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GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of Zoning
Board of Zoning Adjustment

PUBLIC MEETING OF THE BOARD OF ZONING ADJUSTMENT

9:51 a.m. to 11:28 a.m.
Tuesday, November 24, 2015

441 4th Street, N.W.
Jerrily R. Kress Memorial Room
Second Floor Hearing Room, Suite 220-South
Washington, D.C. 20001

1 Board Members:

2 MARNIQUE HEATH, Chairperson

3 FREDERICK HILL, Vice-Chairperson

4 SHERRY GLAZIER, Mayoral Appointee

5 MARCIE COHEN, Zoning Commission

6

7

8 Also Present:

9 CLIFFORD W. MOY, Secretary to the Board

10 KAREN THOMAS, Office of Planning

11 ELISA VITALE, Office of Planning

12 MEGAN RAPPOLT, Office of Planning

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

2 CHAIRPERSON HEATH: Hearing will please come to
3 order. Good morning, ladies and gentlemen. We're located in
4 the Jerrily R. Kress Memorial Hearing Room at 441 4th Street
5 Northwest. Today's date is November 24th, 2015 and we're here
6 for the public meeting and hearings of the Board of Zoning
7 Adjustment of the District of Columbia.

8 My name is Marnique Heath, Chairperson. Joining me
9 today is Fred Hill, Vice Chair Person, and Marcie Cohen, a
10 member of the Zoning Commission sitting in as a member of the
11 Board today.

12 Please be advised that this proceeding is being
13 recorded by a court reporter and is also being webcast live.
14 Accordingly we must ask you to refrain from any disruptive
15 noises or actions in the hearing room. The Board's hearing
16 procedures and how we will process applications can be found on
17 the table at the back door or by the back door. All
18 individuals wishing to testify today will need to do two
19 things. The first is prior to testifying, each person who
20 wants to address the Board must complete two witness cards and
21 give them to the court reporter who is seated to my right prior
22 to testifying. That's two witness cards per person.

23 The second thing you'll need to do is to right now
24 stand and take the oath as administered by the Board secretary.

25 MR. MOY: Good morning.

1 [Oath administered to the participants.]

2 MR. MOY: Ladies and gentlemen, you may consider
3 yourselves under oath.

4 CHAIRPERSON HEATH: Thank you, Mr. Moy. Are there
5 preliminary matters coming before the Board today?

6 MR. MOY: Yes, I do, Madam Chair. Good morning.
7 Good morning. Good morning members of the Board. Yes,
8 November 24th.

9 On today's docket one of the cases has been postponed
10 and rescheduled, and that is Application No. 19066. I have
11 Gabriel and Stephanie Klein, and this is at the request of the
12 applicant to postpone and it's been rescheduled to December
13 22nd, 2015.

14 Also, Madam Chair, although these two cases are not
15 scheduled for today, they're scheduled for December 1st,
16 they've also been rescheduled and rescheduled from the December
17 1st, hearing, and they are Application numbers 19074 of
18 Alexander Hastings, and 19125 of Sanford Sandy Roskes. Yeah.
19 So the first case was rescheduled to February 9th, 2015. The
20 second case rescheduled to January 12th, 2016.

21 And lastly, Madam Chair, we have a case that the
22 Board acted on back on November 10th, not too far away. And
23 just out of an abundance of caution to make certain that the
24 record was clear, that was Application Number -- it's Planned
25 Parenthood, which is Application Number 18866. And I believe

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1 Mr. Hill participated and it would be beneficial if he
2 addressed his disclosure for the record.

3 MR. HILL: Yeah, and for the record, and Madam Chair
4 again in abundance of caution I did review the record prior to
5 participating on that case, which is 18866.

6 MR. MOY: Thank you. That's it for me, Madam Chair.

7 CHAIRPERSON HEATH: Okay. Thank you, Mr. Moy. So it
8 looks like then we're ready to call our first Meeting case.
9 Or, I'm sorry, we'll start with our appeals.

10 MR. MOY: Did you want to go for the benefit of the
11 audience, the outline of the cases?

12 CHAIRPERSON HEATH: Yeah, I can go through the order.

13 MR. MOY: Thank you.

14 CHAIRPERSON HEATH: So we will start with our two
15 appeals. That will be appeal of ANC 2B and the appeal of
16 Massachusetts Avenue. Then we will next take our one case
17 that's on for decision. That's Application Number 18938 of
18 Gina Eppolito and Frances Slackey. And then we will proceed on
19 with our meeting cases. I'm sorry, our hearing cases, yes.
20 And I won't necessarily go through that order just yet, but we
21 will start with the appeals, and then the meeting, and then
22 public hearing cases.

23 MR. MOY: Okay. Very good. Thank you, Madam Chair.
24 So as preliminary matters to Appeal Number 19114 of ANC 2B.
25 And this is -- yeah, let me read the advertisement.

1 This is an appeal of the decision of the Zoning
2 Administrator, DCRA, to issue Building Permit Number B, B as in
3 bravo, 1404913 to add a rooftop deck, stairs, and elevator to
4 an existing hotel, in the DC/R-5-D district at premises 1731
5 New Hampshire Avenue Northwest, Square 154, Lot 829.

6 CHAIRPERSON HEATH: Okay. Will the parties to that
7 appeal please come forward? Please introduce yourselves.

8 MR. SAWICKI: My name is William Sawicki, 3436
9 Magazine Street, New Orleans, representing appellants.

10 MR. TONDRO: I'm Maxamilian Tondro representing the
11 Zoning Administrator and DCRA.

12 MR. EVANS: Good morning. Philip Evans on behalf of
13 CS Bond Street C properties, LLC., the owner of the subject
14 hotel.

15 CHAIRPERSON HEATH: Okay. Thank you. And so it's
16 been brought to our attention per the most recent notice
17 published on record, that you have decided to surrender your
18 permit --

19 MR. EVANS: That's correct.

20 CHAIRPERSON HEATH: -- to DCRA. Okay. And that
21 you're not going to move forward with this project.

22 MR. EVANS: That's correct. Not on that existing
23 permit. That's correct.

24 CHAIRPERSON HEATH: Okay. All right. And what does,
25 not on that existing permit, what does that mean?

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1 MR. EVANS: Well, there is nothing to do on the
2 permit. We have surrendered it. The owner is studying its
3 options moving forward but realize they're starting back at
4 ground zero at anything they do.

5 CHAIRPERSON HEATH: Okay. All right. And so to the
6 appellant, were you aware that they've surrendered their permit
7 and that they're not moving forward under this permit?

8 MR. SAWICKI: We received the nonfiction on Friday.
9 Part of the reason we're here today is to understand what it
10 means and what the implications are, and the long-term
11 implications. So we're a little confused, so we're looking for
12 some guidance today.

13 CHAIRPERSON HEATH: Okay. Now based on what the
14 property owner has stated, they are sort of going back to the
15 drawing board to -- I don't want to put words in your mouth,
16 but you're reassessing --

17 MR. EVANS: We're reassessing.

18 CHAIRPERSON HEATH: -- the project. Okay.

19 MR. EVANS: And we haven't even decided if we are
20 going back to the drawing board, but we're clearly at ground
21 zero and after listening to the appeal and talking through the
22 issues the owner has now decided on what they're going to do
23 going forward, and whether or not they will proceed with
24 anything on the roof at all. But they realize that they're
25 back at ground zero to start the entire process over if they so

1 elect.

2 CHAIRPERSON HEATH: Okay. And so based on that I'd
3 like to hear from you if you are -- it seems to me that it
4 makes sense to render this moot or that you could withdraw your
5 appeal at this time. You still have the option to appeal at a
6 later date should the property owner decide to go forward with
7 a project, whatever that is, and should you find issues with
8 the permit as it -- or with the project or with the permit as
9 it may be issued in the future if -- there are a lot of "ifs"
10 here. And so does that -- would either of those paths make
11 sense to you?

12 MR. SAWICKI: One of our concerns, the permit was
13 based on a determination letter from the Zoning Administrator.
14 To the best of my knowledge that determination letter stands in
15 perpetuity. So one of my questions is, is there a statute of
16 limitations on a letter from a Zoning Administrator?

17 In theory they could take the same design, resubmit
18 the permit tomorrow under the same Zoning Administrator's
19 letter, and we could be here six months ago with the exact same
20 project going through the same appeal.

21 CHAIRPERSON HEATH: One second. Okay. So that is
22 not a question that we can answer as the Board, but I would
23 like to know from the property owner if you would like to --
24 would you like to make a motion that the appeal be dismissed?

25 MR. EVANS: We believe the appeal has been rendered

1 moot by the withdrawal of the permit, would make a motion for
2 dismissal of the appeal.

3 CHAIRPERSON HEATH: Okay. All right. Board, does
4 anybody --

5 MS. GLAZIER: Madam Chair, sorry to interrupt. But I
6 think what we need is -- no formal motion was made and for the
7 record we need to know whether the owner is making such a
8 motion to dismiss and what the position of the parties is on
9 this motion, including DCRA's position.

10 MR. EVANS: Well then, for the record, the owner is
11 making an oral motion to dismiss based upon the withdrawal of
12 the permit.

13 CHAIRPERSON HEATH: Okay. I just heard that too.
14 Okay. And so DCRA?

15 MR. TONDRO: And DCRA orally moves, also, to support
16 and join property owners, the permit holder's motion to
17 dismiss.

18 CHAIRPERSON HEATH: Okay. All right.

19 MS. GLAZIER: And I believe the appellant should
20 respond to that and state whether the appellant either opposes
21 or supports the motion.

22 MR. SAWICKI: May I ask a question or two before I
23 make a statement?

24 CHAIRPERSON HEATH: Sure. And we'll answer any
25 questions that we can. There may be some that we can't answer.

1 MR. SAWICKI: You stated you couldn't answer my
2 question regarding the Zoning Administrator's letter. Is there
3 an authority to which I could ask the question and expect an
4 answer?

5 MS. GLAZIER: The Board is not allowed, or has no
6 authority to give advisory opinions, so I'm afraid that this
7 challenge -- the question presented to the Board today is
8 whether the appeal has been moot, whether there's anything for
9 the Board to decide given the fact that the permit has been
10 withdrawn.

11 MR. SAWICKI: Okay. Then my next question would be
12 if a motion to dismiss, based on the withdrawal of the permit
13 is successful what happens to the public record of this appeal
14 that's -- is it still public record or is that expunged from
15 the public record?

16 CHAIRPERSON HEATH: It's still public record.

17 MR. SAWICKI: Okay.

18 CHAIRPERSON HEATH: If they decide to proceed it
19 would still be public record.

20 MR. SAWICKI: I'm sorry, if they still decide to
21 proceed with what?

22 CHAIRPERSON HEATH: With any future project. Is that
23 what you're asking?

24 MR. SAWICKI: The public record of Appeal 19114, does
25 that remain public record even though the appeal wasn't ruled

1 on?

2 CHAIRPERSON HEATH: It would be rendered moot.

3 MR. SAWICKI: And the record stands --

4 CHAIRPERSON HEATH: State that the appeal has --

5 MR. SAWICKI: And it states as such. Okay.

6 CHAIRPERSON HEATH: Right. Has been rendered moot.

7 Did you want to say something, Marcie?

8 MS. COHEN: What you just said is what I was going to
9 offer.

10 CHAIRPERSON HEATH: Okay.

11 MS. COHEN: And that you still have the opportunity,
12 as does the ANC, to weigh in.

13 MR. SAWICKI: Then I would support that motion.

14 CHAIRPERSON HEATH: Okay. All right. Then Board, is
15 there any -- okay. Then I will move that we accept the motion
16 to render this appeal moot.

17 MS. COHEN: Second.

18 CHAIRPERSON HEATH: Motion has been made and
19 seconded. Any further discussion?

20 [Vote taken.]

21 CHAIRPERSON HEATH: The motion carries.

22 MR. MOY: Staff would record the vote as three to
23 zero to two, this is on the motion of Chairperson Heath, second
24 the motion, Ms. Cohen, also in support, Vice Chairperson Hill,
25 a member not present with us today and a board seat vacant.

1 Motion carries, Madam Chair.

2 CHAIRPERSON HEATH: Okay. All right. You probably
3 should remain seated, I believe. But we're going to call the
4 next --

5 MR. MOY: Yes. Yes, the next appeal application for
6 preliminary matter is Appeal Number 19077 of Massachusetts
7 Avenue Heights Citizen Association. Here again this is an
8 appeal of the decision by the Zoning Administrator, DCRA to
9 issue Building Permit Number B, B as in bravo, 1404954 to allow
10 the renovation of an existing hotel to include a recreation
11 area with 136 seats and five staff in the NO/R-1-B District at
12 premises 2505 Wisconsin Avenue Northwest, Square 1935, Lot 45.

13 CHAIRPERSON HEATH: All right. Good morning. Would
14 you please introduce yourselves? And please make sure your mic
15 is on.

16 MR. CUNNINGHAM: There we go. Good morning, my name
17 is Paul Cunningham and I'm here for the protestants.

18 MS. BRINKAM: Malia Brinkam, one of the named
19 appellants.

20 CHAIRPERSON HEATH: Okay.

21 MR. EVANS: Good morning, Philips Evans on behalf of
22 the owner of CS Bond Street S Properties, LLC.

23 MR. TONDRO: Good morning, Maxamilian Tondro on
24 behalf of the Zoning Administrator and DCRA.

25 CHAIRPERSON HEATH: Okay. Thank you. So again,

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1 we've received notification from you as the property owner and
2 from your representation that you are surrendering your permit
3 for this project as well.

4 MR. EVANS: That's correct. And that surrender has
5 been accepted by DCRA.

6 CHAIRPERSON HEATH: Okay.

7 MR. EVANS: And based upon the last hearing we just
8 had, now at this time I would move for dismissal of this appeal
9 since it has been rendered moot.

10 CHAIRPERSON HEATH: Okay.

11 MR. TONDRO: And DCRA would join that motion.

12 CHAIRPERSON HEATH: Okay.

13 MS. BRINKAM: Appellants would agree that the case
14 can be dismissed as moot.

15 CHAIRPERSON HEATH: Okay. All right. Then Board, I
16 would make a motion that we accept the motion to render this
17 appeal moot.

18 MS. COHEN: Second.

19 CHAIRPERSON HEATH: The motion has been made and
20 seconded. Any further discussion? All right.

21 [Vote taken.]

22 CHAIRPERSON HEATH: The motion carries. Thank you.

23 MR. CUNNINGHAM: Thank you.

24 MR. MOY: Staff would record the vote as three to
25 zero to two, this is on the motion of Chairperson Heath, second

1 the motion of Ms. Cohen, also in support Mr. -- or rather Vice
2 Chairperson Hill, board member not present, board seat vacant.
3 Motion carries, Madam Chair.

4 CHAIRPERSON HEATH: Thank you. So when you're ready,
5 Mr. Moy, we can call our decision case.

6 MR. MOY: Yes. The one decision case before the
7 Board, there is a motion for reconsideration from the
8 opposition party to Application Number 18938 of Gina Eppolito
9 and Frances Slackey. As advertised on this application, this
10 application was for a special exception under 223 to allow a
11 two-story rare addition with seller not meeting lot occupancy
12 requirements under Section 403, the open court requirements
13 under 406, and the nonconforming structure requirements under
14 2001.3 at a one family dwelling and a CAP, or CAP/R-4 District
15 at 325 5th Street Southeast, Square 820, Lot 17.

16 CHAIRPERSON HEATH: Okay. Thank you. Even though
17 this is a decision case I'd like to know if the movants are
18 present today. Would you please come forward?

19 MR. HILL: Madam Chair, if I could just state for the
20 record that I have reviewed all of the documents and am
21 prepared to discuss the case.

22 CHAIRPERSON HEATH: Thank you, Vice Chair. I will
23 also state for the record that I've reviewed all previous
24 documents and am prepared to speak on behalf of this case.

25 All right. Would you please introduce yourselves?

1 MR. SHELTON: My name is Robert Shelton and I reside
2 at 323 5th Street Southeast in Washington.

3 CHAIRPERSON HEATH: Okay.

4 MR. FLYNN: My name is Mark Flynn and I reside at 323
5 5th Street Southeast.

6 CHAIRPERSON HEATH: Okay. Our first question is
7 whether or not you file or you've served your motion on all
8 parties concerned in this case. We don't have anything in the
9 record that shows that --

10 MR. SHELTON: Oh, it's in the electronic file.

11 CHAIRPERSON HEATH: Right. You posted it in ISIS,
12 but did you --

13 MR. SHELTON: I didn't know that was required. I
14 haven't --

15 CHAIRPERSON HEATH: Okay.

16 MR. SHELTON: Nothing else has been filed by --
17 except on ISIS.

18 CHAIRPERSON HEATH: Okay. Within the regulations,
19 Section 3126.3 requires that any motion for reconsideration be
20 served on all parties, which means you would need to make sure
21 that they receive notice about your reconsideration that this
22 needs to be sent specifically to all parties -- all other
23 parties in this case.

24 And so I think because you weren't aware we would be
25 willing to give you additional time to make sure that they're

1 properly noticed.

2 MR. SHELTON: Well, I appreciate that. This is our
3 first run through this process.

4 CHAIRPERSON HEATH: Okay.

5 MR. SHELTON: And I have to say it's been quite an
6 education. And for the second one I'll do much better.

7 CHAIRPERSON HEATH: Okay.

8 MR. SHELTON: But I was aware that in the formal
9 notice that we got, is it said that we could file things on
10 ISIS, and I thought that was controlling. But it will be no
11 problem at all to serve it and then we'll be happy to do that.

12 CHAIRPERSON HEATH: Okay. All right. Yeah, it's
13 just a part of the process but it allows them to be able to be
14 notified and then to properly respond. So.

15 MR. SHELTON: We'll be pleased to do that but I'm
16 just explaining that --

17 CHAIRPERSON HEATH: Sure.

18 MR. SHELTON: We relied on the notice that we were
19 sent. And quite frankly the first one -- this has been very,
20 very puzzling for us because the first one we didn't know about
21 that. And in order to be participants I did send that in by
22 hand. But in any event this will be the first document that's
23 not -- long the short of it, we're happy to do it.

24 CHAIRPERSON HEATH: Okay. Thank you.

25 MS. COHEN: And please submit it to the ANC as well.

1 MR. SHELTON: Sure. Sure, happy to do that also.

2 CHAIRPERSON HEATH: Okay.

3 MS. GLAZIER: Does the Board want to make a motion to
4 waive the rule for service at the time of filing?

5 CHAIRPERSON HEATH: Sure.

6 MS. GLAZIER: And continue it?

7 CHAIRPERSON HEATH: Well, I'll make a motion that we
8 waive the rule.

9 MR. HILL: I second it.

10 CHAIRPERSON HEATH: Okay. Motion has been made and
11 seconded.

12 [Vote taken.]

13 CHAIRPERSON HEATH: Okay. So that motion carries.
14 So, Mr. Moy, we'll need to continue this.

15 MR. MOY: Yes.

16 [Off the record discussion.]

17 MR. MOY: All right, Madam Chair. No, go ahead.

18 MS. GLAZIER: Now the secretary and I were just
19 discussing the time frame for responses to take that into
20 consideration with the continuation date.

21 CHAIRPERSON HEATH: Okay. Sure.

22 MR. MOY: So I'm hoping that the movements can serve
23 parties within the next week. So with that in mind then I
24 think -- and then allowing time for any responses to this
25 motion for reconsideration, we're looking at -- although we

1 have a very heavy docket on December 22nd, that's a possible
2 date knowing that that's a heavy docket, but the only other
3 time for this, Madam Chair, then after the 22nd of December
4 we're into --

5 MS. GLAZIER: Uh-huh. January 2nd.

6 MR. MOY: Into January. And so that would be January
7 12th at the earliest.

8 CHAIRPERSON HEATH: Okay.

9 MS. GLAZIER: Madam Chair, sorry to interject but the
10 ANC, as you know, is also a party and you need to take into
11 consideration their meeting dates.

12 CHAIRPERSON HEATH: Sure. And I would guess they're
13 probably not going to meet before the 12th.

14 MR. MOY: Of January?

15 CHAIRPERSON HEATH: Sometime early in the year.
16 Yeah.

17 MR. MOY: Okay, so --

18 CHAIRPERSON HEATH: We may want to shift this to --

19 MR. MOY: Then we could shift this to the -- well, we
20 do have an opening, since this would be for decision making,
21 Madam Chair, we do have an opening for the afternoon of January
22 19th that we could schedule this for.

23 CHAIRPERSON HEATH: Okay.

24 MR. MOY: Okay? Because you're going to be here that
25 day --

1 CHAIRPERSON HEATH: Sure.

2 MR. MOY: -- for another event.

3 CHAIRPERSON HEATH: Oh, okay. Understood. So we can
4 put this on for decision then --

5 MR. MOY: Right.

6 CHAIRPERSON HEATH: -- on the 19th.

7 MR. MOY: This would be at 1:00, January 19th.

8 CHAIRPERSON HEATH: What else is happening that day?

9 MS. COHEN: Training.

10 MR. MOY: Training.

11 CHAIRPERSON HEATH: Is that a training day?

12 MR. MOY: Yes.

13 CHAIRPERSON HEATH: Okay. Okay. All right.

14 MS. COHEN: January 19th?

15 CHAIRPERSON HEATH: And you're here that day?

16 MR. MOY: Yes. Yes.

17 CHAIRPERSON HEATH: Okay. All right. So January
18 19th. All right.

19 MR. SHELTON: So there was a motion passed to waive
20 the --

21 CHAIRPERSON HEATH: The timing of service. And so
22 now it's your responsibility to make sure that you serve all
23 parties, including the ANC. And I would urge you to do that as
24 quickly as possible, particularly so that the ANC can get this
25 on their calendar.

1 MR. SHELTON: We'll do it promptly.

2 CHAIRPERSON HEATH: For their next meeting. Okay.

3 All right. And so we'll put this on for a decision on January
4 19th.

5 MR. MOY: Yes, at 1:00.

6 CHAIRPERSON HEATH: At 1:00. All right?

7 MR. SHELTON: Thank you very much.

8 MR. FLYNN: Thank you very much.

9 CHAIRPERSON HEATH: All right. So, Mr. Moy, we can
10 proceed to our hearing cases. 19108 should be next.

11 MR. MOY: Yes. Yes, here we go. All right. To the
12 table then would be the applicant's parties to Application
13 Number 19108 of Jennifer and Lyle Vold. As advertisement of
14 chair and publically noticed request for a special exception
15 under 223, not meeting the lot occupancy requirements under
16 Section 4403 to construct a garage with a rooftop deck in the
17 R-4 District at premises 134 11th Street Northeast, Square 965,
18 Lot 35.

19 CHAIRPERSON HEATH: Okay. Good morning. Would you
20 please introduce yourselves?

21 MR. MOODY: Good morning. My name is Ryan Moody,
22 here on behalf of the owner of 134 11th Street Northeast of
23 Moody Landscape Architecture.

24 MS. VOLD: Good morning. My name is Jennifer Vold.
25 I'm the homeowner of 134 11th Street Northeast, Washington D.C.

1 CHAIRPERSON HEATH: Okay. The first question that I
2 have for you is about your posting. Has this been posted?

3 MR. MOODY: It has been posted.

4 CHAIRPERSON HEATH: When was it posted?

5 MR. MOODY: It was posted yesterday.

6 CHAIRPERSON HEATH: Okay. And you're aware that the
7 postings are supposed to exist 14 days prior to your hearing
8 date, correct?

9 MR. MOODY: Yes, ma'am. We submitted a letter
10 explaining the position.

11 CHAIRPERSON HEATH: Okay. That is a really important
12 part of the process because it's a major way that your
13 neighbors and others who could have an interest in this case
14 are notified of what you're doing, and that they can be made
15 aware that there will be a hearing and they can be a part of
16 this process if they so choose. And so I'm not sure how the
17 rest of the Board feels about this but I feel that it's
18 important enough that we should allow time for that part of the
19 process to happen; that we should wait until -- that we should
20 continue this until this has been properly noticed, which would
21 mean probably somewhere in the area of two weeks from now
22 depending on our docket. We would continue this case until
23 then and then have you come back.

24 MS. COHEN: Madam Chairman, I concur with your
25 proposal that it come back because it is an important

1 requirement to notify the neighborhood and the ANC.

2 CHAIRPERSON HEATH: Okay.

3 MR. HILL: And we are -- we do have your letter and
4 we've reviewed the letter and I can see all of the other things
5 that you've done. But unfortunately it's one that, you know,
6 has to be done in order for us to move forward. And if we were
7 to change this now then we'd have to do it for everyone else
8 that came down the road. So you can understand why we're going
9 to have to push this back so I'm in agreement with you, Madam
10 Chair.

11 CHAIRPERSON HEATH: Okay. All right.

12 MR. MOODY: Understood, thank you.

13 CHAIRPERSON HEATH: Okay. Thank you. So Mr. Moy
14 will have to find a date.

15 MR. MOY: Yes, Madam Chair, I would say staff would
16 suggest December the 15th. I'm closing off the 22nd because
17 you already have a really full day on the 22nd. So as early as
18 the 15th, otherwise we're into January.

19 CHAIRPERSON HEATH: Okay. So we can continue this
20 until December 15th. All right? Thank you.

21 MR. MOY: I believe the next application before the
22 Board, Madam Chair, is Application Number 19116. This is the
23 application of D.C. Department of General Services, and this
24 was advertised and noticed for request for a special exception
25 from the roof structure requirements under Section 411.11 to

1 allow roof structures not meeting the setback requirements
2 under Section 400.7, and the parking space requirements under
3 Section 2116.5 to permit the modernization of an existing
4 public high school in the R-4 District at premises 4301 13th
5 Street Northwest, Square 2915, Lot 802.

6 MR. HILL: Madam Chair, are you proceeding on the
7 order of the agenda, or are you switching the order?

8 CHAIRPERSON HEATH: We're managing the docket a
9 little differently today.

10 MR. HILL: Okay.

11 CHAIRPERSON HEATH: So -- I'm sorry. I'm not. We're
12 managing the docket a little differently today and so we're not
13 going to be going in exactly the order of cases as listed on
14 agenda.

15 [Pause.]

16 CHAIRPERSON HEATH: All right. Would you please
17 introduce yourselves?

18 MS. RANKIN: Good morning. My name is Mary Rankin.
19 I'm (indiscernible)**34:33.

20 CHAIRPERSON HEATH: Make sure your mic is on.
21 Glowing green light.

22 MS. RANKIN: Yeah. My name is Mary Rankin. I'm
23 Associate Principal with Perkins Eastman DC, the architects for
24 Roosevelt High School.

25 CHAIRPERSON HEATH: Okay.

1 MR. WHITLEY: And I'm Kyle Whitley. I am with
2 McKissack and McKissack representing the Department of General
3 Service for Roosevelt Senior High School.

4 CHAIRPERSON HEATH: Okay. All right. We've reviewed
5 the record on this case and I think the only question that I
6 would have is if you met with the ANC. We don't have a report
7 from the ANC.

8 MS. RANKIN: That's the document I just handed. We
9 met with the ANC twice last year to review the project. The
10 first was July 9th to go over the general plans and our major
11 interventions on the school. The second hearing was September
12 10th, 2014 specifically at the request we had to go before
13 public space for several of the site interventions, including
14 the curb cuts that the parking that we're talking about today
15 is related to. The letter that you just received was a letter
16 prepared by them and provided to us a week later indicating
17 their support for the project.

18 After we submitted for the BZA application and
19 received today's hearing date, we did submit -- Department of
20 General Services submitted electronically our full application
21 to them and made them aware of the hearing date.

22 CHAIRPERSON HEATH: Okay. And the subject of the
23 hearing. So they're aware of all the relief that's being
24 requested. Okay. Okay. Did you have a question, Marcie?

25 MS. COHEN: No, I was going to make a motion.

1 CHAIRPERSON HEATH: Oh, okay. No, we still have to
2 go through --

3 MS. COHEN: Oh, I'm sorry.

4 CHAIRPERSON HEATH: All right. But we'll get there.
5 Okay. All right. So based on the record, the information that
6 we've reviewed, we don't believe that there is -- that we have
7 no questions and we don't believe that we need to hear from you
8 today. Although you have the right to a full hearing you can
9 waive that right and allow us to proceed on.

10 MR. WHITLEY: That's fine.

11 CHAIRPERSON HEATH: Okay. All right. So then with
12 that we'll turn to Office of Planning for any further comments.

13 MS. THOMAS: Good morning, Madam Chair. Karen Thomas
14 for the Office of Planning and we will stand on the record of
15 our report. Thank you.

16 CHAIRPERSON HEATH: Okay. Thank you. Board, any
17 questions of Office of Planning?

18 Applicant, any questions of Office of Planning?

19 MS. RANKIN: No.

20 CHAIRPERSON HEATH: Okay.

21 MR. WHITLEY: No.

22 CHAIRPERSON HEATH: All right. Is there anyone here
23 from DDOT on this case? Did you have meetings with DDOT? Any
24 discussions or meetings with DDOT on this?

25 MS. RANKIN: We had several meetings around the time

1 of our public space hearing and committee hearing.

2 CHAIRPERSON HEATH: Okay.

3 MS. RANKIN: Specifically related to the size and
4 orientation of the curb cuts that led into that parking area in
5 question.

6 CHAIRPERSON HEATH: Okay. All right. I asked
7 because we also don't have a report from DDOT. Okay. So we
8 also don't have a report from DDOT, so --

9 MS. RANKIN: I noticed there's a From 150 in the ISIS
10 case file from DDOT that --

11 CHAIRPERSON HEATH: Actually, that will be -- yeah.

12 MS. RANKIN: -- indicated support for the movement.

13 CHAIRPERSON HEATH: That did just come in. Thank
14 you. Let me see. One second.

15 [Pause.]

16 CHAIRPERSON HEATH: Okay. All right. Okay. So as
17 is standard with DDOT, they don't oppose this application so
18 you're fine with respect to DDOT.

19 Is there anyone here from ANC 4C? Anyone here from
20 ANC 4C on this case?

21 All right. So again, we have received this letter.
22 Although it is for your public space application I understand
23 you've submitted the information, you've had multiple meetings
24 with the ANC since going through the public space process. And
25 you've submitted your information regarding this hearing to the

1 ANC. Is that correct?

2 MS. RANKIN: Correct.

3 MR. WHITLEY: Yes.

4 CHAIRPERSON HEATH: Okay. And is there anyone here
5 wishing to speak in support of this application? Anyone in
6 support?

7 [No audible response.]

8 CHAIRPERSON HEATH: Anyone in opposition to this
9 application? Anyone in opposition?

10 [No audible response.]

11 CHAIRPERSON HEATH: All right. Then normally we
12 would turn back to you for closing, but in this case I don't
13 think there's anything that you need to close. So we'll close
14 the hearing and Marcie, yes, it's your turn.

15 MS. COHEN: Okay. I move to approve BZA Case 19116,
16 4301 13th Street, DGS Roosevelt High School, and ask for a
17 second.

18 MR. HILL: I second.

19 CHAIRPERSON HEATH: The motion has been made and
20 seconded. Any further discussion?

21 [Vote taken.]

22 CHAIRPERSON HEATH: The motion carries. Mr. Moy?

23 MR. MOY: Yes. Staff would record the vote as three
24 to zero to two, this is on the Motion of Ms. Cohen to approve
25 the application for the relief requested. And I believe the

1 approved plans are in Exhibit 4 in the record. Seconded the
2 motion, Vice Chairperson Hill, also in support Chairperson
3 Heath, a member not present today, board seat vacant. Motion
4 carries, Madam Chair.

5 CHAIRPERSON HEATH: Summary order, Mr. Moy.

6 MR. MOY: Thank you.

7 CHAIRPERSON HEATH: Thank you.

8 MR. WHITLEY: Thanks.

9 CHAIRPERSON HEATH: All right. Mr. Moy, we'll call
10 our next case, which will be Case Number 19094.

11 MR. MOY: Yes. Thank you, Madam Chair. That would
12 be parties to Application Number 19094 of 28th Street Partners,
13 LLC. This application, Madam Chair, was continued from the
14 public hearings of October 27th and November -- well, until
15 November 24th, today. And as advertised and noticed the
16 caption read request for special exception relief and the use
17 requirements under Section 336 to convert a residential
18 building into a, I believe, three unit apartment house in the
19 R-4 District at premises 64 W Street Northwest, Square 3118,
20 Lot 52.

21 CHAIRPERSON HEATH: Okay. Good morning. Would you
22 please introduce yourselves?

23 MS. MOLDENHAUER: Good morning, Chairwoman Heath and
24 members of the Board. My name is Meredith Moldenhauer from the
25 law firm of Griffin, Murphey, Moldenhauer, and Wiggins.

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1 Good morning, my name is Mohamad Pishvaeian. I'm the
2 owner of 64 W Street.

3 CHAIRPERSON HEATH: Okay. Thank you. So since the
4 last hearing we've received your revised drawings which are
5 much more thorough and complete. We thank you for getting
6 those new plans and well, new drawings submitted to us. At our
7 last -- at the time of our last hearing the Office of Planning
8 was not in support because as we noted the drawings were so
9 inconsistent. And so I don't have any issues with the drawings
10 at this time. I think they meet all of the requests of the
11 Board but I'd like to find out from Office of Planning where
12 they stand.

13 MR. MS. MOLDENHAUER: Good morning, Madam Chair,
14 members of the Board. The Office of Planning did receive the
15 revised drawings and we do believe that those are a complete
16 set of drawings and with that information we believe we can
17 support the applicant's request.

18 CHAIRPERSON HEATH: Okay. Thank you. Board, any
19 questions of Office of Planning?

20 Okay. Do you have any questions of Office of
21 Planning or additional comments?

22 MS. MOLDENHAUER: We have no questions of Office of
23 Planning. We do have a letter. There was a Dr. Shanklin
24 (phonetic) who had provided a letter last time to the Board,
25 and since then the applicant has had dialog and discussion with

1 her and she's now in support. We can supply that to the Board
2 if they'd like to see that as well.

3 CHAIRPERSON HEATH: Okay.

4 MS. MOLDENHAUER: Otherwise we can rest on the
5 record.

6 CHAIRPERSON HEATH: Okay. You can feel free to
7 submit that to the Board secretary after. We don't need it
8 right now, but after this you can give it to him, and we'll
9 have that in the record.

10 So then with that I would move that we -- given that
11 we had a full hearing, we've not had a full -- did we have a
12 full hearing? I thought we did. Okay. So we don't -- we went
13 through support, opposition.

14 MR. MOY: I'm sorry. Did we go through the --

15 CHAIRPERSON HEATH: That's what I'm --

16 MR. MOY: -- recommendation of the ANC? Or have we
17 mentioned the --

18 CHAIRPERSON HEATH: That's what I'm asking if --

19 MR. MOY: Okay.

20 CHAIRPERSON HEATH: -- previously we went through the
21 full hearing.

22 MR. MOY: Yes, we have, but I don't think we read for
23 the record, the position --

24 CHAIRPERSON HEATH: Okay.

25 MR. MOY: -- of the ANC and DDOT.

1 CHAIRPERSON HEATH: Okay.

2 MR. MOY: So if we do that then you're good.

3 CHAIRPERSON HEATH: Okay. So then we do have a
4 report from ANC 5E, stating that they support this project.
5 And is there anyone here from ANC 5E? Anyone here from ANC 5E?
6 Okay.

7 MS. GLAZIER: Excuse me, Madam Chair. My notes
8 reflect that the ANC 5E voted to support the application but no
9 written report was filed to the record. I don't know if that's
10 changed since.

11 MS. MOLDENHAUER: Exhibit 35.

12 CHAIRPERSON HEATH: Yeah, it had a letter and it's
13 included.

14 MS. MOLDENHAUER: It's a letter.

15 CHAIRPERSON HEATH: It was a part of a supplemental
16 filing, I believe.

17 MS. GLAZIER: Okay. Thank you.

18 CHAIRPERSON HEATH: Or actually, it was just a later
19 filing. Okay. All right. Okay. So given that we went
20 through the full hearing, we've now recognized that we do have
21 a letter from ANC 5E supporting the application, I would move
22 that we accept this request for special exception.

23 MR. HILL: I second.

24 CHAIRPERSON HEATH: So the motion has been made and
25 seconded. Any further discussion?

1 [Vote taken.]

2 CHAIRPERSON HEATH: So the motion carries.

3 MR. MOY: Yeah. Madam Chair, before I do a final
4 vote we do have an absentee vote from Mr. Hood, who
5 participated. And his absentee vote is to approve with any
6 conditions that may be imposed. So that would give a final
7 vote of three to zero to two. So this is on the motion of
8 Chairperson Heath to approve with the relief requested as to
9 revised plans under Exhibit 35. Second motion of Vice
10 Chairperson Hill. And of course the absentee vote from Mr.
11 Hood in support. So that motion carries.

12 CHAIRPERSON HEATH: All right. Thank you. Summary
13 order.

14 MR. MOY: Thank you.

15 MS. MOLDENHAUER: Just for a point that the revised
16 plans are 34.

17 MR. MOY: Thirty-four. It's not 35?

18 CHAIRPERSON HEATH: No. The BZA letter -- I'm sorry.
19 The --

20 MR. MOY: Thirty-four. Thank you.

21 CHAIRPERSON HEATH: -- ANC letter is --

22 MR. MOY: It's on my notes but I read it wrongly.

23 CHAIRPERSON HEATH: Great.

24 MR. MOY: Thank you.

25 MS. MOLDENHAUER: Thank you very much.

1 MR. PISHVAEIAN: Thank you.

2 CHAIRPERSON HEATH: Okay. So, Mr. Moy, we'll call
3 our next case, which will be 19113.

4 MR. MOY: Yes. Thank you. Parties to Application
5 Number 19113, Learner South Capitol Street JV, LLC. This was
6 advertised and noticed for a variance relief from the side yard
7 requirements at 775.5, loading requirements under 2201.1, and a
8 special exception from the roof structure requirements under
9 411.11 to allow roof structures not meeting the setback
10 requirements under 770.6, Sub B, and single enclosure
11 requirements under 411.3 to construct a new multi-apartment
12 building in the C-3-C District at premises 1000 South Capitol
13 Street Southeast at Square 697, and Lot 46. Unless there has
14 been any changes. Thank you.

15 CHAIRPERSON HEATH: Okay. Thank you. Would you
16 please introduce yourselves?

17 MR. DETTMAN: Good morning, Madam Chair, members of
18 the Board. Shane Dettman, Director of Planning Services with
19 the law firm Holland and Knight.

20 MR. GLASGOW: Norman M. Glasgow, Jr., with the law
21 firm of Holland and Knight.

22 MR. MILLER: Stewart Miller with Learner Enterprises.

23 MR. GILLINT: Mark Gillint, Shalom Beronas (phonetic)
24 Associates.

25 MR. ANDRES: Erwin Andres with Gorove/Slade

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1 Associates.

2 CHAIRPERSON HEATH: Okay. So my first question would
3 be, you're aware that Office of Planning has recommended that
4 you add relief under 411.11 for 770.60, roof structure height,
5 and 411.5. Has that been added?

6 MR. GLASGOW: Oh, we're pleased to add those. I
7 think that depending upon how the regulations are interpreted
8 as to whether a trellis is a roof structure or not, we do not
9 believe we have roof structures of unequal height.

10 CHAIRPERSON HEATH: Okay.

11 MR. GLASGOW: We have a trellis that's not of the
12 same height as the roof structures. One is at 18-6, the other
13 is at 18 feet.

14 CHAIRPERSON HEATH: Okay. Mr. Cochran, do you want
15 to speak to your request?

16 MR. COCHRAN: At the time we wrote the report we did
17 not realize that the roof structure had less than 50 percent of
18 the horizontal roof, being not open to the sky. Consequently
19 it may not be a structure. It's up to the Zoning Administrator
20 to determine whether it is or not at the time that it files for
21 a building permit.

22 But in an abundance of caution we suggested that the
23 applicant ask for relief from what may or may not be a
24 structure, depending upon what the ZA determines.

25 CHAIRPERSON HEATH: Okay. All right. Okay. So it's

1 up to you as to whether or not you choose to add this relief as
2 --

3 MR. GLASGOW: We don't think that we need it.

4 CHAIRPERSON HEATH: Okay.

5 MR. GLASGOW: We have more than 50 percent open.

6 CHAIRPERSON HEATH: Okay. All right. All right.

7 Then, Board, do you have any issues or want to hear anything
8 specific from this applicant?

9 MS. COHEN: Madam Chairman, I was just concerned also
10 about the height of the trellis. But I will defer to the
11 applicants' optimism that they will get the Zoning
12 Administrator to go along with what they're proposing.

13 CHAIRPERSON HEATH: Okay. Do you have any questions?
14 Okay. All right.

15 MR. GLASGOW: Now, we have asked for setback with
16 respect to the trellis.

17 CHAIRPERSON HEATH: Uh-huh.

18 MR. GLASGOW: So that we have asked for. I just
19 wanted to make sure everyone was clear on that.

20 CHAIRPERSON HEATH: Sure. Okay. All right. Okay.
21 Then it appears that the Board is satisfied with the
22 information that we've received. So as we've done in the past
23 you have the right to a full hearing but you can elect to waive
24 that right and allow us to proceed on. We may have questions
25 for you as we go along, but based on the information that we've

1 received so far we feel that there's not a need for a full
2 hearing.

3 MR. GLASGOW: We concur.

4 CHAIRPERSON HEATH: Okay.

5 MS. COHEN: I have another question with regard to
6 the ANC's filing about the two affordable units which are
7 voluntarily provided. And this Commissioner appreciates that.
8 But we don't know the actual time frame that you're offering
9 this so can you state for the record how long this will be in
10 existence, these affordable units at --

11 MR. GLASGOW: The affordable units, and we were
12 providing them in a rental apartment building development,
13 would be for the term of the rental apartment building
14 development.

15 MS. COHEN: So for the life of the building?

16 MR. GLASGOW: For the life of the building.

17 MS. COHEN: Thank you.

18 CHAIRPERSON HEATH: All right. Then I'll turn back
19 to Office of Planning for any additional comments.

20 MR. COCHRAN: We stand on our report, but we also
21 note that there has been an additional filing very recently in
22 the record that you may want to look at, that suggests that
23 there be an additional condition. This was filed by an
24 adjacent property owner. It's the last filing on the website.

25 CHAIRPERSON HEATH: Are you talking about Exhibit 31?

1 MR. COCHRAN: Yeah. It's a letter from Greenstein
2 Delorman Lux (phonetic) from the adjacent property.

3 MS. COHEN: I don't have that.

4 CHAIRPERSON HEATH: It's not showing up in our file.

5 MR. COCHRAN: I looked at the website yesterday and
6 this morning and --

7 MS. COHEN: I have it up now. I don't have it.

8 MR. COCHRAN: Sorry. Let me go back.

9 [Pause.]

10 MR. COCHRAN: Let me go back and -- I think if you
11 just search on 19113 you'll see that it was filed on November
12 23rd.

13 MS. COHEN: I don't have it. Is the applicant aware
14 of this filing?

15 MR. GLASGOW: We have received a copy of a letter.
16 I've got a couple copies here if you want me to submit those.

17 CHAIRPERSON HEATH: That would be helpful, to have
18 it.

19 [Pause.]

20 CHAIRPERSON HEATH: Oh, you know what? We do have
21 it. It's showing up as an unnumbered. If you look at the very
22 top of the -- it's that. Mr. Moy, on ZDOCs it's the very first
23 document. It's not numbered.

24 MR. MOY: You mean Exhibit No. 1?

25 CHAIRPERSON HEATH: No. It's before Exhibit 1.

1 MR. COCHRAN: It's the exhibit after Exhibit 31.

2 CHAIRPERSON HEATH: Yeah. For us it shows up --

3 MR. MOY: Oh, I see it. I see it.

4 CHAIRPERSON HEATH: -- unnumbered.

5 MR. MOY: Yeah, for some reason it's -- usually it's
6 at the bottom of the listing. But this time for some reason
7 it's up at the top.

8 [Pause.]

9 CHAIRPERSON HEATH: So the applicant received this
10 letter and do you have any issues with the request being made?

11 MR. GLASGOW: We don't have any position.

12 CHAIRPERSON HEATH: Okay.

13 MR. GLASGOW: On the letter.

14 CHAIRPERSON HEATH: Okay. Does that mean you're fine
15 to agree to this as a condition, the loading management plan?

16 MR. GLASGOW: Well, DDOT didn't request anything.

17 CHAIRPERSON HEATH: Okay. Okay.

18 MS. COHEN: Madam Chairman, though, it says though,
19 to include the applicant's proposed loading management plan as
20 referenced in the November 17th DDOT Report.

21 CHAIRPERSON HEATH: I'm looking back at their --

22 MS. COHEN: Thirty.

23 CHAIRPERSON HEATH: -- report.

24 MS. COHEN: So I think that there is a reference.

25 CHAIRPERSON HEATH: Okay.

1 MR. GLASGOW: There is a reference but we didn't see
2 it as a condition of approval of their report.

3 MS. COHEN: But I think its best practices, so are
4 you willing to agree to a management, a loading management
5 plan? I don't think that that's asking too much of --

6 MR. GLASGOW: No, we will agree to it.

7 MS. COHEN: Okay. Thank you.

8 CHAIRPERSON HEATH: According to DDOT you already
9 have agreed to a loading management plan and they list the
10 conditions that you -- they're not conditions to DDOT's report,
11 but they list what you've agreed to. And so I think that may
12 be what they're referencing as a part of this letter. Okay.
13 So you've agreed to -- okay.

14 MR. GLASGOW: Yeah, we will agree to the plan, but we
15 also want to make sure that any changes to the plan
16 subsequently approved by DDOT will not require further Board
17 action.

18 CHAIRPERSON HEATH: Okay.

19 MR. GLASGOW: That's why we we're parsing with
20 respect to what goes in the Board's order. We're happy to be
21 working that management plan out with DDOT.

22 CHAIRPERSON HEATH: Okay.

23 MR. GLASGOW: We do not want to be coming back to the
24 Board if we say, okay, well, this is the management plan that's
25 approved as a condition of this order, and then we want to

1 change something with it, DDOT agrees, and then we've got to
2 come back to the Board.

3 CHAIRPERSON HEATH: Sure. Understood. Okay.

4 MR. GLASGOW: Okay.

5 CHAIRPERSON HEATH: All right.

6 MS. COHEN: I thought you were just acting like a
7 lawyer, that's all.

8 MR. HILL: Madam Chair, I'll agree with the lawyer.

9 CHAIRPERSON HEATH: All right. Okay. So then we'll
10 proceed on. Any other questions of Office of Planning?
11 Applicant, any questions of Office of Planning?

12 MR. GLASGOW: No questions.

13 CHAIRPERSON HEATH: Okay. All right. Is there
14 anyone here from DDOT on this application? As we've just
15 stated, we do have DDOT's letter of no objection and the
16 applicant has stated in, as stated in DDOT's letter, the
17 applicant has their own loading management plan as a part of
18 this application.

19 Is there anyone here from ANC 6D? Anyone here from
20 ANC 6D? Okay. We do have their letter stating that they've
21 approved this application with a vote of five to zero to one.
22 They stated conditions, however none of those are relevant for
23 the Board. And so we're not adopting those conditions. But we
24 do acknowledge their approval.

25 MS. COHEN: Well, we just got the applicant to agree

1 to the affordability for the life of the project.

2 CHAIRPERSON HEATH: Sure. Sure. We won't make a
3 condition, though. But they have agreed to that.

4 Okay. Then is there anyone here wishing to speak in
5 support of this application? Anyone in support?

6 [No audible response.]

7 CHAIRPERSON HEATH: Anyone wishing to speak in
8 opposition? No opposition?

9 [No audible response.]

10 CHAIRPERSON HEATH: Okay. Then we'll turn back to
11 you if you have any further comments or --

12 MR. GLASGOW: Nothing further.

13 CHAIRPERSON HEATH: Okay. All right. Thank you.
14 Then, Board, is there anything further you'd like to discuss?
15 Then I --

16 MS. GLAZIER: Madam Chair, I'm sorry to interrupt and
17 parse words here.

18 CHAIRPERSON HEATH: Sure.

19 MS. GLAZIER: But I thought the ANC report did state
20 that it would recommend approval subject to a condition of the
21 affordable unit, and I thought the applicant had agreed and
22 proffered to it. I just want to make sure I'm clear if that's
23 the case.

24 CHAIRPERSON HEATH: They did agree to it.

25 MS. GLAZIER: Okay. So it would be a condition of

1 approval.

2 CHAIRPERSON HEATH: Okay. All right.

3 MS. GLAZIER: Because only because it was proffered.

4 CHAIRPERSON HEATH: Okay. All right.

5 MR. COCHRAN: Excuse me, Madam Chair, but if we're
6 parsing, the applicant has proffered those affordable units for
7 the life of the project or as long as they remain rental units.

8 CHAIRPERSON HEATH: Okay.

9 MR. COCHRAN: It's not for the life of the project,
10 if it gets converted to condo, they expire.

11 CHAIRPERSON HEATH: Okay.

12 MR. GLASGOW: That is correct and that was discussed
13 with the ANC that it is with respect to -- and this language
14 was specifically agreed to with Stacy Cloyd, who drafted this
15 letter that was signed by Roger Moffatt, in a rental apartment
16 building development.

17 CHAIRPERSON HEATH: Okay. All right.

18 MR. GLASGOW: Yes.

19 CHAIRPERSON HEATH: Okay. So that will be a
20 condition.

21 MS. COHEN: So, Madam Attorney, does that satisfy
22 legal requirements?

23 MS. GLAZIER: I believe that's what the parties
24 agreed to and was proffered.

25 MS. COHEN: Thank you.

1 MS. GLAZIER: Okay.

2 CHAIRPERSON HEATH: All right. Okay. Then with that
3 I will move that we accept this request for variances and
4 special exception to construct this new multifamily apartment
5 building.

6 MS. COHEN: And I'll second.

7 CHAIRPERSON HEATH: All right. The motion has been
8 made and seconded. Any further discussion?

9 [Vote taken.]

10 CHAIRPERSON HEATH: So the motion carries. Thank
11 you.

12 MR. GLASGOW: Thank you.

13 MR. MOY: Staff would record the vote as three to
14 zero to two. This is on the motion of Chairperson Heath for
15 the relief requested that was advertised under revised plans,
16 Exhibit No. 27-B1 through B6. Was there a condition to that or
17 not, just for my own edification? Okay.

18 CHAIRPERSON HEATH: There was.

19 MR. MOY: With that condition as was cited.

20 CHAIRPERSON HEATH: Yes.

21 MR. MOY: Seconded the motion, Ms. Cohen. Also
22 support, Vice Chairperson Hill, three to zero.

23 CHAIRPERSON HEATH: All right.

24 MR. GLASGOW: Summary order?

25 CHAIRPERSON HEATH: Yes, summary.

1 MR. GLASGOW: Thank you.

2 CHAIRPERSON HEATH: Thank you. Okay. Normally we'd
3 take a break about this time but I think Mr. Moy will at least
4 go through the next case, which will be Application 19118.

5 MR. MOY: Yes. That would be Application Number
6 19118. Applicants to this -- applicants to this application of
7 Evergreen Properties, LLC. advertised and noticed for variance
8 relief on the lot occupancy requirements under 772.1,
9 nonconforming structure requirements under 2001.3 and the off
10 street parking requirements under 2101.1. This is to allow the
11 conversion of four unit apartment house to apartment building
12 containing seven units in the C-2-A District. This is at 7300
13 Georgia Avenue Northwest, Square 2956, Lot 40.

14 CHAIRPERSON HEATH: Okay. Thank you, Mr. Moy.

15 [Pause.]

16 CHAIRPERSON HEATH: All right. Would you all please
17 introduce yourselves?

18 MR. SULLIVAN: Thank you, Madam Chair. My name is
19 Marty Sullivan with the law firm of Sullivan and Barros, here
20 on behalf of the applicant.

21 CHAIRPERSON HEATH: Make sure your mic is on.

22 MR. JENKINS: Thank you, Madam Chair. Eric Jenkins
23 with Evergreen Urban, owner of 7300 Georgia Avenue.

24 MS. BATTIES: Andrei Banks with MWB Architects, the
25 architects for the project.

1 CHAIRPERSON HEATH: Okay. So we were taking a minute
2 to just review the documents that you gave us. Did Office of
3 Planning receive -- you did? Okay. Do you have any issues
4 with this?

5 MS. RAPPOLT: I don't have any issues with the
6 additional information.

7 CHAIRPERSON HEATH: Okay. All right. Go ahead.

8 MS. COHEN: Does it address your concern on lot
9 occupancy?

10 MS. RAPPOLT: I think the first paragraph about the
11 structural practical difficulty makes sense to me. I don't
12 necessarily understand the FAR argument, but the structural
13 problems that could arise does make sense to me.

14 MS. COHEN: Thank you.

15 CHAIRPERSON HEATH: All right. Okay. All right. So
16 I believe I'm clear on the issues related to this request. And
17 I don't have any questions. Board, do you have anything you
18 want to drill down on with this applicant?

19 Okay. All right. Okay. So then we may have
20 questions as we go through the rest of the hearing but if
21 you're fine for us to proceed without a full hearing we'll do
22 so at this time.

23 MR. SULLIVAN: Sure. We're happy to stand on the
24 record at this point. Thank you.

25 CHAIRPERSON HEATH: Okay. All right. So then we've

1 heard from Office of Planning. Based on the new information is
2 there anything else that you want to add; any other comments
3 you want to make?

4 MS. RAPPOLT: No, I think the additional information
5 provides a better rationale than the initial submission.

6 CHAIRPERSON HEATH: Okay.

7 MS. RAPPOLT: For OP, so we now can support the
8 application.

9 CHAIRPERSON HEATH: Okay. All right. That's what I
10 was going to ask. Okay. All right. Very good. Board, any
11 questions of Office of Planning? Applicant, I imagine you --

12 MR. SULLIVAN: No, thank you.

13 CHAIRPERSON HEATH: Okay. All right. All right. IS
14 there anyone here from DDOT on this application? Anyone here
15 from DDOT? We do have a letter of no objection from DDOT.

16 Is there anyone here from ANC 4A? Anyone here from
17 ANC 4A?

18 [No audible response.]

19 CHAIRPERSON HEATH: And we also have a letter of
20 recommending approval from the ANC.

21 In addition to the ANC's letter we have letters in
22 support from an adjacent neighbor and from another resident of
23 the community who is a part of many development projects it
24 looks like, in that area. So several letters of support.

25 Is there anyone here wishing to speak in support of

1 this application? Anyone in support? Anyone in opposition?

2 Anyone wanting to speak in opposition?

3 [No audible response.]

4 CHAIRPERSON HEATH: All right. Then we'll turn back
5 to the applicant for any additional comments you'd like to
6 make.

7 MR. SULLIVAN: We have nothing. Thank you.

8 CHAIRPERSON HEATH: All right. Then we'll close this
9 hearing.

10 Board, is there anything else we'd like to discuss?
11 All right. Then I will move that we accept the request for
12 variances to allow the conversion of an existing four unit
13 apartment house into a seven unit apartment building, with the
14 two additional stories.

15 MR. HILL: I second.

16 CHAIRPERSON HEATH: The motion has been made and
17 seconded. Any further discussion?

18 [Vote taken.]

19 CHAIRPERSON HEATH: The motion carries. Mr. Moy.

20 MR. MOY: Staff would record the vote as three to
21 zero to two. This is on the motion of Chairperson Heath to
22 approve the plans as advertised. And the plans, I believe,
23 were under Exhibit 7. Also in support, Vice Chairperson Hill
24 also in support, and seconding, Vice Chairperson Hill, also in
25 support Ms. Cohen, board member not present, board seat vacant,

1 motion carries, Madam Chair.

2 CHAIRPERSON HEATH: All right. Summary order.

3 MR. MOY: Thank you.

4 CHAIRPERSON HEATH: Thank you. So we'll take a quick
5 five minute break and then, Mr. Moy, we'll come back with our
6 last two applications. We'll hear first 18640A, and then
7 19122.

8 MR. MOY: Yes. Thank you.

9 CHAIRPERSON HEATH: Okay.

10 [Recess from 10:59 a.m. to 11:10 a.m.]

11 CHAIRPERSON HEATH: All right. Mr. Moy.

12 MR. MOY: Okay. Yes, back in session and I believe
13 then parties to this request for a modification, this is
14 Application Number 18640A. This is the request for
15 modification application of Barry S. Jackson for a special
16 exception or the original case was for a special exception
17 under 223 to allow a two story rear addition and a two story
18 garage addition to a real dwelling, not meeting the zoning
19 requirements for lot occupancy for 03.2, or rear yard
20 requirements under 404.1 in the R-4 District, 761 10th Street
21 Southeast, Square 950, Lot 94.

22 CHAIRPERSON HEATH: Would the parties to that
23 application please come forward? You can come forward at this
24 time. That's fine.

25 Did you both submit your witness cards? Okay. All

1 right. The card that is -- is there -- okay, there are some
2 there. You need to give that to -- two of those to the court
3 reporter.

4 Were you here to take the oath this morning?

5 MR. BERRIZ: Yes.

6 CHAIRPERSON HEATH: Okay. All right.

7 [Witness filling out cards.]

8 CHAIRPERSON HEATH: Okay. If you could please
9 introduce yourselves. Both of you. Make sure your mic is on.

10 MR. BERRIZ: Bob Berriz. I'm the builder of the
11 project.

12 CHAIRPERSON HEATH: Okay.

13 MS. KRONSTADT: And my name is Nancy Kronstadt. I'm
14 the next door neighbor.

15 CHAIRPERSON HEATH: Okay. Thank you. I think really
16 at issue here is the trellis and the location of the trellis.

17 MR. BERRIZ: We're fine. We're fine with keeping it
18 where it was originally approved.

19 CHAIRPERSON HEATH: Okay. All right. And does that
20 satisfy the neighbor's issue with --

21 MS. KRONSTADT: Yes. We went through all of this at
22 the ANC and that was the one that we just couldn't live with.

23 CHAIRPERSON HEATH: Okay. All right. And so in that
24 case you'll need to submit revised drawings to us. And just
25 submit that for the record so that we can make sure that the

1 trellis is where it was originally and that is what is approved
2 as a part of this order.

3 MR. BERRIZ: Okay.

4 CHAIRPERSON HEATH: We, as a part of our procedure,
5 we like to make sure that we receive that drawing prior to
6 approving your case so that if there are any discrepancies we
7 can address those before giving final approval. So what we'll
8 do -- how long do you think it will take you to get us that
9 revised drawing?

10 MR. BERRIZ: We can have that drawing revised today.

11 CHAIRPERSON HEATH: Okay. So then, Mr. Moy, could we
12 put that on for decision? I think it would be something we
13 could handle really quickly next week.

14 MR. MOY: Yes. That would be for decision making on
15 December the 1st.

16 MR. BERRIZ: And do I need to come back for that
17 meeting, or just submit it by --

18 CHAIRPERSON HEATH: You don't have to. It's up to
19 you for decision we don't typically call applicants to the
20 stand, so you can just submit.

21 MR. BERRIZ: Okay.

22 CHAIRPERSON HEATH: All right.

23 MR. BERRIZ: We'll do that.

24 CHAIRPERSON HEATH: Okay.

25 MR. BERRIZ: Thank you very much.

1 CHAIRPERSON HEATH: All right. Thank you all for
2 working together to come to a conclusion. It's always good
3 when it works that way and we don't have to decide. Thank you.

4 MR. BERRIZ: Have a good Thanksgiving.

5 CHAIRPERSON HEATH: Thank you. You too. All right.
6 So, Mr. Moy, our last case.

7 MR. MOY: Yes. That would be 19122, of the 1600 I
8 Street Corporation as advertised and noticed for variance
9 relief from the roof structure requirements under 411.1 and the
10 nonconforming structure requirements under Section 2001.3, and
11 a special exception from the office use requirements under
12 508.1. This is to allow the renovation and expansion of an
13 existing office building in the S-B-2 District at premises 1600
14 I Street Northwest, Square 186, Lot 39.

15 CHAIRPERSON HEATH: Okay. Would you all please
16 introduce yourselves?

17 MR. GOLDSTEIN: Jordan Goldstein, Managing Director
18 again, Washington, D.C.

19 MR. GLASGOW: Norman M. Glasgow, Jr., Holland and
20 Knight.

21 MR. DETTMAN: Shane Dettman, Holland and Knight.

22 CHAIRPERSON HEATH: Okay. Thank you. So we've
23 reviewed the full application and all documents that have been
24 submitted to the record. I think the Board's biggest issue
25 would be that of security regarding the penthouse and its

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1 proposed use. And so I think that's probably the biggest
2 issues that we'll want you to speak to. Today we don't need to
3 hear a full hearing, but if you could address that. Or are
4 there any other issues that -- okay.

5 MR. GLASGOW: Make sure they've got copies. The U.S.
6 Secret Service has responded by e-mail.

7 CHAIRPERSON HEATH: Okay. All right. If we could
8 get a copy of that, that would be helpful. That was a part of
9 our question. And I am guessing since you're giving us this
10 letter that they have stated that they're -- they don't have
11 any issues.

12 MR. GLASGOW: They don't have any objection, as
13 currently designed. If we change the design they want us to go
14 back and review that with them.

15 CHAIRPERSON HEATH: Okay.

16 MR. GLASGOW: Which is consistent with when I
17 represented the owners of the Hay Adams Hotel, which directly
18 overlooks the Whitehouse. And then also the development near
19 the Corcoran at 1700 New York Avenue, which directly overlooks
20 the Whitehouse grounds on the on the south side. It was the
21 same thing. They had no objection to what it was that we were
22 providing, continued to work with them, and if you change your
23 design they want you to go back and discuss that with them.

24 CHAIRPERSON HEATH: Okay. Okay. All right. This
25 was exactly what we were looking for, so thank you for getting

1 this approval from them. All right.

2 MR. GLASGOW: We appreciate OP's efforts on that.

3 CHAIRPERSON HEATH: Okay. All right. So as I've
4 said previously, you have the right to a full hearing but we
5 believe you've addressed our concerns, so if you're fine to
6 waive your right to a full hearing we'll proceed on.

7 MR. GLASGOW: We waive.

8 CHAIRPERSON HEATH: Okay. All right. Then we'll
9 turn to Office of Planning.

10 MS. VITALE: Good morning, Madam Chair, members of
11 the Board. The Office of Planning will rest on the record in
12 support of the application. As discussed the Secret Service
13 has weighed in with no objection and would request the
14 opportunity to review any future modifications if any are
15 proposed. I can answer any questions that you might have.

16 CHAIRPERSON HEATH: Okay. Now previously you stated
17 that your approval was subject to two conditions, and those had
18 to do with the regulation, which is not yet in place.

19 MS. VITALE: That's correct. We did recommend a
20 condition that relates to the applicant complying with the
21 affordable housing linkage. We continue to recommend this
22 condition as part of our approval; our recommendation for
23 approval. The applicant, you know, would be subject to this.
24 If they came in with an application later they would likely be
25 subject to this at the time that they pull building permits.

1 That's why we're recommending that this be included at this
2 time.

3 CHAIRPERSON HEATH: Okay. The only issue here is
4 that because they filed under the current law, not the new,
5 it's not -- we can't enforce the new law at this time because
6 first it's not at play yet, but also they filed under the
7 current. So I don't think it's appropriate for the Board to
8 make this a condition.

9 Is your approval contingent upon that, or are you --
10 would you still be okay to approve this even without the
11 affordable housing linkage?

12 MS. VITALE: Our recommendation for approval would be
13 contingent on complying with the affordable housing linkage
14 requirement. The applicant could postpone and reapply at a
15 later date. We would not recommend approval if that was not a
16 part of the approval.

17 CHAIRPERSON HEATH: Is that something that the
18 applicant has already agreed to in your discussions with the
19 Office of Planning? Where do you stand on this?

20 MR. GLASGOW: Yeah. We don't have any objection to
21 complying with the proposed regulations. And we may or may
22 not, depending upon the mathematics, right now we have a 1,400
23 square foot site up there. I think that's the habitable space
24 to be added.

25 MR. GOLDSTEIN: That's correct.

1 MR. GLASGOW: Right. And we may or may not reduce
2 that to 1,000, you know, square feet or less than 1,000 square
3 feet. We don't know yet. The MPAA is a nonprofit organization
4 and so this is not like a private office building having that
5 up there, so we may adjust our square footage and we would just
6 have to discuss that with the client. But we would comply with
7 whatever the regulations are. We would comply. We would
8 comply with.

9 [Pause.]

10 CHAIRPERSON HEATH: Okay. So we can make this a
11 condition under the current regulations. Under the new
12 regulations you'd also need to apply for a variance. And
13 you're not -- none of us are proposing to have you go down that
14 road. And so just to be clear, we'll make it a condition under
15 the current law.

16 MR. GLASGOW: And we would like to make sure that we
17 have -- because the condition that we would be looking for is
18 one that we would comply with whatever the new regulations
19 would require.

20 CHAIRPERSON HEATH: Okay. All right. Okay.

21 MS. GLAZIER: Madam Chair, I assume the applicant
22 means that that's as related to the linkage requirement.

23 CHAIRPERSON HEATH: Yes. Only.

24 MR. GLASGOW: Yes, as --

25 MS. GLAZIER: Only with respect to this.

1 MR. GLASGOW: Yes, as related to the linkage
2 requirements. That's correct.

3 CHAIRPERSON HEATH: Okay. Okay. All right. And I
4 assume that is satisfactory for Office of Planning, then?

5 MS. VITALE: Yes. Thank you.

6 CHAIRPERSON HEATH: All right. Okay. The other
7 condition from Office of Planning applied to the Secret
8 Service, which we've now gotten their approval letter, so I
9 think we're okay there.

10 Board, any other questions of Office of Planning?

11 MS. COHEN: No. I'm just happy with their ability to
12 approve this project based on the proposed linkage.

13 CHAIRPERSON HEATH: Applicant, any questions of
14 Office of Planning?

15 MR. GLASGOW: No questions.

16 CHAIRPERSON HEATH: Okay. Is there anyone here from
17 DDOT wishing to speak on this application? It appears there's
18 no one here, but we do have a letter recommending no objection.

19 We also have a letter from ANC 2B noting that they
20 approve this application six to zero. Is there anyone here
21 from ANC 2B?

22 [No audible response.]

23 CHAIRPERSON HEATH: All right. Is there anyone here
24 wishing to speak in support of this application? Anyone in
25 support? Anyone in opposition to this application? Anyone in

1 opposition?

2 [No audible response.]

3 CHAIRPERSON HEATH: It appears there's none. All
4 right. Then we'll turn back to the applicant for any
5 additional comments or closing that you might want to make.

6 MR. GLASGOW: No comments.

7 CHAIRPERSON HEATH: Okay. All right. Board, any
8 other discussion? I think I'm satisfied. All right. Then I
9 will move that we approve this request for variances and
10 special exception with the conditions offered by Office of
11 Planning. As already stated, this is being approved under the
12 current law and not under the new regulations. But with those
13 conditions applied.

14 MS. COHEN: Second.

15 CHAIRPERSON HEATH: The motion has been made and
16 seconded. Any further discussion?

17 [Vote taken.]

18 CHAIRPERSON HEATH: The motion carries.

19 MR. MOY: Staff would record the vote as three to
20 zero to two. This is on the motion that Chairperson Heath to
21 approve the application for the relief requested with the one
22 condition as cited by the Board. Seconded --

23 CHAIRPERSON HEATH: There are two.

24 MR. MOY: Two? There were two?

25 CHAIRPERSON HEATH: Actually. Well, I guess the

1 second was -- the second was met so --

2 MR. MOY: I thought -- that's right.

3 CHAIRPERSON HEATH: -- that's correct. There's one.

4 MR. MOY: Right. So with that one condition. And
5 seconding, Ms. Cohen, all support, Vice Chairperson Hill,
6 member not present, board seat vacant. Motion carries, Madam
7 Chair.

8 CHAIRPERSON HEATH: Okay. Summary order.

9 MR. MOY: Thank you.

10 CHAIRPERSON HEATH: Thank you.

11 MR. GLASGOW: Thank you.

12 MR. GOLDSTEIN: Thank you.

13 CHAIRPERSON HEATH: Are there any more matters coming
14 before the Board today?

15 MR. MOY: There is one more, which is the roll call
16 vote for the month of December.

17 CHAIRPERSON HEATH: Yes, you're right. All right.
18 So before we adjourn let's address that.

19 In accordance with Section 405C of the Open Meetings
20 Act of D.C., Official Code Section 2-575C, I move that the
21 Board of Zoning Adjustment hold closed meetings on the Mondays
22 of November 30th, December 7th, December 14th, and December
23 21st. These meetings start at 4:00 p.m. and are held for the
24 purpose of obtaining legal advice from our counsel and
25 deliberating upon, but not voting on the cases scheduled to be

1 publically heard or decided by the Board on the day after each
2 such closed meeting. Those cases are identified on the Board's
3 public meeting and hearing agendas for December 1st, December
4 8th, December 15th, and December 22nd.

5 A closed meeting for these purposes is permitted by
6 Sections 405(B)(4) and (B)(13) of the Act. Is there a second?

7 MS. COHEN: Second.

8 CHAIRPERSON HEATH: Mr. Moy, will you please take
9 roll on the vote for the motion?

10 MR. MOY: Yes. Thank you, Madam Chair.

11 [Roll call vote taken.]

12 MR. MOY: With board member not present today, board
13 seat vacant, still the motion carries, Madam Chair.

14 CHAIRPERSON HEATH: Okay. So then since the motion
15 is passed I'll request that the Office of Zoning provide notice
16 of these closed meetings in accordance with the Act.

17 Any other matters?

18 MR. MOY: That's it for me, Madam Chair.

19 CHAIRPERSON HEATH: Okay. Long day today.

20 MR. MOY: Yes, very. Happy Thanksgiving, by the way.

21 CHAIRPERSON HEATH: Happy Thanksgiving.

22 [Meeting adjourned at 11:28 a.m.]

23

24

25