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GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF ZONING
BOARD OF ZONING ADJUSTMENT

BOARD OF ZONING ADJUSTMENT PUBLIC HEARING

9:45 to 11:35 a.m.

Tuesday, October 20, 2015

441 4th Street, N.W.

Jerrily R. Kress Memorial Hearing Room

Suite 220 South

Washington, D.C. 20001

1 BOARD MEMBERS:

2 MARNIQUE Y. HEATH, Chairperson

3 FREDERICK L. HILL, Vice-Chairperson

4 JEFFREY HINKLE,

5 ROBERT MILLER, Zoning Commission (sitting in as
6 Board member)

7

8 OFFICE OF ZONING STAFF:

9 CLIFFORD MOY, Board Secretary

10 STEVE COCHRAN

11 MEGAN RAPPOLT

12 MATT JESICK

13 STEPHEN MORDFIN

14 STEPHEN GYOR

15 ELISA VITALE

16

17 OFFICE OF PLANNING:

18 KAREN THOMAS

19

20 OFFICE OF THE ATTORNEY GENERAL:

21 LAWRENCE FERRIS

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C O N T E N T S

PAGE

EXPEDITED CALENDAR CASES

APPLICATION NO. 19102, Gregg Solomon and Sarah
Helmstadter 11

APPLICATION NO. 19096, Mark Lawrence 13

AGENDA ITEMS

APPLICATION NO. 19082, Chichest LLC 14

APPLICATION NO. 19084, Tito Construction Company LLC 23

APPLICATION NO. 19086, Gail and Lindsay Slater 27

APPLICATION NO. 19083, Simone Management LLC 52

APPLICATION NO. 19087, Andrew Weinschenk and
Rachel Cononi 58

APPLICATION NO. 19052-A, Josh Green 64

APPLICATION NO. 18801-A, Modification Request,
Fort Lincoln 68

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P R O C E E D I N G S

[9:30 a.m.]

VICE-CHAIRPERSON HEATH: Good morning.

Will the hearing please come to order. We're located in the Jerrily R. Kress Memorial Hearing Room, at 411 4th Street, N.W. Today's date is October 20th, 2015, and we're here for the Public Meeting and Hearings of the Board of Zoning Adjustment of the District of Columbia.

My name is Marnique Heath, Chairperson. Joining me today is Fred Hill, Vice-Chairperson; Jeff Hinkle, Board member; and Rob Miller, member of the Zoning Commission, sitting in today as a member of the Board.

Please be advised that this proceeding is being recorded by a court reporter and is also webcast live. Accordingly, we must ask you to refrain from any disruptive noises or actions in the hearing room.

The Board's hearing procedures and how we will process applications will be found on the table at the back of the door, and the schedule listed, as posted by the Zoning Office, will generally be the order in which we'll be reviewing cases today.

All individuals wishing to testify today will need to do two things prior to testifying. Each person who wants to address the Board must complete two

1 witness cards per person and give those cards to the
2 court reporter, seated to my right, prior to testifying.
3 So please make sure that you give two of those cards to
4 the court reporter prior to testifying. You'll also need
5 to now stand and take the oath, which will be
6 administered by Mr. Moy, Board Secretary.

7 MR. MOY: Good morning. Do you solemnly
8 swear or affirm that the testimony you are about to
9 present in this proceeding is the truth, the whole truth,
10 and nothing but the truth?

11 [Witnesses sworn en masse.]

12 MR. MOY: Ladies and gentlemen, you may
13 consider yourselves under oath.

14 CHAIRPERSON HEATH: All right.

15 Mr. Moy, are there any preliminary issues
16 for review?

17 MR. MOY: Good morning, Madam Chair and
18 members of the Board. Yes, I do, if you bear with me
19 here.

20 First, for the record, we'd like to
21 announce cases that were originally scheduled on today's
22 docket. The first is Application No. 19097 of 1626 29th
23 Street, N.W. Trust has been rescheduled to October 27th.
24 There was a party status request in that Application
25 because it was scheduled in the expedited review

1 calendar.

2 Second, Application No. 19055, of Valor
3 Minnesota LLC. At the Applicant's request it has been
4 rescheduled to November 17th, 2015.

5 Application 19004, of 1933 Montana Avenue
6 LLC. At the Applicant's request, it has been rescheduled
7 to December 15th, 2015.

8 Application 19066 of Gabriel and Stephanie
9 Klein, also at the Applicant's request has been
10 rescheduled to November 24th, 2015, and we expect that
11 the Applicant in that case is going to be revising the
12 project as well as amending the relief.

13 For missions case, 19130, the Embassy of
14 the Russian Federation has been rescheduled to November
15 10th, 2015, and Application No. 19085 of Jacobs has been
16 withdrawn by the Application.

17 Finally, the Appeal of 19081 of ANC 1C on a
18 concurrence consent agreement has been postponed to
19 November 17th, 2015.

20 So that's the cases that have been
21 advertised on today's docket.

22 Two other items, Madam Chair. The first is
23 -- and I'll go through both of them. The first is a
24 correspondence item. The Board received a letter from
25 ANC 3C, attendant to the reopening of Application No.

1 18881 of Nando's of Woodley Park LLC, to readdress the
2 time limit of that order, which has not been issued. The
3 second item, Madam Chair, is an Applicant's request to
4 postpone their hearing, which was scheduled -- or rather
5 which is scheduled for October 27th, next week, and
6 that's 18983. So I'm asking that the Board take action
7 on that, whether to grant the postponement and reschedule
8 it to December 8th.

9 That complete my briefing, Madam Chair.

10 CHAIRPERSON HEATH: Okay. Thank you, Mr.
11 Moy. So, quickly, then, to address 198 -- well, 18983, I
12 would move that we allow that case to be postponed and
13 rescheduled to December 8th. Is there a second?

14 VICE-CHAIRPERSON HILL: I second the
15 motion.

16 CHAIRPERSON HEATH: Any discussion?

17 [No audible response.]

18 CHAIRPERSON HEATH: All those in favor?

19 [Chorus of ayes.]

20 CHAIRPERSON HEATH: Any opposition?

21 [No audible response.]

22 CHAIRPERSON HEATH: All right. So the
23 motion carries.

24 Then one more preliminary matter,
25 Application 18881. This is the application of Nando's of

1 Woodley Park, and in order to -- I'd like to address the
2 correspondence that we received from the ANC. But before
3 I address that, just to recall, on February 10th, 2015,
4 the Board voted to grant this application, subject to
5 several conditions, including the approval of a term of 5
6 years. The Applicant subsequently filed a motion for
7 reconsideration, stating that the 5-year term conflicted
8 with its lease agreement for the property, which is for
9 10 years with two options to renew for 5 years each. The
10 Applicant requested a 20-year term, or, in the
11 alternative, no term, subject to additional conditions.
12 And on June 9th, 2015, the Board voted to deny the motion
13 for reconsideration.

14 A full order for that vote has not yet been
15 issued, and as Mr. Moy has stated, two ANC 3
16 commissioners have since filed a letter requesting that
17 the Board revisit the matter. In their letter, the
18 commissioners state that the Applicant decided to abort
19 the project due to a 5-year term and that the Applicant
20 has indicated that it would be willing to go forward with
21 the project under a 10-year term limit.

22 Although the ANC letter is not a motion for
23 recontinguation, now that the ANC has submitted this
24 correspondence regarding a change of circumstances, I
25 would move that, on our own motion, the Board reopen the

1 file for all parties to respond to the ANC's proposal for
2 the 10-year term.

3 COMMISSIONER HINKLE: I'll second.

4 CHAIRPERSON HEATH: All right. So the
5 motion has been seconded. Any discussion?

6 [No audible response.]

7 CHAIRPERSON HEATH: So with that, we would
8 move that we would shift this case to decision on
9 November 3rd. All those in favor?

10 [Chorus of ayes.]

11 CHAIRPERSON HEATH: Anyone opposed?

12 [No audible response.]

13 CHAIRPERSON HEATH: All right. So the
14 motion carries.

15 MR. MOY: All right. The motion carries on
16 the count -- Staff would record the vote as 4 to 0 on the
17 motion of Chairperson Hill. Seconding the motion is Mr.
18 Hinkle, and Mr. Miller, and Mr. Hill in support. The
19 decision, scheduled for November 3rd. Madam Chair, would
20 you want responses from parties with a deadline due by --
21 2 weeks is exactly November 3rd, so I'm okay with --
22 Staff is fine with having responses in by Monday, the
23 2nd, or we could do October -- or Friday, October 30th.
24 Your desire.

25 CHAIRPERSON HEATH: I'm fine with Monday.

1 Did you say that's the 2nd?

2 MR. MOY: It would be the 2nd.

3 CHAIRPERSON HEATH: Okay. Any thoughts
4 about that?

5 COMMISSIONER MILLER: Madam Chair, so we're
6 reopening the record to hear the submissions from the
7 parties concerning the proposed --

8 CHAIRPERSON HEATH: Concerning the ANC's
9 letter.

10 COMMISSIONER MILLER: -- 10-year term by
11 the ANC?

12 CHAIRPERSON HEATH: Correct.

13 COMMISSIONER MILLER: And the parties were
14 the Applicant, ANC 3C, and Woodley Park Community
15 Association?

16 CHAIRPERSON HEATH: Correct.

17 MR. MOY: That was the party in opposition,
18 correct.

19 CHAIRPERSON HEATH: Right.

20 COMMISSIONER MILLER: Okay. I'm supportive
21 of that.

22 CHAIRPERSON HEATH: Okay.

23 MR. MOY: Okay. Very good. Thank you,
24 Madam.

25 CHAIRPERSON HEATH: Okay. All right. So

1 with that then we'll move to our expedited calendar
2 cases. If you could call -- let's see -- 19102. We'll
3 start there.

4 **APPLICATION NO. 19102**

5 MR. MOY: Yes, thank you, Madam Chair.
6 There are two applications on the expedited review
7 calendar. The first of the two is No. 19102 of Gregg
8 Solomon and Sarah Helmstadter, and this is property
9 located at 4334 P Street, N.W.

10 CHAIRPERSON HEATH: Okay. The only issue
11 with this case that I had was that it appears that the
12 Applicant has not requested 2001.3 relief as a
13 nonconforming structure. Not a major issue. Everything
14 else looks fine. Does anybody have any discussion on
15 this? Any issues?

16 [No audible response.]

17 CHAIRPERSON HEATH: Okay.

18 COMMISSIONER HINKLE: Are you recommending
19 to add those to the --

20 CHAIRPERSON HEATH: I am recommending that
21 we would add that.

22 COMMISSIONER HINKLE: Based on the Office
23 of Planning's analysis? Okay.

24 CHAIRPERSON HEATH: Correct.

25 COMMISSIONER HINKLE: That's fine.

1 CHAIRPERSON HEATH: All right. Then I will
2 move that we accept the self-certified Special Exception
3 Application for this, with the added relief of 2001.3, as
4 noted by the Office of Planning.

5 COMMISSIONER HINKLE: I'll second.

6 CHAIRPERSON HEATH: All right. The
7 motion's been seconded. All this in -- any further
8 discussion?

9 [No audible response.]

10 CHAIRPERSON HEATH: All those in favor
11 signify with "aye."

12 [Chorus of ayes.]

13 CHAIRPERSON HEATH: Any opposition?

14 [No audible response.]

15 CHAIRPERSON HEATH: The motion carries.
16 Mr. Moy, summary order.

17 MR. MOY: Yes. Summary order in Staff. We
18 record the vote as -- as I can tell -- a vote count of 4
19 to 0 to 1. This is on the motion of Chairman Heath with
20 the addition or amendment to add 2001.3 relief, seconding
21 the motion, Mr. Hinkle, also in support Mr. Miller and
22 Vice-Chairman Hill, and we have a Board seat vacant.
23 Summary order 4 to 0. Thank you.

24 CHAIRPERSON HEATH: All right. So our next
25 expedited calendar case --

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APPLICATION NO. 19096

MR. MOY: Yes. The next is Application No. 19096 of Mark Lawrence, again also request for a Special Exception under 223. That property at 1319 Naylor Court, N.W. I would add that a filing yesterday, that the Applicant filed to add, or to amend his Application to add relief under 2001.3.

CHAIRPERSON HEATH: Okay. All right. So with that amendment to the Application, I have no issues and would move that we accept this Special Exception Application.

COMMISSIONER HINKLE: Second.

CHAIRPERSON HEATH: All those in favor?

[Chorus of ayes.]

CHAIRPERSON HEATH: Any opposition?

[No audible response.]

CHAIRPERSON HEATH: Then the motion carries.

MR. MOY: Staff would record the vote as 4 to 0 to 1. This is on the motion of Chairperson Heath, with the amendment for 2001.3 by the Applicant; seconding the motion, Mr. Hinkle. Also in support, Mr. Miller and Vice-Chair Heath, and Board seat vacant. Motion carries, ma'am. Summary order, you said?

CHAIRPERSON HEATH: Yes, summary order.

1 MR. MOY: Thank you.

2 CHAIRPERSON HEATH: Thank you. All right.
3 Then we'll come back to our remand and we will then move
4 to our hearing cases. So the first will be 19082.

5 **APPLICATION NO. 19082**

6 MR. MOY: To the table then, the Applicant
7 and the parties to Application No. 19082 of, I think it's
8 pronounced Chichest, C-h-i-c-h-e-s-t LLC. Madam Chair,
9 this is a request for a special exception under 353 for
10 construction of a new 16-unit apartment house on vacant
11 lots in the R-5-A District at premises 37-39 Missouri
12 Avenue, N.W. This is what has been captioned and
13 advertised for the public. Yes.

14 CHAIRPERSON HEATH: Okay. You can give
15 those to the Board secretary.

16 All right. Please introduce yourselves.

17 MR. SADEGHI: Good morning. My name is
18 Sapehr Sadeghi. I'm the owner of Chichest LLC.

19 MR. ALI: Rami Ali from Ram Design, the
20 project architect.

21 MR. SULLIVAN: Good morning. Marty
22 Sullivan of Sullivan and Barrows, counsel for the
23 Applicant.

24 CHAIRPERSON HEATH: Okay. Thank you.
25 We've reviewed all materials submitted on this

1 application, and one thing I want to just confirm before
2 we go any further -- was there an Affidavit of Posting on
3 this?

4 MR. SULLIVAN: I believe there was one
5 filed. If not -- posting was done. If it wasn't I'll
6 make sure I correct that.

7 CHAIRPERSON HEATH: Okay. All right. I
8 don't believe, unless it came in late, I don't believe we
9 have an Affidavit of Posting on file.

10 MR. SULLIVAN: Okay. I'll be sure to file
11 that today, if I may.

12 CHAIRPERSON HEATH: And that would have
13 been posted 2 weeks ago.

14 MR. SULLIVAN: Yes, it was posted. I
15 posted it myself on -- 15 days before, on that Monday.

16 CHAIRPERSON HEATH: Okay. All right.
17 Okay. Is there anything that the Board wants to hear, in
18 particular, from this Applicant? Any questions?

19 COMMISSIONER MILLER: Madam Chair, did we
20 receive, or Mr. Moy, did we receive, or this in front of
21 us, that we just received, landscaping and grading plans,
22 which the Office of Planning said needed to be submit
23 ted?

24 MR. ALI: Yeah, the updated set does have,
25 at the very end, the landscaping plans.

1 COMMISSIONER MILLER: Thank you.

2 CHAIRPERSON HEATH: Okay.

3 COMMISSIONER MILLER: The only other
4 question that I'd like the Applicant to address, even
5 though it doesn't necessarily affect the relief that's
6 being requested, I just wanted to know if inclusionary
7 zoning applied to this property, and if so, how many IZ
8 units are being provided.

9 MR. ALI: Yes. The project that -- we do
10 have two IZ units. Actually, we have 10 percent of the
11 total JFA to IZ, units, and they've been stated on Sheet
12 No. 3 of the package.

13 COMMISSIONER MILLER: What AMI level -- at
14 what income level is that?

15 MR. SULLIVAN: That would be one each, one
16 at 50 and one at 80.

17 COMMISSIONER MILLER: Okay. Thank you very
18 much.

19 CHAIRPERSON HEATH: Okay. Does this
20 updated drawing also include the six long-term bicycle
21 parking spaces, recommended by DDOT?

22 MR. ALI: The site plan --

23 MR. SULLIVAN: No, it doesn't.

24 MR. ALI: No. That plan was not updated.

25 CHAIRPERSON HEATH: Okay. Okay. But

1 you're aware of that request, and you're find to meet the
2 request?

3 MR. ALI: Sure. We have the space for it.

4 CHAIRPERSON HEATH: Great.

5 MR. SULLIVAN: Yeah, we have the space for
6 it.

7 CHAIRPERSON HEATH: Okay.

8 MR. SULLIVAN: I would like to point out
9 one item, if I may, and Mr. Ali, if you want to speak to
10 this. We're considering a brick option, and rather than
11 coming back for a modification later, if the Board was so
12 inclined to approve that as a potential alternative --

13 CHAIRPERSON HEATH: Okay.

14 MR. SULLIVAN: -- that would be great. If
15 not, or if you need more time, that's fine, but all
16 things being equal we'd like to have that option as well.
17 And that's in the plans, if you want to point out what
18 plan it is.

19 MR. ALI: Correct. Page 2 is the brick
20 option, and we actually proposed that new exterior finish
21 based on our ANC presentations and hearing neighbors'
22 concerns and other people's concerns, so we decided to
23 provide the exterior finishes to kind of blend more into
24 the surroundings.

25 CHAIRPERSON HEATH: Okay. But what's going

1 to be the determiner, or the determining factor for --

2 MR. ALI: It's cost, that the owner's
3 actually running the cost estimates on both different.

4 CHAIRPERSON HEATH: Okay. All right. Okay.
5 Any other questions from the Board?

6 [No audible response.]

7 CHAIRPERSON HEATH: So you have the right
8 to a full hearing, but I believe that we feel that you've
9 satisfied all of the information that we were looking for
10 preliminarily. I think if you're find for us to proceed
11 without moving forward with a full hearing we'll turn to
12 Office of Planning to see if they have any comments or
13 concerns.

14 MR. SULLIVAN: Yes, we're find to stand on
15 the record. Nothing further.

16 CHAIRPERSON HEATH: Okay. Great.

17 MR. SULLIVAN: Thanks.

18 CHAIRPERSON HEATH: Great.

19 MS. RAPPOLT: Good morning. I'm Megan
20 Rappolt with OP. I reviewed this case and I acknowledge
21 that the Applicant submitted the landscape plan that we
22 requested, and would just say that we met with public
23 space with the Applicant and there are some gradings
24 there issues in the public space, in the BRL area, that
25 the Applicant will be working -- will be dealing with

1 later. And for what it's worth, we would also support
2 the Option B, the brick option in your further exploring
3 the architecture.

4 That's all. Thank you.

5 CHAIRPERSON HEATH: Thank you. Board, any
6 questions of Office of Planning?

7 COMMISSIONER HINKLE: Yeah, thank you,
8 Madam Chair. But you're, I guess, satisfied with the
9 plans that were provided, in terms of the landscape
10 plans?

11 MS. RAPPOLT: Yes. Initially the Applicant
12 hadn't provided a landscape plan, and so we appreciate
13 that they put that in there. It's required per Section
14 353. And then, also, the site is relatively flat, so the
15 only sort of grade part of the site that is of issue is
16 within public space and within the BRL, and those
17 regulations will apply at the time they go for permits,
18 so that's all.

19 COMMISSIONER HINKLE: Great. Thank you.

20 CHAIRPERSON HEATH: Okay. Applicant, any
21 questions of Office of Planning?

22 MR. SULLIVAN: No, thank you.

23 MR. ALI: No, thank you.

24 CHAIRPERSON HEATH: All right. Okay. Is
25 there anyone here from DDOT on this application?

1 [No audible response.]

2 CHAIRPERSON HEATH: We do have a letter of
3 no objection from DDOT, recommending, as I said, the 6
4 long-term bicycle parking spaces be added to the project.

5 Is there anyone here from ANC 4B? Anyone
6 from ANC 4B?

7 [No audible response.]

8 CHAIRPERSON HEATH: Have you all talked to
9 the ANC about the compactors?

10 MR. SADEGHI: We have.

11 CHAIRPERSON HEATH: Can you explain what it
12 is they're looking for with trash compactors versus the
13 dumpsters?

14 MR. SADEGHI: One of the members was very
15 adamant about the trash being either taken away on a
16 daily basis or have a compactor put on site.
17 Unfortunately, we were explaining that we don't have the
18 space to put a compactor in there and he asked us to look
19 into it, but, you know, do the best we can. So that was
20 the main concern for them -- trash.

21 CHAIRPERSON HEATH: Okay.

22 MR. ALI: And it was pointed out for them
23 that we do have trash rooms on every single floor, and
24 the trash compartments that actually we have provided is
25 towards -- it's hidden from any public -- nobody can see

1 it. It's between the building and the property line
2 adjacent to the neighboring building. So nobody can see
3 that, see the compartments.

4 CHAIRPERSON HEATH: Okay.

5 MR. SADEGHI: And it's enclosed.

6 CHAIRPERSON HEATH: Okay. How often will
7 trash collection --

8 MR. SADEGHI: The trash will be collected
9 from inside the trash room on a daily basis, but the
10 trash collection, it depends on how we accumulate trash,
11 so that's between -- it's going to be between the trash
12 company and the building, once it's done, depending on
13 the need of the building.

14 CHAIRPERSON HEATH: Okay.

15 MR. SADEGHI: So probably two or three
16 times a week.

17 CHAIRPERSON HEATH: Okay. Did you have a
18 question about that?

19 ATTENDANT: [Inaudible comment.]

20 CHAIRPERSON HEATH: Oh, okay. Okay. All
21 right. So we do have a letter from the ANC, though,
22 saying that they recommend approval.

23 Is there anyone here wishing to speak in
24 support of this application? Anyone in support?

25 [No audible response.]

1 CHAIRPERSON HEATH: Anyone in opposition to
2 this application? Any opposition?

3 [No audible response.]

4 CHAIRPERSON HEATH: Okay. Then we'll turn
5 back to the Applicant. There's nothing to rebut.

6 MR. SULLIVAN: No, we have nothing further.
7 Thank you.

8 CHAIRPERSON HEATH: Okay. So we will close
9 this hearing, and I'll make a motion that we approve this
10 special exception.

11 VICE-CHAIRPERSON HILL: Second.

12 CHAIRPERSON HEATH: All right. All those
13 in favor?

14 [Chorus of ayes.]

15 CHAIRPERSON HEATH: Any opposition or
16 discussion?

17 [No audible response.]

18 CHAIRPERSON HEATH: All right. Then, Mr.
19 Moy, the motion carries.

20 MR. MOY: Yes, Madam Chair. For clarity,
21 before I give the vote count, the motion also included
22 the approval for the -- I believe it was Option B. Did I
23 get that right or did I miss something?

24 CHAIRPERSON HEATH: Yeah. I think we --

25 MR. MOY: Is that part of the plan?

1 CHAIRPERSON HEATH: -- we want to give them
2 some flexibility, but we definitely prefer Option B.

3 MR. MOY: Okay. I just want to be sure
4 that was on the record.

5 CHAIRPERSON HEATH: Okay. Yes.

6 MR. MOY: All right. So the vote is 4 to 0
7 to 1. This is on the motion of Chairperson Heath for
8 approval for the request for the relief requested.
9 Seconding the motion, Mr. Miller. Also in support, Vice-
10 Chair Hill and Mr. Hinkle. Motion carries.

11 CHAIRPERSON HEATH: Thank you. Summary
12 order.

13 MR. MOY: Thank you.

14 CHAIRPERSON HEATH: All right. So we'll
15 call our next case. Mr. Moy, 19084. Thank you.

16 **APPLICATION NO. 19084**

17 MR. MOY: The next Application would be
18 Applicant and the parties to Application No. 19084. This
19 is the Application of Tito Construction Company LLC, as
20 advertised in caption, request for a variance relief from
21 the off-street parking requirements under Section 2101,
22 to allow the construction of a new one-family dwelling in
23 the R-4 District at premises 1028 D Street, N.E.

24 CHAIRPERSON HEATH: Good morning. Please
25 introduce yourselves.

1 MS. MOLDENHAUER: Good morning, Madam
2 Chair, members of the Board. My name is Meredith
3 Moldenhauer from the law firm of Griffin, Murphy,
4 Moldenhauer & Wiggins. With me today --

5 MR. SANNI: Good morning, Ms. Chairman. My
6 name is Mufutah Sanni, the Tito Construction Company.

7 CHAIRPERSON HEATH: Okay. All right. Does
8 the Board have any questions or anything you want to
9 drill down on, on this application?

10 [No audible response.]

11 CHAIRPERSON HEATH: All right. One
12 question I have -- I assume you've had conversations with
13 DDOT; correct?

14 MS. MOLDENHAUER: Yes, we have.

15 CHAIRPERSON HEATH: Okay. It's unusual to
16 not have a letter from them, but we don't have a letter
17 on file so I just wanted to ask the question.

18 MS. MOLDENHAUER: Yeah. There's no ability
19 for a curb cut here.

20 CHAIRPERSON HEATH: Okay. All right. So
21 then, you're familiar with the way we typically proceed
22 in a case where we believe we've received all documents,
23 and so if you're find for us to proceed, rather than
24 going through a full hearing.

25 MS. MOLDENHAUER: Yes. We'll rest on the

1 record. Thank you.

2 CHAIRPERSON HEATH: Okay. Thanks. So with
3 that I'll turn to Office of Planning.

4 MS. THOMAS: Good morning, Madam Chair,
5 members of the Board. Karen Thomas with the Office of
6 Planning. We have nothing further to add. This property
7 is landlocked and cannot support parking at the rear, and
8 we rest on the record of our report. Thank you.

9 CHAIRPERSON HEATH: Thank you. Any
10 questions of Office of Planning, Board or Applicant? Any
11 questions.

12 MS. MOLDENHAUER: No questions.

13 CHAIRPERSON HEATH: All right. As I've
14 said, we don't have a letter from DDOT. Is there anybody
15 here, on this application, from DDOT?

16 [No audible response.]

17 CHAIRPERSON HEATH: Anybody here from ANC
18 6A? ANC 6A?

19 [No audible response.]

20 CHAIRPERSON HEATH: We do have a letter
21 indicating that they voted in support, 7-0, for this
22 request.

23 Is there anybody wishing to speak in
24 support of this application? Anyone in support?

25 [No audible response.]

1 CHAIRPERSON HEATH: Anyone in opposition to
2 this application?

3 [No audible response.]

4 CHAIRPERSON HEATH: No opposition? Okay.
5 Then anyone want to make a motion?

6 VICE-CHAIRPERSON HILL: I'd like to make a
7 motion that we approve.

8 COMMISSIONER MILLER: I would second that
9 motion.

10 CHAIRPERSON HEATH: Okay. Before we
11 formally approve that there is one area of amended
12 relief.

13 MS. MOLDENHAUER: We have -- we leave our
14 application as we submitted it. We have spoken with
15 Matthew LeGrant and we've provided that information to
16 Karen Thomas, Office of Planning, and we do not need any
17 additional relief other than what was requested.

18 CHAIRPERSON HEATH: Okay. So lot area or
19 lot width?

20 MS. MOLDENHAUER: No.

21 CHAIRPERSON HEATH: Okay.

22 MS. MOLDENHAUER: We have copies of that e-
23 mail from Matt LeGrant if the office would like a copy.

24 CHAIRPERSON HEATH: Can you submit it for
25 the record? Okay. All right. So the motion has been

1 made and seconded. Any further discussion?

2 [No audible response.]

3 CHAIRPERSON HEATH: All those in favor?

4 [Chorus of ayes.]

5 CHAIRPERSON HEATH: Any opposition?

6 [No audible response.]

7 CHAIRPERSON HEATH: Then the motion
8 carries. Summary order, Mr. Moy?

9 MR. MOY: Yes. Thank you. Staff would
10 record the vote as 4 to 0 to 1 on the motion of Vice-
11 Chair Hill, and seconding the motion Mr. Miller; also in
12 support Mr. Hinkle and, of course, Madam Chair Heath. So
13 motion carries 4 to 0 to 1, summary order. Thank you.

14 CHAIRPERSON HEATH: Okay. So we'll call
15 our next case. It should be 19086.

16 **APPLICATION NO. 19086**

17 MR. MOY: Yes. To the table, Applicants to
18 19086 of Gail and Lindsay Slater, as advertised for the
19 public record, public notice, request for special
20 exception under 223, not meeting the lot occupancy
21 requirements under 403.1, and nonconforming structure
22 provisions under 2001.3, to construct a three-story
23 addition to an existing one-family dwelling in the CAP/R
24 4 District at 215 A Street, N.E.

25 CHAIRPERSON HEATH: Okay. Please introduce

1 yourself.

2 MS. FOWLER: Good morning. My name is
3 Jennifer Fowler with Fowler Architects.

4 CHAIRPERSON HEATH: Thank you. All right.
5 I believe your file appears to be complete and I don't
6 have any questions. Does the Board have any questions on
7 this application?

8 VICE-CHAIRPERSON HILL: I had a quick
9 question.

10 CHAIRPERSON HEATH: Sure. Go ahead.

11 VICE-CHAIRPERSON HILL: I was just curious.
12 In the architectural drawing, like the third floor -- so
13 there's a Jack-and-Jill bathroom on there; so that's
14 where the kids are going to go?

15 MS. FOWLER: That's correct.

16 VICE-CHAIRPERSON HILL: Okay. That's all.

17 [Off record comments.]

18 CHAIRPERSON HEATH: Okay. So I don't
19 believe there's a need for a full hearing, although you
20 have the right to it. So if you're -- with your consent
21 we'll proceed on.

22 MS. FOWLER: I think that's fine. I did
23 notice that there was a letter of opposition filed
24 yesterday by a neighbor. I don't know if you want me to
25 address that, or I'm fine to let it stand.

1 CHAIRPERSON HEATH: Okay. I haven't seen
2 that yet. Yeah, if you could address that, that would be
3 helpful.

4 MS. FOWLER: I didn't want it to be a
5 surprise.

6 CHAIRPERSON HEATH: Sure.

7 MS. FOWLER: Yeah. So this neighbor
8 submitted a letter, the owner of 7 Terrace Court. I did
9 want to mention that Mr. Slater reached out to all of his
10 adjacent neighbors, the series of houses along A that are
11 abutting him, and he has support from all them, and he
12 did reach out to the neighbor immediately behind him, on
13 Terrace Court, and did get their support as well. We
14 didn't -- while outreach might have been nice to do to
15 that particular property, we found that there was no
16 impact on the lighter air that far away. If you look at
17 the sun study in the file you can see that, because the
18 proposed addition is on the south end of the building,
19 all the shadows are cast onto the rooftop of 215 A and
20 the adjacent two properties, so there are no shadows that
21 are cast beyond the back of the house at 215 A.

22 CHAIRPERSON HEATH: So where is that house
23 relative to --

24 MS. FOWLER: If you look at the site plan,
25 the blowup on C3, you see the proposed 215 A.

1 Immediately behind is Terrace Court, so it's an alley
2 street --

3 CHAIRPERSON HEATH: Okay.

4 MS. FOWLER: -- a named alley, and 7
5 Terrace Court is to the southeast.

6 CHAIRPERSON HEATH: Okay.

7 MS. FOWLER: So you'll see there a group of
8 four dwellings immediately behind 215 A and then there's
9 another four that are to the east of that, so it's the
10 first one on the north end of those units.

11 CHAIRPERSON HEATH: I'm looking at your sun
12 study again. Okay. Does the Board have any questions
13 about this opposition?

14 [No audible response.]

15 CHAIRPERSON HEATH: Okay. All right.

16 MS. FOWLER: That's all I have.

17 CHAIRPERSON HEATH: Thank you.

18 MS. FOWLER: Thank you.

19 CHAIRPERSON HEATH: So then we will turn to
20 Office of Planning.

21 MR. JESICK: Thank you, Madam Chair and
22 members of the Board. My name is Matt Jesick. The
23 Office of Planning is happy to rest on the record in
24 support of the Application. I'd be happy to take any
25 questions. Thanks.

1 CHAIRPERSON HEATH: I don't have any
2 questions for you. Does the Board have any question?

3 [No audible response.]

4 CHAIRPERSON HEATH: Applicant, any
5 questions?

6 MS. FOWLER: No, thank you.

7 CHAIRPERSON HEATH: Okay. Great. Is
8 anyone here from DDOT on this case?

9 [No audible response.]

10 CHAIRPERSON HEATH: We do have a letter of
11 no objection from DDOT, and we also have a letter from
12 the Architect of the Capitol, indicating their support of
13 the Application.

14 Is there anyone here wishing to speak in
15 support of the Application? Anyone in support?

16 [No audible response.]

17 CHAIRPERSON HEATH: We have the three
18 letters from neighbors who are supporting this project.

19 Is there anyone here wishing to speak in
20 opposition? All right. Please come forward.

21 Yes, please. Did you -- you were both here
22 to take the oath; correct? And did you give your cards,
23 your witness cards? Okay. Good.

24 So please state your names for the record.

25 MS. ASH: My name is Joy Ash. I'm a

1 neighbor. I live at 5 Terrace Court, which is next door
2 to 7 Terrace Court. I've also supplied a letter from a
3 neighbor that is at 6 Terrace Court, which is across the
4 street. I apologize. We were unaware that we could
5 submit them online prior to, so I'll give you a chance to
6 read it through.

7 MR. LANGKAMP: Hi, Madam Chair. I'm Ron
8 Langkamp. I live at 24 3rd Street, N.E.

9 CHAIRPERSON HEATH: Okay. So we will take
10 a minute just to -- please do. Are you wishing to speak,
11 because if you wanted to testify you could speak and just
12 summarize your letter or read your statement.

13 MS. ASH: I don't. I just wanted to speak
14 in opposition. I didn't write a formal letter.

15 CHAIRPERSON HEATH: Okay. Great.

16 MS. ASH: My neighbor could not attend
17 today and that's why she submitted a letter.

18 CHAIRPERSON HEATH: Okay. Great.

19 MR. LANGKAMP: And I can probably read my
20 letter into the record if that's okay.

21 CHAIRPERSON HEATH: Okay. Sure.

22 MR. LANGKAMP: Is that Nancy that you're
23 talking about, that she couldn't come?

24 MS. ASH: Yes. I'm happy to read it for
25 the record, if you would all like me to.

1 CHAIRPERSON HEATH: Why don't you do that.

2 MS. ASH: Sure.

3 CHAIRPERSON HEATH: We'll give you 3
4 minutes.

5 MS. ASH: To whom it may concern, this is
6 in response to the proposal for a three-story addition to
7 the property located at 215 A Street, N.E. I am an
8 architected, licensed in New York and Pennsylvania,
9 currently residing at 6 Terrace Court, N.E., a stone's
10 throw away from the proposed addition. While I do not
11 oppose square footage increases in general, adding an
12 additional story of height to this single-family
13 residence is not in keeping with the historic character
14 of the neighbor.

15 It is insulting to me that a mansard roof
16 has been applied to the third level in a feeble attempt
17 to disguise the addition's height and mass from the A
18 Street side. The mansard construction is inappropriate
19 and historically inaccurate. It hides nothing indeed.
20 The rear view from my home on Terrace Court will be of a
21 row house rear elevation on hormones that is out of
22 character with the fabric of the community.

23 Years ago, when I served on my local zoning
24 board in upstate New York we routinely turned down
25 similar proposals to increase the size of existing

1 structures or build large new homes in established
2 neighborhoods because of the damaging effect the
3 construction would have on the neighboring structures'
4 property values and function as a community.

5 The proposed addition at 215 A Street,
6 N.E., is not in keeping with the surrounding
7 neighborhood, nor is it warranted by the claim that it is
8 for family use. Larger homes are available at much less
9 cost elsewhere in the city and property transfers to less
10 desirable owners and transient occupants are increasingly
11 common.

12 I urge you to deny the request for a
13 building variance and preserve the historic character of
14 Terrace Court and the A Street block.

15 Respectfully, Nancy McNabb.

16 CHAIRPERSON HEATH: Thank you.

17 VICE-CHAIRPERSON HILL: Excuse me. Do you
18 know if Nancy went to the ANC meeting when they were
19 talking about this?

20 MS. ASH: We were not informed of any of
21 the meetings past this committee hearing. As far as we
22 were -- we weren't aware of, is this was our only chance
23 to speak out in opposition. We were unaware of the
24 historic board and we were unaware of the ANC board
25 meetings.

1 CHAIRPERSON HEATH: Okay. Any other
2 questions for her?

3 [No audible response.]

4 MS. ASH: I would like to add, my issue is
5 not -- we don't know anything about this project. We
6 were not informed of anyway, and that my concern, mainly,
7 is the imposition to us -- our homes, our property
8 values, the neighborhood in general, and the impact on
9 Terrace Court, and that we were completely left out of
10 this process. We were not consulted. It's news to me
11 that they've had contact with anyone on the alley about
12 it.

13 CHAIRPERSON HEATH: Did you receive a
14 letter?

15 MS. ASH: We got a letter, a notice from
16 the city regarding this hearing, but no other.

17 CHAIRPERSON HEATH: Okay. Ms. Fowler, do
18 you have any questions of -- tell me your name again.

19 MS. ASH: Joy.

20 CHAIRPERSON HEATH: Okay.

21 MS. FOWLER: I just wanted to state we got
22 historic approval for this back in the summertime, and it
23 has been to the ANC twice. The ANC, they always
24 encourage us to reach out to neighbors, and my clients
25 did that. They were looking at, kind of, if you're

1 standing in the yard of this property, who's going to be
2 impacted by this project. So they focused on the house
3 immediately behind them on Terrace Court, and not the
4 ones across Terrace Court. And the ANC was fine with
5 that. That's kind of the outreach that they encouraged
6 us to do, which we did. So that's why we're --

7 MS. ASH: I don't believe Nancy was
8 contacted.

9 MS. FOWLER: They spoke to the people at 8
10 Terrace Court.

11 MS. ASH: Nancy is number 6. She's next
12 door to number 8.

13 MS. FOWLER: Right, but there's a building
14 in between. They're the ones that are right behind.

15 MS. ASH: Immediately, yes. She's next
16 door to that one.

17 MS. FOWLER: Okay. But you can see the sun
18 study. I don't know if you have a chance to look at it,
19 because you all are oriented to the -- you're to the
20 south of the proposed project.

21 MS. ASH: Which page shows the impact to
22 the alley?

23 MS. FOWLER: Well, you can see that the
24 shadows -- this is the addition, so you can see the
25 shadows go basically from left to right.

1 MS. ASH: So this is the alley here?

2 MS. FOWLER: Yeah. So, you know, the
3 shadows are basically cast this direction, across,
4 because of the orientation of the sun.

5 MS. ASH: Nancy is not here to speak but I
6 do believe that this would be clearly visible from her
7 back deck.

8 CHAIRPERSON HEATH: It would be visible,
9 but do you believe she would be impacted? I mean, you
10 see the sun study. You don't believe she'd be impacted
11 by the addition with respect to shadows being cast on her
12 property?

13 MS. ASH: Correct. It does not look clear.
14 This is not --

15 CHAIRPERSON HEATH: Okay.

16 MS. ASH: I don't want to speak for her, to
17 be honest.

18 CHAIRPERSON HEATH: Okay.

19 MS. ASH: Our other -- the main concern on
20 the alley is the process. You know, we've not been
21 consulted on the construction, what the impact to the
22 alley will be. It is a public street. There are trash
23 trucks that come up and down that street several times a
24 day, and we would like to understand how that's going to
25 impact us as well. I don't know if that's within the

1 plans of this meeting.

2 CHAIRPERSON HEATH: Yeah. Right. Right.
3 We -- the hope is that those early discussions happen as
4 a part of the ANC meetings.

5 MR. LANGKAMP: And they unfortunately did
6 not.

7 MS. ASH: They were completely left out of
8 the process.

9 MR. LANGKAMP: None of that part of the
10 process was actually, was employed. And so it would have
11 been easier to have the discussions about the points that
12 I submitted to you, the question about the process
13 issues. Both the ANC -- the ANC meetings, we had
14 numerous concerns about it. The HPRB reviewed it. They
15 also agreed with the report, initially, that came in from
16 ANC, that said due to the precedent-setting on 22 3rd
17 Street, which was also a third-story bump-out, which was
18 next to two properties, or three properties that already
19 have -- historically were originally three-story bump-
20 ups, that was identified as not setting precedent and was
21 stricken from the record, and was removed from the
22 record, but they did not have any opposition without
23 that.

24 When it reached -- we did not hear about
25 the application -- unfortunately, we didn't hear about

1 the application review process with ANC or HPRB until
2 after, and we got the formal notification for this
3 hearing.

4 Based on the formal letter that we received
5 on this hearing, we reached out to ANC, our ANC
6 commissioner, Danielle Schiffman, for insight and
7 guidance on the process. The outreach went unanswered.
8 She has both a phone number that she be reached at as
9 well as e-mail. And so that went on for several weeks,
10 all the way through the summer, because, as you
11 recognize, July 25th was when the initial HPRB meeting
12 was actually set up. And that went through and we
13 finally heard back from her last week, through an e-mail
14 that I sent to her as well as to Nicole from Charles
15 Allen's office, as well.

16 The log report cited in the letter we
17 received really just posted all the information. It
18 didn't provide a schedule of events. So there were
19 actually meetings that were scheduled and conducted, both
20 at the ANC, on the second hearing, but we weren't
21 notified of those, and we have really no idea how to do
22 this, and I think we're very concerned, frankly, about
23 the review process. It's reactive. It doesn't really
24 reach out to the residents most affected by it. Yes, the
25 neighbors -- the two neighbors on either side, but it

1 didn't reach out to Terrace Court.

2 Frankly, Nancy Metzger, who is part of the
3 chair, or part of the Board of HPRB got it right, and she
4 said that this is over and above a third-story bump-up.
5 If you look at all of these homes -- they're basically
6 nine in a row -- this will be the only building out of
7 those nine -- which several are rentals -- and if you
8 look at what actually will happen with that, if permitted
9 they will become the only home in the row of nine to have
10 a third-story complex, as well as the additional build-
11 out underneath. So it's also in the basement.

12 To me, the precedent will be set as an
13 exception to the zoning guidelines, and it will allow
14 other homes in the same row to obtain similar building
15 variances, which would significant impair light and sight
16 lines and property values for many of the homes on this
17 area, including mine. This is of particular concern
18 because several of the nine houses on the same side of
19 the street are rental properties today, and non-
20 residential owners will be incented to make similar
21 square foot upgrades to generate the most income-
22 producing model for their property.

23 Additionally, given the block's proximity
24 to the Capitol and the congressional office buildings,
25 home modifications and build-outs in our area are

1 eventually, and more frequently, being used for group
2 homes and Air BnBs. This has a direct impact to single-
3 family homeowners on this block and surrounding blocks,
4 including noise problems, parking congestion, additional
5 parking requirements that our neighborhood, quite
6 frankly, cannot absorb.

7 And Terrace Court is not a typical alley.
8 I mean, if you've seen pictures of the Terrace Court, you
9 can see it on the layout, it was built in the late 1800s.
10 It is a mews build-out of those homes and they are
11 historically significant. We do not believe that the
12 previous hearings by HPRB or ANC consider the impact to
13 this unique, charming, and historically significant
14 street on Capitol Hill, that includes eight single-family
15 homes, four on each side, and the proposed modifications
16 is in direct view of, and impacts, the sight lines of
17 Terrace Court homes. So it does not preclude shadowing
18 but it is in direct visibility to that.

19 215 A Street is situated on the interior
20 home of this block. The proposed addition of the third
21 story will be out of place for Terrace Court neighborhood
22 and the historical intent of the homes. And I believe
23 that not including the impact of the over-build on
24 Terrace Court residents is a huge oversight of this whole
25 process, and I think simply is unfair, because I don't

1 think they really took into consideration the historical
2 development of Terrace Court and the properties that
3 surround Terrace Court.

4 And, finally, I think the plan is not in
5 keeping with the integrity of the historic neighborhood.
6 215 A Street is one of nine properties encircling Terrace
7 Court. It's historically significant. It's
8 representative of the late 1800 communities. Its
9 significant feature is of Capitol Hill, and it's one
10 block away from the Supreme Court Building.

11 Terrace Court is located -- there should be
12 more -- frankly, from my perspective, there should have
13 been a more inclusive process. The process that you have
14 here, about notifications and letters going out to those
15 that are affected within 200 feet, I think should be
16 brought forward to ANC and HPRB, because it would
17 actually get people earlier in the process, that could
18 have a discussion, have their say, have a dialog around
19 it, and frankly, save a lot of taxpayer dollars and time
20 at this point.

21 CHAIRPERSON HEATH: All right. Thank you.
22 Any questions, Board?

23 [No audible response.]

24 CHAIRPERSON HEATH: Ms. Fowler, any further
25 comments?

1 MS. FOWLER: I just wanted to reiterate
2 that this was thoroughly vetted by Historic Preservation.
3 I think a lot of the concerns that we're here are
4 preservation concerns, and I also want to make sure that
5 they understand that property values and sight lines and
6 rental values are not something that considered in this
7 process. Any construction issues that arise, we're happy
8 to meet with the neighbors and work through that. We're
9 months away from construction. We have lots of time to
10 deal with that because we have to go through the
11 permitting process, and we're happy to do that.

12 CHAIRPERSON HEATH: Thank you. One thing I
13 think I neglected to ask is, is there anyone here from
14 ANC 6C?

15 [No audible response.]

16 CHAIRPERSON HEATH: No one here from ANC
17 6C? Okay. We do have a letter in support. Obviously
18 you all weren't at that ANC meeting and weren't aware of
19 it.

20 MS. ASH: Nor have we had any response.
21 I've not had any response.

22 CHAIRPERSON HEATH: Sure. Understood.
23 Okay. Any other comments from the board?

24 [No audible response.]

25 CHAIRPERSON HEATH: Are you another --

1 MR. PLACK: I'm a witness. I was sworn in.

2 CHAIRPERSON HEATH: Oh, okay. Another
3 person who wants to speak in opposition? Okay. You can
4 come forward. We'll give you 3 minutes.

5 MR. PLACK: Excuse me?

6 CHAIRPERSON HEATH: We'll give you 3
7 minutes to speak.

8 MR. PLACK: Okay. My name is Thomas Plack.
9 I live at 1 Terrace Court, and basically I've been living
10 there for about 10 years, and I don't think if you -- the
11 builders don't understand what Terrace -- where Terrace
12 Court is and what the significance of Terrace Court is.
13 Quite frankly, in the back of Terrace Court we have the
14 Lutheran Church, and that's a, yeah, 7-day a week job.
15 There's a parking lot back there. There's -- the Supreme
16 Court Historical Society also has access through Terrace
17 Court. They park back there, then they work off of East
18 Capitol Street. So the Lutheran church is on East
19 Capitol Street, then you have two homes next to the --
20 and a business, the church business, that people go back
21 there every day. There's a school that's attached to the
22 Lutheran church. The Supreme Court's Historical Society
23 is back there.

24 If they block off the Terrace Court,
25 there's no access in and out. We have sanitation

1 probably 4 days a week, in and out. We have deliveries
2 in and out. If the street's blocked off, which probably
3 it will be because they're doing footing work, they're
4 digging out the basement, I assume, so that could be a
5 problem. There's a No Parking Zone right along the back
6 of the church, so if the workers or whoever decides to
7 park there, the trucks won't be able to pick up the trash
8 from condominium, which is on -- actually, I think it's
9 1st Street.

10 ATTENDEE: Second.

11 MR. PLACK: Second Street, and then the
12 church -- and then the residents of Terrace Court. So
13 there's going to be an impact on the process, and I think
14 the context which we tried to talk about, the context is
15 wrong. Terrace Court is not an alley. It's an historic
16 block. It used to be Lambs -- I think it used to be
17 Lambs Way -- Lambs Alley or Lambs Way. Anyway, we're
18 Terrace Court now. It's significant. We're about 200
19 feet from the back of the big frieze from the Supreme
20 Court. A Street is also -- most of Capitol is a historic
21 community, and this will only, as far as I'm concerned,
22 be as detriment to the community overall, and I think you
23 need to look at the outcome, not the process.

24 I think we got the context wrong. I think
25 the process we're working on could be better. But I think

1 the outcome -- everybody should think of what's going to
2 happen after these people move out. What's going to
3 happen? We don't know. So, quite frankly, I think that
4 we should leave the historical context the way it is.
5 And that's what I have to say.

6 CHAIRPERSON HEATH: Thank you. So, you
7 know, this is a special exception application and I think
8 Ms. Fowler kind of touched on this. It's a fairly
9 straightforward process. As the BZA, we don't rule on
10 issues related to construction. This not a historic
11 preservation governing body. And, unfortunately, we
12 don't -- we don't influence, or at this point we can't
13 influence what happened as a part of the ANC's process.
14 It's unfortunate because the hope is that the process
15 works such that neighbors are notified of this and have
16 the opportunity to speak to applicants well before they
17 come to the Board of Zoning Adjustment.

18 And so while I understand your concerns,
19 our hands are tied as the BZA. We can't -- we don't
20 speak to issues of construction or the process related to
21 construction. That's not under our purview. So, you
22 know, I think based on what I see, this is a fairly
23 straightforward request, and I think, you know, based on
24 the impact, based on that which is applicable to a
25 special exception seems fairly minor. I understand it

1 has a visual impact, but we've heard from the ANC and the
2 Architect of the Capitol on their approvals. We've also
3 heard from Office of Planning.

4 MR. LANGKAMP: I think the architect's
5 letter basically said they have no complaints, but they
6 were trying to --

7 CHAIRPERSON HEATH: They believe that it's
8 consistent with the intent.

9 MR. LANGKAMP: Yes, and they also would
10 have requested that the residents weigh in on that. I
11 think there was a comment that was made at the bottom end
12 of that letter that was submitted as well.

13 CHAIRPERSON HEATH: Okay.

14 MR. LANGKAMP: And I do understand that
15 this is -- so basically what you're saying is the HPRB
16 and the ANC failed to really reach out and take into full
17 consideration --

18 CHAIRPERSON HEATH: You're saying that.

19 MR. LANGKAMP: Yes.

20 CHAIRPERSON HEATH: We're not saying that.

21 MR. LANGKAMP: Okay. And there really is
22 limited opportunity for us to actually review this. If
23 we don't review it within HPRB and the ANC, there really
24 isn't much that we can do about it.

25 CHAIRPERSON HEATH: do you have a comment?

1 COMMISSIONER MILLER: Madam Chair, I just
2 wanted to comment that I agree with the comments that you
3 had made, that our review is limited to the relief that's
4 being requested and the relief is required because the
5 current lot occupancy is 68.7 percent, which will not
6 increase but it's nonconforming. It's supposed to 60
7 percent. But the height, which is what's being expressed
8 by the opponents here, is a matter of right, a matter of
9 right under the new R-4 regulations even. So the
10 Applicant did provide the sight line and shadow study
11 showing no adverse -- no visibility from the street -- I
12 realize this is the Terrace Court -- but no adverse
13 impact upon the Terrace Court neighbors, some of whom did
14 -- I thought some of whom did provide letters of support,
15 but maybe I got that wrong, in terms of where the letters
16 of support came from.

17 But I think there really was historic
18 preservation concerns and compatibility concerns that are
19 not really part of our special exception relief for the
20 68.7 percent lot occupancy, which isn't even changing.
21 But I understand the concerns that are being expressed,
22 something that seems out of character with everything
23 else along that block.

24 VICE-CHAIRPERSON HILL: I was just going to
25 say that I feel how, you know, it's unfortunate that you

1 guys find out about things when you find out about thing.
2 I mean, the ANC had this listed on their agenda, and so,
3 you know, also HPRB had it listed on their agenda, and
4 the notice that you saw is the notice that was either
5 posting in front of their house or, you know, I guess the
6 letter that you got from us, but that was kind of the
7 opportunity to have, you know, vetted them, I guess, a
8 little bit more, like at the ANC level for you guys, but
9 they now have approved it, meaning they're your
10 neighbors.

11 And I've looked at the plans and as far as,
12 you know, the sight lines -- the drawings that they did,
13 you know, make me feel satisfied as well as the sun
14 study, the shadow study that was given, as well as just -
15 - and, you know, I know you don't know what's going to
16 happen in the future but I started earlier saying that
17 the architectural drawings, they have a Jack-and-Jill
18 setup on the top floor, meaning the two rooms share a
19 bathroom, indicating to me it's for the family and not,
20 you know, even the master bedroom, which is what I would
21 have done on the top floor.

22 So that all being said, I hear what you
23 guys are saying and I am, you know, leaning towards
24 approval.

25 CHAIRPERSON HEATH: One other, in addition

1 to the letter of opposition that just came in to the
2 file, we also received a letter from Capitol Hill
3 Restoration Society, that's Exhibit 34, indicating that
4 the Applicant presented to the Capitol Hill Restoration
5 Society, at a meeting held on September 10th, and that
6 the committee voted unanimously to support the
7 Application. And in their statement they say that the
8 committee found that the Application, or that the
9 addition will not affect the light and air or privacy of
10 use and enjoyment of neighboring properties, which are --
11 that's really at the heart of a special exception
12 request. They also stated that they found that the
13 addition does not substantially visually intrude upon the
14 character, scale, and pattern of the houses that are on
15 the street frontage.

16 So are there any further comments from you,
17 Ms. Fowler?

18 MS. FOWLER: No, thank you.

19 CHAIRPERSON HEATH: Then, Board, unless you
20 have any other questions we can close the hearing and
21 move to deliberations.

22 [No audible response.]

23 CHAIRPERSON HEATH: All right. Anybody
24 want to start? I think you sort of did, if you want to
25 make a motion.

1 VICE-CHAIRPERSON HILL: Yeah. My motion is
2 to approve, as applied.

3 CHAIRPERSON HEATH: Okay. All right. So
4 I'll second the motion. Any further discussion?

5 [No audible response.]

6 CHAIRPERSON HEATH: All those in favor?

7 [Chorus of ayes.]

8 CHAIRPERSON HEATH: Anyone opposed?

9 [No audible response.]

10 CHAIRPERSON HEATH: All right. Then, Mr.
11 Moy, the motion carries. Thank you.

12 MR. MOY: Staff would record the vote as 4
13 to 0 to 1, this on the motion of Vice-Chair Hill, to
14 approve the Application for the relief requested.
15 Seconding the motion, Chairperson Heath. Also in
16 support, Mr. Miller and Mr. Hinkle, Board seat vacant.
17 Motion carries. Summary order, you said?

18 CHAIRPERSON HEATH: Yes.

19 MR. MOY: Okay. Thank you.

20 CHAIRPERSON HEATH: Do we want to take a 5-
21 minute break?

22 ATTENDEE: Yeah.

23 CHAIRPERSON HEATH: Okay. So we'll break
24 for 5 minutes and we'll come right back.

25 [Break taken from 10:49 to 10:56.]

1 CHAIRPERSON HEATH: All right. Ready to
2 get back to cases?

3 MR. MOY: Yes, ma'am.

4 CHAIRPERSON HEATH: 19083.

5 **APPLICATION NO. 19083**

6 MR. MOY: Yes. The Applicant to the table
7 to Application No. 19083 of Simone Management LLC. Madam
8 Chair, as you know, this has been advertised and
9 captioned for variance relief from off-street parking
10 under 2101.1, parking access requirements under 2117.5,
11 and a special exception from the new residential
12 developments requirements under 353.1, to construct a new
13 four-unit apartment house in the R-5-A District at 2205
14 16th Street, S.E.

15 CHAIRPERSON HEATH: Okay. Thank you. Your
16 can introduce yourself.

17 MR. BELLO: Thank you, Madam Chair. Toyo
18 Bello, representing the Applicant.

19 MR. KUNLIPE: Good morning. My name is
20 John Kunlipe, owner of Simone Management LLC.

21 CHAIRPERSON HEATH: Okay. All right.
22 Yeah. Do you want to ask about --

23 COMMISSIONER HINKLE: Yeah, Mr. Bello. We
24 didn't see a letter of authorization within the package
25 that you submitted.

1 MR. BELLO: I actually just noticed that
2 myself. We will supplement the records today, but the
3 owner is here to attest to that fact.

4 COMMISSIONER HINKLE: Okay . Great. Thank
5 you.

6 CHAIRPERSON HEATH: All right. There's
7 been some question around whether or not you actually
8 need relief from 2117.5. can you speak to that?

9 MR. BELLO: Certainly. Upon the
10 recommendation of the Office of Planning and DDOT, we
11 rearranged the parking scheme such that that relief is no
12 longer required or needed.

13 CHAIRPERSON HEATH: Okay. So you've
14 revised your request?

15 MR. BELLO: That's correct.

16 CHAIRPERSON HEATH: Okay. Great. Okay.
17 All right. Board, any other questions of the Applicant?

18 ATTENDEE: [Inaudible comment.]

19 CHAIRPERSON HEATH: I don't believe we have
20 one. We don't have a letter from the ANC.

21 MR. BELLO: We did try to reach out to the
22 ANC but they were completely non-responsive.

23 CHAIRPERSON HEATH: Okay. So you haven't
24 had any meetings with them or presentations?

25 MR. BELLO: That's correct. We haven't.

1 CHAIRPERSON HEATH: Okay. Do you know if
2 they've held any meetings?

3 MR. BELLO: I'm not aware that they, they
4 have, but we did reach out to both the Single Member
5 District Commission of the ANC to get on their agenda but
6 we never got a response.

7 CHAIRPERSON HEATH: Okay.

8 VICE-CHAIRPERSON HILL: And when did you
9 send that -- do you know? Or when did you try to reach
10 out to them?

11 MR. BELLO: At least three times in the
12 last 2 months, since we filed the Application.

13 CHAIRPERSON HEATH: Okay. But you're not
14 aware of their meeting schedule?

15 MR. BELLO: We certainly weren't responded
16 to and put on the agenda.

17 CHAIRPERSON HEATH: Okay. All right. Any
18 other questions of the Applicant?

19 [No audible response.]

20 CHAIRPERSON HEATH: Okay. Then, you know
21 how things have been proceeding here. We believe your
22 file is largely complete for now, and so you can waive
23 your right to a full hearing and allow us to proceed.

24 MR. BELLO: Absolutely, we do.

25 CHAIRPERSON HEATH: Thank you. So then

1 we'll turn to Office of Planning.

2 MR. MORDFIN: Good morning, Chair and
3 members of the Board. I'm Stephen Mordfin and Office of
4 Planning continues to recommend approval of this
5 application, subject to two conditions, one that the
6 parking pad be constructed of pervious materials, and the
7 second that the exterior entrance to the basement
8 apartment be provided with an overhang. Thank you.

9 CHAIRPERSON HEATH: Thank you. And you're
10 aware of Office of Planning's requests, their conditions?
11 Is the Applicant willing to adhere to those conditions?

12 MR. BELLO: We have no objection.

13 CHAIRPERSON HEATH: Okay. Great. Board,
14 any questions of Office of Planning?

15 [No audible response.]

16 CHAIRPERSON HEATH: Applicant, any
17 questions of Office of Planning.

18 MR. KUNLIPE: No, thank you.

19 MR. BELLO: No, thank you.

20 CHAIRPERSON HEATH: All right. Thanks. Is
21 there anyone here from DDOT, wishing to speak on behalf
22 of this application? We do have a letter recommending no
23 objection, and they spoke about the relief from 2117.5,
24 which has since been removed from the Application.

25 Is there anyone here from ANC 8A? ANC 8A?

1 [No audible response.]

2 CHAIRPERSON HEATH: Again, we don't have
3 anything on file from them since you haven't heard
4 anything from them either. Have you been -- let's see.
5 We also don't have any letters of support or opposition
6 on this. Is there anyone here wishing to speak in
7 support of this Application? Anyone in support?

8 [No audible response.]

9 CHAIRPERSON HEATH: Anyone in opposition?

10 [No audible response.]

11 CHAIRPERSON HEATH: It appears there's no
12 opposition. So then, I'm fine to close this hearing,
13 unless the Board has any further questions.

14 [No audible response.]

15 CHAIRPERSON HEATH: Okay. Then I will move
16 that we grant the variance for the on-street parking
17 requirements and the special exception from the new
18 residential development requirements for this
19 application.

20 VICE-CHAIRPERSON HILL: I second the
21 motion.

22 CHAIRPERSON HEATH: Any discussion?

23 COMMISSIONER HINKLE: Madam Chair, is that
24 subject to conditions that the Office of Planning has
25 offered?

1 CHAIRPERSON HEATH: Yes. We will -- those
2 are -- it is -- the motion is subject to those two
3 conditions and I'll just state them for the record again,
4 that the parking pad shall be constructed of pervious
5 materials, and that the Applicant shall provide an
6 overhang for the exterior entrance to the basement
7 apartment. Okay.

8 So all those in favor signify by saying
9 "aye."

10 [Chorus of ayes.]

11 CHAIRPERSON HEATH: Any opposition?

12 [No audible response.]

13 CHAIRPERSON HEATH: So the motion carries,
14 Mr. Moy. Summary order.

15 MR. MOY: Yes. Thank you, Madam Chair.
16 The Staff would record the vote as 4 to 0 to 1. This is
17 on the motion of Chairperson Heath to approve the
18 Application request for relief for the variance from the
19 off-street parking, 2101.1, and the special exception
20 353.1, with two conditions as stated in the OP report.
21 Seconding the motion would be Vice-Chair Hill. Also in
22 support of the motion, Mr. Miller and Mr. Hinkle, and we
23 have a Board seat vacant. Motion carries 4 to 0 to 1,
24 summary order. Thank you, Madam Chair.

25 MR. BELLO: Thank you.

1 CHAIRPERSON HEATH: So next on the batting
2 order, I think, is 19087.

3 **APPLICATION NO. 19087**

4 MR. MOY: Applicants to the table to
5 Application No. 19087 of Andrew Weinschenk and Rachel
6 Cononi, I believe. This was advertised in the caption
7 for a special exception relief under 223, not meeting lot
8 occupancy requirements under Section 403, and
9 nonconforming structure provisions under 2001.3, to
10 construct a second-story rear addition to an existing
11 two-story, one-family dwelling in the R-4 District at 602
12 A Street, N.E.

13 CHAIRPERSON HEATH: Okay. Thank you. You
14 can introduce yourself, for the record.

15 MS. FOWLER: Good morning. I'm Jennifer
16 Fowler with Fowler Architects.

17 CHAIRPERSON HEATH: So, Ms. Fowler, there's
18 -- one of the only issues that I see is around relief
19 that should be required under 406. Are you aware of that?

20 MS. FOWLER: Yes. I did discuss that with
21 Office of Planning and was hoping to add that to the
22 relief if we feel like it's necessary. It's just
23 extending -- it was an existing awning creating a
24 court, and we're replicating it up on the second floor.

25 CHAIRPERSON HEATH: Okay. All right.

1 MS. FOWLER: Thank you.

2 CHAIRPERSON HEATH: All right. Any other
3 questions, Board?

4 COMMISSIONER MILLER: Thank you, Madam
5 Chair. I just had one question. I see that in the
6 record there's a letter in support from the Capitol Hill
7 Restoration Society. Yes. Did this get -- what is the
8 status of Historic Preservation Review Board or office
9 review?

10 MS. FOWLER: We were going back and forth
11 with Historic staff about whether it could be a staff
12 sign-off, and ultimately they decided they wanted it to
13 be filed, so we filed it for the hearing for November, so
14 it's going to the Board, or hopefully consent calendar
15 for November.

16 There -- there -- she was -- just wanted to
17 make sure they looked at it because there's potentially
18 some visibility from 6th Street, kind of looking through
19 private property, so that's the reason why.

20 COMMISSIONER MILLER: But any changes that
21 they make wouldn't affect this -- or would it affect this
22 relief?

23 MS. FOWLER: I don't believe so.

24 COMMISSIONER MILLER: Okay.

25 MS. FOWLER: We felt pretty confident going

1 through Zoning first, knowing that Historic was going to
2 be a relatively simple one, whereas with my previous case
3 we went the other way around.

4 COMMISSIONER MILLER: Right. We can ask
5 Office of Planning that question. Thank you.

6 MS. FOWLER: Okay.

7 CHAIRPERSON HEATH: Okay. All right. So
8 then you can waive your right to a full hearing and we
9 can proceed o. If that's okay with you we'll turn to
10 Office of Planning.

11 MS. FOWLER: That would be great. Thank
12 you.

13 MR. GYOR: Good morning, Madam Chair.
14 Stephen Gyor with the Office of Planning. We support the
15 Application and rest on the record. Thank you.

16 CHAIRPERSON HEATH: Thank you. And so you
17 support the Application so long as 406 is not --

18 MR. GYOR: Correct. We did point that out
19 to Ms. Fowler and she, as you noted, added that to the
20 request and relief.

21 CHAIRPERSON HEATH: Okay.

22 COMMISSIONER HINKLE: Yeah, Madam Chair, if
23 I can --

24 CHAIRPERSON HEATH: Sure.

25 COMMISSIONER HINKLE: I'm a bit confused

1 about this court issue. I don't see how an awning that
2 is associated with a window on a rear wall constitutes or
3 creates courts, in particular when you look at the
4 definition of a court, in the regulations, it says courts
5 are bound by two or more sides of exterior walls of the
6 building. So I'm not quite understanding this.

7 MR. GYOR: I think we also had a question
8 about that and I advised Ms. Fowler to follow up with
9 that zoning administrator. I think it seemed the court
10 would be extended vertically, and so then if you took
11 that into account it would appear that relief would be
12 necessary. But we also would seek the advice of the
13 zoning administrator on that.

14 COMMISSIONER HINKLE: Ms. Fowler, did you
15 have a conversation with the zoning administrator?

16 MS. FOWLER: No. We didn't have the
17 opportunity to do that.

18 COMMISSIONER HINKLE: Okay. I mean, the
19 definition of a court is pretty straightforward, with the
20 necessity of two walls, and I just see one.

21 CHAIRPERSON HEATH: Right.

22 COMMISSIONER HINKLE: So I'm not sure if
23 that relief is applicable.

24 CHAIRPERSON HEATH: Right. Okay. Yeah, I
25 would tend to agree. Okay. Any other questions of

1 Office of Planning?

2 COMMISSIONER MILLER: Yeah. I just wanted
3 to follow up, Madam Chair, with Mr. Gyor. So you don't
4 see any concerns with our proceeding with the BZA relief
5 prior to HPRB review?

6 MR. GYOR: No, I do not. I think the
7 relief requested is for lot occupancy and I don't know
8 that the HPRB would have any bearing on that, but, of
9 course, it's possible.

10 COMMISSIONER MILLER: I agree with you. I
11 just wanted to get that on the record. Thank you.

12 CHAIRPERSON HEATH: All right. Ms. Fowler,
13 any questions of Office of Planning?

14 MS. FOWLER: No, thank you.

15 CHAIRPERSON HEATH: Great. Thank you. Is
16 there anyone here from DDOT wishing to speak on this
17 application? We do have a letter of no objection from
18 DDOT. Anyone here from ANC 6C? ANC 6C?

19 [No audible response.]

20 CHAIRPERSON HEATH: And we do have a letter
21 from them stating that they voted in support, 4 to 0, at
22 the September 10th meeting. We also have seven letters
23 of support from neighbors. Is there anyone here wishing
24 to speak in support? Anyone in support?

25 [No audible response.]

1 CHAIRPERSON HEATH: Anyone wishing to speak
2 in opposition?

3 [No audible response.]

4 CHAIRPERSON HEATH: No opposition? Okay.
5 Then unless you have anything further to say, Ms. Fowler,
6 we can close the record and move to deliberations.

7 Is the Board ready to deliberate on this?

8 [No audible response.]

9 CHAIRPERSON HEATH: Okay. Great. Then
10 unless someone else wants to start, I'll make a motion
11 that we approve the special exception application, not
12 including the 406 for courts, since the Board doesn't
13 find that that is necessary, based on the definition of
14 courts. Is there a second?

15 COMMISSIONER HINKLE: I'll second.

16 CHAIRPERSON HEATH: Any further discussion?

17 [No audible response.]

18 COMMISSIONER HINKLE: All those in favor?

19 [Chorus of ayes.]

20 CHAIRPERSON HEATH: All those opposed?

21 [No audible response.]

22 CHAIRPERSON HEATH: The motion carries.

23 Thank you.

24 MR. MOY: Staff would record the vote as 4
25 to 0 to 1, this on the motion of Chairperson Heath to

1 approve the application for the relief requested.
2 Seconding the motion, Mr. Hinkle. Also in support, Vice-
3 Chair Hill and Mr. Miller. Board seat vacant. Motion
4 carries. Summary order or--

5 CHAIRPERSON HEATH: Summary, yes, please.

6 MR. MOY: All right. Thank you.

7 CHAIRPERSON HEATH: I think we're ready to
8 move to our modifications, so, Mr. Moy, 19052-A.

9 **APPLICATION NO. 19052-A**

10 MR. MOY: Yes. Applicants to the table to
11 Application No. 19052-A of Josh Green. This is a request
12 for a special exception under 223, not meeting rear yard
13 requirements under Section 404, to construct a deck with
14 a staircase to an existing one-family dwelling in R-3
15 District at premises 2905 28th Street, N.W.

16 ATTENDEE: [Inaudible comment.]

17 CHAIRPERSON HEATH: Oh, okay. Thank you.
18 So, Mr. Moy, you'll have to give him the oath.

19 ATTENDEE: [Inaudible comment.]

20 MR. MOY: Oh, you can do that from your
21 seat, yeah. No, you can stand.

22 CHAIRPERSON HEATH: Just stand.

23 MR. MOY: That would be great. Do you
24 solemnly swear or affirm that the testimony you're about
25 to present in this proceeding is the truth, the whole

1 truth, and nothing but the truth?

2 ATTENDEE: I do.

3 [Witness sworn.]

4 MR. MOY: Thank you.

5 CHAIRPERSON HEATH: Would you please
6 introduce yourselves?

7 MR. RADIFERA: Good morning, Madam Chair.
8 I'm Bertin Radifera with Radifera Design Group.

9 MR. GREEN: I'm Josh Green, the property
10 owner.

11 MR. WILLIAMS: I'm Scott Williams with
12 Radifera Design Group.

13 CHAIRPERSON HEATH: Okay. Thank you. One
14 second. All right. So I don't have any issues with this
15 application and the modification that's being requested
16 seems to be in keeping with what we would consider minor.
17 Does anyone from the Board have any issues with
18 proceeding with this as a minor modification or a
19 modification?

20 [No audible response.]

21 CHAIRPERSON HEATH: Okay. Any issues that
22 you want the Applicant to drill down on?

23 [No audible response.]

24 CHAIRPERSON HEATH: Okay. All right. And
25 you've seen this happen quite a bit today, so you have

1 the right to a full hearing but you can waive that right
2 and allow us to proceed on, based on the fact that we
3 feel that the record is complete at this point.

4 [No audible response.]

5 CHAIRPERSON HEATH: Okay. Nodding heads,
6 so we'll proceed. Thank you.

7 MR RADIFERA: Yes.

8 CHAIRPERSON HEATH: Great. So then we will
9 turn to Office of Planning.

10 MS. VITALE: Good morning, Madam Chair,
11 members of the Board. The Office of Planning will rest
12 on the record in support of the amended Application.

13 CHAIRPERSON HEATH: Okay. All right. Any
14 questions of Office of Planning?

15 [No audible response.]

16 CHAIRPERSON HEATH: Applicant, any
17 questions of Office of Planning?

18 [No audible response.]

19 CHAIRPERSON HEATH: All right. Okay.
20 Thank you. We do have a letter of no objection from
21 DDOT. I assume no one from DDOT is here?

22 [No audible response.]

23 CHAIRPERSON HEATH: Okay. We also have a
24 recommendation for no objection from ANC 3C. Is there
25 anyone from ANC 3C here?

1 [No audible response.]

2 CHAIRPERSON HEATH: It appears there's not.

3 Okay. Is there anyone who wishes to speak in support?

4 Anyone in support?

5 [No audible response.]

6 CHAIRPERSON HEATH: Anyone in opposition to
7 this application?

8 [No audible response.]

9 CHAIRPERSON HEATH: No opposition. All
10 right. Then unless you, as the Applicant, have anything
11 to say, which there's nothing to rebut, and no need to
12 close, then we will close the hearing and move to
13 deliberation.

14 [No audible response.]

15 ATTENDEE: [Inaudible comment.]

16 CHAIRPERSON HEATH: All right. I'll
17 double-check it. Okay.

18 It appears we don't have a letter of
19 authorization on file, so you're here as the owner, so if
20 you could just supplement the record with that letter of
21 authorization, we will --

22 MR. GREEN: Yep. Happy to do that. We
23 thought it was filed.

24 CHAIRPERSON HEATH: Okay. Thank you. Then
25 I will make a motion that we approve the request for the

1 modification to Order No. 19052, for the special
2 exception.

3 VICE-CHAIRPERSON HILL: I'll second.

4 CHAIRPERSON HEATH: Okay. Any discussion?
5 [No audible response.]

6 CHAIRPERSON HEATH: All those in favor?
7 [Chorus of ayes.]

8 CHAIRPERSON HEATH: Anyone opposed?
9 [No audible response.]

10 CHAIRPERSON HEATH: All right. The motion
11 carries, Mr. Moy. Summary order.

12 MR. MOY: Thank you. Staff would record
13 the vote as 4 to 0 to 1. This is on a motion of
14 Chairperson Heath for the relief requested. Seconding
15 the motion, Mr. Miller. Also in support, Vice-Chairman
16 Hill and Mr. Hinkle. Board seat vacant. And that also
17 would include a letter of authorization from the
18 Applicant. Summary order.

19 CHAIRPERSON HEATH: Thank you. All right.
20 So it looks like, Mr. Moy, we're ready for 18801-A.

21 **APPLICATION NO. 18801-A**

22 MR. MOY: Applicants to the table to
23 Application No. 18801-A. This is a request for
24 modification of plans to -- Fort Lincoln. This is a
25 variance request from the loading requirements under 2201

1 and a special exception under 2516 to erect more than one
2 building on a record lot in order to construct 103
3 townhouses and three multi-family buildings with a total
4 of 260 units in the R-5-D and C-2-B Districts on the
5 north side of Commodore Joshua Barney Drive, N.E., and
6 this is the caption that was publicly noticed, unless
7 there have been any revisions.

8 CHAIRPERSON HEATH: Okay. Thank you.
9 Would you all please introduce yourselves?

10 MS. BATTIES: Good morning. Leila Batties
11 with the law firm of Holland & Knight, on behalf of the
12 Applicant.

13 MS. LENNIHAN: Holly Lennihan, Hickok Cole.

14 CHAIRPERSON HEATH: Make sure your mic is
15 on.

16 MS. LENNIHAN: Holly Lennihan, Hickok Cole
17 Architects.

18 MR. COLLINS: William Collins with the
19 Applicant.

20 CHAIRPERSON HEATH: Okay. So are the
21 drawings that we just received those that were submitted
22 to ISIS [ph] as Exhibit 10-A, or are these different.

23 MS. BATTIES: No. So the stapled set is
24 what was submitted, uploaded into ISIS on Friday, and the
25 one -- the single sheet, actually it was included in the

1 plans that was uploaded but it's been -- the architect
2 has provided details in terms of dimensions, the type of
3 landscaping and planting provided. So it really just
4 annotates the drawing that was previously submitted.

5 CHAIRPERSON HEATH: Okay. Great. Okay.
6 So this was in response to Office of Planning's second
7 request? Okay. It looks like the -- you've also
8 addressed their first request, to create a visual focal
9 point. Can you just point that out, just talk about that
10 briefly, just that one point?

11 MS. LENNIHAN: Absolutely. That was our
12 goal today, just to briefly go over the changes between
13 the July set and this set.

14 So the plan that we have on the screen
15 currently is the one that was submitted in July, and the
16 issue for Mr. Jesick essentially was that the existing
17 thoroughfare here ended without a lot of articulation,
18 and we had not yet defined the planting for that area.
19 And so what has been submitted is this current plan which
20 has stairs at the end here. There's a detailed plan in
21 the set that you have, the stapled set. So there's a set
22 of stairs and planting, and because it's not too easy to
23 read that black-and-white drawing we created this one.
24 And so the first comment was that this thoroughfare, it
25 now terminates in a 12-foot wide stair, and we've also

1 added this secondary route too.

2 This is currently -- it was always intended
3 as a lawn, but we've added buffer for those units that
4 actually have terraces, so that's the zone that's there.
5 And then again, additional buffering here, and these have
6 been called out as ornamental trees. They're
7 serviceberries, flowering and native species. And then
8 we've called out some of the materials, a masonry wall,
9 potentially stone or some aggregate stone kind of
10 material.

11 CHAIRPERSON HEATH: Okay.

12 MS. LENNIHAN: And we can discuss
13 dimensions or heights or things like that if you'd like
14 to, as well.

15 CHAIRPERSON HEATH: Thank you.

16 MS. LENNIHAN: We also have renderings if
17 you'd like to see them. They're in your packet, but we
18 could walk through them now as well.

19 CHAIRPERSON HEATH: Why don't you do that,
20 just quickly.

21 MS. LENNIHAN: Absolutely. So this is the
22 view from Joshua Barney, and the project now has the
23 entry on this axis. Previously it was perpendicular to
24 that. So we actually think that's an improvement in
25 terms of how you approach the new multi-family building.

1 This view is the long view towards that
2 element where we have added -- it's not so easy to see
3 this view but the next one shows it better there, the
4 stairs at the end of that access. So this shows you a
5 little bit closer, and the intent to plant it.

6 And then, finally, on this you're looking
7 diagonally, which shows you that space, the exterior
8 space here which is elevated off the ground -- that's the
9 lawn -- and then there's additional buffering there.

10 CHAIRPERSON HEATH: Okay. Board, any
11 questions?

12 [No audible response.]

13 CHAIRPERSON HEATH: All right. Then if
14 you're fine with us to turn to the Office of Planning,
15 just to see -- just want to confirm that they are fine
16 with the modifications that you've made to this, and
17 address their comments.

18 MR. JESICK: Thank you, Madam Chair and
19 members of the Board. Again, my name is Matt Jesick.

20 Yes, I can mostly rest on the record.
21 Throughout our various projects in Fort Lincoln this
22 applicant has been very responsive to our questions and
23 comments and suggestions, so we really appreciate that,
24 and no change here. They've really responded to our
25 comments. And, in fact, this whole application is their

1 response to community input to replace some of the
2 apartment buildings with townhouses, so we appreciate
3 them working with the existing residents.

4 And in terms of the stairs, specifically,
5 because of all the grade within Fort Lincoln, there are
6 actually other locations where they've used staircases to
7 great effect, so we thought that would be a great
8 solution here as well, and I think they've done a great
9 job with that feature.

10 So we support the project and recommend
11 approval, and I'd be happy to take any questions.

12 Thanks.

13 CHAIRPERSON HEATH: Thank you.

14 VICE-CHAIRPERSON HILL: I was curious,
15 because I was curious about how the changes were coming
16 about. So you went from the apartments to the townhouses
17 based on community input?

18 MR. JESICK: I believe the Applicant
19 received input from some of the neighbors across the
20 street, across Joshua Barney, that they kind of felt
21 maybe more townhouses would be appropriate, where the
22 previous approval on this project had called for
23 apartment buildings. So they went back and took a look
24 at the plans and submitted this modification application
25 to include more townhouses. So I think that's what the

1 origin of the application was.

2 MR. COLLINS: We were approached by the new
3 ANC representative for Fort Lincoln, as well as existing
4 homeowners at the Villages, a Dakota Crossing Project --
5 it's a townhome project -- and the front of their homes
6 are across the street from Joshua Barney, and we received
7 an awful lot of input from them, and requesting us to
8 look at the plan again. We got a great neighborhood.
9 We've got some great homeowners. We felt that we should
10 be responsive to their concerns, and, quite frankly, I
11 think the project is a better project today, that we're
12 submitting, and we've had good neighbor support, and I
13 think the work that Hickok Cole has done, it's a better
14 project today than it was probably a year ago.

15 So, you know, I think sometimes things work
16 out when you listen to the neighbors, and you end up with
17 a product that you're probably a little happier to
18 develop. So we're excited about this and we appreciate
19 your time today.

20 VICE-CHAIRPERSON HILL: I just think that's
21 wonderful. I mean, that's, you know, it's not normally
22 how that goes, so that's great.

23 CHAIRPERSON HEATH: Thank you. Any other
24 questions?

25 COMMISSIONER MILLER: Yeah, Madam Chair, I

1 just wanted -- thank you -- I just wanted to comment and
2 also commend the Applicant for working with the neighbors
3 and making the revisions that they requested, and the
4 ones that were requested by the Office of Planning. And
5 I just had one question, unrelated to the relief
6 requested but just -- the 363 units here, that are in
7 this project, and the 103 row houses and the 260 in the
8 apartment, can you just -- just in terms of the Fort
9 Lincoln neighborhood -- how many residents are currently
10 there? Do you have a ballpark figure?

11 MR. COLLINS: Ballpark, I would say it's
12 approaching about 2,300 units. As far as number of
13 residents, I'm not sure I can give you that number. I
14 can tell you we're about 2,300 units at this time, and
15 then this will be the next addition. I think that's
16 roughly about the number.

17 COMMISSIONER MILLER: And when do you
18 expect to begin construction?

19 MR. COLLINS: This project we would hope to
20 commence in 2016, recognizing it's a number of years in
21 terms of build-out. But we've been very fortunate. The
22 projects that we've done have been really well-received,
23 and actually the last project we just did, the Villages
24 project, sold out in record time. I think it was the
25 fastest-selling townhome project in the Mid-Atlantic for

1 2014 and 2015.

2 COMMISSIONER MILLER: Congratulations.
3 That's great. And are there any affordability controls
4 on this particular project? Can you just briefly say
5 what they are?

6 MR. COLLINS: Yes. We will meet the IZ
7 regulations, and we will be building IZ units in both
8 townhome component, so the townhome will have our square
9 footage requirements and will fulfill the townhomes, and
10 then we'll also have the IZ requirements for the multi-
11 family, so they'll be mixed within both the townhomes as
12 well as the multi-family units.

13 MS. BATTIES: And I would just add that the
14 plan that was uploaded on Friday, the IZ plan was
15 modified slightly, as recommended by the Office of
16 Planning, so that the larger units, the larger IZ units
17 would have direct access to the green space, recognizing
18 that the larger units are more likely to have families.

19 COMMISSIONER MILLER: And the income levels
20 for the IZ units, can you just briefly state what they
21 are? Are they all at -- or half at 50 --

22 MR. COLLINS: That's correct. Per the
23 existing IZ regulations they're half at 50 percent, half
24 at 80 percent.

25 COMMISSIONER MILLER: And a total of about

1 10 percent set aside --

2 MR. COLLINS: That's correct.

3 COMMISSIONER MILLER: Thank you.

4 CHAIRPERSON HEATH: All right. Any other
5 questions of Office of Planning?

6 [No audible response.]

7 CHAIRPERSON HEATH: Applicant, do you have
8 any questions of Office of Planning?

9 MS. BATTIES: No, I don't.

10 CHAIRPERSON HEATH: All right.

11 MR. COLLINS: I do want to thank Matt
12 Jesick for -- you know, he's -- we've done a number of
13 projects at Fort Lincoln and he's always been very
14 reactive to all of our applications and very helpful and
15 great to work with, and I do want to thank him for his
16 efforts.

17 CHAIRPERSON HEATH: Thank you. Thank you,
18 Mr. Jesick. Okay.

19 Is there anybody from DDOT here? I can't
20 see behind the column but I assume there's not. We do
21 have a letter of no objection from DDOT. However, their
22 recommendation for no objection was based on the
23 condition that you update your loading management plan.
24 Have you addressed that with DDOT or with the revisions
25 that you've made?

1 MS. BATTIES: Our traffic consultant will
2 work with DDOT on updating the plan.

3 CHAIRPERSON HEATH: Okay. All right. Then
4 we will make that a condition on this application.

5 Is there -- it looks like there's no one
6 here from ANC 5C, but we do have a letter recommending
7 their approval, based on a vote 7 to 0 to support. And
8 they also noted that the modification didn't materially
9 change the facts upon which they felt the Board approve
10 the original application.

11 Anyone wishing to speak in support?

12 [No audible response.]

13 CHAIRPERSON HEATH: It looks like there's
14 not. There's no one else here. I assume there's no one
15 wanting to speak in opposition, either. Then unless the
16 Applicant has anything further to say, we can close the
17 record and continue with deliberations.

18 MS. BATTIES: We have nothing further.

19 CHAIRPERSON HEATH: Okay. Thank you. Then
20 I would move that we accept this application for
21 modification to the special exception with the condition
22 that the Applicant shall update its loading management
23 plan to reflect the revised plans.

24 VICE-CHAIRPERSON HILL: I second the
25 motion.

1 CHAIRPERSON HEATH: The motion has been
2 made and seconded. All in favor?

3 [Chorus of ayes.]

4 CHAIRPERSON HEATH: Anyone opposed?

5 [No audible response.]

6 CHAIRPERSON HEATH: So the motion carries.
7 Thank you.

8 MS. BATTIES: Thank you.

9 CHAIRPERSON HEATH: Thank you for being so
10 responsive to concerns of the neighbors.

11 MR. MOY: Staff would record the vote as 4
12 to 0 to 1. This is on the motion of Chairperson Heath to
13 approve the request for modification. Seconding the
14 motion is Vice-Chair Hill. Also in support, Mr. Miller
15 and Mr. Hinkle. Board seat vacant. Motion carries 4 to
16 0 to 1, and I believe you said summary order?

17 CHAIRPERSON HEATH: Summary.

18 MR. MOY: Thank you.

19 CHAIRPERSON HEATH: Yes, please. Thank
20 you. So I have about 10 or 15 minutes.

21 ATTENDEE: It's up to you.

22 CHAIRPERSON HEATH: So our last case is
23 obviously the remand, 18114. I, unfortunately, have to
24 leave in about 10 or 15 minutes. Do we want to proceed
25 with deliberations on this?

1 COMMISSIONER MILLER: Or did you want to
2 put it off for a week?

3 CHAIRPERSON HEATH: We could. At most, I
4 would say November 3rd, which has now become a new date
5 for cases.

6 VICE-CHAIRPERSON HILL: I'm not going to be
7 here.

8 CHAIRPERSON HEATH: Oh, that's right.
9 Okay.

10 MR. MOY: The next hearing would be next
11 week, which is October 27th, Madam Chair, and if all the
12 members can make it we could do this first in the
13 morning, I would suspect.

14 CHAIRPERSON HEATH: Okay.

15 COMMISSIONER MILLER: I'm okay with that.
16 I think it would be useful to have you here.

17 VICE-CHAIRPERSON HILL: We were just
18 wondering we could do it in 15 minutes.

19 COMMISSIONER MILLER: Oh. I don't know.

20 CHAIRPERSON HEATH: I think it's going to
21 be tough.

22 COMMISSIONER MILLER: We know you were very
23 focused.

24 [Laughter.]

25 CHAIRPERSON HEATH: Yeah, I think it's

1 going to be tough.

2 COMMISSIONER MILLER: I think -- I don't
3 know if we can.

4 CHAIRPERSON HEATH: Okay. All right. So
5 I'm sorry to have to do that, because I know we've been
6 putting this off for a while, but --

7 COMMISSIONER MILLER: It's like Groundhog
8 Day.

9 CHAIRPERSON HEATH: It is. It is. Kicking
10 the can.

11 Okay. So then Mr. Moy, we will shift this
12 to next week's docket.

13 MR. MOY: Yeah, next week, which would be
14 October 27th, and I assume, to assist Mr. Miller, this
15 would be the first item before the board.

16 CHAIRPERSON HEATH: Right. Okay. That
17 works. All right.

18 COMMISSIONER HINKLE: It will be a full
19 room.

20 CHAIRPERSON HEATH: It will be. We'll be
21 back to that, for their entertainment and enjoyment.

22 All right. Then any other matters coming
23 before the Board today, Mr. Moy?

24 MR. MOY: Not from the Staff, Madam Chair.

25 CHAIRPERSON HEATH: All right. Then we'll

1 adjourn. Thank you.

2 [Whereupon, at 11:35 a.m., the public
3 hearing was adjourned.]

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