

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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REGULAR PUBLIC HEARING

+ + + + +

WEDNESDAY

SEPTEMBER 16, 2026

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The Regular Public Hearing of the District of Columbia Board of Zoning Adjustment convened via Videoconference, pursuant to notice at 9:32 a.m. EDT, Michelle Pourciau, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

MICHELLE POURCIAU, Chairperson
PAUL GOLDSTEIN, Vice Chairperson
MELISSA LINDSJO, NCPD Designee
ROBYN JACKSON WELLS, District Resident Appointee

ZONING COMMISSION MEMBERS PRESENT:

ROBERT MILLER, Vice Chairperson

OFFICE OF ZONING STAFF PRESENT:

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

OFFICE OF PLANNING DEVELOPMENT REVIEW STAFF PRESENT:

SHEPARD BEAMON
MICHAEL JURKOVIC

1 OFFICE OF ZONING ATTORNEY ADVISORS PRESENT:

2 SARAH BAJAJ, ESQ.
3 CARISSA DEMARE, ESQ.

4 The transcript constitutes the minutes from the
5 Regular Public Hearing held on September 16, 2026.
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P-R-O-C-E-E-D-I-N-G-S

(9:32 a.m.)

CHAIRPERSON POURCIAU: Good morning, ladies and gentlemen. The Board of Zoning Adjustment's September 16th, 2026 public hearing will please come to order. My name is Michelle Pourciau, chair of the District of Columbia Board of Zoning Adjustment. Joining me today are Board members Vice Chair Paul Goldstein, Member Melissa Lindsjo, and Member Robyn Wells. We will also have Zoning Commissioner Gwen Wright and, for the majority of our day, Commissioner Rob Miller. Thank you all for being here.

On September 15, 2026, the Board entered into a closed meeting session for the purpose of obtaining legal advice from counsel. This closed meeting was voted upon previously in a public setting to be held for the purpose of obtaining legal advice from our counsel and deliberate the map vote on contested cases on today's agenda. While discussions were held, there were no decisions made.

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

1 be available on the Office of Zoning's website after
2 today's hearing. Accordingly, everyone who is
3 listening on Webex or by telephone will be muted during
4 hearing. If you experience difficulty accessing Webex
5 or with your telephone call-in, please call our Office
6 of Zoning hotline number at 202-727-5471 to receive
7 Webex login or call-in instructions.

8 Today, we will begin our virtual public
9 meeting decision meeting session, followed by our
10 virtual public hearing session. Please be advised that
11 we will not take any public testimony at our meeting
12 session. Public testimony will be taken during the
13 hearing session. In today's hearing session, everyone
14 who is listening on Webex or by telephone will be muted
15 during the hearing and only persons who have signed up
16 to participate or testify will be unmuted at the
17 appropriate time.

18 Please state your name and home address before
19 providing oral testimony or your presentation. Oral
20 presentations should be limited to a summary of your
21 most important points. When you are finished speaking,
22 please mute your audio so that your microphone is no
23 longer picking up sound or background noise.

24 All persons planning to testify, either in
25 favor or in opposition, should have signed up in advance.

1 They will be called by name to testify. By signing
2 up to testify, all participants completed the oath or
3 affirmation as required by Subtitle Y, Section 408.7.

4 Requests to enter evidence at the time of an online
5 virtual hearing, such as written testimony or additional
6 supporting documents, other than live video, which may
7 not be presented as part of the testimony, may be allowed
8 pursuant to Subtitle Y, Section 103.13.

9 The order of procedure for special exceptions
10 varies since it is pursuant to Subtitle Y, Section 409.

11 Time constraints for hearing testimony shall be
12 maintained pursuant to Subtitle Y, such as 408.2 and
13 408.3.

14 Once again, if you experience difficulty
15 accessing Webex or with your telephone call-in or if
16 you have forgotten to sign up 24 hours prior to this
17 hearing, then please call our Office of Zoning hotline
18 number at 202-727-5471 to sign up to testify and to
19 receive Webex login or call-in instructions.

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

1 then parties will be allowed a reasonable time to respond
2 as determined by the Board. The Board will then make
3 its decision at its next meeting session but not earlier
4 than 48 hours after the hearing.

5 At the conclusion of the Board's decision
6 meeting sessions or hearing session, the Office of
7 Zoning, in consultation with the chair, will determine
8 whether a full or summary order may be issued. A full
9 order is required when the decision it contains is
10 adverse to a party, including an affected ANC. A full
11 order may also be needed if the Board's decision differs
12 from the Office of Planning's recommendation. Although
13 the Board favors the use of summary orders whenever
14 possible, an applicant may not request the Board to issue
15 such an order.

16 Finally, the District of Columbia
17 Administrative Procedure Act requires that the public
18 hearing on each case be held in the open before the
19 public. However, pursuant to sections 405B and 406 of
20 the act, the Board may, consistent with the rules of
21 procedure and the act, enter into a closed meeting on
22 a case for purposes of seeking legal counsel on a case,
23 pursuant to D.C. Official Code Section 2-575(b)(4)
24 and/or deliberating on a case, pursuant to D.C. Official
25 Code Section 2-575(b)(13), but only after providing the

1 necessary public notice and then in the case of an
2 emergency closed meeting after taking a roll call vote.

3 The next item on our agenda is a vote for the
4 Board to hold a closed meeting on September 22, 2026
5 at 2 p.m. This session is being held in order for the
6 Board to receive legal advice from its counsel regarding
7 the cases noted on the agenda for the September 23, 2026
8 meeting and to preserve the attorney-client privilege
9 between the Board and its attorney, pursuant to D.C.
10 Official Code Section 2-575(b)(4)(a) and to deliberate
11 but not vote on the contested cases, pursuant to D.C.
12 Official Code Section 2-575(b)(13).

13 I will ask the secretary to provide the list
14 of cases on the agenda.

15 MS. MEHLERT: Thank you, Madam Chair. The
16 cases scheduled for next Wednesday are 21500, 1927
17 Property Heritage Trust; 21326 of Ehsan Jazini; 21485,
18 Capitol Hill Hotel Owner 1, LLC; 21490, District Line
19 Development, LLC; 20925A of Sarlea Mah and Camile
20 Williams; 21488 of Juleanna Glover; and 21492 of Chadi
21 Mouwad.

22 CHAIRPERSON POURCIAU: Thank you. I will now
23 make a motion to enter into closed session on September
24 22, 2026 at 2:00 p.m. Is there a second?

25 VICE CHAIR GOLDSTEIN: Second.

1 CHAIRPERSON POURCIAU: Thank you, Vice Chair.
2 The motion has been seconded. Will the Secretary now
3 please take a roll call vote?

4 MS. MEHLERT: Please respond to the Chair's
5 motion to hold a closed meeting next Tuesday, September
6 22nd, at 2:00 p.m. Chair Pourciau?

7 CHAIRPERSON POURCIAU: Yes.

8 MS. MEHLERT: Vice Chair Goldstein?

9 VICE CHAIR GOLDSTEIN: Yes.

10 MS. MEHLERT: Board Member Wells?

11 MEMBER WELLS: Yes.

12 MS. MEHLERT: Member Lindsjo?

13 MEMBER LINDSJ0: Yes.

14 MS. MEHLERT: Okay. Commissioner Miller?

15 COMMISSIONER MILLER: Yes.

16 MS. MEHLERT: Staff will record the vote as
17 5 to 0 to 0. The motion passes.

18 CHAIRPERSON POURCIAU: Thank you. The Board
19 will meet in closed session at 2:00 p.m. on September
20 22nd, 2026. I want to thank all the members present.

21 It's nice to have a full complement of Board members,
22 so this is a good day. Thank you all.

23 Madam Secretary, do you have any preliminary
24 matters for us?

25 MS. MEHLERT: Thank you. Yes. Good

1 morning, Madam Chair, members of the Board. There are
2 a few changes to the agenda today. Application No.
3 21404 of 512 Taylor, LLC, has been postponed to the
4 October 7th, 2026 meeting. Application No. 21483 of
5 Three Three One One, LLC and Maria C. Van Den Bussche
6 has been postponed to the hearing on October 21st, 2026.

7 Application No. 21487 of Ana B. Reyes has been postponed
8 to the October 28th public hearing, and Appeal No. 21486
9 of Paul and Katherine Rosenbaum has been withdrawn.

10 CHAIRPERSON POURCIAU: Thank you. All
11 right. With that, I think we're ready to begin our
12 public meeting.

13 (Whereupon, the above-entitled matter went
14 off the record at 9:41 a.m. and resumed at 9:47 a.m.)

15 CHAIRPERSON POURCIAU: Our first case is
16 number 21475. Madam Secretary, would you please read
17 it into the record?

18 MS. MEHLERT: Yes. Next is Application No.
19 21475 of Barry Rodgers. This is a self-certified
20 application pursuant to Subtitle X, Section 911.2 for
21 special exceptions under Subtitle B, Section 5201 of
22 the rear yard requirements in Subtitle B, Section 207.1
23 and the lot of occupancy requirements of Subtitle B,
24 Section 210.1. This request is for a third-story
25 addition at a four-unit apartment house in an existing

1 two-story semi-detached building with no increase in
2 number of units. The project is located in the RF-1
3 Zone at 1226 F Street, Square 1006, Lot 26. And, as
4 a preliminary matter, the applicant filed two motions
5 to accept late submissions into the record in Exhibits
6 36 or 37B. So that is for the Board.

7 CHAIRPERSON POURCIAU: Thank you. These
8 late submissions are killing us. We're trying to
9 expedite things; but at some point, we're not going to
10 accept them and we're going to delay the cases. Just
11 wanted to say that for the record.

12 I see something on the witness list that is
13 puzzling me. I see Mr. Sullivan is on, but next to his
14 name it says not registered. Madam Secretary, can you
15 tell me why it says that, or is that just an error?

16 MS. MEHLERT: I think he registered late, just
17 like after this list was finalized. He is registered
18 now.

19 CHAIRPERSON POURCIAU: Okay. Very good. Mr.
20 Sullivan, it's good seeing you. Are you ready to --
21 do you want to introduce your other parties that are
22 with you today, and then you can proceed to your
23 testimony. We're hoping it will be 15 minutes or less.

24 MR. SULLIVAN: Thank you, Madam Chair. It's
25 good to see you all, as well. My name is Marty Sullivan

1 from Sullivan & Barros on behalf of the applicant. And
2 with me is the project designer, Enrico Villaroman, and
3 also the applicant, the property owner, Barry Rodgers,
4 is here as well. I was going to do the presentation
5 myself with our PowerPoint, but they're available to
6 answer any questions.

7 And regarding the late submissions, we were
8 just responding to comments from the Office of Planning.

9 Sometimes, those comments come in with a tight
10 timeframe of 30 days. In this particular case, they
11 weren't that meaningful to the case. We were putting
12 back cornice that we didn't realize was removed in the
13 original rendering because we're not asking for
14 architectural element relief, so the second story
15 cornice remains. And also we're providing more detail,
16 as requested by OP, regarding the lattice that
17 constitutes a privacy-enhancing element on the roof.

18 So, thank you for accepting that.

19 If we could load the PowerPoint, please.
20 Thank you.

21 The property, as you know, is 1226 F Street
22 Northeast. Next slide, please. We're in the RF-1
23 Zone. Existing building is a two-story purpose-built
24 four-unit apartment building on a lot of 1,973 square
25 feet. The owner intends to add a third story. The

1 third story is permitted by right, up to 60 percent lot
2 occupancy, purposed to expand the two upper level units
3 into two level units, but we're not increasing the number
4 of units.

5 And note to provide enhanced privacy for
6 nearby residential properties to the west and the north,
7 the rooftop recreation space includes some privacy
8 screen elements you can see on this rendering along those
9 two edges. And the other two edges front on 13th Street
10 and F Street.

11 The proposed height is 31 and a half feet.
12 Next slide, please. Existing and proposed use doesn't
13 change. It's still a four-unit apartment building. The
14 building has an existing nonconforming lot occupancy
15 on floors one and two, on the existing floors, of 82
16 percent. And the addition will have a lot occupancy
17 footprint of 70 percent and will maintain the rear yard
18 setback.

19 Two areas of relief being requested, one for
20 the lot occupancy and another for the rear yard setback.

21 And I want to clarify, regarding the rear yard setback,
22 because this building footprint was here or the majority
23 of it, except for the back notch, existed in 1958,
24 there's no need for rear yard relief to go to put a
25 building on the same footprint. But we do have new

1 stairwells in the back on that notch, and those encroach
2 into the rear yard. And that's what the relief is
3 requested for, for those stairwells, and I'll show that
4 in another drawing later on.

5 Next slide, please. There's a photo of the
6 building. This is 13th and F Street, two-story
7 building. And the addition will go on to the third story
8 there. And you see surrounding buildings around there.

9 Next slide, please. There's a view from the
10 street. Next slide, please. This is just meant to show
11 more neighborhood context. There are other taller
12 buildings in the area, although, again, we're not asking
13 for height relief. We're safely under the maximum
14 permitted height.

15 Next slide, please. And this is across the
16 street from the subject property. Next slide, please.

17 Again, two areas of relief requested, as mentioned.

18 Summary of the OP report on the special exception
19 criteria, they noted that the shadows cast should not
20 have significant impacts on adjacent properties and the
21 relief would not have undue or excessive impacts on light
22 and air. Also, they noted that the building doesn't
23 directly abut any other buildings and has over a
24 nine-foot side yard to the west, and the properties along
25 Maryland Avenue have rear yards, which, collectively,

1 should provide adequate separation. And then they've
2 noted that we've provided the additional
3 privacy-enhancing element on the roof, and they noted
4 correctly that the third floor should not conflict with
5 or detract from the general pattern of development of
6 housing in the surrounding area, as there are buildings
7 of varying heights, density, design, and number of
8 units.

9 Next slide, please. The purpose of this
10 diagram is to show the extent of the relief being
11 requested. So the blue rectangle represents what we can
12 do as a matter of right, and the red rectangle represents
13 the additional 10 percent that we're asking for. And
14 I want to note that, in regard to the shadow study, I
15 assume, just to be conservative and to show the
16 worst-case scenario, that the missing 10 percent or the
17 added 10 percent would be in the rear of the building
18 where it abuts the north and the west residential
19 properties. But the more likely scenario there is that
20 the open space would be in the front on the street in
21 order to have a rooftop patio. So the matter of right
22 option here is likely to not be any different in the
23 rear of the building than the proposed option here.
24 In fact, it could be higher; it could be three and a
25 half feet higher.

1 Next slide, please. Community outreach.
2 Maybe I have too much in here, and I can go through it
3 quickly. The point I wanted to make is that the ANC
4 stated that at the July EDZ meeting we hadn't reached
5 out to any neighbors. That wasn't true. We had already
6 emailed neighbors; we had sent out an additional notice;
7 and we have had four meetings, including two committee
8 meetings and also a separate meeting that we organized
9 for neighbors that was well attended, a Zoom meeting.

10 And when we went to the ANC meeting, we were given no
11 opportunity to present to the ANC. It was on the consent
12 agenda, and we asked if we could present our application
13 and we were denied that, and they just based it on their
14 committee meetings stating that because no agreement
15 was reached with the neighbors that they were going to
16 withhold support. Regarding agreement with neighbors,
17 we talked about that with neighbors at the Zoom meeting
18 that we had with them and asked if they had a compromise
19 position regarding the special exception relief that
20 we're asking for, and they made it clear that their
21 position was they wanted no addition whatsoever either
22 up or to the side and they just wanted the building
23 renovated and on the interior.

24 I do want to note that the applicant also met
25 with Capitol Hill Restoration Society and they wrote

1 a support letter that's in the record.

2 Next slide, please. And I think I covered
3 everything else here in my statement. Next slide,
4 please. Regarding the special exception criteria. The
5 general criteria, this is consistent with the intent
6 of the RF-1 zone in terms of use and scale. As it
7 increases livable space within the existing apartment
8 building without increasing the number of units, it
9 maintains the existing rear yard and the requested
10 70-percent lot occupancy for the third floor is within
11 the amount permitted via special exception. Again,
12 note the height is three and a half feet under. What
13 is the lowest maximum committed height for any zone?
14 Thirty-five feet.

15 And the addition generally complies with RF-1
16 development requirements. It's consistent with the
17 character of the surrounding area. It will not
18 adversely affect the use of neighboring properties.
19 As further noted below in the specific special exception
20 criteria regarding light and air, the building heights
21 safely within permitted height. The addition does not
22 expand the building footprint. The shadow study
23 indicates some additional winter shadows, primarily on
24 neighboring rooftops, but clearly not undue as you would
25 expect from a 3.73 feet additional building.

1 The privacy. There's adequate separation
2 that exists between the addition; and it doesn't include
3 rear-facing windows so there's no privacy impact on the
4 north. Regarding the side, there's probably not any
5 windows on the additional 3.7 feet, as well. So there's
6 really no difference there, but we did want to, in
7 response to Ms. Grifka who's an adjacent neighbor whose
8 backyard abuts the subject property, to offer this the
9 privacy screening on the roof or to enhance that existing
10 privacy.

11 Regarding visual character, the project
12 respects the RF-1 zone's intent to preserve the
13 residential character while allowing modest expansions.

14 In addition, it's consistent with the neighborhood,
15 as noted in the OP report and the photos that you saw,
16 and we're safely under the height and not asking for
17 height related.

18 Next slide, please. These are just
19 renderings for the Board's view, if you have any
20 questions about these. Note that that cornice on the
21 second floor stays; otherwise, we would be asking for
22 architectural element release.

23 Next slide, please. It shows the privacy
24 screening on the roof there and the intention to have
25 rooftop decks. Next slide, please. So on the proposed

1 -- on the right, you'll see the stairwells added in the
2 back, and that's what the rear yard relief is for
3 because, that notch, we can't prove that that was built
4 prior to 1958, whereas the building proper footprint
5 existed in 1958. So as to rear yard relief, as a matter
6 of right, we can build a 60-percent lot occupancy on
7 the rear line of the building proper. But we couldn't
8 add those stairwells because they go into the rear yard
9 setback, so that's what the rear yard relief is for.

10 Next slide, please. This is more detail on
11 the lattice. The intention is to have it open, the
12 lattice, so that it enhances privacy but doesn't block
13 the light and air. It doesn't become a wall. It's just
14 a lattice structure, as the Board sees often when privacy
15 concerns are raised.

16 Next slide, please. And here's the shadow
17 studies. The shadow studies, again, shows the
18 difference between what we can do as a matter of right
19 and what is proposed, the additional 3.73 feet of
20 building in the back. And, again, I could have shown
21 this as the 3.73 feet in the front because, if there
22 is a matter of right project, if this is approved, that's
23 where it would go, in the front. There would be no
24 shadow at all to the north and the west. But I wanted
25 to be conservative about that and show the worst-case

1 scenario. So you'll see that there's some additional
2 impact, but it's certainly not undue.

3 Next slide, please. And the highlighted red
4 is the additional, between the matter of right, what
5 can be done, and the proposed. And when I say matter
6 of right, I didn't do it at 35 feet in height. I did
7 it at the 31.5 feet that's proposed.

8 Next slide, please. And there we are in
9 September. This is similar to the spring drawing.
10 Next slide, please. And in the winter. The winter has
11 a little bit more, but still certainly not undue.

12 Next slide, please. So in summary, both
13 special exceptions satisfy 901.2. They're in harmony
14 with the regulations, and there's no adverse effect on
15 the neighboring properties, and each request safely
16 meets the specific criteria under 5201. And the OP has
17 recommended approval. The Capitol Hill Restoration
18 Society has supported it, as well. And we're not
19 increasing the number of units. The addition is smaller
20 than the existing footprint of 82 percent, and we're
21 safely under the height limit. No north-facing windows
22 as well, and the extra privacy screening on the west,
23 so privacy's protected on both sides.

24 And that's it for our presentation. Again,
25 if you have any questions for myself or for the project

1 designer or Mr. Rodgers, we're here to answer those.

2 Thank you.

3 CHAIRPERSON POURCIAU: Thank you. Thank you
4 for keeping it short, yet very comprehensive. Thank
5 you for that, Mr. Sullivan. I do have a question, and
6 I would like for the presentation to be brought back
7 up. There's a large number of folks who are in
8 opposition.

9 If we look at one of those overheads of the
10 -- yes, I think, like, that one. Can you kind of give
11 me a sense for where the opponents live, the addresses
12 in relationship for your building? You're on mute.

13 MR. SULLIVAN: Thank you. Sorry about that.

14 Sure. And I think there's probably a better drawing,
15 maybe the third or fourth slide. Slide number three,
16 I think it is, that one. Well, that's -- the next slide.

17 I'm sorry, two slides back. There's a map on the next
18 slide. Let's skip to the other one right there.

19 So there's our subject property at the corner.

20 I believe Mr. Pitcairn's property is one, two, three,
21 four, five properties in on Maryland Avenue, one of the
22 two that extend a little bit further out than those
23 around them and it's the one to the left of those two.

24 And Ms. Grifka's property, her rear yard essentially
25 runs along the west side, the left side of the subject

1 property.

2 I think most of the other letters from
3 opponents are from the surrounding area, some from the
4 block, some from further out.

5 CHAIRPERSON POURCIAU: Okay. Thank you for
6 that. I don't have any more questions right now. Vice
7 Chair Goldstein, do you have questions for the
8 applicant?

9 VICE CHAIR GOLDSTEIN: Yes, thank you. I do
10 have a few questions. and thank you, Mr. Sullivan, for
11 the presentation. That was very helpful.

12 I want to ask you first about the height.
13 Do you mind bringing up your elevation on that
14 presentation? I'm just trying to understand the 31 and
15 a half feet. So just from looking at it, and just help
16 me understand it, why is it not measured from grade in
17 this measurement? Am I just misunderstanding a rule
18 that you would understand better than me?

19 MR. SULLIVAN: I'm sorry, I believe it is
20 measured from grade. Well, if that's wrong, then, yes,
21 it should be measured from grade to the top of the roof,
22 not to the top of the perimeter because, if that were
23 the case, then it looks like there would be another foot.

24 But I don't know if Mr. Villaroman is here to explain
25 it. If that's the case, then it would be another foot,

1 so it would be two and a half feet under the max. Thank
2 you for pointing that out, if that's the case. Again,
3 I can't --

4 VICE CHAIR GOLDSTEIN: I mean, it still sounds
5 conforming. I'm just hoping to understand because you
6 mentioned it a few times, so I just wanted to -- if your
7 architect is here, we can just confirm because I also
8 want to then ask a little bit about height was
9 represented in the shadow study for --

10 MR. VILLAROMAN: Good morning, members of the
11 Board, Madam Chairman. My name is Enrico Villaroman.
12 I'm part of the designer. You will see on the elevation
13 on the right that there are two strings of dimensions,
14 and one on the far right would be measured from the grade
15 at the bottom. And then it goes up to the level of the
16 roof and not the parapet. If the parapet height is
17 counted towards the height, then we would have to include
18 that additional height of parapet. What we are
19 measuring on the upper right would be from the grade
20 through the top of the roof.

21 VICE CHAIR GOLDSTEIN: Okay. It looks to me,
22 and maybe we can return to it, that it's really 33 feet
23 3 inches from grade to roof, about another foot, 9
24 inches.

25 MR. SULLIVAN: Well, it's showing from grade,

1 isn't it? I'm looking at the elevation, and I see grade
2 level and then the measurement goes 31, 6 and a half.

3 MR. VILLAROMAN: It is 33 feet and 3
4 three-quarters inch is what we are showing.

5 VICE CHAIR GOLDSTEIN: Okay. On the existing
6 one -- I'm sorry. I'm sorry. I was going to ask Enrico
7 to clarify. But to your main question, the shadow study
8 wouldn't be based on dimensions. It would be based on
9 the massing of the building, regarding of where the
10 starting point for that is, and Mr. Villaroman can
11 explain that further, if that's not accurate. Enrico.

12 MR. VILLAROMAN: Yes. This elevation, as
13 I've mentioned, does not include the height of the
14 parapet, which is another 3 feet, and the height of the
15 top part of the screen wall, which is a lattice screen
16 wall, which would be another 50 feet above the parapet
17 line. However, the shadow studies include these
18 elements, and the way that we have performed or created
19 the shadow studies are from industry standards using
20 SketchUp, which is the program of Google. And so the
21 data available in Google Earth of the surrounding
22 buildings and the way that the building sits on the side
23 is what we have used to improve our shadow studies.

24 So the system building on Google Earth shows
25 two studies. And so based on what is there, we have

1 added the height of the proposed third-story building,
2 including the parapets, and so that is what is casting
3 the shadow on those shadow studies.

4 VICE CHAIR GOLDSTEIN: Okay. So your
5 representation is even if we have been describing the
6 height maybe two feet, roughly two feet, less than it
7 is for measuring purposes, that the shadow study is still
8 an accurate portrayal of the addition and it includes
9 the addition plus the parapet, and I think I even heard
10 the screening walls, is that right?

11 MR. VILLAROMAN: The screening wall was added
12 later. The shadow studies actually, I believe, did not
13 include the screening walls.

14 VICE CHAIR GOLDSTEIN: Okay. But it includes
15 the parapet --

16 MR. VILLAROMAN: It includes the parapet,
17 yes.

18 VICE CHAIR GOLDSTEIN: Okay. Okay. Mr.
19 Sullivan, maybe this is something that we can return
20 to, just to kind of clarify in the record, if there's
21 an opportunity to. But it doesn't affect your
22 compliance with the height, but it just, for accuracy,
23 I think a self-certification represents it as a lower
24 height building than it is.

25 MR. SULLIVAN: I definitely want to clear that

1 up, obviously, because it would cause a problem in
2 permitting. But I think the proposed on the right right
3 now shows what I've been stating, so I'm going to try
4 to clarify that. Okay.

5 VICE CHAIR GOLDSTEIN: Well, if that's the
6 case, it would just be helpful to learn, as well.

7 MR. SULLIVAN: Yes. I definitely want to get
8 that straight before we close. Thank you.

9 VICE CHAIR GOLDSTEIN: Can you go back to the
10 plat for me, if you don't mind, that shows the addition
11 on top, as well as the choice of lot occupancy? Just
12 help orient me just a little bit. So there's the
13 existing rear stairways in orange on the top of the
14 building. Those are going away; is that correct? The
15 ones that are flanking the central notch.

16 MR. SULLIVAN: I'll turn it over to Enrico
17 or Barry.

18 MR. VILLAROMAN: So I'm not sure if I could
19 really follow the question. But if the question is
20 about the light orange hatch on the left and right of
21 the building -- is that correct?

22 VICE CHAIR GOLDSTEIN: No. I think they're
23 labeled existing stairs on the top left and top right
24 of the building --

25 (Simultaneous speaking.)

1 MR. RODGERS: Those are stairwells that
2 re-existed and go to nothing, so they're metal
3 stairwells. I mean, we could certainly remove them.
4 They don't serve an actual purpose right now.

5 VICE CHAIR GOLDSTEIN: Okay. I didn't see
6 them in the rendering, so I just assumed that they were
7 being removed. It hasn't. Okay.

8 MR. SULLIVAN: Sorry. I mean, for aesthetic
9 reasons, I probably wouldn't want to remove them, but
10 they're just a metal stairwell that sits there and leads
11 to nothing.

12 VICE CHAIR GOLDSTEIN: Okay. And you're
13 saying about the original building footprints where we
14 see the notch that you just couldn't trace back that
15 notch to the original, so that that is the only area
16 that would need rear yard release is the stairways coming
17 up from that existing notch; is that correct, Mr.
18 Sullivan?

19 MR. SULLIVAN: Correct, yes. Yes, that's
20 correct. Under, I think it's D 207.3, you can extend
21 a rear yard encroachment upward, as long as that
22 encroachment existed in that space in 1958.

23 (Simultaneous speaking.)

24 VICE CHAIR GOLDSTEIN: You go ahead. You
25 finish.

1 MR. SULLIVAN: We were able to confirm that,
2 so we're clear on that for the building proper. But
3 in my research, I didn't see that rear notch in an old
4 base map, and it looks like it could have been added,
5 I mean, a long time ago, but I couldn't verify that it
6 was before 1958.

7 VICE CHAIR GOLDSTEIN: Well, that seems like
8 a nice, a conservative approach to ask for the relief
9 since you were not able to confirm it. Are you able
10 to quantify what intrusion the additional stairs are
11 adding to that required rear yard? It must be pretty
12 minor, from what I can tell from the renderings. I mean,
13 it doesn't -- it's not even a full --

14 (Simultaneous speaking.)

15 MR. SULLIVAN: Right, yes, yes. There's a
16 rendering near the end. Let me see if I can figure out
17 which -- so there, that one. Perfect. Thank you. So
18 it's actually the stairs are covered within that, but,
19 because we're adding a story, it's adding lot occupancy,
20 along with the bordering wall for that.

21 VICE CHAIR GOLDSTEIN: If you don't mind going
22 back to the plat, I just have maybe two more questions
23 about that and then I think I might get a stopping point.
24 One is the public alley. That's just an unpaved --
25 what is the status of that alley?

1 MR. RODGERS: Yes. It's basically a dirt
2 alley.

3 I mean, it's got some vegetation growing in it, no one
4 actually really planting anything, but, yes, it's
5 accessible from 13th Street on the side there.

6 VICE CHAIR GOLDSTEIN: Okay. And it is --

7 MR. SULLIVAN: You don't have to drive a car
8 down it or anything. It's more like a fire exit, I would
9 assume.

10 VICE CHAIR GOLDSTEIN: And do any properties
11 have access to that?

12 MR. SULLIVAN: I mean, I'd have to speak to
13 the neighbors in the north.

14 MR. VILLAROMAN: Maybe they have to go through
15 each other's yards. Actually, I do think they would
16 go through each other's yards to exit that way, if need
17 be. But you can access it. The primary access is from
18 13th Street on the east side there.

19 VICE CHAIR GOLDSTEIN: Mr. Sullivan, I wanted
20 to ask you a question about the side yards here. I just
21 had a question about them. So there's no side yard on
22 the right side of your drawing, and there's a nine to
23 ten-foot-wide side on the left side; is that correct?

24 For the existing building, I should say.

25 MR. SULLIVAN: Yes.

1 VICE CHAIR GOLDSTEIN: So the addition, what
2 is the side yard of the addition on the right side?
3 I think really -- let me just tell you. I think I saw
4 it written that it was about two and a half feet; is
5 that right? For
6 the addition.

7 MR. SULLIVAN: I thought we were on that
8 property line, but I don't know. Enrico, do you know
9 that?

10 MR. VILLAROMAN: No. We are set back two and
11 a half feet. With the existing phase of building.

12 VICE CHAIR GOLDSTEIN: Okay. And I just
13 wanted to confirm that -- I had read the rules, Mr.
14 Sullivan to say that additions must be set back at least
15 three feet --

16 MR. SULLIVAN: Absolutely right.

17 VICE CHAIR GOLDSTEIN: For the side yards.
18 I think this may also be a little -- I don't know if
19 you want to -- was there a reason why in this context
20 you didn't apply for side yard relief, as well?

21 MR. SULLIVAN: No. I believe you're correct,
22 and that was my mistake. I was under the understanding
23 we were on that property line, but you're right we need
24 a half feet of -- a half foot of relief.

25 VICE CHAIR GOLDSTEIN: Okay. Maybe that's

1 another -- we can return to that, I guess. I'm not quite
2 sure how to address that. I'm sorry Madam Chair --

3 MR. SULLIVAN: Well, I can make a suggestion
4 that we would ask for a continuance and then file and
5 add that to the relief, whether it's a decision or
6 continued hearing.

7 VICE CHAIR GOLDSTEIN: Okay. And maybe just
8 double-check it along the way to make sure our
9 understanding of the plans are correct.

10 MR. SULLIVAN: Yes, thank you. Will do. Or
11 we'll adjust the plan.

12 VICE CHAIR GOLDSTEIN: Yes, yes. Existing
13 tenants, what's the current status of the occupancy of
14 the building? I'll ask maybe Barry about that.

15 MR. RODGERS: Sure, yes. There's tenants in
16 three of the four units, and they have been on
17 month-to-month leases for some time now.

18 VICE CHAIR GOLDSTEIN: Okay. I don't think
19 we got anything into the record from them; is that
20 correct?

21 MR. RODGERS: I don't think that they opined.
22 I have spoke to a couple of them. I mean, it's been
23 a little bit indeterminate in this process and how long.
24 But like I said, they're on month-to-month, so I think
25 they're just retaining flexibility.

1 VICE CHAIR GOLDSTEIN: Sure. Okay. Let's
2 see. My last question is a little bit about discussions
3 with the neighbors. Because we've heard about this and
4 Mr. Sullivan testified to it. Do you agree -- was the
5 characterization correct, and we'll ask some of the
6 folks who are testifying -- there's an unusual amount
7 of opposition, at least from my perspective, to this
8 addition. And I'm just curious for your thoughts about
9 why you think that is the case and why there has not
10 been an ability to -- and maybe there has been and you
11 can let me know, to bridge some kind of -- some of this
12 opposition that the application is facing.

13 MR. SULLIVAN: I mean, I'd only be speculating
14 as to that. I think most of the discussion was based
15 on we don't want a third story, and not just most of
16 it but that, in the end, was -- when I stated is there
17 anything specifically tied to the relief that we're
18 requesting, the additional 10 percent, that we can
19 compromise on or talk about so that we could come to
20 an agreement because the committee was demanding that,
21 the zoning committee, for the ANC. And it was made clear
22 that, no, there was no room for that. And what they
23 were demanding was that we do much less than what's
24 permitted by right.

25 And so some cases I feel have opposition

1 completely out of relationship with the degree of relief
2 being requested. I think this is one of them,
3 especially when you consider the matter-of-right
4 addition in the back could be higher and in the same
5 location. And the likely matter of right is to have
6 an opening in the front of three or four feet or an
7 opening on the side of a greater amount. But the matter
8 of right condition is the building back there. And I
9 just -- I don't know. There was no discussion on the
10 difference between what we're allowed to do or entitled
11 to do in the additional building that we were asking
12 for. So beyond that, I don't know what spurred that.

13 I mean there was a lot talk about the tenants' behavior
14 in a lot of the opposition letters, which has nothing
15 to do with this, of course. But other than that, I
16 couldn't answer.

17 MR. RODGERS: If I could add to that.

18 VICE CHAIR GOLDSTEIN: I'd love that, if you
19 would. Thank you.

20 MR. RODGERS: Sure, yes. I mean, I think you
21 can also see from several of the letters of opposition
22 they've been pre-drafted and then signed. So several
23 of the letters are effectively the same note with the
24 signature. And that's not to say anybody's opinion
25 should be discounted because of that, but I do think

1 some of the primary opponents sort of -- and the
2 neighborhood looking for letters of opposition. And,
3 you know, to Marty's point, too, there have been some
4 issues with the tenants and my limited ability to control
5 their actions. You know, I think they're fair comments,
6 but it's not in relation to the building, and we're
7 certainly looking to make improvements. Happy to
8 expand on anything you'd like to know.

9 VICE CHAIR GOLDSTEIN: Yes. Well, I mean,
10 we'll give, you know, some of the folks who are
11 testifying their opportunity to characterize it, as
12 well. Like you, I read about the management of the
13 building, that there's some issues related to it. I'm
14 really hopeful that maybe there's a better future if
15 there were, in fact, issues that can be managed better
16 going forward.

17 I also heard something about the HVAC
18 locations, not necessarily related to the relief, but
19 you know, maybe there's something there that can be done
20 in a way that is more accommodating to a neighbor's
21 concerns. I don't know if you have any comment about
22 that, as well.

23 MR. RODGERS: Yes. I think we're looking at
24 pretty efficient new HVAC units. I think several of
25 the houses in the neighborhood have HVAC units on their

1 rear patio. So to the extent there's noise there, I
2 will speak from having multiple houses where I've had
3 HVAC units on the rear patio.

4 I haven't really found them to be a noise
5 disturbance rather than a space disturbance.
6 Obviously, everyone is entitled to their opinion, but
7 we're looking at, you know, the most efficient
8 low-volume options available.

9 VICE CHAIR GOLDSTEIN: Okay. Well, thank
10 you. And we can discuss further when it comes up.
11 Madam Chair, thank you for the long leash here to keep
12 asking questions. I appreciate it.

13 CHAIRPERSON POURCIAU: Thank you. Thank you
14 for being comprehensive in your questions and for all
15 the responses. Next, I'll go to Board Member Wells.

16 Do you -- would you like to ask any questions of the
17 applicant?

18 MEMBER WELLS: The vice chair was very
19 thorough in his questioning the applicant here. I do
20 -- I still have questions about the elevation drawings.

21 And as far as, you know, the mass of the building and
22 where you're taking the height differences from, and
23 it looks like you're starting at floor instead of like
24 the grade level, but it sounds like from the questioning
25 that really that elevation difference does not matter

1 or does not impact the shadow study that much. Like you
2 still draw the same conclusions on your -- on the shadow
3 studies; is that correct? Just to clarify again.

4 MR. SULLIVAN: Yes, that's correct. It
5 doesn't change the substance of the shadow studies.

6 MEMBER WELLS: That's it. That's all of the
7 questions I have. Thank you.

8 CHAIRPERSON POURCIAU: Thank you. Board
9 Member Lindsjo, would you like to ask any questions?

10 MEMBER LINDSJO: I have no additional
11 questions at this time. Thank you.

12 CHAIRPERSON POURCIAU: Thank you.
13 Commissioner Miller, you're not on screen right now.
14 Would you like to ask any questions? Okay. So we'll
15 go on to Office of Planning. I'd see we have Mr. Beamon
16 here --

17 COMMISSIONER MILLER: Madam Chair, I'm sorry.
18 I appreciate you asking if I have any questions. I
19 think Mr. Goldstein was so comprehensive. I don't.
20 And I appreciate all of his questions and the responses
21 that were given.

22 CHAIRPERSON POURCIAU: Very good. Thank you
23 so much. Mr. Beamon, could you please provide the
24 report from Office of Planning? Thank you.

25 MR. BEAMON: Good morning, Board Members.

1 For the record, Shepard Beamon with the Office of
2 Planning. We have reviewed the application for the
3 request of special exception relief from the regard
4 requirements of lot occupancy for the third floor
5 addition and we found the request has met the criteria
6 for Subtitles E and X. Therefore, we recommend
7 approval. I can take any questions.

8 CHAIRPERSON POURCIAU: Thank you. I don't
9 have any questions for you right now. I'll go to Vice
10 Chair Goldstein. Any questions for Office of Planning?

11 VICE CHAIR GOLDSTEIN: Thank you very much,
12 Mr. Beamon, for the helpful report. Would you mind,
13 just because I think shadow is so discussed in this case,
14 can you just describe your reasoning why that it was
15 not an undue amount of impact from the addition?

16 MR. BEAMON: Yes. So based on the shadow
17 study submitted by the applicant, looking at that
18 year-round movement of shadowing, it only seemed to have
19 impact on the neighboring properties, I believe, during
20 the winter months. And we felt that, in considering
21 that, that that wouldn't have an undue impact on those
22 properties and again, it would increase some shadowing
23 but not to the extent that it would have significant
24 negative impacts on those properties.

25 COMMISSIONER MILLER: And was that analysis

1 also using the comparison, the matter-of-right amount
2 of shadow that Mr. Sullivan was referencing?

3 MR. BEAMON: Yes.

4 COMMISSIONER MILLER: I think that I don't
5 have any additional questions.

6 VICE CHAIR GOLDSTEIN: Thank you. Board
7 Member Wells.

8 MEMBER WELLS: No additional questions.
9 Thank you.

10 CHAIRPERSON POURCIAU: Thank you. Board
11 Member Lindsjo.

12 MEMBER LINDSJO: No, none at this time.
13 Thank you.

14 CHAIRPERSON POURCIAU: Okay. Commissioner
15 Miller, any questions for OP?

16 COMMISSIONER MILLER: No. Thank you, Mr.
17 Beamon, for your report. And your report notes that
18 you had recommended, I guess, sometime in the dialogue
19 that you had with the applicant that they reduce the
20 size of the cornice on the proposed third floor to be
21 less, well, avoid adding a top-heavy bulk. And that
22 you also had recommended the proposed third floor
23 addition should match in color and material of the
24 existing rear addition, and your report indicates that
25 they've complied with both of those recommendations;

1 is that correct?

2 MR. BEAMON: That's correct.

3 COMMISSIONER MILLER: Okay. Thank you.

4 VICE CHAIR GOLDSTEIN: Madam Chair, do you
5 mind if I make one more question, if that's okay?

6 CHAIRPERSON POURCIAU: Please proceed.
7 Thank you.

8 VICE CHAIR GOLDSTEIN: Thanks. And, Mr.
9 Beamon, I really appreciate your help. There was an
10 assertion that the third floor would not be out of
11 character in the neighborhood. Could you just describe
12 your view of that assertion?

13 MR. BEAMON: Yes. So in terms of building
14 height, there is no predominant building height. They
15 range between two and three stories, so that wouldn't
16 be out of character. And there isn't necessarily a
17 consistent architectural style within the neighborhood,
18 as well. So we felt that having this addition, although
19 it doesn't necessarily match in material, it still
20 wouldn't be out of character with the surrounding area.

21 VICE CHAIR GOLDSTEIN: Thank you very much.

22 CHAIRPERSON POURCIAU: Thank you for that.
23 I lost my place. Board Member Lindsjo, any questions
24 for OP, I think I did this already. Everybody asked
25 OP, no questions. All right. Thank you, Mr. Beamon.

1 I'm not seeing that there are any other district
2 agencies signed up to testify. I just want to ask the
3 applicant if you have any questions or response to the
4 Office of Planning.

5 MR. SULLIVAN: No, I do not. Thank you Madam
6 Chair.

7 CHAIRPERSON POURCIAU: Okay. You're
8 welcome. And I do not believe the ANC is present to
9 testify. We don't have any parties, but we do have
10 individuals signed up. And so at this point, would you
11 please, Mr. Young, would you please bring in the public
12 witnesses? And I believe we have three in opposition
13 and one undeclared.

14 The first person I saw on my list is Mr. Pleger,
15 and I don't see that name on my screen. I also see next,
16 Ms. Grifka. I do believe I see Ms. Grifka on the screen.
17 Yes. Thank you. We allow three minutes of testimony,
18 and if you would please start by giving your name and
19 address for the record. In advance, I just want to thank
20 all of the public witnesses for taking out the time today
21 to come and give us your thoughts. Thank you. Please
22 proceed.

23 MS. GRIFKA: Thank you, Madam Chair. My name
24 is Michelle Grifka. I live at 1235 Maryland Avenue,
25 Northeast, where I've lived for the last 21 years. My

1 property abuts 1226 F Street, and I submit this statement
2 in opposition to application 21475. My concerns have
3 increased as additional versions of project plans were
4 --

5 CHAIRPERSON POURCIAU: Ms. Grifka? Ms.
6 Grifka, can you hear me?

7 MS. GRIFKA: Yes.

8 CHAIRPERSON POURCIAU: Okay. You went on
9 mute, so why don't you start over again and we'll restart
10 your time.

11 MS. GRIFKA: Apologies. Thank you. My name
12 is Michelle Grifka. I live at 1235 Maryland Avenue,
13 Northeast, where I've lived for the last 21 years. My
14 property abuts 1226 F Street Northeast, and I submit
15 this statement in opposition to application 21475.

16 My concerns have increased as additional
17 versions of project plans were filed. My initial
18 concerns outlined in detail in my July 15th letter of
19 opposition remain. They include noncompliance with the
20 intent and requirements of RF-1 zoning, particularly
21 with respect to factors of light, air, privacy, and
22 neighborhood character. The application does not
23 satisfy requirements to demonstrate that there's not
24 an adverse effect on abutting and adjacent properties.
25 The height, bulk, and proximity of the proposed

1 structure, vertical expansion, and reduced setbacks for
2 which exception is requested will adversely impact these
3 factors for me and my neighbors.

4 The application lacks important visual
5 context for this project and its proximity to abutting
6 and nearby properties. The photos provided by the
7 applicant with the initial application on April 2nd
8 almost exclusively show the property in context with
9 the homes to the east of 13th Street. I've included
10 photos to provide context for the homes that will bear
11 the brunt of the adverse impact from this project in
12 my written testimony, which has been added to the case
13 file.

14 I would also like to call the board's attention
15 to the newest version of the project plans, Exhibit 36B1,
16 updated architectural plans and elevations, filed on
17 August 19th. Page 3 of that exhibit shows the location
18 of the air conditioner condensers for the two-story
19 units in the proposed project. To say that the noise
20 generated by those condensers and the condenser for any
21 ground floor unit on the west side of the building will
22 adversely impact my ability to enjoy gardening, visiting
23 with friends, and the peace and quiet of a private
24 outdoor space in my backyard is a gross understatement.

25 I would also like to note that that additional

1 plan that was filed on April 19th is after the Capitol
2 Hill Restoration Society submitted their letter of
3 support. And, again, the impact of the siting for those
4 air conditioner units is significant. Even when I'm
5 spending time in my backyard, I turn off my air
6 conditioner because of the noise that is generated.
7 I respectfully request that the Board deny the
8 application. And thank you for your consideration of
9 my concerns and those of my neighbors. Thank you.

10 CHAIRPERSON POURCIAU: Thank you so much.
11 Thank you for staying within the time. We appreciate
12 your comments. Are there any questions from Board
13 members or -- I would offer this witness? Yes, Mr.
14 Vice Chair.

15 VICE CHAIR GOLDSTEIN: Thank you for your
16 testimony today. Just wondering, have you had any
17 direct discussions with the applicant, and could you
18 describe those discussions?

19 MS. GRIFKA: Sure. We've had, I think,
20 attending our ANC's EDZ meeting, there was discussion
21 about the project. It was on our ANC commission's
22 meeting consent agenda. And then there was a meeting
23 that Mr. Sullivan organized, which involved most of the
24 neighbors on Maryland Avenue. I think they were willing
25 to listen. The ability to reach consensus, you know,

1 I think there's obviously differing perspectives on the
2 impact of this project. I would note that, and it, you
3 know, it does seem trivial, but the effort to reach out
4 to neighbors for the neighbor-focused meeting that we
5 had outside of the ANC structure.

6 The notice to the neighbors was postmarked
7 on a Friday, which was, you know, we were having the
8 meeting on a Tuesday, so most of the neighbors didn't
9 get the letter until the Monday before, and I know for
10 many of them it was difficult for them to rearrange their
11 schedules to make the meeting.

12 I think, similarly, the comment about the form
13 letter for neighbors, for letters of opposition, this
14 is a neighborhood of families with small children and
15 working professionals; and so I think, you know, our
16 effort to reach out to them, going door to door and
17 providing them with a document that they could use was
18 an effort to help them register their concerns with the
19 project.

20 VICE CHAIR GOLDSTEIN: Thank you.

21 CHAIRPERSON POURCIAU: Thank you, Vice Chair.
22 Any other questions for this witness? Would the
23 applicant like to ask any questions or rebut at this
24 point?

25 MR. SULLIVAN: I don't have any questions.

1 I don't think I have a rebuttal other than -- no, no
2 rebuttal at this point, no. Thank you.

3 CHAIRPERSON POURCIAU: Thank you. Next,
4 we'll hear from Mr. Pitcairn.

5 MR. PITCAIRN: Yes, thank you. Thank you,
6 Madam Chair.

7 CHAIRPERSON POURCIAU: Mr. Pitcairn, you will
8 have three minutes. And if you can give your name and
9 address, I appreciate it. Thank you so much.

10 MR. PITCAIRN: Absolutely. Thank you, Madam
11 Chair and members of the Board. My name is Blair
12 Pitcairn, and my wife and I live at 1241 Maryland Avenue
13 Northeast. I've submitted more extensive testimony,
14 but during these three minutes I would like to share
15 several key points of our opposition. The BZA can't
16 move forward with the application until after
17 reconciling our neighbor concerns for the bulk and
18 height of the special zoning requests regarding light,
19 air, and privacy. The owner submitted revisions in
20 response to privacy concerns with the addition of adding
21 the planter walls. However, these additions raised
22 more light concerns while still not mitigating all of
23 the privacy concerns.

24 The applicant has also not provided a
25 sufficient sun study to measure the true impacts despite

1 being asked multiple times. A prior case before the
2 BZA provided a sun study that provides a baseline example
3 for what information should be provided for public
4 consideration. While I am not an architect, I did do
5 my best using SketchUp to create the case's true impact
6 because this was not provided by the applicant. This
7 does include the privacy screen walls that do add to
8 the height of about 38 feet tall in total, and they'll
9 also be bolted down, which I think indicates that they're
10 not quite as temporary as they are considered for some
11 properties. But they will be casting the additional
12 shadows on my and my neighbors' homes.

13 The graphics in my testimony show an isometric
14 view of our homes that show how high the shadows travel
15 up the walls of our homes. And for my wife and I
16 specifically, that would include the views into our own
17 kitchen windows and our bedroom, which is upstairs.
18 And those illustrations are also provided in my written
19 testimony. The illustration also shows how the bulk
20 and height of the building is not consistent with the
21 character of our RF-1 neighborhood, specifically our
22 unique triangle that constitutes where we live.

23 The requested variance results in at least
24 some homes being impacted during at least three-quarters
25 of the year, as the red is shown during three of the

1 dates. And this also impacts our homes' perceived
2 values. At the community meeting, the applicant
3 explained the special request is mainly the difference
4 of adding space not large enough for a regular bedroom
5 for the two upper units in addition to some space being
6 added to rooms. But the difference on the surrounding
7 community is considerably greater.

8 The existing tenants have called this building
9 home for decades. Their displacement does not simply
10 mean finding another apartment. It means possibly
11 disrupting established relationships, schools,
12 churches, employment, and the broader stability of their
13 lives and could also contribute to substantially higher
14 rents at a time when the District is actively confronting
15 the challenges of housing affordability. The
16 application cannot be resolved until these points are
17 reconciled. I welcome any questions you may have.

18 CHAIRPERSON POURCIAU: Thank you. I was
19 looking more carefully at your submission, and I want
20 to thank you for the work you put into that and for
21 documenting your case. Let me see if there are
22 questions from the Board. Vice Chair Goldstein, any
23 questions for this presenter?

24 VICE CHAIR GOLDSTEIN: Yes, I do. And thank
25 you. For someone who I think says they just kind of

1 picked up SketchUp, I mean, I really appreciated your
2 drawings. Those were terrific.

3 MR. PITCAIRN: Thank you.

4 VICE CHAIR GOLDSTEIN: One thing I suspect
5 would be raised in thinking about these is it shows the
6 existing and the proposed, but it doesn't show what a
7 matter-of-right option is, and this is something that
8 the applicant stressed in their sun studies. I'm just
9 curious if you had thought about that issue of what could
10 be done as a matter of right.

11 MR. PITCAIRN: Absolutely. The reason that
12 I wasn't able to construct the matter of right is because
13 it was a little more difficult, not really fully
14 understanding all the zoning guidelines and, you know,
15 what walls can reach exactly what heights it at all
16 parts. If I was given the formula to it, I certainly
17 would be adding those.

18 When it comes to what compromises could be
19 made, it's also challenging from a neighbor's
20 perspective because we aren't architects or working
21 through the return on investment for the neighbor
22 property. So I think it would be helpful for the
23 applicant to have maybe proposed different options or
24 at least, you know, explain. It seems like the special
25 requests are relatively limited with their benefit for

1 the applicant, which I think outsized a much larger
2 perspective of the neighboring homes.

3 I will share that, from my perspective, the
4 community outreach -- I know Ms. Grifka had an email
5 from the applicant. I've attended both EDZ meetings,
6 submitted a letter of opposition, as well as attend the
7 community meeting. Since the first meeting, I provided
8 my email and subsequently every touch point thereafter.

9 I've requested outreach, and I never did get an email.
10 We did discuss during the community meeting. However,
11 it seems like with the relatively late notice of the
12 timing for the community meeting, I think the plans were
13 submitted to the case file maybe a couple days prior.

14 So it's challenging as a neighbor who's, you know, not
15 crafting any of this, to really ponder what we could
16 be doing to get a win-win.

17 And I remember the applicant explained that,
18 whether the addition happens or not, the unit needs
19 significant updating. And I think, you know, if they
20 stayed within their existing parameters, they could win
21 with, you know, a new and improved unit and also
22 neighbors could win because there wouldn't be any
23 adverse impact when I comes to the light, air, and
24 privacy.

25 I've also included -- sorry. I included in

1 my oral testimony that my kitchen view, it's a favorite
2 room in my home, that's going to be impacted, and I don't
3 think that the application truly took steps to
4 acknowledge to what extent those special variances are
5 going to have.

6 VICE CHAIR GOLDSTEIN: Thank you very much.
7 That was a helpful answer. Appreciate it.

8 CHAIRPERSON POURCIAU: Thank you, Vice Chair.
9 Board Member Wells, do you have questions for the
10 applicant, for the presenter?

11 MEMBER WELLS: I don't have any questions.
12 Again, thank you taking the time to go through and
13 provide your testimony and the SketchUp does provide
14 a different perspective from residents as far as the
15 impact, especially regarding light and privacy. So I
16 really appreciate your testimony. Thank you.

17 MR. PITCAIRN: Thank you. I do want to add,
18 if I can, the neighborhood letters of opposition, is
19 that there was a breakdown. I think it was two or three
20 management-focused. And the remaining letters, of
21 those, I think all of Maryland, at least the ones that
22 have shadows cast onto the home, that does -- each of
23 those homes in line with the shadow impact, they do have
24 representation within their own separate letters of
25 opposition.

1 CHAIRPERSON POURCIAU: Thank you for that
2 clarification. Board Member Lindsjo, do you have any
3 questions?

4 MEMBER LINDSJO: Not at this time. Thank you
5 for sharing today.

6 CHAIRPERSON POURCIAU: Thank you. And
7 Commissioner Miller, do you have any questions for this
8 presenter?

9 COMMISSIONER MILLER: Thank you, Madam Chair.
10 I just echo that I appreciate your testimony, your
11 participation today, and the photos and depictions that
12 you included with your testimony it was very helpful.

13 MR. PITCAIRN: Thank you.

14 CHAIRPERSON POURCIAU: Thank you. Is there
15 any questions or rebuttal from the applicant for this
16 presenter?

17 MR. SULLIVAN: Not for this presenter. Madam
18 Chair. I would like a rebuttal at the end after
19 everybody speaks, but I don't have any questions for
20 Mr. Pitcairn now. Thank you.

21 MR. RODGERS: I did want to mention the
22 characterization of tenants living there for decades.
23 Three out of four units are occupied. Two out of those
24 remaining three have been there since just after COVID,
25 so certainly not decades. The third one, I have spoken

1 to her personally, and she expressed the willingness
2 to move.

3 CHAIRPERSON POURCIAU: Thank you. Next, we
4 will hear from Ms. Loper. Ms. Loper, you have three
5 minutes. And if you would please start by giving your
6 name and address for the record. Thank you.

7 MS. LOPER: Hi. Good morning. Thank you,
8 Chairwoman. I'm sorry, my camera is not working. I'm
9 not sure why. My name is Rachael Loper. I am the EDZ
10 chair from the ANC, but we didn't vote for me to give
11 testimony. I didn't know we had to do that. I'm
12 relatively new, so I'm just a neighbor living at 916
13 D Street Northeast.

14 I think the neighbors covered anything that
15 I would say. However, while we were talking, I made
16 a little map showing all the opposition of the neighbors,
17 which I can share with you if you would let me share
18 my screen, because I think it shows -- I don't know if
19 I can share my screen. I can send it in if you'd like
20 to do that. It definitely shows a lot of properties
21 near this property are in opposition.

22 CHAIRPERSON POURCIAU: Before you go on, let
23 me just ask Mr. Young or Ms. Mehlert the best way to
24 receive that information.

25 MS. MEHLERT: I was going to add that she

1 should submit that to BZA's commissions. We don't --
2 members of the public are not allowed to share their
3 screen.

4 MS. LOPER: Okay. I'm happy to do that.
5 Other than that, I'll just say I think the neighbors
6 covered everything that I, had we voted for me to also
7 testify, probably would have said. Thank you so much.

8 CHAIRPERSON POURCIAU: Thank you for that.
9 Thank you for doing the little sketch. I think that'll
10 be really good to see. And I don't see that Mr. Pleger
11 joined, so I believe I've called on all of the witnesses
12 that have come forward to testify. Hearing no
13 correction, that seems to be true. So, Mr. Sullivan,
14 would you like to provide your rebuttal at this point?

15 VICE CHAIR GOLDSTEIN: I'm sorry, Madam
16 Chair, can I ask --

17 CHAIRPERSON POURCIAU: Yes.

18 VICE CHAIR GOLDSTEIN: -- Ms. Loper a quick
19 question.

20 CHAIRPERSON POURCIAU: Oh, I'm so sorry.

21 VICE CHAIR GOLDSTEIN: Oh, okay. I don't know
22 -- is she still there.

23 CHAIRPERSON POURCIAU: Yes, she's still
24 there.

25 MS. LOPER: I'm here.

1 VICE CHAIR GOLDSTEIN: Oh, thank you. And
2 I understand you haven't potentially been authorized
3 by the ANC. I'm just reviewing the ANC letter, and it
4 uses the words withhold support as what the ANC
5 recommended. Is there anything you can shed light on
6 that? Or if this is not appropriate for your comment,
7 that's fine.

8 MS. LOPER: I think there was a little bit
9 of confusion and withhold support was the best
10 compromise.

11 VICE CHAIR GOLDSTEIN: So it wasn't -- the
12 word opposed wasn't used, and the word approve wasn't
13 used.

14 MS. LOPER: Correct.

15 VICE CHAIR GOLDSTEIN: It was sort of a
16 compromise, withhold support. Okay. Well, thank you
17 very much.

18 MS. LOPER: You're welcome. Thank you.

19 CHAIRPERSON POURCIAU: Sorry. Did any other
20 Board members have any questions for our applicant?

21 COMMISSIONER MILLER: No, thank you, Madam
22 Chair.

23 CHAIRPERSON POURCIAU: Very good. So we will
24 proceed with rebuttal by Mr. Sullivan.

25 MR. SULLIVAN: Thank you, Madam Chair and

1 Board members. A couple things. First, on the side
2 yard, Board Member Goldstein, we have no issue there
3 because we have no side yard. We can set back an upper
4 level, and that doesn't create a side yard. Side yards,
5 or any yard, any required yard is required to be open
6 to the sky. Lot occupancy is calculated on a
7 level-by-level basis, so you can add an additional level
8 of lot occupancy but the side yard doesn't exist and
9 it still doesn't exist. So we don't need relief for
10 that, and we haven't asked for relief for that. I'm sorry
11 I didn't think of that in the moment.

12 Regarding the rear yard, we're still asking
13 for relief for that because of the addition that we can't
14 confirm was built prior to 1958. So we would still need
15 relief for that because that does go all the way down
16 to the ground. So we would be extending that
17 nonconformity, essentially. So I'm comfortable --
18 we're not asking for side yard relief, and I'm
19 comfortable that that's not required.

20 Regarding the height dimension, yes, the plans
21 show the correct dimensions, but he lists the 31-6 from
22 the first floor instead of from the grade; you're
23 correct. So I've been reciting it wrong, and we want
24 to -- I would like to change that dimension number 31.6
25 and a half that you see on the right of the elevation,

1 that should be -- 1.9 should be added to that number.

2 It doesn't say height of building, it's just a
3 dimension. But that's not the right dimension to use,
4 so I would definitely like the opportunity to change
5 that to make it clear what we're requesting. And,
6 again, it's still two feet under the permitted height.

7 Regarding outreach, we've had four meetings,
8 probably all of which Mr. Pitcairn attended, and Ms.
9 Grifka. We -- in addition to that, we sent additional
10 notice, which we often do because a lot of times the
11 200-foot notice that goes out from OZ is missed or
12 ignored. And so we sent an additional notice to the
13 block as well, just in general, on the application.
14 Then we sent out notice of the Zoom meeting for the people
15 who information we had. Because that was just -- we
16 could only email the people we had, so the last minute
17 we had to also send out a mailing, and we asked the people
18 that we emailed please share information. And nine or
19 ten people attended that additional Zoom meeting, in
20 addition to the EDZ meetings.

21 I want to bring it back to the issues before
22 the Board, the relevant issues before the Board. This
23 is a zoning case where we're asking for a certain amount
24 of relief. We don't need relief to have a third story.

25 We don't need relief to have a third story at 60-percent

1 lot occupancy. Which is only 3.7 less of building, of
2 the strip of building, either on the front or the back.

3 It's not a plebiscite. It doesn't -- the map of the
4 community doesn't impact our special exception case.

5 I don't know why. I can't explain why there's such
6 widespread opposition. I can tell you, from what I've
7 been told, it's an opposition to any increase.

8 It's not my job necessarily to educate people
9 so that they come here then and say, well, gee, I don't
10 know a lot about the zoning regulations. I'm just here
11 to say that this application should be denied, but I
12 did my best. We did our best to explain it over and
13 over again. This is the relief that we're asking for.

14 We can do a third story as a matter of right. We need
15 relief to do a little bit more, to make it worthwhile.

16 My client bought this property about three years ago.

17 He's trying to improve it. It desperately needs gutted
18 and renovated, and he's trying to improve it without
19 increasing the number of units, as permitted by matter
20 of right and by this special exception request. And
21 you can see -- get a sense of why it's so difficult to
22 improve, maintain, and build housing in the District
23 sometimes.

24 This isn't about the tenants. It's not about
25 return on investment. It's not about HVAC units,

1 frankly. And the plans haven't substantially -- or
2 haven't materially changed from the beginning, so
3 anybody getting new or revised plans, they've had the
4 same plans all the way through. There were minor
5 changes as we submitted plans.

6 So I'd like to go back to the fact that also
7 the matter of right option here is going to be in the
8 same location. Notwithstanding the shadow study that
9 we presented to be conservative and show the worst case
10 scenario, the matter-of-right option goes in the back
11 at 35 feet in height. It's worse than what we're
12 proposing as in regard to the north and the west, and
13 that would make sense because you're not going to have
14 an open patio facing the trees in the back, which haven't
15 even been mentioned. You saw from the photo there's
16 a good amount of tree shade between -- on the north edge
17 of the property, as well.

18 Regarding privacy, we have substantial
19 privacy elements screening and planters that make it
20 impossible to see over the edge of the roof in any
21 direction facing residential housing and no windows on
22 the rear of the building. And again, we're talking
23 about 3.7 feet. We could have -- and that's a condition
24 that wouldn't be there in a matter-of-right building.

25 We can do 60-percent lot occupancy in the same location

1 as to the rear of the building and have no privacy
2 elements and a couple feet higher, as well.

3 So I'm sort of a little miffed or frustrated
4 by all the discussion that hasn't really focused on just
5 the special exception criteria here and how this really
6 isn't that -- I get it. I get that the community doesn't
7 want an addition. They don't want a third story
8 addition. Notwithstanding there being taller
9 buildings across the street and in both directions.
10 But focusing on the relatively minor degree of relief
11 here, we can do 85-percent of what we're asking for on
12 that roof. We can do 60-percent lot occupancy. We're
13 just asking for a little bit more to make it a
14 higher-quality development and give him the space that
15 he needs on the roof. And I think the application safely
16 meets all that criteria, as this board usually sees that
17 criteria.

18 I regret that we couldn't come to any agreement
19 with the community or we couldn't compromise at all.

20 I didn't know what to do to resolve it because I think
21 their concerns were bigger than just what we're asking
22 relief for. Their concerns were about the addition in
23 general. Thank you.

24 CHAIRPERSON POURCIAU: That sounded like your
25 closing remarks, as well. Thank you for summing that

1 up. It seems that there may be a few things that we
2 need to see in the record before making a decision on
3 this case, but I'll ask my fellow Board members their
4 thoughts. The drawings seem to be -- need to be
5 amended. Right? For that error. And I think there's
6 also -- I'd like to see that markup that the ANC person
7 put together. I don't know, are there things -- what's
8 the thought? Are there any questions for the applicant
9 hearing everything that we've just heard or any other
10 concerns you all might have? I'll start with Ms.
11 Lindsjo.

12 MEMBER LINDSJO: I don't have anything
13 additional. Thank you.

14 CHAIRPERSON POURCIAU: Thank you. And I'll
15 go to Ms. Wells next.

16 MEMBER WELLS: I don't have anything
17 additional. I'm wondering if, you know, I guess my
18 procedure is maybe to consider leaving the record open
19 for those corrections. It sounds like, from my
20 understanding of the drawings, the ones that need
21 corrected, you know, they're essentially showing
22 heights of floors and not the elevation on top of
23 building. And so when you add those dimensions, you know,
24 they get too -- Mr. Sullivan, was stating. And the
25 problems with those drawings need clarification. So

1 we're looking at -- elevation is going to be in the
2 drawings. I don't have any further questions at this
3 time or any clarification. Thank you.

4 CHAIRPERSON POURCIAU: Mr. Goldstein.

5 VICE CHAIR GOLDSTEIN: I don't think I can
6 think of anything more. In an ideal world, I'd love
7 one more shot at talking to some of these neighbors,
8 and I'm curious for my colleagues' thought on that, but
9 I don't know what that would produce at this point.
10 So I still wonder if there's something that can improve
11 the situation a little bit from another discussion, but
12 I kind of love to hear others thoughts on that.
13 Otherwise, I can't think of anything else to add.

14 CHAIRPERSON POURCIAU: Thank you. Mr.
15 Miller.

16 COMMISSIONER MILLER: Thank you, Madam Chair.
17 I think the additional information my colleagues have
18 asked for is appropriate. And Mr. Sullivan, appreciate
19 all the effort, you tried to reach, in terms of the
20 community outreach, the four meetings. Tell me again
21 -- well what is -- with the special exception, you're
22 getting 10 percent, I think the footprint is 10 percent
23 beyond what matter of right would be. I think it might
24 be helpful if we had a matter-of-right rendering. I
25 think I can envision it with the extra height as well,

1 which would be matter of right. But I think it just
2 might be helpful to have that kind of rendering compared
3 to what you're proposing.

4 What is the difference in the square footage
5 that you're getting on the roof and on those, you know,
6 third floor units between matter of right and what you're
7 proposing?

8 MR. SULLIVAN: I can speak to the exterior.

9 I know the exterior, the 10 percent -- the lot area
10 is 1,973. So 197.3 square feet as measured from
11 exterior walls. I'm not sure what that translates to
12 necessarily in interior actual space. It's not a lot,
13 but it's helpful in providing an upgrade to the existing
14 building.

15 COMMISSIONER MILLER: Well, for me, it would
16 be helpful to have that translation of how much extra
17 space is being gained on the roof and third floor beyond
18 the matter of right and what would it be and what is
19 the square footage under the matter of right for the
20 roof and that third floor. I think, if you're providing
21 other stuff, I think it might be helpful for me to see
22 that and for maybe the neighbors to see that it could
23 be worse in terms of height, so I think that might be
24 helpful, so I think a matter of right rendering and that
25 differential between on square footage on the roof and

1 the units between proposed and matter of right.

2 CHAIRPERSON POURCIAU: I did have a question
3 about affordable housing, and you didn't speak to it.

4 I did see in one of the letters on the record that there
5 maybe is affordable housing there today and that might
6 not exist with the changes proposed here. Can you tell
7 us about that?

8 MR. SULLIVAN: Barry, do you want to speak
9 to that?

10 MR. RODGERS: Yes. There are voucher tenants
11 in place. The voucher does provide a market rate
12 compensation. As stated, this building is in serious
13 need of upgrading and renovation. It's been many
14 decades overdue. They would be, as well as any other
15 voucher tenant, welcome to apply post renovation.
16 There's certainly going to be no discrimination against
17 that.

18 CHAIRPERSON POURCIAU: Thank you for that.
19 So

20 MEMBER WELLS: Madam Chair, one more comment.
21 Sorry. Since we're providing stuff, I think there was
22 a comment made that the privacy screens were not included
23 in the sun study. I don't know if that makes a huge
24 difference, but, for accuracy, can it be included in
25 the sun study?

1 MR. SULLIVAN: Yes.

2 MR. RODGERS: Yes. And for further
3 clarification, the privacy wall was something we offered
4 up when tenants expressed concern about privacy. It
5 was one of the compromises that we wanted to make, so
6 that's why it happened post study.

7 MEMBER WELLS: Is it a major impact to that
8 study, adding those?

9 MR. SULLIVAN: No, we don't expect it will
10 be because that's typically with the screening. A lot
11 of times with screening, we don't even include them in
12 the shadow study just because the intention is that light
13 and air still get through. But we do want to sort of
14 disturb the view, I guess, enough to enhance the privacy.
15 You see it done a lot with a deck sometimes, like, that's
16 in a row building.

17 I didn't really think there was a privacy issue
18 there to begin with only because it has nothing to do
19 with the extension of 3.7 feet. We can have a third
20 story. We can have a roof deck without screening. But
21 to answer your question, though, we can definitely put
22 it in the shadow study, I think, although I'm not --
23 I guess I shouldn't speak for Enrico in that when you
24 have -- it's not a wall. It's half open, half closed,
25 so I'm not exactly sure how you'd show that as an element

1 of the shadow study.

2 MR. VILLAROMAN: We can include the screen
3 walls in the shadow study, as lapis walls, and see how
4 that could pass shadows with the transparent nature of
5 lapis. So it will be sort of a more realistic depiction
6 of what those additional elements would produce.

7 MR. SULLIVAN: I think we can also, because
8 we can't get -- we're not near the back edge, as well.

9 We may just -- we could eliminate that in the back,
10 the privacy screening, if that was preferred and just
11 keep it on the side or around the corner. We don't have
12 to do the whole rear of the building if nobody on the
13 north side is experiencing privacy concerns or issues
14 and if they'd rather just not have that there. So maybe
15 I'll submit a couple scenarios.

16 MR. RODGERS: Yes. It might be worth noting,
17 too, there's a very large, I think, perhaps a heritage
18 tree that stretches to what would be the third story.

19 You know, once again, I want to offer whatever
20 compromise we can in terms of privacy, but it does
21 obstruct a lot, you know, particularly when it has leaves
22 on it. And it also, you know, obviously casts shadow,
23 but that is to the north of the building.

24 CHAIRPERSON POURCIAU: Thank you.

25 MR. VILLAROMAN: I would also add that the

1 screen walls are not -- are setback from the exterior
2 face of the third floor addition. So it is not aligned
3 to the parapet line of the third floor. It is set back
4 by, I think, two and a half feet or three feet. And
5 so that setback will also mitigate, you know, shadows
6 casted because you're not right at the edge of the third
7 floor. With those screen walls.

8 CHAIRPERSON POURCIAU: Thank you. Thank you
9 for that. Thank you. Secretary Mehlert, I just want
10 to clarify -- I always get tripped up at this point.

11 So there's been additional documents requested, and
12 I believe then we should defer our deliberation and
13 decision to a decision meeting. Is there -- are Board
14 members in agreement with that, and do we need to ask
15 you about a date for that or -- at this point?

16 MS. MEHLERT: Yes. So in terms of the
17 requested documents from the applicants, and I think
18 there was also potential engagement with the neighbors
19 again. I don't know, October 21st would be okay for
20 a decision. Board schedule's -- there's no hearing on
21 the 14th. So I would just throw that out there.

22 CHAIRPERSON POURCIAU: That sounds good to
23 me. That seems like a good time.

24 MS. MEHLERT: Okay. So then perhaps if the
25 applicant could submit their information by October 7th,

1 then any response from the ANC by October 14th, and then
2 the Board could return for a decision on the 21st.

3 CHAIRPERSON POURCIAU: Thank you for that.
4 Mr. Sullivan, are you okay with that?

5 MR. SULLIVAN: Yes, thank you very much.

6 CHAIRPERSON POURCIAU: All right. Thank you
7 all. Thank you for everyone who testified today, and
8 we look forward to receiving the additional information.

9 Did anybody want to take a break now, or is it okay
10 if we go to the next case? Not seeing any requests.
11 Okay.

12 VICE CHAIR GOLDSTEIN: I could use five
13 minutes, if that's a possibility.

14 CHAIRPERSON POURCIAU: Let's do five minutes.
15 We'll reconvene at 11:25. Thank you.

16 (Whereupon, the above-entitled matter went
17 off the record at 11:20 a.m. and resumed at 11:27 a.m.)

18 CHAIRPERSON POURCIAU: Welcome back,
19 everyone. We'll now proceed to Case No. 21489.

20 MS. MEHLERT: Next is Application No. 21489
21 of Big 1401 NY Owner, LLC, as amended. This is a
22 self-certified application pursuant to Subtitle X,
23 Section 901.2, for a special exception under Subtitle
24 C, Section 1501.1(e), to allow expansion of an existing
25 habitable penthouse space in an area near the White

1 House.

2 Request is for 2,700 square feet of new
3 interior habitable penthouse space, including tenants'
4 all purpose room, at an existing 12-story office
5 building with penthouse, roof deck, ground floor retail
6 space, and below-grade parking. This is located in the
7 D-6 zone at 1401 New York Avenue, Northwest, Square 222,
8 Lot 24.

9 And as a preliminary matter, the applicant
10 has proffered Mathew Hart as an expert in architecture,
11 who has not been previously recognized by the Board.

12 And the resume is in Exhibit 16.

13 CHAIRPERSON POURCIAU: Thank you for that.
14 I think the Board looked over that resume and accepted
15 Mr. Hart as an expert witness.

16 With that, I see we have Mr. Bloomfield, the
17 agent for the applicant. Welcome. We'd like for you
18 to limit your remarks, yours and any others who will
19 be testifying, to under 15 minutes, if possible.

20 And, with that, we'd like to hear from you.

21 Thank you for being here.

22 MS. BLOOMFIELD: Wonderful. Thank you. You
23 can hear me okay? Great. If you don't mind pulling
24 up our PowerPoint presentation, that would be wonderful.

25 Great. I am Jessica Bloomfield with the law

1 firm of Holland & Knight, here representing the
2 applicant. And I'm actually going to turn it over to
3 Jason Bockenek of Carr Properties, who is the applicant,
4 to give a brief introduction about their proposal for
5 this project. And then he'll turn it back over to me
6 to give a presentation. And we can certainly keep it
7 under 15 minutes.

8 MR. BOCKENEK: Thank you, Jessica.

9 MS. BLOOMFIELD: Would you go to the next
10 slide after that. Thank you.

11 MR. BOCKENEK: Members of the Board, thank
12 you for your time this morning. My name is Jason
13 Bockenek, as Jessica mentioned. I work for Carr
14 Properties, a downtown landlord. We are the managing
15 member of the LLC that owns this building at 1401 New
16 York Avenue.

17 As everyone can infer from the address, this
18 building is located at the intersection of 14th and New
19 York Avenue in Northwest D.C. We are here today because
20 of a project improvement of the rooftop. And because
21 of the proximity of this location to the White House
22 it has triggered the requirement for this sequence of
23 events. I'll let Jessica be more technical about that
24 in just a moment.

25 But this building is fairly -- it's a very

1 nice building downtown that's 12 floors. It measures
2 around 210,000 square feet. And Carr has owned this
3 building for 6 or 8 months.

4 We're upgrading several portions of the
5 building on the interior, such as the garage, and the
6 lobby, and some amenity areas. But the exterior
7 rooftop, like I mentioned, is what we're here to talk
8 about this morning.

9 With me, in addition to Jessica, we have Mathew
10 Hart, who is with Perkins Eastman. Perkins is a
11 fantastic architect with -- they must have their
12 fingerprints on 15 or 20 buildings within the District.

13 And we love working with the Perkins team, so Mat's
14 here to answer any questions. And also with me at Carr,
15 just if any questions come up that I can't answer, is
16 David Roehrenbeck as well.

17 So, with that, Jessica, I think I'm going to
18 turn it back to you. And we can advance the slide as
19 well.

20 Thank you.

21 MS. BLOOMFIELD: Perfect. Thank you so much.

22 So, as Jason mentioned, the property is at
23 1401 New York Avenue, Northwest. It's bounded by H
24 Street to the north, 14th to the east, New York Avenue
25 to the south, and private property is directly to the

1 west.

2 The property is zoned D-6. It is within a
3 high density, mixed use neighborhood. It's comprised
4 of a variety of other office and federal government
5 buildings which house apartments, many of which include
6 ground floor retail.

7 And as Jason said, the property itself is
8 improved with an existing 12-story 130-foot tall office
9 building, with ground floor retail and below grade
10 parking.

11 Next slide, please. Here are two existing
12 condition photographs of the building. It was
13 originally constructed in the early Eighties and was
14 renovated in 2015 to replace the old facade and to
15 enclose an arcade on the ground level, and other interior
16 upgrades and renovations.

17 Next slide, please. Here is an aerial. This
18 photograph you can see the building's existing habitable
19 penthouse and rooftop deck, which is what we're going
20 to talk about today, which currently is accessible to
21 and used by the office tenants.

22 Next slide, please. These are some images
23 of the existing rooftop deck and the penthouse beyond
24 it that you can see.

25 And if we go to the next slide, this is a floor

1 plan showing the existing penthouse condition. So,
2 what's up on the roof now is the penthouse habitable
3 space, which is limited to just an elevator lobby, two
4 small restrooms, and a small pantry and seating area.

5 The rest of the roof is dedicated to an outdoor terrace
6 and to mechanical equipment.

7 Next slide. The proposed plan is to renovate
8 the existing penthouse habitable space and to expand
9 its footprint to the south and the southwest. The
10 expansion would add approximately 2,700 square feet of
11 new interior penthouse floor area. It would all be
12 devoted to office tenant lounge and multi-purpose space.

13 The restrooms and pantry area would be, would both be
14 expanded. And the roof terrace would be upgraded to
15 a flexible and functional area for office tenants.

16 Next slide. This plan, these two plans more
17 clearly show the existing and the proposed penthouse
18 area. The blue on the top image is what exists now.

19 And the blue on the bottom image is what will exist.

20 So, the interior space is getting bigger.

21 It's important to note that the proposed
22 renovations and expansions will meet all of the
23 penthouse height, setback, massing requirements of the
24 zoning regulation. The only reason we are before the
25 BZA is because of the property's location in proximity

1 to the White House, which requires the special exception
2 relief that we are requesting in consultation with the
3 Secret Service.

4 Next slide, please. This is a section and
5 plan that we put in here, actually at the suggestion
6 of Office of Planning. There was one dimension that
7 I don't believe was included in the original plans.
8 And this confirmed for OP when we were reviewing with
9 them that the penthouse setbacks are met for the proposed
10 expansion.

11 So, we added this for the case record. If
12 you have any questions, we can go through it. But as
13 I mentioned, the setbacks are all met.

14 Next slide, please. Okay, now the fun part.
15 I will quickly review how the proposal is fully
16 consistent with all the applicable legal standards for
17 the special exception review.

18 First, pursuant to C 1401.1(e), all penthouses
19 within a certain boundary within close proximity to the
20 White House are permitted only if approved by the BZA
21 for special exception, and only after consultation with
22 the Secret Service to determine if a security problem
23 exists.

24 Next slide. In this case we met with the
25 Secret Service on site. We reviewed the penthouse

1 expansion plans. And we received confirmation from
2 them, as you can see here, that no issues were found
3 with the proposed work. A copy of the letter from the
4 Secret Service is included in the case record at Exhibit
5 13. And I snipped out a piece here so you could see
6 it.

7 Next slide. The expansion of the penthouse
8 is also fully compliant with the general special
9 exception standard of Subtitle X 901.2, that the
10 proposal is in harmony with the general purpose and
11 intent of the zoning regulations and zoning map, and
12 will not adversely affect neighboring properties.

13 Next slide, please. The extended penthouse
14 has been designed to ensure adequate light and air, and
15 to create favorable conditions to health, safety, civic
16 activity, and recreational opportunity.

17 As I mentioned, the project will meet all
18 penthouse requirements for the D-6 zone, including
19 height, bulk, massing, setbacks. The existing
20 penthouse uses will be maintained and simply expanded
21 into an upgrade amenity space for the office tenants.

22 In compliance with the zoning regulations,
23 the applicant will make a contribution to the Housing
24 Production Trust Fund, which has to be paid at time of
25 building permit and has to be paid at time of issuance

1 of the certificate of occupancy.

2 Next slide, please. The application also
3 will not adversely affect neighboring properties. As
4 I mentioned, the property is surrounded mostly on three
5 or four sides by public streets, and on one side by
6 private property, which is developed with an 130-foot
7 mixed use building.

8 The proposed location for the penthouse, it's
9 height, and setback, and design is all done to minimize
10 visibility and will not impact that one adjacent
11 building's access to light and air.

12 The application is also consistent with the
13 purpose of restricting penthouse habitable space within
14 the area adjacent to the White House. The purpose of
15 the restriction is to ensure protection of White House
16 officials, and visitors, and other staff. And, as we
17 noted, we did meet with the Secret Service and they have
18 submitted a written confirmation with no concerns.

19 We also committed to ensure that property
20 safety considerations are in place going forward, and
21 we'll engage with Secret Service as necessary.

22 Next slide, please. As I've already said,
23 there are no other special conditions associated with
24 this special exception review. So, we believe that the
25 application as we are presenting to you today and in

1 the case record is appropriate, given the character of
2 the area, and that the penthouse meets the requirements
3 for special exception relief.

4 Next slide, please. We do have the property
5 application. The Office of Planning issued a report
6 noting its support, and also noted specifically that
7 although DDOT did not submit a separate report, which
8 sometimes they do, it did request that Office of Planning
9 inform the BZA that it had no objections to the
10 application that was included in the OP report.

11 We also met with the affected ANC, which in
12 this case is ANC 2C, and they issued a unanimous letter
13 of support of the project. And, as I mentioned, we have
14 support from the Secret Service.

15 Next slide, please. And, with that, I would
16 conclude and just simply state that the proposal to
17 renovate and expand the penthouse on the existing
18 building is fully compliant with the special exception
19 standards, is supported by District agencies, the ANC,
20 the Secret Service.

21 And we would end our presentation and
22 respectfully request that the Board vote to approve the
23 application of the project. Thank you.

24 CHAIRPERSON POURCIAU: Thank you for that
25 presentation. I notice that it looks like you're

1 reducing the green roof elements that existed. Can you
2 talk about that a little bit?

3 MS. BLOOMFIELD: Absolutely. Can you pull
4 up Sheet 9 of the PowerPoint, please? And I may throw
5 this over to Mat, our architect, to answer in more
6 detail.

7 But it does look like that on this sheet.
8 And we have talked about it. But there actually will
9 be green roof above the next expanded penthouse area
10 as well, so that we're not just removing the green roof,
11 we're also adding new.

12 Mat or Jason, can you confirm what I just said
13 or provide a little more detail on that, please?

14 MR. HART: Yes. That's exactly right.
15 We're considering two different locations, but really
16 mostly to make sure that the growth of the new green
17 roof will be viable. But we're replacing all the green
18 roof, you know, in kind of what we're removing of that
19 little strip along the top edge of the existing, and
20 the larger chunk there where the blue takes over. But
21 it will all be there in the proposed.

22 CHAIRPERSON POURCIAU: Is that something that
23 you could show in your design drawing?

24 MR. HART: Is there, like, a sketch of
25 something that you'd like me to share? Or I don't know

1 that we included it in the presentation. But all the
2 green roof that exists today, the same amount will be
3 provided in the proposed plan, in the new plan.

4 CHAIRPERSON POURCIAU: Take questions from
5 other Board members. I'd like to start with Board
6 Member Lindsjo, given the federal presence on this
7 application. Are there any questions you have for the
8 applicant?

9 MEMBER LINDSJO: I don't have any questions.
10 I appreciate the presentation, getting support from
11 Secret Service. Thank you.

12 CHAIRPERSON POURCIAU: Thank you for that.
13 I'll go to Board Member Goldstein.

14 VICE CHAIR GOLDSTEIN: Thank you for the
15 presentation. It looks like it will be fantastic tenant
16 space. I'd like to ask one question about the Secret
17 Service letter into the record, just given that it's
18 dated October 2025.

19 Could you just confirm that there have been
20 no meaningful changes of what you're showing us now
21 compared to what you presented to them last year?

22 MR. BOCKENEK: That's a fair question. And
23 I can certainly confirm that. In fact, that email
24 contained an attachment with a sketch, massing sketch,
25 which is conforming to what our tech, our, you know,

1 what we presented today, today in the application. And
2 --

3 (Simultaneous speaking)

4 MS. BLOOMFIELD: Oh, I'm sorry, Jason. I
5 would also note that the reason there was such a lag
6 was mostly because there was not a quorum at the BZA.
7 And so, we've just been waiting to present it. But
8 nothing has substantively changed.

9 VICE CHAIR GOLDSTEIN: Thank you.

10 That's the only question I have.

11 CHAIRPERSON POURCIAU: Thank you, Vice Chair.

12 Board Member Wells, do you have any questions
13 for the applicant?

14 MEMBER WELLS: I don't have any questions.
15 I do want to note, Chair Pourciau, that in the drawings
16 that were part of the exhibits they do have a no call-out
17 for a displaced green roof. And that will be relocated
18 on top of the new penthouse. So, there's no calling
19 out for that.

20 MS. BLOOMFIELD: Thank you.

21 CHAIRPERSON POURCIAU: Thank you for that
22 clarification.

23 Commissioner Miller, do you have any
24 clarifications?

25 COMMISSIONER MILLER: No. Thank you, Ms.

1 Bloomfield, for the presentation, and all team in
2 getting the support of the Secret Service, the Office
3 of Planning, and unanimous support of ANC 2C.

4 And I'm glad you noted, and so does Office
5 of Planning in its report, that the proposed penthouse
6 expansion would trigger a requirement to contribute to
7 the Housing Production Trust Fund, which OP, the exact
8 amount will be determined at the time of permitting,
9 but the OP was estimating was approximately -- and maybe
10 they got this from you -- \$291,000. So, I think that
11 every little bit helps.

12 CHAIRPERSON POURCIAU: Thank you for that.

13 I do see we have a caller that I didn't notice
14 previously. And is that a part of, the person 202-9,
15 last number 53, is that a part of your team, Ms.
16 Bloomfield?

17 MS. BLOOMFIELD: Yeah. I think that's David.
18 Right, Jason?

19 MR. BOCKENEK: I think that's David. But we
20 covered his remarks.

21 CHAIRPERSON POURCIAU: Okay.

22 MS. BLOOMFIELD: Thank you.

23 CHAIRPERSON POURCIAU: Thank you. All
24 right. I think we're ready to go to the Office of
25 Planning for their presentation. And we are joined by

1 Mr. Jurkovic, the senior.

2 MR. JURKOVIC: Thank you, Chair Pourciau and
3 members of the Board. For the record, this is Mike
4 Jurkovic with the Office of Planning.

5 OP recommends approval of the requested
6 penthouse relief for penthouse habitable space within
7 the defined area of the White House. And we otherwise
8 stand on the record of our report. I'm here to answer
9 any questions. Thank you.

10 CHAIRPERSON POURCIAU: Thank you. Are there
11 any questions for the Office of Planning?

12 I'm not seeing any. So, with that, are there
13 any other governmental members present to testify? The
14 ANC is not present. I think that they submitted their
15 position. There are no parties established or
16 individuals who are signed up to testify.

17 And so, with that, I'd like to go back to the
18 applicant to ask if you have any closing remarks?

19 MS. BLOOMFIELD: I do not have any closing
20 remarks other than what we've already put on the record.
21 Thank you.

22 CHAIRPERSON POURCIAU: Very good. Is there
23 any further discussion from the Board that you'd like
24 to have with the applicant?

25 No, I'm not seeing any. So, I want to thank

1 the applicant team for being here and for providing the
2 documentation. Thank you, Board Member Wells, for the
3 clarification on the green space.

4 And so, at this point, we will close the record
5 so that the Board can proceed with deliberation and
6 voting on the application.

7 (Pause.)

8 CHAIRPERSON POURCIAU: All right. To begin
9 deliberation, I think I would like to again start with
10 Board Member Lindsjo. Can you provide any comments for
11 the record regarding this application?

12 MEMBER LINDSJO: Yes, certainly. Thank you.
13 I think it looks like a great upgrade to the existing
14 penthouse. And I don't see any impacts or concerns from
15 the federal interests. Thank you.

16 CHAIRPERSON POURCIAU: Thank you for that.

17 Vice Chair Goldstein, any comments you might
18 have in this deliberation?

19 VICE CHAIR GOLDSTEIN: Sure. I would agree
20 with those comments. I think the applicant has met
21 their burden under the terms of the special exception
22 from what they testified, they meet all the zoning
23 standards. It's really just because of its proximity
24 to the White House that it's under our review. I think
25 it looks like they've made their case.

1 CHAIRPERSON POURCIAU: Thank you.

2 I'm sorry. Board Member Wells?

3 MEMBER WELLS: Sure. I assumed that for me.

4 CHAIRPERSON POURCIAU: Thank you.

5 MEMBER WELLS: Yes, I agree with all Board
6 members here. Yes, I don't have anything additional
7 to add here. I'm just in agreement.

8 Thank you.

9 CHAIRPERSON POURCIAU: Thank you.

10 Commissioner Miller?

11 COMMISSIONER MILLER: Yeah, this is pretty
12 straightforward, and I agree with my colleagues'
13 comments. And appreciate the applicant coming forward.
14 And I'm prepared to make a motion right now, if it's
15 okay.

16 CHAIRPERSON POURCIAU: Please proceed.

17 COMMISSIONER MILLER: Okay. I would move
18 that the BZA approve Application No. 21489 for the
19 penthouse, habitable expansion space near the White
20 House at 1401 New York Avenue. And ask for a second.

21 MEMBER WELLS: I second that motion.

22 CHAIRPERSON POURCIAU: Excellent.

23 Madam Secretary, would you please call the
24 vote.

25 MS. MEHLERT: Please respond to Commissioner

1 Miller's motion to approve the application.

2 Chair Pourciau?

3 CHAIRPERSON POURCIAU: Yes.

4 MS. MEHLERT: Vice Chair Goldstein?

5 VICE CHAIR GOLDSTEIN: Yes.

6 MS. MEHLERT: Board Member Wells?

7 MEMBER WELLS: Yes.

8 MS. MEHLERT: Board Member Lindsjo?

9 MEMBER LINDSJO: Yes.

10 MS. MEHLERT: The tally for the present vote
11 is 5 to 0 to 0 to approve Application No. 21489 on the
12 motion made by Commissioner Miller and seconded by Board
13 Member Lindsjo.

14 CHAIRPERSON POURCIAU: Excellent. Thank you
15 very much.

16 We will proceed to our last case, No. 21509.

17 MS. MEHLERT: Next is Application No. 21509
18 of Roman Catholic Archbishop of Washington and his
19 successors in office, a corporation sole.

20 This is a self-certified application pursuant
21 to Title X, Section 901.2 for special exception under
22 Subtitle C, Section 305.1, for a waiver under Subtitle
23 C, Section 302.1 to allow multiple primary buildings
24 on a single record plot. And under Subtitle U, Section
25 421 to allow a new residential development.

1 This request is for 12 buildings containing
2 80 dwelling units on one record lot in a theoretical
3 subdivision. It's located in the RA-1 zone at 799
4 Buchanan Street, Northeast, Square 3894, Lot 23.

5 And there are two pending. First, the
6 application has proffered Brian Ruhl as an expert
7 witness in architecture. And the staff had previously
8 recognized his resume as an Exhibit 25B.

9 Also, the applicant has submitted a filing
10 deadline to submit the finals for the record, including
11 a response to OP and updated plans.

12 CHAIRPERSON POURCIAU: Thank you. On the
13 preliminary matter, has any Board member reviewed Mr.
14 Ruhl's credentials? Where is that in the record,
15 please? What number?

16 MS. MEHLERT: I believe it's Exhibit 25B.

17 CHAIRPERSON POURCIAU: Yes. Mr. Ruhl's
18 credentials are in order, and so, accept him as an expert
19 witness.

20 And, with that, I think we're ready to hear
21 from the agent, either Ms. Batties or Mr. Cohen.

22 MS. BATTIES: Good morning, Chair Pourciau
23 and members of the Board. My name is Leila Batties.

24 I'm joined by my colleague Christopher Cohen with
25 Holland and Knight.

1 On behalf of the Roman Catholic Archbishop
2 of Washington and his successors in office, a
3 corporation sole, more commonly known as or referred
4 to as the Archdiocese of Washington.

5 CHAIRPERSON POURCIAU: Before you proceed,
6 I just want to remind you that we would like it if you
7 could keep your and your other respondents to 15 minutes
8 or less, if possible. Thank you so much.

9 MS. BATTIES: We will do our best. But this
10 is a long record, so. I do want to confirm, for the
11 record, starting that the plans that have been
12 considered for approval are the updated plans filed in
13 September, at Exhibit 30B at the record, except that
14 the floor plans are superseded by those at Exhibit 34B,
15 Exhibit 34B of the record. And, also, at the Office
16 of Planning's request, we submitted additional updates
17 at Exhibit 34B.

18 I also want to clarify before we get started
19 that the correct size of the subject property for this
20 application is 4.7 acres. I think there were some
21 inconsistencies in that.

22 Next slide, please. So, the proposed
23 residential development requests that the Board grant
24 two special exception approvals. The first is for a
25 theoretical subdivision pursuant to Subtitle C, Section

1 305. And that's because for zoning purposes the 80
2 townhomes are organized into 12 sticks or clusters that
3 function as 12 theoretical lots on the underlying record
4 lot, which is in this case Lot 23 of Square 3894. We're
5 also seeking a special exception approval for a new
6 residential development in the RA-1 Zone.

7 Next slide, please. The subject property is
8 located on the south side of Buchanan Street, Northeast,
9 between 8th and 10th Streets. And it is currently
10 improved with an abandoned building, a building that
11 was previously used for the Kennedy Institute. And as
12 noted on this slide, permitting for the site work on
13 this property is underway.

14 Next slide, please. So, this exact
15 residential development was unanimously supported by
16 ANC 5A back in 2022 when this was presented as BZA Case
17 No. 20751. At that time, the BZA also approved the very
18 project that is before you today. You will hear from
19 the single-member district representative,
20 Commissioner Lucio, that the community is still in
21 support, remains in support of the proposed development.

22 And although the project before you is the
23 same development that was approved in 2022, the
24 application before the Board currently has been updated
25 to reflect the current requirements under the zoning

1 regulations. So, this set of drawings includes updated
2 illustrative floor plans for both the 16-foot-wide
3 townhomes and 20-foot-wide townhomes that are proposed.

4 Also, for the 20-foot-wide townhomes there's
5 an option for a penthouse that leads to the top deck.

6 So, you'll see in your drawings that there are
7 elevations or renderings for both the flat roof as well
8 as the slanted roof with the penthouse. And, in either
9 case, in all cases being proposed, building height will
10 not exceed 40 feet.

11 This application, again, has been evaluated
12 by the Office of Planning and DDOT for compliance with
13 the regulations. And both agencies have issued reports
14 in support.

15 Now I will acknowledge your comments about
16 the late submissions, your comments at the beginning
17 of the hearing. I thank the Board for accepting our
18 updated plans within 30 days of the hearing. We have
19 been working very closely with the Office of Planning
20 until the final days leading up to this hearing because
21 it's very important that we address all of the concerns
22 and all of the requirements under the regulations, and
23 provide a case record that we feel the Board can approve
24 today, preferably with a summary order.

25 So, we thank the Office of Planning for working

1 with us and helping to keep this application on track.

2 I also want to thank Commissioner Lucio being
3 an outstanding liaison, starting with the first
4 community meeting in 2022. And she's been in constant
5 communication with the developer for this project since
6 that time.

7 And if we can just go to the next slide.
8 This is just the letter of support from ANC 5A back in
9 2022, again for this same project that is before the
10 BZA this morning.

11 Next slide. This is acknowledging the agency
12 report.

13 Next slide, please. All right. And with
14 that, I'm going to turn our presentation over to Brian
15 Ruhl for VIKA. And then, after that, I will walk through
16 how the application meets the legal standard of deal
17 and the application requirements. Thank you.

18 MR. RUHL: Thank you. Again, my name is Brian
19 Ruhl. I'm a licensed landscape architect with VIKA
20 Capital. And I've been working on this project. I'd
21 like to describe this site plan that you see.

22 As we mentioned, this is a proposal for 12
23 buildings with a mix of 16- and 20-foot-wide townhouse
24 units, and six, and seven, and eight units per, as we
25 like to call them, sticks of townhouses. This is on

1 the location of the Joseph Kennedy School and which was
2 relocated to the east and is now called the new Conway
3 Education Center. This is a school for children
4 developmental differences.

5 There are two north-south access roads shown
6 on this site plan that will provide access to future
7 development to Providence Hospital, which was
8 requested by DDOT. The eastern access road north-south
9 has already been built. And provides access to the back
10 for drop-off to the school. In addition, this road has
11 already installed stormwater and sanitary systems to
12 provide for the townhouse development as well. There
13 are two public accessible green spaces. You can see
14 one in the central and one on the southern portion.

15 As Leila mentioned, the permitting currently
16 right now is going on. We have received a DDOT public
17 space permit for the Buchanan Street frontage. We have
18 technical approval for DOEE and DC Water.

19 Next slide, please. So, this section shows
20 the -- to the right is an existing unit across the street.

21 And then it shows Buchanan Street, Northeast. And then
22 it shows a section of the first two rows. These, you
23 can kind of see the 15-foot building restriction line
24 and the 20-foot rear yard. All the townhomes comply
25 with the 15-foot building restriction line at Buchanan

1 Street. And all townhomes comply with the 20-foot rear
2 yard requirement. They also comply, as Leila mentioned,
3 to the 40-foot building height.

4 Next slide, please. This is the second
5 section showing, to the left, the final two rows. And
6 then you see in the middle there the green space and
7 the second row. So, there's one, two, three, four rows
8 from north to south. And, again, this shows the
9 compliance with the rear setback and the building
10 height.

11 Next slide, please. So, these are the
12 schematic design elevations showing the elevations of
13 these townhomes. This is a two, four -- this is a
14 six-unit stick that's going to be constructed with brick
15 and a cementitious material, a hardy plank material
16 around these, these buildings.

17 Next slide, please. This shows the
18 illustrative typical side elevation with the roof
19 access. Sometimes we call it a pop-up penthouse.

20 Next slide, please. Again, this is the rear
21 elevation. These are rear loaded with the garage and
22 a driveway.

23 Next slide, please. Again, this is another
24 elevation showing the seven-unit stick.

25 Next slide, please. Again, the rear-loaded

1 units with the garages.

2 Next slide, please. These are the typical
3 floor plans for the 16-foot-wide units.

4 Next slide, please. This is a typical floor
5 plan for the 20-foot-wide unit.

6 Next slide, please. And here's some
7 additional floor plans with the optional penthouse plan
8 to the right.

9 Next slide, please.

10 MS. BATTIES: Thank you, Brian. So, I just
11 want to take a moment to walk through the standard of
12 review for approval of the application and then how the
13 application -- after that, how the application meets
14 its filing requirements. So, just as a general, just
15 general standard of review for approving the special
16 exception for the new residential development in the
17 RA-1 Zone, the project has to be in harmony with the
18 general purpose of the regulations and zoning map. The
19 project has to not adversely affect the use of the
20 neighboring property. And the project will meet all
21 of the applicable special conditions under the
22 regulations. Next slide, please.

23 So, in this case, the townhouse community is
24 consistent with the RA-1 Zone. Next slide, please.
25 In this case the townhouse house community is consistent

1 with the RA-1 Zone, which the regulations state is
2 intended to support all types of residential
3 development, promote a walkable living environment, and
4 encourage compatibility between the location of new
5 buildings or constructions in the existing
6 neighborhood.

7 In this case, the townhouse community complies
8 with the height, lot occupancy, and rear and side yard
9 requirements of the RA-1 Zone, so the scale and density
10 are compatible with the existing row houses on the north
11 side of Buchanan Street. The layout of the townhouse
12 community was closely designed with the new Conway
13 Education Center to the east because both projects were
14 approved as companion applications, back in 2022 by the
15 Board of Zoning Adjustment.

16 And, in fact, as Brian noted, the private road
17 on the east side of the townhouse parcel provides access
18 to the Conway Center, even though it's actually within
19 the boundaries of the subject property. The
20 development of the townhouse community also includes
21 improvements to the sidewalk along Buchanan Street,
22 improving the walkability of the community.

23 The townhouse community that's proposed will
24 not tend to adversely affect the use of the neighboring
25 property because in addition to the facts that I just

1 mentioned, at the request of the neighborhood the
2 townhouse project includes almost an acre of accessible
3 open space. Each unit will have one or two -- a two-car
4 garage in order to minimize parking on the surrounding
5 streets. The private roads will allow for connectivity
6 for the future development of the property to the south.

7 And this site actually has been underutilized for
8 years, so the redevelopment of the site with the
9 townhouse community will improve the aesthetics and
10 enhance the overall safety of the neighborhood.

11 The zoning regulations here do not call out
12 specific conditions related to the approval of this
13 application. However, in its report to the Board, DDOT
14 proposes that the one condition of this application be
15 that the applicant implement the transportation demand
16 management plan that was approved with the 2022 case,
17 which is acceptable to the application. Next slide,
18 please.

19 So, I'm not going to read through all of these.

20 The purpose of this slide is just to demonstrate that
21 the criteria for the theoretical subdivision under
22 Subtitle C, Section 305.3, and to note on the box to
23 the right, on the right side of the slide that the
24 application meets all of the requirements. For the yard
25 compliance, both the rear and side yards, the vehicular

1 access meets the required 20-foot -- 24-foot-wide
2 minimum requirement. And that's the alleys that are
3 serving the townhouse units. And then building height
4 measuring point is shown on the grading plan that has
5 been submitted. And all of the units, again, will
6 comply with the 40-foot height -- maximum height
7 requirements. Next slide, please.

8 So, both the request for a theoretical
9 subdivision and the new development in RA-1 have several
10 technical filing requirements. The next four slides
11 just list each of the requirements and provides the
12 corresponding sheets where that requirement is
13 satisfied. So, just here is a list of the requirements
14 under the site plan, the floor plans, and the zoning
15 table.

16 Next slide, please. And this is the criteria
17 under the theoretical subdivision regulations for the
18 agency review and coordination, neighborhood
19 compatibility, and the conditions of approval, which
20 we have demonstrated in the record and, again, are
21 agreeable to the condition proposed by DDOT.

22 Next slide, please. And these are the
23 technical requirements for the new residential
24 development application, again showing that the sheets
25 that correspond with each of the requirements. So --

1 and I think there's one more slide you can go to. So,
2 we have satisfied -- this application satisfies the
3 legal standard of review for granting the special
4 exception approvable for the residential development
5 in the RA-1 Zone. And it meets all of the criteria for
6 the following requirements for that request, as well
7 as the request for the theoretical lot subdivision.

8 The project was the subject of extensive
9 community outreach when it was originally approved in
10 2022. Not only did ANC 5A weigh in, but so did the North
11 Michigan Park Civic Association, as well as the Michigan
12 Park Civic Association. And the project that is before
13 the BZA today is the same that they supported in 2022.

14 Both the Office of Planning and DDOT have issued
15 reports, again in support of the application.

16 And in light of these factors, we respectfully
17 request that the Board approve, by summary order, BZA
18 Case No. 21509, subject to the plans that are at Exhibit
19 30B of the case record, except as superseded and
20 supplemented by the sheets at 34B of the case record.

21 And we also ask as part of the approval into the DDOT
22 condition requiring the implementation of the TDM plan
23 that was filed with BZA Case No. 20751 in 2022. And
24 that concludes our direct testimony. And I would like
25 to request time for a closing statement later in the

1 proceedings. Thank you.

2 CHAIRPERSON POURCIAU: Thank you. I think
3 you have covered a lot in that time. And by your own
4 admission, there is a lot in the record. But I just
5 want to reemphasize that the late submission has created
6 hardship for the Board. And when we don't have adequate
7 time to review everything it can negatively affect the
8 applicant. So, we have allowed this application to go
9 forward. I can't say that we will continue to do that
10 in the future.

11 Having said that, I'd like to go to the Board
12 members to see if they have any questions. I'll start
13 with Vice Chair Goldstein.

14 VICE CHAIR GOLDSTEIN: Thank you for the
15 presentation. And it's very helpful. There's a lot
16 here in these review provisions. There's a lot of
17 information required that you have to walk through.
18 So, I applaud you as well for all the evidence that's
19 needed to go into the record. Hoping to just ask a few
20 questions. One is just my lack of familiarity with the
21 site. What is the status of the construction of the
22 Conway Education Center? That's the building to the
23 east? Is that correct?

24 MS. BATTIES: That is correct, Mr. Goldstein.
25 That center is open. It includes a school, a special

1 education school, as well as a child development center.

2 And it opened earlier this year.

3 VICE CHAIR GOLDSTEIN: Earlier this year.

4 Great. I had a question just more generally, just out
5 of some curiosity. The project describes it as 12
6 principal buildings, essentially, which is itself,
7 then, composed of 80 row dwellings. I've seen
8 theoretical lots in the past that have every row dwelling
9 on its own lot. Could you just explain why this one
10 is done a little bit differently than that?

11 MS. BATTIES: Well, our original application
12 did have theoretical lots for each row house. After
13 consultation -- well, and I will say we have received
14 zoning administrator confirmations in the past that
15 confirmed that each stick serves as a theoretical
16 subdivision. In active consultation with the Office
17 of Planning in this case we amended this application
18 -- this go-round to identify each stick as a theoretical
19 lot. So, I know in other cases in the past each row
20 house has been considered a theoretical lot.

21 VICE CHAIR GOLDSTEIN: No, just out of
22 curiosity, I don't what the impact of that choice makes
23 or if it's only just more an academic way of looking
24 at it. One number that kind of stuck out to me, I'm
25 hoping you can explain it, is the roughly 220-plus

1 parking spaces, parking provided on the site, which is
2 about three times the number of homes being proposed.

3 I'm curious, those spots are, is it essentially mapping
4 parking on the private streets as additional parking
5 capacity?

6 MS. BATTIES: Yes. It would be accounting
7 for the parking available in the garages and then on
8 the driveways. But there's no on-street public parking
9 that is included in that calculation. So, it's all
10 internal to the project.

11 VICE CHAIR GOLDSTEIN: Oh, that's
12 interesting. Okay. I hadn't guessed that. So, some
13 of these are one-car garages, some are two. But then
14 you're also adding in a possibility of parking in the
15 driveways as well.

16 MS. BATTIES: Correct.

17 VICE CHAIR GOLDSTEIN: Okay. And I guess was
18 some of this also the genesis for DDOT's TDM measures
19 to somehow mitigate the impact of that much parking by
20 providing alternatives for having to use vehicles. Is
21 that some of the -- an element of what DDOT was doing?

22 MS. BATTIES: No. The TDM plan that was
23 approved really did not address -- or the parking
24 configuration or parking within the units was not
25 motivated by the TDM plan that was originally approved.

1 VICE CHAIR GOLDSTEIN: That's just, then,
2 more generally for how DDOT feels how the site should
3 operate. Okay. For community outreach, it looks like
4 there was a lot of discussion in 2022, that there was
5 a lead-up to the previous case. And we'll hear a little
6 bit more, it sounds like, from the ANC representative.

7 Has there -- in the lead-up to this version of the
8 proposal you have touched base as well with a number
9 of these parties on, potentially, multiple occasions?

10 MS. BATTIES: Yes. We have been -- the
11 developer for this project has remained in constant
12 communication with the single member district
13 representative as well as the community at large. As
14 I noted, there is still, the old school is still on the
15 site. So, they are working through the impacts related
16 to the site work and the eventual razing of the existing
17 building.

18 VICE CHAIR GOLDSTEIN: When would you
19 anticipate, assuming things go favorably of course, when
20 would that raze occur?

21 MS. BATTIES: I'm going to have Brian answer
22 that question.

23 VICE CHAIR GOLDSTEIN: Oh, sure.

24 MR. RUHL: Yes, currently we are in for a raze
25 permit. We have received some of the clearance letters.

1 But we are still working towards the shutoff of the
2 utilities, and the abatements, and everything. But a
3 raze permit has been in. It's just -- it just takes
4 a little while to get those. So --

5 VICE CHAIR GOLDSTEIN: Well, it's in motion.

6 MR. RUHL: To estimate, guesstimate, maybe
7 another month or two.

8 VICE CHAIR GOLDSTEIN: Okay. That's pretty
9 soon. For the, for the issuance of the permit itself,
10 okay. Is that what your referencing? Okay.

11 MR. RUHL: Yes.

12 VICE CHAIR GOLDSTEIN: Thank you very much.

13 Ms. Batties, I want to ask you about these community
14 conditions that have been referenced a few times. And
15 that I think the single member district representative
16 may mention as well. These were conditions that were
17 proposed back with the original case. They were not
18 included in the order. But they remain on the minds,
19 I guess, of the community. Have any of these been
20 fulfilled to date? And is the applicant still
21 intending, if they have not, the applicant has the
22 intention of fulfilling these conditions? Is that
23 correct?

24 MS. BATTIES: Yes. The application is
25 intending to fulfill all of the conditions. I don't

1 actually know -- and maybe Commissioner Lucio knows if
2 any have been satisfied. But the applicant intends to
3 satisfy all of them. They did not make it into the --
4 and as I noted, and Commissioner Lucio will note herself
5 -- they are in constant communication with the
6 developer, not the applicant, the developer. So -- but
7 as noted in the original order, 20751, those conditions
8 were not included in the order because they were outside
9 of the scope of the Board's review. But, yes, the
10 developer intends to fulfill all of the commitments.

11 VICE CHAIR GOLDSTEIN: And among those
12 conditions there could be different timing when they're
13 applicable. Is there any -- not as a condition of the
14 order, but is there any imagined deadline for when you
15 would fulfill them?

16 MS. BATTIES: I will -- typically, Mr.
17 Goldstein, they're tied to either the issuance of the
18 building permit. In this case there are no certificates
19 of occupancy, so it would be tied to the issuance of
20 the building permit.

21 VICE CHAIR GOLDSTEIN: Okay. Thank you.
22 And I don't think I have any other questions at the
23 moment. Thank you so much.

24 CHAIRPERSON POURCIAU: Thank you, Vice Chair.
25 Board Member Wells, do you have questions for the

1 application?

2 MEMBER WELLS: I have one question. First,
3 I thank you for your presentation and walking through
4 those requirements, because there was a lot to consider
5 here, and including the additional, you know, detail
6 of those requirements where they can be found in the
7 drawings, make sure that everything was satisfied.

8 One question I have, not necessarily, you
9 know, related to an outcome here, but just my own
10 curiosity. The private access or the private streets
11 that are already -- one is under construction by the
12 Conway Center? Is that what the name of that building
13 is?

14 MS. BATTIES: The Conway Educational Center,
15 yes. It was constructed by the developer for the
16 townhouse project.

17 MEMBER WELLS: For the townhouse project.
18 Okay. For the private roads, do they have public access
19 easements for them, for those roads?

20 MS. BATTIES: Yes. So, the one that's
21 constructed on the ease -- the public access easement
22 is recorded. I think it's also in the record at Exhibit
23 25B. And the public access easement for the road on
24 the west will be recorded once the project goes forward
25 and that road is constructed.

1 MEMBER WELLS: Okay. And forgive me for not
2 looking at those in detail, do they have any restrictions
3 or time of day restrictions on them or are they just
4 open to the public?

5 MS. BATTIES: They're open to the public.

6 MEMBER WELLS: That's all I have. Thank you.

7 CHAIRPERSON POURCIAU: Thank you. Ms.
8 Lindsjo, do you have any questions for the applicant?

9 MEMBER LINDSJO: I don't have any questions
10 at this time. Thank you for the presentation.

11 CHAIRPERSON POURCIAU: Thank you.
12 Commissioner Miller, would you like to ask any questions
13 of the applicant?

14 COMMISSIONER MILLER: No. I'm somewhat
15 familiar with the project. I wasn't the Zoning
16 Commissioner on the case. I think that was former
17 Commissioner Peter May. But I tend to follow the bigger
18 cases of the BZA, and I remember this one. So, I
19 appreciate all the work that's been done. And I'm glad
20 the project is still moving forward with community
21 support, Ms. Batties. And thank you and your team for
22 all your work.

23 MS. BATTIES: Thank you.

24 CHAIRPERSON POURCIAU: In reviewing the
25 application, I recall having some concerns about the

1 private versus public roads. I'm hearing there is a
2 lot of discussion with DDOT on those items. Can you
3 just talk a little bit more about the private roads,
4 which I guess are the major roads going east and west,
5 I believe, serving the homes.

6 MS. BATTIES: Yes. Actually, DDOT is the one
7 -- DDOT has no issue with the roads being private roads.
8 The developer -- it's very common in a townhouse
9 community such as this, that the roads that serve the
10 community are private and they will be maintained by
11 the developer of the townhomes. The only -- so, that's
12 very, very common in a development like this.

13 The only issue for DDOT at the time that this
14 project was originally approved is that they provide
15 connectivity, allow for connectivity for the future
16 development of the property to the south, the Providence
17 Hospital site, which we have done, and we agreed to from
18 the beginning. That condition did not make it into the
19 2022 order because -- and that is, there's a discussion
20 about it from the BZA but not from DDOT because the
21 applicant agreed to the conditions.

22 But it didn't make it into the order because
23 it raised a constitutionality issue in that DDOT, in
24 requiring the applicant to provide future connectivity,
25 the Board felt at the time that was requiring the

1 applicant to do something that was beyond the scope of
2 their impacts. And so, there's just the basic principle
3 that any time a municipality requires conditions of the
4 development, the conditions have to relate to the impact
5 of the project. And in the 2022 case, the Board felt
6 requiring connectivity for a development in the future
7 was not appropriate to include in the order

8 Again, we built the road. We have no problems
9 with the roads. They're shown on the plans. The
10 applicant has agreed and is satisfying that request by
11 DDOT. But they weren't included in the order. Weren't
12 included in the order as a condition of the approval.

13 But they are effectively being carried out in the plans.

14 CHAIRPERSON POURCIAU: Thank you for that
15 clarification. If we don't have any more questions
16 right now, I'd like to hear from the Office of Planning.

17 Mr. Jurkovic is here, I believe.

18 MR. JURKOVIC: Yes. Hello again and good
19 afternoon, Chair Pourciau and members of the Board.
20 Again, for the record this is Mike Jurkovic with the
21 Office of Planning.

22 OP recommends approval of the application's
23 requested variance relief both for the residential
24 development in the RA-1 zone of more than six dwelling
25 units, and for a theoretical subdivision as described

1 in the application's materials.

2 We have found the proposed development has
3 met the applicable special exception review standards,
4 and is consistent with the overall intent of the RA-1
5 Zone. We otherwise stand on the record of our report.

6 And happy to answer any questions. Thank you.

7 CHAIRPERSON POURCIAU: Thank you. Any
8 questions for Office of Planning from Vice Chair
9 Goldstein?

10 VICE CHAIR GOLDSTEIN: Thank you very much.

11 And your report was helpful to walk through the many
12 standards from the special exceptions.

13 I'm curious if there are any agency comments
14 that have not yet been reflected in our record that may
15 be received informally since your last report? I know
16 that DPW, DOE, and public schools, and others may have
17 been contacted. I suspect that you have not heard
18 anything from them at this point but, nonetheless, felt
19 confident in saying the standards were satisfied? Can
20 you confirm all that?

21 MR. JURKOVIC: Correct. We have not heard
22 from any other District agency on this project other
23 than what DDOT has submitted for the record. So, we
24 are not aware of any issues found by the other District
25 agencies.

1 VICE CHAIR GOLDSTEIN: And, nonetheless, you
2 found that the standards have been met that would have
3 been within, sort of, somewhat of the purview of the
4 agencies?

5 MR. JURKOVIC: Yes.

6 VICE CHAIR GOLDSTEIN: Is that correct?
7 Okay. Thank you.

8 CHAIRPERSON POURCIAU: Thank you.

9 Board Member Wells, any questions for OP?

10 MEMBER WELLS: I don't have any questions for
11 OP. Thank you.

12 CHAIRPERSON POURCIAU: Thank you.

13 Board member Lindsjo, any questions for OP?

14 MEMBER LINDSJ0: No questions at this time.
15 Thank you.

16 CHAIRPERSON POURCIAU: Thank you.

17 Commissioner Miller, any questions for Office
18 of Planning?

19 COMMISSIONER MILLER: No questions. But
20 thank you, Mr. Jurkovic for your report and your
21 presentation today.

22 CHAIRPERSON POURCIAU: Thank you.

23 We will then, we will go to the applicant if
24 you want to add to anything. We'll move on to ANC.
25 I believe Ms. Lucio is here from ANC 5A.

1 MS. LUCIO: Good afternoon.

2 CHAIRPERSON POURCIAU: Thank you for being
3 here.

4 MS. LUCIO: Yes. Good afternoon. Thank you
5 so much. Good afternoon, Chairperson and members of
6 the Board. My name is Emily Singer Lucio. I live at
7 845 Crittenden Street, Northeast. And I am the ANC
8 Commissioner for 5A03 where this project is located.

9 I am writing to support, in support of the
10 applicant before the Board to reinstate the townhouse
11 development approval that was originally granted in
12 2022. The project approved by the Board in 2022
13 consisted of 80 townhomes, all with a maximum height
14 of 40 feet, and in full compliance to applicable rear
15 yard and side yard requirements.

16 The approved development complied with the
17 requirement of the District's Zoning Regulations, and
18 was carefully reviewed by the Board before receiving
19 approval.

20 I support reinstatement of the approval
21 because the developer remains committed to the community
22 benefits and conditions that were part of the '22
23 approval, including, as was mentioned earlier, this
24 restricting residents' eligibility for residential
25 parking permits through HOA covenants, a \$25,000

1 contribution to housing counseling services to support
2 the administration of the Tax Relief Fund for residents
3 on restricted incomes, installation of seismic
4 monitoring equipment during construction.

5 And, to answer the question that was asked
6 earlier, that is one of the conditions that was addressed
7 during the building of the Conway Education Center.
8 The developer did use seismic monitoring on the
9 residents at the time. Provision of approximately
10 40,500 square feet of publicly-accessible green space,
11 including collaboration on recreational amenities, such
12 as a tot lot and a dog walking area. A \$25,000
13 contribution to the District's Housing Production Trust
14 Fund. And a \$10,000 contribution to the North Michigan
15 Park Civic Association Scholarship Fund.

16 Those commitments provide meaningful and
17 tangible benefits to the surrounding community, and
18 demonstrate the applicants' continued commitment to
19 being a responsible neighbor.

20 I will also add, as Ms. Batties added multiple
21 times, we have been in constant communication. They
22 have been very supportive in working with the community.

23 Attended many meetings, and very responsive to requests
24 from the residents for this project.

25 For these reasons, I respectfully urge the

1 Board to approve the requested reinstatement of the 2022
2 townhouse development approval. Doing so will allow
3 a previously approved zoning compliant project to move
4 forward, while preserving the community commitment that
5 formed part of the original approval.

6 Thank you for your consideration of the
7 application. Respectfully submitted, Emily Singer
8 Lucio.

9 And I did send this in ahead to the BZA.

10 CHAIRPERSON POURCIAU: Thank you so much for
11 that.

12 Vice Chair Goldstein, did you have any
13 questions or comments for Ms. Lucio?

14 VICE CHAIR GOLDSTEIN: Thank you for the
15 information and for testifying today. I'm just
16 curious. I think I saw something in the record that,
17 unfortunately, the timing of the break for ANC meeting,
18 it's too difficult to actually have a meeting and ANC
19 vote potentially on the project, for this current
20 project. Is that correct?

21 MS. LUCIO: The ANC had voted on this project
22 when it was originally instated. So, I don't -- but
23 our ANC meeting is not for another week.

24 VICE CHAIR GOLDSTEIN: Okay. So, a vote was
25 taken on the previous version of it, but no vote occurred

1 on this version; is that right?

2 MS. LUCIO: That is correct.

3 VICE CHAIR GOLDSTEIN: Thank you.

4 CHAIRPERSON POURCIAU: Are there questions
5 for Ms. Wells?

6 MEMBER WELLS: Yes. One follow-up question.
7 Will the ANC convene to vote on this particular
8 application? You had a vote on it previously. And it
9 sounds like the plan has minimal changes from what you
10 guys saw previously. But was there a plan to vote on
11 this particular application?

12 It's one of the things that, I guess, we're
13 trying to look at this as because the zoning rules have
14 changed a little bit under the current regulations and
15 not the previous ones. Was there a plan to do that
16 within the ANC?

17 MS. LUCIO: There were not, unfortunately.
18 I apologize. There was not.

19 MEMBER WELLS: And even without that plan,
20 do you feel or continue to say that that will change
21 the ANC's determination of this, of this case, or --

22 MS. LUCIO: I don't believe it will, because,
23 as I said, we have been in constant communication with
24 the developer. They've been to many ANC meetings. We
25 have worked with them on the next phases of this project.

1 And the ANC has been in full support all along.

2 MEMBER WELLS: Thank you.

3 MS. LUCIO: Uh-huh.

4 CHAIRPERSON POURCIAU: Thank you, Ms. Wells.

5 Ms. Lindsjo, any questions for the ANC?

6 MEMBER LINDSJO: Not at this time. Thank
7 you.

8 CHAIRPERSON POURCIAU: Thank you.

9 And, Mr. Miller, would you like to ask any
10 questions of Ms. Lucio?

11 You're on mute, Mr. Miller.

12 COMMISSIONER MILLER: Thank you. Sorry.

13 Thank you, Ms. Lucio, for all your work on
14 this case and in your committee, and being here today.

15 MS. LUCIO: Thank you.

16 CHAIRPERSON POURCIAU: Thank you for that.
17 I, too, thank you for your efforts.

18 With that, I don't know if the applicant wants
19 to ask any questions of the ANC? Seems like you all
20 have been talking a lot.

21 So, we'll go on. There are no other District
22 agencies present. We didn't have any parties on this
23 case or individuals signed up to testify.

24 So, Ms. Batties, would you like to give your
25 closing remarks now?

1 MS. BATTIES: Yes. Briefly, thank you. As
2 discussed in detail in our application documents, this
3 proposed townhouse community was designed and approved
4 as a companion application to the Conway Education
5 Center immediately to the east. That center replaced
6 the Kennedy Institute, which was on the townhouse site.

7 It was constructed in 1968 and in significant state
8 of disrepair.

9 The timing of the townhouse parcel and the
10 Conway Education Center was coordinated because the
11 proceeds from the sale of the townhouse parcel was
12 intended to pay for the construction of the new Education
13 Center. So, the closing on the sale of the property
14 is contingent upon the issuance of a written order and
15 the expiration of the objector.

16 So, there was an urgency as it relates to the
17 timing of this approval. And that's why I am so really
18 grateful to the Office of Planning, to Commissioner
19 Lucio in helping us get this application ready to go.

20 And so, that is -- and that's the reason we've worked
21 so hard until the last phase before this hearing.

22 And I apologize, Madam Chair, for the
23 submissions, but it really relates to the timing and
24 the urgency for Catholic Charities, which does
25 tremendous work. This school serves a very vulnerable

1 student population in the city and, so, it's really we're
2 here, we are here humbly requesting not just your
3 approval but the timely approval and issuance of a
4 written order.

5 And I will close with that. Thank you very
6 much.

7 CHAIRPERSON POURCIAU: Thank you.

8 Are there any final questions, items of
9 discussion that the Board would like to have with the
10 applicant?

11 Vice Chair Goldstein?

12 VICE CHAIR GOLDSTEIN: No. I just want to
13 thank you for your good work and the applicant's good
14 work. I don't have any further questions.

15 CHAIRPERSON POURCIAU: Ms. Wells, any
16 questions, any follow-up?

17 MEMBER WELLS: No questions, no follow-up.
18 Thank you.

19 CHAIRPERSON POURCIAU: Thank you.

20 How about your, Ms. Lindsjo?

21 MEMBER LINDSJO: No, no questions or any
22 follow-up. Thank you.

23 CHAIRPERSON POURCIAU: And, Mr. Miller, any
24 final remarks?

25 COMMISSIONER MILLER: No. No, thank you.

1 And thank you again for sticking with the project.

2 CHAIRPERSON POURCIAU: Very good. So, I
3 believe the Board is ready to deliberate on this case.

4 Would you please close the hearing record?

5 I want to thank the applicants and the
6 witnesses once again for coming forward. And we will
7 deliberate and, hopefully, make a motion on this case.
8 Thanks again.

9 (Pause.)

10 CHAIRPERSON POURCIAU: All right. It seems
11 that we are all here. It seems that they have responded
12 in the affirmative to all of our questions and concerns.

13 I think, Mr. Goldstein, I know we had a number
14 of things that we needed to ensure as a part of this
15 deliberation on the record. I'd like to call on you
16 first to offer up your, what your findings are at this
17 point.

18 VICE CHAIR GOLDSTEIN: Sure. I'd like to
19 begin by saying I really appreciate the applicant's
20 work through these provisions, and persistence in
21 getting the application correct to the best of their
22 ability based on feedback from the Office of Planning.

23 I'd also like to say the Office of Planning
24 did a great job of really closely analyzing the project.
25 And we're very confident in the report and the analysis

1 that they provided. While I think it would have been
2 great to have done an additional ANC letter of support,
3 I thought Commissioner Lucio's testimony was very
4 compelling and helpful on sort of the temperature of
5 the ANC in this unique situation that's occurred.

6 I think that the applicant has met their burden
7 under the special exception provisions for the
8 subdivision, C302.2 and 305.1. And they also made a
9 compelling case that they've met the burden under U
10 4421.1 and 901.2.

11 Again, on some of the conditions, and I think
12 one of my colleagues, Board Member Wells, may address
13 the DDOT aspect of it, I would probably -- I would say
14 that the conditions discussed and negotiated with the
15 community are outside the purview of this Board and the
16 BZA's jurisdiction.

17 It sounds like, though, that there's every
18 reason to believe that the conditions will be fulfilled
19 as discussed with the community, but that they are not,
20 unfortunately, appropriate for the BZA's consideration.

21 I don't have anything more to add to that.
22 I think the record is quite full. Lots of plans that
23 they provided, updated. And I think the burden has been
24 met. Thank you.

25 CHAIRPERSON POURCIAU: Thank you.

1 Board Member Wells, what are your thoughts
2 on this?

3 MEMBER WELLS: My thoughts, I would agree with
4 my colleague here that the burden has been met for the
5 required relief. I do agree that we have many
6 conditions are outside the purview of this Board.

7 I do find it interesting that the previous
8 Board decided not to make a condition in providing
9 access or ensuring access to the development to the
10 south. Went into their reasoning in line as the
11 applicant explained.

12 And as those conditions were outlined by the
13 District Department of Transportation, many of them deal
14 with public space, which is outside of our jurisdiction,
15 the applicant has agreed to implement all those
16 conditions. And that was noted in the testimony today
17 and in their record that they have agreed to that, the
18 special conditions that were outlined in the DDOT letter
19 in Exhibit 29.

20 CHAIRPERSON POURCIAU: Thank you.

21 Board Member Lindsjo, do you have comments
22 on this, thoughts?

23 MEMBER LINDSJO: Yeah. I would also like to
24 agree and echo with my fellow Board members' comments
25 that they have met the burden. And I will be supporting

1 this application.

2 CHAIRPERSON POURCIAU: Thank you.

3 Commissioner Miller, your thoughts on the
4 subject?

5 COMMISSIONER MILLER: Thank you, Madam Chair.
6 Madam Chair, yeah, I associate myself with Vice Chair
7 Goldstein's and my fellow colleagues additional
8 comments on this application. I'm prepared to support
9 it today.

10 CHAIRPERSON POURCIAU: Excellent. I, too,
11 am in support. Appreciate the comments from Vice Chair
12 Goldstein, as well as Board Member Wells.

13 I think proper access to the adjacent
14 properties is paramount, so I'm particularly happy that
15 the applicant has provided for that and for a street
16 clear pattern that might exist, depending on the type
17 of development there.

18 So, it seems that we might be ready for a
19 motion. Is there someone who would like to put a motion
20 forward?

21 COMMISSIONER MILLER: I would be pleased.
22 I thought Vice Chair Goldstein was going to this.

23 VICE CHAIR GOLDSTEIN: Oh.

24 COMMISSIONER MILLER: So, I was deferring to
25 that.

1 VICE CHAIR GOLDSTEIN: Yeah, either way.
2 Whatever you prefer.

3 COMMISSIONER MILLER: You go. You go, Vice
4 Chair.

5 VICE CHAIR GOLDSTEIN: Okay. Happy to. I
6 think I would make a motion to approve Application Case
7 No. 21509 for the relief as captioned and read by the
8 Secretary.

9 I did want to clarify whether we wanted it
10 to be conditioned on the fulfillment of the DDOT TDM
11 measures. Although, as my fellow Board member
12 mentioned, some may be outside the purview. But they
13 were a condition of the previous Board.

14 So, I'm sorry, this is a little bit more of
15 a complicated motion. But I just wanted to make sure
16 in the process of the motion are we, would we like those
17 TDM, the TDM proposed by DDOT as a condition of the
18 approval?

19 CHAIRPERSON POURCIAU: Yes, thanks. It is.

20 MEMBER WELLS: Okay. Unless anyone has any
21 objection, I would say, then, that everything I
22 mentioned, Case No. 21509 for the relief as captioned
23 and read by the secretary, subject to the condition of
24 the DDOT TDM measures -- I don't have the exhibits in
25 front of me. I don't know if anyone else has that

1 exhibit number.

2 MS. MEHLERT: Exhibit No. 29.

3 MEMBER WELLS: Thank you very much. And that
4 is the motion.

5 CHAIRPERSON POURCIAU: I would second that
6 motion that approves the application and improves
7 conditions for the DDOT TDM measures.

8 And, Madam Secretary, could you call the vote?

9 MS. MEHLERT: Please respond to the Vice
10 Chair's motion to approve the application and TDM
11 conditions.

12 Chair Pourciau?

13 CHAIRPERSON POURCIAU: Yes.

14 MS. MEHLERT: Vice Chair Goldstein?

15 VICE CHAIR GOLDSTEIN: Yes.

16 MS. MEHLERT: Board Member Wells?

17 MEMBER WELLS: Yes.

18 MS. MEHLERT: Member Lindsjo?

19 MEMBER LINDSJO: Yes.

20 MS. MEHLERT: Commissioner Miller?

21 COMMISSIONER MILLER: Yes.

22 MS. MEHLERT: Staff would record the vote 5
23 to zero to zero to approve Application No. 20159 with
24 conditions on the motion made by Vice Chair Goldstein
25 and seconded by Chair Pourciau.

1 CHAIRPERSON POURCIAU: Thank you so much.

2 Thank you so much, Board Members and staff,
3 for another day of zoning. I'm happy that we're
4 approving a majority of the cases. So, we're moving
5 the agenda along and doing the good work for the public
6 good.

7 Have a great afternoon and the rest of the
8 week. See you next Tuesday, or Wednesday, or the next
9 time, Mr. Miller.

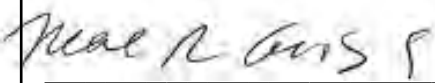
10 COMMISSIONER MILLER: Thank you. Thank you
11 for all your leadership.

12 CHAIRPERSON POURCIAU: Thank you.

13 (Whereupon, the above-entitled matter went
14 off the record at 12:50 p.m.)
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1 C E R T I F I C A T E

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

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18 Connor Banks
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