

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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REGULAR PUBLIC HEARING

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WEDNESDAY

JANUARY 28, 2026

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The Regular Public Hearing of the District of Columbia Board of Zoning Adjustment convened via Video/Teleconference, pursuant to notice at 9:30 a.m. EST, Carl Blake, Vice-Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

CARL BLAKE, Vice-Chairperson
BRITTNEY DRAKEFORD, NCPC Designee

ZONING COMMISSION MEMBERS PRESENT:

ROBERT MILLER, Vice-Chairperson
GWEN WRIGHT, District Resident Appointee
JOSEPH S. IMAMURA, PhD, AOC Designee

OFFICE OF ZONING STAFF PRESENT:

KEARA MEHLERT, Secretary
MICHAEL SAKINEJAD, Zoning Data Coordinator
PAUL YOUNG, A/V Production Specialist

OFFICE OF PLANNING DEVELOPMENT REVIEW STAFF PRESENT:

PHILIP BRADFORD
MAXINE BROWN-ROBERTS
MATTHEW JESICK

1 OFFICE OF ZONING ATTORNEY ADVISORS PRESENT:

2 SARAH BAJAJ, ESQ.

3 The transcript constitutes the minutes from
4 the Regular Public Hearing held on January 28, 2026.

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

(11:02 a.m.)

1
2
3 MS. MEHLERT: Okay, great. So moving into
4 the board's hearing session the next case is application
5 number 21113A, of Jamal 1750 H, LLC.

6 This is a request pursuant to Subtitle Y,
7 Section 704, for modification with hearing of the order
8 issued in application number 21113, to add pursuant to
9 Subtitle X, Section 901.2, a special exception under
10 Subtitle C, Section 1501.1(e) to expand the publicly
11 accessible rooftop deck, and change the layout of/if
12 the approved penthouse habitable space.

13 This project is located in the D6 zone at 1750
14 H Street NW, square 166, lot 42. This was originally
15 scheduled for a modification without hearing on
16 September 24 and at that meeting, the board scheduled
17 the application for a modification with hearing.

18 VICE CHAIRPERSON BLAKE: Okay, is the
19 applicant here? If so, would you please introduce
20 yourself and anyone else that might be with you today?

21 MS. BLOOMFIELD: Good morning, thank you,
22 yes, my name is Jessica Bloomfield with the law firm
23 of Holland and Knight, and I'm here with Drew Turner,
24 of the applicant. If you could make him a panelist?

25 Oh, looks like you just did, thank you very much.

1 VICE CHAIRPERSON BLAKE: Okay, all right,
2 thank you. Let's see, what we'll do is if -- I'm going
3 to just kind of go thorough kind of like the overview
4 of what we're working on here.

5 And then, we will have your formal remarks,
6 and then we'll go into the Office of Planning and then
7 go from there.

8 Just to be clear, board members you have the
9 opportunity at any point to chime in and ask questions
10 of the applicant.

11 There will be some times actually at the end
12 of the formal remarks, but if you have any questions
13 you want to do, please feel free to chime in.

14 As we may recall, this initial application
15 was filed, it was a request for modification without
16 hearing, which was then placed on the board's meeting
17 agenda.

18 Because the proposal sought additional
19 relief, the board determined it would not be a process
20 without a hearing and properly scheduled application,
21 as a modification without hearing.

22 So basically under Subtitle C, Section 1501.1,
23 penthouses may contain uses permitted in the zone but
24 areas where the White House, any penthouse habitable
25 space or publicly accessible rooftop deck on the highest

1 roof, requires approval from by special exception.

2 The proposed modification would expand the
3 accessible rooftop deck area beyond what is previously
4 approved, thereby triggering the need for additional
5 review.

6 So as I said, we'll first hear from the
7 applicant, then the Office of Planning, and then take
8 any public testimony if there exists.

9 So with that, I'll turn the floor over to you,
10 Ms. Bloomfield, please, you have 15 minutes on the clock
11 and if you can please tell us how you believe your client
12 is meeting the standard for approval. Thank you.

13 MS. BLOOMFIELD: Thank you. We did submit
14 a PowerPoint presentation if that could be pulled up
15 for us, please.

16 VICE CHAIRPERSON BLAKE: Mr. Sakinejad, do
17 you have -- know what exhibit that is?

18 MS. BLOOMFIELD: It's exhibit number 20.

19 VICE CHAIRPERSON BLAKE: Yes, thank you very
20 much.

21 MS. BLOOMFIELD: There we go. Great. Okay
22 again, good morning members of the board. My name is
23 Jessica Bloomfield with the law firm of Holland and
24 Knight.

25 And, I'm also joined by Drew Turner, the

1 applicant and the owner of the property that we're here
2 to discuss this morning, which is 1750 H Street NW.

3 And if you could go to that first slide,
4 please. Great. As you can see on the screen, the
5 property is bounded by H Street NW, no, go back, please.

6 I want to just show you the zoning map so you can get
7 it oriented.

8 There we go. The property is bounded by H
9 Street to the north, private property to the east and
10 west, and a public alley to the south.

11 The property is improved with an existing
12 10-story office building that was constructed in the
13 '90s, and which includes an existing penthouse and an
14 existing rooftop deck.

15 Next slide, please.

16 Here are some photographs showing the existing
17 building, the ground floor entry on H Street, and the
18 10-story office tower above.

19 Next slide, please.

20 For a bit of context, in 2024 the BZA granted
21 special exception relief pursuant to Subtitle C,
22 1501.1(e), which is also why we're here today, and which
23 requires that all buildings within a certain area near
24 the White House obtain BZA relief to provide penthouse
25 habitable space, or a publicly accessible rooftop deck.

1 That's the area of relief we're here for.

2 Although the building, the existing building
3 was constructed with a penthouse and with a rooftop deck
4 originally in the 1990s, the building's certificate of
5 occupancy did not reference either one of those.

6 So in 2024 when the owner filed a building
7 permit application to renovate the penthouse, the
8 Department of Buildings directed them to file an
9 application with the BZA for the special exception
10 relief.

11 That application was processed in 2024. It
12 was supported by the Office of Planning, the ANC, the
13 U.S. Secret Service, and it was also approved
14 unanimously by the BZA.

15 Next slide, please.

16 This is a plan of the penthouse and the rooftop
17 deck that was approved by the BZA about a year and a
18 half ago.

19 At the time, the penthouse was comprised of
20 a small common amenity area with a restroom, some storage
21 space, and a small building engineer's office.

22 The applicant proposed to renovate some of
23 those interior features by adding a second bathroom,
24 and making some other minor cosmetic upgrades. No
25 expansion of the existing penthouse was proposed at all.

1 Next slide, please.

2 The applicant is now proposing to make some
3 minor modifications to the plans approved in 2024. The
4 modifications have two changes.

5 One is an expansion of the exterior rooftop
6 deck to the area that is highlighted here in red. This
7 area was not contemplated for use as an exterior deck
8 in 2024. It was not shown on the plans at all, and now
9 it is.

10 Second is to do a slight adjustment to the
11 interior layout of the penthouse habitable space, to
12 replace a bathroom with an interior stair leading to
13 the floor below.

14 And you can see that at the top right corner
15 of the image, it's in white, adjacent to that exterior
16 rooftop deck.

17 The modifications that are being proposed now
18 do not include any expansions or additions to the
19 existing penthouse structure, and are otherwise fully
20 matter of right.

21 Next slide, please.

22 As was mentioned at the top of the hearing,
23 the application was originally filed at the modification
24 without hearing because we believed the application met
25 those standards.

1 At the direction of the board in September,
2 we refiled all of the materials required for a
3 modification with hearing.

4 We followed up with the Office of Planning,
5 the affected ANCs, the U.S. Secret Service, and nearby
6 property owners, to let all of them know about this
7 change.

8 Next slide, please.

9 As we have provided in the materials and the
10 case record, we've submitted all of the additional
11 filing requirements and fees, provided notice as
12 required for a public hearing, and updated the record
13 to demonstrate compliance with the modification with
14 hearing standard.

15 Expansion of this exterior roof deck is fully
16 compliant with the requirements of Subtitle C, 1501.1(e)
17 and the general special exception standards of review
18 that the proposal is in harmony with the general purpose
19 and intent of the zoning regulations and zoning map,
20 and will not adversely affect neighboring properties.

21 Next slide, please.

22 The case record is also clear that this
23 application has been reviewed by, and supported by the
24 Office of Planning.

25 We have a resolution in support from the

1 affected ANC, and we have a letter in the record from
2 the U.S. Secret Service, that no security concerns exist
3 with this small expansion.

4 Next slide, please, I think I'm almost done.

5 Yes, so I will just conclude by restating that
6 the applicant's proposal to make some minor
7 modifications to the approved penthouse and roof deck
8 area are minor, and are supported by all affected
9 parties.

10 We believe this application meets the
11 standards of approval as a modification with hearing,
12 and we respectfully request that the board approve the
13 application at the close of this hearing.

14 I will, that concludes our direct
15 presentation. Again, I am joined by Drew Turner,
16 representing the applicant and the owner of the building
17 if you have any questions for either one of us.

18 VICE CHAIRPERSON BLAKE: Thank you very much
19 for your presentation. Do any of my board members have
20 questions of the applicant at this time?

21 Okay, then we'll move to the Office of
22 Planning.

23 MS. BROWN-ROBERTS: Good this is morning,
24 it's still morning. Good morning Mr. Chairman and
25 members of the BZA. Maxine Brown-Roberts, representing

1 the Office of Planning.

2 The proposed modification to expand the usable
3 space of the roof deck and adjust the penthouse habitable
4 space, would continue to meet the requirements of
5 Subtitle C, 1501.1(e) and Subtitle X, at 901.2 as
6 outlined in the OP report.

7 We therefore, recommend approval of the
8 requested modification. Thank you, Mr. Chairman and
9 I'm available for questions.

10 VICE CHAIRPERSON BLAKE: Thank you very much,
11 Ms. Brown-Roberts, thank you. Do any of my board
12 members have any questions for the Office of Planning?

13 Does the applicant have any questions for the
14 Office of Planning?

15 MS. BLOOMFIELD: No, thank you.

16 VICE CHAIRPERSON BLAKE: Mr. Sakinejad, is
17 there anyone here that wishes to speak?

18 MR. SAKINEJAD: We do not have anyone signed
19 up to speak today.

20 VICE CHAIRPERSON BLAKE: Okay, thank you very
21 much. Ms. Bloomfield, do you have any additional
22 closing comments you'd like to make?

23 MS. BLOOMFIELD: I do not, thank you.

24 VICE CHAIRPERSON BLAKE: Okay, thank you very
25 much. We can, Mr. Sakinejad, we can dismiss everyone.

1 Okay. All right, we can begin our
2 deliberations. This is a fairly straightforward case.

3 The issue really was the fact that it was within the
4 White House district and it had, it was an expansion
5 of the project.

6 So, but as a modification, the board's review
7 is limited to the impact of this modification and it
8 doesn't open, reopen the merits of the original
9 approval.

10 The records show that the modification does
11 not expand the penthouse habitable space. It does not
12 change the approved use, and it remains accessory to
13 the existing office building in the D6 zone.

14 Importantly, because the property is located
15 near The White House, Subtitle C, Section 1501.1(e)
16 requires that the exception, such exception review for
17 publicly accessible rooftop space that has been
18 satisfied, the U.S. Secret Service reviewed the proposed
19 expansion and raised no objection.

20 I agree with the Office of Planning's analysis
21 and give great weight to its recommendation for
22 approval. I will also give great weight to the written
23 report of ANC 2A, which is in support and states no issues
24 or concerns.

25 I'll be voting in support of the modification.

1 Dr. Imamura, do you have anything you want to add?

2 COMMISSIONER IMAMURA: Thank you, Mr.
3 Chairman. I'm also in agreement with your position and
4 point of view. To underscore giving great weight to
5 OP, ANC 2A, which was a unanimous vote for 5-0-0, I don't
6 see that this proposal would adversely affect the use
7 of neighboring property, and I do agree that it's in
8 harmony with the general purpose and intent of the Zoning
9 Regs.

10 And, on top of all that of course, Secret
11 Service has no objections to this as well. So, I'm
12 prepared to vote in support.

13 VICE CHAIRPERSON BLAKE: Thank you. Board
14 Member Drakeford?

15 MEMBER DRAKEFORD: Yes, I would agree as well
16 and align myself with your comments. I do also want
17 to just add that, or just note that a yes, that while
18 the U.S. Secret Service is in support and they have
19 provide comment, I do just want to note that the agency
20 does reserve the right to view the property rooftop open
21 access later, should there be some concern.

22 And, just that they've also requested that
23 there's just a notification to the control center any
24 day where they believe that construction might impede
25 traffic around the White House.

1 VICE CHAIRPERSON BLAKE: Thank you very much,
2 thank you very much. I appreciate those issues and
3 concerns that you've raised. Those definitely fit in
4 and we would have missed that.

5 Okay, all right having done that and having
6 delivered it, I'd like to make a motion to rule the
7 request for modification of the application as captioned
8 and read by the secretary, and ask for a second. Board
9 Member Drakeford?

10 MEMBER DRAKEFORD: I second.

11 VICE CHAIRPERSON BLAKE: The motion was made
12 and seconded. Madam Secretary, would you please
13 conduct a roll call vote?

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

16 VICE CHAIRPERSON BLAKE: Yes.

17 MS. MEHLERT: Board Member Drakeford?

18 MEMBER DRAKEFORD: Yes.

19 MS. MEHLERT: Dr. Imamura?

20 COMMISSIONER IMAMURA: Yes.

21 MS. MEHLERT: Staff would record the vote as
22 3-0-2, to approve application number 21113A on the
23 motion made by Chairman Blake, and seconded by Board
24 Member Drakeford.

25 VICE CHAIRPERSON BLAKE: Okay, Madam

1 Secretary, would you please call our next hearing
2 session application?

3 MS. MEHLERT: Next is application number
4 21401 of Eric Konopka. This is a self-certified
5 application pursuant to Subtitle X, Section 901.2, for
6 a special exception under Subtitle E, Section 204.4,
7 to allow removal or significant alteration of a rooftop
8 architectural element original to a principal building.

9 This is for a two-story front and side bay
10 additions to a two-story principal row dwelling. It's
11 located in the RF1 zone at 1378 C Street NE, square 1032,
12 lot 41.

13 And as a preliminary matter, the applicant
14 has submitted motions to waive the filing deadline to
15 submit updated plans and plat, in exhibits 31A and 32A.

16 VICE CHAIRPERSON BLAKE: All right, let's
17 see. I don't have, I have no problem waiving that,
18 allowing the submission of those documents as we do need
19 to see everything, and the most up-to-date plans, et
20 cetera. I do believe they're already in the record
21 though, so we can move from there.

22 If the applicant's here, would you please
23 introduce yourself and anyone else who might here --
24 be here with you to speak?

25 MS. BRITTINGHAM: Good morning Chairman and

1 members of the board. My name is Lacey Brittingham,
2 of Lawler Architects. I am the architect for the
3 project and agent for the homeowner. I'm joined by the
4 homeowner today, Eric Konopka.

5 VICE CHAIRPERSON BLAKE: Okay. We're going
6 to get into, instead of a -- permission statement, we're
7 going to hear from the applicant, the Office of Planning,
8 then take any public testimony if there's any there.

9 Anyway, board members should again feel free to ask
10 questions at any point.

11 Ms. Brittingham, I'm going to basically ask
12 you to please tell us about the project and how your
13 client's meeting the criteria for approval.

14 I'll put 15 minutes on the clock so you can
15 keep track of where you are, and you can begin whenever
16 you like.

17 MS. BRITTINGHAM: Okay, thank you. So we
18 wanted to pull up exhibit 31A, with the most recent
19 architectural drawings that were submitted to the
20 record.

21 Excellent. Okay, so we are here today to
22 request special exception relief for the corner property
23 located at 1378 C Street NE.

24 As previously noted, the request, the relief
25 that we're requesting is to remove and reconstruct

1 portions of the existing cornice. That is Section
2 (e)204.1.

3 So, we are at the corner of 14th Street and
4 C Street NE. You can see on the drawing here with the
5 diagonal hatch, the bay window that's proposed on the
6 corner.

7 So it sort of projects forward towards C
8 Street. That is still on the parcel, not in public
9 space. That L that projects towards 14th Street, is
10 in public space.

11 And then, there's a second bay addition
12 proposed a little bit further back on the side that faces
13 14th Street, also indicated by the diagonal hatch.

14 So again, the project is two, two-story bay
15 additions and because of the location of them, we believe
16 that the light and air available to neighboring
17 properties will not be unduly affected.

18 And also, the privacy of use and enjoyment
19 of the neighbors will not be unduly compromised both
20 because the location of the bays themselves, the smaller
21 one sort of further back on the 14th Street elevation
22 is really only affected by the, in the subject property's
23 side yard, which is of course, public space.

24 And then, the one towards the front is both
25 on the parcel and in public space. However, shadows

1 cast from it would be on the property's yard itself,
2 and this construction is not immediately abutting the
3 neighbor at 1376.

4 I think most importantly, we believe that our
5 design and the proposal is in keeping with the character,
6 scale, and pattern of neighboring houses.

7 Two-story bay projections into public space
8 are common and frequent on the blocks of the row house
9 zones. Therefore, ours mimic the character, scale, and
10 patterns of houses in the neighborhood.

11 We, of course, have to deconstruct or remove
12 portions of the existing historic wall in order to
13 construct them.

14 We have documented in photographic detail with
15 tape measures in the exhibit of existing photos, the
16 sizes and shapes of the existing cornice components.

17 And our intent is to reconstruct them in a
18 way that will be visually indistinguishable from the
19 original in-style dimensions, and profile and
20 appearance when viewed from the public right-of-way.

21 As you know, the Office of Planning is
22 recommending approval. DDOT had no objection to the
23 proposal.

24 I just want to note that we already have an
25 issued DDOT permit for construction, so we've already

1 obtained that, and we also have an urban forestry permit
2 for the work that will occur in the vicinity of the
3 heritage tree.

4 The other two trees that were on, are on the
5 property were listed in that same urban forestry permit
6 as below 44-inch circumference and are categorized as
7 permitted to be removed.

8 We conducted neighbor outreach and have
9 letters of support for the project from the adjacent
10 neighbor at 1376, as well as from two of the three other
11 corner lot owners at the intersection. And, one
12 neighbor further down the row at 1364 C Street.

13 ANC 6A is in support of the project and we
14 have the support of the Capitol Hill Restoration
15 Society.

16 I'm happy to walk through any of the drawings
17 additionally, or answer any questions about the project.

18 VICE CHAIRPERSON BLAKE: Okay, thank you very
19 much. Do any of my board members have any questions
20 for the applicant?

21 COMMISSIONER IMAMURA: No questions, just a
22 comment, Mr. Chairman.

23 VICE CHAIRPERSON BLAKE: Okay.

24 COMMISSIONER IMAMURA: Just want to thank Ms.
25 Brittingham for mentioning the three special trees, so

1 that was of a concern to me. But pleased that you're
2 moving forward in the appropriate manner.

3 VICE CHAIRPERSON BLAKE: Okay, thank you very
4 much. Board Member Drakeford, do you have anything you
5 want to add, or a question?

6 MEMBER DRAKEFORD: No, I don't have any
7 questions currently.

8 VICE CHAIRPERSON BLAKE: Okay, thank you.
9 So I'd like to hear now from the Office of Planning.

10 MR. JESICK: Thank you, Mr. Chairman and
11 members of the board. My name is Matt Jesick,
12 presenting OP's testimony in this case.

13 And, the Office of Planning is happy to rest
14 on the record in support of the application. The
15 application meets the special exception criteria so we
16 can recommend approval.

17 Thank you and I'm happy to take any questions.

18 VICE CHAIRPERSON BLAKE: Thank you, Mr.
19 Jesick. Are there any questions for the Office of
20 Planning from the board?

21 Okay, any questions from the applicant?

22 They're shaking their head no. Okay, very
23 good. All right, Mr. Sakinejad, are there any, is
24 anyone from the public who wishes to testify?

25 MR. SAKINEJAD: It does not look like we have

1 anyone signed up for this case either.

2 VICE CHAIRPERSON BLAKE: Okay, thank you very
3 much. Ms. Brittingham, do you have any closing remarks?

4 MS. BRITTINGHAM: No, I do not, thank you.

5 VICE CHAIRPERSON BLAKE: Okay, thank you very
6 much, and I will close the hearing and dismiss the
7 witnesses. Thank you very much.

8 Okay. We can move on to the deliberations;
9 I'll begin. I thought this was a fairly straightforward
10 application.

11 We have done a lot of internal battles and
12 external battles with regard to cornices and rooftop
13 elements, but I think this particular one is a fairly
14 straightforward case.

15 The applicant proposed a limited alteration
16 of an existing rooftop cornice, and to construct two
17 full height bay projections.

18 I believe the applicant has satisfied the
19 conditions of (e)204.4 and the general standards of
20 excellence, 901.2.

21 The subject property is a corner lot. The
22 proposed bay projections are oriented towards C Street
23 and 14th Street into public space, rather than towards
24 the adjacent residential properties.

25 The bays do not produce new site lines into

1 neighboring interiors beyond those that already exist.

2 The project meets all the other development standards,
3 including the height, rear yard, lot occupancy. And
4 it doesn't really introduce any new bulk.

5 So the impacts of light, air, privacy are
6 minimal, if any, and certainly don't rise to the level
7 of undue. So with respect to visual intrusions, the
8 existing cornice is not eliminated but replicated into
9 the identical form on the new bays, which is basically
10 preserving the defining architectural feature of the
11 building.

12 And, it's maintaining consistency with the
13 surrounding row house context.

14 So, I find the Office of Planning's analysis
15 on those points persuasive. I give great weight to the
16 Office of Planning's recommendation for approval.

17 I note that DDOT has no objection, although
18 any issues probably don't relate to DDOT on this
19 particular matter. And won't weigh in on the requested
20 zoning relief.

21 I'd also give weight to the written report
22 of ANC 6A, which supports and then states no issues or
23 concerns.

24 I will note that there were several letters
25 of support in the record, including one of the adjacent

1 neighbors and the Capitol Hill Restoration Society,
2 which is a little unusual.

3 So, there is no opposition in the record, so
4 I'll be voting in support of the application. Dr.
5 Imamura, do you have anything you want to add?

6 COMMISSIONER IMAMURA: Thank you, Mr.
7 Chairman. I'm in agreement with your very detailed
8 summary and would just only add that it's a nice design
9 solution.

10 The architect did a great job and as you
11 stated, they didn't remove the cornices, just replaced
12 them in kind. So I'm prepared to vote in support.

13 VICE CHAIRPERSON BLAKE: Okay, thank you.
14 Board Member Drakeford?

15 MEMBER DRAKEFORD: Yes, I would agree with
16 you all's comments and sentiments, and I also align
17 myself with that and am prepared to vote in support.

18 VICE CHAIRPERSON BLAKE: Okay. Having
19 deliberated, I make a motion to approve application
20 number 21401, as captioned and read by the secretary,
21 and ask for a second. Ms. Drakeford?

22 MEMBER DRAKEFORD: I second.

23 VICE CHAIRPERSON BLAKE: Okay, the motion has
24 been made and seconded. Madam Secretary, would you
25 please conduct a roll call vote?

1 MS. MEHLERT: Please respond to the Chair's
2 motion to approve the application. Chairman Blake?

3 VICE CHAIRPERSON BLAKE: Yes.

4 MS. MEHLERT: Board Member Drakeford?

5 MEMBER DRAKEFORD: Yes.

6 MS. MEHLERT: Dr. Imamura?

7 COMMISSIONER IMAMURA: Yes.

8 MS. MEHLERT: Staff would record the vote as
9 3-0-2 to approve application number 21401 on the motion
10 made by Chairman Blake, and seconded by Board Member
11 Drakeford.

12 VICE CHAIRPERSON BLAKE: All right, I guess
13 that wraps it up. Dr. Imamura, thank you very much for
14 your time. We try to get you out of here as quickly
15 as possible. We appreciate your service.

16 COMMISSIONER IMAMURA: Thank you, Mr.
17 Chairman. You all have a great week.

18 VICE CHAIRPERSON BLAKE: Okay, let's see, I
19 think, well let's see. Vice Chair Miller will be
20 joining us for the next case, which is our final hearing
21 session case.

22 I'm going to try to take a, I want to take
23 a 15 minute break before we get into that case. So,
24 we'll adjourn for 15 minutes and then reconvene, okay?

25 And we'll take up that last case. Thank you.

1 MEMBER DRAKEFORD: Thank you.

2 (Whereupon, the above-entitled matter went
3 off the record for a brief recess.)

4 VICE CHAIRPERSON BLAKE: Okay, Madam
5 Secretary, would you please call us back?

6 MS. MEHLERT: The Board is back from a break
7 and returning to its hearing session.

8 Would you like me to call the last case?

9 VICE CHAIRPERSON BLAKE: Please, would you
10 please call the next case? Thank you.

11 MS. MEHLERT: Next is Application Number
12 21334 of Della Barba Company, as amended.

13 This is a self-certified application pursuant
14 to Subtitle X, Section 901.2 for a special exception
15 under Subtitle U, Section 254.14 to allow a corner store
16 operating as an eating and drinking establishment on
17 the first floor and basement of an existing two-story
18 row building with outdoor seating in public space.

19 This project is located in the RF-1 Zone at
20 1382 East Capitol Street, Northeast, Square 1035, Lot
21 814.

22 This hearing began on September 10th and was
23 continued on November 19th.

24 The Board requested additional information
25 from the Applicant and scheduled for continued hearing.

1 Participating are Chairman Blake and
2 Commissioner Miller, and I believe Board Member
3 Drakeford has read into the record.

4 VICE CHAIRPERSON BLAKE: Okay, thank you.

5 Let's see, if the Applicant can hear me, would
6 you please introduce yourself for the record and anyone
7 who will be joining you today?

8 MEMBER DRAKEFORD: Chair, this --

9 VICE CHAIRPERSON BLAKE: Oh, sorry, go ahead.

10 MEMBER DRAKEFORD: No, I did just want to also
11 just reiterate Keara's -- the Secretary's point, I have
12 read into the record.

13 VICE CHAIRPERSON BLAKE: Okay, excellent,
14 thank you.

15 Hello, Mr. Rachal, welcome back.

16 I can't hear you. You're not on mute, but
17 I can't hear you.

18 I can't hear you, Mr. Rachal. Perhaps it's
19 the -- you want to check your mic adjustment if you need
20 to?

21 Can you hear us?

22 COMMISSIONER MILLER: While Mr. Rachal is
23 doing that, let me say good afternoon to you, Chairman
24 Blake, and thank you, Board Member Drakeford, for
25 reading into the extensive record on this case.

1 And hello everybody else who are on the line.

2 VICE CHAIRPERSON BLAKE: Thank you.

3 MEMBER DRAKEFORD: Good afternoon, good
4 seeing you.

5 VICE CHAIRPERSON BLAKE: Mr. Rachal, how are
6 you coming over there?

7 Now you are on mute according to my screen.

8 No, I can't hear you. Perhaps, why don't you
9 try logging out and calling back in? Maybe that might
10 help.

11 Hey, guys, let's do this, let's take a 10
12 minute break. Let's see, it's 12:23, let's just wait
13 until 12:30 and see if he can get in by then. Okay?

14 (Whereupon, the above-entitled matter went
15 off the record at 12:23 p.m. and resumed at 12:30 p.m.)

16 VICE CHAIRPERSON BLAKE: So, I'm here, are
17 you called in?

18 MR. RACHAL: Yes, I have.

19 VICE CHAIRPERSON BLAKE: Okay, great, Mr.
20 Rachal.

21 Just so -- do you have anyone else with you
22 today?

23 MR. RACHAL: Yes, I do.

24 I have Tracey Wingate, the manager of Della
25 Barba Pizza, Joseph Barber, the Owner/Agent, and Ziad

1 Demian, the architect with the firm of Demian Wilbur
2 Architects.

3 VICE CHAIRPERSON BLAKE: Okay, great, great.

4 I don't see them. I see Mr. Ziad, but I don't
5 see the others on the list.

6 Are they with you?

7 MR. RACHAL: No, they were signed up and had
8 called in earlier as far as I was aware.

9 VICE CHAIRPERSON BLAKE: Okay, let's -- okay,
10 hang on a second, let me -- let's get back in here
11 officially.

12 MR. RACHAL: Okay.

13 VICE CHAIRPERSON BLAKE: And we'll figure
14 this out.

15 Madam Secretary, could you call us back in
16 real quick?

17 If we didn't go out, that's fine, too. Did
18 we go out or are we -- are you going to call us back
19 in --

20 (Simultaneous speaking.)

21 MS. MEHLERT: I'll just -- just noting for
22 the record, we're returning to Application Number 21334
23 of Della Barba Company.

24 VICE CHAIRPERSON BLAKE: Okay, great.

25 Okay, Mr. Rachal, now, who is with you? If

1 you could -- introduce yourself and those who might be
2 with you so we can go through the application?

3 MR. RACHAL: Chairman Blake, for the record,
4 I am Anthony Rachal, Counsel for the Applicant, Della
5 Barba Pizza.

6 Joining me this morning are Tracey Wingate,
7 the managing member of Della Barba and Joseph Barber,
8 the owner's agent, and Ziad Demian of Demian Wilbur
9 Architects.

10 VICE CHAIRPERSON BLAKE: Okay, great.

11 Okay, Mr. Sakinejad, do you have all those
12 folks in -- on the dais?

13 MR. SAKINEJAD: Yes, so, Tracey is not here.
14 We've asked the staff to try to see if she's going to
15 sign on and she has not responded.

16 VICE CHAIRPERSON BLAKE: And Mr. Barber?

17 MR. SAKINEJAD: There is --

18 MR. BARBER: I'm identified as Joseph online.

19 MR. SAKINEJAD: Yes, yes, that's him.

20 MR. BARBER: I'm identified as Joseph online
21 and Tracey's current abroad. She'll try to contact,
22 but again, she's across the pond.

23 VICE CHAIRPERSON BLAKE: Is your camera
24 working? Mr. Barber, is your camera working?

25 MR. BARBER: Do you see me now?

1 VICE CHAIRPERSON BLAKE: No.

2 Okay, well, we may have some questions, but
3 I appreciate you being there, thank you.

4 MR. BARBER: Thank you.

5 MR. RACHAL: Mr. Chairman, at our last
6 hearing, we wanted to present the plans and we did not
7 have a chance to do that.

8 VICE CHAIRPERSON BLAKE: Okay, just give a
9 second, Mr. Rachal, let me go into this and then, we'll
10 open up and you can begin your presentation. Okay?

11 MR. RACHAL: Okay.

12 VICE CHAIRPERSON BLAKE: Okay.

13 So, just to cut to the chase, the last time
14 -- since we met last, we've gone through several
15 iterations of this as the Applicant -- as the Secretary
16 said.

17 It first started as a request for a variance,
18 but the Applicant has now revised the application and
19 seeks approval under the corner store provisions as a
20 special exception rather than the use variance.

21 They've supplemented the record with a fair
22 amount of information, the updated self-serve -- updated
23 burden of proof and some submittal report from the Office
24 of Planning as an Exhibit 50.

25 The Applicant is now before the board with

1 the amended consideration for the corner store.

2 I've reviewed the application and I think a
3 lot of the material that we need is there. But I think
4 it would be helpful to review the criteria for the
5 special exception under Subtitle U 254.14, just so that
6 we get a handle on how we can approach this.

7 So, a corner store that does not qualify as
8 a matter of right can still be approved as a special
9 exception under Subtitle U, Section 254.14.

10 When considering such an application, the
11 Board looks at whether the proposed use would create
12 an objectual condition and whether it would fit within
13 the residential character of the area and improve the
14 pedestrian experience.

15 And they use the factors in Section
16 254.1.14(b)(1) through (11) to assess those factors.

17 But one of the first factors that we look at
18 is U52 -- 54.14(b)(1) requires the demonstration of how
19 closely the proposal aligns with the matter of right
20 standards in Sections 254.5 through 254.12.

21 So, in evaluating the special exception
22 request, the Board uses the matter of right requirements
23 specified there as reference points. Okay?

24 These reference points help inform the Board's
25 judgment about whether the proposed corner store would

1 be compatible with the surrounding neighborhood and
2 beneficial to pedestrians.

3 Where the proposal does not closely match the
4 right of right standards, the Applicant may still
5 demonstrate, based on overall design, operation of use,
6 that the corner store would be appropriate for the
7 neighborhood.

8 The special exception standard does not
9 require strict compliance with the matter of right
10 positions, and a variance or special exception is not
11 required on each item simply because those standards
12 are not met.

13 Instead, what happens is the Board evaluates
14 the application as a whole and determines whether under
15 total circumstances, the proposed corner store would
16 avoid objectionable conditions, maintain the
17 residential character of the neighborhood, and enhance
18 the overall pedestrian experience.

19 So, in areas where the proposal does not meet
20 the specific provisions, the Applicant should
21 demonstrate, that is explain why and how, what they
22 propose to do, will not detract from the residential
23 character of the area and possibly enhance the
24 pedestrian experience.

25 So, at this point, we don't have a written

1 report from the Office of Planning recommendation on
2 the special exception, but we do have a report from them
3 on the variances.

4 But I would like to proceed with your
5 presentation so we can see exactly where we are.

6 Again, I think the information is here. I
7 just think we have to put it -- make sure we get it into
8 a form that we can -- that meets this -- allows us to
9 meet the standards.

10 So, I would appreciate if you could explain
11 the format that you would like to use for your
12 presentation.

13 And we'll be available for some -- we're going
14 to ask some questions probably.

15 If you don't have a formal presentation, we'll
16 probably focus a lot more on just going through the
17 standards that we have.

18 I know you put in your presentation an element
19 about the elements that you did not meet. Those are
20 what you propose the special exceptions for.

21 It'd be ideal there for you to go through and
22 discuss how you believe each of the -- what you are
23 proposing there and how they don't distract from the
24 overall residential character and how they will enhance
25 the industrial -- the enhance the pedestrian experience.

1 That's the -- those are the key criteria.

2 Okay?

3 MR. RACHAL: Yes --

4 VICE CHAIRPERSON BLAKE: And the actual
5 list, the other 10 factors that are listed in U
6 254.14(b), we need to go through those and make sure
7 we're clear on all those things and how they don't create
8 any objectionable conditions or anything like that.

9 Okay?

10 MR. RACHAL: Fine, fine.

11 VICE CHAIRPERSON BLAKE: So, with that --

12 MR. RACHAL: I will proceed with the point
13 out as you have stated.

14 Under Section U 254.1, a corner store is
15 permitted as a matter of right in an RF-1 Zone and under
16 U 254.6 if it meets all the relevant requirements.

17 And A, it is located at an intersection of
18 two general perpendicular streets.

19 In this case, we satisfy this requirement as
20 we are at the corner of East Capitol and 14th Streets,
21 Northeast.

22 Two, it is not within 500 feet of more than
23 one other lot with a corner store use designated as a
24 retail eating and drinking establishment. There is no
25 other such facility within the 500-foot requirement.

1 Three, under C, it is not within 500 feet of
2 more than three other lots with a corner store use
3 defined as retail, general store, or arts, design, and
4 creation uses.

5 All the other requirements of U-254.6(d), (e),
6 (f), and (g) are not applicable in this particular case.

7 And I will go through further and address those
8 conditions as well.

9 The surrounding area will not change based
10 on our use as a corner store. The property has been
11 used for decades as a commercial ground floor and cellar
12 operation.

13 The second floor would continue as a
14 residential use.

15 The first floor and cellar have been
16 previously a pizza operation for at least 20 years, and
17 that use would continue only with the expansion of an
18 outdoor patio seating accommodation, which is only
19 feasible during seasonal conditions that would permit
20 outdoor use.

21 The interior of the property, used as a food
22 establishment, would not change currently as created
23 and has been established or grandfathered under prior
24 use.

25 Therefore, the granting of a special exception

1 --

2 VICE CHAIRPERSON BLAKE: Mr. Rachal, how many
3 -- just -- sorry to cut you off, but how many seats are
4 interior at this point?

5 MR. RACHAL: Eight, Chairman Blake.

6 VICE CHAIRPERSON BLAKE: Okay.

7 And how many do you --

8 (Simultaneous speaking.)

9 MR. RACHAL: And that would not --

10 VICE CHAIRPERSON BLAKE: -- in the outdoor
11 space?

12 MR. RACHAL: I would like to address that more
13 -- in more detail when we go through the plans --

14 VICE CHAIRPERSON BLAKE: Sounds good.

15 MR. RACHAL: -- to show --

16 VICE CHAIRPERSON BLAKE: Okay, that's great,
17 perfect.

18 (Simultaneous speaking.)

19 MR. RACHAL: -- how that will happen.

20 VICE CHAIRPERSON BLAKE: Okay.

21 MR. RACHAL: Okay.

22 VICE CHAIRPERSON BLAKE: Thank you.

23 MR. RACHAL: And because there would be no
24 change in the interior retail operation and only an
25 expansion permitted by the grant of this special

1 exception, we believe that it would be in harmony with
2 the general purpose and intent of the zoning
3 regulations, nor would it adversely affect the use in
4 -- of neighborhood as described in our submission.

5 And therefore, meets the specific
6 requirements of U 254.14(a) through 14(b). Under the
7 specific requirements of U 254.14, I will go through
8 each of the designated areas.

9 Under (a), a corner store shall not be located
10 so that it is not likely to become objectionable to the
11 neighborhood property because of noise, traffic,
12 deliverables, and other objectionable conditions.

13 We have had extensive outreach to the
14 community in the developing of our plan. That is shown
15 in our application in terms of the statements that we
16 received from the community in favor of the proposal.

17 In addition, the ANC has met with us on
18 numerous occasions and has voted to approve our
19 application, which was originally submitted as a use
20 variance, which is a higher standard than the relief
21 now sought under a special exception.

22 And in addition, the community had asked that
23 we would upgrade the services by providing for the
24 provision of alcoholic beverages, which would be which
25 would be accomplished through a separate application

1 to the D.C. ABC Authority, should this special exception
2 be approved by the Board.

3 First, with regard to the proposed corner
4 store operation, it is not likely to become
5 objectionable to the neighboring properties because of
6 noise, traffic, deliverables, and other objectionable
7 conditions.

8 First and foremost, the operating hours will
9 be substantially the same as previously operated for
10 the past 15 years, limited to the time period of 7:00
11 a.m. to 11:00 p.m. daily, which means that from 11:00
12 a.m. -- p.m. every day until 7:30 a.m. the next day,
13 the use is completely dormant and could not, therefore,
14 be of a negative impact to the neighborhood.

15 Della Barba Pizza currently has two signs
16 posted, one on each side facing the perpendicular
17 streets, 14th and East Capitol, but it could live with
18 a requirement, if imposed by the Board, to only require
19 one sign as stated in the regulations.

20 Secondly, the trash collection and storage
21 for trash bins will not change, as it is currently set
22 up for inside and outdoor arrangements. There would
23 be the continued and increased pickup by private haulers
24 of trash from the facility.

25 Also, Della Barba Pizza has a pest control

1 plan that has been reviewed with the community and has
2 been found to be acceptable to the Capitol Hill
3 Restoration Society.

4 This plan will include frequent visits, as
5 needed, and more frequent during the seasonal patio
6 operations as a standard practice for existing
7 restaurants.

8 Also, appropriate measures such as stanchions
9 or furniture are being used to keep any lines within
10 the public space area as proposed to be orderly as would
11 exist along 14th Street for the indoor and outdoor
12 seating.

13 In addition, there would be no music or other
14 artificial noise for the outdoor seating area.

15 A large majority of our patrons are currently
16 pedestrians and are primarily from the neighborhood.

17 Any car or parking related issues would be
18 minor impact and attributable principally to Della
19 Barba's new restaurant use given the limited seasonal
20 operation.

21 We also note that the D.C. Department of
22 Transportation has reviewed our application and has
23 found it to be without objection and has, in fact,
24 supported the application as proposed.

25 Della Barba is planning to institute such

1 actions as extra hires to accommodate its patio program
2 in order to provide for swifter service and shorter wait
3 times.

4 The kitchen and the menu are being adjusted
5 to increase the speed of ordering and the actual kitchen
6 itself, in terms of ovens, will not change.

7 B, the Applicant shall demonstrate that the
8 proposed corner store will not detract from the overall
9 residential character to the neighborhood and will
10 enhance the pedestrian experience by providing within
11 the application the following information.

12 One, again, the actual structure of the
13 facility from the exterior will not be changed at all.

14 The store has had a history of community use
15 and acceptance without objections having been filed with
16 any D.C. agency responsible for its operation.

17 We propose new change in how the store would
18 be operated from how it currently operates now.

19 The proposed uses and activities are the same
20 in that it will sell Italian style pizzas and other
21 related sandwiches and dishes. These food items are
22 a continuation of the existing menu.

23 The proposed location and size of the building
24 will not be increased and, therefore, will not be a
25 change in the neighborhood relative to the existing

1 structure.

2 I've covered the proposed signage in that the
3 Applicant can reduce the signage to one so as to comply
4 with the requirements of this corner store, if the Board
5 sees fit to do so.

6 Again, there will be no proposed amplification
7 of the sounds outside the building containing this
8 corner store use.

9 In addition, there's no parking at the
10 property because the lot is landlocked without any alley
11 access.

12 The D.C. Department of Transportation, in its
13 report, indicated that no additional parking was
14 required at the site.

15 The proposed location of all storage for trash
16 and others would be approved by the Public Space
17 Committee in terms of its application to that agency
18 to receive the permission to have the outdoor seating.

19 Again, there are no changes to the building
20 facade or changes to the windows or door openings.

21 The measured area for this facility would
22 allow for the sale of off -- the sale of no off site
23 consumption of alcohol, but would only allow for on-site
24 consumption of alcohol by the requested special
25 exception in our application.

1 Regarding the strict compliance for
2 provisions, U 254.5 through 254.12, the Applicant has
3 noted that the allowable total area for the corner store,
4 albeit 1,200 square foot, is actually approximately
5 1,300 square feet and would ask for a special exception
6 to that lot area requirement.

7 Mr. Chairman, the other provisions under ©
8 through -- under (d) through (d), (f), and (g) are not
9 applicable as they relate to different zones other than
10 an RF-1 zone.

11 Hello?

12 VICE CHAIRPERSON BLAKE: Yes.

13 MR. RACHAL: Hello?

14 VICE CHAIRPERSON BLAKE: Yes.

15 MR. RACHAL: That completes my summary of our
16 requirements with regard to the corner store
17 regulations.

18 VICE CHAIRPERSON BLAKE: Okay.

19 All right, let's see, okay, so, I think we
20 should go through these issues. Let's -- what you've
21 given us.

22 Thank you very much, it was very informative.

23 I'm glad we have the other members here.

24 You were going to -- you said you were going
25 to talk a little bit about the floor plan. Do you have

1 any -- can you give us some more color on the outdoor
2 space and how it will be laid out and utilized? How
3 many seats he'll have, all that kind of stuff?

4 MR. RACHAL: Yes, I can, Chairman Blake.

5 Is Mr. Ziad Demian available to join us? He
6 is the --

7 MR. DEMIAN: I'm here.

8 MR. RACHAL: Okay.

9 If the clerk would pull up Exhibits 14A through
10 14C? I can have my architect go through a presentation
11 of those plans.

12 VICE CHAIRPERSON BLAKE: Thank you.

13 (Simultaneous speaking.)

14 MR. DEMIAN: If I'm allowed, I can also share
15 and walk you through the presentation just the same.

16 VICE CHAIRPERSON BLAKE: You can't share,
17 we'll have to pull it up. So, just want to make sure
18 you -- we can't share screens, but we can pull it up.

19 So, Mr. Sakinejad, do you have that exhibit?

20 MR. SAKINEJAD: Yes, I'm trying to find it.

21 VICE CHAIRPERSON BLAKE: Okay.

22 MR. SAKINEJAD: Is it in the case, is it 6A?

23 MR. RACHAL: It's in the -- it was at Exhibit
24 14A, B, and C.

25 MR. SAKINEJAD: Right, so we have our own

1 exhibit Ids. So, I'm not exactly sure what 14 --

2 MR. RACHAL: Okay.

3 It comes up under architectural plans.

4 MR. SAKINEJAD: Okay, there's three of those.

5 MEMBER DRAKEFORD: I believe it's --

6 (Simultaneous speaking.)

7 MR. RACHAL: There's three of them.

8 MR. SAKINEJAD: Right.

9 So, there's 6A --

10 MEMBER DRAKEFORD: Six A, 1.

11 MR. SAKINEJAD: Six A, 1?

12 MR. DEMIAN: Okay.

13 What we're looking at the plat. And the next
14 page is the enlargement of it. That'll be the next --
15 yes.

16 So, the intent here is to occupy the public
17 space as if it was for residential.

18 So, basically maintain the continuity of the
19 lines of the adjacent houses coming from 14th Street
20 and from East Capitol, to continue, that would have been
21 a front yard of those, to maintain that line.

22 But we also set it back an additional two feet
23 because, meeting with the ANC representative, they would
24 like us to provide additional walkway space because of
25 the tree boxes and the bike rack that was supposed to

1 be there.

2 So, we maintain that. We maintain clear
3 entrances to the building from -- for both pickup and
4 drop off and also for patrons to come in and out of the
5 restaurant and sit outside.

6 The code allows us to put a lot more seating
7 in there. If you take the area and divide it by 15,
8 you can put up to 150 people. But we've reduced it to
9 less than half of that.

10 So, the occupancy is about 74 seats with 32
11 tables, or plus or minus.

12 That gives the owner flexibility to -- we also
13 laid them out in clusters so there's not a lot of people,
14 you don't have to open the entire outdoor patio for that.

15 So, based on demand, they can utilize the space
16 accordingly.

17 VICE CHAIRPERSON BLAKE: Is the space
18 covered?

19 MR. DEMIAN: I'm sorry?
20 Umbrellas.

21 VICE CHAIRPERSON BLAKE: Maybe you could go
22 through --

23 MR. DEMIAN: Yes, we have before and after
24 images, so you'll see what it looks like.

25 And let's see, if we can go through the next

1 slide, you'll probably get a sense.

2 This is the -- what's existing right now, shows
3 you the area and the square footage.

4 Next, it will show how we will occupy that.

5 And you'll see the continuation of the
6 adjacent buildings of property line and see the
7 relationship in brick to where the sidewalk is and is
8 going to continue.

9 But we're going to est the tables additional
10 feet to satisfy a request by the ANC.

11 So, next?

12 And on the slide, sorry, before you go, on
13 the side, you'll see where the green boxes are where
14 the trash will be located and there will be screens so
15 that way, they can take them out and empty them, put
16 them back in place with pickup. So, that's on the right
17 side of that slide.

18 COMMISSIONER MILLER: Can I ask a question
19 about the trash?

20 MR. DEMIAN: Yes.

21 COMMISSIONER MILLER: I'm sorry to interrupt,
22 but while the picture's up.

23 Thank you for the presentation thus far.

24 So, I see the five trash cans and location.

25 There was conflicting information about whether their

1 being internally stored and brought out every day for
2 private pickup or whether they're being externally
3 stored.

4 Is this where the pickup occurs or is this
5 where they're going to be store overnight with the
6 private -- all the time with the private -- with the
7 screening that you proposed?

8 Is there any internal storage of the trash
9 cans? Because it's -- there was some information in
10 the Applicant's statement, it was conflicting
11 information.

12 So, if you can just clear up that and help
13 my understanding of that?

14 MR. RACHAL: Commissioner Miller, if I could
15 address that before the architect does, there was going
16 to be, because of the interior seating of the eight
17 tables or seats, there would be some trash generated
18 there and collected interior as well as the exterior
19 for storage.

20 So, be a small amount inside, but not
21 everything could be accommodated inside.

22 COMMISSIONER MILLER: Okay.

23 And I guess would want more information. I
24 see this -- I see the -- on the plan, the -- there's
25 a screen. I'm not sure exactly what kind of screen --

1 MR. DEMIAN: Well, the next slide will show
2 --

3 COMMISSIONER MILLER: Okay, okay, I'll let
4 you finish your presentation.

5 MR. DEMIAN: Okay.

6 So, these are before what's current there.

7 And the next slide will show you what it looks
8 like when it's proposed.

9 Basically, we're going to surround it by
10 planting, similar to what you see in a lot of outdoor
11 patio and umbrellas. Nothing fixed, everything is
12 removable, nothing large, nothing fixed.

13 Next?

14 So, we can just through, you'll see before
15 and after.

16 Yes, so that's the corner view, shows what
17 it looks like.

18 And the intent is to make it pleasant to look
19 at, pleasant to walk by and maintain the residential
20 scale and residential experience.

21 Next?

22 Again, the view from across the street, you'll
23 see the impact and the scale and that it's very minimal.

24 Next, if you keep going, you'll get to the
25 trash portion.

1 MR. SAKINEJAD: I have to switch slides now.
2 This one is --

3 MR. DEMIAN: Oh, okay.

4 Like the Council mentioned, we didn't arrive
5 this -- we just immediately. We've talked with ANC
6 representative and we worked all the details out for
7 them to approve it. So, that's a result of the
8 discussion back and forth.

9 But these are examples of similar
10 applications, these precedents of how the planting was
11 utilized and we'll utilize something similar to these
12 solutions.

13 Next?

14 Again, more precedent, this is part of the
15 presentation.

16 So, a combination of -- that's not what we
17 want to do. It was there, but it's something that we
18 do not want to do, so we can skip this one.

19 So, again, we -- at the corner of the patio,
20 we want to show that we can use also additional planting
21 to enhance the pedestrian and the users as well.

22 So, the idea to make it comfortable, inviting,
23 beautiful.

24 Next? Is that the last slide? It should be
25 more.

1 MR. SAKINEJAD: Yes, it's in sections, so I
2 have to --

3 MR. DEMIAN: Oh, I see.

4 MR. SAKINEJAD: -- drop it and switch. Just
5 a second.

6 MR. DEMIAN: Yes, we can skip those three.
7 These are examples of what could be bird feeders.

8 That -- what you see where the person is
9 standing in the middle, it's basically putting
10 additional urban furnishing, urban landscape features
11 that are portable, not permanent, but beautify and
12 enhance the users experience and the pedestrian
13 experience.

14 So, it's not walking by empty, desolate lot.

15 Next?

16 I'm hoping that we'll get to the -- this is
17 more of the same. Next, I think we'll probably -- yes.

18 Now, you can start to see the screening
19 proposed. I don't know if you can zoom in, there may
20 be another picture that's zoomed in, yes, and where the
21 trash will be screened.

22 So, there'll be a door, you'll open them up,
23 you pull the trash bins out, empty them, and you put
24 them back in place.

25 VICE CHAIRPERSON BLAKE: Is that trash bin

1 in public space or in private -- on your property?

2 MR. DEMIAN: It's public space.

3 VICE CHAIRPERSON BLAKE: That's in public
4 space? And have you gotten approval for that to be in
5 public space?

6 MR. DEMIAN: Well, we had to go through the
7 special exception process --

8 (Simultaneous speaking.)

9 MR. RACHAL: Yes, Chairman Blake, we would
10 have to receive permission by virtue of the special
11 exception to be able to then present a request to the
12 D.C. Public Space Committee.

13 Without having the authorization from the BZA,
14 we wouldn't have standing to seek a permit at this time.

15 We indicated in our application that that were
16 -- was the second step after BZA approval.

17 (Simultaneous speaking.)

18 COMMISSIONER MILLER: On that point, the DDOT
19 report at Exhibit 35, page 2 says, the Applicant is
20 proposing trash storage with public space which DDOT
21 does not support.

22 I realize you have to go through the Public
23 Space Committee and if you have a special exception from
24 us, I guess you have a stronger case. But --

25 MR. DEMIAN: Yes, but --

1 COMMISSIONER MILLER: I didn't finish my
2 question.

3 Is the trash -- are trash bins currently stored
4 only inside with the fast food restaurant and Because
5 it's only eight seats or -- and you have room to do that?

6 And do you have room with the proposed 74 seats
7 indoors? Do you have any room indoors to store the
8 trash?

9 I -- the screening's very attractive all
10 around, and I would hope that we can somehow, if we get
11 to an approval, have a condition that references the
12 illustrative renderings. We don't have a specific
13 landscape plan, but it just references that that's
14 attractive, so we would want that to be part of what's
15 done if it's outside.

16 But is all current -- the trash is currently
17 all inside? I think I saw one picture of the existing
18 condition and I think I saw a trash bin outside.

19 MR. DEMIAN: If I may, yes, they're right now
20 trash bins are used outside and they're not screened.

21 So, that was part of the improvement requested by the
22 ANC.

23 So, we will not leave the bins on the outside,
24 but put them behind screen.

25 COMMISSIONER MILLER: Yes, well, the

1 screening's important and so, if we get to an approval,
2 but we'd want to condition of that somehow, providing
3 that and our Counsel can work with you on the exact
4 wording of that.

5 Are the bins that you're going to be using,
6 I hope, different from the kind of bins that the District
7 gives out residents, which are very susceptible to
8 rodents and others making holes in them and opening them
9 up and whatever leftovers in there?

10 MR. DEMIAN: No, these are more --

11 COMMISSIONER MILLER: Is it a secure bin --

12 MR. DEMIAN: If the --

13 COMMISSIONER MILLER: -- that won't be
14 susceptible to --

15 MR. DEMIAN: Commission Miller, these are
16 secured bins. They're commercial developed bins.
17 They're not the residential types of bins that the City
18 gives out to residents.

19 COMMISSIONER MILLER: Okay, thank you. I
20 think that's all my questions at this time.

21 MR. DEMIAN: And I would just supplement for
22 the record, Commissioner Miller, that we also reviewed
23 these proposed plans with the Capitol Hill Restoration
24 Society. And they were pleased with the detail with
25 which we had provided to them and indicated that they

1 found those plans to be acceptable.

2 COMMISSIONER MILLER: Yes, and I commend you
3 and for all the community engage that you've done in
4 securing approvals from -- unanimous approval of ANC
5 6A and making the changes and including plans that
6 respond to their issues.

7 And I think that's very commendable and their
8 letter certainly speaks to how you proactively worked
9 with them to come up with this and in response to their
10 requests that you do this use basically.

11 So, thank you.

12 That's it for now, sorry to interrupt again,
13 but you were on the trash, so I wanted to just clarify
14 that.

15 MR. DEMIAN: And the Applicant would --
16 (Simultaneous speaking.)

17 VICE CHAIRPERSON BLAKE: I have a question
18 while you're on this, though.

19 Just a second, Mr. Demian, I have a question
20 for you.

21 To the extent that you did not get approval
22 for use of the outdoor -- of the public space for your
23 trash bins, is there space on the private property that
24 would allow for your trash? Is there a Plan B?

25 MR. DEMIAN: I'm certain that would have a

1 Plan B, Chairman Blake.

2 Like I said, we have accommodated the trash
3 that is currently created at the site and would endeavor
4 to come up with a plan that would address the additional
5 drafts if it meant additional pickups to deal with that.

6 VICE CHAIRPERSON BLAKE: Okay.

7 COMMISSIONER MILLER: But, yes, so, I think
8 if we had a condition added to any approval, it would
9 have to include a reference to the screening and subject
10 to -- obviously, subject to DDOT's Public Space
11 Committee approval.

12 Because that's what it's subject to.

13 VICE CHAIRPERSON BLAKE: Okay.

14 But my question to the architect, is it --
15 but within the context of the space you have on private
16 space, is there space that that would be relocated, if
17 need be?

18 And what emphasis on seating and availability
19 of seating?

20 MR. DEMIAN: I was not the architect for the
21 interior, I was engaged only for the exterior.

22 VICE CHAIRPERSON BLAKE: But this is the
23 exterior I'm talking about right now.

24 MR. DEMIAN: Yes. It's --

25 (Simultaneous speaking.)

1 MR. DEMIAN: It's on the exterior, that is
2 the most appropriate place that could be used. And
3 that's why we located it away from the -- most users
4 and we want the proposed screening.

5 And so, it won't look like that you're storing
6 the bins.

7 But knowing what I know about the space on
8 the inside, it's -- I don't -- there is no room inside.
9 It's not a very large space. That's why you have only
10 eight occupants.

11 MR. BARBER: Yes, hi, this is the owner.

12 There's no space inside for trash. There's
13 no space.

14 VICE CHAIRPERSON BLAKE: Where do you
15 currently store the trash now?

16 MR. BARBER: Currently, outside.

17 VICE CHAIRPERSON BLAKE: Where outside?

18 You're on mute. You're on mute.

19 MR. BARBER: They're currently outside.

20 VICE CHAIRPERSON BLAKE: Whereabouts? I'm
21 looking at the --

22 MR. BARBER: Where you see that screen, that's
23 where they are. They're lined up on the sidewalk.

24 VICE CHAIRPERSON BLAKE: Oh, okay, that's
25 where they are at this point? Okay, okay, okay, okay.

1 Since I have you there on the line, Mr. Barber,
2 can you tell me a little bit about what you actually
3 do plan in terms of trash pickup and removal? The timing
4 that you have?

5 I mean, right now, you said you have it picked
6 up daily. I couldn't you imagine you increasing the
7 amount of that.

8 Is that the same number of trash bins you have
9 currently or is that --

10 MR. BARBER: Currently, we have five bins.
11 I requested a sixth bin from my contractor. It's not
12 available until the end of the month.

13 We have it picked up twice a week. It's prior
14 -- it's picked on Thursday and it's picked up on Sunday
15 and/or Monday, it depends on how busy we are over the
16 weekend.

17 Throughout the week, there's very little trash
18 in the bin because we're not very busy during the week.
19 It's really on the weekends.

20 VICE CHAIRPERSON BLAKE: Okay. If you --
21 when you're changing your business model like this, how
22 much more trash would you anticipate? Do you -- I mean,
23 that sounds like it pretty much -- one additional bin
24 is not much, but is that sufficient to accommodate the
25 additional usage?

1 MR. BARBER: One additional bin currently for
2 the current level of business that we're experiencing,
3 once, you know, if we have an exterior patio with
4 alcohol, I would -- well, I'd surely expect to be busier
5 and we would add as many bins as necessary.

6 VICE CHAIRPERSON BLAKE: And would they fit
7 within the space --

8 (Simultaneous speaking.)

9 MR. BARBER: I mean, would there be two more
10 bins be necessary?

11 I mean, the extra bin hired or just asked for
12 is just to accommodate overflow which is rarely ever
13 available. But it's just to accommodate the
14 neighborhood. You know what I mean?

15 VICE CHAIRPERSON BLAKE: Right.

16 MR. BARBER: So, then, you know, how many bins
17 do I need? I won't know until it happens, but I mean,
18 we'll get the bins that are necessary to keep the trash
19 contained. We don't want bugs.

20 VICE CHAIRPERSON BLAKE: But will -- my
21 question, I guess is simply this, if you -- we want you
22 to have the bins that will contain the amount of trash
23 you have as well.

24 My question is, is that portion that you have
25 laid out for it right now behind that screen sufficient?

1 I mean, we're going to -- we're trying to give
2 you approval for what you want to do. So, part of what
3 you want to do is have enough trash storage so that you
4 could store the trash.

5 So, if you have -- you know you have 74 people,
6 you know, how many tables you have, how much trash space
7 do you need?

8 You're telling me right now you're near
9 capacity. And I'm -- and that's with no seating, and
10 with six seats.

11 So, I'm asking you, how much would you
12 potentially need and that, how would you accommodate
13 that?

14 MR. BARBER: More pickups. I mean, if -- does
15 that answer the question?

16 I mean, we would increase pickups and those
17 guys will come out every day if I want them to.

18 We're really trying to navigate the space that
19 you guys determine are necessary and then, you know,
20 we'll have to work within that paradigm.

21 VICE CHAIRPERSON BLAKE: I understand.

22 Now, you said this is going to be a seasonal
23 operation and I see it doesn't have permanent cover.

24 What time period a year do you -- to say --
25 the seasonality? When do you think you'll have that

1 up and running? Do you take it down in for winter
2 months? You know, fall months? Do you anticipate
3 doing something different? How do you anticipate using
4 that?

5 MR. BARBER: I mean, hopefully, it's a spring
6 to fall thing. I mean, I think we could probably keep
7 it open until maybe Thanksgiving at the latest. I
8 wouldn't have it beyond that.

9 And then, I guess some time in March, St.
10 Patty's Day, that would be my thinking. Sometime, you
11 know, late March to be ready for the spring and have
12 it available for the summer.

13 VICE CHAIRPERSON BLAKE: And it'll be all or
14 none? So, in the fall months, there'd be no restaurant
15 service other than the internal seats?

16 MR. BARBER: I mean, it's not going to be
17 heated. It's not going to be covered.

18 VICE CHAIRPERSON BLAKE: I understand, I
19 understand what you're saying.

20 But I'm trying to ask you what you're going
21 -- what you anticipate doing. And you're telling me,
22 I don't know, I'll figure it out.

23 And I'm just trying to --

24 MR. BARBER: Well --

25 VICE CHAIRPERSON BLAKE: -- we're going to

1 --

2 (Simultaneous speaking.)

3 MR. BARBER: -- said that we would break it
4 down.

5 Maybe I'll let my Counsel talk.

6 MR. RACHAL: Yes, I was going to -- when we
7 talked about seasonal, it's also subject to weather
8 conditions. We're obviously not going to be open
9 outdoors in the rain. And in colder temperatures, we
10 won't be operating outdoors.

11 So, that it'll be scaled according to the
12 seasonal nature of the weather during that frame, March
13 through November and Thanksgiving.

14 VICE CHAIRPERSON BLAKE: Okay.

15 COMMISSIONER MILLER: I would just comment
16 that the illustrative renderings at least I think do
17 enhance the pedestrian experience, which I think the
18 ANC 6A also emphasized in their letter.

19 How many seats are in -- are accommodated with
20 the outdoor seating?

21 MR. RACHAL: Seventy-four seats.

22 COMMISSIONER MILLER: Oh, that's 74? What
23 in -- I thought that was the indoor, okay. I'm -- I
24 was --

25 MR. RACHAL: The indoor's only eight.

1 COMMISSIONER MILLER: Oh, only eight, okay.
2 I thought eight was what the current -- okay, now I
3 got it, thanks.

4 VICE CHAIRPERSON BLAKE: And just to follow
5 up on that question, I guess, Mr. Barber, my question,
6 what I was trying to understand is that -- I mean, it's
7 a very attractive facility, clearly.

8 And if you're going to have a restaurant
9 business, it's -- I mean, it takes a lot of staffing
10 and stuff like that.

11 To the extent to turn into six seats in the
12 winter months is a pretty big difference. I mean, this
13 is -- these are two significant difference, 75 seats
14 to 6 seats periodically.

15 So, I wanted -- I was trying to see if there
16 was a way you were scaling that down to maintain that
17 during months when it wasn't, you know, it wasn't
18 feasible to have a full outside activity?

19 MR. BARBER: No, I don't -- I mean, given the
20 paradigm or the constraints that we face with this
21 current effort, I can't see moving forward and trying
22 to get some heat outside that space.

23 The only option I have is to break it down,
24 to get some business over the spring and the summer and
25 maybe some in the fall.

1 I had no other thing. I mean, we've been
2 trying to do this for, you know. So and then, every
3 time, something comes up.

4 So, the only answer I have for you now is,
5 no. I mean, there's not going to be any heat, so there
6 won't be any chairs. I mean, nobody's going to want
7 to sit there.

8 Yes, yes, business will suffer during the
9 winter if we don't have chairs outside. But this is
10 where we are.

11 COMMISSIONER MILLER: And that'll -- this
12 will -- this proposal will have to go through the Public
13 Space Committee as well, right? Or has it already gone
14 through some kind of process?

15 MR. RACHEL: It will, Mr. Miller, after we've
16 received, hopefully, approval from the BZA, we can then
17 file for a formal request for a public space permit.

18 COMMISSIONER MILLER: Right.

19 And it would be subject to whatever conditions
20 that imposes?

21 MR. RACHAL: Yes, yes.

22 COMMISSIONER MILLER: On what we do?

23 MR. RACHAL: Right.

24 COMMISSIONER MILLER: Okay.

25 MR. RACHAL: Right. And will also be subject

1 to again, a review by the community through that process.

2 And everyone that we've talked with, we've informed
3 them that this BZA process was not the end all, it was
4 just the start of the process.

5 They would, again, be notified of the permit
6 application before the Public Space Committee as well
7 as the ABC permit application.

8 COMMISSIONER MILLER: Right, thank you.

9 VICE CHAIRPERSON BLAKE: Okay, thank you.

10 Is there anything else you would have in your
11 presentation, Mr. Rachal?

12 MR. RACHAL: Only to say that we believe that
13 we have satisfied all the conditions for the application
14 for a special exception.

15 We would live with any conditions that the
16 Board may see fit to impose upon the grant of a special
17 exception under the store front regulations.

18 VICE CHAIRPERSON BLAKE: Okay, all right.

19 Does anyone else from the Board have any
20 questions for the Applicant?

21 Okay, I want to move to the Office of Planning.

22 MR. BRADFORD: Good afternoon, Chair Blake,
23 Commissioners.

24 Philip Bradford, Development Review
25 Specialist with the Office of Planning.

1 Given the late filing of the burden of proof
2 on the Applicant end, we do not have a report in the
3 record. It was not enough time, unfortunately, for me
4 to review the information and provide a report with --
5 excuse me -- with one day of time before the deadline.

6 It was my hope to get a report in today, but
7 given some of the late starts and closures, I, again,
8 was not able to do that.

9 I'm happy for whenever the Board would like
10 to set a date, if you want a report from the Office of
11 Planning.

12 VICE CHAIRPERSON BLAKE: Mr. Bradford, how
13 long would it take you to create -- to write a report
14 for the -- for us, for the Board?

15 MR. BRADFORD: If you want to come back a
16 decision next week, I could get it done by next
17 Wednesday. I could it done by Friday, but today was
18 not feasible.

19 VICE CHAIRPERSON BLAKE: Okay, okay, all
20 right.

21 Do we have any preliminary thoughts?

22 COMMISSIONER MILLER: Are you directing that
23 to Board members or --

24 VICE CHAIRPERSON BLAKE: I'm speaking --

25 COMMISSIONER MILLER: -- Mr. Bradford?

1 VICE CHAIRPERSON BLAKE: -- to Mr. Bradford.

2 Do you have any -- given what you've seen,
3 I mean, you guys were in support of the variance, and
4 given what we have before us today, I mean, the special
5 exception is a lesser standard, obviously.

6 This is -- it doesn't -- it -- does this work
7 -- does it look like it works for you on the surface
8 or do you need -- what to make sure you go through it
9 in detail?

10 MR. BRADFORD: I think that what heard today
11 was really clear.

12 The Applicant does meet the criteria for the
13 corner stores. I think that it was clear today, based
14 on the criteria, that they would not be detrimental to
15 the neighborhood.

16 The past hearings, you know, we've never heard
17 anything in opposition to the business.

18 The record supports that this has been a
19 longstanding business. The building has been like this
20 since the '50s as a commercial operation on the ground
21 floor.

22 The outdoor seating area definitely adds to
23 the pedestrian experience at the corner when it will
24 be there.

25 The Applicant definitely clarified some of

1 the questions I had.

2 I also noticed the discrepancy in reviewing
3 the burden of proof between what was actually happening
4 with the trash. We've definitely had clarification of
5 that on the record.

6 They still need to go through the public space
7 approval process.

8 But I personally feel comfortable supporting
9 it based on what I heard today and what's in the record,
10 despite not having a report.

11 VICE CHAIRPERSON BLAKE: All right, thank you
12 very much. That's very helpful.

13 Ms. Drakeford, you had a question? Go ahead.

14 MEMBER DRAKEFORD: Yes, I did have a question.

15 It wasn't -- it was for the Applicant team.

16 I'm just curious just around the hours of
17 operation. Will those be changing or will those be
18 consistent to what they are today?

19 MR. RACHAL: If I could ask Mr. Barber?

20 MR. BARBER: Yes, currently, we're operating
21 from 12:00 noon -- no, currently, we're operating from
22 4:00 to 9:00 Monday through Friday. Saturday's and
23 Sunday's we're open 12:00 to 9:00.

24 We pulled our hours back because of the
25 slowdown in business and the firing of federal workers,

1 et cetera, et cetera, things have slowed down
2 substantially.

3 We used to be open 12:00 to 9:00.

4 MEMBER DRAKEFORD: Okay.

5 And do you anticipate --

6 MR. BARBER: Will hours change? Yes, I mean,
7 if business happen, we'll -- I'll extend hours, but I'm
8 not extending hours beyond 9:00 or 10:00, that's for
9 sure. Nothing's going to go past 10:00 and that's even
10 if, you know. But right now, it's 9:00 and it'll stay
11 there until I see an uptick.

12 MR. RACHAL: And I would also like to put on
13 the record, Chairman Blake, that the restaurant has
14 suffered due to the reduction of tourists to the
15 District, given recent changes and what has gone on with
16 the new administration.

17 And as a result, they have lost some traffic
18 that they would have normally had in the past.
19 Hopefully, that will be corrected in the future.

20 VICE CHAIRPERSON BLAKE: Okay.

21 Board members, I'd like to get your opinion.

22 Would you be more comfortable with a written report
23 from the Office of Planning or did you want to rely on
24 the verbal testimony today?

25 COMMISSIONER MILLER: I would say, Mr.

1 Chairman, that given that the Office of Planning
2 previously supported a use variance for this project,
3 which is a much higher standard of review and criteria,
4 and that includes all the objectionable, not
5 objectionable to the neighborhood and not doing harm
6 to the zoning regulations, given that they supported
7 that, I think -- and given Mr. Bradford's testimony
8 today, I personally would be comfortable moving forward.

9 This case has been around for a while, we had
10 our first hearing in September. I think it was filed
11 last May or even before.

12 The ANC report is in June.

13 So, I'm comfortable with the verbal testimony
14 combined with previous support for the project under
15 a use variance. And this is just -- this is a much lower
16 standard under the special exception for a corner store.

17 VICE CHAIRPERSON BLAKE: Thank you very much,
18 Vice Chair Miller.

19 Ms. Drakeford, do you have any thoughts on
20 that?

21 MEMBER DRAKEFORD: No, I would agree with
22 Commissioner Miller's sentiments as well.

23 And I believe that the testimony that Mr.
24 Bradford provided was helpful.

25 VICE CHAIRPERSON BLAKE: Okay, thank you very

1 much.

2 Mr. Bradford, thank you very much for your
3 time.

4 I agree that I do believe that with the prior
5 commitment from -- assessment from the Office of
6 Planning, the testimony provided here does give us
7 further affirmation.

8 And I'm comfortable with that as well, thank
9 you.

10 Let's see, okay, anybody else have any
11 questions for anyone here?

12 Okay, let's see --

13 COMMISSIONER MILLER: Yes, just following up
14 on -- with Board Member Drakeford's question to Mr.
15 Barber on the hours of operation.

16 What would you be comfortable with if we put
17 that in as a condition? Giving you the flexibility to
18 increase it or -- what would be comfortable?

19 I mean, the Counsel's statement had 7:30 a.m.
20 to 11:00 p.m.

21 You're saying it never would be open after
22 10:00 and I don't think you had anything near 7:30 in
23 the morning for pizza.

24 But so, although, I guess if you're coming
25 home from a bar, you might want it then.

1 But is -- do you have proposed hours if we
2 were to -- if we want to put an hours of operation?

3 MR. BARBER: For just pizza and alcohol, I
4 would say 12:00 to 9:00, 12:00 to 10:00 -- 10:00 at the
5 latest. Right? I mean, because 10:00, I think it's
6 early enough where it's not going to offend anybody
7 that's close by and, you know, enough to get that little
8 bump after the 9:00 crowd.

9 I won't open before 12:00 if I'm just doing
10 pizza. But for the last year and a half, I tried to
11 do coffee, nobody came for coffee.

12 I would open in the morning and do coffee and
13 scones and wonderful things for breakfast, but it didn't
14 happen. So, we shut that down.

15 So, yes, so if we're just doing pizza and a
16 little bit of beer and wine, 12:00 to 9:00, 12:00 to
17 10:00.

18 COMMISSIONER MILLER: Okay, thank you very
19 much.

20 And you kind of present that to the ANC, I
21 assume?

22 MR. BARBER: Yes, yes, we did.

23 COMMISSIONER MILLER: Okay.

24 MR. BARBER: In terms of their --

25 Also, Mr. Miller, I would like to also point

1 out that maybe the weekend times might be a little bit
2 different from the weekday. Generally, they're a
3 little bit longer.

4 It's true, because during the week, by 9:00,
5 you know, you're not seeing -- especially without
6 alcohol, by, you know, by 8:30, everybody's already had
7 dinner if you're not looking for a drink.

8 COMMISSIONER MILLER: I didn't have any other
9 questions, Mr. Chairman, thank you.

10 VICE CHAIRPERSON BLAKE: The one comment I'd
11 say, Vice Chair Miller, with regard to the hours of
12 operation is this does travel, this does convey with
13 the land. It's just not per se to these operations.

14 And while I agree that, for pizza sales and
15 alcohol sales, 12:00 to 10:00 is a good thing.

16 If we're going to -- we could just -- the
17 question is how does it -- does it -- how does it impact
18 the neighborhood? Is it a neighborhood impact?

19 I mean, if this were a very similar operation
20 with -- that had longer hours, that did have a menu that
21 could work with that, that still fit within the
22 parameters, you know, I wonder if that's unnecessarily
23 restrictive to have those hours, even though that's the
24 hours for this operation that they said they could
25 accommodate.

1 It would seem that you could potentially have,
2 you know, earlier hours as opposed to, you know, just
3 the short 12:00 to X or 12:00 to 10:00.

4 What would your thoughts be on that?

5 COMMISSIONER MILLER: I agree with you that
6 we should give the flexibility to make this business,
7 which has been a neighborhood friendly business for work
8 the business and the neighborhood.

9 So, I don't know what the specific hour would
10 be. He said he wanted to coffee and scones, that sounds
11 great, but the neighborhood didn't support it.

12 VICE CHAIRPERSON BLAKE: Okay.

13 What did this, Mr. Barber, what did the
14 neighborhood support in terms of the hours of operation?

15 What were they -- what was the ANC in support of?

16 MR. BARBER: You'll have to ask Counsel, I'm
17 not familiar with --

18 VICE CHAIRPERSON BLAKE: Okay.

19 MR. BARBER: -- what was submitted and stuff.

20 VICE CHAIRPERSON BLAKE: Mr. Rachal, what was
21 the --

22 MR. RACHAL: We presented to the ANC what was
23 in our application, which was the extended hours from
24 the 7:30 until 11:00 p.m., trying to give us a wide raft
25 of time within which to operate, subject to, you know,

1 the market.

2 VICE CHAIRPERSON BLAKE: Okay, thank you.

3 MR. RACHAL: And we had no real push back on
4 those hours. They came up in the discussion with both
5 the ANC and with the Capitol Hill Restoration Society.

6 VICE CHAIRPERSON BLAKE: Okay.

7 Ms. Drakeford, do you have a question?

8 MEMBER DRAKEFORD: Yes, I mean, just as it
9 pertains to the hours of operation.

10 I mean, I think, you know, I mean, you know,
11 definitely allowing for flexibility, hearing that, you
12 know, knowing that this particular relief would follow
13 with the land.

14 I mean, I would even almost propose a flexible
15 start time around 7:00 a.m., which I think may be, yes,
16 7:00 a.m. would be something that I would even see as
17 an opportunity, especially hearing that the Applicant,
18 at some point, attempted to do some type of coffee or
19 breakfast operations.

20 MR. RACHAL: And the Applicant has no
21 objection to the 7:00 a.m. start time as a part of a
22 time limit or condition.

23 VICE CHAIRPERSON BLAKE: Okay, thank you.

24 All right, let's see, any other questions that
25 we have for the Applicant or the Board at all?

1 We're moving in a direction.

2 MEMBER DRAKEFORD: I do want to kind of want
3 to go back, Chair Blake, to one of the questions that
4 you asked around just operations and seasonality.

5 I know the applicant indicated that, you know,
6 a March to November time frame as to when this outdoor
7 patio would be in operation.

8 And just wanted to make sure that I was clear
9 around, you know, you know, what that looked like.

10 And then, you know, hearing that basically
11 from November or, you know, what was mentioned was
12 Thanksgiving time, so sometime between November to
13 March, this outdoor space would be not operating and,
14 you know, would basically pack up and be -- the chairs
15 and stuff in the dining area were basically gone.

16 So, just wanted to make sure that I was clear
17 on, you know, that's what I heard and that's what the
18 proposal is.

19 VICE CHAIRPERSON BLAKE: Mr. Rachal, do you
20 want to address that?

21 MR. RACHAL: Well, I mean, I need some
22 clarification because it was that we would be in
23 operation from March to November, but we would be down
24 due to the seasonal changes visa the weather in terms
25 of rain, cold temperatures, and the furniture would be

1 down and secured. But we would hope to be open as much
2 as we can during that time span.

3 MEMBER DRAKEFORD: Thank you.

4 And would you all be planning to secure the
5 furniture on-site while it is down or what would be the
6 idea with the furniture during the times of November
7 to March?

8 MR. RACHAL: I would like Mr. Barber to
9 address that question.

10 MR. BARBER: I mean, it's my understanding
11 that the ANC wanted it removed. So, I mean, if they
12 want it removed, it's removed.

13 I mean, there's not going to be business
14 outside utilizing this space. But if the neighborhood
15 wants it gone, I mean, to me, I think that doesn't make
16 a lot of sense. I mean, everything's gone. Right?
17 You're beautiful, everything's just broken down.

18 But it -- okay.

19 Does that answer your question?

20 MR. RACHAL: It would be broken down in terms
21 of being secured at the site so that it, you know, the
22 furniture doesn't walk away and that, you know, the
23 chairs would be secured so they're not blow away, things
24 of that nature was what I recall from our discussions
25 with the ANC and the Capitol Hill Restoration Society.

1 And so, we would make sure that we didn't have
2 to replace the chairs and tables on a routine basis.

3 That's what mainly the community concern was. And we
4 think we can accommodate that.

5 We certainly don't want to have to replace
6 furniture over and over again.

7 MEMBER DRAKEFORD: Thank you.

8 VICE CHAIRPERSON BLAKE: All right, if we have
9 no other questions, Mr. Sakinejad, do we have anyone
10 from the public that wishes to speak?

11 MR. SAKINEJAD: We do not.

12 VICE CHAIRPERSON BLAKE: Okay.

13 Let's see, okay, well, then, if there are no
14 more questions from our Board, no further clarification
15 required, I'm going to close the hearing and excuse the
16 witnesses.

17 Thank you very much for coming, I appreciate
18 it. We enjoyed and enjoy your food and look forward
19 to what happens next.

20 Okay, okay, I want to go into deliberations,
21 but I'd like to take a five minute break just real quick
22 just before we start that. Okay?

23 So, let's do -- let's see, it's 1:37. Let's
24 get back at 1:45, okay? Thank you.

25 (Whereupon, the above-entitled matter went

1 off the record at 1:37 p.m. and resumed at 1:45 p.m.)

2 VICE CHAIRPERSON BLAKE: All right, would you
3 call us back in, Madam Secretary?

4 MS. MEHLERT: Of course, back from another
5 break and returning to Application Number 21334.

6 VICE CHAIRPERSON BLAKE: Okay, thank you,
7 Madam Secretary.

8 We'll begin our deliberations now, I'll kick
9 it off.

10 In evaluating the special exception request,
11 the Board uses the matter of right requirements
12 specified in Subtitle Use -- Section -- Sections 254.5
13 through 254.12 as reference points.

14 The special exception standards don't require
15 a strict -- the special exception standards don't
16 require a strict compliance with the matter of right
17 provisions.

18 And a variance is not required simply because
19 some of those standards are not met.

20 Instead, the Board evaluates the application
21 as a whole and determines whether, under the total
22 circumstances, the proposed corner store would avoid
23 objectionable conditions, maintain the residential
24 character to the area, and enhance pedestrian
25 experience.

1 There are three -- or there are one, two,
2 three, four, five -- three or four areas where we have
3 some -- it can -- some where we don't quite meet the
4 standards.

5 The first was with regard to the size.

6 This is clearly a larger sized facility, but
7 it's only marginally larger, about 150 square feet.

8 And frankly, it operates -- and operates on
9 the first floor and cellar just as though it was in the
10 other, if it were, you know, in the 1300 square foot.

11 I think it would have a material difference
12 in terms of how that would impact the area.

13 The other one, in terms of, next, that I can
14 recall is the issue of on-site cooking.

15 Clearly, this is -- there's going to be on-site
16 cooking because it is what it is. There's a kitchen
17 and it's going to operate. I think it operates as
18 plainly the way it was historically. It won't operate
19 materially different.

20 So, there's no increase in the overall size
21 of it. It is basically the same operation from that
22 perspective as it was historically and has not led to
23 any issues or concerns up to this point from the
24 neighbors.

25 So, I don't think that would have an, I think

1 that would not necessarily be a negative.

2 Let's see, next area of concern is in terms
3 of alcohol service.

4 There will be alcohol service, but the
5 Applicant seeks approval only to allow alcohol on-site
6 consumption, no off site consumption.

7 Frankly, that's going to be regulated by AB,
8 Alcohol and Beverage. I don't believe that it's an
9 issue that we can -- need to address at this point.

10 I don't think that sale -- it'll be limited
11 to some extent by the percentage that they can sell,
12 sales and so forth. So, I don't think there's an issue
13 with regard to that causes a particularly situation.

14 The corner store requirement that is most
15 troubling, I think, might be -- will be 254.10, which
16 regards the requirement for the store to require trash
17 internally.

18 The Applicant has testified that there's no
19 room for that internally. In fact, they don't do it
20 now.

21 And with the increase in volume, it will likely
22 be likely be even more trash.

23 They have committed to daily -- they've
24 committed to frequent pickup. And if necessary, during
25 busy seasons to increase pickup.

1 They have proposed a storage bin that will
2 be external in public space. But of course, that's
3 subject to public space approval.

4 They do propose to have it screened, which
5 would be, I think, highly desired.

6 And so, I would be in favor of -- I do believe
7 that they've essentially created a storage facility that
8 will not be inconsistent with the community.

9 And I think that the -- with the -- with it
10 -- during the seasonal periods when there is a more
11 activity, we would want to have them increase the pickup
12 service so as not to overwhelm the facility they have
13 created.

14 So, in that regard, I think that's it.

15 The other one also might be the signage. I
16 didn't have any objection with the signage. I didn't
17 think anything about the signage was particularly --
18 it wasn't a neon sign or anything crazy like that.

19 So, I think in regard to that, I didn't have
20 any problem with the signage and I don't feel a need
21 to put a restriction on it from that perspective or a
22 major objective.

23 So overall, I think that I'm comfortable with
24 the application. I do believe it meets the criteria
25 for approval and I am in support.

1 I would give great weight to the Office of
2 Planning's report. The initial report was for a
3 variance in support.

4 I do believe we have the authority to give
5 great weight to the oral testimony presented by the
6 Office of Planning, which Mr. Bradford was in support
7 of the special exception.

8 And so, and I largely agree. We went through
9 the analysis, and I largely agree that the Applicant
10 has met the criteria for approval.

11 But also give great weight to the ANC. I think
12 that their active involvement and approval of the
13 project carries a lot of weight in terms of the
14 neighborhood's feel for it. There were no objections
15 to it.

16 So, I would be -- but I'll give great way to
17 the office of -- to the ANC's written report.

18 I think that would be -- I did find, just so
19 you know, I found that the illustrations were extremely
20 helpful along with the explanation that the Applicant
21 and the architects gave.

22 So, I would, again, be in support of the
23 application.

24 Vice Chair Miller, do you have anything you'd
25 like to add?

1 COMMISSIONER MILLER: Thank you, Mr.
2 Chairman.

3 I agree with every comment that you made about
4 the application.

5 I agree that approval of a special exception
6 for a corner store under U 254.14 requires
7 determinations by the Board that, A, the proposed corner
8 store will be located so that it is not likely to become
9 objectionable to neighboring property because of noise,
10 traffic, deliveries, or other objectionable conditions.

11 And B, the proposed corner store will not
12 detract from the overall residential character of the
13 area and will enhance the pedestrian experience.

14 And I'd just like to, if you indulge me, read
15 into the record part of the ANC 6A's unanimous approval,
16 which is at Exhibit 36, since they weren't here today,
17 but it is in the record that they voted 5 to 0 to support
18 the request.

19 ANC 6A supports this application, and it was
20 a use variance at that point, and maybe a special
21 exception for parking, which we since learned from the
22 Office of Planning was not necessary, I think, in their
23 early report.

24 But ANC 6A supports this application because
25 it reflects a thoughtful and measured expansion of a

1 well-established neighborhood business that has
2 operated conscientiously and has demonstrated a
3 commitment to community stewardship.

4 The proposed use aligns with the property's
5 long history as a commercial space and provides an
6 appropriate and beneficial serving amenity in the form
7 of additional seasonal outdoor dining.

8 The Applicant has proactively engaged with
9 ANC 6A, including discussion during ANC 6A's Economic
10 Development and Zoning Committee meeting of May 21,
11 2025, as well as with members of the surrounding
12 community to understand and address concerns related
13 to noise, traffic, and the use of public space.

14 Given the Applicant's track record of
15 responsible operation and their engagement with
16 community stakeholders, ANC 6A urges the Board to
17 approve this application.

18 And I think the Applicant has provided in pages
19 5 through 10 of their most recent statement at Exhibit
20 49A, I think it is, even though they were evaluating
21 it, that each of those criteria that you went through
22 Mr. Chairman they were evaluated -- that a special
23 exception was needed for it, as you've stated, it isn't
24 -- that isn't -- they aren't requirements.

25 It's -- it -- we needed to have the information

1 about how it deviated from the standards and we can make
2 the evaluation as to whether it meets the overall
3 standards that I read at the beginning, objectionable,
4 not objectionable to the neighborhood, and not
5 detracting from the overall residential character of
6 the neighborhood, enhancing the pedestrian experience.

7 I think all of that has been demonstrated in
8 this case, so, I'm ready to support this application.

9 And I probably -- I don't know if we need --
10 I don't know if we need conditions or not. I don't know
11 if we want -- need to put in conditions on the hours
12 of operation as proposed by the Applicant, which is kind
13 of consistent with what Board Member Drakeford was
14 suggesting in terms of flexibility for future, even
15 though that's not their intent because they tried to
16 do morning service.

17 And I don't know, I would be more comfortable
18 if we had some reference.

19 This will go through Public Space Committee,
20 both the outdoor seating and the trash storage and
21 location and it -- and go through ABC Board, all of which
22 will have community input, ANC input.

23 But I don't know if we need to make a reference.

24 I think I might be more comfortable with a reference
25 to the -- somewhere, if not in our conclusions of law

1 and our findings that this -- that the illustrative
2 renderings showing the screening, both landscaping from
3 the outdoor seating and from the trash as well as the
4 other screening of the immediate screening of the trash,
5 is an important element.

6 I don't know if it needs to be in the
7 conclusions of law or just in the findings of fact, but
8 I'll defer to you Mr. Chairman and Board Member Drakeford
9 maybe on that question.

10 VICE CHAIRPERSON BLAKE: Okay, thank you, Mr.
11 Miller.

12 Ms. Drakeford, do you have any -- what are
13 your thoughts?

14 MEMBER DRAKEFORD: No, thank you. Sorry,
15 just gathering them.

16 No, I am -- I do appreciate the presentation
17 today.

18 I appreciate both the architect walking us
19 through the plans and also learning more about the
20 existing operations of the establishment and how -- and
21 some of the proposed operations -- some of the proposed
22 operations.

23 I think, again, open, Chair Blake, but I do
24 wonder if it is -- would be helpful for us to include
25 some type of conditions as it pertains to the hours of

1 operations of the corner -- of the operation -- hours
2 of operation for the operation or some type of parameters
3 around that.

4 Yes, and then also, in just thinking about
5 the trash storage, and knowing that it still has to go
6 before the Public Space Committee, I don't know if we
7 want to also just note and clarify that, in our
8 condition, that if we, you know, vote to support this
9 and to grant the special exception, that this is, of
10 course, is just subject to final approval from the Public
11 Space Committee.

12 But other than that, I think those are just
13 a few of the major issues that I think have come up today.

14 VICE CHAIRPERSON BLAKE: Okay, thank you.

15 Let's see, all right, I think we're on the
16 same page here, so I'm comfortable with that as well.

17 I think the hours of operation, the only thing
18 that I think about is the fact that this does travel
19 with the land.

20 I do think that we should -- we can include
21 hours of operation, 7:30 until 10:00. That more than
22 covers the business and is a more normal type of
23 neighborhood serving corner store. It would give
24 enough flexibility to do that.

25 I do think the trash service, the trash pickup,

1 there'll be more trash in the seasonal moments than now.

2 I think the most important thing we could hope
3 is that they have regular pickup, which they do, and
4 that they are committed to increasing the frequency of
5 pickup, when necessary.

6 And that would be generated a lot by the
7 traffic.

8 It would make no sense to have daily pickup
9 now because they don't need it. They do it twice a week.

10 It would make, you know, but then again, it
11 would be terrible to have twice a week service when
12 you've got, you know, 70 people, a couple turns, it would
13 be exhausting.

14 So, I think that the strategy that they've
15 disclosed is sufficient.

16 I do think that the enclosure is important
17 because you won't have that out there.

18 It's a little bit odd that they cannot provide
19 that in -- there's no place to put that in private
20 property. But what they propose, assuming they get
21 permission from the public space to do it, and as it's
22 depicted in that illustration, would provide good
23 screening.

24 And as you pointed out, Vice Chairman, this
25 is an attractive setting that the neighborhood obviously

1 appreciates.

2 And the work they've done with the community
3 kind of created, I think is commendable.

4 So, we could just decide on the last -- what
5 can what specific conditions we'll have, we can move
6 this on.

7 You want to -- let's see, Commissioner Miller,
8 let's -- what specific conditions do we need to have
9 here?

10 So, if I go with 7:30 to 10:00 for operations
11 -- hours of operation, the second one would be, let's
12 see, trash as -- but the site could change, right, in
13 terms of how it's stored. It could have issues with
14 pickup.

15 I mean, the biggest thing we have is just the
16 time -- the frequency of pickup is the thing that would
17 be most helpful. They haven't given us a tremendous,
18 you know, plan, but I think it's reasonable.

19 What do you think?

20 COMMISSIONER MILLER: I agree that we can put
21 in a condition with the hours of operation that you just
22 stated. Whether it's seven or 7:30 to 10:00 p.m., he
23 said, we're not going to be open after 10:00 p.m.

24 And it is a -- it is in a neighborhood, a
25 residential row house neighborhood and has immediate

1 row house neighbors.

2 So, I think that's appropriate and they've
3 been operating without complaint from their neighbors
4 for 10 years.

5 So yes, I think the hours of operation, it
6 does run with the land. So, I think that flexibility
7 is important.

8 And I mean, and we don't want a 24 hour
9 operation there either.

10 So, I used to live in a neighborhood in
11 Georgetown where the row house kind of neighborhood
12 where the 7-11 was open till midnight, which was only
13 useful because the police -- that's where the police
14 were and you could just go over there instead of calling
15 911.

16 But anyway, that's neither here nor there.

17 And neighbor -- 7:30 to 10:00 sounds
18 reasonable.

19 I think a reference to the trash being located
20 where it is shown on the plan with screening as shown
21 on the plan and in the illustrative renderings would
22 be appropriate and would leave it to our Counsel to
23 figure out how to draft that appropriately.

24 So, I'm prepared to move forward with those.

25 And that's subject to the Public Space

1 Committee -- as subject to Public Space Committee the
2 whole public space, all the public space use, whether
3 it's outdoor sheeting or the trash.

4 So yes, I'm ready to move forward with those
5 two conditions.

6 VICE CHAIRPERSON BLAKE: Okay.

7 There's one other I just thought about that
8 might be useful, no outdoor music was one issue that
9 we might also add to that, which is consistent with that
10 neighborhood vibe.

11 COMMISSIONER MILLER: I would agree with
12 that. I think that was their presentation to us in their
13 statement and in their -- to the -- it must have been
14 to the ANC as well.

15 VICE CHAIRPERSON BLAKE: Okay, thank you.

16 What are other -- Board Member Drakeford?

17 MEMBER DRAKEFORD: I did also just want to
18 bring up the -- I don't know if this is worth a condition,
19 but the -- or if, you know, not to bring us back into
20 more questions, but the signage itself.

21 I know they've proposed two signs. I think
22 the renderings only showed one.

23 But also, you know, if we wanted to also just
24 note anything around the signage as well.

25 VICE CHAIRPERSON BLAKE: Okay.

1 COMMISSIONER MILLER: I'm okay with the
2 signage, because I think it's attractive and I think
3 they won't do anything that detracts from the
4 neighborhood.

5 But so, I'm not sure -- I didn't know that
6 -- I thought -- I saw the illustrative rendering of the
7 existing condition, which has the sign on top and the
8 sign in the window. I don't know if that's sign or not.

9 I thought those were the two signs, but maybe
10 there's one on the other street. I don't -- if it's
11 -- if it looks like what's on there -- that side of the
12 street, I'm okay with it personally.

13 But I'll defer to you guys.

14 VICE CHAIRPERSON BLAKE: Okay, I, too, am okay
15 with the signage as it stands.

16 So, we can -- I think we'll be okay with that
17 one.

18 Okay, so, are those the only conditions you
19 want to do? Because I'm -- we can wrap this up then.

20 COMMISSIONER MILLER: The three conditions,
21 we mentioned, yes.

22 VICE CHAIRPERSON BLAKE: We have three
23 conditions.

24 The first is hours of operation from 7:30 to
25 10:00.

1 The second is no outdoor music.

2 The third would be screening for the trash
3 as depicted in their renderings. And we'll have legal
4 speak sort the exact reference page for that, but as
5 in the plans.

6 COMMISSIONER MILLER: Sounds good.

7 VICE CHAIRPERSON BLAKE: Okay, all right.

8 Well, okay, then, we'll do the next thing.

9 Okay, then I'm going to make a motion to
10 approve the Application 21334 of the Della Barba Company
11 as written and captioned with three conditions.

12 One, the hours of operation, 7:30 to 10:00
13 p.m.

14 Two, no outdoor music.

15 Three, the screening for trash as depicted
16 in the exhibits -- in the architectural exhibits. And
17 we'll legal pick out that exact one.

18 And ask for a second, Ms. Drakeford?

19 MEMBER DRAKEFORD: I second.

20 VICE CHAIRPERSON BLAKE: Okay, the motion has
21 been made and seconded.

22 Madam Secretary, would you please conduct a
23 roll call vote?

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

1 Chairman Blake?

2 VICE CHAIRPERSON BLAKE: Yes.

3 MS. MEHLERT: Board Member Drakeford?

4 MEMBER DRAKEFORD: Yes.

5 MS. MEHLERT: Commissioner Miller?

6 COMMISSIONER MILLER: Yes.

7 MS. MEHLERT: Staff would record the vote as
8 three to zero to two to approve Application Number 21334
9 with conditions on the motion made by Chairman Blake
10 and seconded by Board Member Drakeford.

11 VICE CHAIRPERSON BLAKE: Thank you.

12 Madam Secretary, do I have any more matters
13 for today?

14 MS. MEHLERT: Nothing else from staff.

15 VICE CHAIRPERSON BLAKE: Okay, thank you all
16 very much.

17 This meeting adjourned.

18 COMMISSIONER MILLER: Thank you, have a great
19 day.

20 MEMBER DRAKEFORD: Have a good day.

21 (Whereupon, the above-entitled matter went
22 off the record at 1:59 p.m.)
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C E R T I F I C A T E

This is to certify that the foregoing transcript was duly recorded and accurately transcribed under my direction; further, that said transcript is a true and accurate record of the proceedings; and that I am neither counsel for, related to, nor employed by any of the parties to this action in which this matter was taken; and further that I am not a relative nor an employee of any of the parties nor counsel employed by the parties, and I am not financially or otherwise interested in the outcome of the action.

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Court Reporter