spots in the
17 other case?

18 MR. EYOB: It's when you got a number higher, like when
19 you've got 16 or above, it depend how many employees are going
20 to be in place, and that when it come up with the different
21 numbers for a different location.

22 CHAIRPERSON HILL: Okay. Right. The other one was 16?

23 MR. EYOB: Correct.

24 CHAIRPERSON HILL: Okay.

25 VICE CHAIR BLAKE: So just to clarify that, is it the

1 number of employees, which in the other case was three, or is it
2 the number of residents, which in the other case was 16? Which
3 is it? Is it the one additional employee or the two additional
4 residents that triggered that requirement?

5 MR. EYOB: So when you've got the number of residents
6 from 16 and over, you need to have, like, two caregiver or two
7 staff members to care to their need. But if you stay under 14
8 or under 16 number, you can have one resident -- one caregiver
9 at the moment.

10 VICE CHAIR BLAKE: Okay. So the requirement is only
11 for one caregiver because you're under 16.

12 MR. EYOB: Right.

13 VICE CHAIR BLAKE: And therefore, you can say you only
14 need one space?

15 MR. EYOB: Right.

16 VICE CHAIR BLAKE: Okay. Thank you very much.

17 COMMISSIONER JOHNSON: Can I ask a question to Mr.
18 Eyob?

19 CHAIRPERSON HILL: Sure, go ahead, Ms. Johnson -- or
20 Commissioner Johnson.

21 COMMISSIONER JOHNSON: So in the application, it states
22 that -- the application initially said a proposed home healthcare
23 facility for short-term neurological and orthopedic patients and
24 long-term dementia patients. And you're stating that, with the
25 intricacies of those disabilities, 14 individuals potentially

1 with those disabilities only requires one what -- PCA, nurse,
2 DSP -- to be with them all day and all night?

3 CHAIRPERSON HILL: Are you speak -- so Ms. Johnson,
4 Commissioner Johnson, I just want to understand the question.
5 You're asking Mr. Eyob what the requirements are that the
6 Department of Health have put forward for this facility, I think,
7 correct?

8 COMMISSIONER JOHNSON: Yes. Correct.

9 CHAIRPERSON HILL: Mr. Eyob, what -- Mr. Eyob --

10 COMMISSIONER JOHNSON: Based on this application.

11 CHAIRPERSON HILL: Okay. So Mr. Eyob, do you know what
12 the components are that Department of Health -- which is again,
13 outside of zoning. I'm just trying to get the question answered.
14 What the Department of Health requires of this facility?

15 MR. EYOB: So this is assisted living, and we know we
16 changed the title because of the healthcare -- because of the
17 code in the zoning regulation. But this is assisted living
18 facility. And these people are -- they're not, like, in need of
19 more support, and they're able to take care of themselves and go
20 around. So it's -- they are less in need of -- not, like, a
21 neuro or any, like, a high dementia level. And these people are
22 less in need of support from the other ones. So they are, like,
23 technically, a normal resident.

24 CHAIRPERSON HILL: Okay. So Mr. Eyob, you're meeting
25 the requirements that the Department of Health has put forward,

1 correct?

2 MR. EYOB: Correct. Correct.

3 CHAIRPERSON HILL: Okay. Okay. Commissioner Johnson,
4 I'm sorry. I'm just trying to clarify. Like, we don't do the
5 Department of Health stuff.

6 COMMISSIONER JOHNSON: I know. I understand that.
7 There was a reason to my question. So if it is going to be an
8 assisted living facility, there are individuals who reside in
9 other assisted living facilities that do drive and do have cars.
10 So it gets back to Commissioner Blake's point that there could
11 potentially be 14 individuals with 14 cars. There could also be
12 14 individuals whose family members come and visit them daily.
13 So this is still going to be a huge burden on the community any
14 which way you look at it.

15 MR. EYOB: Can --

16 CHAIRPERSON HILL: Okay. Go ahead, Mr. Eyob. And
17 also, Ms. Wilson, I know you'll have rebuttal at the end. So go
18 ahead, Mr. Eyob.

19 MR. EYOB: You are referring to the group of people.
20 They are home healthcare, and they are able to drive. And
21 assisted living is different than home health so you are referring
22 to home healthcare.

23 CHAIRPERSON HILL: Assisted living is not able to
24 drive. Is that what you're telling, Mr. Eyob?

25 MR. EYOB: Correct.

1 CHAIRPERSON HILL: Assisted living people are not
2 allowed to drive. Okay. All right. We'll see how this goes.
3 All right. Is Office of Planning here?

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

5 CHAIRPERSON HILL: Hi. Ms. Brown-Roberts can you
6 introduce yourself for the record?

7 MS. BROWN-ROBERTS: Yes. I'm Maxine Brown-Roberts from
8 the Office of Planning. Good morning, Mr. Chairman, and members
9 of the BZA. Again, this is a request for a healthcare facility,
10 and in this case, it's for 14 residents. The applicant has also
11 requested a relief from the number of parking spaces. The
12 proposed facility meets the requirement of Subtitle U, section
13 203(j) as also for the parking relief. OP stands on the record
14 of a report and recommends approval of the request and special
15 exception.

16 I just wanted to also clarify something. In the
17 discussion about the parking, the parking and the zoning
18 regulations are based on use, not on the zone. And in this case,
19 it's for medical care. And the requirement is one space per
20 1,000 square feet in excess of 3,000 square feet with a minimum
21 of one space. So from the requirement -- that's why this is
22 requiring one space, because the -- I think the space of the
23 house is not in excess of 3,000 square feet. So I just wanted
24 to clarify that.

25 CHAIRPERSON HILL: Thank you, Ms. Brown-Roberts. The

1 square footage is triggering the parking?

2 MS. BROWN-ROBERTS: Yes. Not -- and it's the use, not
3 the -- not the zone. You know, or it's not the -- this is not
4 a -- this is even different from a residential use because it's
5 a medical care facility. So it has a specific -- it has a
6 specific requirement for that use.

7 CHAIRPERSON HILL: Okay. Thank you. Mr. Blake, you
8 had your hand up?

9 VICE CHAIR BLAKE: Yeah. Ms. Brown-Roberts, it's
10 interesting because that provision says that it does not
11 anticipate a 1,500-square-foot house -- building. It anticipates
12 a larger facility. Is there any sense of what that -- that size
13 square footage anticipates as far as inhabitants?

14 MS. BROWN-ROBERTS: No.

15 VICE CHAIR BLAKE: You know, I think part of it is
16 3,000 square feet plus suggests a certain, you know, density.
17 And then when you add a smaller space with a lot more density,
18 you still got a lot more density and a lot more usage but the
19 numbers are different. So I'm just trying to make sure I
20 understand, is that factored in at all?

21 MS. BROWN-ROBERTS: I don't know. I don't know what
22 the intricacies of the requirements are. But the regulation for
23 the medical care facility goes from 8 up to 300. So I would
24 think that they would have taken the, you know, the lower number
25 into consideration also.

1 VICE CHAIR BLAKE: Thank you.

2 CHAIRPERSON HILL: Okay. Mr. Young, is there anyone
3 here wishing to speak?

4 MR. YOUNG: Yes, we do.

5 CHAIRPERSON HILL: Okay, great. Can you tell me who
6 that is?

7 MR. YOUNG: We have, I believe, four people.

8 CHAIRPERSON HILL: Okay. Go ahead --

9 MR. YOUNG: The first one is --

10 CHAIRPERSON HILL: Wait, hold on one second, Mr. Young.
11 Ms. -- Commissioner Stidham?

12 COMMISSIONER STIDHAM: I actually, before we went to
13 witnesses, I was wondering -- I had met -- I had meant to ask
14 Commissioner Johnson a question related to the ANC meeting.

15 CHAIRPERSON HILL: Okay. Great. Just before I lose --
16 Mr. Ozberg, are you there?

17 MR. OZBERG: Yes.

18 CHAIRPERSON HILL: I just want to make sure, do I have
19 you for the duration of the hearing? Or are you going to leave?

20 MR. OZBERG: I can stay for this case.

21 CHAIRPERSON HILL: Okay. I just wanted to know when
22 I'm going to make -- if I'm going to lose you, I want to make
23 sure everybody gets their questions in there. Okay. You can go
24 dark again, Mr. Ozberg.

25 Okay. Commissioner Stidham, go ahead to Commissioner

1 Johnson.

2 COMMISSIONER STIDHAM: Commissioner Johnson, the
3 applicant -- Ms. Wilson on behalf of the applicant, had stated
4 that there was -- there's not room made for them at the ANC
5 meeting and we had -- we had postponed anything on this hearing
6 vote to allow the applicant to attend the ANC meeting and speak
7 with the ANC. Can you help me understand what happened there?

8 COMMISSIONER JOHNSON: They were invited to attend and
9 they did -- well, Ms. Wilson did not attend. She sent someone
10 else in her stead, and they were given an opportunity to speak
11 at our April meeting. And at the conclusion of our April meeting,
12 we voted to oppose the resolution -- excuse me, to oppose the
13 application. And that was adopted April 28th, 2025, resolution
14 4B250406, which was a vote of nine yeases, zero noes, zero abstains
15 to oppose the BZA special exemption.

16 COMMISSIONER STIDHAM: Okay. Ms. Wilson, did I
17 misunderstand what you said? I thought I heard you say you were
18 not given space on the agenda to speak.

19 MS. WILSON: On the May 7th hearing, in which the ANC
20 requested that it be postponed again so that we can come back,
21 since it was Mr. Eyob and then Mr. Bello, who is a zoning
22 consultant, who went. And so that's why this was pushed, because
23 we were supposed to go to the May meeting. But then we asked to
24 go to the May meeting and it was effectively said, no, never
25 mind, we voted in April, and here's the resolution from April.

1 So I'm not sure. I think that was the question, to Commissioner
2 Johnson.

3 COMMISSIONER JOHNSON: We reached out to the OANC for
4 guidance, and they said that as you were given an opportunity to
5 attend in April, you chose not to. You sent someone else in your
6 stead. We asked questions that were unable to be answered
7 regarding the special exemption application. And so there was
8 no need to relitigate the issue during the May meeting.

9 CHAIRPERSON HILL: Okay. Just give me a second. Ms.
10 Wilson, I can see you have a disagreement as to how this may or
11 may not have gone down and -- okay, well, I don't -- okay, maybe
12 you do. Well, I'm going to clarify, then, what I thought.

13 Commissioner Johnson, I think -- I can't remember what
14 happened the last time as to why we postponed. But whoever they
15 send is whoever they send. I mean, that's who they send on behalf
16 of their company. And so you're saying that you had wanted the
17 attorney -- you had hoped that the attorney was going to attend,
18 correct? Is what you're saying?

19 COMMISSIONER JOHNSON: Correct. Because the attorney
20 was the one saying that in the -- I believe it was the -- in
21 March, had made contentions that they were not allowed to be on
22 the agenda. So that is when the BZA stipulated that we had to
23 ensure that they were added to the April agenda, which was done.
24 They were given an opportunity, added to the agenda. We had them
25 present. They were asked questions and answers, and then at the

1 conclusion of that meeting, the Commission voted to oppose the
2 special exemption.

3 CHAIRPERSON HILL: Got it. So Mr. Eyob and Mr. Bello
4 presented at that meeting?

5 COMMISSIONER JOHNSON: It was mostly Mr. Bello
6 presenting.

7 CHAIRPERSON HILL: That's fine. Okay. Great. All
8 right. Thank you.

9 Commissioner Stidham, did you get your answer?

10 COMMISSIONER STIDHAM: Yes. Thank you very much.

11 CHAIRPERSON HILL: Okay. Mr. Blake, you had your hand
12 up, or can I go to witnesses?

13 CHAIRPERSON BLAKE: It'd be of help to the commission
14 to have the opportunity to ask more questions of the applicant,
15 to clarify the application and what they're trying to do. Would
16 that be more helpful to gain support of the commission? Or do
17 you think it's - we're beyond that?

18 COMMISSIONER JOHNSON: I think we're beyond that at
19 this point based on the overwhelming input that we've received
20 from the community that is also in opposition.

21 CHAIRPERSON BLAKE: Okay. Thank you.

22 CHAIRPERSON HILL: Okay.

23 Mr. Young, can you tell me --

24 Oh, sorry. Go ahead, Mr. Blake.

25 CHAIRPERSON BLAKE: Before we go to that, I do have a

1 couple -- one -- a couple quick questions for the applicant that
2 would just help clarify a couple things before you go into the
3 questions from the -- testimony from the community public.

4 CHAIRPERSON HILL: Sure.

5 CHAIRPERSON BLAKE: Could you talk a little bit about
6 how the -- describe the rear yard to me and explain how you guys
7 will be using the rear yard? I have to explain, just to give
8 you a sense of where I am. In the last two applications you
9 brought before the Board, one of the things that attracted me
10 most or made me most comfortable was the rear yard space. The
11 fact that you had three parking spaces -- four parking spaces,
12 well above the requirement, that all of the employees would be
13 parking in a screened space with the gate, et cetera; that the
14 ramp was located in the rear of the of the property; and that
15 much of the things that would take place, including trash
16 collection, would be in the rear of the property.

17 So that element, which to me preserved a great deal of
18 the residential character, we even talked about, if you're going
19 to have some medical supplies, having them screened or placed in
20 the back so it didn't disturb the residential character, et
21 cetera.

22 Could you just help me a little bit to understand what
23 we've got in that back yard? How you intend to use it? Is there
24 some front space and will that be used, and how would that be
25 used as well? I want to make sure I understand the impact.

1 That's kind of my perspective, so you have a sense of it.

2 MR. EYOB: Now, currently, the rear yard is a public
3 trash pickup. It will take place right now. Even when we have
4 our private company contractors, we're still going to use the
5 same in the back. So we already put in the screening with the
6 trash pickup, so it's still going to be in the back of the alley.
7 There's a big, huge alley in the back, so the trash is already
8 in the screening and it will be picked up in the rear area.

9 CHAIRPERSON BLAKE: Can you elaborate a little bit on
10 how the rest of the yard will be used behind -- I'm familiar with
11 the trash part. But could you tell me a little bit about how
12 you -- with the recreational space, what's available, will you
13 use some things of that nature?

14 MR. EYOB: The house being on the corner of the alley,
15 there's two side of -- like, recreation places on the side and
16 in the back. Most will take in the back. And those, they're
17 going to have the same fence that we have in the other properties.
18 And there's plenty of space that the residents can be -- hang out
19 of (sic), like enjoy the sunrise or sunset. So there's plenty
20 space in the back of the house.

21 CHAIRPERSON HILL: You're on mute, Mr. Blake.

22 Can you all hear Mr. Blake?

23 Mr. Blake, you're on mute.

24 CHAIRPERSON BLAKE: I'm sorry. I'm always on mute,
25 sorry.

1 Is there a patio back there? Is there a deck back
2 there? Is there seating? Is there picnic table? Is there lounge
3 chairs? What's back there? Just grass? What do we have? Tell
4 me a little bit about -- give me some sense of that.

5 MR. EYOB: Right now there's a deck. In the future
6 there's going to be -- part of the development is going to be
7 patio and the seating area, the same as the other property, and
8 there's going to be like a bird feeding and a little bit of
9 landscaping or planting for the residents.

10 So there's a big yard, so that will be a lot of activity
11 in the back. But it now is a patio, and it's going to be a small
12 seating area.

13 CHAIRPERSON BLAKE: Is that reflected in the plans that
14 you have submitted to us?

15 MR. EYOB: Yes.

16 CHAIRPERSON BLAKE: Can you give me a comment as to
17 where you are with regard to the public space application for the
18 ramp and things of that -- and the public space issue?

19 MR. EYOB: I think that after this -- the BZA zoning,
20 and that's the next step with our application, with the DOB
21 process.

22 CHAIRPERSON BLAKE: You've not engaged with the public
23 space at all at this point?

24 MR. EYOB: Not yet.

25 CHAIRPERSON BLAKE: Okay.

1 MR. EYOB: Thank you.

2 CHAIRPERSON HILL: Okay. Thank you. Mr. Young, could
3 you give me the names, please, of the witnesses?

4 MR. YOUNG: The first is Sara Green. Next is Lisa
5 Adams. And we have Lea Adams-Ashby. And the last is Amanuel
6 Haileab.

7 CHAIRPERSON HILL: Okay. Give me one second.

8 Okay. Mr. Haileab, can you hear me? Hello, Mr.
9 Haileab? Or Ms. Haileab?

10 MR. HAILEAB: Hello? Can you hear me?

11 CHAIRPERSON HILL: Yes. Can you hear me?

12 MR. HAILEAB: Yes, I can hear you.

13 CHAIRPERSON HILL: Okay. Great.

14 Could you go ahead and introduce yourself for the
15 record? And then as a member of the public, you'll have three
16 minutes to give your testimony. And you can begin whenever you
17 like.

18 MR. HAILEAB: All right. Okay. My name is Dr. Amanuel
19 Haileab. Good morning, Chairman -- person. My name is Dr.
20 Amanuel Haileab. I'm a licensed consultant pharmacist with over
21 20 years experience, and I'm here to strongly support the proposed
22 assisted living facility at 7410 Eastern Avenue Northwest.

23 This is not a nursing home. It's a small,
24 professionally managed residence that supports seniors with daily
25 living while preserving their independence, dignity, and

1 connection to the community. With private rooms and shared space,
2 it offers both comfort and companionship. I have seen too many
3 local seniors forced to leave their area just to find care
4 separate from their loved ones, and vital support. This project
5 offers a much-needed, compassionate local option. Any pharmacy
6 and medical delivery to this -- the facility will be minimal and
7 well managed, with no disruption to the surrounding neighborhood.
8 The need is growing. By 2030, seniors will make up over 20
9 percent of the U.S. population. We must invest now in quality,
10 community-based care. I respectfully urge you to approve this
11 important project. Thank you for your time and consideration.
12 Thank you.

13 CHAIRPERSON HILL: Great. Thank you. Dr. Haileab,
14 where do you live?

15 MR. HAILEAB: I live in Washington, D.C. in twenty --
16 266 Kentucky Avenue Southeast.

17 CHAIRPERSON HILL: And Dr. Haileab, are you related to
18 the applicant? Are you a witness to the applicant, or how did
19 you find out about this case?

20 MR. HAILEAB: This case was -- I'm interested to
21 consult small assisted living companies. And then that's how I
22 connected with Mr. Aaron's services. And then I truly also trying
23 to consult him with medical services and medical assistance for
24 the -- his businesses.

25 CHAIRPERSON HILL: Got it. And Mr. Haileab, you're

1 allowed to give testimony. I mean, I'm just trying to figure
2 out whether or not -- Ms. Wilson, is Mr. Haileab connected with
3 you guys? Your answer is no?

4 MS. WILSON: Not to my knowledge.

5 CHAIRPERSON HILL: Okay. Great.

6 Go ahead, Mr. Blake.

7 CHAIRPERSON BLAKE: So did you testify in the last
8 cases we had the other day?

9 MR. HAILEAB: Yeah, I was here last night. Yes, I was
10 there.

11 CHAIRPERSON BLAKE: Thank you. Thank you.

12 CHAIRPERSON HILL: Okay. Great. All right. Let's
13 see. I have now -- is it Ms. Ashley(sic)? Adams-Ashley(sic)?

14 MS. ADAMS-ASHBY: Next on the list?

15 CHAIRPERSON HILL: Yes. Can you hear me?

16 MS. WILSON: I can hear you.

17 CHAIRPERSON HILL: Okay. Great. Could you go ahead --

18 MS. ADAMS-ASHBY: Thank you. Good morning.

19 CHAIRPERSON HILL: You're welcome. Good morning.

20 MS. ADAMS-ASHBY: Yes. Good morning to you and to my
21 neighbors and fellow D.C. residents.

22 COMMISSIONER STIDHAM: May --

23 MS. ADAMS-ASHBY: And --

24 CHAIRPERSON HILL: May I interrupt just one second? If
25 you would just go ahead and introduce yourself for the record --

1 MS. ADAMS-ASHBY: Yes.

2 CHAIRPERSON HILL: -- and then give us your address.
3 And then you'll have three minutes to give your testimony, and
4 you can begin when you like.

5 MS. ADAMS-ASHBY: Great. My name is Lea Adams-Ashby.
6 I live at 74 -- 7464 7th Street Northwest. My husband and I live
7 in the home that's about the same size and layout of the house
8 at 7410 Eastern Avenue and just a stone's throw away, less than
9 a block and a half away. I can see the house from my front.
10 We're in our late 70s. We're fortunate to have two loving adult
11 sons and loving adult grandchildren who say they will take care
12 of us. So we hope to age in place at our home with their
13 assistance. But I can't imagine having 13 adults in our small
14 house overnight for any reason.

15 The applicant proposes to squeeze up to 14 strangers
16 into a space designed for a single family. I understand there
17 are people in need of housing and care who want to live near
18 their respective family, friends, and neighbors, but I'm not
19 aware of any seniors or families from this community who have
20 been contacted or surveyed in connection with the proposed
21 project. The house in question has never been lived in by any
22 of the owners or by Mr. Eyob, Mr. Mengesha, or the consultant,
23 Mr. Bello. Yet Mr. Eyob spoke this afternoon, or this morning,
24 as if he's personally aware of some of these imagined future
25 residents and their needs.

1 I want to note real quickly, there's a family one block
2 behind me on 8th Street Northwest, in a home that's exactly the
3 same size and design of my house and the house on Eastern Avenue.
4 One adult member of this family suffered permanent and severe
5 developmental disabilities, mental and physical. The building
6 was adapted several years ago to house this person on the lower
7 level in a one-bedroom, one accessible bathroom unit that also
8 includes a laundry facility. The home has an elevator, and the
9 driveway has been expanded to accommodate healthcare and delivery
10 vehicles. If I'm correct, the layout of the Eastern Avenue house
11 reflects a stair lift that enters directly into a room between
12 two single beds.

13 I consider the proposed plan an effort by strangers,
14 not neighbors, to operate a profit-making business warehousing
15 people in this small, quiet neighborhood. I believe it will be
16 an affront to the humanity of both the planned residents and the
17 existing neighbors. There are plenty of appropriate spaces in
18 the nearby Georgia Avenue corridor to put this kind of business,
19 whether it's called a medical care facility or an assisted living
20 facility, both of which the applicants have used. And I appeal
21 to the Board of -- to both the Board and the owners to find a
22 place that can humanely fill its needs. This is not the place.
23 Thanks for letting me testify.

24 CHAIRPERSON HILL: Thanks, Ms. Adams-Ashby. Thank you.
25 Yeah. Thanks. Let's see.

1 Ms. Adams, can you hear me? Was that -- oh, Ms. Adams.
2 Great. Ms. Adams, you want to go ahead and introduce yourself
3 for the record?

4 MS. ADAMS: Absolutely.

5 CHAIRPERSON HILL: And as a member of the public, you'll
6 also get three minutes, and you can begin when you would like.

7 MS. ADAMS: Okay. I am Lisa Adams. Good morning,
8 commissioners. I am 7417 7th Street. As I spoke before in
9 opposition of this facility, it's not that the neighborhood is
10 not sensitive to needs as such. However, we look at space. We
11 look at -- it's just not the right space. You're talking about
12 14 people. I don't care if you're talking about eight people.
13 We can only speak to the application at hand. It was filed, I
14 believe, in Salam (phonetic).

15 UNIDENTIFIED SPEAKER: Salam.

16 MS. ADAMS: I think it's Dr. Hallab (sic)? Haileab?
17 Who did speak at the last meeting, I know, when ANC Commissioner
18 Payton stipulated that the application does say that it will not
19 be a senior facility. However, he comes back again today and
20 stipulates the same thing, making clarity. This is the ambiguity
21 that we talked about. It's like throwing spaghetti up against
22 the wall and seeing what'll stick. That's what's frightening
23 about it.

24 What I can tell -- all of the group, all of the team
25 who is in ownership of this house or in venture with this -- in

1 community with this venture, is that you are going to need --
2 calling yourself even an assisted living facility, you're coming
3 into a neighborhood where a lot of people were older, dying out.
4 So a lot of this community took care of their own. So we can
5 speak to what actually calls for certain needs to anybody with
6 dementia, anybody with any health concerns. I stipulated before,
7 I think, there is a facility behind my parents' house that was,
8 I think, one of the first group homes in the neighborhood. So
9 that's 7416. We have two on 8th Street in the 7400 block and
10 one on 9th Street in the 7400 block.

11 So it's not that we don't understand the demand and the
12 needs for this, but we're talking about overly saturating a
13 neighborhood. And in that particular space, it's going to be a
14 major issue. I would have hoped that you guys had gone around
15 there and took kind of a site visit for yourselves to see,
16 actually, what that space looks like from the outside. You would
17 understand the alley -- the need that they're talking about trash
18 being picked up six times a week. That's kind of excessive, you
19 understand?

20 Also, everybody in the 7400 block and some people who
21 had back driveways designed to their backyards. We have front
22 driveways in the 7400 block of 7th Street, but everybody in the
23 7400 block of Blair Road has driveways in their backyards. Okay?
24 So that is the congestion that can happen when you talk about
25 there on a curb -- that really is not the best curb to come

1 around. And it was designed that way. It wasn't designed for
2 this kind of activity at that point. No.

3 CHAIRPERSON HILL: Okay.

4 MS. ADAMS: The house behind me, the group home behind
5 me --

6 CHAIRPERSON HILL: Ms. Adams, I just got to let you
7 know, you've run out of time, but go ahead and --

8 MS. ADAMS: Sure.

9 CHAIRPERSON HILL: -- sum up?

10 MS. WILSON: Sure. But in essence, I'm telling you,
11 the group home behind me did take out because they have hill.
12 Because they have more space for this particular site. They
13 don't have the same kind of layout as the rest of the houses in
14 that alley that they share, because they're on Eastern Avenue.

15 So these are the concerns that we have. So thank you
16 for hearing me.

17 CHAIRPERSON HILL: Okay. Thanks, Ms. Adams.

18 Ms. Green, can you hear me?

19 MS. GREEN: Yes, I can hear you.

20 CHAIRPERSON HILL: Great. Could you please introduce
21 yourself for the record? And then you'll have three minutes to
22 give your testimony, and you can begin whenever you like.

23 MS. GREEN: Thank you. My name is Sara Green. I'm a
24 former chair of ANC 4B. I live in 4B01, the same SMD as this
25 proposal.

1 I just am opposed. And without trying to be sarcastic
2 or -- I call this the chutzpah. If you know what chutzpah
3 means -- the chutzpah application. Chutzpah means gall or --
4 what a nerve. Because, again, as previous commissioners,
5 previous -- Ms. Adams spoke, this is very confusing. At one
6 point, it is a healthcare facility; it's in the application.
7 They're saying it's no big deal. We could have 300 people, but
8 we're only going to have 14. Okay? Then it's referred to as
9 assisted living. It's referred to all kinds of ways with various
10 levels of disabilities: dementia, orthopedic, then it's
11 retirees. It's -- it's whatever suits that particular question.
12 So that's -- that is the first problem. There is an extraordinary
13 community impact here.

14 And I want to say I'm not opposed to this kind of use.
15 It's the number and the warehousing. I live next to a group
16 home, a home which has been there for 30 years. It has five
17 residents with intellectual disabilities, physical
18 disabilities -- they are in wheelchairs. They are in many ways
19 very good neighbors. They have a 1600 square-foot single-family
20 home, more than the 1500 square-foot home is that is proposed.
21 Their designation is interim care. There are all these
22 designations, but to look at the actual use and to what actually
23 happens is, I think, what you guys should do.

24 And the photograph that's on your record is the
25 photograph that I sent in, and it shows -- it was taken from my

1 back window, my second-floor window. It shows a much larger
2 parking area, I think, than is available at this house. It shows
3 a van, which is a permanent fixture of this house. So it's a
4 wheelchair-access van and four cars, which is typical. Plus
5 there are people from the home who park on Dahlia, in the front
6 of the house. This house has a side entrance. The driveway
7 entrance is on Piney Branch. It is constantly in use. There's
8 constant going and coming of cars.

9 There is a lot of activity in this house, again with
10 five people. There is noise. A lot of times, there's a lot of
11 loud talking. There's noise at night as the shifts change; I
12 can hear it sitting in my bedroom. I've gotten used to it.
13 There's the noise of the van -- the wheelchair van as it pulls
14 out. Beep, beep, beep. This happens many times a day.

15 CHAIRPERSON HILL: Ms. Green, I just want to let you
16 know you've also run out of time, but --

17 COMMISSIONER STIDHAM: Okay.

18 CHAIRPERSON HILL: -- please go ahead and talk --

19 MS. GREEN: Okay. I've run out?

20 CHAIRPERSON HILL: -- and conclude.

21 MS. GREEN: All right. I'm going to close -- I'm going
22 to close with this one point. And I thank you again for
23 listening. And that is, there's a lot of talk about what the
24 Health -- Department of Health will permit and what it won't
25 permit. I'm asking you not to kick this can down the road and

1 let them deal with it. I'm asking for you to act independently,
2 and to do your job, and to oppose this -- to throw it out based
3 on your job as the arbiters and the protectors of the quality of
4 life on that street because that's your job.

5 CHAIRPERSON HILL: Okay.

6 MS. GREEN: It's the quality of life, and having 14
7 people in a 1500-square-foot house, it's warehousing regardless
8 of what the health department permits or doesn't permit.

9 CHAIRPERSON HILL: Okay.

10 MS. GREEN: Thank you.

11 CHAIRPERSON HILL: Thank you, Ms. Green. Okay. All
12 right.

13 Mr. Young, thank you for the witnesses. If you could
14 please excuse them.

15 Okay. Let's see now. So how this works is, Ms. Wilson,
16 you'll have a chance for rebuttal. And then anybody will have
17 any questions on anything that you might have during rebuttal.
18 And then you can also -- I'll come back, and you can get a
19 conclusion. And then I doubt we're going to take a vote on this
20 today, because there's a lot of information that we're going to
21 kind of go through, and I actually don't know where I am. So
22 with that, Ms. Wilson, do you have any rebuttal?

23 MS. WILSON: (Inaudible) -- in conclusion. Thank you.

24 CHAIRPERSON HILL: Okay. All right. You'll wrap it
25 into your conclusion. Okay. All right. Then in that case.

1 Commissioner Johnson, can you hear me?

2 COMMISSIONER JOHNSON: Yes.

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

5 COMMISSIONER JOHNSON: Just that I appreciate all of
6 the constituents that have testified today and have worked behind
7 the scenes to advocate for their position in opposition to this.
8 And I stand with them, and speaking for the commission, we stand
9 with them as well in opposition to this BZA exemption.

10 CHAIRPERSON HILL: Okay. Great. Thank you, Ms.
11 Johnson.

12 Ms. Wilson, why don't you just go ahead and give us
13 your conclusion?

14 MS. WILSON: Absolutely. So I just wanted to clarify,
15 this is an assisted living facility. And so under the zoning
16 regulations, it's under the umbrella of healthcare facilities.
17 And this is also distinct from a senior living facility, which
18 has a different definition. I just heard the testimony, and I
19 wanted to clarify this because I get it. It's confusing. Any
20 of the explanations about this in the record regarding the
21 specific zoning definitions were never meant to intentionally
22 mislead. So I apologize if it did, but it's a -- the distinctions
23 we were making had to do with the definitions in the zoning
24 regulations. And the zoning regulations allow healthcare
25 facilities with eight residents by right. And they just simply

1 allow up to 300 by special exception. We are not suggesting we
2 would be doing that. So that's just in the special exception
3 criteria that it notes that.

4 So even if this use is done by right in terms of eight
5 residents, there would be the same number of employees. The
6 housekeeping and meal delivery services would still be there.
7 There would still be visitors. It just would not be mitigated
8 or conditioned. We've included a number of conditions, including
9 a community liaison, for example. That would not be the case if
10 this were a by-right use. There was the facility that Ms. Green
11 raised that appears to be by right. It's (indiscernible) the
12 conditions we proposed have been tailored to this facility and
13 to this use.

14 We are also amenable to other conditions in terms of
15 working with the Public Space Committee, which typically happens
16 during permitting, to install proper signage for the loading of
17 passengers that could occur up front, or there could be certain
18 hours where there is a designated space in front of the property
19 for loading passengers, or meal service, or housekeeping. I know
20 that's been done. In some cases, I can think of a daycare case,
21 for example, where the condition was the applicant shall work
22 with DDOT to install proper signage. RPP restrictions are also
23 an option, so that there are not 14 handicapped spaces available
24 on the street, taking away street parking.

25 There are options for the visitor policy, restricting

1 | how many people can visit at once, although it's unlikely that
2 | there would be 14 visitors at one time of day every single day.
3 | The zoning regulations anticipate at least eight being allowed
4 | by right, and there is a special exception to allow more. And
5 | with proper mitigation, this application can also safely meet the
6 | zoning regulations, including the general special exception
7 | criteria.

8 | Thank you all so much for your time and work on this.
9 | And have a great rest of your day.

10 | CHAIRPERSON HILL: Thank you. Okay. I'm looking at
11 | my board members here, I guess. So I'm going to go ahead and
12 | close the hearing in the record, and then I guess, put this up
13 | for deliberation.

14 | Ms. -- Commissioner Stidham, when will you -- let me
15 | go ahead -- I'll go ahead and do that.

16 | Mr. Young, I'm going to close the record. And please
17 | excuse everyone. Thank you all for your participation. Thank
18 | you to the ANC commissioner for all the time and effort that's
19 | gone into this. I think that I wanted to just clarify first with
20 | Commissioner Stidham when she may or may not be available. Will
21 | you be available for a discussion next week?

22 | COMMISSIONER STIDHAM: Available for next week.

23 | CHAIRPERSON HILL: Okay. Great. So that will be the
24 | 18th of June. Make sure -- yes. Great. And so I'm actually
25 | now talking to my board members. I'm going to kind of look at

1 the regulations, think about this. And I'm also kind of talking
2 to the members of the public that have taken all the time. I
3 mean, we're not the health department. We don't get to decide
4 what the health department thinks is correct for the number of
5 people for the space, what they think is appropriate. And
6 honestly, I don't know the answer because I'm not a health -- I'm
7 not an expert. Right?

8 And I've said this on all the other cases. I don't
9 know if there is a need and the person is going to be in a worse
10 situation than if they had this place in terms of a place to
11 live, because people don't just -- I don't know. I mean, I know
12 I'm going to have a -- I mean I'm going to have to go somewhere
13 at some point in time. And so that -- it is not my area of
14 expertise.

15 What we're charged to do in our job is, again, do we
16 think that this increased use has an adverse impact on the
17 neighborhood and also the parking relief? So I'm going to be --
18 I really don't know where I am. And I'm even looking at the
19 Applicant -- and I know we did this twice already. That doesn't
20 necessarily mean this one's going to get voted up, right? And
21 so -- and I've learned something new -- and I'm sharing with my
22 board members -- that the difference between 14 and 16 triggers
23 another requirement, right, that I didn't know actually in terms
24 of the parking. And so I think that also is giving me pause --
25 I guess I should say that -- as to how these are being considered.

1 But anyway, but I'm also still torn. So, do you guys have
2 anything to add before I let Commissioner Stidham go? Okay.

3 All right, Commissioner Stidham, thanks for your time.
4 Have a good day.

5 COMMISSIONER STIDHAM: See you next week.

6 CHAIRPERSON HILL: See you next week.

7 Board Member Blake, I think I'm going to need a break.
8 Yeah, okay, great. And then I think we lost one of our other
9 commissioners anyway. So, let's go ahead and take a break. Madam
10 Secretary, we'll come back for a decision on this on the 18th.
11 Okay?

12 MS. MEHLERT: Yep. Sounds good.

13 CHAIRPERSON HILL: Okay. And then let's take a --
14 let's take a solid 15-minute break. Okay? We'll see you back
15 here at 11:25. Thank you.

16 (Whereupon, there was a brief recess.)

17 CHAIRPERSON HILL: Madam Secretary, can you call our
18 next one, please?

19 MS. MEHLERT: The Board is returned from a quick break
20 and is now in its meeting session. The next case is Application
21 No. 21310 of Eleonora Cavagnero. This is an expedited review
22 application. It is self-certified pursuant to Subtitle X,
23 section 901.2 for special exceptions under Subtitle E, section
24 5201 from the rear yard requirements of Subtitle E, section 207.1
25 and the lot occupancy requirements of Subtitle E, section 210.1.

1 This is for a rear deck addition on the first floor of an existing
2 two-story attached principal dwelling. It's located in the RF-
3 1 zone at 1738 Hobart Street NW, Square 2588, Lot 103.

4 CHAIRPERSON HILL: Great, thank you. Okay, so I've had
5 a chance to review the record for this case, and I also think
6 that it is here properly as an expedited review. I would agree
7 with the analysis that the Office of Planning has put forward,
8 as well as that of the ANC. And then I do appreciate that the
9 Applicant has put forward an effort to reach out to the properties
10 around this application, and also they have garnered support from
11 some of the neighbors. So, I'm going to be voting in favor of
12 this application. Mr. Smith, is there anything you'd like to
13 add?

14 BOARD MEMBER SMITH: -- Hill, I agree with your
15 assessment of the case as well as the Office of Planning and will
16 support as well.

17 CHAIRPERSON HILL: Thank you.

18 Mr. Blake?

19 VICE CHAIRPERSON BLAKE: Mr. CHAIRPERSON, I have
20 nothing to add. I'm in support of the application and will be
21 voting in favor.

22 CHAIRPERSON HILL: Thank you.

23 Commissioner Wright?

24 COMMISSIONER WRIGHT: I looked at the record, and I
25 will be voting in support of the application.

1 CHAIRPERSON HILL: Great. Thank you. I'm going to
2 make a motion to approve Application No. 21310 as captioned and
3 read by the Secretary and ask for a second, Mr. Blake?

4 VICE CHAIRPERSON BLAKE: Second.

5 CHAIRPERSON HILL: Motion made and seconded. Madam
6 Secretary, take a roll call, please.

7 MS. MEHLERT: Please respond to the Chair's motion to
8 approve the application. Chairman Hill?

9 CHAIRPERSON HILL: Yes.

10 MS. MEHLERT: Vice-Chair Blake?

11 VICE CHAIRPERSON BLAKE: Yes.

12 MS. MEHLERT: Board Member Smith?

13 BOARD MEMBER SMITH: (No audible response).

14 MS. MEHLERT: Commissioner Wright?

15 COMMISSIONER WRIGHT: Yes.

16 MS. MEHLERT: Staff would record the vote as four to
17 zero to one to approve application 21310 on the motion made by
18 Chairman Hill and seconded by Vice-Chair Blake.

19 CHAIRPERSON HILL: Thank you. Madam Secretary, you may
20 call our next one when you get a chance.

21 MS. MEHLERT: Next is Application No. 20821-A of 1717
22 E. Street NE, LLC. This is a request pursuant to Subtitle Y,
23 section 705, for a one-year time extension of the Board's order
24 in Application No. 20821, which was issued in final on March
25 27th, 2023. This project would combine three existing lots into

1 one record lot, create two theoretical lots on the new record
2 lot, and construct a three-unit apartment house in a new three-
3 story semi-detached building on each theoretical lot. It is
4 located in the RF-1 zone at 1717 E. Street NE, Square 4546, lots
5 198 and 199.

6 CHAIRPERSON HILL: Okay, thank you. All right. Okay,
7 I've had an opportunity to review the record, and I am comfortable
8 with the time extension. I don't see a substantial change to
9 the application. I'm also comfortable with the Applicant's
10 explanation that is in exhibit 4. The final date of this,
11 however, is going to be when it is issued, not as an effective.
12 So if this were approved, the final date would be extended to
13 March 27th, 2026. And yeah. And then the Office of Planning
14 report was in approval concerning the time extension.

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

16 BOARD MEMBER SMITH: I have nothing to add. I'm in
17 support.

18 CHAIRPERSON HILL: Thank you.

19 Mr. Blake?

20 VICE CHAIRPERSON BLAKE: (No audible response)

21 CHAIRPERSON HILL: Thank you.

22 Commissioner Wright?

23 COMMISSIONER WRIGHT: I have also reviewed the record,
24 and I'm in support.

25 CHAIRPERSON HILL: Okay, thank you.

1 All right, I'm going to make a motion to approve
2 Application No. 20821-A, as captioned and read by the secretary
3 and ask for a second, Mr. Blake?

4 VICE CHAIRPERSON BLAKE: Second.

5 CHAIRPERSON HILL: Motion made and seconded.

6 Madam Secretary, take a roll call, please?

7 MS. MEHLERT: Please respond to the Chair's motion to
8 approve the application.

9 Chairman Hill?

10 CHAIRPERSON HILL: Yes.

11 MS. MEHLERT: Vice-Chair Blake?

12 VICE CHAIRPERSON BLAKE: Yes.

13 MS. MEHLERT: Board Member Smith?

14 BOARD MEMBER SMITH: Yes.

15 MS. MEHLERT: Commissioner Wright.

16 COMMISSIONER WRIGHT: (No audible response)

17 MS. MEHLERT: Staff would record the vote is four to
18 zero to one to approve application 20821-A on the motion made by
19 Chairman Hill and seconded by Vice Chair Blake.

20 CHAIRPERSON HILL: Thank you. All right.

21 Madam Secretary, you may call our next one when you get
22 a chance.

23 MS. MEHLERT: Next is back into the Board's hearing
24 session. It's Application No. 21285 of Dana and Dominic Ju. As
25 amended, this is a self-certified application pursuant to

1 Subtitle X, section 901.2 for a special exception under Subtitle
2 D, section 5201 from the location requirements of Subtitle D,
3 section 5004.1(a) to allow an accessory building in a required
4 rear yard. This is for a new one-story accessory structure in
5 the rear yard of an existing two-story detached principal
6 dwelling. It is located in the R-1B zone at 1311 Floral Street
7 NW, square 2777, lot 33.

8 On April 30th, the Board removed the application from
9 the expedited review agenda and placed it on the public hearing
10 calendar. Also, as a preliminary matter, the Applicant has
11 requested to waive the 30-day filing deadline to submit email
12 correspondence with DOB, which is in the record in exhibit 29(a).

13 CHAIRPERSON HILL: Okay. I have reviewed the
14 information that is going to be submitted into the record and
15 don't have any issues adding it to the record. If my fellow
16 board members do, please speak up. Okay. I'm going to go ahead
17 and allow that into the record, please.

18 If the Applicant is here, could they please introduce
19 themselves? Mr. Welsh, can you hear me? You're on mute maybe,
20 Mr. Welsh. And also I don't know if your camera works.

21 MR. WELSH: Hello? Yes. Can you hear me now?

22 CHAIRPERSON HILL: Oh great. Yes. Does your camera
23 work, Mr. Welsh?

24 MR. WELSH: Yes. Sorry. Turning that on now. Okay.
25 Do you have video?

1 CHAIRPERSON HILL: Not yet.

2 MR. WELSH: Okay.

3 CHAIRPERSON HILL: If not, Mr. Welsh, that's okay. If
4 everybody wants to mute themselves unless they're talking --
5 let's see if it's Mr. Welsh that's maybe the ---

6 MR. WELSH: Okay. Yeah. I'm not sure what my -- my
7 video is not kicking on. So --

8 CHAIRPERSON HILL: Mr. Welsh, hold on for a second --
9 Mr. Welsh?

10 MR. WELSH: Yes?

11 CHAIRPERSON HILL: If you want to go ahead and
12 introduce yourself for the record and then explain to us how you
13 believe you're meeting the criteria to grant this relief
14 concerning your project. I assume you're not a zoning attorney --
15 correct, Mr. Welsh?

16 MR. WELSH: No, I'm an architect.

17 CHAIRPERSON HILL: Okay. If you want to -- oh, are you
18 the client's architect?

19 MR. WELSH: Yes, I am.

20 CHAIRPERSON HILL: Oh, great. Okay, then go ahead, Mr.
21 Welsh, and walk us through your client's project. And I'll put
22 15 minutes on the clock so I know where we are, and you can begin
23 whenever you like.

24 MR. WELSH: Okay. Thank you. Yes, my name is Patrick
25 Welsh. I'm the client's architect for Dana and Dominic Ju at

1 1311 Floral Street. We are proposing -- and can I reference a
2 document to be shown, or --

3 CHAIRPERSON HILL: Yes, you can.

4 MR. WELSH: -- is that necessary?

5 CHAIRPERSON HILL: Nope. You can.

6 MR. WELSH: Okay. I'd like to reference the burden of
7 proof document -- the revised burden of proof document. It would
8 be exhibit -- I can tell you. It's --

9 CHAIRPERSON HILL: 25, 25. If you're just going to
10 reference it, I'm not going to -- oh, are you going to try and
11 walk us through that?

12 MR. WELSH: I only wanted to reference our image number
13 6 -- our page number 6 -- showing a plan that demonstrates the
14 footprint of the existing garage --

15 CHAIRPERSON HILL: Mr. Young --

16 MR. WELSH: -- and the proposed garage.

17 CHAIRPERSON HILL: -- you want to bring up that exhibit
18 and that page number?

19 MR. WELSH: Okay. It's exhibit 25, yes. Correct.

20 CHAIRPERSON HILL: Okay, Mr. Welsh. Can you see it?

21 MR. WELSH: Yes, I can. So the existing garage as
22 shown is already eight feet into the required rear yard. And
23 the new garage extends further into the required rear yards (sic).
24 We are asking for relief from D-504.1, which is the required rear
25 yard. The project is a single story intended specifically as a

1 garage with an office addition to it. There was an issue -- or
2 separately there was an issue -- well, there were two issues, in
3 fact, with the initial filing. One is that we -- was technical.
4 We did not request properly relief from D-5004.1. So we have
5 clarified that.

6 Second, there was a question brought up by BZA
7 regarding the footprint, the area footprint, and the possibility
8 that the area was also in violation of the required allowance for
9 footprint. That was clarified. I've attached the motion from
10 referencing an email chain with DOB and Greg Garland, who is our
11 reviewer for our building permit application. And he has
12 clarified that, in fact, he is not looking for the area relief.
13 He is only looking for the relief to the rear yard.

14 Separately, a third issue which we've addressed is we
15 had not been in contact with the ANC. We have since been in
16 contact, presented to the ANC last month, and have a letter of
17 support on our behalf for this project.

18 CHAIRPERSON HILL: Okay. Thank you, Mr. Welsh. All
19 right.

20 Are able to drop that? Thank you.

21 Before I turn to my board, could I hear from the Office
22 of Planning?

23 MR. MITCHUM: Hi. This is Joshua Mitchum with the
24 Office of Planning. We are in agreement with the Applicant's
25 proposal and are willing to stand on the record and available for

1 any comments, if necessary. Thank you.

2 CHAIRPERSON HILL: Thank you. Mr. Mitchum, can you
3 mute your line? Okay, great. Just checking if was yours or not.

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

5 MR. YOUNG: You do have the ANC commissioner on. Other
6 than that, no, no one else.

7 CHAIRPERSON HILL: Where is the commissioner? What's
8 the commissioner's name, Mr. Young? Oh, great. Commissioner
9 Edwards, can you hear me?

10 COMMISSIONER EDWARDS: Yes, I can.

11 CHAIRPERSON HILL: Oh, great. You want to introduce
12 yourself for the record?

13 COMMISSIONER EDWARDS: I'm Paula Edwards, Chair of ANC
14 4A and Commissioner for ANC 4A01.

15 CHAIRPERSON HILL: Okay, great, Commissioner.
16 Commissioner, do you want to give the ANC's testimony?

17 COMMISSIONER EDWARDS: Yes. We generally supported
18 it. I did not do the background work, but Commissioner Joan
19 Hoyte spoke to the spoke to the Applicant. The Applicant
20 appeared, first of all, at our ANC meeting and presented the
21 plans. And our ANC voted unanimously to support the application.
22 And Commissioner Hoyte also went to the site, and looked at the
23 site, and spoke to the adjacent neighbors, and found no
24 objections. There were no objections made during our meeting,
25 so we think this would be a good project.

1 CHAIRPERSON HILL: Okay. Thanks, Commissioner Edwards.
2 Okay.

3 Does the Board have any questions of the Applicant, the
4 Office of Planning, or Commissioner Edwards? Okay.

5 Mr. Young, if you could please go ahead and excuse
6 everyone.

7 Mr. Welsh, thank you for coming in to testify. I'm
8 going to close the hearing in the record.

9 MR. WELSH: Great. Thank you.

10 CHAIRPERSON HILL: Okay, great. Thank you.

11 I didn't have any particular issues with this
12 application. There was some confusion as to whether or not they
13 were here for the right relief. That has now been clarified.
14 And I believe it's a pretty straightforward project. I'm going
15 to be voting in favor of this application. I appreciate the
16 recommendations of the Office of Planning, their analysis, as
17 well as that of the ANC.

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

19 BOARD MEMBER SMITH: No, I don't have anything to add.
20 I think this is a fairly straightforward application that's
21 presented. So kudos to the Office of Planning for doing their
22 work and to DOB -- I think I heard Greg Garland was the person
23 assisting this individual. So with that, I will support the
24 application.

25 CHAIRPERSON HILL: Thank you. Vice Chair Blake?

1 VICE CHAIRPERSON BLAKE: I'm in support the
2 application.

3 CHAIRPERSON HILL: Thank you. Commissioner Wright?

4 COMMISSIONER WRIGHT: Yes, I'm in support of the
5 application also. And thank you to the Office of Planning, and
6 particularly thank you to the ANC for coming and providing
7 testimony and for actually talking with the neighbors in the
8 neighborhood to verify their support of the project. So I will
9 be voting in favor.

10 CHAIRPERSON HILL: Okay, great. Thank you.

11 I'm going to make a motion to approve Application No.
12 21285 as captioned and read by the Secretary and ask for a second.
13 Mr. Blake?

14 VICE CHAIRPERSON BLAKE: Second.

15 CHAIRPERSON HILL: Motion made and seconded.

16 Madam Secretary, take the 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: Board Member Smith?

24 BOARD MEMBER SMITH: Yes.

25 MS. MEHLERT: Commissioner Wright?

1 COMMISSIONER WRIGHT: Yes.

2 MS. MEHLERT: Staff would record the vote as four to
3 zero to one to approve Application No. 21285 on the motion made
4 by Chairman Hill and seconded by Vice Chair Blake.

5 CHAIRPERSON HILL: All right.

6 Madam Secretary, you can call our next one, please.

7 MS. MEHLERT: Next is Application No. 21291 of HDR
8 Holdings, LLC. As amended, this is a self-certified application
9 pursuant to Subtitle X, section 901.2 for a special exception
10 under Subtitle H, section 6007.1(e)(2), to allow a fast food
11 establishment use, and pursuant to Subtitle X, section 1000 for
12 an area variance from the fast food establishment requirements
13 of Subtitle H, 6007.1 (e)(2)(D). This is for a new fast food
14 establishment use in an existing one-story attached building. It
15 is located in the NMU-4/CP zone at 3519 Connecticut Avenue NW,
16 square 2222, lot 15. This was originally scheduled for the May
17 14th hearing and was rescheduled to allow renoticing for the
18 added variance relief.

19 CHAIRPERSON HILL: Okay, great. Thank you.

20 If the Applicant can hear me, if they could please
21 introduce themselves for the record?

22 MR. WILLIAMS: Good morning, Chairman Hill. Zach
23 Williams from Venable representing the Applicant here. I also
24 have a representative from the Applicant, Jason Bottcher, who I
25 see was just promoted as well.

1 CHAIRPERSON HILL: Okay, great. Thank you, Mr.
2 Williams. Welcome back. Let's see.

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

8 MR. WILLIAMS: Sure. Thank you.

9 Mr. Young, if we could pull up the presentation,
10 please. Great, thank you.

11 This is an application by HDR Holdings, LLC, otherwise
12 known as Wonder, for 3519 Connecticut Ave NW. This is an
13 application for a special exception and a variance. With me
14 today is Jason Bottcher, associate director of governance at
15 Wonder, who will be assisting me with our presentation.

16 Next slide please.

17 Here's the location of the proposed new Wonder
18 restaurant. This is in the existing Sam's Park & Shop in
19 Cleveland Park, in the former Weygandt Wines location at 3519
20 Connecticut Ave NW. You can see in this aerial shot the
21 approximate location of this proposed new use.

22 Next slide, please.

23 Shown on the zoning map here, we are within the
24 Cleveland Park NMU-4/CP zone -- again, within the existing
25 historic shopping center that you may or may not be familiar

1 with. It's an historic landmark. It's the first pull-in, drive-
2 in shopping center in the United States -- or one of the first --
3 and is landmarked as such.

4 Next slide, please.

5 I'm going to hand it over to Jason now to talk a little
6 bit about Wonder, the brand, and what the company is all about.

7 Jason? Jason, if you're talking, we can't hear you.
8 I can't at least.

9 CHAIRPERSON HILL: Mr. Bottcher, if you can also
10 introduce yourself for the record when you get a chance.

11 MR. BOTTCHEER: Sure. So I am Jason Bottcher. I'm an
12 associate director over here at Wonder. I've been with the
13 company for about four years now. And if you can go to the
14 previous slide, please.

15 What I'm going to do is I'm just going to give you kind
16 of a high level about who we are over here at Wonder and what
17 we're looking to do here in Cleveland Park. But thank you all
18 for the time this morning. I know you've got a long agenda, so
19 I'll try to get through this as quickly as possible.

20 Wonder is a relative newcomer in the restaurant world.
21 We've started building brick-and-mortar restaurants just about
22 two years ago. And in that time, we've opened 51 locations with
23 another 40 scheduled to open through the next four to five months
24 including several in the D.C. market. Wonder is approaching the
25 business in a relatively novel, unique way. And something that

1 I know we're all really excited about introducing to D.C.

2 What we do is we partner with chefs and restaurants
3 from across the country, whether they're well-known Food Network
4 chefs that that you're all familiar with, like Bobby Flay or
5 Michael Symon, Marcus Samuelsson, or best in class restaurants
6 across any number of cuisines -- Tejas Barbecue out of Texas, Di
7 Fara Pizza out of Brooklyn. Maydan is actually one of our
8 partners who I'm sure you're all familiar with. And we reproduce
9 their cuisines in their restaurants -- their menu items in our
10 restaurants using our food production techniques. And so that
11 allows us to bring these very well-recognized names to any number
12 of markets throughout the country. And that expansion that we're
13 going through now, we will have locations from Northern Virginia
14 up through Boston by January of next year.

15 If you don't mind jumping to the next slide, please?

16 So we are a very, very tech-forward company, first and
17 foremost as a startup. The way we interact and the way -- with
18 our customers -- the way it really works -- is very focused on
19 mobile application. Most orders are made from our Wonder app or
20 from the Wonder website. And when you place an order, that
21 essentially gets it -- depending on your location, it knows
22 exactly what restaurant you're ordering from -- or you can select
23 if you're going to be moving around -- which restaurant you would
24 like to order from. Everything is prepared locally on-site with
25 fresh ingredients, and for either dine-in, for delivery, or for

1 pickup.

2 So obviously the restaurant world has changed over the
3 last four years since COVID. And we recognize that, and we make
4 sure that we provide all the amenities to make being a customer
5 at Wonder as efficient and as easy as possible.

6 So now what I'm going to do is I'm going to kind of
7 walk you through some of the site specifics here for the Cleveland
8 Park location, if you don't mind going to the next slide.

9 So this is the location you can see here. It's a pretty
10 square rectangular space that we're looking to take over. Our
11 front of house here accommodates -- I believe it's a total of 14
12 guests for dine-in. And then the remaining space would be back
13 of house. We do have a public restroom. We utilize self-serve
14 ordering kiosks for those individuals that do walk in and want
15 to order on site. We do utilize a -- or we do have a front-of-
16 house ambassador who is there to really be the face of the company
17 and the face of the restaurant. We don't have traditional wait
18 service, and I think Zach will touch on exactly why we're here
19 and how we fit within certain definitions in the zoning ordinance.

20 But that front-of-house ambassador is really there to
21 assist our customers if they haven't been a -- if they're a new
22 customer, they've never ordered from Wonder before, they can walk
23 them through how this works, the different cuisines and the
24 different partners that you that you can order from out of this
25 location. Walk them -- how to use the self-serve kiosk. And

1 then we try to push as many of our customers to the Wonder app
2 as possible. And there's a few reasons for that.

3 One of them is order efficiency. Through the Wonder
4 app, we're able to -- everything is a lot more efficient if you're
5 ordering from the Wonder app. But also anybody that does order
6 from a third-party app like Uber Eats or DoorDash or something
7 like that, they have to pay delivery fees. We recently got rid
8 of our delivery fees as a way of making things more affordable
9 for our customers, but it's also another way to bring some more
10 customers to the Wonder app.

11 The back of house, you can see things are kind of
12 blocked out here. But a good majority -- a good proportion of
13 the space is for back of house and production. It does include
14 an employee restroom, a walk-in box or walk-in refrigerator, an
15 office, an IT rack, and then some rest areas for our employees.

16 All right, refuse, you can see at the top right of this
17 floor plan, there is a door to a back alley where refuse is
18 located. And that is accessible. I do believe it is from -- I
19 want to say it's Ordway Street NW. And that's really the high
20 level of what we're doing here. We have wear wash. Everything
21 is really done on-site. Refuse would be picked up three to four
22 times weekly on an as-needed basis. If we need to -- if we're
23 not generating that much waste, we'll reduce that amount of time.
24 If we're generating more waste, we'll increase that pick-up
25 frequency.

1 If you want to move to the next slide, please?

2 And so this is just a -- these are a few examples of
3 our front-of-house design. And I wanted you guys to have a good
4 feel for the care and the effort that we put into what we present
5 to the customer and what we bring to the neighborhood. These
6 are a few different sites, just to highlight that, that design
7 template that we use. And we do have consistent design throughout
8 all of our locations. And so we go through great effort to
9 make -- to put together a space that is warm and inviting and
10 comfortable for our guests, whether they're opting to dine-in or
11 they're just walking in to pick up.

12 If you want to move to the next slide, please?

13 Touch on some operations real quick. Most of our sites,
14 like I said, are for -- have seating for anywhere from 10 to 15
15 guests, depending on the market and the type of site it is. If
16 it's a suburban site, it will generally have less seating. Our
17 larger urban sites, in New York City, for example, some of those
18 have more seating. And we really flex depending on what that
19 neighborhood context looks like.

20 I mentioned the front-of-house ambassador and the self-
21 serve order kiosks for customers. We also do have a waiting area
22 and public restrooms, like I said, for customers that are opting
23 to pick up. I mentioned that we are very tech-forward in terms
24 of how we process our orders. We are a startup at the end of
25 the day. We still work like a startup. We're constantly

1 iterating our design and our operations to make things more
2 efficient. We do have an active courier management, which I do
3 believe we discussed in some detail with the community group down
4 there in Cleveland Park.

5 And that's really -- the really high-level operations.
6 If you want me to touch on anything else, I'm more than happy to
7 do that if you have any questions but very, very excited to be
8 coming to this neighborhood. I have a bit of a personal
9 connection. My grandmother and my aunt lived in the Kennedy-
10 Warren for 20-some odd years when I was younger, so, excited to
11 be down in the neighborhood.

12 MR. WILLIAMS: Great. Thank you, Jason. Let's go to
13 the next slide, please.

14 I'll just walk through the special exception and
15 variance standards quickly here. I know that you have, as Jason
16 mentioned, a packed agenda. So we are requesting a special
17 exception for a -- what is considered a fast food use here. We
18 did meet with the zoning administrator. Even though this is not
19 a typical fast food use, the definitions in the regulations, this
20 still fits within the fast food designation, because we don't
21 have waiter service and for some other reasons.

22 That being said, as just described by Jason, it's
23 really anything but your traditional fast food. There's no drive
24 through, there will be interior seating, and the food that will
25 be prepared will be from high-end chefs throughout the country.

1 So we think that this fits well within the community and will be
2 a great amenity for the community as well. We are also seeking
3 an area variance from the six-foot-high brick dumpster enclosure
4 that's required for fast food restaurants in this location, and
5 we will get into that as well.

6 Next slide, please.

7 The typical standards for special exceptions that the
8 Board is familiar with: First, it must be in harmony with the
9 general purpose and intent of the zoning regulations in the NMU-
10 4/CP zoning district. This fits nicely within what we typically
11 look for. It's a neighborhood-serving food establishment. It'll
12 be at ground level, and it's already in an existing shopping
13 center, not in a residential neighborhood. It's also right across
14 from the Metro station, for what that's worth. There are some
15 special requirements for fast food locations in the zone. We
16 meet all of them except for the dumpster enclosure, which we'll
17 get into with the variance.

18 Next slide please.

19 The next general standard is that the use should not
20 adversely affect neighboring properties, and this one will not.
21 First, it's within that existing shopping center. It's replacing
22 an existing retail use. No changes are proposed for the exterior
23 of the site. It's historic; we couldn't change it anyway. The
24 hours of the operation will be 11 a.m. to 10 p.m. Again, that
25 will serve to mitigate any potential impacts on the neighborhood.

1 And no alcohol will be served to this location either.

2 Next slide please.

3 As for the variance, this addresses the requirement for
4 a six-foot enclosed three-side dumpster enclosure for fast food
5 in this zone. We can't meet that test for a number of reasons.
6 And as I stated in our burden of proof, we meet that confluence-
7 of-factors test that we've heard about with variances: First,
8 it's an historic shopping center, as I mentioned. We can't --
9 building a new enclosure on the site would be difficult from an
10 historic perspective. We also have the constraint that this
11 building is built right up onto the property line in the rear.
12 So that alley that Jason mentioned is not on the property line.
13 The trash is currently handled for all of the retail bays in that
14 alley. We can't build in the alley. It's not on our property.
15 And so the trash will be handled the way it's handled for all of
16 the other retailers and the way it's always been handled for this
17 shopping center.

18 Next slide please.

19 This survey of the property just shows what I just
20 mentioned, which is that the building, the historic shopping
21 center building, is right up on the property line. You can see
22 the public alley there. Its front is right on the back rear of
23 the building. So we can't build a dumpster enclosure even if we
24 wanted to.

25 Next slide please.

1 Here are some photographs of the rear alley. Really,
2 this is intended to show, not only the significant grade between
3 the alley and the residential neighborhood behind it, but also
4 the screening that's already there, as well as the road -- or the
5 street -- that is in between the alley and the residential
6 community, so there's already some significant buffering from
7 that alleyway where the trash is handled.

8 Next slide please.

9 Here are some additional photographs looking at the
10 alley from Ordway Street. Again, you can see that building is
11 right on the line there, and you can see where the dumpsters are
12 currently located. That's how the trash will be handled for this
13 use.

14 Next slide please.

15 As for the variance standards, the variance can only
16 be granted as long as -- without substantial detriment to the
17 public good and without substantially impairing the intent,
18 purpose, and integrity of the zone plan. As I already mentioned,
19 this zone, the neighborhood mixed-use zone, is really intended
20 for these types of uses, neighborhood-serving uses. We talked
21 about the hours of operation, alcohol. For the same reason, it
22 doesn't have adverse impacts from the special-exceptions
23 standpoint at the same -- it wouldn't have this impact for the
24 variance either. And we talked about the dumpster and the area,
25 the area of the dumpster, and why that wouldn't impact the

1 residential community to the rear.

2 Next slide please.

3 Community engagement, we did meet with and present to
4 ANC 3C. ANC 3C voted to support the project; that's at Exhibit
5 18 in the record. We haven't heard any opposition to date. We
6 haven't received any, and none has been filed to the record. We
7 also have support from Office of Planning.

8 Next slide.

9 That was our last slide, and we are here for any
10 questions. Thank you.

11 CHAIRPERSON HILL: Okay. Thank you, Mr. Williams.

12 Before I turn to my Board, can I hear from the Office
13 of Planning?

14 MR. BARRON: Sure. Chairman Hill, Commissioners, for
15 the record, my name is Ron Barron, development review specialist
16 with the D.C. Office of Planning. The Office of Planning
17 recommends approval of the requested special exception and the
18 area variance. The requested use would be in harmony with the
19 general purpose and intent of the zone and would be unlikely to
20 affect adversely the use of and privacy of neighboring
21 properties. We also feel that the Applicant has met the
22 appropriate tests for an area variance. And we're happy to rest
23 on our report, which was submitted to the record, Exhibit 25, and
24 I'm happy to take any questions you or the Board may have.

25 CHAIRPERSON HILL: Okay. Great. Thank you.

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

2 MR. YOUNG: (No audible response)

3 CHAIRPERSON HILL: Okay. Mr. Williams, the only
4 question I have before I turn to my Board, you guys submitted,
5 or you proposed -- you presented before the ANC before you amended
6 the application, I think, concerning the variance. So nothing
7 changed -- nothing changed between what you presented to the ANC,
8 correct?

9 MR. WILLIAMS: That's correct. And I think Mr. Barron
10 can speak to this as well. Initially, in our discussions with
11 staff, we did not think we were going to need a variance. And
12 ultimately, after reviewing this case further, Office of Planning
13 determined that we should go ahead and file the variance. So
14 that's all the changes. We filed the variance, but nothing else
15 about the application changed.

16 CHAIRPERSON HILL: That's fine. That's all I need to
17 know, Mr. Williams.

18 Okay. Does my Board have any questions for the
19 Applicant or the Office of Planning?

20 Okay. All right, Mr. Williams, do you want to add
21 anything at the end?

22 MR. WILLIAMS: No. And thank you for your
23 consideration.

24 CHAIRPERSON HILL: Okay. Great.

25 Mr. Bottcher, I'm glad you get to come back to your

1 neighborhood. The Kennedy-Warren still is there.

2 MR. BOTTCER: I look forward to it. Thank you.

3 CHAIRPERSON HILL: The Kennedy-Warren is still there.

4 MR. BOTTCER: I was down there a few months ago, and
5 it looks the same to me. I remember standing in line to watch
6 Independence Day at the theater right up the block.

7 CHAIRPERSON HILL: Do they still have a club in the
8 first floor?

9 MR. BOTTCER: I don't -- I don't know. I didn't step
10 into the building. But yeah, it was nice to see the area where
11 I'd spent quite a bit of time.

12 CHAIRPERSON HILL: Okay. Great. Okay, thank you.
13 Well, good luck.

14 MR. BOTTCER: Thank you.

15 CHAIRPERSON HILL: Mr. Young, if you could please go
16 ahead and close the -- I'm going to close the hearing and the
17 record.

18 Mr. Young, if you could please excuse everyone.

19 Okay. I appreciate all of the effort that the Applicant
20 has put forward in terms of the application, the reaching out to
21 the ANC, presenting to the ANC, the Office of Planning, and their
22 analysis. I appreciate the Office of Planning's analysis. Also,
23 I think that they are meeting the criteria for us to grant this
24 particular relief. I will also cite I think the historic nature
25 of the property also kind of makes it difficult to adhere to that

1 dumpster requirement, although I think that dumpster requirement
2 is also particularly a little odd, but.

3 So I'm going to go ahead and vote in favor of this
4 application.

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

6 COMMISSIONER SMITH: No. I agree with your assessment,
7 Office of Planning staff report, and the reasons why we should
8 support the special exception as well as the area variance. So
9 I believe they've met the criteria for us to approve both of
10 those, so I will be in support.

11 CHAIRPERSON HILL: Okay. Great. Thanks.

12 Mr. Blake?

13 VICE CHAIRPERSON BLAKE: The analysis that you put
14 forth and that of Mr. Smith, as you pointed out this variance
15 surely shouldn't be a variance, but more like a special exception.
16 This requirement really doesn't fit with a shopping center. It's
17 more appropriate for a standalone. That said, I do think it
18 meets the criteria based on confluence of factors, and I will be
19 voting in favor of the special exception and the variance.

20 CHAIRPERSON HILL: Thank you.

21 Commissioner Wright?

22 COMMISSIONER WRIGHT: So I'm very excited about this
23 application and cannot wait for the facility to open so that I
24 can be a customer. I do think that it is an innovative kind of
25 restaurant use, and it's exactly why we have special exceptions

1 to allow things that may fit in a definition of fast food but
2 that aren't really a typical fast food kind of restaurant, to
3 allow those kinds of, again, innovative uses. And I agree with
4 everything that's been said about the dumpster. And I'm
5 definitely prepared to vote in favor.

6 CHAIRPERSON HILL: Okay. Great. Thank you.

7 All right. I'm going to make a motion to approve
8 Application Number 21291 as captioned and read by the secretary,
9 and ask for a second. Mr. Blake?

10 VICE CHAIRPERSON BLAKE: Second.

11 CHAIRPERSON HILL: The motion has been made and
12 seconded, Madam Secretary.

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

15 Chairman Hill?

16 CHAIRPERSON HILL: Yes.

17 MS. MEHLERT: Vice Chair Blake?

18 VICE CHAIRPERSON BLAKE: Yes.

19 MS. MEHLERT: Board Member Smith?

20 COMMISSIONER SMITH: (No audible response.)

21 Commissioner Wright?

22 COMMISSIONER WRIGHT: Yes.

23 MS. MEHLERT: Staff would report the vote is four to
24 zero to one to approve Application Number 21291 on the motion
25 made by Chairman Hill and seconded by Vice Chair Blake.

1 CHAIRPERSON HILL: Okay. Great. Thank you.

2 I know that -- I want to take just a couple of minutes
3 for you guys. Like, let's take five minutes. The next case we
4 have, there's some preliminary matters that I want to -- just
5 want to make sure everybody's had a chance to look at. There's
6 something new that got added into the record this morning. And
7 so if you all want to take a look at those preliminary matters,
8 and then prior to calling the hearing, we'll talk about the
9 preliminary matters. And so why don't we just take 5 minutes?

10 (Whereupon, there was a brief recess.)

11 CHAIRPERSON HILL: Okay, Madam Secretary, if you can
12 go ahead and call us back in and call our next case.

13 MS. MEHLERT: The Board is back from a quick break and
14 returning to its hearing session. The next case is Application
15 Number 21295 of Justin Ryan Gomez and Jesse Martinez Junior.
16 This is an application pursuant to Subtitle X, section 901.2 for
17 a special exception under Subtitle E, section 5201 from the rear
18 yard requirements of Subtitle E, section 207.1 and pursuant to
19 Subtitle X, section 1002 for an area variance from the lot
20 occupancy requirements of Subtitle E, section 210.1. This is for
21 a rear deck addition to an existing attached two-story with cellar
22 principal dwelling. It is located in the RF-1 zone at 1151 Abbey
23 Place Northeast, square 773, lot 199.

24 And as the Chair mentioned, there are a few preliminary
25 matters with this case, and I'll just go through those right now.

1 So first is, there is a motion from the Applicant to accept an
2 untimely filing in Exhibit 29. This was to submit supplemental
3 materials, including an updated notes and computations page from
4 DOB in Exhibit 30(b).

5 And in response, ANC 6C submitted a cross-motion to
6 strike Exhibit 30(b). Then the Applicant submitted a second
7 motion to accept a late filing in Exhibit 41 for additional
8 supplemental materials. And ANC 6C responded in opposition to
9 this motion and stated the Board should strike all untimely
10 submissions after Exhibit 31. The Applicant submitted a third
11 request to waive the filing deadline in Exhibit 45 to submit an
12 updated letter of authorization. And again, all of these filings
13 are in the record.

14 CHAIRPERSON HILL: Okay. Thank you.

15 So I'm looking at my Board members for these
16 preliminary matters. I've had a chance to look through all of
17 the late submissions and also the motion to strike, and I think
18 that the Board needs the information that it has in the record
19 so that we can actually go through this today and determine
20 whether or not we think this is something that should be approved.
21 So I'm going to go ahead and approve the late submissions and
22 then deny the motion to strike unless somebody on the Board has
23 some issues.

24 Okay. Hearing none, then we're going to go ahead and
25 do that.

1 So Madam Secretary, if you could do that, please.

2 And then, let's see. And I do know and notice that
3 there has obviously been a lot of back and forth between the
4 Applicant and the ANC. I can see the things that the ANC has
5 put in the record, as well as what the Applicant has put in the
6 record. So again, we'll try to work through this together to
7 try and determine whether or not this is meeting the criteria for
8 us to grant the relief.

9 Commissioner Eckenwiler, would you like to introduce
10 yourself for the -- oh -- one second. Let me go through the
11 process first.

12 If the Applicant is here, if they could please
13 introduce themselves for the record. I'm sorry. I think you're
14 on mute. Yes.

15 MR. C. MARTINEZ: Okay. Great. So good morning,
16 Chairman, members of the Board. My name is Chris Martinez, and
17 I am the authorized agent representing the owners of 1151 Abbey
18 Place Northeast. I'm here on their behalf to request the zoning
19 relief to legalize an existing rear deck structure on the
20 property.

21 CHAIRPERSON HILL: Mr. Martinez, hold on a second. I'm
22 just going through introductions real quick. So but thank you.

23 Commissioner Eckenwiler, I'd like you to introduce
24 yourself for the record.

25 COMMISSIONER ECKENWILER: Sure, Mr. Chairman. Mark

1 Eckenwiler, vice chair, ANC 6C, here on behalf of the ANC.

2 And Mr. Chairman, I do have a question when you get to
3 this point, about your preliminary matter.

4 CHAIRPERSON HILL: Sure. Go ahead, Commissioner. You
5 had your hand up.

6 COMMISSIONER ECKENWILER: Yeah, can you just clarify,
7 is the Board also admitting Exhibit 51, which was placed on file
8 sometime yesterday?

9 CHAIRPERSON HILL: Yeah, I got that from -- we got that
10 today. And so that was something that I guess was responding to
11 all of the things that the ANC had put forward. And so yes, I
12 guess you would also like an opportunity to respond to that?

13 COMMISSIONER ECKENWILER: Sure, Mr. Chairman. One, I
14 just want to point out, no motion was made for leave to file
15 that. Two, Mr. Martinez did not bother to serve that on me, so
16 I didn't see that until this morning, and therefore, ANC 6C
17 strongly opposes the admission of Exhibit 51.

18 CHAIRPERSON HILL: Okay. Well, Commissioner
19 Eckenwiler, we'll give you an opportunity to respond to that.
20 And so that's something that we can go ahead and take care of
21 also and leave the record open for. And so I doubt we'll have a
22 decision today also, given that that is something we will wait
23 to hear from, from the ANCs.

24 Okay. So let's see. Mr. Martinez, so what I'd like
25 to do is, if you want to go ahead and walk us through your

1 application -- is it your application or is it your client's
2 application?

3 MR. C. MARTINEZ: So I can set the stage and explain
4 how we are tied up into the Applicants, but we are on the behalf
5 of the Applicants, Jesse and Justin Martinez (sic).

6 CHAIRPERSON HILL: Okay. Okay. So Mr. Martinez, if
7 you want to go ahead and walk us through your application, right,
8 and why you believe you're meeting the criteria for us to grant
9 the relief. I'm going to put 15 minutes on the clock just so I
10 know where we are, and basically, you can begin whenever you
11 like.

12 MR. C. MARTINEZ: Sure. Yeah. So again, first I just
13 want to set the stage so everyone in this meeting can understand,
14 and understand our ties in relation to the Applicant.

15 So I worked for the prior owner who renovated the
16 property and who sold the property to the current owners. And
17 while the property was under contract, and just a few days before
18 settlement, DOB Zoning, put a stop-work order on the house for
19 failing to obtain a deck permit and an inspection.

20 Since the current owners already had movers, turned
21 their rental in, loans in place, funds in place, between the
22 agents, we agreed to remediate and assist them in correcting the
23 problem. We initially thought that the process was going to be
24 fairly simple, and it was just a matter of obtaining a deck permit
25 and getting it inspected, just like the stop-work order called

1 for.

2 It wasn't until remediation efforts began that we
3 learned that zoning relief was required. Department of Building
4 said that this would have to go through BZA in order to obtain a
5 zoning relief.

6 I want to clarify that there was no attempt to avoid
7 compliance, only a misunderstanding of what the process required.
8 Also, I want to clarify that we didn't build the deck knowingly,
9 that it was illegal to do so. Department of Buildings or Zoning
10 never denied us for a deck, and there is no evidence suggesting
11 that. If that were the case, that we built the deck knowingly
12 that it was illegal, the \$14,000 infractions that we incurred
13 would have not been waived by the Department of Buildings through
14 their attorney.

15 So there is no evidence suggesting that we built this
16 illegally. It wasn't until after the stop-work order that we
17 started the process in applying, and correcting, and remediating
18 the issue.

19 Now, this is the first time we're going through a
20 process like this.

21 CHAIRPERSON HILL: Hold on, Mr. Martinez.

22 Mr. Smith, you had your hand up?

23 COMMISSIONER SMITH: Yes.

24 Before we get too far away from this particular
25 subject, so are you stating that you weren't aware or DOB didn't

1 stop you -- was the deck on the original building permit plan?

2 MR. C. MARTINEZ: No. So I -- so I want to clarify.
3 I just wanted to wrap up what I was saying, and I can answer that
4 question. And -- I'll answer that very quickly. So in the
5 initial plans -- so I didn't know any of this because we don't
6 use -- we use a permit expediter, and we use architects to do
7 whatever is it that they need to do between DOB and Zoning to
8 get these things done.

9 Now, this was brought up lastly at the ANC meeting,
10 that they pulled this out, where the initial plans had a deck on
11 the plans, or on the structure, but the final approval did not
12 have a deck in place. So does that answer your question?

13 COMMISSIONER SMITH: Yes. For the most part, but I'm
14 assuming you'll probably go into a little bit more detail.

15 CHAIRPERSON HILL: Okay. Mr. Smith, is your camera
16 off? I'm just checking.

17 COMMISSIONER SMITH: Yeah, it's off for now. I'm trying
18 to get it back on.

19 CHAIRPERSON HILL: Oh, okay. No problem.

20 All right, Mr. Martinez, go ahead and continue.

21 MR. C. MARTINEZ: But Mr. Smith, do you need more
22 clarification on that, the more detail you mentioned?

23 COMMISSIONER SMITH: Not for now. I'll just wait until
24 after your presentation.

25 MR. C. MARTINEZ: Got it.

1 So this is the first time we're going through this
2 process. You know, before it we didn't know much about lot
3 occupancies and setbacks. Now we know. We've learned a lot,
4 and this is why we're here. So I just wanted to set that context
5 or set the stage of our ties to the Applicant.

6 Now, what we're requesting, we're requesting two zoning
7 reliefs. We're requesting a lot occupancy -- a variance for a
8 lot occupancy to roughly about 89 percent, and we are requesting
9 an exception for the rear yard requirement to zero feet, since
10 that's what the current structure or the deck occupies.

11 And these corrections of these amendments that we did,
12 we all did it in response to our ANC meeting. If it wasn't
13 because of that, we would have not made all those corrections
14 and -- in their response. They initially told us that we had
15 the wrong measurements, the wrong corrections, and the only
16 mistake we made initially was not including the front porch, the
17 enclosed front porch, to account for the calculations of the
18 current or existing lot occupancy.

19 Now, we are demonstrating practical difficulty and a
20 exceptional condition. I mean, this property is uniquely small.
21 It's approximately 1,038 square feet of space. It's well below
22 the RF-1 lot, the standard, which is about 1,800 square feet of
23 space. The existing home already occupies about 71 percent of
24 the lot, which leaves very limited space for any functional
25 outdoor space. The rear yard currently is unusable at ground

1 level due to the required off-street parking and the staircase.

2 Now, whether off-street parking is a requirement or
3 not, which Zoning has said it is, it does not take away the fact
4 that there is a parking constraint. The owners have been using
5 the yard for parking for the last nine to ten months due to
6 limited street parking on the alley and on Abbey Place. I mean,
7 having off-street parking reduces the pressure on limited street
8 parking.

9 In addition to that, the basement of the house is used
10 as a short-term rental, which introduces another constraint. The
11 rear yard is not suitable as a shared private outdoor space for
12 the primary residents without compromising the privacy and
13 function separation for both users.

14 Now, while stairs technically provide access to the
15 ground level, that's not the same thing as having functional
16 outdoor space. There is a block constraint and not usable for
17 seating. So the only practical way to create outdoor living
18 space for the primary unit is to elevate above these obstructions
19 with the modest deck, which is what it currently has.

20 There is no adverse impact on the neighboring
21 properties. The deck is modest in scale, open in design. It
22 aligns with the existing structure. It does not block any light
23 or air, and it doesn't intrude on neighbors' privacy. The
24 structure matches the character and pattern of the rear decks of
25 nearby properties. I think that you guys have already seen the

1 pictures. About 60 to 70 percent of those properties have similar
2 decks that go to the property line.

3 It has been in place for about ten months with (sic)
4 any known complaints from neighbors, which strongly suggests that
5 it's not causing any adverse impacts.

6 Now, zoning consistency, I believe that the relief
7 supports the intent of the RF-1 zone, enabling functional
8 residential use while preserving neighborhood character. And I
9 wanted to bring up the fact that, I mean, there is a precedent
10 for this kind of relief that ANC has supported, and BZA has
11 approved. Example, Case Number 20928, which is 616 7th Street
12 Northeast. The relief was granted for 96.4 percent, lot occupancy
13 of zero feet at the rear yard, on a similar small lot of just
14 624 square feet of space. Is there any questions?

15 CHAIRPERSON HILL: No. That's okay, Ms. Martinez. Is
16 that your conclusion?

17 MR. C. MARTINEZ: Well, that is not the conclusion.
18 Well, I guess closing, this is a highly constrained lot. The
19 deck is not excessive, and it's a modest and necessary solution
20 to make the home livable in a way that respects both zoning and
21 the neighborhood. We respectfully request your approval. I can
22 continue and go over the oppositions from ANC and be happy to
23 answer any questions that you have.

24 CHAIRPERSON HILL: Okay, Mr. Martinez. Hold on a
25 second. I saw Mr. Smith's hand up.

1 COMMISSIONER SMITH: So I'm going to turn off my camera
2 just in case it's me talking in the camera.

3 Just for clarification, was there a deck on this
4 structure prior to renovation? Or you don't know that because
5 you took over this before the construction was completed?

6 MR. C. MARTINEZ: Yeah, we don't know that.

7 COMMISSIONER SMITH: Okay. All right. That's the only
8 question I had.

9 CHAIRPERSON HILL: Okay. What I want to do is -- I'm
10 looking at my Board -- I'm going to try to get everybody's
11 presentation in, and then we'll go ahead and ask questions of
12 everyone. And everybody can ask questions of everyone.

13 Again, Mr. Martinez, the way this works is, the
14 Applicant gives their presentation; the parties give their
15 presentation; and also the office people from, like, departments
16 of the District of Columbia; and then everyone has an opportunity
17 to ask questions of everyone. You, as the Applicant, will have
18 an opportunity to give a rebuttal, and then everyone will have
19 an opportunity to ask any questions about your rebuttal. And
20 then at the end, there will be a conclusion given.

21 The regulations state that the Applicant gets a
22 conclusion, but I like to have everybody give a conclusion if
23 they want to. And so we kind of hear the end in a reverse order
24 because the Applicant gets the final word.

25 So that being said can I go ahead -- yeah.

1 Go ahead, Mr. Martinez.

2 MR. C. MARTINEZ: I'll just add one last thing, and I
3 apologize for interrupting. The last thing we did on the
4 property, we did a survey, a professional survey, in order to
5 answer to ANC's -- just saying that we had discrepancies, right?
6 Multiple times. So we had a survey, and we updated the plat and
7 the record and the drawings, and we submitted those to the DOB
8 to make sure that everything was factual across the board. So I
9 just wanted to add that on there.

10 CHAIRPERSON HILL: Okay. Thank you, Mr. Martinez.

11 Okay. Commissioner Eckenwiler, can you hear me?

12 COMMISSIONER ECKENWILER: I can, Mr. Chairman.

13 CHAIRPERSON HILL: Okay. Great. Would you like to go
14 ahead and give us the ANC's presentation?

15 COMMISSIONER ECKENWILER: Sure. Mr. Chairman, I think
16 you usually go to OP first, but if you'd like to have me go next,
17 I'm happy to do so.

18 CHAIRPERSON HILL: It doesn't matter, Commissioner. I
19 can go to OP next.

20 You wanted to go ahead and hear -- let's see. Is the
21 Office of Planning there?

22 MS. BROWN-ROBERTS: Good afternoon, Mr. Chairman. Good
23 afternoon, Mr. Chairman and members of the Commission. Again,
24 this is Maxine Brown-Roberts from the Office of Planning. Since
25 our report, the Applicant has provided a referral from DOB with

1 the correct measurements clarified, but our report remains the
2 same. Regarding the variance request for the lot occupancy, an
3 exceptional situation is that a viable or reasonable outdoor use
4 at the rear of the property would be limited access to the ground
5 level, or the conforming deck would consume their entire rear
6 yard, and so the utilization of the rear yard would not be the
7 same as most typical RF-1 homeowners might have. Practical
8 difficulty would be that there is no reasonable alternative to
9 the owner to provide conforming, usable open space to the rear
10 of the house without removal of the parking space, which would
11 affect parking along the alley or on-street parking. In addition,
12 reducing its size or removing the deck could be costly and a
13 practical difficulty.

14 The requested relief would not likely be a substantial
15 detriment to the public good, as there are similar decks along
16 the alley of varying heights, color, materials, and sizes, and
17 the deck is not substantially different from the character,
18 scale, and pattern of decks and houses along the alley. The deck
19 is open and does not cast any significant shadows on the adjacent
20 properties.

21 As with other decks along the alley, views from the
22 deck onto other properties are possible. Some property owners
23 have fenced around their decks to protect their privacy, although
24 that is not a majority of the decks along the alley. The adjacent
25 neighbors also submitted letters of support.

1 In this case, the house is already a nonconforming
2 building in the RF zone for lot occupancy, and the deck does not
3 appear to result in a building form, bulk, height, or use that
4 is unanticipated in zoning, and should not appear as an
5 overdevelopment of the site on the block; and therefore, does not
6 appear to result in any significant impairment to the intent or
7 integrity of the RF-1 zone. Regarding the rear yard and the
8 requested relief, as demonstrated in our report, the proposal
9 meets the requirement of Subtitle E, 5201 and Subtitle X, section
10 901. OP, therefore, recommends approval of the requested relief.

11 Thank you, Mr. Chairman.

12 CHAIRPERSON HILL: Okay. Thank you, Ms. Brown-Roberts.

13 Commissioner Eckenwiler, can you hear me?

14 COMMISSIONER ECKENWILER: Yes, I can, Mr. Chairman.

15 CHAIRPERSON HILL: Okay. Great. Would you like to go
16 ahead and give the ANC's presentation?

17 COMMISSIONER ECKENWILER: Sure.

18 If Mr. Young can pull up our slides, I believe that's
19 Exhibit 50, five-oh. Okay. Next slide.

20 So as you've already heard, Mr. Chairman, just to
21 summarize, the occupants are seeking after-the-fact permission
22 to retain an illegally constructed -- not just illegally
23 constructed, knowingly illegally constructed rear deck that
24 occupies, effectively, the entire yard. They're seeking two
25 areas of relief.

1 Notwithstanding what Mr. Martinez said about 89 percent
2 lot occupancy, his own papers and those of OP say it's going up
3 to 90 percent, and in addition, as Ms. Brown-Roberts said, a
4 special exception allowing a reduction of the required rear yard
5 to zero feet.

6 Next slide please.

7 So first, considering the variance, factors that are
8 relevant to the Board's consideration here, first of all, if the
9 Applicant cannot establish an exceptional condition, then they're
10 dead in the water right out of the box. If they can't show that,
11 then there is no basis for variance relief. Second, even if
12 there were to exist an exceptional condition, the Applicant would
13 need to show that there is some sort of practical difficulty that
14 makes compliance with the zoning regulations unnecessarily
15 burdensome. And in addition, the Board should consider the extent
16 and severity of the relief sought. This application fails on all
17 three grounds.

18 Next slide, please.

19 So let's start with the exceptional condition. As the
20 Court of Appeals has said, the exceptional condition must affect
21 a single property; it must exist as something that is unique to
22 this property, quote, "rather than exist as part of the general
23 conditions in the neighborhood", unquote. That's the McDonald
24 DBZA case from 2023.

25 This property on Abbey Place is one of literally dozens

1 of properties with identical lot area and dimensions. And if we
2 go to the next slide, you can see -- and this is, you can see,
3 the full surveyor records. I believe that's Exhibit 49(a), the
4 attachment to our submission. But when these lots were all
5 subdivided in 1924, and I note there's been no change in any of
6 these lot dimensions since then, 65 lots of this exact same width,
7 depth, and lot area were created. And you can see there on this
8 slide, circled in red, is the subject property. So it is, without
9 exaggeration, in the middle of a row of dozens of identical lots.
10 And then on the other side of Abbey Place, there are also
11 literally dozens of identically sized lots.

12 Next slide please.

13 So in just illustrating the importance of this
14 consideration, very recently in 20280-A, all three voting Board
15 members -- and I note no order has issued yet -- but if we look
16 at the transcript, we can see that you, Mr. Chair, and Mr. Blake,
17 and Mr. Smith also, were all in opposition to granting relief in
18 that case because a property there was alleging they had an
19 exceptional condition, but in fact that condition was shared by
20 something like 20 or 25 other properties on the same square.

21 Similarly in 17188, the Board denied a variance seeking
22 an increase from 65 percent to 89 percent. And there, too, the
23 Board cited the fact that the lot had a normal rectangular shape
24 and there were numerous other lots of similar dimensions, all of
25 which were, I should note, substandard, so below the minimum

1 required lot area, and yet that request was denied.

2 Next slide please.

3 So first off, that right there should end the inquiry.
4 There is no exceptional condition here. Applicants have simply
5 failed to meet their initial showing. But in addition, they have
6 no practical difficulties. They need to show that they've got
7 some sort of burden that makes it sort of unfair, unduly
8 burdensome for them to comply with the zoning regulations. But
9 we know that not every difficulty amounts to a practical
10 difficulty. And the ones that they claim simply are not
11 legitimate, not valid. Either they don't exist, or they're
12 estopped from asserting them. So to walk through those --

13 Next slide, please.

14 So this claim that there's a required parking space
15 that they must maintain, that is false, unequivocally false.
16 Their own survey shows that the rear yard is something like 12.8
17 feet deep. We know, under the regulations, that in order for
18 this to be a required space, it must be 18-feet deep. And I've
19 cited there and in Exhibit 49, the specific regulations
20 establishing that minimum. So there's no required parking here.

21 Sure, everybody would like to have parking, but this
22 facade that somehow they have to keep parking there, that they're
23 required by zoning to have that, simply not true. And if they
24 want outdoor space, they can jackhammer up that entire rear yard
25 or some portion of it, and they can have a lovely rear yard with

1 beautiful outdoor space. And so this claim that they can't have
2 any outdoor space because of the requirement to maintain parking,
3 unequivocally false.

4 Next slide please.

5 There's a companion claim here that there's no way for
6 the occupants of the main unit, so that's the top two stories,
7 there's no way for them to access the lower level, so at grade
8 in rear, without the deck. Again, this is patently false. They
9 don't need the deck. What they need are stairs. And because
10 the definition of building area at 11 DCMR, Section B, 100.2,
11 explicitly excludes uncovered stairs from the main level, it
12 means that if they were to construct such stairs by themselves,
13 that would not contribute at all to lot occupancy. And even
14 though the property is currently, minus the deck, at 71 percent
15 lot occupancy, they would not be extending that nonconformity by
16 building rear stairs.

17 So they're perfectly free to build rear stairs to go
18 down to the rear yard. We can see from the spiral stairs that
19 they have there now with this illegal deck, that that doesn't
20 take up the rear yard in its entirety or anything like that. So
21 there's no difficulty there. They can perfectly easily build
22 stairs, with no zoning relief, to access the lower level from the
23 main floor.

24 Next slide please.

25 Now, the Applicant hasn't asserted this particular

1 practical difficulty, but OP's report says that the cost of
2 removing the deck is a practical difficulty. Here's why the
3 Board should disregard that claim. These Applicants had explicit
4 notice of the deck's illegality before the sale closed. There
5 were two stop-work orders posted at this property. One was posted
6 on August 9th; that was illegally removed right after that. DOB
7 posted a second stop-work notice. That was on August 14th, and
8 the purchase was not finalized until more than two weeks later.
9 The actual sale took place on August 29th. And you can see it
10 in the Applicants' own photographs that at that time -- so at the
11 left is their zoning placard. At the right there, circled in
12 yellow, you can see that stop-work order that has been there
13 since the middle of last August, since before the Applicants
14 purchased this property. So you should deem them estopped from
15 claiming any sort of difficulty.

16 They went in with their eyes open. They had very
17 explicit posted notice of this problem, of this specific problem,
18 and they went ahead with the purchase anyway. And under those
19 circumstances, ANC 6C believes that the Board should not cut them
20 some slack for having chosen, notwithstanding that notice, to go
21 ahead with the purchase.

22 Next slide please.

23 And then finally, this is the last factor for variance
24 relief. The extent and severity of the relief here is
25 significant. By the Applicant's own admission, they're trying

1 to bring lot occupancy all the way up to 90 percent. That weighs
2 strongly against granting the application. Compare that to the
3 Board's decision in 20725, where there was a request to construct
4 an elevated rear deck that would take it from 73 percent to 95.6
5 percent, and the Board said, well, it's not just that you're
6 going past the 60 percent matter of right limit, you're also
7 going past 70 percent, and well past 70 percent. And given that
8 severe extent of relief for a structure pretty similar to the one
9 that's already built illegally here, the Board should further
10 reject the variance request.

11 Next slide, please.

12 So just to sum up, there's no exceptional condition.
13 Even if there were a exceptional condition, there's no legitimate
14 practical difficulty shown here by the Applicants, and the relief
15 is excessive in scope, so the variance should be denied.

16 Next slide.

17 In addition, there is this special exception request
18 to take the required rear yard down to zero feet. And just one
19 of the key prongs here is that the privacy of use and enjoyment
20 of neighboring properties not be unduly affected.

21 Now, Mr. Martinez would have you believe that this
22 illegal deck has no privacy impacts. You can believe him, or
23 you can believe your own eyes.

24 Next slide, please.

25 So here is Applicants' own photograph. This is shown

1 looking from a point around the middle of their deck, right next
2 to the stairs. We are looking toward 1149 Abbey Place. And you
3 can see there in the foreground, there are positions on this deck
4 where one may stand and look, at point-blank range, directly into
5 the rear of 1149 Abbey Place. That does not seem to be a
6 negligible impact on privacy.

7 Next slide, please.

8 Similarly, the property to the north, 1153 Abbey Place,
9 has no rear deck. This deck directly overlooks the entirety of
10 that rear yard, obviously from an elevated position. Moreover,
11 it has views into the rear of the house from as close as 12 feet.
12 So not as close as 1149 Abbey Place, but once again, we're looking
13 down into the whole rear yard and into the back of the house from
14 pretty close. And ANC 6C submits that this is, in fact, an undue
15 adverse impact on privacy, and the failure on this prong alone
16 takes this outside the area where the special exception sought
17 may be granted.

18 Next slide.

19 So just to sum up, I've already said this. I won't
20 repeat myself. Neither the variance request nor the special
21 exception should be granted. And I do want to just add, since
22 Mr. Martinez laid great weight on these things, I want to talk a
23 little bit about some of the history around this.

24 So let's start with how the deck got built. You don't
25 build a deck like this by accident. This claim that it was

1 somehow just an innocent mistake, really you'd have to be
2 extraordinarily naive to buy that story. They put in an
3 application which requested a deck. That's Attachment B; I
4 think it's Exhibit 49(b) in our submission. And then what they
5 got was a permit that didn't have that deck in the drawing. So
6 what are you supposed to -- what do you want to infer from that?
7 And I think the only thing that any reasonable person can infer
8 is, they didn't get what they were asking for. Either they
9 withdrew it voluntarily or they were told to take it out. But
10 either way, they knew that's what they wanted; they knew they
11 didn't get that, because that's what the actual approved drawing
12 showed; and then they went ahead and built it anyway. And I
13 submit to you that there is only one reason that that deck comes
14 into existence after that sequence of events, and it's not a case
15 of someone acting in good faith.

16 Mr. Smith asked Mr. Martinez, was there a deck here
17 before. Mr. Martinez professed not to know. I'd be happy to
18 submit into the record, if you like, a photograph from February
19 2024 showing no deck at the rear of this property. There was no
20 preexisting deck. None. And so the one that was built was built
21 here. It was built after the permit with no deck was issued.

22 And then finally, I just want to touch briefly on the
23 case that Mr. Martinez averted (sic) to, 20928. One, just as an
24 FYI, that was a four to two vote of the ANC. Just a matter of
25 personal interest, I voted against that. Second, I think if the

1 Board looks at the record there, you agonized a very, very long
2 time. And that was a case where the Applicants came in good
3 faith, having not constructed a deck. So they came in beforehand
4 instead of trying to justify after the fact something that was
5 knowingly illegally constructed.

6 And the Board still wrestled with it. I think you had
7 three or four hearings on that for a deck that was much lower,
8 did not implicate any privacy impact to the adjacent neighbors.
9 So it really is not any sort of guide for either what position
10 the ANC should have taken in this case -- we have very different
11 facts here -- but also it doesn't really inform the Board as to
12 how it should proceed in this case.

13 So with that, just in conclusion, the Applicants'
14 request should be denied in its entirety. They can have a
15 perfectly nice dwelling. They can have outdoor space at grade.
16 They can have a way to get to it with stairs that can be
17 constructed as a matter of right. And so all of those imaginary
18 practical difficulties just evaporate on closer inspection.

19 And because -- I really want to lay emphasis on this
20 because OP seemed to think it was significant, there is not any
21 practical difficulty that the Board should countenance with
22 respect to the cost of removing this deck. Because at best,
23 these Applicants were willfully blind to the fact that the stop-
24 work notice, actually two, were posted more than two weeks before
25 they bought it. So they were on notice that there was a problem,

1 and we submit that they need to live with the consequences and
2 not claim that somehow that disadvantaged them, that they decided
3 to go forward despite that notice.

4 Now that concludes my presentation. I'd be happy to
5 answer any questions the Board may have. Thank you, Mr. Chairman,
6 and members of the Board.

7 CHAIRPERSON HILL: Okay. Thank you, Commissioner.

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

9 BOARD MEMBER SMITH: Chairman Hill?

10 CHAIRPERSON HILL: Yes?

11 BOARD MEMBER SMITH: Commissioner Eckenwiler stated
12 that there was a picture that he has within his record, from, I
13 believe, of August 2024.

14 Is that what you stated, that you wanted to submit in
15 the record?

16 COMMISSIONER ECKENWILER: May I respond, Mr. Chairman?

17 CHAIRPERSON HILL: Sure. Go ahead, Commissioner.

18 COMMISSIONER ECKENWILER: Yeah. Mr. Smith, for
19 clarification, there's a photo not currently in the record -- and
20 forgive me if I'm misunderstanding your question -- but about the
21 existence or nonexistence of this deck. In February of 2024, I
22 can submit a photograph showing that the deck did not exist.

23 What is in the record is a photograph, and this is
24 taken -- bear with me one moment; I can give you a record
25 citation. If you looked at Exhibit 27, so this is from one of

1 the numerous sets of photos submitted by the Applicants, that is
2 where in the record you can see that photograph. It shows the
3 front of this building with the stop-work order, which was posted
4 back in mid-August, still present. And it's present at a time
5 when the zoning placard is up. So that's after the purchase. So
6 it was there from the middle of August, more than two weeks before
7 the purchase, onward. As far as I'm aware, it was still there
8 as of about a week ago.

9 So I hope that answers your question. If not, I'm
10 happy to clarify.

11 BOARD MEMBER SMITH: Yeah, I think I probably need some
12 additional clarification. The first statement you stated, there
13 was some form of a picture that you're saying that you could
14 submit. Is it time-stamped?

15 COMMISSIONER ECKENWILER: No, but I'm willing to aver
16 when the photograph was taken.

17 BOARD MEMBER SMITH: Okay.

18 CHAIRPERSON HILL: I thought what Commissioner
19 Eckenwiler said, Mr. Smith, was that he had a picture that there
20 was no deck. Isn't that what you said, Commissioner Eckenwiler?

21 COMMISSIONER ECKENWILER: Yeah.

22 CHAIRPERSON HILL: Right. You had a picture when there
23 was no deck?

24 BOARD MEMBER SMITH: Yes. So. Is that -- that's not
25 constant. You just have a picture, a previous picture, of the

1 property in the rear that showed no deck?

2 COMMISSIONER ECKENWILER: Correct, in February of 2024.

3 BOARD MEMBER SMITH: Okay. I would like to see that
4 within the record, just to close the -- just to have a full
5 record.

6 COMMISSIONER ECKENWILER: I'd be happy to submit that
7 into the record, with the Board's leave.

8 CHAIRPERSON HILL: Okay. Great.

9 And then Commissioner, I guess, if you can put
10 something in the record that states that it's taken on the date
11 that you say it's taken on.

12 COMMISSIONER ECKENWILER: I'm not sure I have an exact
13 date, Mr. Chairman, but I'll look into that.

14 CHAIRPERSON HILL: Okay. Just something that the Board
15 can then say, this was around when it was.

16 Anyway, so we're going to keep the record open anyway
17 for the ANC's response to the last thing that went into the
18 record. So I just want to see if there's anybody here wishing
19 to speak.

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

21 MR. YOUNG: Yes. And that is Chad Gun.

22 CHAIRPERSON HILL: Okay.

23 MR. YOUNG: He's calling in by phone.

24 CHAIRPERSON HILL: Okay. Great.

25 Board Members, just allow me to go through the witness

1 real quick.

2 Mr. -- Is it Gun? Chad Gun?

3 MR. GUN: Mr. Chairman, hello? Can you hear me?

4 CHAIRPERSON HILL: Great. Can you hear me?

5 MR. GUN: I can, yes. Can you hear me?

6 CHAIRPERSON HILL: Yes. Could you please introduce --
7 could you introduce yourself for the record? And as a member of
8 the public, you'll have 3 minutes to give your testimony, and you
9 can begin whenever you like.

10 MR. GUN: Thank you. Okay. My name is Chad Gun. I'm
11 a member of the public and a nearby resident in opposition to
12 this case. I just wanted to go over a few additional points. A,
13 I'm a nearby resident and property owner. But the fundamental
14 concern I have with this is the ongoing, prolific problem of
15 illegal construction in this neighborhood. We've seen it
16 numerous times on this block and on surrounding blocks, where a
17 developer comes in, gets a permit for something, and then exceeds
18 what's allowed in that permit or builds something entirely
19 different. So that's a frustration that I think all of us share.

20 What is unique about this case, though, is the
21 precedence that such a large amount of zoning relief will set for
22 the rest of the block. And as Commissioner Eckenwiler pointed
23 out, there are 60-something -- I think it's 65 -- other lots on
24 this block that are identical in size. And if we allow such
25 extensive zoning relief, one would expect that others would do

1 the same. So that's a frustration or a concern that I have. And
2 it's yet another case of after-the-fact zoning relief that comes
3 after illegal construction has taken place. And I know that the
4 Board has wrestled with this after-the-fact zoning relief
5 question on numerous times, but I do hope that you draw the line
6 at some point here.

7 A couple other points. I agree with Commissioner
8 Eckenwiler that there is no exceptional condition. I'll point
9 out that at both, at the adjacent property at 1129 Abbey, just
10 to the south, they built a landing with a staircase, and they
11 have an outdoor area down below. So literally, they could just
12 look to their neighbors and see what they did. 1143 Abbey, which
13 also has an identical nonconforming rear addition, has a landing
14 with a spiral staircase and then kind of a garden space down
15 below, or a rear yard space down below. So this notion that
16 outdoor space can't be obtained, I don't -- I don't agree with
17 that.

18 And lastly, I'd like to point out that I think the
19 Applicants cited in their photographs some other decks elsewhere
20 on the block, particularly on the north end of the block, but on
21 the same side as Abbey Place, including one where you can see a
22 deck that extends all the way to the alley line. I believe it's
23 1159 Abbey. And it also has a large wall surrounding it.

24 Well, as it turns out, that was also constructed
25 illegally, and there was no zoning relief obtained for that. So,

1 | you know, we can't cite other illegal construction as a basis for
2 | continued illegal construction and zoning reliefs.

3 | And lastly, I do want to point out, I think the -- I
4 | understand that outdoor space is at a premium. We live in a
5 | city. We should be trying to get this outdoor space as we can.
6 | But I think it needs to be done in the right way. And again,
7 | after-the-fact zoning relief for something this extensive, I
8 | simply don't agree with. Thank you.

9 | CHAIRPERSON HILL: Okay. Thank you. Thank you for
10 | your testimony.

11 | Does anybody have any questions of the witness?
12 | Commissioner Eckenwiler?

13 | COMMISSIONER ECKENWILER: Thank you, Mr. Chairman.

14 | Mr. Gun, can you hear me?

15 | MR. GUN: Yes, indeed.

16 | COMMISSIONER ECKENWILER: Is it true that you have
17 | provided me a photograph of the rear of this property, that you
18 | have told me you took in February of 2024?

19 | MR. GUN: Yes. That's correct. If it wasn't February
20 | 2024, it was March 2024. And I can get the exact date for you
21 | if needed. But it was obviously shortly after the Applicants --
22 | or shortly after the developer -- purchased the property, I
23 | believe, in January 2024, but before any of the significant
24 | demolition and renovation work started taking place.

25 | COMMISSIONER ECKENWILER: And does that photograph

1 depict a rear deck?

2 BOARD MEMBER SMITH: No.

3 COMMISSIONER ECKENWILER: That's all, Mr. Chairman.
4 Thank you.

5 CHAIRPERSON HILL: Okay. All right, Mr. Gun. Thank
6 you so much for your time and testimony, and you have a good day.
7 Okay, Mr. Gun.

8 All right, fellow Board Members. Go ahead, Mr. Blake.
9 You go first.

10 VICE CHAIRPERSON BLAKE: For clarification, Mr.
11 Eckenwiler, we totally understand your recommendation for the
12 disposition of this application. And I want to be clear that
13 the issues or concerns raised relate primarily to the adverse
14 impact on the privacy and use of enjoyment of neighboring
15 properties, which you pointed out to be because they can see from
16 the far end of the deck into the yards of both adjoining
17 neighbors. That's your primary issue of concern there.

18 I understand this position, so just help me a little
19 bit. Is there anything else that we need to think about in terms
20 of the adverse impacts?

21 COMMISSIONER ECKENWILER: So with respect solely to the
22 special exception, that's correct.

23 VICE CHAIRPERSON BLAKE: And with regard to the
24 variance, you just object to -- you just believe the variance
25 test is not met, correct?

1 COMMISSIONER ECKENWILER: Correct.

2 VICE CHAIRPERSON BLAKE: That is your sole objection?

3 COMMISSIONER ECKENWILER: Well, and because the factors
4 there really aren't adverse impacts on adjacent properties.
5 That's a Section 5201 special exception.

6 VICE CHAIRPERSON BLAKE: Well, it's in the third prong
7 of the test in the variances. You're talking about the first
8 prong is not being met, and I'm just trying to follow up to make
9 sure we see that the impact on neighboring properties and the
10 intent of the zoning regulations. So I'm just trying to -- the
11 impact on neighboring properties is a legitimate prong in the
12 test. So I just want to make sure I understand that part as
13 well, because I think you are saying it doesn't make that prong
14 either.

15 COMMISSIONER ECKENWILER: Fair.

16 CHAIRPERSON HILL: Okay. Other Board members,
17 questions? Mr. Smith? I'm sorry. Let's go to Commissioner
18 Wright.

19 Commissioner Wright, go ahead.

20 COMMISSIONER WRIGHT: To continue to try to get
21 clarification on the time line of this project, so at some point
22 in 2024, there was no deck. Then the property was purchased. A
23 building permit was submitted, as I understand it, that showed a
24 deck. Somehow that building permit changed by the time it was
25 issued to a building permit that did not show a deck. Do we have

1 any information directly from the permit office as to why that
2 change happened? For example, were the Applicants informed that
3 to build what they had initially proposed in their original
4 application would require the kind of special exception and
5 variance that we're talking about now? And so they said, well,
6 we don't want to do that, and so the final application did not
7 include a deck?

8 And if that is the case -- let me just finish my time
9 line and then you can respond to all of it. So if that's the
10 case, then when the actual construction happened and the deck
11 appeared, it would have been clearly an illegal activity because
12 they had already been informed that their application for a
13 building permit wouldn't fly. They had changed the application,
14 but then they proceeded to still build the deck. And I do want
15 to also hear from the applicant's representative because he said
16 there had been fines levied by the permit office, but that were
17 waived. And I do want to sort of understand, if this time line
18 that I just laid out is the time line, why would the building
19 permit office have waived the fines? I'm still just trying to
20 understand the time line.

21 CHAIRPERSON HILL: Right. That's okay. So I meant --
22 I was interrupting you, Commissioner, because I think -- so the
23 question is for the applicant first. And then, Commissioner, if
24 you had -- you had your hand up, you wanted to clarify whatever
25 you think the time line is.

1 But Mr. Martinez, do you understand what Commissioner
2 Wright is asking, and can you explain what you think the time
3 line is?

4 MR. C. MARTINEZ: Yes. I perfectly understand what
5 Commissioner Wright is asking. And basically, what I'm going to
6 say to the answer that, because I know where you're heading to,
7 is that Mr. Eckenwiler is speculating and has no technical
8 evidence that that actually was the case. He simply is
9 speculating for the fact that the initial set of plans had a
10 deck, and at the end, the approved plans had no deck. He made
11 several attempts to contact the zoning administrator in the
12 Department of Buildings in efforts to try to get evidence in
13 order -- and there is no evidence. We were never denied for a
14 deck.

15 CHAIRPERSON HILL: Wait, Mr. Martinez. Hold on.
16 Instead of going back, just -- even I don't understand, right?

17 MR. C. MARTINEZ: I was just -- I'm just answering the
18 question because she wanted to know if there is any comments from
19 the Department of Buildings or Zoning that we were not allowed
20 to build a deck.

21 Is that -- Commissioner Wright, is that what you asked?
22 And my answer to that is that there was no zoning comments, and
23 there is nothing in the Department of Buildings. And we can
24 reschedule this hearing if everyone agrees here and continue to
25 get more information from the Department of Buildings and Zoning.

1 And I'm 1,000 percent sure that that was never the case.

2 CHAIRPERSON HILL: What was never the case?

3 MR. C. MARTINEZ: That we didn't -- that we were never
4 denied for a deck.

5 BOARD MEMBER SMITH: But when were you approved --

6 COMMISSIONER WRIGHT: So you're saying --

7 BOARD MEMBER SMITH: -- for a deck?

8 COMMISSIONER WRIGHT: Well, let me just say. So you're
9 saying that you submitted an application and that you decided to
10 take the deck out of the application. You were not told to do
11 that by the Department of Buildings.

12 MR. C. MARTINEZ: Right. I'm not saying that I decided
13 because we use third parties for those applications. We have a
14 permit expediter, and we have an architect that deals strictly
15 with that. I'm not sure what happened in between. All I can
16 answer is that we were never denied for a deck. So the only
17 time -- let me rephrase that because the only time that we were
18 denied for a deck is when we received a stop work order that
19 called for us legalizing the rear deck by getting a permit and
20 getting it inspected. Then we proceeded to get the permit in
21 order for us to get the inspection. Then that's when we realized,
22 and were denied, that we had to actually get zoning release in
23 order to do so. But that's after the fact.

24 CHAIRPERSON HILL: Go ahead, Mr. Smith.

25 BOARD MEMBER SMITH: To me, it's fairly irrelevant

1 | whether you were denied for a deck. This is semantics. Were
2 | you approved with a set of building plans -- is there a set of
3 | building plans that shows an approved deck?

4 | MR. C. MARTINEZ: No, there isn't. We didn't --

5 | BOARD MEMBER SMITH: You said you --

6 | MR. C. MARTINEZ: Go ahead. I'm sorry.

7 | BOARD MEMBER SMITH: Okay. And so you said no. All
8 | right. My second question is, there are a set of building
9 | plans -- and Commissioner Wright alluded to some of these, and
10 | Mr. Eckenwiler has included them as part of his presentation.
11 | There was a set of building plans that aren't stamped. I'm
12 | assuming that they were -- because they aren't stamped, they were
13 | a preliminary set of plans. The District of Columbia did not
14 | approve it. On that set of plans, it shows a deck that is 15
15 | feet by 8 inches wide and 5 feet by (sic) 8 inches deep. That
16 | wasn't approved. What was approved, what is stamped by the
17 | District of Columbia, as of March 19th of 2024 as part of permit
18 | Number D2403280, shows no deck. That's what you were approved
19 | for by the District of Columbia to construct. Was there any
20 | other permit separate from this that approved a deck at 15 feet
21 | wide by 5 feet, 8 inches in depth?

22 | MR. C. MARTINEZ: Commissioner Smith, to answer that
23 | question, no. We were never -- yes, we were never approved for
24 | a deck. This is the reason of why we got the stop work order.

25 | BOARD MEMBER SMITH: Okay. And here's my next question.

1 The deck that was constructed is approximately 15 feet, 8 inches
2 wide. So you're maintaining the width of the conceptual deck
3 that wasn't approved by the District of Columbia that was removed
4 in the approved set of plans. But this deck somehow grew from 5
5 feet, 8 inches in depth to 12 feet and 8 inches in depth. So
6 can you explain to me how the original set of plans that you were
7 attempting to get approved by the District of Columbia grew by
8 seven feet?

9 MR. C. MARTINEZ: As I mentioned earlier, we use permit
10 expeditors and architects to draw those plans and to submit those
11 via ProjectDox to the Department of Buildings. I can't really
12 answer that question because I don't have those details now.
13 What I can say is that before the approval -- after looking
14 further into it, after our ANC hearing, we did look into all this
15 information. We did contact the permit expeditor, and what we
16 did notice that there was an open permit application besides --
17 or before the approved plans. Now that permit application was a
18 different permit number, but there was simply no activity. We're
19 not sure what happened. We didn't obviously --

20 BOARD MEMBER SMITH: So no activity means it wasn't
21 approved?

22 MR. C. MARTINEZ: Well, right. It wasn't approved
23 because we never did anything with it. There was no --

24 BOARD MEMBER SMITH: Well, then say that, sir. Say it
25 wasn't approved.

1 MR. C. MARTINEZ: Well, it wasn't -- right. It was not
2 approved, but it wasn't submitted. It was simply an application.
3 When you open up these permits, it's just simply an application,
4 and you don't even have to submit it.

5 BOARD MEMBER SMITH: Okay.

6 CHAIRPERSON HILL: Go ahead, Mr. Blake.

7 BOARD MEMBER SMITH: I'm not hearing him.

8 VICE CHAIRPERSON BLAKE: That application for -- you
9 looked at it. What exactly was that -- what were the dimensions
10 of that application?

11 MR. C. MARTINEZ: The dimensions?

12 VICE CHAIRPERSON BLAKE: Yeah. Of the deck that never
13 got filed.

14 BOARD MEMBER SMITH: The dimensions of the deck.

15 MR. C. MARTINEZ: No. It was simply an application
16 opened. There was no plans. There's nothing in there.

17 VICE CHAIRPERSON BLAKE: It just says that the --

18 BOARD MEMBER SMITH: His point was, when you submit the
19 application, it should show the dimensions of the deck. You had
20 to submit a plan. You had to submit dimensions as part of your
21 building permit application. What did that show?

22 MR. C. MARTINEZ: Again, there was simply an
23 application open. There was no set of plans in there. That's
24 what I'm trying to explain. There is no set of plans in that
25 application. I can submit the application number. We can look

1 more into it, but there's no set of plans in there.

2 CHAIRPERSON HILL: Mr. Blake?

3 VICE CHAIRPERSON BLAKE: Did the application have a
4 title? What did it say? Just so I'm clear.

5 MR. C. MARTINEZ: Deck permit application. Well, it
6 does have an application number. So when you open up an
7 application --

8 VICE CHAIRPERSON BLAKE: Okay. Okay. I --

9 MR. C. MARTINEZ: -- it automatically gives you a
10 permit.

11 VICE CHAIRPERSON BLAKE: Does it have anything that
12 says a deck on it? Does it mention the word "deck"?

13 MR. C. MARTINEZ: Yes. Well, it's typically --

14 VICE CHAIRPERSON BLAKE: Okay. Thank you.

15 MR. C. MARTINEZ: -- a letter DK. I think that's what
16 it --

17 VICE CHAIRPERSON BLAKE: So to just say, the
18 interesting thing about this is that self-creation is not a bar
19 to an area variance, but nobody knows is a very weak defense.
20 Just, just I got to tell you, you know, it ain't working, right.
21 Okay. Thank you.

22 MR. C. MARTINEZ: Right. And I wasn't using it as a
23 defense. I mean I --

24 CHAIRPERSON HILL: Mr. Martinez, I guess -- and I'm
25 going to even ask a few questions because I'm also confused. So

1 | this is really kind of, maybe, sort of going to the practical
2 | difficulty. Right? That's why we're trying to understand this.
3 | Right, so -- and you're the developer. Is that correct, Mr.
4 | Martinez?

5 | MR. C. MARTINEZ: I work for the owner, for the
6 | developer.

7 | CHAIRPERSON HILL: You work for the developer. You
8 | work for --

9 | MR. C. MARTINEZ: Right.

10 | CHAIRPERSON HILL: Okay. Fine. So you work for the
11 | developer. So then they sold this property. The property is
12 | gone, and people are moved in there. Correct?

13 | MR. C. MARTINEZ: That is correct.

14 | CHAIRPERSON HILL: I mean, I see there's, like, a water
15 | tub, a hot tub out on the back porch maybe, or something. Do
16 | you know? They've already -- they've moved in. They have a hot
17 | tub back there. You don't know?

18 | MR. C. MARTINEZ: No. There's no hot tub back there.

19 | CHAIRPERSON HILL: Okay. Maybe I was just dreaming.
20 | Okay. So, I mean, that's what I would have done. But anyway --

21 | MR. C. MARTINEZ: I mean, I recently took some pictures
22 | and --

23 | CHAIRPERSON HILL: It's okay. It's okay. It's sold.
24 | People are living in there, right? Yeah. Okay. So just so I
25 | understand the time line again. And you had an expediter. I

1 understand how expeditors work.

2 MR. C. MARTINEZ: Okay.

3 CHAIRPERSON HILL: But still, you got a building permit
4 at one point in time that had no deck, right?

5 MR. C. MARTINEZ: Right. That's correct.

6 CHAIRPERSON HILL: So then you, the developer,
7 somebody, right?

8 MR. C. MARTINEZ: Correct.

9 CHAIRPERSON HILL: Who oversees in your company,
10 whether or not the thing is built to plans?

11 MR. C. MARTINEZ: Well, the way -- I'm sure it goes
12 through inspections, right? It goes through phases. So --

13 CHAIRPERSON HILL: No, no, no, no, no. Hold up. Hold
14 up. You have plans that show it has to be built someway. I'm
15 asking, in your company, who is responsible for whether something
16 is built according to plans?

17 MR. C. MARTINEZ: The architect.

18 CHAIRPERSON HILL: The architect. Right. Your
19 company. Right?

20 MR. C. MARTINEZ: Right.

21 CHAIRPERSON HILL: So then at some point in time, there
22 was another deck that I guess wasn't as big as this deck -- and
23 this is where I'm going to go back through the plans later and
24 see -- that wasn't as big as this deck that you all were thinking
25 about building, but you didn't submit permits for. Correct?

1 MR. C. MARTINEZ: Correct.

2 CHAIRPERSON HILL: Okay. So then just who eventually
3 said, yes, go ahead and build this deck?

4 MR. C. MARTINEZ: The developer.

5 CHAIRPERSON HILL: The developer who you work for?

6 MR. C. MARTINEZ: Right. For our work --

7 CHAIRPERSON HILL: All right. So --

8 MR. C. MARTINEZ: We did. We did.

9 CHAIRPERSON HILL: You guys did, right?

10 MR. C. MARTINEZ: Correct.

11 CHAIRPERSON HILL: So you guys had said -- I'm just
12 saying it's just odd that at some point you would be, like, oh,
13 yeah, let's go ahead and build a big deck that's not on approved
14 plans. So I'm having a tougher time with this now as well. So
15 I don't think I'm getting the time line wrong. This is apparently
16 how the time line was. And so -- okay, I think I understand. So
17 how much would it cost to put the deck back to -- I mean, see,
18 this is where I'm confused. Whatever the middle deck thing is,
19 I don't know if that's even -- whether that's a matter of right
20 thing or not, right? How much would --

21 BOARD MEMBER SMITH: It's not matter of right.

22 CHAIRPERSON HILL: I love it. Everybody's going to
23 shake their head. I'm looking down this alley, and I can't figure
24 out this alley also. I know Commissioner Eckenwiler knows the
25 alley very well, but so the -- there's no matter of right that

1 way. Oh, yeah. No. The stairs. They'd be able to do the stairs
2 as a matter of right. It wouldn't count toward lot area, right?
3 And so there would be some way to get down from that thing.

4 So Mr. Martinez, I guess, do you know? Because this
5 is actually going to the practical difficulty. Do you know how
6 much it costs to go from what you've got to what you're allowed
7 to do? Do you know?

8 MR. C. MARTINEZ: I can guesstimate of what it would
9 cost.

10 CHAIRPERSON HILL: Okay. Go ahead and guesstimate.

11 MR. C. MARTINEZ: Probably about 18, \$20,000.

12 CHAIRPERSON HILL: Okay. Okay. All right. Let's see.
13 Go ahead, Commissioner Wright.

14 COMMISSIONER WRIGHT: Both the applicant and the ANC
15 have given us information about other decks in the immediate
16 area. What I'd like to try to understand, and I had quickly
17 looked at Google Maps to try to understand how many properties
18 have either legal or illegal decks in this immediate
19 neighborhood, and I couldn't tell very easily. I also know that
20 there is conversation about what the BZA has approved in terms
21 of decks, even not in this neighborhood, but just generally what
22 the BZA has approved in terms of decks that take up a large
23 portion of the property.

24 So I guess I would appreciate it, and maybe this is a
25 recap from both the applicant and the BZA -- I'm sorry, the ANC --

1 of their understanding of other decks in this immediate
2 neighborhood, legal or illegal. And their understanding of, I
3 think, particularly the applicant has been trying to sort of
4 bring up precedent by saying the BZA approved other decks in
5 other locations.

6 So could you guys each sort of recap, maybe starting
7 with the applicant and then going to the ANC, what decks exist
8 in this neighborhood, and what kinds of decks you're bringing up
9 as precedent that the BZA has approved?

10 CHAIRPERSON HILL: Mr. Martinez, do you know what decks
11 there are around there that are kind of like this deck, I guess,
12 and I don't know if you have the answer or not. And then you
13 seem to be referring to some BZA cases that we've approved. Do
14 you know what the size -- I mean, do you know how to answer the
15 commissioner's question?

16 MR. C. MARTINEZ: Yes, I do. I don't have the specific
17 addresses because that's not what I, I mean, I can go look for
18 these addresses. But I did look those up, and I think that most
19 of them were probably illegally built since, you know, I didn't
20 find any permits for them while trying to do due diligence. I
21 can say that most of the properties rear facing the alley, which
22 are on the street that runs parallel to Abbey on the back, at
23 least on the back probably about ten to twelve decks of similar
24 size that's on the same lot size.

25 CHAIRPERSON HILL: Okay. That's okay, Mr. Martinez.

1 Commissioner Eckenwiler, I don't know if you know an
2 answer to that that's kind of like -- I mean, I think the
3 commissioner -- Commissioner Wright, I think, is just trying to
4 get a picture as to what is kind of down there now. Now, whether
5 or not that means this is going to get approved or not doesn't
6 necessarily equate. But do you know, Commissioner Eckenwiler,
7 what this alley looks like overall?

8 COMMISSIONER ECKENWILER: Sure, Mr. Chairman. So to
9 begin with, on the Abbey Place side, the applicant's own
10 photographs show that there are essentially no other decks that
11 go all the way out to the rear lot line. There is that one. Mr.
12 Gun spoke to that. He believes it's at 1159 Abbey Place. It is
13 visible in one of the photographs way at the end of the block.
14 It does go all the way to the end. To Mr. Gun's understanding,
15 and he resides on this alley, is that that was constructed
16 illegally. But if you look in either direction, there are some
17 decks. Apart from that one, there are none visible in the
18 applicant's own photographs on Abbey Place showing a deck coming
19 back all the way to the lot line.

20 There are some such decks across the alley. I haven't
21 looked at what the lot areas are. That's on -- those properties'
22 front on Fourth Street. And what I can tell you is those were
23 built under a separate permit. I had occasion to look at this
24 recently. But I'm pretty sure they have different lot areas, and
25 so they don't necessarily provide guidance as to how the Board

1 | should treat an Abbey Place property. That's about as much as I
2 | know. Mr. Chairman, if I can just go back briefly to some of
3 | the points from the earlier colloquy that Mr. Smith, Commissioner
4 | Wright, and Mr. Blake had, some of their questions.

5 | Briefly, a mention was made about this supposed
6 | Department of Buildings waiver. I've seen no evidence of them
7 | waiving because the conduct wasn't egregious. There is an OAH
8 | order here that DOB apparently dropped the ball. They failed to
9 | serve the applicant with a copy of the notice; I believe it was
10 | a notice of infraction. And Administrative Law Judge Arabella
11 | Teal dismissed it on that procedural ground. There is nothing
12 | in their -- in that record that I'm aware of that indicates that
13 | DOB affirmatively decided to let it go because it wasn't really
14 | that bad.

15 | Second, on the question of other parallel applications,
16 | yeah, there was an application. I just was looking now in DOB
17 | Scout database. There was an application in January of 2024 to
18 | construct a new deck. So recognition there that they were going
19 | to build something that didn't exist before. As Mr. Martinez
20 | says, that never went anywhere. They didn't proceed beyond the
21 | initial filing. What is telling here, I think, is that there
22 | are a number of documents in the record I'd be happy to supplement
23 | where Mr. Martinez affirmatively tried to deceive DOB into
24 | thinking that the deck that was constructed illegally was a
25 | preexisting deck. There are some chat logs that he had with DOB

1 | when he submitted the response to OAH, admit with explanation,
2 | he tried to characterize it innocently as, oh, well, you know,
3 | we really just want to replace a preexisting deck, you know, with
4 | a new one --

5 | CHAIRPERSON HILL: Wait.

6 | COMMISSIONER ECKENWILER: -- and so it's a replacement
7 | in kind.

8 | CHAIRPERSON HILL: Commissioner Eckenwiler.

9 | COMMISSIONER ECKENWILER: Yes.

10 | CHAIRPERSON HILL: Give me a second. Let me just -- I
11 | understand where you guys are. Like, I understand how the ANC
12 | is where the ANC is, and I understand how the applicant is where
13 | the applicant is. And you guys have had this chance to kind of,
14 | like -- what am I trying to say? Oh, right. I understand what --
15 | I understand what you're trying to continue to convey, and so
16 | let's just try to move through this a little bit.

17 | And so, Mr. Smith, you had your hand up. Well, I
18 | thought you had your hand up, maybe not. If you haven't got your
19 | hand up, that's okay. I mean, I kind of think I know where we
20 | are in a lot of different ways, and I know that we're going to
21 | need some supplemental information, at least -- at the very least
22 | for the ANC to respond to what came in to the record this morning.
23 | And so I'm going to go through the rest of this, which is that --
24 | what is it?

25 | Commissioner Eckenwiler, do you have any questions for

1 the applicant or the Office of Planning?

2 COMMISSIONER ECKENWILER: None, Mr. Chairman.

3 CHAIRPERSON HILL: Mr. Smith, you had your hand up
4 again?

5 BOARD MEMBER SMITH: Now I do, since you brought up the
6 Office of Planning. I'll state some of this discussion that
7 we're having about a comparison of the different sizes of decks.
8 The area variance is more so tied to extraordinary or exceptional
9 situation or condition of the property itself. So I'm still
10 questioning whether I need any information about the sizes of
11 surrounding decks because they may all be nonconforming. And
12 we're supposed to look at this particular -- the nature of what's
13 in front of us now.

14 My question is to Ms. Brown-Roberts again because this
15 came up in Mr. Eckenwiler's presentation.

16 MS. BROWN-ROBERTS: Yes, Mr. Smith?

17 BOARD MEMBER SMITH: So you -- in your reasoning for
18 supporting the variance request, you speak about an extraordinary
19 exceptional situation would be, if the deck was not approved, it
20 would not allow reasonable amount of open space, and it would
21 cause the property to lose a parking space. Mr. Eckenwiler did
22 bring up a good point. The space behind the rear of this house
23 does not meet the regulatory size of a conforming parking space.
24 So for that, is that a required parking space if it's not a
25 regulatory -- it doesn't meet the minimum conforming size for a

1 parking space? So, in theory --

2 MS. BROWN-ROBERTS: You're correct.

3 BOARD MEMBER SMITH: -- would -- so his doesn't have
4 a -- there isn't a conforming parking situation here at --

5 MS. BROWN-ROBERTS: Right.

6 BOARD MEMBER SMITH: -- this property?

7 MS. BROWN-ROBERTS: Yeah. Because it's --

8 BOARD MEMBER SMITH: Okay.

9 MS. BROWN-ROBERTS: Yeah. It's a grandfathered
10 situation.

11 BOARD MEMBER SMITH: Okay. So any consideration of
12 preservation of parking is a moot discussion here?

13 MS. BROWN-ROBERTS: Yes. If you're talking about that
14 it's not a required parking space.

15 BOARD MEMBER SMITH: Correct.

16 MS. BROWN-ROBERTS: But we know what the situation is
17 in relation to parking in the area.

18 BOARD MEMBER SMITH: Okay. And I think I have one more
19 question. And I keep returning to these types of decks.

20 I'm sorry, Ms. Wright. This is probably a question to
21 the zoning commission.

22 UNIDENTIFIED SPEAKER: (Indiscernible).

23 BOARD MEMBER SMITH: Ms. Brown-Roberts, is there a
24 preponderance in the zoning regulations for protection of open
25 space if the zoning -- if there is no development standards that

1 speak to preservation of open space or required open space?

2 MS. BROWN-ROBERTS: Right. There's no regulations for
3 that, but I think it's something that the BZA has taken into
4 consideration before.

5 BOARD MEMBER SMITH: Maybe others on this Board, but I
6 do understand where you're coming from with that. So in the
7 zoning ordinance, there isn't a preponderance of reduction of
8 open space being an exceptional situation or --

9 MS. BROWN-ROBERTS: No.

10 BOARD MEMBER SMITH: -- practical difficulty?

11 MS. BROWN-ROBERTS: No. Not as far as I know. No.
12 That has not been explicitly said in the zoning regulation as far
13 as I know.

14 BOARD MEMBER SMITH: Okay. Thank you, Ms. Brown-
15 Roberts.

16 That's all I have, Chairman Hill.

17 CHAIRPERSON HILL: Board Member Smith, I think you've
18 been with us the whole time also on all of these that we've been
19 around for. Yes. But yes, they are as --

20 BOARD MEMBER SMITH: Yes.

21 CHAIRPERSON HILL: -- I appreciate all of every -- I
22 appreciate that even the ANC seem to understand that this is
23 something that we struggle with, so.

24 Okay. I'm going to go back to Mr. Martinez. Do you
25 have any questions for the Office of Planning and/or the ANC?

1 MR. C. MARTINEZ: Yes, I have a question for ANC. And
2 this is in relation to standards, right? All ANC's oppositions
3 contradicts pretty much their support of BZA application 20928,
4 where they said that it was --

5 CHAIRPERSON HILL: Hold on, Mr. Martinez. Hold on a
6 second. I just got to understand. I want to understand what
7 your question is --

8 MR. C. MARTINEZ: Well, my question is --

9 CHAIRPERSON HILL: Hold on a second. Before you -- if
10 it's in relation to another case, this is this case.

11 MR. C. MARTINEZ: No, I totally, totally understand
12 that every property is unique. Every case is different. But I
13 want to understand the standards and how -- because apparently
14 the same standards are not --

15 CHAIRPERSON HILL: What's your question, Mr. Martinez?

16 MR. C. MARTINEZ: So my question is -- well, I guess,
17 you say this is not -- I --

18 CHAIRPERSON HILL: I mean, how the ANC goes about making
19 their decisions, they look at -- I don't know about this
20 particular ANC, but the ANCs are all different, right? Somebody
21 may actually look at the regulations and understand the
22 regulations, and some ANCs might just be we just don't like it,
23 you know? And so that's what basically -- there is no standard
24 per se, right, that are in the regulations because these are just
25 people that are living in neighborhoods, right? Some might have

1 some kind of legal or architectural background and some might not
2 have any. So there is no standard.

3 MR. C. MARTINEZ: Got it.

4 CHAIRPERSON HILL: Okay. Do you have any other
5 questions, Mr. Martinez?

6 MR. C. MARTINEZ: I do not.

7 CHAIRPERSON HILL: Okay. All right. So we're going
8 to go in reverse order again. So everybody's going to give a
9 conclusion. The conclusion at the end comes from the applicant
10 who gets to make a conclusion, and they get the last word because
11 it's their application.

12 Commissioner Eckenwiler, do you have any conclusion?

13 COMMISSIONER ECKENWILER: Very brief, Mr. Chairman. I
14 think Mr. Smith has put his finger on it here that this is not a
15 question of, well, can we show explicitly that the conduct was
16 in bad faith? Circumstances speak for themselves. There was
17 never a permit that allowed the construction of this deck. And
18 you know, a permit holder has an obligation to comply with the
19 scope shown in the approved permit drawings. So anything that
20 goes beyond that is, unless it's some minor deviation here or
21 there, it really is at least willful disregard. And honestly,
22 in our experience in most cases, it's far worse than that. But
23 I think that just sort of -- that puts a frame around all of
24 this. The real point here is, once again, the Board looking at
25 the relevant factors, either for variance or special exception

1 relief. And our position is, those aren't even close to being
2 met in this case. And I'll rest on that in our written
3 submissions.

4 CHAIRPERSON HILL: Okay. Thanks, Commissioner.

5 Mr. Martinez, would you like to leave us with anything
6 in conclusion?

7 MR. C. MARTINEZ: So in conclusion is that, without
8 this relief, the current owners will not have any functional
9 outdoor space needed. I understand that ANC mentioned that we
10 can probably put some stairs and have it go down to the ground
11 level. But even if that were the case, it still consumes the
12 entire rear yard. And not only that, but the basement or the
13 ground level is used as a rental, a short-term rental unit, which
14 is the footprint of that level. So that leaves the current owners
15 without any functional space to enjoy this property. And --

16 CHAIRPERSON HILL: Okay.

17 MR. C. MARTINEZ: -- that's pretty much it in closing.

18 CHAIRPERSON HILL: Okay. All right. Thanks, Mr.
19 Martinez.

20 Okay. So we're going to keep the record open for a
21 response from the ANC. If the ANC has any response to Exhibit
22 51. All right? And then there was --

23 Oh, I know. Commissioner Wright, I thought you wanted
24 something or -- oh, no, no, no. I don't think there is anything
25 else. I think that's all there is. I don't think that anybody

1 wanted anything unless I guess if Mr. Smith --

2 Hold on, Commissioner Eckenwiler, I got you.

3 So if -- yeah, I don't think there was anything else. But I'll
4 look at my Board members.

5 And go ahead, Commissioner Eckenwiler.

6 COMMISSIONER ECKENWILER: Mr. Chairman, I did
7 understand, or perhaps misunderstood, that there was a request
8 for that photo from February -- Mr. Gun thinks it might have been
9 March -- but that photo from early 2024 showing that there was
10 no pre-existing deck.

11 CHAIRPERSON HILL: Right.

12 COMMISSIONER ECKENWILER: Yes.

13 CHAIRPERSON HILL: So this is the other thing. I don't
14 know if you all need anything. Right? I'm looking at my Board
15 members. Right? If you guys need anything additional or not to
16 understand what's going on here and whether or not we think they
17 meet the criteria. So currently, I got a response from the ANC
18 for No. 51. And then I got the photograph, which I think we all
19 agree is there. Right? And so meaning that photograph is
20 probably there somewhere. And it is -- because even the
21 Applicant's saying that there was no deck in the original plan.

22 So but we can get that photograph with then something
23 saying, Commissioner Eckenwiler, that that's when that person
24 thinks that photo is. Right? So how long do you think it would
25 take you, Commissioner Eckenwiler, to get that?

1 COMMISSIONER ECKENWILER: I'm partly reliant on Mr.
2 Gun, but I think the photo itself could come in a week from today.

3 CHAIRPERSON HILL: Right. So I got you too also, Mr.
4 Martinez. Give me one second, because now I'm reaching out to
5 the secretary.

6 Ms. Mehlert, I forget the time line on responses of
7 things. Like, if we -- right. Then I just want to -- I want to
8 cut the circle on this. Like, if -- go ahead, Mr. Smith.

9 BOARD MEMBER SMITH: Before we go down this exercise,
10 I think I have one question before we do this. Are we potentially
11 considering making -- kicking this to a decision hearing simply
12 because we don't have this picture? Or are we, without this
13 picture, making a decision now?

14 CHAIRPERSON HILL: I mean, honest to goodness, if you
15 all think you got a decision now, I kind of think I have a
16 decision now. And so if we can have a decision now or we can --
17 you all, if you want a week -- I mean, I'm doing this now because
18 I have to do this, right? Somebody came -- there's an exhibit
19 that got put forward in, there's all this stuff about preliminary
20 matters at the beginning, and now the ANC gets to respond. What
21 I'm just trying to figure out from the secretary is, if the ANC
22 responds, then the Applicant gets to response (sic) to the
23 response. And when the whole cycle quits, I forget, right?

24 And I got a hand up on you, Commissioner Eckenwiler.

25 Ms. Mehlert, how does my time line thing work?

1 MS. MEHLERT: If you're just asking for the ANC's
2 response to the Applicant's letter, it's up to the Board if you
3 would like a response to the response. You don't need to --

4 CHAIRPERSON HILL: Okay. Great.

5 MS. MEHLERT: -- to ask for that.

6 CHAIRPERSON HILL: Great. I don't need a response to
7 a response. Unless the Applicant really thinks a response to the
8 response is necessary, then they can file that after they see the
9 response. Okay? So therefore, how much time -- it's just how
10 much time the ANC needs to give a response; is that correct? I
11 got two hands up. I understand. Hold on. The secretary. It
12 doesn't matter?

13 MS. MEHLERT: Are you -- you're asking me how much
14 time?

15 CHAIRPERSON HILL: I'm asking you, Ms. Mehlert. Right.
16 Exactly. Like, it just matters when they come in. I think I
17 know my own answer, but it's kind of been a long day now. So I
18 know my --

19 MS. MEHLERT: You can give the -- you can give the ANC
20 a week to respond, so by next Wednesday.

21 CHAIRPERSON HILL: Right. There you go. And that's
22 even probably -- okay.

23 So Commissioner Eckenwiler, you had your hand up.

24 COMMISSIONER ECKENWILER: Sure, Mr. Chairman. So
25 first, on the photo, you already have Mr. Gun's testimony about

1 the photograph. You haven't seen the photograph. But if it's
2 sufficient that you have his record testimony that there was no
3 deck there prior to the developer doing this whole project, if
4 you really don't need that photo, then I -- and I just, I leave
5 that to the Board. If the Board really needs to see that photo
6 in addition to Mr. Gun's testimony, we can provide it with a
7 date. I'm not sure whether or not you really do need it.

8 If you don't need that, and the only other thing you
9 want from us is a response to Exhibit 51, then we'll just waive
10 it. I mean, look, you've already had a long day. I know you
11 haven't had lunch yet. And I know that you're going to need to
12 wrestle with this down the road. So if you want to just go ahead
13 and close the record now, the ANC will be fine with that.

14 CHAIRPERSON HILL: Okay. Okay, great. So that's fine
15 with me. So then, number 2, I thought I saw Commissioner Wright's
16 hand up.

17 COMMISSIONER WRIGHT: It was. What the ANC
18 Commissioner said covers what I was going to ask and suggest,
19 so --

20 CHAIRPERSON HILL: Okay. Great.

21 COMMISSIONER WRIGHT: -- that's great. I think we
22 can -- I think we can take action today. I don't think this
23 needs to be postponed.

24 CHAIRPERSON HILL: Okay. Commissioner -- not
25 Commissioner -- Mr. Smith, you had your hand up at one point.

1 No? Okay. Okay.

2 Mr. Martinez, you have your hand up.

3 MR. MARTINEZ: Yeah. What I was going to say is that
4 the current permit application that is in process, it's for a new
5 deck. It's not for a pre-existing deck.

6 COMMISSIONER ECKENWILER: What current permit that's
7 in process?

8 MR. MARTINEZ: Well, the permit application that is
9 open. With -- in order -- so there is -- there is plans in there,
10 and this is the reason why DOB gave us a referral
11 memorandum along --

12 CHAIRPERSON HILL: I thought you said -- I thought you
13 said that the permit application had no plans in it.

14 COMMISSIONER WRIGHT: No. It's what brought us to
15 today. They were cited, and they said, okay, we'll remedy it by
16 getting a new permit. And they found out that they couldn't get
17 a permit without the special exception and variance. It's what
18 brought us to today.

19 MR. MARTINEZ: Yes. Exactly. What I was mentioning
20 earlier is the past. It was a permit application that was open,
21 and nothing was done with it, in the past. Once we received the
22 stop-work order, that's when --

23 CHAIRPERSON HILL: Okay. Okay. I got you. I got you.
24 Was that why you had your hand up, Mr. Martinez?

25 MR. MARTINEZ: Yes. It was just to clarify that it's

1 open, it's there, and it's for a new deck, not for a pre-existing
2 deck.

3 CHAIRPERSON HILL: Got it. Okay. All right. I still
4 think I need until next week. I don't want -- I need a -- I need
5 a minute. I need a minute just to get my head around my thoughts.

6 So I'm going to go ahead and close this hearing on the
7 record, unless anybody has any other questions. Okay. Great.
8 All right. Well, thank you all for coming in. Hope you all have
9 a nice day. We're going to have lunch and continue with ours.

10 COMMISSIONER ECKENWILER: Thank you, Mr. Chairman.

11 CHAIRPERSON HILL: Thank you, Commissioner.

12 MR. MARTINEZ: Thank you, Chairman.

13 CHAIRPERSON HILL: Thank you, Mr. Martinez.

14 All right. Closing the hearing and the record. We'll
15 come back next week for a decision, which is -- Commissioner
16 Wright, can you come in in the morning just for a decision? Okay.
17 Great.

18 So that's six -- oh, my God, did we do anything today?
19 6/18. All right, 6/18 decision. Okay. We got two more cases.
20 It's 1:45. Do you want to try to get back at 2:15? 2:20? 2:20.
21 Okay. I got to go get a sandwich. Okay. Bye-bye.

22 (Whereupon, there was a brief recess.)

23 CHAIRPERSON HILL: All right Madam Secretary, if you
24 want to call us back in our next case.

25 MS. MEHLERT: -- break, returning to its hearing

1 session.

2 The next case is Application No. 21296 of 2928 Georgia
3 Avenue Associates, LLC, and Negril DC, Incorporated. This is a
4 self-certified application pursuant to Subtitle X, section 901.2
5 for a special exception under Subtitle U, section 513.1(e), to
6 allow fast food eating and drinking establishment use in an
7 existing one-story semi-detached building. It is located in the
8 MU-4 zone at 2928 Georgia Avenue Northwest, square 2888, lot 206.

9 As a preliminary matter, there is a request from the
10 Applicant to accept an untimely filing. This is for a revised
11 surveyor's plat in Exhibit 22(B).

12 CHAIRPERSON HILL: Okay. Great. Thank you.

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

15 MS. A. WILSON: Hi. Alex Wilson from Sullivan &
16 Barros on behalf of the Applicant in this case. And I'm also
17 here with Trudi Wilson and Brian Chinn from the Applicant's
18 team.

19 CHAIRPERSON HILL: Okay. If everybody can mute
20 themselves unless they're talking. I think Ms. Wilson maybe --
21 okay, great. Let's see.

22 Ms. Alex Wilson, do you -- why are you guys late for
23 this plat filing?

24 MS. A. WILSON: So the day after the filing was due,
25 we finally received the signature from the surveyor, so we just

1 wanted to replace it with the signed plat.

2 CHAIRPERSON HILL: Okay. Great. Okay. I don't have
3 any issues putting that into the record, unless my fellow Board
4 members do. If so, please speak up. No? Okay. Great. We'll
5 go ahead and put that into the record.

6 Ms. Wilson, if you want to go ahead and walk us through
7 your client's application and why you believe they're meeting the
8 criteria for us to grant the relief requested, I'm going to put
9 15 minutes on the clock so I know where we are, and you can begin
10 whenever you want.

11 MS. A. WILSON: Thank you so much.

12 Mr. Young, could you please pull up the presentation?

13 And I apologize for any background noise. I'm having
14 trouble with my office locks, and my oldest two are home so.

15 CHAIRPERSON HILL: No problem.

16 MS. A. WILSON: Okay. Next slide, please. Thank you.
17 The Applicant seeks zoning relief to allow fast casual use at
18 2928 Georgia Avenue Northwest located in the MU-4 zone and
19 improved with a single-story commercial building previously used
20 as a restaurant. The proposed restaurant is Negril, The Jamaican
21 Eatery. It is a successful family-run business that has operated
22 in the DMV for over 45 years, including more than 30 at its
23 current D.C. location on Howard University's campus, which is
24 just six blocks from the subject property. The current building
25 that they are in is slated for demolition, and this has prompted

1 | them to seek to purchase their own site in the neighborhood for
2 | a permanent location.

3 | The restaurant is considered fast casual with a mix of
4 | dine-in, takeout, and delivery service. The proposed use is an
5 | eating and drinking establishment, but the subcategories under
6 | that do not distinguish between traditional fast food like
7 | McDonald's and fast casual. So this model doesn't neatly fit
8 | into the existing zoning definitions, and so DOB categorizes it
9 | as fast food. So we are here because fast food use requires a
10 | special exception approval in this zone. And we are seeking that
11 | so Negril can continue operating in the neighborhood and serving
12 | the local community in a permanent location.

13 | Next slide, please.

14 | We have broad support. The Office of Planning
15 | recommends approval. DDOT has no objection. ANC 1E voted
16 | unanimously in support. The Applicant mailed letters to all
17 | neighbors within 200 feet separately from the DCOZ notices to
18 | solicit feedback, and no concerns were raised. And we do have
19 | one letter in support in the record.

20 | Next slide, please.

21 | This is a photo of the property. It's relatively small
22 | in scale, and it was previously used as a vegan restaurant. So
23 | the Applicant is effectively continuing the restaurant use,
24 | albeit as fast casual.

25 | Next slide, please. Thank you. Next slide, please.

1 Thank you.

2 This is across Georgia Avenue.

3 Next slide, please.

4 So the property is an interior lot, and the rear of the
5 property is accessed through Hobart Place to the south.

6 Give me one second. Sincerest apologies.

7 CHAIRPERSON HILL: No problem.

8 MS. A. WILSON: The property is an interior lot, and
9 the rear of the property is accessed through Hobart Place to the
10 south. Through the rear of the property to the south, there's
11 an existing easement which the previous restaurant used too, so
12 there will be no change of use in that area either.

13 Next slide, please.

14 In terms of the general special exception criteria,
15 this is an established locally-owned business relocating within
16 the same neighborhood six blocks away. Georgia Avenue is a major
17 commercial corridor well suited for restaurant uses. The
18 property was previously used as a restaurant, so the new use
19 represents no significant change.

20 Next slide, please.

21 In terms of the specific criteria for approval, we do
22 meet the trash enclosure requirements. The entrance is on the
23 north and positioned to avoid facing the adjacent RF zones to the
24 west. And the entrance will not be within ten feet of the RF
25 zone. There's a typo on the slide, but we do meet this

1 requirement.

2 In terms of the other requirements, there's no
3 expansion of commercial space. The use remains consistent with
4 the surrounding commercial area and prior use. The site is well
5 served by public transit. Loading and trash pickup occur from
6 the rear, as they did for previous uses, given the easement. The
7 proposed use is not expected to create dangerous or objectionable
8 traffic conditions, and any vehicle traffic will be minimal and
9 short term, ensuring limited impact on the area.

10 And also, the use is moving six blocks from where it
11 currently sits, so it's not adding to the overall transportation
12 network, just moving operations to a location that was previously
13 used as a restaurant. And the building they're currently in is
14 going to be demolished, so there won't be any immediate
15 replacement there either. As such, the operation is not expected
16 to be objectionable to neighboring properties.

17 Next slide, please.

18 This is a photo of the current location. And I didn't
19 add in photos of the menu, but everything looks delicious. If
20 you want to go to the website, negrileats.com.

21 Next slide, please.

22 This shows the interior layout and the dumpster meeting
23 the requirements.

24 And this concludes our presentation. And we do have
25 members of the Applicant's team and ownership team to answer any

1 | questions about operations. Thank you so much.

2 | CHAIRPERSON HILL: Okay. Thanks, Ms. Wilson. Let me
3 | just see where we go before we have to have any questions. Yeah,
4 | I already pulled up the menu as soon as you guys started talking.
5 | So it does look delicious. I'd get the curry chicken. Okay.

6 | May I hear from the Office of Planning, please?

7 | MS. THOMAS: Karen Thomas with the Office of Planning.
8 | And this use has been in this neighborhood. And I will say "this
9 | neighborhood" because it's my neighborhood for quite some time,
10 | and yeah, I've known it since I came to this country. So yes,
11 | just throw that in there, but that's not what we're here for.

12 | It does satisfy the criteria under fast food eating and
13 | drinking establishment. And what most concerns neighborhoods is
14 | the trash situation, and it does satisfy that, creating --
15 | mitigating against any potential impact due to trash in the
16 | neighborhood. And the nearby neighborhoods have not raised
17 | concern about this establishment.

18 | And with that, we will rest on the record of our report,
19 | including the relief from Subtitle U 513.1 and rest on the record
20 | of our report. Thank you.

21 | CHAIRPERSON HILL: Thank you.

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

23 | MR. YOUNG: We do not.

24 | CHAIRPERSON HILL: Okay. Does my Board have any
25 | questions of the Applicant and/or the Office of Planning? Okay.

1 Ms. Trudi Wilson, since you spent all the time being
2 here, is there anything you'd like to say?

3 MS. T. WILSON: -- forward to being in the
4 neighborhood. We hope you guys give us the approval and the go
5 ahead to continue working in the D.C. area.

6 CHAIRPERSON HILL: Great. Thank you, Ms. Wilson.

7 Mr. Chinn, do you have anything you'd like to add?

8 MR. CHINN: I ditto what Trudi said. We're just --
9 we're happy we found a home so close to where we just previously
10 located.

11 CHAIRPERSON HILL: Okay. Great. Thank you.

12 Ms. Wilson, do you have anything -- Ms. Alex Wilson,
13 do you have anything at the end?

14 MS. A. WILSON: (No audible response)

15 CHAIRPERSON HILL: Okay. Great. I'm going to go ahead
16 and close the hearing on the record. Okay. I didn't have any
17 issues with this application. I thought it was pretty
18 straightforward in terms of how it's meeting the criteria for us
19 to grant this particular relief. The fact that this was also a
20 fast food place or not, it was a restaurant before, and I think
21 it's meeting the regulations of this particular criteria, and I'm
22 going to be voting in favor of the application.

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

24 BOARD MEMBER SMITH: Nothing to add, Chairman Hill. I
25 agree with your assessment as well as the Office of Planning's

1 assessment of this case, noting the ANC is also in support, and
2 I will vote in support as well.

3 CHAIRPERSON HILL: Thank you.

4 Mr. Blake?

5 VICE CHAIRPERSON BLAKE: Yeah, I'm in support of the
6 application. I agree with the comments that you and Board Member
7 Smith have made. I will be voting in favor of the application.

8 CHAIRPERSON HILL: Thank you.

9 Commissioner Wright?

10 COMMISSIONER WRIGHT: Yes, I've reviewed the record,
11 and I'm in support of the application. And I want to say that
12 when I worked in Silver Spring, the Negril Silver Spring was one
13 of my favorite restaurants, and I'm very, very happy that the
14 D.C. location will get a permanent home. So I'm definitely in
15 support.

16 CHAIRPERSON HILL: Okay. Great. Thank you. Well, we
17 all are going to take a field trip then it sounds like. All
18 right. I'm going to make a motion to approve Application No.
19 21296 as captioned and read by the secretary and ask for a second.
20 Mr. Blake?

21 VICE CHAIRPERSON BLAKE: Second.

22 CHAIRPERSON HILL: Motion is made and seconded. Madam
23 Secretary, take roll call.

24 MS. MEHLERT: Please respond to the Chair's motion to
25 approve the application.

1 Chairman Hill?

2 CHAIRPERSON HILL: Yes.

3 MS. MEHLERT: Vice Chair Blake?

4 VICE CHAIRPERSON BLAKE: Yes.

5 MS. MEHLERT: Board Member Smith?

6 BOARD MEMBER SMITH: Yes.

7 MS. MEHLERT: Commissioner Wright?

8 COMMISSIONER WRIGHT: Yes.

9 MS. MEHLERT: Staff would record the vote as four to
10 zero to one to approve Application No. 21296 on the motion made
11 by Chairman Hill and seconded by Vice Chair Blake.

12 CHAIRPERSON HILL: Madam Secretary, you can call our
13 next one.

14 MS. MEHLERT: The last case is Application No. 21297
15 of the D.C. Department of General Services. This is a self-
16 certified application pursuant to Subtitle X, section 901.2 for
17 a special exception under Subtitle C, section 807.2 from the
18 long-term bicycle parking space requirements of Subtitle C,
19 Section 802.1. This is for a community center in a new two-story
20 detached building located in the R-2 zone at 1400 41st Street,
21 Southeast, square 5369, lot 807 and parcels 201/204, 201/213, and
22 201/214.

23 As a preliminary matter, the Applicant has submitted a
24 motion to waive the filing deadline to submit a supplemental
25 statement in the record in Exhibit 19.

1 CHAIRPERSON HILL: Okay. Great.

2 If the Applicant can hear me, if they can please
3 introduce themselves for the record. I think you're on mute, Ms.
4 Moldenhauer.

5 MS. MOLDENHAUER: Sorry. I was. I am now off mute.
6 Good afternoon. I'll try again. Good afternoon, Chairman Hill,
7 members of the Board. Meredith Moldenhauer from the law firm of
8 Cozen O'Connor here on behalf of the Applicant.

9 CHAIRPERSON HILL: Okay. Great. Thank you, Ms.
10 Moldenhauer. Ms. Moldenhauer, why did you want this additional
11 supplemental statement?

12 MS. MOLDENHAUER: We went to the ANC on a date after
13 the deadline, and so we filed a supplemental statement including
14 that information. We also then filed updated architectural plans
15 and elevations. We noticed that as we were preparing the
16 PowerPoint that there had been some minor architectural changes
17 to the plans. We wanted to ensure that they were consistent for
18 building permit processing.

19 CHAIRPERSON HILL: Okay. Great. Thank you. I'm going
20 to go ahead and allow it into the record, unless any of my Board
21 members have any concerns, and if so, please speak up. Okay.
22 All right.

23 Ms. Moldenhauer, if you want to go ahead and walk us
24 through your client's application, why you believe they're
25 meeting the criteria for us to grant the relief. I'm going to

1 put 15 minutes on the clock so I know where we are, and you can
2 begin whenever you want.

3 MS. MOLDENHAUER: Okay. Great. I just want to have
4 our team members introduce themselves. We have somebody present
5 from DPR as well as the project architect.

6 CHAIRPERSON HILL: Okay. DPR, do you want to introduce
7 yourself, since I was hovering over you?

8 MS. MUSAVI: Hi. Good afternoon. My name is Shayda
9 Musavi. I am a landscape architect with DPR Capital Projects
10 team, and I am a project manager on the Fort Davis Community
11 Center project.

12 CHAIRPERSON HILL: Okay. Great. Thank you.

13 And Mr. Scarbro, could you introduce yourself?

14 MR. SCARBRO: I'm Ben Scarbro from Perkins Eastman D.C.
15 at One Thomas Circle Northwest, Suite 300, and we're the
16 architects for the Fort Davis Community Center.

17 CHAIRPERSON HILL: Great. Thank you. Let's see. All
18 right, Ms. Moldenhauer, you want to go ahead and start?

19 MS. MOLDENHAUER: Absolutely.

20 Mr. Young, we have the PowerPoint at Exhibit 25. Great.
21 Thank you so much. Next slide.

22 Here you can see the large parcel which is the Fort
23 Davis Community Center parcel in the R2 zone.

24 Next slide.

25 Here's an image of the existing facility for the

1 project. You can see some of the outdoor bike rack in the front
2 of the image.

3 Next slide.

4 You can also, again, note that we're asking for bicycle
5 parking relief in this case. We are pointing out and showing
6 the image of the Capital Bikeshare program, which is located
7 right here in public space but next to the Fort Davis Community
8 Center, as well as noting that the property is close to the M6
9 bus line, which is at the corner of Alabama and 41st Street.

10 Next slide.

11 Here you can just see an aerial image of the site as
12 well, identifying some of the existing uses and the uses that
13 will obviously be improved through this project.

14 Next slide.

15 At this point, I'll turn it over to Ben to walk through
16 the project as well as the interior layouts.

17 MR. SCARBRO: As I said before, good afternoon, and
18 thanks, Board, for letting us present. Happy to walk through
19 this. I know you guys have had a long day, so I'll try and keep
20 it short.

21 So we have proposed indoor space. It's a new community
22 center taking the place of an existing community center. The
23 existing community center is being completely razed, and we're
24 putting a new one back for a variety of reasons. Ultimately,
25 it's a non-accessible community center, currently.

1 It'll have a gymnasium, basketball courts, pickleball,
2 volleyball, striped bleachers that go in and out. It has a
3 fitness center, walking track around the gymnasium; multi-purpose
4 rooms, a large and a small one that will be used for taekwondo,
5 dance classes, or just meetings in general; and then a game
6 lounge, ping-pong table, TV, et cetera.

7 On the outside, we'll still have --

8 Actually, next slide. Sorry. Next slide.

9 Outside, we'll be resurfacing the tennis courts, and
10 resurfacing a basketball court, and actually expanding the
11 exterior basketball court. There'll be small updates to the
12 existing playground, including updating the surfacing. There's
13 a new entry plaza, sort of how you get to the building's a little
14 more up to date. And then hardscaping, planting, community
15 gardens, terrace planters, sort of a big overhaul and over the
16 hillside of this community center.

17 Next slide, please.

18 So on the interior, the floor plans, I'm going to start
19 on the bottom left, which we'll call southwest here. We have an
20 accessible entry from parking that's down on the street. And
21 when you see the site plan, you'll get a better feeling. But
22 this level is at grade on the south side of the site where the
23 alley is. So we can exit directly out of this side to a sidewalk
24 that's even with the alley on the low end of the site.

25 So starting from the bottom left, we go up the hallway.

1 Electrical room, a large fitness center, and then a mechanical
2 room with a mezzanine. As we walk down the hall, you'll see the
3 gymnasium, multiple different types of striping with a divider
4 curtain and bleachers. Men and women's and family restrooms.
5 The family restroom has a shower in it. IT room, a dance/small
6 studio space with storage. And then on the righthand side here,
7 going down, we have a mechanical room, fire pump room, and big --
8 lots of storage on the bottom right.

9 The top right is what we call the hub. It's basically
10 a pre- or post-function space. It's to allow the sheer amount
11 of people that are coming in or going out of the basketball games
12 to gather or have community meetings or talk about things in
13 between games as parents gather while their kids are playing. So
14 this is sort of a transition space or a second lobby.

15 We'll go upstairs, up these stairs, up to the lobby.

16 So next slide, please.

17 And we'll start in the top right-hand corner. So this
18 is -- the top right-hand corner is the lobby. We're now on grade
19 with the higher side of the site, the hillside off of Alabama
20 Avenue and 41st Street. There's a tech lounge, a computer lab
21 sort of in the middle there with a private office, reception
22 desk, and security. A long corridor here with a large multi-
23 purpose room that can be divided into two different smaller rooms
24 with direct access to the outside. Kitchen, which is a commercial
25 kitchen where they can do teaching classes as well as prepare

1 meals for the community and whatever ways they see fit.

2 The track is in the orange area below. So it's a
3 running track. It could also be used as a spectator zone in case
4 there is a press conference in the gym. They could be able to
5 set up cameras and those types of things around the track to be
6 able to stay out of the way, or say there's a wedding or something
7 of that nature.

8 The gray area on the top is some restrooms, including
9 an exterior restroom with a custodial room. There's a break room
10 at the purple in the very top left that allows a secondary office
11 use. We got a lot of requests from the community to have multiple
12 office spaces for a variety of parent meetings. Then the gaming
13 lounge and then storage with a gym mechanical room on the bottom
14 there.

15 And that's the entirety of the building. It's pretty
16 simplified. A double-loaded corridor on this side, and that
17 spills out to the landscape. And the landscape has much more
18 varied uses all around it.

19 Next slide, please.

20 Elevations, for some awareness, so you can see what I
21 was describing earlier. On the left, we have the alley elevation
22 where the building steps down. There's about a 40-foot drop from
23 one side of the site to the other. So you can see where we're
24 starting to get into some of the issues or some of the
25 opportunities we've had with this building in terms of multiple

1 levels and exiting, the main entrance being on the righthand
2 side, that lobby box, that kind of glass box there.

3 On the bottom image, we have what we call our loggia,
4 looking out over the park walking down the brick building there.

5 Next slide, please.

6 This is the -- sort of a three-dimensional-looking from
7 the Alabama down 41st Street. So we're looking more so south
8 here. You see the baseball field to the right on the flat part
9 of the site, and then it dips down spilling across.

10 The one thing that's a little bit missing here is we
11 have essentially four different areas of exterior bike parking.
12 So short-term bike parking, we are above the limit. I think that
13 we'll go into that a little bit more later in the presentation.

14 Next slide, please.

15 So I'll turn it over to Shayda from DPR here to talk
16 you through community outreach.

17 MS. MUSAVI: Hi. So again, my name is Shayda Musavi
18 with DPR, and I'll just run through some of the community outreach
19 we have done so far with this project.

20 To date, we have posted five public meetings for Fort
21 Davis starting in May 2024 with the project introduction and site
22 walk. And then we met a few more times to go over concept designs
23 and design updates and get more feedback from the community that
24 way. So that was through August, October, and February. This
25 past May, we met again to give a final design update and receive

1 some more minor feedback. And then we are planning on hosting
2 the construction kickoff meeting this summer, as the Fort Davis
3 Recreation Center is already closed and getting ready for
4 construction. So we will be hosting that kickoff meeting to give
5 some information about the final design and what to -- the
6 community can expect from construction.

7 Next slide, please.

8 And in addition to the community meetings, we have also
9 held a couple of surveys and done some more targeted outreach.
10 So we had a community survey open to the public last summer. And
11 we've also done a couple of youth meetings where we go to the
12 rec center and meet with the youth to get their feedback on what
13 they would like to see in the new community center.

14 Next slide, please.

15 And I believe I will pass this back onto Ben or --

16 MS. MOLDENHAUER: Okay, I --

17 MR. SCARBRO: I can talk --

18 MS. MUSAVI: Or Meredith. Sorry.

19 MS. MOLDENHAUER: Go ahead, Ben.

20 MR. SCARBRO: Sure. As you can see, we have a variety
21 in flexible use for accommodating all sorts of programs. The
22 biggest component we've heard from the community is they need
23 more space, more space, more space, for a variety of programs,
24 whether it's taekwondo, modeling, dance -- being hip-hop and
25 ballet, the Young Men Future Leaders association.

1 So the number one thing we've heard from the community
2 is they want more space for their activities, and that was
3 continually throughout the entire process. So constantly
4 squeezing everything we could to give them as much program space
5 as possible. I can walk through all those, but I think I'll
6 spare you all. You can see from the icons and the text here,
7 sort of all the things that the community does throughout their
8 time.

9 Next, please.

10 MS. MOLDENHAUER: (Indiscernible).

11 MR. SCARBRO: I'm sorry.

12 MS. MOLDENHAUER: No worries.

13 So we presented -- in addition to all the community
14 outreach that you've already heard, that DPR has engaged with the
15 neighborhood and the community -- we presented this zoning
16 application to ANC 7B on May 15th. The ANC determined to take
17 no action at that time. Commissioner Snyder (phonetic) was not
18 present at that meeting, and as the single-member district
19 representative, they did not want to move forward.

20 We do, however, want to point out to the Board that
21 there is a letter of support. While it does not receive great
22 weight as it is -- there was not a motion or a vote made during
23 a public hearing, it does indicate, obviously, the single-member
24 district representatives' support of the project and support of
25 the relief, which is that of Exhibit 22. We also note, obviously,

1 the Office of Planning's favorable report in Exhibit 21.

2 Next slide.

3 We are here today seeking relief for special exception
4 relief for long-term bike parking. The project and the community
5 center complies with all other design standards and requirements
6 under the R2 zone, and we are seeking relief for three long-term
7 bike parking spaces required under Subtitle C 802.1.

8 Next slide.

9 We believe the project satisfies the requirement as it
10 is in harmony with the general purpose and intent of the zone
11 plan. The project does, as we pointed out, provide short-term
12 bike parking that will service those individuals coming to the
13 property.

14 We also believe that providing the long-term bike
15 parking would require elimination of one of -- or some of
16 potentially the key public amenities. As identified, this
17 project has gone through a lot of community review to really
18 curate the right number of programs and address those desired
19 from the community.

20 Next slide.

21 We believe the relief would not tend to adversely
22 affect the use of neighboring properties. The project is
23 providing a surplus or rather more parking than is required for
24 short-term bike parking. We have 14 short-term bike parking
25 spaces provided, and only 9 are required under the regulations.

1 That does not account for the additional bike parking that is
2 provided pursuant to the Capital Bikeshare program that is right
3 there. And we are also providing the shower and lockers that
4 are on site for those that might choose to come to the facility
5 via bicycle.

6 Next slide.

7 We also believe we satisfy the project's special
8 condition requirement under Subtitle C 807 for bike parking
9 relief. As indicated before, the community's desire for
10 programing would be limited based on what we've already described
11 as the topography and the challenges of the site, which are
12 already constraining the recreation center's development, and
13 that we also believe that the need is not there, that the need
14 is being satisfied by the short-term bicycle parking and does not
15 require the long-term bike parking.

16 There are only three to four employees on site, and
17 therefore the short-term bike parking would be more than enough,
18 especially given the fact that they are providing more than what
19 is required. And therefore based on that, next slide, we are
20 asking for the Board to support the relief, and we are here and
21 available for any questions.

22 CHAIRPERSON HILL: Okay. Thank you.

23 Mr. Young, if you can just drop that slide deck? Thank
24 you.

25 Before I turn to my Board members, if I could hear from

1 the Office of Planning.

2 MS. MYERS: Good afternoon, Crystal Myers with the
3 Office of Planning. The Office of Planning is in support of this
4 case, especially in light of the significant amount of short-
5 term bike parking being provided. So we can stay on the record
6 of the staff report, but of course, here for questions. Thank
7 you.

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

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

10 MR. YOUNG: We do not.

11 CHAIRPERSON HILL: Okay. Does my Board have any
12 questions of the Applicants? Either them or the Office of
13 Planning? Okay.

14 Ms. Moldenhauer, do you have anything to add at the
15 end?

16 MS. MOLDENHAUER: No, thank you. Thank you for your
17 time.

18 CHAIRPERSON HILL: Okay. Mr. Scarbro, please tell
19 Barbara Mullenex I said hello.

20 MR. SCARBRO: Of course.

21 CHAIRPERSON HILL: All right. Great. Okay. You guys
22 have a nice day.

23 Mr. Young, I'm going to close the hearing and the
24 record. I'm going to close the hearing and the record.

25 Mr. Young, please excuse everybody.

1 Okay. I will agree with the analysis that the Office
2 of Planning has put forward. I also do appreciate the community
3 outreach that the Applicant has done and gone through. I don't
4 agree -- well, I think that the DDOT condition is not something
5 that I would necessarily be in favor for, as I think it kind of
6 pushes off our responsibility onto another area.

7 However, they are already providing the 14 short-term
8 parking spaces, and so I think they can coordinate with DDOT on
9 any public space issues that they might have outstanding. That
10 being said, I'm going to vote in support of this application.

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

12 BOARD MEMBER SMITH: No, I don't have anything to add.
13 I agree with your approach of removing the DDOT condition and
14 will support the application.

15 CHAIRPERSON HILL: Thank you.

16 Vice Chair Blake?

17 VICE CHAIRPERSON BLAKE: Yeah, I'm in support of the
18 application. I understand that we do not have a report to give
19 great weight to from ANC 7B, but I do believe the Applicant has
20 adequately met with them and discussed the issues. And it's also
21 reflected in the report from the SMD. So I'm in support of the
22 application and will be voting for it.

23 CHAIRPERSON HILL: Thank you.

24 Commissioner Wright?

25 COMMISSIONER WRIGHT: Yes, I've reviewed the record,

1 and I think this is a great project. It's going to be a great
2 asset in terms of a new public building in this community with
3 great facilities. I think they're providing more than the
4 required number of short-term parking spaces -- I'm sorry, short-
5 term bicycle parking spaces, and that that will suffice. And
6 they can have whatever discussions with DDOT they end up having
7 when they go through additional reviews. But I am prepared to
8 vote in favor.

9 CHAIRPERSON HILL: Thank you.

10 All right. I'm going to make a motion to approve
11 Application No. 21297 as captioned and read by the secretary and
12 ask for a second. Vice Chair Blake?

13 VICE CHAIRPERSON BLAKE: Second.

14 CHAIRPERSON HILL: The motion made and seconded.

15 Madam Secretary, take a roll call.

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

18 Chairman Hill?

19 CHAIRPERSON HILL: Yes.

20 MS. MEHLERT: Vice Chair Blake?

21 VICE CHAIRPERSON BLAKE: Yes.

22 MS. MEHLERT: Board Member Smith?

23 BOARD MEMBER SMITH: Yes.

24 MS. MEHLERT: Commissioner Wright?

25 Staff would record the vote is four to zero to one to

1 approve Application No. 21297 on the motion made by Chairman Hill
2 and seconded by Vice Chair Blake.

3 CHAIRPERSON HILL: Okay. Great. Thank you. Is there
4 anything else before the Board, Madam Secretary?

5 MS. MEHLERT: There is not.

6 CHAIRPERSON HILL: Okay. Then you all have a good day.
7 Thanks.

8 (Whereupon, the above-entitled matter went off the
9 record at 3:01 p.m.)

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

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: DCBZA

Date: 06-11-25

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.



Tasha Brown, CDLT-359