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

PUBLIC HEARING OF THE BOARD OF ZONING ADJUSTMENT

9:53 a.m. to 3:56 p.m.  
Tuesday, April 19, 2016

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 Y. HEATH, Chairperson  
3 ANITA BUTANI-D'SOUZA, Vice Chair  
4 FREDERICK L. HILL, Board Member  
5 JEFFREY HINKLE, Board Member  
6 ROB MILLER, Board Member  
7 CLIFFORD MOY, BZA Secretary

8

9 Office of Attorney General

10 SHERRY GLAZER, Esq.

11

12 Office of Planning

13 MAXINE BROWN-ROBERTS  
14 BRANDICE ELLIOTT  
15 KAREN THOMAS  
16 ANNE FOTHERGILL  
17 STEVE COCHRAN

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	C O N T E N T S	
		PAGE
1		
2		
3		
4		
5	Introductory Remarks	4
6		
7	A.M. Session	
8	Application No. 18770B	6
9	Application No. 19205	11
10	Application No. 19229	15
11	Application No. 19148	19
12	Application No. 19246	22
13	Application No. 19173	32
14	Application No. 19233	35
15	P.M. Session	
16	Application No. 19173	73
17	Application No. 19237	175
18	Application No. 18983	198
19		
20	Conclusion of Meeting	247
21		
22		
23		
24		
25		

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

2 CHAIRPERSON HEATH: The hearing will please  
3 come to order. Good morning, ladies and gentlemen.  
4 We're located in the Jerrily R. Kress Memorial Hearing  
5 Room at 441 4th Street Northwest. Today's date is  
6 April the 19th, 2016, and we're here for the public  
7 meeting and hearings of the Board of Zoning Adjustment  
8 of the District of Columbia.

9 My name is Marnique Heath, Chairperson.  
10 Joining me today is Anita Butani-D'Souza, Vice Chair.  
11 Fred Hill, board member, Jeffrey Hinkle, also a board  
12 member. And Rob Miller, member of the Zoning  
13 Commission sitting in as a member of the Board today.

14 Please be advised that this proceeding is  
15 being recorded by a court reporter and is also being  
16 webcast live. Accordingly, we must ask you to refrain  
17 from any disruptive noises or actions while in the  
18 hearing room today. The Board's hearing procedures  
19 and how we will process applications can be found on  
20 the table by the back door.

21 All individuals wishing to testify today are  
22 going to need to do two things prior to testifying.  
23 The first is we'll need you to fill out two witness  
24 cards and give them to the court reporter seated to my  
25 right. The second is, you'll now need to stand and

1 take the oath as administered by the Board Secretary,  
2 Mr. Moy. Please stand.

3 MR. MOY: Good morning.

4 [Oath administered to the participants.]

5 MR. MOY: Ladies and gentlemen, you may  
6 consider yourselves under oath.

7 CHAIRPERSON HEATH: Thank you, and good  
8 morning, Mr. Moy.

9 MR. MOY: Good morning, Madam Chair, Members  
10 of the Board. It's Tuesday, for many different  
11 reasons.

12 For the record, an announcement on where we  
13 stand today on today's docket, Madam Chair. First,  
14 Application No. 18511A, A as in Alpha, of Alleyoop,  
15 LLC. has been rescheduled to May the 24th, 2016.

16 Application No. 19195 of Nash Street  
17 Investors, rescheduled to May 17th, 2016.

18 We have two cases that have been rescheduled  
19 to May 24th, 2016. These are cases 19244 of Club  
20 Monaco and 18511B of Alleyoop, LLC.

21 And Application No. 19247 of Karen Tramontano,  
22 I think that's how you pronounce it, rescheduled to  
23 May 24th, 2016.

24 And finally, three applications that have been  
25 withdrawn by the applicant, 19221, 19248, and 19199.

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1 And that's it for me, Madam Chair.

2 CHAIRPERSON HEATH: Okay. Thank you. So we  
3 have one meeting case on our decision docket today.  
4 Mr. Moy, if you are ready you can call that case.

5 MR. MOY: Yeah, we do. Thank you, Madam  
6 Chair. That would be for deliberation and action on  
7 Application No. 18770B of & Pizza. And let's see,  
8 there are a couple recent filings that are in your  
9 case folders, Madam Chair. And yeah, I'm going to  
10 leave it at that.

11 CHAIRPERSON HEATH: Okay. All right. So this  
12 minor modification is coming before us seeking to make  
13 some changes to the preexisting conditions. Section  
14 3129 allows for minor modifications, but specifically  
15 to plans. And these changes are largely related to  
16 the conditions as I've said. And so if the Board sees  
17 fit we'll need to waive the requirement that this be  
18 about -- that this minor modification be focused  
19 solely on plans because if we move forward with the  
20 understanding that they are making changes to  
21 something other than plans, then we need to have a  
22 full hearing. And I don't feel that it's necessary  
23 given the changes that they've recommended and all of  
24 the rationale behind that.

25 If the Board will recall, this -- the changes

1 to the modifications are a result of work by the  
2 applicant and the ANC to work through some issues that  
3 happened at the site of this & Pizza. And the ANC is  
4 very much in support of these conditions.

5 And so it's specifically modifying Condition  
6 No. 1, 3, 4, 7, and 11. And I can go through those in  
7 more detail. Let's see. Condition No. 1 states that  
8 the approval shall be for a period of five years  
9 rather than seven years as previously written from the  
10 original September 19th, 2014 date of the unmodified  
11 order. The change to Condition No. 3 is with respect  
12 to letter I under 3, and that is that the trash  
13 enclosure shall be used only for the storage of trash  
14 and recycling.

15 And Condition No. 7 -- or, I'm sorry,  
16 Condition No. 4 states that, "As specified in the  
17 Exhibits 7A through C, the applicant shall use a  
18 ventless oven system, install either a hood or exhaust  
19 grill over each oven stack, and remove all cooking  
20 exhaust through the specified duct work and pollution  
21 control unit described in Exhibit 12."

22 "The PCU will exhaust through the face of the  
23 building as specified in Exhibits 7A through C. The  
24 applicant shall maintain the systems in good working  
25 order and shall enter into a maintenance contract with

1 a service provider to, among other things, regularly  
2 clean the duct work and PCU and provide new or cleaned  
3 filters in order to ensure effective elimination of  
4 odors from the vented cooking exhaust for the duration  
5 of the time that the applicant operates at 405 7th  
6 Street Southeast."

7 Condition No. 5 as modified reads -- oh, okay.  
8 All right. So Condition No. 5, correct, is not in  
9 the ANC letter but the applicant has modified  
10 Condition No. 7 to read, "No vents shall be permitted  
11 on the roof or at the rear of the property with the  
12 exception of the bathroom exhaust vents."

13 Condition No. 7 as modified now reads, "As  
14 specified in Exhibits 7A through C, the HVAC unit at  
15 the rear of the property shall be replaced with a new  
16 HVAC unit located atop the trash enclosure. A mini  
17 split to cool the trash enclosure will also be  
18 installed atop the trash enclosure, and a cooler  
19 condenser shall be installed atop the dogleg roof.  
20 These mechanicals shall be sound-proofed as specified  
21 in Exhibits 7A through C to meet the standards  
22 employed by Art USA, or similar noise control product  
23 business, at 413 8th Street Southeast. No additional  
24 mechanical equipment shall be installed on either roof  
25 or at the rear of the property."

1           And the last modified condition, No. 11,  
2 reads, "The applicant shall appoint a designated  
3 individual member of its organization to ensure  
4 compliance with the provisions of this order."

5           And so those are the changes proposed. Does  
6 the Board first see fit to waive the provision that --  
7 under 3129? Okay.

8           MS. BUTANI-D'SOUZA: Yes.

9           CHAIRPERSON HEATH: Okay.

10          MS. BUTANI-D'SOUZA: It seems like the only  
11 difference between the ANC and the proposed order from  
12 the applicant pertains to the bathroom exhaust vents  
13 which appears to me to be a relatively minor  
14 difference.

15          CHAIRPERSON HEATH: Reasonable.

16          MS. BUTANI-D'SOUZA: Yeah, seems very  
17 reasonable.

18          CHAIRPERSON HEATH: Okay. All right. Okay.  
19 So, then unless the Board has any other issues with  
20 this I would move that we accept the request for minor  
21 modification for Application No. 18770B of & Pizza  
22 with the revised conditions as I've read.

23          MS. BUTANI-D'SOUZA: Seconded.

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

1 [Vote taken.]

2 CHAIRPERSON HEATH: The motion carries.

3 MR. MOY: Staff would record the vote as five  
4 to zero to zero. This is on the motion of Chairperson  
5 Heath to approve the request for a modification with  
6 the revised conditions as cited. Seconding the motion  
7 Vice Chair Butani, also in support, Mr. Hill, Mr.  
8 Hinkle, and Mr. Robert Miller. The motion carries,  
9 Madam Chair.

10 CHAIRPERSON HEATH: Thank you. Summary.

11 MR. MOY: Thank you.

12 CHAIRPERSON HEATH: So, let's see where we  
13 are. So we're going to go out of order today in order  
14 to take care of some cases that are fairly straight  
15 forward or have preliminary matters that we need to  
16 address prior to moving forward. And so our first  
17 case on the hearing docket will be Case No. 19205.  
18 That's William McGrath and Susan Shen.

19 Our second will be 19229, application of FTOP,  
20 LLC. Our third will be Case No. 19148. That's Park  
21 View Condominium Ventures. Our fourth will be  
22 Application No. 19246, application of Stoddard Baptist  
23 Global Care. Number 5 will be Application No. 19173,  
24 Equity Trust Company. Six will be 19223 of 824  
25 Varnum, LLC. Seven will be 19237 of Wacap, LLC. And

1 eight will be Application No. 18983 of Carrie and  
2 Phong Trieu.

3 CHAIRPERSON HEATH: So, Mr. Moy, if you could  
4 call our first case according to that order?

5 MR. MOY: Yes. Thank you, Madam Chair, with  
6 pleasure. That would be Application No. 19205 of  
7 William McGrath and Susan Shen as captioned and  
8 advertised for a special exception relief under  
9 Section 223, not meeting rear yard requirements under  
10 Section 404, to construct a rear deck to an existing  
11 one-family dwelling, R-3 at 1541 44th Street  
12 Northwest, Square 1327, Lot 40. Madam Chair, a  
13 request for party status as well as motions the Board  
14 should take up in preliminary matter.

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

17 MR. BROWN: I'm Patrick Brown from Greenstein,  
18 DeLorme, and Luchs. I'm here on behalf of Ms.  
19 Shonber, who is the adjoining property owner at 1539  
20 44th Street.

21 CHAIRPERSON HEATH: Okay.

22 MR. MAGRATH: I'm William Magrath. I live at  
23 1541 44th Street.

24 MR. SZYMKOWICZ: J.P. Symkowicz. I'm the  
25 adjoining property owner at 1545 44th Street. 1543,

1 rather.

2 MR. DeWITTE: I'm Conrad DeWitte. I'm the ANC  
3 Commissioner for ANC 3D-09, which this property is  
4 located in.

5 CHAIRPERSON HEATH: Okay. All right. We  
6 called this case up first because we do have a  
7 preliminary matter. We've received a request to  
8 postpone to allow additional time for the applicant  
9 and the opposition to work through issues. I  
10 understand that there is -- you're both in agreement  
11 about allowing extra time. Is that correct?

12 MR. BROWN: There was some confusion. We are  
13 now, if I could -- and please interrupt me if I  
14 misspeak, but we've talked this morning and we've  
15 agreed on a date for a postponed hearing, May 24th, at  
16 the Board's convenience.

17 Also, I think more importantly in the context  
18 of this case, we've agreed to meet a week from  
19 Thursday at the site to actually dig into some of the  
20 issues of disagreement and I think that's productive  
21 use of all our time. So I think the continuance,  
22 which I asked for based on my client's specific needs,  
23 but I think we have an opportunity here to put this  
24 case in a better posture where we don't have two  
25 opponents fighting with a neighbor.

1 CHAIRPERSON HEATH: Okay. All right. That's  
2 great. Sure.

3 MS. BUTANI-D'SOUZA: Mr. Brown, if I may make  
4 a request in the future that if you do have a  
5 postponement request that you submit it prior to the  
6 day before the hearing because we have all spent many  
7 hours over the weekend preparing for this case. So to  
8 hear on Monday that you're now requesting that it be  
9 postponed is frustrating for those of us on the Board  
10 who do prepare diligently. So in the future we would  
11 request that you -- obviously, I don't think that we  
12 can require it, but just as a courtesy would request  
13 that you make those requests by Thursday.

14 MR. BROWN: And I understand. The  
15 circumstances were such, one, it was a medical  
16 emergency that came up and --

17 MS. BUTANI-D'SOUZA: I read your letter.

18 MR. BROWN: Yeah. And unfortunately D.C. was  
19 closed on Friday, so that notice didn't arrive until  
20 the next business day. But I understand and your  
21 point is well taken, and you'll get used to seeing me  
22 and I'll try not to let it happen again.

23 MS. BUTANI-D'SOUZA: I figured I'd get used to  
24 seeing you. That's why I'm making the request now.

25 MR. BROWN: Yeah. Appreciate it. Welcome, by

1 the way.

2 MS. BUTANI-D'SOUZA: Thank you.

3 CHAIRPERSON HEATH: All right. So May 24th --

4 MR. BROWN: Yes.

5 CHAIRPERSON HEATH: -- is the date you're  
6 requesting. Does that date look okay for the Board,  
7 Mr. Moy?

8 MR. MOY: Yes. According to the docket the  
9 Board can accommodate.

10 CHAIRPERSON HEATH: Okay. All right. So we  
11 will put this on for May 24th, then. Per your  
12 request.

13 MR. BROWN: Thank you very much.

14 CHAIRPERSON HEATH: All right.

15 MR. BROWN: Thank you.

16 CHAIRPERSON HEATH: Thank you.

17 MS. GLAZER: Madam Chair.

18 CHAIRPERSON HEATH: Yes.

19 MS. GLAZER: Is the Board going to entertain  
20 the request for party status before the adjourn date?

21 CHAIRPERSON HEATH: Not before.

22 MS. GLAZER: Okay.

23 CHAIRPERSON HEATH: We'll take this up at the  
24 May 24th hearing. Thank you.

25 [Pause.]

1 CHAIRPERSON HEATH: All right. Mr. Moy, you  
2 can call our next case.

3 MR. MOY: Yes. That would be Application No.  
4 19229 of FOTP, LLC. Let me reread the caption again  
5 for the record as amended, request for variances from  
6 the court requirement, 776, nonconforming structure  
7 requirements, 2001.3, special exception from the  
8 penthouse setback requirements, 411.18, 771.1, and  
9 774.2, and the minimum rear yard requirements, 774.1.  
10 This is for an addition to accommodate the  
11 establishment of a museum and associated offices and  
12 conference rooms, C-4 district, 1503 through 1505  
13 Pennsylvania Avenue Northwest, Square 221, Lot 810.

14 As the Board is aware, at its last hearing the  
15 applicant agreed to add variance relief to the court,  
16 776. There is a revised self-certification on the  
17 record and also a reminder that this was rescheduled  
18 for reposting to that affect. And that's in your  
19 record, Madam Chair.

20 CHAIRPERSON HEATH: Okay. Thank you. Good  
21 morning. Would you all please introduce yourselves?

22 MR. GAON: Joe Gaon, Holland and Knight.

23 MR. GLASGOW: Norman M. Glasgow, Jr., Holland  
24 and Knight.

25 MR. DUNMIRE: Kevin Dunmire with Akridge.

1 MR. GILLIAND: Mark Gilliand with Shalom  
2 Baranes Associates.

3 CHAIRPERSON HEATH: Thank you. We appreciate  
4 that you all took the time required to revise your  
5 application and repost. And so I think we're not  
6 going to -- we're likely not going to meet a  
7 presentation on this today, but we did want to call  
8 you back and hear if there are any witnesses now that  
9 you have gone through the process of reposting; see if  
10 there's anybody here who wants to speak either in  
11 favor or in opposition to the application. I think we  
12 heard from one of the H Street Condo Association  
13 members at the last hearing. We heard her concerns  
14 and wanted to see if there is anyone else.

15 Also, I'm not sure if Office of Planning has  
16 anything further to add based on the amended relief,  
17 but if you do, we'll give you the opportunity to  
18 speak. It looks like Office of Planning doesn't have  
19 anything further to add, so is there anybody here  
20 wishing to speak in support of this application?  
21 Anyone in support?

22 Anyone here wishing to speak in opposition?  
23 No opposition? All right.

24 So, then normally we would ask you for any  
25 closing statement at the conclusion, but I don't know

1 if it's necessary for you to make any --

2 MR. GLASGOW: I don't believe so.

3 CHAIRPERSON HEATH: Okay.

4 MR. GLASGOW: Unless the Chair desires  
5 something. We did make our submission on April 1st  
6 and I think that went through pretty clearly how it is  
7 that we meet the burden of proof --

8 CHAIRPERSON HEATH: Sure.

9 MR. GLASGOW: -- for the court variance.

10 CHAIRPERSON HEATH: Okay. All right. And  
11 Office of Planning had noted that they supported that  
12 additional relief. So, is the Board ready to  
13 deliberate on this case then? All right. Then I  
14 don't have any issues with this application and I  
15 appreciate that the applicant amended the application  
16 and reposted. We don't have any opposition to it  
17 either from Office of Planning, the ANC, or Department  
18 of Transportation. So I would move that we approve  
19 the request for variance and special exceptions to  
20 allow the addition -- to allow an addition to  
21 accommodate the establishment of a museum and  
22 associated offices and conference rooms at 1503 to  
23 1505 Pennsylvania Avenue Northwest.

24 MR. HILL: I second.

25 CHAIRPERSON HEATH: The motion has been made

1 and seconded. Any further discussion?

2 [Vote taken.]

3 CHAIRPERSON HEATH: The motion carries. Thank  
4 you.

5 MR. GLASGOW: Summary order, Madam Chair.

6 CHAIRPERSON HEATH: We will, absolutely.  
7 Sure.

8 MR. GLASGOW: Thank you.

9 MR. MOY: Staff would record the vote as five  
10 to zero to zero. This is on the motion of Chairperson  
11 Heath. Also in support, or rather seconding the  
12 motion, Vice Chair Butani --

13 MR. HINKLE: I did not participate.

14 MR. MOY: Did not participate. Thank you.

15 MR. HINKLE: Sorry.

16 MR. MOY: So then the vote count is four to  
17 zero to one on the motion of Chair Heath. Seconded  
18 the --

19 MR. HILL: I seconded.

20 MR. MOY: Yeah. I'm sorry, Chair Heath.

21 CHAIRPERSON HEATH: Right.

22 MR. MOY: Yeah.

23 CHAIRPERSON HEATH: That's right.

24 MR. MOY: And seconded is Mr. Hill. Also in  
25 support, Vice Chair Butani and Mr. Robert Miller, and

1 Mr. Hinkle not participating, not voting. So the  
2 final vote is four to zero to one. Summary order.

3 CHAIRPERSON HEATH: Yes. Thank you, Mr. Moy.  
4 You can call our next case.

5 MR. MOY: Okay. Application No. 19148 of Park  
6 View Condominium Ventures as amended and it's  
7 captioned and relief now for variance relief from the  
8 lot occupancy requirements under 403.2. This is for a  
9 12-unit apartment building in a R-4 district, premises  
10 525 Park Road Northwest, Square 3037, Lot 55. And  
11 this was last heard April 12th, and reopened and  
12 continued to today, Madam Chair.

13 CHAIRPERSON HEATH: Thank you, Mr. Moy. If  
14 you could introduce yourself, please?

15 MR. SULLIVAN: Good morning, Madam Chair,  
16 Members of the Board. My name is Marty Sullivan with  
17 Sullivan and Barros.

18 CHAIRPERSON HEATH: Okay. Thank you. And as  
19 Mr. Moy pointed out, we heard this case. It's before  
20 us many times prior to last week, and so our decision  
21 was made last week and then we rescinded it in order  
22 to make sure that we heard from any witnesses wanting  
23 to speak in support or opposition. So, we wanted to  
24 call you back to allow witnesses. And we announced  
25 this at last week's hearing, that this was going to

1 happen in case anyone wanted to be here for this.

2           So, at this time I will ask if there's anyone  
3 here wishing to speak in support of this application.

4   Anyone in support? Anyone here wishing to speak in  
5 opposition to this application? No opposition. All  
6 right. Then we always like to make sure that we give  
7 the community its opportunity to speak on behalf of  
8 applications. And so we wanted to make sure that  
9 procedurally this was addressed. So we appreciate you  
10 coming back to allow the Board to do this.

11           So then I think if there is no one that we'll  
12 hear from today then we'll again conclude the hearing  
13 and is the Board once again ready to deliberate on  
14 this?

15           MR. HILL: Yeah, Madam Chair. I don't have  
16 any difference of opinion from what I had last week.  
17 And so I'd go ahead and make a motion as amended  
18 pursuant to 11-DCMR-3103.2 for variances from lot  
19 occupancy requirements under 403.2 for the expansion  
20 of an existing 12-unit apartment building in the R-4  
21 district at premises 525 Park Road Northwest, Square  
22 3037, Lot 55.

23           CHAIRPERSON HEATH: Second. The motion has  
24 been made and seconded.

25           MR. MILLER: Yeah. I just wanted to also

1 reiterate my previously support for this as I did last  
2 week, and I think the project will be an improvement  
3 to the neighborhood, and I appreciate the Office of  
4 Planning and the applicant's representative working  
5 together to meet the variance test. We finally got  
6 there.

7 CHAIRPERSON HEATH: Uh-huh. All right.

8 [Vote taken.]

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

11 MR. MOY: Staff would give a final vote of  
12 five to zero to zero. This is on -- now who is  
13 seconding the motion?

14 CHAIRPERSON HEATH: I seconded.

15 MR. MOY: You seconded it? And, okay. I'm  
16 sorry.

17 CHAIRPERSON HEATH: Fred made the motion.

18 MR. MOY: Okay. This is on the motion of Mr.  
19 Hill. Seconding the motion, Chair Heath. Also in  
20 support, Mr. Robert Miller, Vice Chair Butani, and Mr.  
21 Hinkle. Five to zero to zero.

22 CHAIRPERSON HEATH: All right.

23 MR. MOY: Summary order?

24 CHAIRPERSON HEATH: Yes, please. Summary.  
25 Yes, we are. All right. Mr. Moy, you can call our

1 next case.

2 MR. MOY: All right. To the table, applicants  
3 to Application No. 19246 of Stoddard Baptist Global  
4 Care at Washington Center for Aging Services,  
5 captioned and advertised for a special exception  
6 relief from the elderly development center  
7 requirements under Section 205. This is to operate an  
8 elderly development center for 55 adults and 10 staff,  
9 R-1-B district, 2112 Varnum Street Northeast, Square  
10 4233, Lot 11.

11 [Pause.]

12 CHAIRPERSON HEATH: If you could -- you may  
13 not need to worry about all of those. If you want to  
14 just put them aside for now and if we need them you  
15 can come back to them?

16 UNIDENTIFIED SPEAKER: [Speaking off mic.]

17 CHAIRPERSON HEATH: Sure. That's fine. You  
18 can leave those that are up. Once you're seated,  
19 please introduce yourselves.

20 Make sure your microphone is on.

21 MR. JOHNSON: Thank you. Madam Chair and  
22 Members of the Board, my name is Edward M. Johnson  
23 with Edward M. Johnson and Associates, P.C. I'm  
24 representing Stoddard Baptist Global Care at  
25 Washington Center for Aging Services.

1 MS. SINGLETON: Good morning, Chair and  
2 Members of the Board. My name is Valencia Singleton  
3 and I am the program director for the adult daycare  
4 under Stoddard Baptist Global Care.

5 CHAIRPERSON HEATH: Okay. Thank you. So the  
6 Board reviewed the application based on the  
7 information was in the record on file. Is there  
8 anything different in this report that you've just  
9 given us today?

10 MR. JOHNSON: The only thing I'd like to add  
11 is we received a letter from ANC 5B.

12 CHAIRPERSON HEATH: We saw that.

13 MR. JOHNSON: That supports the application.  
14 We also received a letter from the Queens Chapel Civic  
15 Association, also supporting the application.  
16 Presentations were made to ANC 5B and 5B-01, as well  
17 as the Queens Chapel Civic Association.

18 CHAIRPERSON HEATH: Okay.

19 MR. JOHNSON: So beyond that there's nothing  
20 to be added to.

21 CHAIRPERSON HEATH: So nothing in this packet  
22 is new?

23 MR. JOHNSON: Only the letter from the ANC.

24 CHAIRPERSON HEATH: Oh, okay.

25 MR. JOHNSON: That's it.

1 CHAIRPERSON HEATH: Understood.

2 MR. JOHNSON: The other documentation in the  
3 package is simply extracts from the formal BZA  
4 application.

5 CHAIRPERSON HEATH: Okay. All right. All  
6 right. Okay. Yes, so we do have -- we actually did  
7 receive, in the record, in the electronic record, the  
8 letter from Ms. Gayle Hall-Carley.

9 MR. JOHNSON: I saw it on the record this  
10 morning. Right.

11 CHAIRPERSON HEATH: Right. And from Mr.  
12 Timothy Thomas.

13 MR. JOHNSON: Right.

14 CHAIRPERSON HEATH: So we appreciate you  
15 getting those letters.

16 MR. JOHNSON: Thank you.

17 CHAIRPERSON HEATH: It was our understanding  
18 that you met with the ANC, but prior to this we didn't  
19 have anything.

20 MR. JOHNSON: Right. Several weeks ago, as a  
21 matter of fact. And we've met twice with the Queens  
22 Chapel Civic Association, several weeks ago.

23 CHAIRPERSON HEATH: Okay. And you're aware of  
24 the ANC's conditions, that they've recommended, first  
25 that the hours of operation shall be from 8:00 to

1 4:30, 8:00 a.m. to 4:30 p.m., that the number of  
2 adults enrolled shall not exceed 55, of course. And  
3 the number of staff shall not exceed 11.

4 MR. JOHNSON: Yes.

5 CHAIRPERSON HEATH: And you have no issues  
6 with any of those?

7 MR. JOHNSON: None. None whatsoever.

8 CHAIRPERSON HEATH: Those conditions. Okay.  
9 All right. All right.

10 Do any other board members have any questions?

11 MS. BUTANI-D'SOUZA: I'd just like to note  
12 that we appreciate you working closely with the ANC  
13 and the Queens Chapel Civic Association to bring them  
14 on board in support of this application.

15 MR. JOHNSON: Thank you. Thank you very much.  
16 We did as well, communication very clearly with the  
17 Office of Planning, Department of Transportation,  
18 Human Services, Office of Aging.

19 As a matter of fact, one of the things we did  
20 was to deliver a detailed summary of the intended use  
21 and the rationale for requesting the approval.

22 MS. BUTANI-D'SOUZA: Thank you.

23 MR. JOHNSON: To all of the agencies beyond  
24 the submission to the BZA.

25 CHAIRPERSON HEATH: Okay.

1 MS. BUTANI-D'SOUZA: Thank you.

2 CHAIRPERSON HEATH: Any other board members  
3 have questions? Go ahead.

4 MR. MILLER: Thank you, Madam Chair. I also  
5 appreciate the outreach you all did with the community  
6 and the Office of Planning and the agencies that you  
7 just mentioned. So you do have support of the  
8 Department of Health. You need support of -- or  
9 you're going through the process of the licensing  
10 process. Can you just briefly say where that is?

11 MR. JOHNSON: Let me have my client address  
12 the issue of licensing.

13 MS. SINGLETON: We will be -- it's not  
14 licenses for daycares, but we will have to have an  
15 inspection by Department of Healthcare finance, moving  
16 forward with the program.

17 MR. MILLER: And you expect that to happen in  
18 fairly short order or --

19 MS. SINGLETON: Yes. We have to first receive  
20 the certificate of occupancy to move into the new  
21 location. And then we have to submit our application  
22 to Department of Healthcare and Finance and then they  
23 will schedule a date to come out and start their 45-  
24 day inspection.

25 MR. MILLER: Thank you.

1           CHAIRPERSON HEATH: Okay. If no other  
2 questions from the Board then we're not going to need  
3 a full presentation from you. But we will -- that  
4 happens on occasion when we have applications where we  
5 feel that we have all the information that we need.  
6 We may come back to you with questions.

7           MR. JOHNSON: We tried to be very thorough in  
8 our responses to all of the issues and the guidelines  
9 required for --

10          CHAIRPERSON HEATH: We appreciate that.

11          MR. JOHNSON: -- submission and approval.

12          CHAIRPERSON HEATH: We appreciate that. The  
13 Board spends a lot of time going through the documents  
14 that are in the record, and we appreciate when people  
15 submit their information on time and it allows us to  
16 be thorough with our reviews prior to today. So, then  
17 if you're okay with us proceeding on we will hear from  
18 Office of Planning at this time.

19          MR. JOHNSON: Sure. Absolutely.

20          CHAIRPERSON HEATH: Okay.

21          MS. BROWN-ROBERTS: Good morning, Madam Chair  
22 and Members of the BZA. We stand in support of the  
23 application as stated in our report, and we stand on  
24 the record today. Thank you.

25          CHAIRPERSON HEATH: Thank you. All right.

1 Board, any questions of Office of Planning?

2 Applicant, any questions of Office of Planning?

3 MR. JOHNSON: No.

4 CHAIRPERSON HEATH: You're obviously working  
5 well together, and you're in agreement on this. Okay.  
6 All right.

7 We also, as you indicated, we know you've done  
8 work with Department of Transportation. We have a  
9 letter of no objection from Department of  
10 Transportation. And although we do have a letter from  
11 a single-member district commissioner we don't have a  
12 letter from the full ANC, which we do give great  
13 weight. But we do acknowledge that we have the letter  
14 from Ms. Gayle Hall-Carley that was --

15 MR. JOHNSON: The presentation was made to  
16 both.

17 CHAIRPERSON HEATH: Okay.

18 MR. JOHNSON: To Ms. Ursula Higgins, who is  
19 Chair of 5B. And Ms. Gayle Carley, who is chair of  
20 5B-01.

21 CHAIRPERSON HEATH: Right.

22 MR. JOHNSON: So Ms. Higgins authorized Ms.  
23 Carley to write the letter.

24 CHAIRPERSON HEATH: Okay. All right. Thank  
25 you for clarifying.

1 MR. JOHNSON: Sure.

2 CHAIRPERSON HEATH: All right. Okay. And we  
3 also have the letter of support from Queens Chapel  
4 Civic Association as we've noticed, or as we've noted  
5 previously. Is there anyone here wishing to speak in  
6 support of this application? Please come forward.

7 If you could introduce yourself, we'll give  
8 you three minutes to make your presentation.

9 MR. BARBER: I won't need it. Thank you.  
10 Good morning. My name is Charles Barber. I am the  
11 Clerk of the Session on Northeastern Presbyterian  
12 Church. The church, of course, is the owner of the  
13 facility in which Stoddard would be located. Under  
14 our church policy the session is the elected member.  
15 It's like a board, it's authorized to make decisions.  
16 And I'm authorized to speak on behalf of the session.

17 While the session has not made a final vote  
18 we're fully supportive of this application. We think  
19 there's some important synergies that the church could  
20 realize with the adult daycare center. We're looking  
21 forward to working with them closely, so I just want  
22 to extend our support.

23 CHAIRPERSON HEATH: Okay.

24 MR. BARBER: Thank you.

25 CHAIRPERSON HEATH: Thank you. We appreciate

1 you coming down to speak in support.

2           Anyone else here wishing to speak in support  
3 of this application? Anyone here wishing to speak in  
4 opposition? Any opposition?

5           All right. Then we would normally turn back  
6 to you for any closing or rebuttal. There's no need  
7 for rebuttal, but -- and I don't know that there's any  
8 need for a closing. We don't want you to talk  
9 yourself into any trouble because it looks like --

10           MR. JOHNSON: No, I'd like to --

11           CHAIRPERSON HEATH: -- things are moving along  
12 well.

13           MR. JOHNSON: I'd like to make a couple of  
14 comments.

15           CHAIRPERSON HEATH: Sure.

16           MR. JOHNSON: This is probably one of the few  
17 projects where the use of this existing building will  
18 not enhance any traffic. It will not enhance any  
19 negative impact on the adjacent neighbors. It will be  
20 developed, obviously, in compatibility with, and in  
21 harmony with, the adjacent residences and facilities,  
22 and single-family homes.

23           And we believe that this will make a  
24 contribution to the Nation's Capital in terms of being  
25 developed to satisfy the peace and quality for the

1 community. Therefore, we'd like a bench decision.

2 CHAIRPERSON HEATH: Okay. Thank you so much.

3 MR. JOHNSON: Thank you.

4 CHAIRPERSON HEATH: So that will conclude the  
5 hearing. Is the Board ready to deliberate on this  
6 application? All right. Do you want to make a  
7 motion?

8 MS. BUTANI-D'SOUZA: Sure. So, pursuant to  
9 11-DCMR, Section 3104.1, for a special exception from  
10 the elderly development center requirement --

11 CHAIRPERSON HEATH: You should call it adult.

12 MS. BUTANI-D'SOUZA: I'm sorry, the adult --  
13 from the adult development center requirements under  
14 Section 205, to operate an elderly development center  
15 for 55 adults, I believe it's 11 staff members.

16 CHAIRPERSON HEATH: It is 11. Based on the  
17 condition from Office of Planning, it's 11.

18 MS. BUTANI-D'SOUZA: Eleven --

19 CHAIRPERSON HEATH: Shall not exceed.

20 MS. BUTANI-D'SOUZA: Shall not exceed 11 staff  
21 in the R-1-B district at premises 2112 Varnum Street  
22 Northeast, Square 4233, Lot 11. A motion in favor of  
23 this.

24 MR. HILL: Second.

25 CHAIRPERSON HEATH: So the motion has been

1 made and seconded. Any further discussion?

2 [Vote taken.]

3 CHAIRPERSON HEATH: The motion carries. Thank  
4 you.

5 MS. SINGLETON: Thank you.

6 MR. JOHNSON: Thank you.

7 MR. MOY: Staff would record the vote as five  
8 to zero to zero. This is on the motion of Vice Chair  
9 Butani and for the relief being requested, 55 adults,  
10 11 staff, and these are shown on revised plans under  
11 Exhibit 35. Seconding the motion, Mr. Hill. Also in  
12 support, Mr. Miller, Chair Heath, and Mr. Hinkle.

13 CHAIRPERSON HEATH: All right. Summary.

14 MR. MOY: Thank you.

15 CHAIRPERSON HEATH: Okay.

16 MR. MOY: All right. Next on the docket,  
17 parties to the table to Application No. 19173 of  
18 Equity Trust Company, Custodian FBO, as advertised and  
19 captioned for a special exception relief on the  
20 conversion to apartment house requirements under  
21 Section 336. This is for the enlargement of a pre-  
22 1958 residential building into a three-unit apartment  
23 house, R-4 district, 1264 Holbrook Terrace Northeast,  
24 Square 4055, Lot 840.

25 And there, I believe, is a party status

1 request, Madam Chair.

2 CHAIRPERSON HEATH: Are you requesting party  
3 status?

4 MS. SHROPSHIRE: I'm the ANC Commissioner.

5 CHAIRPERSON HEATH: Oh, okay. All right.  
6 Okay. I think so. All right. If you could introduce  
7 yourselves, please?

8 MR. SULLIVAN: Good morning, Madam Chair and  
9 Members of the Board. My name is Marty Sullivan with  
10 Sullivan and Barros, here on behalf of the applicant.

11 MR. ALI: Good morning, Members. I'm Ramy Ali  
12 from RAM Design, the project architect.

13 CHAIRPERSON HEATH: I don't know if your mic  
14 was fully on.

15 MR. ALI: Sorry.

16 CHAIRPERSON HEATH: There you go.

17 MR. ALI: Ramy Ali from RAM Design, the  
18 project architect.

19 MS. DUBROVINA: Good morning. Irene  
20 Dubrovina, the applicant.

21 MS. SHROPSHIRE: Good morning. Keisha  
22 Shropshire, ANC Commissioner for single-member  
23 district 5D-02, representing ANC Commission 5D.

24 CHAIRPERSON HEATH: Okay. And as Mr. Moy  
25 pointed out, we had a party status request in

1 opposition from the owner at 1274 Holbrook Terrace.  
2 Is that person here? It appears they're not. Have  
3 you had further conversations with them?

4 MR. SULLIVAN: We've had extensive  
5 conversations --

6 CHAIRPERSON HEATH: Okay.

7 MR. SULLIVAN: -- with Commissioner Shropshire  
8 and the community, and in particular, the party  
9 applicant. I don't know. I don't know in particular  
10 why she's not here.

11 CHAIRPERSON HEATH: Okay. Okay. I'm not sure  
12 if she's planning on coming, and I don't know if we  
13 want to give her a little bit more time today, because  
14 without her being here we can't give her party status.  
15 So --

16 MS. SHROPSHIRE: I can call and see if she  
17 plans to come.

18 CHAIRPERSON HEATH: Okay. Why don't we call a  
19 few more cases, give her a little bit more time, and  
20 we'll call you back later on today. We don't have  
21 that many cases left on the docket, so it won't be  
22 that long from now, I don't anticipate.

23 If you could give her a call and then let the  
24 Board Secretary know the status, that would be great.

25 We'll call you back.

1           MR. MOY: All right, Madam Chair, just very  
2 quickly for the staff's edification, on the last case  
3 that the Board voted on, which was the Stoddard  
4 Baptist Church, 19246, in the motion did that include  
5 the three conditions that was in the -- I just want to  
6 state that for the record.

7           CHAIRPERSON HEATH: Yes.

8           MR. MOY: So that we're clear on that.

9           CHAIRPERSON HEATH: That did include the --

10          MR. MOY: Very good.

11          CHAIRPERSON HEATH: -- three conditions from  
12 Office of Planning.

13          MR. MOY: Perfect. Thank you. So with that  
14 then, the case we have before the Board is 19233,  
15 right? Of 824 Varnum, LLC. This is the special  
16 exception from the use requirements under 336 to  
17 convert an existing two-story dwelling. This is to a  
18 three-unit apartment house in an R-4 district at 824  
19 Varnum Street Northwest, Square 3024, Lot 50.

20          CHAIRPERSON HEATH: Okay. All of the parties  
21 to this application please come forward. And once  
22 you're all settled, you can introduce yourselves.

23          MS. GIODANO: Yes. My name is Cynthia  
24 Giodano. I'm with Saul Ewing Law Firm.

25          MR. SAMPSON: My name is James Sampson. I'm

1 the managing member of the LLC.

2 MR. ADE: My name is Jimi Ade.

3 CHAIRPERSON HEATH: Your mic is not on.

4 MR. ADE: I'm sorry. My name is Jimi Ade.  
5 I'm the architect on the project.

6 MR. HAYWORTH: I'm John Paul Hayworth. I'm  
7 ANC Commissioner for 4C-07.

8 CHAIRPERSON HEATH: Okay. All right. And we  
9 initially didn't have a letter from you but we did  
10 just receive that.

11 MR. HAYWORTH: There actually are -- there is  
12 an ANC report and then there is a letter in opposition  
13 from one of the commissioners as well.

14 CHAIRPERSON HEATH: Okay. All right. So  
15 we'll hear more on that in just a few minutes.

16 MS. GIODANO: And just for clarification, Mr.  
17 Hayworth, he is the appointed person to represent the  
18 ANC.

19 CHAIRPERSON HEATH: Okay. All right. Okay.  
20 Okay. All right. Okay. Does the Board have any  
21 questions of this applicant? Go ahead.

22 MS. BUTANI-D'SOUZA: Okay. So it seems like  
23 the ANC Commissioner stood in opposition because of a  
24 tremendous number of similar conversions happening in  
25 this neighborhood. Am I reading the right -- this is

1 the right case?

2 CHAIRPERSON HEATH: I think so. I think what  
3 might be helpful is if we hear from the ANC  
4 representative who is here, and then we can hear from  
5 the opposition.

6 MS. BUTANI-D'SOUZA: That would be helpful.

7 CHAIRPERSON HEATH: Who is also here today.  
8 So I think that would be helpful for the Board so we  
9 clearly understand the positions of both parties.

10 So, we normally come to the ANC later in our  
11 hearing procedures, but I think based on the issues  
12 here we'd like to hear from you now.

13 MR. HAYWORTH: Sure. The ANC did vote in  
14 support with a vote of five/four. So it was a very  
15 close vote. There is both support and opposition  
16 among neighbors in the area. We did have a community  
17 meeting to discuss the project.

18 The property itself was in significant  
19 disrepair and was used for illegal activities for a  
20 number of years, and the developer has done a lot to  
21 ensure that that does not continue in the interim  
22 between the potential to get the special exception.

23 There were some significant -- what I view as  
24 significant errors in the OP report. Some of those  
25 were brought to the attention and have been changed.

1 Some have not yet. Those are all listed, I believe,  
2 in the opposition letter. And Commissioner Uqdah can  
3 certain speak to his -- that position much better than  
4 I can. But I can say that the vote, like I said, was  
5 five-four, and there is a significant concern on the  
6 ANC in general about the number of projects coming in  
7 to the area. I voted in support of this particular  
8 project because I do believe it is -- it will be a  
9 benefit from the current existing structure.

10 CHAIRPERSON HEATH: Okay. Go ahead.

11 MR. HILL: Thank you. Do the other  
12 commissioners that voted in support, are they kind of  
13 along your lines, that's why they lean that way, they  
14 thought that the property -- because I've seen the  
15 photographs and the property looks like, you know, I'd  
16 like it to be changed if I lived in that neighborhood.  
17 Is that the general --

18 MR. HAYWORTH: I can't speak to their  
19 reasonings. We didn't have, actually, a whole lot of  
20 time for discussion. We had a significantly long  
21 agenda and so there wasn't a whole lot of time to  
22 discuss the reasonings for votes. I can only speak to  
23 my own.

24 MR. HILL: Okay. So I'm just saying, you like  
25 the design of the property, though, and that's why

1 you're going with it. You thought that --

2 MR. HAYWORTH: I think the design of the  
3 property fits in with the neighborhood. They're not  
4 changing the front line of the building, which is very  
5 important to me. They're also doing a lot to ensure  
6 that there isn't a whole lot of shade effect on  
7 neighboring properties. And they're doing their best,  
8 I think, to build units that are designed much more  
9 for families and for people who want to be in the  
10 neighborhood for a while, rather than smaller units  
11 that could be, you know, rented out quickly.

12 MR. HILL: Have there been a lot of  
13 conversions in that block, or in that -- right in that  
14 area?

15 MR. HAYWORTH: Quite a few. The OP report  
16 only notes one, but there's actually three within like  
17 three doors of each other. There's a number of  
18 conversions directly across the street. I actually  
19 live just around the block and my entire block is now,  
20 has been converted, except for two houses. So there's  
21 a significant number of these conversions in the area.

22 MR. HILL: And those conversions that did take  
23 place, are they kind of in line with the character of  
24 the neighborhood, or they seem --

25 MR. HAYWORTH: Some are. Some are not.

1 MR. HILL: Okay. Thanks.

2 [Discussion off the record.]

3 CHAIRPERSON HEATH: So I'm going to ask a  
4 question of the applicant. It was through your work  
5 with the ANC that the proposed drawings were revised;  
6 the original drawings were revised to include the  
7 gambrel, similar to what it is today.

8 MS. GIODANO: Actually, it was the Office of  
9 Planning --

10 CHAIRPERSON HEATH: Oh, was it Office of  
11 Planning?

12 MS. GIODANO: -- that really directed that.

13 CHAIRPERSON HEATH: Okay.

14 MS. GIODANO: And worked with the architect to  
15 revise the plans.

16 CHAIRPERSON HEATH: Okay. All right. And so  
17 you're only adding --

18 MS. BUTANI-D'SOUZA: How many feet are you  
19 adding to the roof line?

20 MR. ADE: I would say around two feet.

21 CHAIRPERSON HEATH: Two feet.

22 MS. BUTANI-D'SOUZA: And it's stepped back so  
23 that it's less visible from the street? Is that  
24 correct?

25 MR. ADE: Correct.

1 CHAIRPERSON HEATH: Okay. And so you're still  
2 at 34 feet.

3 MR. ADE: Correct.

4 CHAIRPERSON HEATH: In total. Okay.

5 MR. ADE: Thirty-four, six.

6 CHAIRPERSON HEATH: Okay. But under the 35-  
7 foot maximum. Okay.

8 MS. GIODANO: And if I could just add to that,  
9 that everything is matter of right with the addition  
10 and could be developed like that without the special  
11 exception. The purpose of the special exception is  
12 only to allow an additional unit. And this property  
13 was purchased before the new regulations went into  
14 effect and they -- when they purchased the property  
15 they understood it was a matter of right as three  
16 units. But the regulations changed in the interim.

17 CHAIRPERSON HEATH: Okay. All right. Okay.  
18 Does the Board have any other questions of the  
19 applicant?

20 MS. BUTANI-D'SOUZA: I'm just wondering if you  
21 could address the concerns that were raised about  
22 privacy. I assume that they're going to be discussed  
23 in more depth when the party that stands in  
24 opposition, or the person here wishing to speak in  
25 opposition comes forward. But I would like to get an

1 understanding of how you would respond to the points  
2 raised in the record about privacy concerns. And the  
3 concern about the tremendous number of similar  
4 conversions in the neighborhood adding stress to the  
5 infrastructure in this neighborhood, and the density  
6 concerns that were raised. As you mentioned, this is  
7 allowable from a sort of height and bulk perspective.

8 But the density requires a special exception so I'd  
9 like you to address the concerns about that.

10 MR. SAMPSON: The owners that I did speak with  
11 directly next door, her concern was more of  
12 construction going on just in general because she  
13 works from home. So, you know, she was kind of in  
14 opposition but it was really, her main concern was  
15 just the fact that we're doing any type of  
16 construction, whether it was you know, a renovation,  
17 two-unit, three-unit, didn't matter. It was just  
18 construction in general.

19 MS. GIODANO: Did she raise the issue of the  
20 windows on the side of the building that are going to  
21 face her?

22 MR. SAMPSON: No.

23 MS. BUTANI-D'SOUZA: Okay. Did you speak with  
24 the ANC member who is opposed to this about his  
25 concerns regarding density and privacy?

1 MR. SAMPSON: No.

2 MS. GIODANO: And just to elaborate, we  
3 weren't aware of that issue until we came to the ANC  
4 meeting itself. We did have a community meeting prior  
5 to the ANC, full ANC meeting. And the neighbors were  
6 there and the concerns weren't raised. But when we  
7 went to the ANC meeting that's when we first become  
8 aware of the Commissioner and opposition's concerns.

9 MS. BUTANI-D'SOUZA: And then did you take any  
10 steps to meet with that Commissioner to discuss his  
11 concerns?

12 MS. GIODANO: We did not. It was just really,  
13 was it last Wednesday night I think.

14 MS. BUTANI-D'SOUZA: Last Wednesday. And  
15 would you be open to meeting with him to discuss his  
16 concerns?

17 MS. GIODANO: Certainly.

18 MS. BUTANI-D'SOUZA: Okay. Because as you  
19 know, the BZA is required to give great weight to the  
20 concerns of the ANC and although we do have support on  
21 the record from the ANC, you know, I think it is a  
22 concern when there is a member who is opposed, and you  
23 know, I think it's worthwhile to work with them to see  
24 if those issues can be resolved. So that's all the  
25 questions I have for them.

1 CHAIRPERSON HEATH: Okay.

2 MS. GIODANO: I would note that one issue that  
3 was raised in the ANC commissioner's letter that was  
4 in opposition was a concern that the photos weren't  
5 representing the building. And I just wanted to  
6 address that.

7 The photos were taken in December. They're  
8 accurate. They weren't Photoshopped or altered any  
9 way to make the building look any different than it  
10 does.

11 MS. BUTANI-D'SOUZA: Thanks.

12 MR. MILLER: Thank you, Madam Chair. I just  
13 wanted to make one comment and express our  
14 appreciation for you working with the Office of  
15 Planning to address the front façade design with the  
16 roof, and that's very helpful.

17 CHAIRPERSON HEATH: Did you have another  
18 comment?

19 MR. SAMPSON: Yes. I was just going to say  
20 that, you know, we did send out over 200 postcards to  
21 the surrounding area, and we set a meeting with John  
22 Paul, just, you know, to address any concerns that  
23 anybody would have so we could, you know, make  
24 changes, you know, to satisfy everybody. You know, we  
25 definitely had intentions of working with everybody.

1 We just heard about the opposition, you know, here in  
2 you know, the last minute before the hearing. But we  
3 made an effort way before we got here to do as much as  
4 we could to satisfy everybody.

5 CHAIRPERSON HEATH: Okay. All right. Thank  
6 you for that. Go ahead.

7 MR. HILL: Thank you, Madam Chair. Just for  
8 the ANC Commissioner, again what I'm curious of is,  
9 there is two units that they can do by right. And so  
10 this is special exception for the third unit. And you  
11 know, your ANC did vote. It was a narrow vote five to  
12 four in support, and kind of my question is like would  
13 you have been -- I mean, you would have gotten the two  
14 units anyway with the density perhaps if they had gone  
15 ahead and done that by right. So why did you approve  
16 the -- you just didn't -- the third unit, the density  
17 didn't seem to matter. Like you'd rather have three  
18 unit than two. Basically my question is, you'd rather  
19 have three units than two units? Just you personally  
20 as a commissioner.

21 MR. HAYWORTH: Me personally, I think that the  
22 three units is acceptable for this building. If it  
23 had been four units I probably would have had more  
24 questions. And I think that the developer showed, you  
25 know, significant interest in working with the

1 community. And that is always a big plus for me as  
2 well as I know that it is for the BZA. I mean, being  
3 able to host a community meeting like that and really  
4 working with the residents who were able to be there,  
5 and others, is important to me. And so I felt like  
6 they deserved the opportunity to build the third unit.

7 MR. HILL: Okay. Okay. Thank you.

8 MR. HAYWORTH: Uh-huh.

9 MS. GIODANO: And if I could too, the special  
10 exception also facilitated the process of the design  
11 review which culminated in more preservation of the  
12 existing gambrel roof and all that might not have  
13 occurred otherwise.

14 CHAIRPERSON HEATH: Okay. All right. Any  
15 other questions from the Board?

16 All right. Then, if you're okay with us  
17 proceeding on I'd like to hear from Office of  
18 Planning.

19 MS. ELLIOTT: Good morning, Madam Chair and  
20 Members of the Board. I'm Brandice Elliott with the  
21 Office of Planning. I guess I have a couple of things  
22 to speak to.

23 First of all, in regards to OP's report, I do  
24 realize that there was a large error regarding the  
25 ANC's recommendation. And we appreciate the ANC

1 contacting us to let us know that that was an issue  
2 and we corrected it immediately and of course  
3 apologized. And then we retracted that report and  
4 uploaded a new report to ISIS. So that former report  
5 is no longer part of the record. And again, we  
6 apologize, and thank you for bringing that to our  
7 attention.

8           As far as the other concerns have been noted  
9 regarding the number of conversions, I do believe our  
10 report notes that it is a mixed neighborhood character  
11 consisting of row house dwellings, semidetached,  
12 detached dwellings, as well as multifamily dwellings.

13 And I believe that that's captured in that. But  
14 again, I apologize if that was an oversight on our  
15 part.

16           And then also in terms of the corridors, we  
17 don't tend to do a, you know, a significant analysis  
18 of corridors. What we're trying to do is sort of  
19 demonstrate, or give some context to the project.  
20 And, you know, illustrate to the Board what some of  
21 the surrounding areas are like. And so really by not  
22 mentioning Georgia Avenue it wasn't intended to ignore  
23 it. But I do think that our location map sort of  
24 supplements what the surrounding character is.

25           And so again, I didn't mean to misguide

1 anyone. Georgia Avenue is a large corridor that  
2 possibly should have been mentioned, but it was not  
3 intended to be deceptive.

4           So moving on to our actual analysis of this,  
5 this project, we -- this is one that's really come a  
6 long way. I think that our first conversation with  
7 the applicant was, we can't support this. So since  
8 then we've actually sat down a couple of times, had  
9 multiple phone conversations. The important issues  
10 for us were conservation of the Gambrel roof, as well  
11 as the dormer on the side.

12           And the porch at the front. I don't know if  
13 you recall the first rendering actually had some  
14 stairs leading from the porch to the second level. So  
15 we've come a long way in addressing some of those  
16 neighborhood character issues and I think that the end  
17 result is actually -- we're quite pleased with.

18           And so we are recommending approval and if you  
19 have any questions I'd be happy to take them.

20           CHAIRPERSON HEATH: Okay.

21           MS. BUTANI-D'SOUZA: So I just want to thank  
22 the Office of Planning for working so productively  
23 with the applicant to, you know, lay out your concerns  
24 in a manner that they were able to come back to you  
25 and address them in the design.

1           I am wondering, given the ANC Commissioner's -  
2 - I haven't heard him, but I would say that from the  
3 letter it seemed very vociferous concerns about the  
4 Office of Planning report. Would Office of Planning  
5 be willing to revise the report again to reflect some  
6 of the -- to correct some of the issues that the ANC  
7 member has brought up?

8           MS. ELLIOTT: I think that we're going to go  
9 ahead and stand on our report, but if you would like  
10 for us to issue a supplemental addressing the ANC's  
11 concerns we'd be happy to do that.

12           MS. BUTANI-D'SOUZA: In my view I think that  
13 would be very valuable just to have it be shown  
14 clearly in the record that both the BZA and the Office  
15 of Planning are responsive to the ANC member's  
16 concerns.

17           MS. ELLIOTT: Absolutely, we can do that.

18           MS. BUTANI-D'SOUZA: Thank you.

19           CHAIRPERSON HEATH: Okay. Any other questions  
20 of Office of Planning from the Board?

21           Does the applicant have any questions of  
22 Office of Planning?

23           MS. GIODANO: We do not.

24           CHAIRPERSON HEATH: Okay. All right. Thank  
25 you. Thank you. Okay. So, we also have a letter of

1 no objection from Department of Transportation on this  
2 application. And we've heard from the ANC. Normally  
3 this would be the time that we'd turn to you. I don't  
4 know if you have any further comments to make.

5 MR. HAYWORTH: No, I don't.

6 CHAIRPERSON HEATH: Okay.

7 MR. HAYWORTH: Although, sorry, I actually  
8 wasn't here when they were doing the swearing in. I  
9 don't know if that's an issue for the BZA but --

10 CHAIRPERSON HEATH: Yes.

11 MR. HAYWORTH: -- I wasn't sworn in.

12 CHAIRPERSON HEATH: Yes, we do need you --

13 MR. HAYWORTH: I just realized that.

14 CHAIRPERSON HEATH: Okay. Yes, can we go  
15 through that formality?

16 [Oath administered to ANC Commissioner  
17 Hayworth.]

18 MR. MOY: Thank you.

19 CHAIRPERSON HEATH: And hopefully everything  
20 you've already said is also the truth.

21 MR. HAYWORTH: It was truthful, I promise.

22 CHAIRPERSON HEATH: Okay. Okay. All right.  
23 One more question for Office of Planning.

24 MR. HILL: Thank you, Madam Chair. Ms.  
25 Elliott, I was just curious because this has been --

1 these things come up before us quite a bit. So the  
2 changes that finally got OP on Board like, there was  
3 the stairs in the front. I mean, were there other --  
4 like what got you -- I like the design. I think that,  
5 you know, it complements the neighborhood. But how  
6 did -- what was it like before?

7 MS. ELLIOTT: I believe the first design, and  
8 I'm recalling from memory because I don't have it in  
9 front of me, but it was more of a federal row home  
10 style. So the entire roof line had -- the gambrel  
11 roof had basically not -- it had been removed and it  
12 had a flat roof line.

13 And for us, given that this is a semi-detached  
14 dwelling and the home next to it, you know, has the  
15 same characteristics, it just looked really out of  
16 place. So that's why we fought for keeping the roof  
17 line as it is. And I think that the architect did a  
18 really good job of doing that and with, you know,  
19 minimally interrupting the roof line so that it just  
20 goes up. It slopes up only two and a half feet. So.

21 MR. HILL: Okay. Great. Thank you so much.

22 MS. ELLIOTT: You're welcome.

23 CHAIRPERSON HEATH: Okay. So now that you've  
24 been sworn in, if you have any other comments you'd  
25 like to make.

1 MR. HAYWORTH: No other comments.

2 CHAIRPERSON HEATH: Okay. All right. Is  
3 there anyone here wishing to speak in support of this  
4 application? Anyone in support? Anyone wishing to  
5 speak in opposition? Please come forward.

6 MR. UQDAH: Good morning, Madam Chair. My  
7 name is Taalib Din Uqdah. For the record, the last  
8 name is spelled U-Q-D as in David, A, H as in Henry.  
9 I'm a single-member district commissioner, ANC 4C-01.

10 We prepared this opposition for 824 and I  
11 would like to begin by saying, since there's been a  
12 lot of admission about mistakes and errors that are  
13 made, I have to admit to my own, I was unaware of the  
14 public meeting. And so I do correct my own opposition  
15 in saying that I didn't know of one because I know  
16 Commissioner Hayworth is one who advises both the  
17 community and the commission that he's going to be  
18 having these community meetings.

19 So since I've accused everyone else of making  
20 a mistake I've got to fall on my own --

21 CHAIRPERSON HEATH: We appreciate that  
22 honesty.

23 MR. UQDAH: Yes, ma'am. Having said that, it  
24 is the mistakes that have been made by both OP and in  
25 a couple of instances in my opinion, also the

1 applicant. The applicant's mistakes are a little  
2 easier to deal with so I'd like to, you know, deal  
3 with those first. The one is with respect to their  
4 scope of property in the vicinity. It mentioned an  
5 address that doesn't even exist, 843. There is no 843  
6 Varnum.

7           However, of more importance to me what it made  
8 me do was to look further at that particular area.  
9 And what I discovered was that to the west of the  
10 subject property, starting at the corner of 9th and  
11 Varnum, there are at least 840, 838, 836 Varnum, and  
12 4239 9th Street, which sits right on the corner. All  
13 of those properties are zoned C-2-A. And that, in my  
14 mind, understanding what C-2-A is as opposed to  
15 residential property, that in my mind gives those  
16 property owners the right to do more to their  
17 properties than what they've done already. And this  
18 is only, if I'm not mistaken, about five doors from  
19 where the subject property is.

20           The other issue that was raised was relative  
21 to the photograph which the applicant provided. I was  
22 not accusing anyone of Photoshopping anything. It  
23 might have just been a bad photo and it just made the  
24 property look worse to me than what I saw.

25           Now, does the property need repair?

1 Absolutely. But it just did not look as bad. And in  
2 fact I've been advised that there are at least two  
3 residents that actually live in the property. So it's  
4 not that dilapidated that, you know, someone can't  
5 occupy it.

6           With respect to OP, it would be nice for me to  
7 be able to accept their apology, but I don't believe  
8 that it was a mistake. I honestly don't believe it  
9 was a mistake. I know what a mistake is. I mean, a  
10 mistake you make -- the Zoning Commission made a  
11 mistake in its final rule making where it noted two  
12 meetings that haven't even -- the years haven't even  
13 come up yet. October and November of 2016, and we had  
14 to call them on it and advise them. I think I spoke  
15 to Ms. Hanauseck if that name rings a bell to anyone.

16           They made a mistake. That's clearly a  
17 mistake. But to produce a report three days before a  
18 commission even meets and say that the commission has  
19 fully supported this, that's not a mistake. That's  
20 something that someone did on purpose. Now, if you  
21 want to call it an oversight, we didn't mean to do it,  
22 you know, we jumped the gun, you know, the ANCs  
23 usually approve this so we thought that they would  
24 approve this one as well, I mean, tell me that. But  
25 don't tell me you made a mistake. Especially when I

1 review the report even further and they just sort of  
2 casually mention amongst adjacent properties to the  
3 north across Varnum Street is an existing detached  
4 single-family dwelling. But it doesn't mention the  
5 fact that they're at least -- I have four listed. I  
6 discovered a fifth one that are all within -- I mean,  
7 I would tell you, they're all within less than --  
8 they're less than 50 feet from each other.

9 I mean, how do you go up to the subject  
10 property and look across the street and not notice  
11 that 834 Varnum is multiunit, 822 is multiunit, 817,  
12 807, and then there is a huge monstrosity at the  
13 corner of 8th and Varnum that is so big that it's got  
14 two statues of concrete lions sitting out on the front  
15 stoop. I've never seen anything before like it in my  
16 life, except maybe in Jamaica.

17 I mean, so I don't know -- and I think this is  
18 what my point is, and it's also my point not only to  
19 OP but to the ANC, how we do our business. You all  
20 expect for us to provide you with information that you  
21 don't know. You get reports from OP. They tell you  
22 the things that you don't know. And you assume that  
23 that information is going to be correct. The same  
24 thing you get from DDOT.

25 DDOT are telling you things that you all don't

1 have time to go out and do traffic studies, and  
2 engineering studies, things of that nature. So from  
3 the ANC, our responsibility is to tell you things that  
4 you don't know. Conversions that are going on right  
5 in the same block. And I'm not talking about just one  
6 or two. Talking about a half a dozen. You all didn't  
7 know that the three properties just west of the  
8 subject property is zoned C-2-A. That's going to have  
9 a tremendous impact. They'll be allowed to go up 50  
10 feet as a matter of right and plus whatever else they  
11 want to do on those properties.

12           And all I'm asking is, I'm not asking you all  
13 to not approve this. What I'm asking you all to do is  
14 consider the implications of all of these conversions  
15 that are going on, not just in the 800 block of Varnum  
16 Street, but in many other -- I've got another case  
17 I've got to testify before. Same thing. I mean,  
18 sometimes I wish I could just say, ditto, and just  
19 leave because my testimony essentially is not going to  
20 change. The addresses will.

21           And what I'm trying to do in this process here  
22 today is to force my commission and other commissions  
23 to start taking a diligent look at these conversions  
24 that are happening one right after another because I'm  
25 concerned that when we come down before you, all we

1 come down with is a resolution. A bunch of where-  
2 as's. And it doesn't address the issue. A where-as  
3 is not a report. A resolution is not a report. When  
4 I look at DDOT and OP's, those are reports. They have  
5 them broken down into categories where you can go  
6 right to a particular category and say, okay, I see  
7 what you're saying.

8 But my issuing you a resolution that says  
9 where-as this and where-as that is now there-for,  
10 that's not a report. And so when I compose my  
11 opposition I want it -- and you're right, and I've got  
12 to go home and look the word up, vociferous. But I  
13 like it, whatever it is. It sounded like just what I  
14 was trying to get across. Okay?

15 And I tried to be detailed about this. And  
16 that's why the first thing I wanted to do when I sat  
17 before you was to apologize for the error that I made,  
18 because I'm a detail person. That's what I do. And  
19 that's what you all expect from commissions. Not just  
20 commissioners, but from commissions.

21 So that's why I'm here today. I stand on my  
22 opposition. I mean, I had a report prepared. I just  
23 didn't have the time. I mean, I got photographs,  
24 everything that goes along with this. You know, but  
25 it's -- and it's not about the applicant. I believe

1 they did their due diligence. They met with the  
2 commission. It's not their fault that they want to  
3 jump on the bandwagon and everybody wants to rush into  
4 the future. You going to get all this stuff  
5 converted. I'm not begrudging them for that. But I  
6 think as a BZA, I know I have a responsibility as a  
7 commissioner.

8           And in order to do my job I have to help you  
9 do your job. And so when I saw OP's report, when I  
10 saw the things that I saw, I just couldn't let that  
11 stuff go. I mean, it's not true.

12           I thank you. I didn't mean to take up this  
13 much time but I appreciate the time that you have  
14 given me. Thank you.

15           MS. BUTANI-D'SOUZA: Thank you so much for  
16 your comments.

17           MR. UQDAH: Yes, ma'am. Thank you.

18           MS. BUTANI-D'SOUZA: I have a couple questions  
19 for you.

20           MR. UQDAH: Yes.

21           MS. BUTANI-D'SOUZA: Okay. So, the first one  
22 is, first I did very much appreciate your report. I  
23 did read it. I do agree with you that it's extremely  
24 important to have accurate information, you know, as a  
25 board. I think I speak for all of us when I say that

1 we do read everything that comes in front of us, every  
2 exhibit that is included, and it is a tremendous  
3 amount of reading that's involved in each case.

4           And I did appreciate you pointing out the  
5 inaccuracies. I also greatly appreciated the detail  
6 that you provided about the other things that are  
7 happening in this neighborhood that's extremely  
8 valuable information. And I agree with you that it's  
9 critical that we receive this type of information from  
10 ANCs because as you did point out, the ANC does  
11 provide us with valuable insight into what's happening  
12 in the neighborhood that we can't necessarily get  
13 anywhere else. So I really did appreciate your  
14 comments.

15           I have a couple questions for you. The first  
16 one is, I'm a little bit confused about what it is  
17 that you're asking the Board to do. So is it that you  
18 do not support this application because you are  
19 opposed to the additional density? Or is that you in  
20 general feel that some attention needs to be paid to  
21 the infrastructure demands placed on the  
22 neighborhood's infrastructure by the large number of  
23 conversions that are going on? So, I'm just a little  
24 bit confused about what it is that you are looking for  
25 here.

1           MR. UQDAH: To the later, yes. That's a  
2 general concern that I have. I mean, quite frankly.  
3 DC WASSA (phonetic) doesn't know what's up underneath  
4 of the street. And, you know, when we start talking  
5 about adding all of these different units, you know,  
6 to one particular block or one particular area. I  
7 just have a concern that, you know, we have an  
8 underground infrastructure that's not going to be able  
9 to support that. And you know, every time I hear  
10 about a water main break or things of that nature, or  
11 people's sewers backing up, or things of that -- you  
12 know, it just kind of brings to mind.

13           Now I haven't heard that about the 800 block  
14 of Varnum. So I wouldn't be able to speak to, you  
15 know, to that directly. That is a general concern.

16           With respect to the other, the density part of  
17 it has already happened. You know, quite frankly the  
18 applicant could wait four months, four or five months  
19 or so and do what he's trying to do as a matter of  
20 right because the, you know, the Zoning Regulations  
21 are going to change. In this particular case, you  
22 know, I just think that it's you know, a density  
23 concern is too far gone. I mean, when I look --  
24 particularly when I discovered that the three  
25 properties, you know, just to the west are zoned C-2-

1 A. I mean, I'm considering writing a letter to a  
2 couple of the owners and see if I can't get two or one  
3 of them. I mean, and just jump on the same bandwagon  
4 as everybody else. I mean, these --

5 But again, this is not to the applicants per  
6 se. You know, two units are a matter of right. Then  
7 adding the third is -- you know, the street is not  
8 going to collapse. So, in general my opposition --  
9 this BZA case only gave me the opportunity to come and  
10 express the things that I've expressed to you. This  
11 admittedly, this was not personal to 824 Varnum  
12 Street. You know, they just happened to get caught up  
13 in the cross-fire. It could have been anyone.

14 But it was the only opportunity that I would  
15 have had to be able to come before this commission and  
16 express the things that I'm able to express.

17 MS. BUTANI-D'SOUZA: Okay.

18 MR. UQDAH: So I mean, if you decide to vote  
19 in favor of it, I mean, I'm not going to walk out here  
20 beating the table and you know, that's not the case.

21 MS. BUTANI-D'SOUZA: Okay. I really  
22 appreciate you explaining that.

23 MR. UQDAH: Yes, ma'am.

24 MS. BUTANI-D'SOUZA: But can I also ask, I  
25 think you had mentioned some concerns about privacy

1 related to the windows. The applicant has indicated  
2 that the next door neighbor did not express the same  
3 concerns.

4 MR. UQDAH: Right. Right.

5 MS. BUTANI-D'SOUZA: So I'm wondering if your  
6 concerns still stand and if they --

7 MR. UQDAH: Well, I mean, to be honest with  
8 you, that was more of a sarcastic remark. I just  
9 couldn't imagine how do you put 18 to 24 windows 10  
10 feet from somebody's house and then claim that their  
11 privacy is not being invaded. How do you do that? I  
12 mean, it's more of a rhetorical question. I mean, I  
13 don't have no evidence -- I don't have no evidence to  
14 suggest the contrary. But I know if I had a next door  
15 neighbor that was 10 feet from me and I looked out my  
16 window and saw 24 windows, or even 18 because the  
17 plans have changed. So I don't know if that's still  
18 what is on the east side of the building. But there  
19 were several windows there and I just couldn't imagine  
20 how you could say privacy is not a concern. You know.  
21 So.

22 MR. ADE: I'd like to say something.

23 MS. BUTANI-D'SOUZA: Yes, I was going to ask  
24 if you could address this question.

25 MR. ADE: For the record, basically the design

1 that we have, those are basically like the bedrooms.  
2 And we have kind of like the kitchen, an open floor  
3 plan, kind of like in the middle of the building. And  
4 the bathrooms actually don't have any windows. Okay.

5 So we were able to work around what we have. If you  
6 see a lot of windows, the privacy issue is not an  
7 issue. It's more about you know, what is open to.

8 Like if you notice -- I don't know if you're  
9 looking at the plans. On the middle part of the  
10 building, on the side elevation --

11 MS. BUTANI-D'SOUZA: Let us -- give us a  
12 second to pull up these plans.

13 MR. ADE: Okay. Page 87.0.

14 [Discussion off the record.]

15 MR. ADE: If you don't, I have a copy.

16 MS. BUTANI-D'SOUZA: Okay. Got it.

17 MR. ADE: Okay.

18 MS. BUTANI-D'SOUZA: Okay. All right. Sorry.

19 So you're saying that the windows are bathroom  
20 windows?

21 MR. ADE: Well, if you notice, in the middle  
22 of the structure, that's where our living area is.

23 MS. BUTANI-D'SOUZA: Okay.

24 MR. ADE: The living area and the open kitchen  
25 floorplan.

1 MS. BUTANI-D'SOUZA: Okay.

2 MR. ADE: So when someone looks at the design  
3 they're assuming that all of those, that's probably  
4 where the master bedrooms and bathrooms are. But in  
5 actuality the living room and the kitchen, the open  
6 floor plan, it's in the middle. And you have the  
7 master bedrooms on both ends of the building.

8 MS. BUTANI-D'SOUZA: So I think his concern is  
9 less about the privacy of the people inside the unit  
10 and more about the privacy of the neighbors.

11 MR. ADE: Well, I mean, I don't know what it  
12 is as far as privacy. I mean, they're bedrooms. I  
13 mean, if they want they would put -- they can put  
14 curtains. I mean --

15 MS. BUTANI-D'SOUZA: What does the -- what do  
16 the windows face on the neighbor's property? Does it  
17 face a brick wall?

18 MR. ADE: Well, they're facing the other  
19 neighbor.

20 MS. BUTANI-D'SOUZA: Yeah, this --

21 MR. ADE: Because it's both --

22 MS. BUTANI-D'SOUZA: Are there windows from  
23 the neighbor's side? Are there windows in the wall?

24 MR. ADE: They have windows too.

25 MS. BUTANI-D'SOUZA: Okay.

1 MR. ADE: Right. So, if the issue is privacy,  
2 the neighbor must well be concerned about privacy  
3 because they have windows opening to their bedrooms  
4 also.

5 MS. BUTANI-D'SOUZA: Okay.

6 MR. ADE: But they have curtains.

7 MR. SAMPSON: I mean, like the way the  
8 property is now, both properties have windows. So, I  
9 think what he's -- I mean, it's going to be more  
10 windows, but currently I mean, if you look out the  
11 window you're going to see. If you're --

12 MS. BUTANI-D'SOUZA: Yeah, I get it.

13 MR. SAMPSON: You know, if everybody is  
14 looking out the window then we're going to see each  
15 other anyway, you know, currently. You know. I mean,  
16 we are adding more but you know --

17 MS. BUTANI-D'SOUZA: Okay. I think I  
18 understand. Thank you.

19 MR. UQDAH: Right. Right.

20 MS. BUTANI-D'SOUZA: And okay. So, I don't  
21 have any other questions.

22 MR. HILL: Thank you, Madam Chair.

23 MS. BUTANI-D'SOUZA: Oh, actually -- sorry.

24 MR. HILL: Sure. Go ahead.

25 MS. BUTANI-D'SOUZA: Okay. I do have one

1 other question. It sounds like the Office of Planning  
2 is willing to issue a supplemental report to address  
3 some of the concerns raised in your letter.

4 MR. UQDAH: Yes, ma'am.

5 MS. BUTANI-D'SOUZA: Would that be make you  
6 feel less --

7 MR. UQDAH: I think that report -- I would  
8 appreciate that because it would serve to be more  
9 accurate, you know, in terms of the multiunits that  
10 are on Varnum as well as both Georgia Avenue and 9th  
11 Street, which are both commercial corridors less than  
12 -- I mean, I would tell you anywhere from 90 to 100  
13 feet away from the subject property.

14 MS. BUTANI-D'SOUZA: Okay. Terrific. Thank  
15 you.

16 MR. UQDAH: Yes, ma'am.

17 MR. HILL: Thank you. Thank you, Madam Chair.

18 Commissioner Uqdah, we've seen you down here  
19 several times before and unfortunately I think you've  
20 lost quite a few times on this one.

21 MR. UQDAH: Yes, sir.

22 MR. HILL: Yeah. And I just want to let you  
23 know I appreciate the neighborhood and how it's  
24 changing and I really feel that for you.

25 The other people on the -- you were one of the

1 four dissenting votes. So the other three  
2 commissioners, are they all kind of in the same --  
3 because now I'm very curious about your ANC. I mean,  
4 five-four. So, the other three, they are on your  
5 side, basically. Meaning opposing kind of the  
6 conversions, the --

7 MR. UQDAH: It's not like we conferenced to  
8 come up with this, but it was something that I've  
9 circulated amongst the commissioners prior to our  
10 public meeting so that the Commission knew where it  
11 was that I stood as a commissioner on this particular  
12 BZA application.

13 I don't recall any commissioner making a  
14 comment relative to agreeing with Commissioner Ugdah.

15 MR. HILL: That's okay. I was just curious in  
16 general if it could be that clear. So it's not.  
17 Because as you just stated, the two units are by right  
18 so it's basically one additional unit to an area  
19 that's already changed quite a bit.

20 MR. UQDAH: Right.

21 MR. HILL: And it seems as though you would  
22 agree that the design is in character with the  
23 building next door. I mean, I think the design  
24 complements what is there, considering we've seen a  
25 lot of conversions in the past and there are things

1 that, you know, from a Board's perspective we have a  
2 standard that we go through and that's how we get to  
3 our decision and how, you know, if things are by right  
4 or if they're a special variance, I mean, there are  
5 things that we go through to get to -- so we don't  
6 have the control to necessarily vote one way or the  
7 other based upon how we feel. So I guess I would just  
8 -- I understand you've been here before. You're going  
9 to be here again, and I just wanted to let you know I  
10 know how to pronounce your name very well. So --

11 MR. UQDAH: Yes, sir. You do. Absolutely.

12 MR. HILL: -- that yes. And how to spell it.  
13 But I just want to let you know I understand your --

14 MR. UQDAH: Thank you.

15 MR. HILL: -- where you are and how you feel.  
16 Thank you.

17 MR. UQDAH: Thank you. Thank you.

18 CHAIRPERSON HEATH: All right. So, that was  
19 one party or one witness in opposition. Are there any  
20 others here wishing to speak in opposition to this  
21 application? All right.

22 Then at this point we'll turn back to the  
23 applicant for -- well, actually, we're not going to  
24 have you close at this time because we are going to  
25 postpone decision on this. We've asked for the Office

1 of Planning to submit a supplemental report and we'd  
2 like to receive that prior to moving forward on this  
3 case. And so we're going to put this on for a later  
4 date, and there may be questions that we have, or  
5 additional conversation we want to have once we  
6 receive that report. So we're going to put this on  
7 for continued hearing and allow closing at that time.

8 MS. GIODANO: Can I just respond to a couple  
9 of the comments and --

10 CHAIRPERSON HEATH: Sure. You can do that  
11 now.

12 MS. GIODANO: Just very briefly. I won't take  
13 your time. And basically I think most of the  
14 conversions that have occurred were probably matter of  
15 right before the regulations changed. And the  
16 regulations changed to address this issue. But it did  
17 make this a special exception, not a variance. It  
18 didn't say you can't have any conversions. It said  
19 they need to be reviewed for compatibility and for  
20 design. So, I just wanted to make that comment.

21 CHAIRPERSON HEATH: Okay. Thank you. Did you  
22 have another comment?

23 MR. HILL: No, I just -- and I just want to  
24 make, for the record again, like I mean, I've made my  
25 thoughts know about the design and what I thought

1 about it. But it is the special exception that allows  
2 the ANC to have the opportunity to have a voice. I  
3 mean, so that's why we get to this point just to kind  
4 of point out because other than that, exactly, it  
5 would just kind of go straight on through and then the  
6 design would be whatever the design is. And so I just  
7 wanted to point that out.

8 CHAIRPERSON HEATH: All right. So, we'll  
9 request the additional, the supplemental report from  
10 Office of Planning. How much time do you think you  
11 need to produce that?

12 MS. ELLIOTT: Not much. I think we could  
13 probably turn it around fairly quickly if the Board  
14 wanted.

15 CHAIRPERSON HEATH: Okay.

16 MS. ELLIOTT: I don't know what dates are  
17 available.

18 CHAIRPERSON HEATH: So if we put this on for  
19 two weeks or so from now?

20 MS. ELLIOTT: That would be fine. Yeah.

21 CHAIRPERSON HEATH: Okay. Is there a -- well,  
22 Mr. Miller is often here and --

23 MR. MOY: Yeah. I have two dates. Mr. Miller  
24 said he could be here for the first case that we just  
25 recently, on an early case today, from May 24th, or we

1 do that one early. Or he'll be participating with the  
2 Board on June the 7th. So those are the two dates.

3 CHAIRPERSON HEATH: Okay. Do we want to put  
4 this on for --

5 [Discussion off the record.]

6 CHAIRPERSON HEATH: Okay. So if that's good  
7 with Mr. Miller, we'll proceed with May 24th. So, we  
8 could also do this as a decision. And if the Board  
9 has any questions we'll address those prior to the  
10 date. But once we receive the OP report in two weeks  
11 we could put this on for decision sometime in maybe  
12 early May.

13 MR. MOY: All right. Today is the 19th.  
14 Would the Board -- is there any replies to the OP  
15 supplemental, or that's it?

16 CHAIRPERSON HEATH: I don't think -- well,  
17 this is a reply to --

18 MR. MOY: Yes, I agree.

19 CHAIRPERSON HEATH: -- the OP report so I  
20 think --

21 MR. MOY: I'm just putting that out there.

22 CHAIRPERSON HEATH: -- that's all that we  
23 need, is the OP report.

24 MS. BUTANI-D'SOUZA: And it seems like maybe  
25 if the report is uploaded to the record, folks would

1 have the opportunity to upload other comments or  
2 replies if there were any.

3 MR. MOY: Okay. Are you asking for any  
4 replies because then I have to give a deadline for  
5 those?

6 MS. BUTANI-D'SOUZA: I know. Are we saying  
7 that we would close the record on that?

8 CHAIRPERSON HEATH: I don't think we need any.

9 MS. BUTANI-D'SOUZA: Okay. Got it.

10 MR. MOY: All right. So today's --

11 CHAIRPERSON HEATH: The record is closed  
12 except for this supplemental report that the Board has  
13 revised.

14 MR. MOY: Okay. Very good. So if OP can file  
15 by, let's say April 29th, then the Board can make a  
16 decision on what, May 3rd. Right? May 3rd? It would  
17 be May the 10th. May 10th.

18 CHAIRPERSON HEATH: Uh-huh.

19 MR. MOY: Is that good for everyone?

20 CHAIRPERSON HEATH: Uh-huh. I assume that's  
21 okay with you. We talked about --

22 MS. GIODANO: Yes. We would waive. We don't  
23 need to make a closing statement --

24 CHAIRPERSON HEATH: Okay. All right.

25 MS. GIODANO: -- or have a continued hearing.

1 CHAIRPERSON HEATH: Okay. Thank you for that.  
2 Just wanted to make sure.

3 MR. MOY: Okay. So May 10th decision, OP file  
4 by Friday, April 29th.

5 CHAIRPERSON HEATH: Okay. Very good. Okay.  
6 Thank you, all.

7 MR. UQDAH: Thank you.

8 MS. GIODANO: Thank you.

9 CHAIRPERSON HEATH: We will take a five-minute  
10 break, Mr. Moy, and then we'll come back to Equity  
11 Trust. I believe the -- okay, the party requesting  
12 party status is here so we'll resume with that case  
13 when we come back from a short break.

14 [Off the record from 11:32 a.m. to 11:42 a.m.]

15 CHAIRPERSON HEATH: We'll come back to order.  
16 The parties for our next case are here, Mr. Moy, but  
17 you can call it.

18 MR. MOY: Yes, thank you. That would be  
19 Application No. 19173 of Equity Trust Company  
20 Custodian FBO. Again, for the record, makes it easier  
21 for the -- for our recorder. I'll reread the caption,  
22 the relief being advertised. This is for a special  
23 exception from the conversion to an apartment house  
24 requirements, pursuant to 336, for the enlargement of  
25 a pre-1958 residential building into a three-unit

1 apartment house, R-4 District, 1264 Holbrook Terrace  
2 Northeast, Square 4055, Lot 840.

3 And I believe, Madam Chair, although it was  
4 called earlier in the day we were waiting for the  
5 party in opposition to arrive and I believe that  
6 persons is here.

7 CHAIRPERSON HEATH: Yes, I believe she is.  
8 And she's coming to the table. All right. I'm going  
9 to have you all introduce yourselves again.

10 MR. SULLIVAN: Good morning, Madam Chair and  
11 Members of the Board, Marty Sullivan with Sullivan and  
12 Barros.

13 MS. DUBROVINA: Good morning, Madam Chair and  
14 Members of the Board. Irene Dubrovina, the applicant.

15 MR. ALI: Ramy Ali from RAM Design, the  
16 project architect.

17 MS. SHROPSHIRE: Keisha Shropshire, ANC  
18 Commissioner 5D-02, representing ANC 5D.

19 MS. DUMAS: Thank you. Vonetta Dumas  
20 representing Holbrook Terrace Alliance.

21 CHAIRPERSON HEATH: Okay. All right. And Ms.  
22 Dumas, you have requested party status.

23 MS. DUMAS: Yes.

24 CHAIRPERSON HEATH: Is that correct?

25 MS. DUMAS: Yes.

1           CHAIRPERSON HEATH: And you understand that  
2 party status allows you to, as a party to this  
3 application, one, be notified of any additional  
4 information or anything that happens on this case,  
5 whether it's speaking here today or after; subsequent,  
6 after this hearing, anything that happens, any further  
7 notices that go out, you will receive notice on that  
8 as a party to this application.

9           This also, the party status, also allows you  
10 to cross-examine and present to the Board; cross-  
11 examine the applicant or any witnesses and present to  
12 the Board. And so is that your request?

13           MS. DUMAS: Yes.

14           CHAIRPERSON HEATH: Okay. And you're  
15 representing Holbrook Terrace Alliance.

16           MS. DUMAS: Yes.

17           CHAIRPERSON HEATH: Okay. I don't have any  
18 issues with granting the party status. Does the  
19 Board? Anyone from the Board have any issues?

20           MS. BUTANI-D'SOUZA: No.

21           CHAIRPERSON HEATH: Okay.

22           MR. MOY: Madam Chair, sorry to interrupt.  
23 Before she provides any testimony I probably should  
24 administer the oath.

25           CHAIRPERSON HEATH: Oh, right, because you

1 weren't here at the beginning. So.

2 MS. DUMAS: Yeah. I do apologize. I was --  
3 I'm sick, so I was having a rough time this morning.

4 CHAIRPERSON HEATH: Okay. We appreciate you  
5 making it here. So, if you could stand Mr. Moy will  
6 administer the oath now.

7 [Oath administered to Ms. Dumas.]

8 CHAIRPERSON HEATH: Okay. All right. So we  
9 will grant you party status. We're going to hear from  
10 the applicant first and then we'll allow you to cross-  
11 examine or ask questions once they make their  
12 presentation. Then we'll hear from you, any  
13 presentation you want to make, and they'll have the  
14 same ability to ask you questions or cross-examine.  
15 And then we'll proceed through the remainder of the  
16 hearing.

17 MS. DUMAS: Thank you.

18 MR. SULLIVAN: Thank you, Madam Chair. Just a  
19 brief introduction. This case was originally a  
20 request to do an eight-unit apartment house as an  
21 addition to a single-family dwelling, and the case as  
22 it looks now in many ways, it's a product of the  
23 revision to the R-4 regulations, as well as the many  
24 comments from the Office of Planning and from the  
25 neighbors.

1           So rather than a seven or eight-unit apartment  
2 building now, the applicant has responded to those  
3 comments and the restrictions and requirements of the  
4 new R-4 regs, and created three low-density row  
5 dwellings that now fit with the character of the  
6 street.

7           When originally proposed the project was eight  
8 units, and that was a matter of right when the  
9 applicant initially brought the property, prior to the  
10 change in the regulations and they got caught up in  
11 that change, and so they initially proposed the eight  
12 and now changed it to three.

13           So the two of the three lots being created,  
14 two of them will be developed as a matter of right.  
15 And the lot to the west or northwest on the left as  
16 you face it, is what we're requesting relief for, to  
17 convert that single-family dwelling into a three-unit  
18 building. And so before the Board is the addition to  
19 that building.

20           That is on a 2,700 square foot, and so now all  
21 the buildings are in character with the street, which  
22 was the Office of Planning's main objection to the  
23 original proposal as well. So we believe that all of  
24 the requirements of Section 336 and 3104 have been  
25 satisfied as noted in our filings and in the OP

1 report. And I'll turn it over to the project  
2 architect to explain that compliance in more detail.  
3 Thank you.

4 MR. ALI: The project, as Mr. Sullivan  
5 indicated, is an existing single-family dwelling  
6 located on a 7,450 square feet lot. So and as he  
7 mentioned, we subdivided that big lot into three  
8 smaller lots. Two are 2,700 square feet and one at  
9 800 square feet plus.

10 So the subject property is, as indicated, as  
11 Lot A, which is a 2,700 square foot lot and we  
12 selected that particular lot because a majority of the  
13 existing single-family dwelling is on that particular  
14 lot. The other two lots are basic, were almost side  
15 yard for that existing single-family.

16 So the existing property is basically two  
17 stories with a basement, and the front of it is set  
18 back 20 feet from the front. I'm sorry, 10 feet from  
19 the front property line with a small front porch as it  
20 exists right now. And we are proposing to convert  
21 that single-family to a three unit as mentioned  
22 earlier. We're putting a slab on grade. We're not  
23 going -- and a cellar facing Holbrook Terrace. It's  
24 going to be three floors, slab on grade, we're going  
25 to maintain the front porch element, but we are going

1 to be only like replacing finishes and the railing on  
2 it, replacing the front siding with brick to go more  
3 with the surrounding exterior finishes used, double-  
4 hung windows which are very common to the  
5 neighborhood. And at the third floor we're putting a  
6 mansard roof just to give that building height of a  
7 visually, a shorter building.

8           The structure is proposed at 32 feet in  
9 building height. However, the majority of the  
10 building from the first five feet and onwards is only  
11 30 feet in height. So only that front portion where  
12 we have the mansard roof we're going up the additional  
13 two feet. Total building height would pretty much  
14 count as 32 feet.

15           We're providing two parking spaces in the  
16 back, of course trash enclosures for all three  
17 tenants, and the project will have over 30 percent  
18 impervious surface, along with a green wall that we  
19 are putting on the rear addition which is actually set  
20 back from the neighboring property.

21           The subject property is actually -- is going  
22 to be between 1262 Holbrook Terrace, an adjoining  
23 neighbor, and the other two properties are going to be  
24 owned by my client, which the other ones are going to  
25 be developed by right, two units each.

1           As it is today the neighboring property on  
2 1262 does extend beyond our subject property by almost  
3 14 feet. So in our proposal on the rear addition, we  
4 are setting back away -- setting back from the side,  
5 creating like a side yard between the extended portion  
6 of the neighbor by four to five feet and putting our  
7 24-foot rear addition on the existing structure.  
8 Overall our rear addition will be set back 12 feet  
9 from the neighboring property. However, would this  
10 create like a four to five feet side yard because the  
11 neighboring property does have a structure with a  
12 screened window.

13           MR. HILL: Excuse me. I'm sorry. Could you  
14 show me those on the plans?

15           MR. ALI: Sure.

16           MR. HILL: I can also look at the exhibit.

17           [Discussion off the record.]

18           MR. ALI: It's Exhibit A2.0. I'm trying to  
19 pull it up on the screen. Just give me a minute.

20           MR. HILL: Yeah, we've got it here.

21           MR. ALI: Yeah, if you look at Exhibit A2.0  
22 the Lot C is the subject property and you see the bold  
23 black line is the footprint of the proposed structure.  
24 The 4.0 is the four feet that sits back away from the  
25 neighboring property. And it goes back an additional

1 24 feet.

2 MS. BUTANI-D'SOUZA: I'm sorry. Sorry, which  
3 page are we on in the plans?

4 MR. ALI: A2.0.

5 MS. BUTANI-D'SOUZA: A2.0. Okay. Thank you.  
6 So you're -- okay. Sorry, previously you had said  
7 that the existing neighboring property extends past  
8 the existing building.

9 MR. ALI: Correct.

10 MS. BUTANI-D'SOUZA: Okay. But the new  
11 building extends past the neighboring building.

12 MR. ALI: After we set it back away from the  
13 side property lines. So we're giving a side yard  
14 to --

15 MS. BUTANI-D'SOUZA: And are there windows? I  
16 think there was a concern about windows along that  
17 wall.

18 MR. ALI: There's no windows along that wall.

19 MS. BUTANI-D'SOUZA: Okay.

20 MR. ALI: We're actually proposing a green  
21 wall along that portion of the side yard. And the  
22 reason we set back that four feet from the neighboring  
23 rear structure, not to respond to the shade study,  
24 however the shade study actually did impact throwing  
25 some darkness to that rear addition. However, because

1 there is a window on that property line from the  
2 neighbor --

3 MS. BUTANI-D'SOUZA: Sorry. Can you hang on a  
4 second? We're just trying to follow along.

5 [Pause.]

6 MR. SULLIVAN: I think what he's creating is a  
7 court, but it's going to be partially covered by a --

8 MS. BUTANI-D'SOUZA: [Speaking off mic.]

9 MR. SULLIVAN: Okay. Okay. Sorry. A2.0.  
10 It's partially covered by a trellis.

11 MS. BUTANI-D'SOUZA: Are we still on page  
12 A2.0?

13 CHAIRPERSON HEATH: Here we go.

14 MR. SULLIVAN: A2.0 of Exhibit 35.

15 MS. BUTANI-D'SOUZA: Okay.

16 CHAIRPERSON HEATH: I apologize. Our system  
17 is just really slow loading. So it's taking a while  
18 for us to get there.

19 MR. SULLIVAN: Ours is too.

20 CHAIRPERSON HEATH: We're there.

21 MR. HILL: So there are windows on the  
22 neighboring property there that's looking in to that  
23 court that you're creating?

24 MR. ALI: Correct. So we only set it back to  
25 keep the air going through. It's not because of a

1 purpose of a shade and shadow, because the property  
2 basically faces east. Slightly -- sorry, faces south.  
3 There's a slight shadow casted on the back yard. But  
4 the reason for the setback, side setback, is for the  
5 air, to keep air going through that window that they  
6 have.

7 MR. HILL: Okay.

8 MS. BUTANI-D'SOUZA: I'm sorry. So there's a  
9 window in the party wall of the neighboring building  
10 in the area where the side yard is. And that's why  
11 you've created the side yard --

12 MR. ALI: Correct.

13 MS. BUTANI-D'SOUZA: -- so you're not building  
14 right up against their window.

15 MR. ALI: Correct.

16 MS. BUTANI-D'SOUZA: Okay.

17 MR. ALI: But we don't have any windows on our  
18 wall, we're just cladding this with -- we're putting  
19 actually a green wall along that portion of that wall,  
20 so they were looking at green wall --

21 MS. BUTANI-D'SOUZA: Okay.

22 MR. ALI: -- instead of a brick wall.

23 CHAIRPERSON HEATH: Okay.

24 [Discussion off the record.]

25 MR. MILLER: If I heard your discussion of

1 that, you said that the existing adjacent property  
2 extends 14 feet beyond and beyond that back of that  
3 property.

4 MR. ALI: Correct.

5 MR. MILLER: And so, and once you do your  
6 addition you're going to -- even though you are  
7 setting it back, and then you're going to go 10 feet  
8 more?

9 MR. ALI: We're going 24 feet back.

10 MR. MILLER: Twenty-four feet back. So it's  
11 10 feet beyond.

12 MR. ALI: Ten feet beyond.

13 MR. MILLER: Beyond the back of the adjacent  
14 property.

15 MR. ALI: Exactly.

16 MR. MILLER: Thank you.

17 [Discussion off the record.]

18 MS. BUTANI-D'SOUZA: I just want to -- I'm  
19 going to bring this up now because it's coming up.  
20 Your shadow study does not have the same angle for the  
21 before and after at each caption date. And I'm sure  
22 that it was not your intention for that to come across  
23 as a little bit shady, let's say.

24 MR. ALI: Yeah.

25 MS. BUTANI-D'SOUZA: I think it would be

1 appropriate in the future because I know that we've  
2 seen you here before, and certainly on this case for  
3 your shadow studies to show the same angle before and  
4 after so that we can really evaluate what the angle is  
5 here. I'm going to go ahead and request, just so that  
6 you put it on your radar, I think we are going to need  
7 a revised shadow study that makes this clear.

8 MR. ALI: No problem. And the exhibit I was  
9 referring to is actually up on the screen, just for a  
10 clarification.

11 MS. BUTANI-D'SOUZA: I think it would also be  
12 helpful on this exhibit if you could -- to Mr.  
13 Miller's question, show the extent that this building  
14 is going to extend past the neighboring property.  
15 Just put that measurement on the drawing.

16 MR. ALI: Right.

17 MS. BUTANI-D'SOUZA: Thanks.

18 CHAIRPERSON HEATH: Were you continuing?

19 MR. ALI: Yes. I just, I think the last thing  
20 was -- the last item was the chimney. We took a lot  
21 of photographs and we couldn't locate the chimney.  
22 However, we do see something when we go on Google  
23 Earth. We tried to get access in order to locate that  
24 chimney from the inside. We didn't have the chance to  
25 do that. We didn't get a respond back giving us

1 access. So we still would like to do this and our  
2 drawings will propose as extending that chimney to  
3 make it meet code.

4 MR. HINKLE: Madam Chair, if I could ask a  
5 question?

6 CHAIRPERSON HEATH: Sure. Go ahead.

7 MR. HINKLE: Could you explain to me what part  
8 of the existing building is being retained, because  
9 I'm looking at the plans as well as, you know, what  
10 was there. And I'm trying to figure out how this is a  
11 conversion versus a new structure. And, you know, if  
12 you could explain to me your thoughts on that?

13 MR. ALI: Yeah. Actually, we went for the  
14 Zoning Administrator in regards. When the project was  
15 still in permit -- when it was at 18 at structure, we  
16 did meet with the Zoning Administrator and the only  
17 comment we had actually is clarification on the extent  
18 of demo versus raised.

19 So we are maintaining 80 percent of the  
20 existing footprint. There is a side additional  
21 structure that is built on the project that we're  
22 completely demoing. But as far as the main existing  
23 footprint, we're maintaining over 75, close to 80  
24 percent of the existing footprint. Way over the four  
25 feet beyond grade.

1 MS. BUTANI-D'SOUZA: Sorry, but --

2 MR. ALI: So only the back wall is coming  
3 out --

4 MS. BUTANI-D'SOUZA: -- maintaining the  
5 footprint, or are you maintaining the actual  
6 structure, like a wall? Because my understanding is  
7 that you would require a raze permit if you are not  
8 maintaining an actual wall. Is that right?

9 MR. ALI: Correct. I can point it out on the  
10 exhibit that is on the screen. We're maintaining the  
11 front porch, the front façade, the party wall that  
12 goes all the way back. However, the back, the rear  
13 wall is coming out.

14 CHAIRPERSON HEATH: The front façade is  
15 existing?

16 MR. ALI: Well, the front -- yeah, the front  
17 façade is staying in place. The front porch is  
18 staying in place, however it's going to be recladded  
19 with new finishes with brick and the mansard roof on  
20 top. So the existing footprint in the front is  
21 remaining place so that we can keep all -- so we can  
22 keep it aligned with the rest of the structures on  
23 that block.

24 CHAIRPERSON HEATH: And so the windows that  
25 are shown on the façade are existing. The existing

1 location of the windows.

2 MR. ALI: No, the windows will be modified and  
3 they will not necessarily be in the same place where  
4 the existing windows are. But however, the placement  
5 of that wall will remain the place. Footings of that  
6 wall will stay in place.

7 CHAIRPERSON HEATH: But the wall itself is  
8 new. The footings are the same.

9 MR. ALI: Footings the same, retaining walls  
10 the same. The wood structure walls will be in place.  
11 However, the doors and windows per the new design,  
12 that's the only modification that we're doing for the  
13 front façade.

14 MS. BUTANI-D'SOUZA: I'm sorry, can you  
15 explain how the footing of the existing façade can  
16 support the new façade, because it appears that the  
17 new façade is much more extensive weighty, and would  
18 require a structural support different from what that  
19 footing provides.

20 MR. ALI: Definitely. When we do the  
21 structure analysis and the structural laws for  
22 additional third-floor additions, we do run the  
23 structural calculations. And if the existing footing,  
24 based on the testing cannot support the new loads, the  
25 same existing footprint, footings, will be upgraded or

1 reinforced initially to pick up the additional loads.

2 MS. BUTANI-D'SOUZA: So you haven't done the  
3 calculation yet?

4 MR. ALI: We didn't get into the permitting  
5 part of it. Or like doing the actual engineering.  
6 But in this case we're only -- it's a 40 by 10 level  
7 structural load for this particular project and we're  
8 confident that the existing footprint will be okay to  
9 pick up a third floor. I mean, we can provide  
10 additional calculations.

11 CHAIRPERSON HEATH: After doing calculations.

12 MR. ALI: We can provide additional  
13 calculations to support that statement.

14 MS. BUTANI-D'SOUZA: Yeah, I think stamped  
15 calculations from a structural engineer would be  
16 helpful to --

17 MR. ALI: Yes, definitely. We have that as  
18 part of our permit set.

19 MS. BUTANI-D'SOUZA: Okay.

20 MR. SULLIVAN: If I might add as well that  
21 this is an issue for the Zoning Administrator to  
22 decide and we've self-certified, so we bear the risk  
23 of satisfying him as well, at the permitting stage.  
24 We still, even if we have -- even though we have an  
25 approval for these plans, he still has to be satisfied

1 that it's not -- doesn't reach his definition of a  
2 demolition. Which has evolved over the last couple  
3 years. So, it's a bit of a moving target. But he  
4 definitely has some specific requirements before he  
5 allows you to do an addition. So if the Board  
6 approved it, based on this and the Zoning  
7 Administrator said, wait, you're taking away too much  
8 of the building, and we'd be stopped.

9 CHAIRPERSON HEATH: Go ahead.

10 MR. HILL: Thank you, Madam Chair. If you  
11 could just focus in with me, I'm curious of what the  
12 matter of right is in terms of the units that you have  
13 and what you're doing with them, and then you know,  
14 you have opposition obviously so just for me I just  
15 want to clearly understand what you would be allowed  
16 to do matter of right versus what you're proposing to  
17 do.

18 MR. ALI: The matter of right would -- we can  
19 maintain the existing footprint that we have for the  
20 structure, but the only thing that we can't do a  
21 third --

22 MR. HILL: Can you show me on the plans which  
23 one you're talking about?

24 MR. ALI: What we are proposing now is a slab  
25 on grade with two stories up above. If we were to do

1 a by right project we can do the third unit. However,  
2 we can maintain the existing -- the footprint that  
3 we're proposing now, but we will be adding a cellar  
4 level, so the building height, because we do have an  
5 alternative that we've done in the past, that we have  
6 a by right two-unit only. But we had a cellar, first  
7 floor, second floor, and a third floor, which put our  
8 building at 35 foot in height. This particular option  
9 is a three-unit, but we didn't go in a cellar. We  
10 just went slab on grade.

11 So to answer your question, we can do the same  
12 exact footprint that we have today, but in order to  
13 put the two -- two units versus three, we need to have  
14 more square footage in, so that's what was going to  
15 lead us to provide a fourth level that's going to be a  
16 cellar, below grade; four feet below grade.

17 MS. BUTANI-D'SOUZA: So you are proposing a  
18 cellar here?

19 MR. ALI: No, we're not --

20 MS. BUTANI-D'SOUZA: Okay. And the slab on  
21 grade, the reason that you're doing slab on grade is  
22 to avoid the raze permit, is that correct, because  
23 that's part of the structure that's being preserved?

24 MR. ALI: Not necessarily. Even if I'm doing  
25 a cellar, as long as I underpin the existing

1 foundation walls I'm still under the definition as  
2 demo and not a raze.

3 MS. BUTANI-D'SOUZA: Okay. I just want to  
4 point out, Mr. Sullivan, that the question regarding  
5 whether a demolition or raze permit, I think the issue  
6 that my colleague was raising here is that you're  
7 applying for a conversion as opposed to the  
8 construction of a new unit. And so this question of  
9 whether this is actually a conversion or a  
10 construction of a new unit is an important question  
11 for the BZA and that's why we're asking about what  
12 portion of the building is being retained, because  
13 it's really not clear in the plans that anything  
14 actually is being retained here. And I think that's  
15 the question that was being asked.

16 MR. ALI: That's why we had a specific meeting  
17 with the Zoning Administrator to get clarification  
18 from him on this particular matter before we proceeded  
19 with the design, that it's defined under demo and not  
20 a raze. Otherwise we won't be able to do anything  
21 that we're proposing now.

22 CHAIRPERSON HEATH: Right. But it's important  
23 for you to also explain that to the Board. And so  
24 we're just trying to understand what is being  
25 maintained here, what's existing, and what is new.

1 And I think there's still some question about that.

2 MR. ALI: No problem.

3 CHAIRPERSON HEATH: Which is why we were  
4 talking about the façade specifically and -- because  
5 the drawings don't really make it clear.

6 MS. BUTANI-D'SOUZA: So it would be helpful if  
7 it was clarified in the drawings, and if you do have  
8 something from the Zoning Administrator that indicates  
9 that he has whatever it is that you're saying that  
10 he's told you, it would be helpful to see something --

11 MR. ALI: Definitely.

12 MS. BUTANI-D'SOUZA: -- in writing from the  
13 Zoning Administrator about that.

14 MR. ALI: We actually have --

15 CHAIRPERSON HEATH: Even though this is self-  
16 certified.

17 MR. ALI: We do have demo plans that we did  
18 provide in the permit set like last year, so we were  
19 more than happy to provide those as well.

20 MS. BUTANI-D'SOUZA: Thank you.

21 CHAIRPERSON HEATH: Okay.

22 MS. DUBROVINA: And just to answer, I think  
23 your question, what was the difference between going  
24 to the cellar and not -- and building slab on grade.  
25 If we build slab on grade we can have the total height

1 reduced by about four to five feet as opposed to doing  
2 a cellar, which sticks out about five feet above  
3 ground, which will end up being five feet taller as a  
4 building. So that's why we're able to maintain the  
5 32-foot height as opposed to going 35 or 36.

6 CHAIRPERSON HEATH: Okay.

7 MS. DUBROVINA: And we can go up to 40 because  
8 we own three adjacent properties. If we were to go by  
9 right.

10 [Discussion off the record.]

11 MS. BUTANI-D'SOUZA: Can you talk a little bit  
12 about, I think there is an assertion that's being made  
13 that this is in keeping with the character of the  
14 neighborhood, and I think that there is some question  
15 about whether this actually is in keeping with the  
16 character. Can you provide some information to us,  
17 your argument for why this is in character, if you  
18 have pictures or something that can support that  
19 assertion it would be very helpful?

20 MR. ALI: Actually, what you're seeing today  
21 on the exterior façade is the outcome of comments we  
22 heard from the neighbors. I don't know if I can put  
23 up the old design, which was not in character, which  
24 basically where these comments are coming from.

25 MS. BUTANI-D'SOUZA: This is the eight --

1 CHAIRPERSON HEATH: That eight-unit.

2 MS. BUTANI-D'SOUZA: The eight-unit design.

3 MR. ALI: Yeah, the eight. The eight units.

4 It was an apartment building that was previously  
5 designed because actually 67 percent of that block is  
6 apartment buildings. That's why it originally was  
7 designed as an apartment building. But after the new  
8 regulations that's what we're here today.

9 Meeting with the neighbors and they said,  
10 okay, they wanted to see our project to reflect the  
11 neighborhood that they have front porches. They  
12 wanted to see like a front porch on our front façade  
13 and that's like the building height would be more  
14 within the neighboring building heights. The mansard  
15 roof --

16 MS. BUTANI-D'SOUZA: Sorry, you said that 67  
17 percent of the neighborhood is apartment buildings.

18 MR. ALI: If you --

19 MS. BUTANI-D'SOUZA: Oh, I see. Okay. So  
20 you're talking about as you go around the corner to  
21 the north. Is that what you're talking about?

22 MR. ALI: Anything west of us is apartment  
23 buildings, except for 1262 is a single-family  
24 dwelling. If you go all the way down to the  
25 intersection, everything is apartment buildings.

1 MS. BUTANI-D'SOUZA: And when you say  
2 apartment buildings do you mean the same sort of  
3 eight-unit buildings that you had original anticipated  
4 or do you mean like --

5 MR. ALI: No, there's actually a bigger count  
6 units further down the block.

7 MS. BUTANI-D'SOUZA: Okay. Thank you. Sorry,  
8 so you were saying about the character.

9 MR. ALI: Yeah. So, yeah, I'm saying this  
10 [garbled speech] not in character was, I believe, is  
11 from the previous design and not the current design  
12 because the current design is the outcome of  
13 responding to a lot of the constraints that we had  
14 from OP and from the neighbors, providing the front  
15 porch, the brick, the mansard roof, all these were  
16 collective comments that we got from OP and that's  
17 what get to the design at this point. So I don't  
18 think this comment relates to this particular façade.  
19 It's to the previous design.

20 MS. BUTANI-D'SOUZA: Okay. Well, we will  
21 certainly find out. I'm sure.

22 MR. ALI: Sure.

23 CHAIRPERSON HEATH: Okay.

24 MS. DUBROVINA: So just a point from me. The  
25 printouts that I gave you, what the architect was

1 basically saying was if you're looking at the subject  
2 property all the houses to the right for the rest of  
3 the block, are row houses. Everything to the left,  
4 with the exception of our abutting neighbor is all  
5 apartment buildings. The next building over is an  
6 eight-unit building, and everything further down that  
7 block is -- and across the street is either four or  
8 six or eight-unit buildings.

9 [Discussion off the record.]

10 CHAIRPERSON HEATH: Can you just restate which  
11 properties along Holbrook Terrace are eight-unit  
12 apartments?

13 MS. DUBROVINA: [Speaking off mic.]

14 CHAIRPERSON HEATH: Just for the record, make  
15 sure your mic is on, but they're along Holbrook  
16 Terrace?

17 MS. DUBROVINA: Correct.

18 CHAIRPERSON HEATH: Okay.

19 MS. DUBROVINA: So if you're facing the  
20 subject property, the adjacent semi-detached is  
21 single-family, and then the building to the left is an  
22 eight-unit to the best -- I'm certain it is. And then  
23 from that point further it's all apartment buildings.

24 CHAIRPERSON HEATH: Okay.

25 MS. DUBROVINA: Four, sixes, and eights.

1           CHAIRPERSON HEATH: Okay. And so you  
2 initially thought, I'm assuming based on that, that  
3 you could do an eight-unit?

4           MS. DUBROVINA: It was a matter of right  
5 project when I bought it and we submitted the -- when  
6 we submitted for permits it was a matter of right  
7 eight-unit --

8           CHAIRPERSON HEATH: Okay.

9           MS. DUBROVINA: -- at the time.

10          CHAIRPERSON HEATH: Okay.

11          MS. DUBROVINA: Then the regs changed and  
12 basically we had to change course.

13          CHAIRPERSON HEATH: Right. And so -- but  
14 you've also changed course because of comments that  
15 you've heard --

16          MS. DUBROVINA: Absolutely.

17          CHAIRPERSON HEATH: -- about the property.  
18 And so you decided at that point to do -- to subdivide  
19 the lot into three.

20          MS. DUBROVINA: Right.

21          CHAIRPERSON HEATH: And was it at that point  
22 that you decided to do two matter of right, two-unit  
23 buildings, and then the third as a --

24          MS. DUBROVINA: Correct. And six special  
25 exception on just the one lot that has currently an

1 existing building, which is how we would satisfy the  
2 special exception requirement.

3 CHAIRPERSON HEATH: Because there was an  
4 existing building on that one --

5 MS. DUBROVINA: Correct.

6 CHAIRPERSON HEATH: -- you could make that a  
7 conversion.

8 MS. DUBROVINA: Yeah.

9 CHAIRPERSON HEATH: And three. I'm just  
10 trying to understand the rationale behind the  
11 decisions that you've made --

12 MS. DUBROVINA: And a lot of the rationale for  
13 that came from the discussions with the Office of  
14 Planning that really felt strongly that this is --  
15 even though there are apartment building in the  
16 street, it's still a row house district and they would  
17 strongly prefer to see a row house design. So we've  
18 come up with a design to subdivide that one lot into  
19 three and put three row houses in there that perfectly  
20 connect the two adjacent properties. It's all in line  
21 so we complete the row, end up with three row houses.

22 CHAIRPERSON HEATH: Okay.

23 MR. ALI: I have the map on the screen. I can  
24 point out the apartment buildings versus the row  
25 houses.

1 CHAIRPERSON HEATH: Okay.

2 MR. ALI: Everything you see in here are the  
3 single-family row dwellings in here. And everything  
4 that you see going all the way is apartment buildings  
5 except for the neighboring property right here.

6 CHAIRPERSON HEATH: Okay.

7 MR. ALI: And you can tell from the footprint  
8 of the structures that they are much bigger than the  
9 others.

10 CHAIRPERSON HEATH: Okay. With the eight-unit  
11 building that you originally proposed, did you have IZ  
12 units included?

13 MR. ALI: No. When we first proposed the  
14 project it was before the regulations and we did not  
15 have IZ units.

16 CHAIRPERSON HEATH: No IZ. Okay.

17 MR. ALI: However, when we went -- we were  
18 planning on going to the Board, we were planning to  
19 account for IZ units.

20 CHAIRPERSON HEATH: Okay.

21 MR. ALI: But then after, when we met with the  
22 neighbors and OP we got the concerns about the  
23 structure as a big mass and what they were trying to  
24 achieve out of this project. That's what led us to  
25 subdividing and going completely different route.

1 CHAIRPERSON HEATH: Okay.

2 MS. BUTANI-D'SOUZA: Are there any IZ units in  
3 the seven-unit building that you're -- I mean,  
4 essentially you're proposing to go from an eight-unit  
5 building with three IZ units, to seven units with no  
6 IZ units. Is that correct?

7 MR. ALI: No, we're not doing any IZ units  
8 because the subject property is a two to three-unit.  
9 We're converting it from a single-family to three  
10 units. There is no IZ required.

11 MS. BUTANI-D'SOUZA: Right. No, I'm just  
12 trying to understand. So, if you had gone with the  
13 eight-unit building you would have been required to do  
14 three IZ units.

15 MR. ALI: Correct.

16 MS. BUTANI-D'SOUZA: So now you're getting to  
17 do seven units, essentially, across three lots, but  
18 you don't have to do any IZ units. That's a nice  
19 thing --

20 MR. SULLIVAN: That's correct. And the  
21 inclusionary zoning didn't seem to be a huge concern  
22 with the community. They were more concerned  
23 specifically about the side entrance. They were  
24 concerned about all the windows on the side, even  
25 though there was an open courtyard there. And just

1 the seven or eight units together as one unit. I  
2 can't speak for them why they weren't that focused on  
3 the inclusionary zoning, but I think that market  
4 prices here maybe weren't that much different.

5 CHAIRPERSON HEATH: Okay.

6 MS. BUTANI-D'SOUZA: And can I ask, why are  
7 you not just building six units by right?

8 MS. DUBROVINA: Because in order to make the  
9 project work -- we could. But we'd need to make all  
10 the units bigger in order to get the square footage  
11 required to get -- you know, to make the project  
12 worthwhile.

13 We can do the project with a slightly larger  
14 number of units, seven in total, and because of that  
15 we can actually reduce the size of the building. We  
16 don't have to go the full four stories, or rather  
17 three plus cellar. We can do them a little bit  
18 smaller because the total price that we're going to  
19 get in the out sale is going to cover that lack -- you  
20 know, the full gone square footage.

21 MS. BUTANI-D'SOUZA: I'm sorry. I don't think  
22 I follow. So you're saying that if you did six units  
23 you'd have to build the building bigger?

24 MS. DUBROVINA: Yes.

25 MS. BUTANI-D'SOUZA: Why is that?

1 MS. DUBROVINA: In order to get the sale price  
2 for the six units to make the project work. In order  
3 to get the total sale price I need to -- if I only was  
4 limited to six units I would need the total square  
5 footage to be bigger. Because now if I can do seven  
6 then I can make them smaller because there's no need  
7 for that additional square footage in order to cover  
8 that foregone -- you know, the out sale price.

9 Did I explain that okay?

10 MS. BUTANI-D'SOUZA: Yeah, I understand what  
11 you're saying.

12 MS. DUBROVINA: But having that additional one  
13 unit allows us to actually build smaller and shorter  
14 buildings. Less tall and less bulky building.

15 MS. BUTANI-D'SOUZA: Okay. So basically what  
16 you're saying is that, I don't know what the community  
17 and the ANC believe here but I'm just trying to  
18 understand. So you're saying that the community's  
19 preference for a smaller footprint leads you to create  
20 larger -- or sorry, more smaller units. So additional  
21 density to cover the cost.

22 MS. DUBROVINA: Correct.

23 MS. BUTANI-D'SOUZA: And make up your margin.

24 MS. DUBROVINA: So the other two row houses  
25 will remain exactly as they are, except that, you

1 know, we're only going to 32 feet. Because we're  
2 trying to limit the square footage that we're  
3 building, we need the extra unit to get the additional  
4 price on the out sale, because we're not maximizing  
5 the square footage that we could have.

6 MS. BUTANI-D'SOUZA: Right. I see. So it's  
7 interesting because you're basically saying that  
8 there's a tradeoff --

9 MS. DUBROVINA: There's a tradeoff, exactly.

10 MS. BUTANI-D'SOUZA: -- between the smaller  
11 units --

12 MS. DUBROVINA: Yep.

13 MS. BUTANI-D'SOUZA: -- and the --

14 MS. DUBROVINA: Three slightly smaller units  
15 will get us about the same prices as two larger units;  
16 much larger units. We could build more and make about  
17 the same money, or we could build less with three  
18 units and get about the same money. And I see that as  
19 a win/win because the community gets a smaller  
20 building, in fact three smaller buildings, and the  
21 only thing we need is one extra unit to compensate for  
22 all that additional square footage that we are happy  
23 not to build.

24 MS. BUTANI-D'SOUZA: So is it that you are  
25 indifferent between building three smaller units and

1 two larger units?

2 MS. DUBROVINA: No. As a developer I would  
3 rather build as little as possible to make roughly the  
4 same amount of money. So there is -- there are costs  
5 involved, you know, it would be a larger project to  
6 roughly make similar money.

7 MS. BUTANI-D'SOUZA: Okay.

8 MS. DUBROVINA: Or to make the project viable  
9 in the first place, because when I bought this project  
10 this was going to be an eight-unit --

11 MS. BUTANI-D'SOUZA: But with inclusionary  
12 zoning, so --

13 MS. DUBROVINA: No, it was --

14 MR. HILL: It wasn't. It wasn't.

15 MS. DUBROVINA: It was all by right. It was  
16 prior to all of that.

17 MS. BUTANI-D'SOUZA: Oh, okay. I see. Uh-  
18 huh.

19 MS. DUBROVINA: We submitted all the permits  
20 in January of 2015. Nothing got -- and it was not  
21 until June that the regulations changed but we didn't  
22 get the approvals that were required because we got  
23 held up in the DCRA process.

24 So at the time we bought, designed the eight-  
25 unit, and submitted for permits, this was all by right

1 with no IZ for eight units.

2 MS. BUTANI-D'SOUZA: Which aspect of the DCRA  
3 process held you up? Just curious.

4 MS. DUBROVINA: Zoning. I think. And I'll  
5 let the architect speak.

6 MR. ALI: Yeah. Basically the zoning revision  
7 took place actually three months after we filed our  
8 permits in January of 2015, and they only had one  
9 comment which is basically clarification. It wasn't  
10 even a comment. It was clarification for a demolition  
11 scope.

12 We provided that information to the --

13 MS. BUTANI-D'SOUZA: The raze versus  
14 demolition question?

15 MR. ALI: He was specifically asking for more  
16 information on the demo. There wasn't enough  
17 information on the demo, so we did a more detailed  
18 survey. We provided additional demolition plans, we  
19 submitted them to the reviewers, and he said that he  
20 have to wait for the Zoning Administrator to take a  
21 look at it. And that's what actually spread the wait  
22 time up until June, beyond actually, beyond June. Up  
23 until we met with the Zoning Administrator and he  
24 accepted it's a demo versus not razed. It was too  
25 late already because June 26th passed and the new

1 regulations apply. So we couldn't move forward  
2 without going to BZA.

3 MS. BUTANI-D'SOUZA: Okay.

4 MS. DUBROVINA: We actually got a meeting with  
5 the Zoning Administrator literally three or four days  
6 after that date. We missed it by a whisker.

7 CHAIRPERSON HEATH: Okay. Sure.

8 MR. HILL: Thank you, Madam Chair. Sorry,  
9 just to be clear for me, again, had it not changed  
10 there would be an eight-unit apartment building there  
11 now?

12 MS. DUBROVINA: We would be allowed to do so.

13 MR. HILL: Yeah, that's what you would have  
14 built. You would have built the eight-unit apartment  
15 building?

16 MS. DUBROVINA: Yes.

17 MR. HILL: Okay. Yeah, I mean probably or  
18 whatever. That's what you would move forward with.  
19 And then what got me to my original question that I  
20 keep -- I just wanted to see the massing. I don't  
21 know if you can show me just something easily that I  
22 can see here that shows like, you know, if you were to  
23 build the larger units versus the three units, that  
24 what I was trying to kind of take a look at. Is there  
25 anything you can point me to?

1 MR. ALI: We didn't create like a 3-D model  
2 that would reflect the by right two units per lot.  
3 However, we have a model from the previous design that  
4 we actually made --

5 MR. HILL: Oh, yeah. That one I've seen.  
6 Okay.

7 MS. DUBROVINA: I think it would essentially  
8 be a very similar footprint. What it would be is, it  
9 would be nearly 10 feet taller, or eight feet taller.

10 MR. HILL: A similar footprint to the  
11 apartment building.

12 MS. DUBROVINA: No, a similar footprint to --

13 MR. ALI: To what we have today, except  
14 higher.

15 MS. DUBROVINA: Are you talking about before  
16 or what we would be --

17 MR. HILL: If you did the by right, yeah.  
18 Now, by right.

19 MS. DUBROVINA: Now by right we would still  
20 probably do the three row houses. We just not -- we  
21 would definitely have another level.

22 MR. HILL: You'd dig down in the cellar.

23 MS. DUBROVINA: Yeah. So we would end up  
24 probably five to eight feet taller. And owning three  
25 in a row would allow us to go like do high ceilings,

1 that's it. I mean, we've dropped interior ceilings  
2 here to I believe --

3 MR. HILL: But I think to get to the 40 feet,  
4 even if you have three in a row, you have to go  
5 through special exception. Isn't that true?

6 MR. SULLIVAN: No, it's a matter of right for  
7 three consecuious (sic).

8 MR. HILL: By right three. Okay.

9 MS. DUBROVINA: Yeah.

10 MR. HILL: Thank you.

11 MS. DUBROVINA: Yeah. But we're keeping well  
12 below the 35. We're here at 32. And in fact the roof  
13 line is at 30 feet. It's only the front where we have  
14 the parapet for the additional two feet. So we're  
15 really at a 30 feet height the entire building, except  
16 for the very front. Just the roof line in the front,  
17 and that's a safety feature.

18 MS. BUTANI-D'SOUZA: So the parapet wall that  
19 you're talking about, that's just an architectural  
20 feature for the mansard roof?

21 MR. ALI: Actually, I need to correct that.  
22 That additional two feet is not -- it's not a parapet,  
23 actually. It's actually additional height for that  
24 mansard roof that we have on the front.

25 MS. BUTANI-D'SOUZA: Okay. Yeah, that would

1 make sense really. Parapet wall.

2 MR. ALI: Because that first floor is a unit  
3 on its own and the only place to get natural light to  
4 that third floor is that window in the front. So  
5 that's why we had to do a mansard roof versus any, you  
6 know, dormer or anything else. So we had to pick up  
7 the height a little bit more, two feet, just to have  
8 more natural light coming in.

9 CHAIRPERSON HEATH: Okay.

10 MS. DUBROVINA: In addition to all of that  
11 we've all but eliminated most of the rooftop terraces,  
12 which by right certainly -- but we've gotten one very  
13 small roof terrace on the subject property. We've  
14 pulled them all away from the edges of the buildings.  
15 Again, something that would not need to be done by  
16 right. And we would have to -- by right I would have  
17 to maximize every feature that I could in order to get  
18 the best out sale price. So all of those features  
19 have been pulled back significantly for this.

20 CHAIRPERSON HEATH: All right. So -- oh, go  
21 ahead.

22 MR. MILLER: Oh, thank you, Madam Chair. I  
23 just had one comment and one question. I think it's  
24 an attractive project and I appreciate the changes  
25 that have been made to try to be sensitive to the

1 character of the neighborhood and the adjacent  
2 property, the creation of the open -- the corridor  
3 side separation at the back.

4 Is there -- and that you're only going back 10  
5 feet beyond even -- you're set back and you're  
6 normally going 10 feet beyond that adjacent property.  
7 That's correct.

8 And so is there something in the record that  
9 just shows that side elevation or relationship between  
10 the adjacent property and your development?

11 MR. ALI: Yes. Actually this is the same  
12 request that we got a couple weeks ago.

13 MR. MILLER: I know. I think I was the same  
14 person who requested it.

15 MR. ALI: Exactly. And actually we did the --

16 MR. MILLER: I'm trying to be consistent.

17 MR. ALI: -- same exact treatment that we did  
18 on Columbia Road project. And if you see it up on the  
19 screen, that we're doing on Holbrook. Except this  
20 project will be in our side yard. Our side yard, not  
21 on the property line. So, it will be maintained by  
22 the project owner.

23 MR. SULLIVAN: I think the answer is --

24 MR. MILLER: I think that's a --

25 MR. SULLIVAN: -- we can submit a revised side

1 elevation showing that.

2 MR. MILLER: That would be great. And I think  
3 that is a very attractive sidewall.

4 CHAIRPERSON HEATH: All right. So we still  
5 need to hear from the party in opposition. Do you  
6 have any questions of the applicant based on their  
7 presentation or any statements they've made so far?

8 Make sure your mic is on.

9 MS. DUMAS: I do not have any questions at  
10 this time for the party.

11 CHAIRPERSON HEATH: Okay. Do you want to make  
12 your presentation now then?

13 MS. DUMAS: Yes. We have met with the  
14 applicant on numerous occasions. And one thing that I  
15 just want to share from our perspective is that we  
16 feel like we're putting a rock in a hard place. And  
17 that rock is by way of threat and by way of  
18 consideration.

19 The consideration that they have given us has  
20 been so much so because of the opposition that Office  
21 of Planning has presented to them, and based on the  
22 applicant's testimony today, the applicant said had  
23 they had the opportunity to go ahead and build by  
24 right, they would have built the eight-unit building.

25 When I spoke to Ms. Dumar approximately three

1 years ago her and I -- I wrote a letter and that  
2 letter was to get the taxes reduced so she can afford  
3 to purchase this property.

4 She approached me and I spoke with members of  
5 the community and we were for it, obviously because  
6 this property has been vacant for some time and it has  
7 also been a nuisance. This proposed not only being a  
8 nuisance, it's a nuisance to the person who is  
9 abutting. So we were definitely in glee when Ms.  
10 Dumar suggested that she would purchase this property.

11 At that time, we shared with Ms. Dumar what  
12 our concerns were and we have not shifted from that.  
13 In that process she was very delightful. In that  
14 process she was very welcoming in the sense that she  
15 was willing to hear our concerns. In her testimony  
16 today she has not taken those concerned based on what  
17 she said, she would have did what was by right and  
18 that wasn't part of the conversation that we  
19 originally had. Which has me feeling some kind of  
20 way, that also has those that live in our community  
21 feeling some kind of way because she has not been  
22 forthright in her efforts to address the community.  
23 She's doing what she has to do because she's trying to  
24 get what she want done. She's not considerate in the  
25 sense that she would initially have come to us, as she

1 did to get the property taxes reduced, to see what we  
2 really wanted, to see how she would fit in, and be a  
3 good neighbor.

4           As a former commissioner in 5D-02 I've worked  
5 with a lot of developers. Douglas Development, Level  
6 2, and a lot of other developers I can speak of that  
7 have actually created some community benefit, and  
8 doing so they have been welcomed developers in the  
9 sense that we have worked willingly (sic) with them  
10 on all turns and how we want to see our community  
11 developed, in that we have felt threatened in a sense  
12 that they have singled out Mrs. Purnell as well as Mr.  
13 Mathis, which are the two neighboring residents that  
14 live in the neighborhood to pretty much say, hey, what  
15 do you want? What can we do for you in the sense that  
16 we can move this project forward?

17           Also, in that sense Mrs. Purnell, being that  
18 she is the major, major -- I don't know. If you look  
19 at the photo where it talks about -- I mean, where it  
20 pictures the two homes, this is a wood frame. This  
21 project has been purchased two times prior to Mrs.  
22 Dubrovina, if I'm pronouncing that correctly. Thank  
23 you. And they were stopped. We don't know why they  
24 were stopped, but there were various reasons why they  
25 were stopped.

1           One reason that have been spoke of in the past  
2 is because it's a wood frame, and the interest in that  
3 is, it has not been addressed to us how do you  
4 construct your building without damaging what's  
5 already existing. We would really like to know how  
6 they will plan to move forward without doing that.  
7 They have breezed over it by saying they will detach  
8 their home from the existing home. That has not been  
9 talked about today. They have also talked about --  
10 we've talked about with our commissioner, a  
11 construction plan that will speak to these things that  
12 will make sure that they can do what they're  
13 interested in doing.

14           Our main concern at this stage, we have done a  
15 petition and the petition we've had over 30 signatures  
16 that oppose this particular project as they have it  
17 outlined currently.

18           In that petition, it should have been uploaded  
19 by now, granting a special exception in this case is  
20 not in harmony with what is existing. It would  
21 adversely impact the abutting neighbors and the  
22 community in general, not limited to traffic but noise  
23 as well.

24           As it is now, our community is very very  
25 small. And in our community we have a lot of senior

1 residents as well as disabled residents. And then we  
2 have a lot of new residents that are young and  
3 vibrant. If you look at what our neighborhood looks  
4 like at night, there is absolutely no place to park.  
5 Period. There are some residents that have parking,  
6 but when you encounter that there is parking in the  
7 rear, many of us have visitors. And by right, we  
8 should. And we can. And although it impedes upon the  
9 opportunity to leave for run for an emergency and have  
10 to come back and not have any place to park. Or to  
11 run and drop off your groceries to come back and not  
12 have a place to park. Or to double-park in the middle  
13 of the street to unload your groceries, and things of  
14 that nature.

15           That is one of the adverse effects of adding  
16 another unit, not to say that what they have done in  
17 terms of design is not something that we are excited  
18 about, but adding seven additional units to when  
19 there's more capacity to build, she also owns a  
20 property across the street, with being that there's  
21 more capacity to build, we're thinking not beyond just  
22 this particular project, but all the different  
23 projects that are going to happen, that is by right,  
24 that will, you know, adversely affect us in just  
25 parking alone as well as with traffic.



1 to what that brings. But when Ms. Purnell purchased  
2 her house it was a single-family dwelling. We're not  
3 opposed to it being what can be done by right in a  
4 sense that more units can be placed in that project.  
5 But we are concerned with it being three additional  
6 units in that particular project. That is more for  
7 her to deal with as well as all the other adverse  
8 effects that will be implicated through traffic and  
9 noise of our small street.

10 We would like to keep our neighborhood just as  
11 it is in the sense that it is small and it is quaint.

12 They did a really good job in going back to the table  
13 from building that eight-unit to what it is now, but  
14 there are some other concerns as it relates to the  
15 character of features. Some of the character features  
16 where that house is, the doors are opposite of -- the  
17 doors are opposite of each other. And these things  
18 are very minute when it comes to the bigger scheme of  
19 things. But most of our doors, actually all of our  
20 doors, are to the right. And the only reason that  
21 their doors are separate, because they're the only  
22 unit on that street that is a semi-attached. So  
23 that's a concern.

24 The other character traits of that particular  
25 project is the railings that give us the assumption.

1 And they've clarified that it's not a balcony. The  
2 other thing is that the rear -- the footprint of the  
3 building exceeds the alignment of what's existing of  
4 the dwellings, and all of us really enjoy that we are  
5 able to have a clear see-through in our community  
6 towards the back. The rear project that projects back  
7 sets -- the rear of the project is set back further  
8 than what's existing.

9           The other challenge with what's existing is,  
10 and I know that we may not get everything that we're  
11 asking for because of the laws that are what's by  
12 right. But Mr. Mathis's home has windows. And being  
13 that his house has windows, when he purchased it, that  
14 was one of the main reasons he purchased his home.  
15 Now the threat, and it was a threat, that came forth  
16 is that I won't complain that he has windows because  
17 he's not allowed to have windows. And that's not our  
18 argument.

19           And whether he's allowed to have windows or  
20 wasn't, he purchased the home that way. So he would  
21 like to have that same enjoyment, what he can see, and  
22 have that light and air. He does have a testimony. I  
23 would like to call him up and speak, as well as Ms.  
24 Purnell.

25           CHAIRPERSON HEATH: Okay. You can call them

1 as your witnesses.

2 MS. DUMAS: Okay. Mr. Mathis and Ms. Purnell.  
3 Ms. Gray.

4 CHAIRPERSON HEATH: Can you clarify for us,  
5 while they're coming up, which properties they reside  
6 in?

7 MS. DUMAS: Ms. Purnell is the abutting  
8 neighborhood. And her daughter is Ms. Gray, who we  
9 would use to speak with Ms. Purnell. And Mr. Mathis  
10 is the house that's next to here.

11 CHAIRPERSON HEATH: Okay.

12 MR. HILL: So Ms. Purnell is to the left?

13 MS. DUMAS: Yes.

14 MR. HILL: Thank you.

15 CHAIRPERSON HEATH: We're going to have a  
16 number of questions for you as well. We can hear from  
17 them --

18 MS. DUMAS: Okay.

19 CHAIRPERSON HEATH: -- but I know I have a  
20 number of questions and I'm sure other board members  
21 do. So we'll come back to those in order to allow  
22 them to speak now.

23 MS. DUMAS: Okay.

24 CHAIRPERSON HEATH: If we're going to give --  
25 is it three minutes still? We'll give each of them

1 three minutes. And if you could, please just state  
2 your name and then we'll begin; you can begin to make  
3 your statement.

4 MS. PURNELL: Yes. My name is Mary E.  
5 Purnell, and I reside at 1262 Holbrook Terrace  
6 Northeast, Washington, D.C. And I been living there  
7 for 55 years. And I also know that construction of  
8 building, a three-story building, whatever they want  
9 to do, it will be too noisy. Too noisy. Too noisy.

10 MS. DUMAS: Ms. Gray, would you like to speak?

11 MS. GRAY: Hi. My name is Felicia Gray. I'm  
12 Mary Purnell's daughter, and I'm going to kind of  
13 speak on her behalf. She can still say things for  
14 herself, of course, but I'm going to kind of speak on  
15 her behalf.

16 Some of the issues --

17 MS. DUBROVINA: Madam Chair, I'm sorry to  
18 interrupt but could the witness state the address of  
19 the property? I don't know --

20 MS. GRAY: I'm sorry.

21 MS. DUBROVINA: -- if we have that in the  
22 record.

23 CHAIRPERSON HEATH: She said 1252.

24 MS. GRAY: Twelve six --

25 CHAIRPERSON HEATH: Oh, 12 --

1 MS. GRAY: 1262 Holbrook Terrace Northeast.

2 CHAIRPERSON HEATH: Right.

3 MS. GRAY: Some of the issues -- well, let me  
4 start off by saying, we do appreciate the efforts that  
5 you have made to accommodate this whole project.  
6 However, I don't think that it's enough. One of the  
7 concerns that my mother and I have is that they have  
8 not conclusively expressed how they will build without  
9 damaging her property. And that's a big issue. This  
10 is her home.

11 We feel that this property will be too  
12 obtrusive. She has been able to go out into her yard  
13 and be able to see everyone and greet everyone and  
14 that will not be the case anymore.

15 I'm sorry. It just bothers me that I even  
16 have to --

17 CHAIRPERSON HEATH: Sure. I understand.

18 MS. GRAY: -- be here for this.

19 CHAIRPERSON HEATH: I understand. Can I ask  
20 you a question?

21 MS. GRAY: Sure.

22 CHAIRPERSON HEATH: I don't know if this will  
23 help. Can you just explain to us, is it the size --  
24 is it the position of this house? What is it --  
25 because you have an eight-unit apartment building on

1 the left of you.

2 MS. GRAY: Right. We're not against what  
3 she's able to do by right, but to add --

4 CHAIRPERSON HEATH: The two units.

5 MS. GRAY: The two units.

6 CHAIRPERSON HEATH: Uh-huh.

7 MS. GRAY: But to add this third unit, I just  
8 think that that's just -- that's massive. That's too  
9 much.

10 CHAIRPERSON HEATH: Okay. But your mother --  
11 we completely respect your mother's ability to be able  
12 to enjoy her yard and to be able to see her neighbors  
13 as she does today. What would -- so if this were a  
14 two-unit, would you feel that she still had the  
15 ability -- you know, if it were a two-unit it would  
16 likely be a little bigger.

17 MS. GRAY: It would be -- yeah, I think there  
18 would be more space on both sides. I think that would  
19 be beneficial for both my mother and for the adjoining  
20 neighbor.

21 CHAIRPERSON HEATH: But you're thinking of  
22 having more space directly on the side of your house?  
23 Or, I'm just trying to understand where your --

24 MS. GRAY: The rear setback.

25 CHAIRPERSON HEATH: So the front setback.

1 MS. GRAY: The rear setback.

2 CHAIRPERSON HEATH: Oh, the rear setback.

3 MS. GRAY: The rear. Uh-huh.

4 CHAIRPERSON HEATH: Okay. Okay. But yeah,  
5 because the thing that I'm getting at is the mass, the  
6 size of the property being built would likely still be  
7 the same.

8 MS. GRAY: Okay.

9 CHAIRPERSON HEATH: So, it could potentially  
10 be bigger as the applicant has said because she'd want  
11 to make the size of the units, if she had just two  
12 units, she'd want to make the size of them bigger.

13 MS. GRAY: Okay. Okay.

14 CHAIRPERSON HEATH: So by having the three  
15 units it does mean potentially more people --

16 MS. GRAY: Uh-huh.

17 CHAIRPERSON HEATH: -- within this house  
18 that's next door to your mother, but --

19 MS. GRAY: Okay.

20 CHAIRPERSON HEATH: But what the applicant has  
21 said she's tried to do anyway, is reduce the size of  
22 the house being built by adding the three units. It's  
23 a financial argument for her, but I'm just --

24 MS. GRAY: And that's --

25 CHAIRPERSON HEATH: I just want to understand

1 what it is that would make you all feel whole in this.

2 MS. GRAY: Okay. So again, I just think that  
3 having those number of units, again, there would be  
4 parking issues. You know, my mother is elderly. We  
5 have to come and check on our mother on a frequent  
6 basis. You know, where are we going to park? If we  
7 need to come and get her and take her to the grocery  
8 store and come back, I mean, it's just -- I just don't  
9 see how this would make things stay the same or easier  
10 for her. So again, my main concern is my mom of  
11 course, being able to get to her.

12 And not only that, just the construction and  
13 the noise and things of that nature, how it's going to  
14 affect her. You know, she's been in her home for 55  
15 years, and to have this totally new environment around  
16 her, you know, the things that she's going to have to  
17 deal with now, how do you -- you know, you can't begin  
18 to imagine or put together how this will affect her.

19 MS. BUTANI-D'SOUZA: Sorry. I want to make  
20 sure that I understand your concerns and I think this  
21 is the question that Madam Chair was asking. So, I  
22 don't want to over simplify what you're saying, but I  
23 just want to understand.

24 So is your concern -- you are more concerned  
25 about the parking and the additional units than you

1 are about the increased size in the back? So in other  
2 words you've mentioned that your mother goes to her  
3 back yard --

4 MS. GRAY: Yes.

5 MS. BUTANI-D'SOUZA: -- to greet the  
6 neighbors, and that because this is extending the back  
7 of the unit that that will --

8 MS. GRAY: That is an issue.

9 MS. BUTANI-D'SOUZA: -- have an impact on her  
10 ability. But for you and for your mother, the more  
11 critical concern is that the additional unit will  
12 bring additional noise and additional parking  
13 constraint. Is that a correct understanding?

14 MS. GRAY: Those are a couple of the issues,  
15 yes. And again, it's still the -- her not being able  
16 to go into her back yard and be able to see her  
17 neighbors. She really doesn't -- in terms of where  
18 the apartment buildings begin, it's more so the  
19 neighbors to the opposite side of here where the  
20 houses are, where you know, they'll come out and greet  
21 each other and things of that nature. Or just a, you  
22 know, even though she's pretty young she still likes  
23 to, you know, she pays attention to her surroundings,  
24 so she goes out and she looks out at her back yard to  
25 see if anything, you know, is awry or I mean, whatever

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1 the situation may be. She likes to have that ability  
2 to be able to go out into her back yard and to see  
3 whatever it is that she needs to see. And that's not  
4 going to be the case anymore. So I mean, I ask that -  
5 - or I tried to put myself in her shoes and if I was  
6 her age, you know, to have these luxuries that we've  
7 had, you know, that she's had in her life to be taken  
8 away from her, I think that would be kind of  
9 detrimental.

10 CHAIRPERSON HEATH: I have a question for the  
11 applicant because parking has come up a number of  
12 times. It looks like you're going there, although  
13 this is the old. But you have two parking spaces that  
14 you've provided for the three-unit building. Are you  
15 providing parking for the two, two-unit?

16 MR. ALI: Correct. Actually, we're not  
17 separating the lots on the back so we're not putting  
18 any fences between the lots. We're opening up the  
19 whole three lots all together, and we're providing a  
20 total seven parking spaces.

21 CHAIRPERSON HEATH: Okay.

22 MR. ALI: By right we're required to provide  
23 three. The remainings will be a compact size parking  
24 space. That's how we can fit seven parking spaces  
25 side by side right from the alley.

1 CHAIRPERSON HEATH: Okay.

2 MR. ALI: So total we are providing one to  
3 one.

4 CHAIRPERSON HEATH: Okay. So you'll have two  
5 at the rear of the three-unit, and then four -- five,  
6 I'm sorry.

7 MR. ALI: Five.

8 CHAIRPERSON HEATH: Five at the rear of the  
9 others. Okay. All right. I just wanted to address  
10 your concern about parking.

11 MS. GRAY: Okay.

12 CHAIRPERSON HEATH: So they are providing  
13 parking for each of these new units.

14 MS. GRAY: What about their guests? What  
15 about, I mean, the traffic alone? I mean, it's,  
16 it's --

17 CHAIRPERSON HEATH: Sure. Sure. That's --

18 MS. GRAY: It's a bigger picture.

19 CHAIRPERSON HEATH: Sure. I understand. But  
20 I just wanted to -- do you also have parking at the  
21 rear of --

22 MS. GRAY: Yes.

23 CHAIRPERSON HEATH: -- your mother's house?

24 MS. GRAY: Yes.

25 CHAIRPERSON HEATH: Okay.

1 MS. GRAY: There is a parking --

2 CHAIRPERSON HEATH: A parking pad or a  
3 parking --

4 MS. GRAY: Uh-huh.

5 CHAIRPERSON HEATH: Okay. All right.

6 MS. BUTANI-D'SOUZA: Can I ask the applicant.  
7 You had previously said that you would need to build  
8 the six units bigger. Can you help me understand, or  
9 help us understand, how much bigger are we talking  
10 about? How much further would it extend into the  
11 yard?

12 MS. DUBROVINA: Yeah. Essentially what I  
13 would have to do is put two duplexes in each of the  
14 row houses, and that's how I would end up with -- in  
15 terms of footprint, it really wouldn't be that much  
16 bigger. But we would require that additional story as  
17 in the cellar. So that would pop the entire building  
18 up approximately five feet. So, the footprint would  
19 be similar, possibly a little bit larger. We can go -  
20 - you know, the lot occupancy --

21 MR. ALI: I can explain the footprint if you  
22 want.

23 MS. DUBROVINA: Sure.

24 MR. ALI: As far as the footprint, as you see  
25 with the current proposal that we are having a small

1 side yard that we said we're going to set back our  
2 wall. This side yard is calculated part of our lot  
3 occupancy. And we're putting a trellis right on top  
4 of it to avoid the open court condition. It's not on  
5 for this because we did provide that side yard to  
6 allow air coming in the neighboring property.

7           If that were to be done by right the only  
8 space that she can build extra from the existing  
9 footprint is to push that wall all the way to the  
10 property line and build her 60 percent. But right now  
11 she's at 60 percent. However, that side yard is part  
12 of that lot occupancy.

13           MS. BUTANI-D'SOUZA: I thought you were at 40  
14 percent.

15           MR. ALI: Not for this particular -- not for  
16 that lot.

17           MS. DUBROVINA: The prior design was. They  
18 original building --

19           MR. ALI: The eight-unit building was.

20           MS. DUBROVINA: -- that we did was actually a  
21 40 percent lot occupancy.

22           MS. BUTANI-D'SOUZA: Is there another self-  
23 certification then in here that I missed?

24           MR. SULLIVAN: There is. It was filed last  
25 week and it just applies to the lot; we'll call it Lot

1 A, the lot to the left. I think it's the next to the  
2 last exhibit.

3 MS. DUBROVINA: So to answer your question,  
4 the footprint would be very similar to what we have  
5 here. It's just we would need an additional story,  
6 and we wouldn't be able to build slab on grade. Here  
7 we have one unit per floor, where as otherwise we  
8 would have two duplexes.

9 MS. BUTANI-D'SOUZA: And is the height a  
10 concern to you at all?

11 MS. DUMAS: The height is a concern.

12 MR. HILL: I don't think your microphone --

13 CHAIRPERSON HEATH: Yeah, your --

14 MS. DUMAS: I'm sorry. Yes. The height is a  
15 concern, and in addition to that I guess the  
16 construction management part of it as well. We really  
17 need to know we want to protect her property and we  
18 need to know how they're planning to do this.

19 CHAIRPERSON HEATH: Sure. And they can  
20 address that with you.

21 MS. DUMAS: Okay.

22 CHAIRPERSON HEATH: I just want you to be  
23 aware that construction issues are not under the  
24 preview of this board.

25 MS. DUMAS: Okay.

1 CHAIRPERSON HEATH: So we can't -- the Board  
2 can't address those issues.

3 MS. DUMAS: Okay.

4 CHAIRPERSON HEATH: But they are important and  
5 something that you can discuss with the applicant and  
6 with DCRA.

7 MS. DUMAS: Okay.

8 CHAIRPERSON HEATH: The permitting body.

9 MS. DUMAS: Okay.

10 CHAIRPERSON HEATH: So, I don't want you to  
11 think they're not important. It's just it's not  
12 something that the Board can speak to.

13 MS. DUMAS: Okay. Okay. Height is a concern  
14 for us just for -- to keep in the character of what's  
15 currently existing. The row houses that are to the  
16 left or the right, depending on which way you're  
17 standing to this particular property, as well as Ms.  
18 Purnell being sandwiched between two structures that  
19 are much, much higher than the existing structure.

20 MS. BUTANI-D'SOUZA: Can I ask, have you had a  
21 chance to review the revised plans that were provided?

22 MS. DUMAS: Yes.

23 MS. BUTANI-D'SOUZA: Okay. The reason I'm  
24 asking is because it sounds like it would be  
25 worthwhile for these -- for the parties to -- for you

1 guys to discuss again and see if there's --

2 MS. DUMAS: Based on the applicant's  
3 testimony, just for clarity, they stated that where  
4 Ms. Dubrovina -- Dubrovina?

5 MS. DUBROVINA: Yes.

6 MS. DUMAS: Said that in order to make the  
7 money that she intends on making, she would have to  
8 make the properties larger to do two units versus the  
9 smaller to get the three. I guess what really  
10 concerns me is if you would have to make it larger, if  
11 you can get three out of a building, you can make two  
12 larger at what's existing. And the price can be  
13 whatever it is that the market would bear.

14 I think being that this community is  
15 definitely a rising neighborhood and the prices on the  
16 properties as they stand now are in the upper fives  
17 and six hundred thousand, that I would ask on behalf  
18 of Holbrook Terrace Alliance, that they do the  
19 property as it exists now at the height that exists  
20 now in their proposal with two, two, and two. If that  
21 is something that they would consider we could draw  
22 back our opposition.

23 CHAIRPERSON HEATH: Can you repeat that?

24 MS. DUMAS: So, based on my understanding of  
25 what the applicant said in testimony today, that if

1 she -- because the question Madam Chair asked was, why  
2 do you have to -- what's the reason for building three  
3 units. And I think what the applicant stated is that  
4 for the reasons of making the money. She can make the  
5 money if she does three, or she can make the money if  
6 she does two. Something like that.

7           And it had something relevant to do with size.  
8 If three units were going to be smaller, I can't  
9 imagine what smaller will look like, especially in  
10 terms of --

11           MS. BUTANI-D'SOUZA: You're basically  
12 saying --

13           MS. DUMAS: -- bathrooms and kitchens.

14           MS. BUTANI-D'SOUZA: -- it would be the  
15 same --

16           MS. DUMAS: But if you can make two larger in  
17 that same capacity, I'm not involved with how much  
18 money she's going to make because that's not my  
19 business. But it seems to me that she would be able  
20 to profit in some kind of way.

21           CHAIRPERSON HEATH: Sure. What she's saying  
22 is that she wouldn't be able to profit from doing two  
23 unless the units were bigger. So --

24           MS. DUMAS: Right. But if you can do three  
25 and you drop it to two, they still would be bigger, in

1 my thought process.

2 CHAIRPERSON HEATH: The three are smaller, but  
3 you have more. Smaller but more.

4 MS. DUMAS: Uh-huh.

5 CHAIRPERSON HEATH: Right? And so there's --  
6 and I should let her, the applicant explain this as  
7 she explained it to us. Just one more time.

8 MS. DUBROVINA: Okay. So there are only so  
9 many ways you can design a row house. A condominium.  
10 There's not -- the original building was a much more  
11 open plan type building. Here, what we're talking  
12 about, and it's a sort of standard in the market, if  
13 you're going to have two units you have a downstairs  
14 duplex and an upstairs duplex. And there is a --  
15 while there is more square footage that's being built,  
16 we know where the price kind of maxes out.

17 If we are given an option on just the one of  
18 the -- on one of the lots to do three units, we don't  
19 have to have three floors plus a cellar. We can just  
20 do a one-level apartment on each of the buildings.  
21 And sure, each --

22 MR. ALI: All three lots.

23 MS. DUBROVINA: On all three floors. I beg  
24 your pardon.

25 And yes, each one would sell for less but I

1 would have three of them to sell. So that would give  
2 me roughly the same amount of -- that would make the  
3 project roughly as viable as doing two larger  
4 duplexes.

5 MS. BUTANI-D'SOUZA: So the other two that  
6 you're building by right --

7 MS. DUBROVINA: Correct.

8 MS. BUTANI-D'SOUZA: -- are going to be the  
9 same size --

10 MS. DUBROVINA: Yep.

11 MS. BUTANI-D'SOUZA: -- building as this  
12 three-unit building. Is that correct?

13 MS. DUBROVINA: The one in the middle is  
14 almost the same. The one that's the right-most, the  
15 lot is actually smaller than 2,700. It's only about  
16 2,000 or so. So that last building to the right,  
17 which is Lot A, is going to have two duplexes but  
18 they're going to be smaller.

19 MS. BUTANI-D'SOUZA: So, sorry. So Lot A and  
20 B have two duplexes? Is it that Lot A and B have two  
21 duplexes?

22 MS. DUBROVINA: I think they have --

23 [Discussion off the record.]

24 MR. ALI: I'm sorry, I just --

25 MS. DUBROVINA: I'll let the architect speak

1 to that.

2 MR. ALI: The other plan that we had was  
3 having six units, two duplexes per lot, if that was  
4 the other route for Ms. Dubravino. So the --

5 MS. BUTANI-D'SOUZA: No, the question I'm  
6 asking is, under this plan, Lot A and Lot B, help me  
7 understand, help us understand, what the configuration  
8 of those units is because I believe what she is asking  
9 for is that you not build Lot C row house bigger than  
10 what is envisioned for the three-unit, but break it  
11 into two units.

12 And so what I'm trying to understand is  
13 whether that is what you are doing on Lots A and B.

14 MR. ALI: Lots --

15 MS. DUBROVINA: The configuration of Lot A and  
16 B will depend on the outcome of what happens with Lot  
17 C because it's an entire project from my perspective.  
18 And the cost of it -- if I'm able to do three units  
19 on Lot C, then I'm still just going to do slab on  
20 grade, two units each on Lot A and B.

21 MS. DUMAS: Can you build a duplex on grade?  
22 Okay. So, I guess what --

23 MS. DUBROVINA: No, not a duplex. I didn't  
24 say a duplex.

25 MS. DUMAS: No, I understand. But I guess

1 what I'm kind of confused about, and this has been  
2 fuzzy for us along the way, one of the things that you  
3 said to me privately when we were out in front of the  
4 particular project was, you didn't want to have to  
5 build a cellar because it would cost you more money.  
6 And if you were to do by right that you would go up 40  
7 feet, and you would have to build a cellar. And of  
8 course that would be worse for us than what you're  
9 trying to offer us now.

10           So with that, I guess I'm asking is it  
11 possible for you to do what you're suggesting in the  
12 three units just flat, without building a cellar, and  
13 still be satisfied?

14           MR. ALI: The answer is no.

15           MS. DUMAS: Why?

16           MR. ALI: Because she's going to end up with  
17 much less square footage.

18           MS. DUMAS: Okay. So I guess I'm confused --

19           PARTICIPANT: [Speaking off mic.]

20           CHAIRPERSON HEATH: We're going to hear from  
21 you in just a moment, sir.

22           MS. DUMAS: So I guess I'm confused at why you  
23 would have much less square footage because I guess in  
24 my mind if you can put three in a unit, you can still  
25 do two in a unit and make it larger.

1 CHAIRPERSON HEATH: So --

2 MS. DUMAS: And in my mind it just doesn't  
3 clarify how you would have less square footage.

4 CHAIRPERSON HEATH: I think that it would be  
5 really helpful if you all would spend more time  
6 working together on this because it sounds there --

7 MS. DUMAS: Well, we've tried to spend more  
8 time working on it. When we're in a meeting together,  
9 it's a brick wall. They say what they say, we say  
10 what we say, and their argument is, well Office and  
11 Planning support it. Or, Zoning this person  
12 supported. Or this person supported, so this is where  
13 we are. We're at a brick wall when we communicate  
14 with them. The only reason we're as far as we are is  
15 because Office of Planning required them to go back to  
16 the drawing board.

17 CHAIRPERSON HEATH: And maybe this meeting  
18 could be facilitated by Office of Planning. She's  
19 shaking her head. I'm sorry to throw you into this  
20 mix. We haven't even heard from you yet on this, but  
21 I feel like this conversation could go on for a really  
22 long time and I'm not clear that based on the ANC's  
23 letter you've even seen the current drawings or had  
24 enough time to review them. And I'm not clear that  
25 the neighbors have had enough time to see the current

1 drawings to review them either.

2 MS. DUMAS: We have seen the current drawings.  
3 We've met with our ANC. We've met with the  
4 applicant. We've met with the community on our own.  
5 We met with Zoning on our own. We've met with Office  
6 of Planning. We have questions that are very unclear  
7 and they have not been very nice in their way in  
8 approaching us. They have --

9 MS. BUTANI-D'SOUZA: It sounds like there's  
10 some new information that's come to light in this  
11 hearing that may help in the discussions that you've  
12 had, and I am sure that the applicant hears very  
13 clearly your concerns about brick wall and not being  
14 nice.

15 MS. DUMAS: The rear setback.

16 MS. BUTANI-D'SOUZA: And threats, and all of  
17 those things. And I would imagine that the applicant  
18 would be more willing to work with you on your  
19 concerns, or at least have a more productive  
20 discussion with you. That's what I would hope that  
21 the applicant would be ready to do.

22 MR. SULLIVAN: We're very happy to do that.  
23 Especially regarding construction issues which can  
24 always be worked out, and give some assurance.  
25 Regarding what seems to be the request now -- first of

1 all, respond to the brick wall comment.

2 The response to the concerns has hardly been a  
3 brick wall. The project has been completely reworked.  
4 The height has been lowered. There's been a setback.  
5 It's been totally changed to address their main  
6 concerns, which was they wanted it --

7 MS. DUMAS: The brick wall is that --

8 MR. SULLIVAN: They wanted it to be --

9 CHAIRPERSON HEATH: One person at a time.

10 MS. DUMAS: Sorry.

11 MR. SULLIVAN: -- row house. And rightly so.

12 This particular lot belongs to the row house side of  
13 the street as opposed to the apartment side of the  
14 street. And so that's what the applicant did.

15 And if we were to change from three units to  
16 two units, that changes nothing that has anything to  
17 do with Section 336. So the application satisfies the  
18 requirements of 336, regardless of the two lots or  
19 three lots. It's the three units that allows the  
20 developer -- remember, this is a nuisance property  
21 that's been vacant for a long time, according to their  
22 own testimony. This is going to be a great  
23 improvement to what's been there for a long time.

24 And the third unit allows the developer, who  
25 purchased this property, possibly two years before the

1 regulations changed, at a tax sale, and it was a long  
2 process. And that process and the permitting process  
3 caused her to not have what she thought she was going  
4 to have. So there is -- even though that's not part  
5 of the Section 336 consideration either, there is that  
6 back there, and the three units allows her to do  
7 something better. And it allows her to do it without  
8 excavating that unit, which is going to be I think,  
9 tremendous benefit to the neighbor. And construction  
10 issues can be worked out.

11 But the two unit to three unit really puts the  
12 applicant at a place beyond what she can do any  
13 further.

14 CHAIRPERSON HEATH: Okay. All right. Can we  
15 -- before we hear from you as the ANC representative,  
16 I'd like to hear from, is it Mr. Marshall?

17 MS. GRAY: Mathis.

18 CHAIRPERSON HEATH: Mathis, because he was to  
19 be the next witness to speak and we got a bit  
20 sidetracked.

21 MR. MATHIS: Yes. My name is Michael Mathis  
22 and I live at 1272 Holbrook Terrace. And a lot of  
23 things that's been going on here is, we've never been  
24 issued anything that's from the applicant. We've seen  
25 buildings or the pictures and everything. But as far

1 as square footage or saying, well, this building is  
2 going to be this number of feet long and it's going to  
3 set back this far, it's very foggy, very unclear.

4 As for me, I don't know if you've seen one of  
5 these, but this is what we've been issued a lot. And  
6 when you look at these things it doesn't tell you a  
7 lot. Doing us like this -- I come from, you know,  
8 high school, elementary school, you know, and my  
9 problem is I'm one of the -- I'm on the -- well, if  
10 you're looking at the -- I'm on the right from the  
11 street.

12 What they're planning, what they want to do is  
13 build this, the new building, right up on the property  
14 line, which is my property line. And the front of my  
15 house, I only have like six inches from where her --  
16 the property, she wants to build. And then it angles  
17 back. The only reason it angles back, because I have  
18 a patio. And right up against that, that wall, it was  
19 where her building is going to be. I have windows on  
20 that -- all along the side of my building where they  
21 wants to build this right next to it. I won't have  
22 the distance from here to your bench, where you are,  
23 between the houses.

24 And it angles, like I said, to the front. And  
25 I only have like that, that much room. This much

1 room. My bedroom window is closer to me than she is  
2 from the front of my building. That's all closed in.  
3 All along the side of my building. All the way from  
4 the front to the back of where they proposed this  
5 thing is going to be well past the back end of my  
6 building, well past it.

7           So when I look up from where my backyard is, I  
8 look up, I see this massive building, all along the  
9 side of my property. I've got windows there. I'm  
10 looking at this. The air that used to -- that comes  
11 up the hill and around, I'm not going to get that air  
12 anymore because it's a building there, right at my  
13 window. I'm not going to get the light that I would  
14 normally get because that building is sitting there.  
15 And it's higher than my building. They want to put a  
16 deck up there, and it's been my thing that every time  
17 that there's a higher building and there's a deck up  
18 there, people throw trash down on the lower building.  
19 I have a rubber roof.

20           And I explained it to her. I have a rubber  
21 roof. So if somebody threw a cigarette, a lit  
22 cigarette, pluck it out, I'm looking at possibly a  
23 fire from my roof, or damage in some kind of way.  
24 Beer cans. I mean, anything that's up higher, and  
25 they're having a party up there, who's to say what

1 they're going to drop down on my roof.

2           You know, I can see from my back yard all the  
3 way over to the Armeranian (phonetic), where the  
4 eagle's nest is. If this thing comes I won't be able  
5 to see that. Only thing I'll be able to see is  
6 basically straight back to the alley. And this is  
7 already -- and they never tell you how far from the  
8 alley this thing is going to stop. They say there's a  
9 parking space there. Parking spaces out there. You  
10 know.

11           So I got to deal with the cars out there, you  
12 know. And people say, well, I made so many parking  
13 spaces for this. But if you've got a chance to park  
14 on the street you're not going to go back to the alley  
15 and park back there. You're going to take that  
16 parking space on the street and leave that in the back  
17 as a backup spot for your -- for the people that's  
18 there. That's the way it's been done.

19           CHAIRPERSON HEATH: Your time is up so if you  
20 could wrap up, please?

21           MR. MATHIS: Okay. Okay. Well, that's  
22 basically all I want to say, was you know, I think the  
23 property is going to be, you know, too close on my  
24 property, you know, because I won't be able to make  
25 any kind of repairs on that side of my house. The

1 tree that was in her yard was, it rubbed the paint off  
2 of my house because it was so close. It just -- and  
3 the only way that I can get up in there would be to  
4 just a little, little space, maybe. You know, just  
5 enough -- not even -- I wouldn't even -- I wouldn't  
6 want to climb a ladder, and you know, I mean from fear  
7 that it's going to fall one way. And if it falls  
8 toward the front you're going to get stuck between the  
9 two houses. There's no way you can get out.

10 That's all I have to say. Thank you.

11 CHAIRPERSON HEATH: Okay. Any questions for  
12 him?

13 All right. So then we'll allow the ANC  
14 commissioner to speak at this point.

15 MS. SHROPSHIRE: Hello. So, over the past  
16 four months I've worked collaboratively with everyone  
17 here, and others in the community to facilitate  
18 approximately seven meetings. We've accommodated a  
19 lot of people's schedules, and we've actually covered  
20 things regarding the project, Zoning Regulations, and  
21 the entire BZA process. This has been a very complex  
22 process. Many discussions and that's why we're here  
23 now. And so I appreciate everyone and all the time  
24 that they've committed to this.

25 I wanted to say that the applicant came to the

1 ANC Commission on March 8th and she actually presented  
2 her information. We had not been given enough time to  
3 review the revised plans that she had, and at that  
4 time we were in opposition because we requested  
5 additional time for the community to take a look at  
6 it. And we've actually, since that time, we've had  
7 time to review it and provide feedback on the newly  
8 revised plans and get community feedback.

9           And today the ANC still stands in oppositions  
10 because of three reasons. Because of the complexity  
11 of this project, it's still very complex. Some things  
12 have not been hashed out in terms of -- well, I'll go  
13 into detail later. But two, there is an apparent need  
14 to continue working with community residents to  
15 further refine the details of the design, and there is  
16 a sustained descent displayed by the adjacent and the  
17 abutting neighbors of the property.

18           So I wanted to say that while the applicant  
19 has addressed many of the concerns that we've had,  
20 like we've presented the team with approximately 14  
21 different concerns and they addressed seven of those,  
22 and that is reflected in the new plan that they have.

23           And so we were pleased that they were listening and  
24 it demonstrates that they were incorporating a lot of  
25 the concerns that the community had.

1           And while they've addressed all these concerns  
2 there is a number that remain and they are of great  
3 concern. And I just wanted to kind of go through a  
4 list of those. And so I came up, and I provided that  
5 to each of you as well. We highlighted some of the  
6 remaining concerns and then we actually requested like  
7 what action we would like to see done about that. So  
8 residents still have concerns with the building,  
9 density, design, height, and size. And I think it's  
10 been alluded to in some of the conversations that the  
11 presentations that have been provided so far, that the  
12 footprint of the building in the rear of the building  
13 kind of exceeds the existing row house dwelling that  
14 currently exists there. Not until today did I really  
15 clearly understand that it's approximately 10 feet  
16 further because it looks like it's going to be massive  
17 based on what the drawings were and what is currently  
18 there.

19           The action that's requested is to pull back  
20 the rear of the proposed building by a specific number  
21 of feet, which I didn't have that because no one  
22 really indicated that. And to reduce the percent lot  
23 occupancy.

24           Number two, inconsistencies with the character  
25 and street scape of the current residential street.

1 And that's specifically referencing the mansard roof  
2 type. There were some concerns about this type of  
3 roofing being added there, that it didn't conform with  
4 the other existing structures that are on the street.

5 The action that was requested was for them to lower  
6 the mansard roofing in height, and to confirm with the  
7 height of the neighboring row homes.

8 The applicant did indicate, so I shared these  
9 things with the applicant and she did indicate a  
10 willingness to construct a brick only front without  
11 mansard, but apparently that might give it an  
12 appearance that it's taller than the neighboring  
13 property, so I think the mansard was put there for an  
14 illusion effect.

15 Number three, adverse impact of light and  
16 shade on the abutting neighbor. That's Ms. Purnell.  
17 The extension of the back property, which it doesn't  
18 align and conform with the neighboring properties, so  
19 these were some of the concerns that the residents  
20 highlighted, and of course the same action that is  
21 requested is that to reduce the lot occupancy and pull  
22 the rear of the proposed building back several feet.

23 There are a lot of concerns about the matter  
24 of right or by right option. There are persistent  
25 concerns regarding the proposed matter of right

1 buildings with proposed boundaries up to the property  
2 line of the adjacent neighbor, Mr. Mathis at 1272.  
3 The request is to -- that the building not be built  
4 right up to the property line so as to obstruct the  
5 window view of the adjacent neighbor's side of the  
6 house and disturb the already existing fence  
7 structures.

8           Number four, concerns regarding the  
9 disturbance of Mrs. Purnell's quality of life and  
10 potential structural damages posed by the development  
11 of the adjoining neighboring property.

12           For this we propose -- we spoke, we met with  
13 the Office of Planning and they helped us come up with  
14 a great idea of developing a construction management  
15 plan. And I've actually shared some of those things  
16 and the items for consideration would include  
17 installing a sound barrier or proofing material along  
18 the wall of the abutting neighbor for noise reduction,  
19 having a pre and a post inspection or construction  
20 agreement in place, specific construction start and  
21 end times, barriers to prevent dust, debris, and  
22 noise, written agreements stating my ability and our  
23 responsibility for uninspected damages and willingness  
24 to compensate the homeowners should they occur while  
25 the construction is taking place. I shared those with

1 the applicant. She indicated a willingness to do  
2 that.

3 The next concern is when we had our meeting  
4 with Office of Planning the abutting neighbor  
5 indicated that she had some water that was leaking on  
6 to her roof from the neighbor, the property that we're  
7 talking about. And there was a request to do an  
8 assessment for a roof repair and the applicant agreed  
9 that they would work with the neighbor to do that.

10 And on both sides of the currently abutting  
11 and adjacent neighbors they have fences and they just  
12 were concerned about that if the properties were going  
13 to be built right along the property lines that that  
14 will somehow disturb it, and so they didn't want that  
15 bothered or disturbed.

16 On April 12th the applicant reappeared before  
17 ANC Commission to present revisions and request a vote  
18 in support of the special exception. A motion was  
19 placed on the floor to support the special exception  
20 with conditions, but it failed to be seconded, and  
21 therefore no vote was taken. During the meeting  
22 opposition was expressed verbally by the adjacent and  
23 abutting neighbors. So that's why we're here now.

24 So I just wanted to make sure that we actually  
25 shared the concerns that were shared there. But also

1 there were things that were already expressed in some  
2 of the previous meetings that we had had.

3           Although there is much opposition that has  
4 been shared there are several other residents of  
5 Holbrook Terrace who have expressed support of the  
6 project because they're looking forward to seeing  
7 something done just with this property since Ms. Dumas  
8 indicated that it's been a longstanding vacant  
9 property, that they just had a willingness to see that  
10 there is going to be something done.

11           In closing I really appreciate having this  
12 opportunity to attend and present on behalf of ANC,  
13 and share the community concerns. We appreciate the  
14 applicant's willingness and due diligence to work with  
15 the community to resolve these initial concerns and  
16 incorporate suggestions. She's been responsive. We  
17 are requesting that the applicant continue to work  
18 with the community to creatively resolve these  
19 remaining concerns.

20           We're requesting that BZA weigh heavily and  
21 consider for this case, DCMR-336.9, which addresses to  
22 ensure that there is no substantial adverse effect on  
23 the use and enjoyment of any abutting or adjacent  
24 dwelling. And DCMR-336.11, for the protection of  
25 adjacent and nearby properties to ensure that the

1 proposed design is a reflection of neighborhood  
2 character. The community is excited about the  
3 opportunity to have something constructive done with  
4 this longstanding vacant property. However, the  
5 community residents desire to have a project that  
6 maintains the general character of the block and poses  
7 the least amount of stress and changes to disrupt the  
8 abutting and adjacent residents' quality of life.

9 I still stand as the -- here, committed to  
10 working collaboratively with the applicant to ensure  
11 that a mutually beneficial outcome for her, her  
12 immediate neighbors, and the community takes place.  
13 And I want to address one more thing. The inclusion  
14 zoning. Inclusionary zoning.

15 In the first option that was proposed to us,  
16 that was something that we were interested in and  
17 still remain interested in, it's just that when the  
18 project took a different focus, or it was separated  
19 into those three different units, that wasn't included  
20 as an option. So, yes, the community always is  
21 looking for ways for affordable housing. So that is  
22 definitely something that could, and we would like to  
23 still be put on the table.

24 CHAIRPERSON HEATH: Okay. I appreciate you  
25 addressing that because that was a concern of ours.

1 And this is -- I mean, the applicant has talked about  
2 this project as three lots, three buildings, but it's  
3 a total project for you. You're looking at it in  
4 totality. Your decisions on one property impact the  
5 decisions on another, and so it is a larger project.  
6 It's not just -- we're not just concerned about the  
7 one three-unit building. We're looking at this in  
8 totality from the perspective of the neighbor and the  
9 impact on the neighbor.

10 And so I mean, you said earlier that you  
11 weren't addressing the IZ because it's not required  
12 now, but you also said that the neighborhood hadn't  
13 brought it up as a concern, since you changed from the  
14 eight to the now seven.

15 So if that's something that you are willing to  
16 address, I don't know if you have anything you want to  
17 speak about with respect to that.

18 MR. SULLIVAN: Well, yeah. I think the case  
19 is more narrow than that. It's just the addition to  
20 the lot on the left. And the applicant came up with  
21 the eight-unit plan on their own, originally, which  
22 would have been three IZ units, including the eight  
23 unit. So, she was willing to do something I haven't  
24 seen any other developer do; make that last unit an IZ  
25 unit instead of doing seven in the original proposal.

1           So she was willing to do that but we're much  
2 further down the road and have reworked the plan many  
3 times, and you know, the value of this is draining as  
4 it goes on. And it wasn't -- we thought that was a  
5 big benefit, the three IZ units. But the bigger  
6 concern was they didn't want it all in one building.  
7 And didn't want the open courtyard for some reason.  
8 So, this was the reaction to that.

9           MS. DUBROVINA: And in terms of the IZ, just a  
10 couple of further points on that. The original  
11 building where I could have had the three IZ units,  
12 the design and the layouts were completely different  
13 from what we have now. It is not practical now having  
14 larger units, or some that are -- now how do you  
15 decide? I mean, some of these are duplexes and these  
16 wouldn't have been -- that would not have been the  
17 case in the original building where we had IZ set up.

18           So in the current design the -- I mean, the  
19 financing, the commercial side of it now really  
20 doesn't lend itself to figuring out which ones, if  
21 any, you know, should be allocated to IZ. We've made  
22 such tremendous changes to the original design. We  
23 had eight apartments, where it would have been a lot  
24 easier to accommodate IZ units, to having three row  
25 houses. This is just a very different project now.

1 And we've arrived at this project based on the  
2 feedback, mostly from the community.

3 And for a great deal of that came from Mr.  
4 Mathis because at the beginning our building was  
5 basically facing his house, and there was a 25 to 30-  
6 foot space between the edge of our building and his  
7 building. And he did not want that side entry or that  
8 space.

9 MS. BUTANI-D'SOUZA: Okay. So, I'm just going  
10 to interrupt you here because I think we've heard your  
11 point. So there is a lot of concerns that have been  
12 raised today. The neighbors have a lot of things that  
13 they would like, and the developer has some things  
14 that they can offer and some constraints.

15 So I think the bottom line here, I think, is  
16 essentially that a development can occur here. It can  
17 be a two-unit development or it can be a three-unit  
18 development. There are trade-offs to all of the  
19 scenarios. So what -- the best thing to do here would  
20 be for all parties to accept that something is going  
21 to happen here. And the neighbors need to prioritize  
22 what their concerns are and give the developer an  
23 opportunity to be responsive to those highest priority  
24 concerns in order so that the proposal that comes back  
25 is something that you are on board with.

1           The thing is that, something is going to  
2 happen here, and you're not going to get everything  
3 that you want.

4           MS. DUBROVINA: I understand.

5           MS. BUTANI-D'SOUZA: So you have to work  
6 together as a neighborhood, as a community, to come up  
7 with what are your top priorities, what are all of  
8 your priorities in order, bring them over to the  
9 developer, walk through them, and come up with a  
10 scenario that you can all agree to because it sounds  
11 like, even if we were to deny this request the  
12 developer is going to proceed with building something.

13          And that something may not be in keeping with what  
14 your highest priorities are. So we would recommend  
15 that as an outcome of this hearing that you really  
16 consider carefully, what are your priorities, what is  
17 the order of them, and give this to this developer so  
18 that they can come up with something that meets those  
19 priorities. It sounds like they're willing to work  
20 with you on that.

21           If you don't do that, whether we were to  
22 approve this or deny it, something is going to get  
23 built and you're not going to have really much of a  
24 say in it. So that would be my recommendation. And I  
25 think it seems that other members of the Board would

1 be in agreement with that.

2 CHAIRPERSON HEATH: Absolutely. Yeah, and  
3 that's well said because we've heard many times that  
4 there is a matter of right solution that can happen  
5 here and wouldn't have to come before the Board or  
6 request permission from the neighborhood. So I really  
7 encourage you all to prioritize your concerns and to  
8 put those forward before the applicant so that they  
9 can review them, see what they can address, and then  
10 have those come back to the board so that we can help  
11 facilitate or make decisions based on your concerns,  
12 your prioritized concerns, and what the developer is  
13 able and willing to do on this project.

14 MS. BUTANI-D'SOUZA: And you have to accept  
15 that you're not going to get everything that you want  
16 because some of your priorities are in conflict with  
17 each other. So that's why it's important that you  
18 prioritize.

19 CHAIRPERSON HEATH: Uh-huh. Okay. Through  
20 all of this we've sort of gone off course with our  
21 typical hearing procedures and so we haven't heard  
22 from Office of Planning yet. Before we proceed any  
23 further I'd like to hear from Ms. Thomas to see where  
24 your position is and what your thoughts are on this.

25 MS. THOMAS: Well, as of now we -- the Office

1 of Planning encouraged the applicant to move away from  
2 the original apartment design. We believe that the  
3 design did not reflect row house character. So that  
4 was the position we came from.

5 We supported this design because it was more  
6 in keeping with the row character, and it met with all  
7 the other bulk and area requirements. Lot occupancy,  
8 parking, and everything like that. So we were in  
9 support of that.

10 We also were encouraged because the applicant  
11 tried to respect the light and air issues or the at-  
12 risk windows on the property to the north or west. Is  
13 that west? Mrs. Purnell's property, I think. Ms.  
14 Purnell's.

15 CHAIRPERSON HEATH: Uh-huh.

16 MS. THOMAS: And she has at-risk windows and  
17 we respected that, they appreciated that, they tried  
18 to pull back and maintain her light and air.

19 We didn't see the 10-foot step back was within  
20 what we would normally approve as it was at 10 foot  
21 beyond the rear alignment. We didn't see any issues  
22 with that. They may have had concerns with the  
23 mansard type roof, but I originally had a little bit  
24 of concern with that but I eventually agreed with that  
25 because it sort of -- you know, it was a more

1 contemporary look at it allowed the third floor  
2 without being a flat, you know, a flat high. Which  
3 would, to me, would have been more out of character  
4 with the neighborhood.

5           So to that end we would support a row-type  
6 dwelling format within that vacant portion, as well as  
7 a conversion for the existing vacant and abandoned  
8 property.

9           And we did meet with the ANC at their request  
10 several times. At least twice. They did speak to us.

11 We did have conversations over the telephone about  
12 what it is they should look at and how they should  
13 approach it. I did suggest that insofar as they had  
14 these issues that they should -- the issues concerning  
15 water damage to Ms. Purnell's house and anything else  
16 that may arise, a construction management plan would  
17 be the best way to approach it. But that's an  
18 agreement between parties and I wasn't you know, too  
19 sure that that's something that the Board could look  
20 at. We haven't seen that you know, as part of it.  
21 And we do respect their concerns.

22           So we do support them coming to some type of  
23 agreement for the construction management plan. And  
24 then I guess -- and that's where we left it, and  
25 that's where I left it at the last meeting I had with

1 the community.

2 CHAIRPERSON HEATH: Okay. All right.

3 Questions for Office of Planning? Okay. All right.

4 Okay. Thank you, Ms. Thomas.

5 MS. THOMAS: Thank you.

6 [Discussion off the record.]

7 CHAIRPERSON HEATH: Yes. Yes.

8 MR. HILL: I just wanted to also mention, I  
9 think what's going to happen is you're going to get  
10 sent back to kind of talk with each other. And again,  
11 just -- and Vice Chair Butani said it very well, I  
12 think again, what's always -- and I'd be interested in  
13 seeing if you're coming back, like what the by-right  
14 drawing is. Like just something that shows me what  
15 the by-right is because again what you guys are --  
16 from the opposition standpoint is what could they do  
17 versus what they're proposing to do. And you don't  
18 know the numbers, I mean, right. It is possibly going  
19 to be more expensive to dig down. But nonetheless  
20 they could dig down. Then they go up to 40 feet. And  
21 so that's what you would get instead.

22 You know, and so now you guys have a little  
23 bit of a negotiation that you could use, and some of  
24 it sounds like you have gotten some things, you know,  
25 insofar as you know, the construction agreement, if

1 you could get that in place, some of the soundproofing  
2 issues, like talking about the walls. And Ms. Gray  
3 again, on speaking on behalf of your grandmother  
4 there, like you know, just again they did -- there was  
5 at-risk windows that they did pull back from, meaning  
6 that there is something that they've already kind of  
7 given. However, maybe there's something you can, you  
8 know, discuss a little bit that would make you feel  
9 better because I also would like to see your  
10 grandmother happy there in her backyard. As would  
11 they, you know.

12           And so it is a property that has been there  
13 for a long time. You know, it's gone through this  
14 long process and something has been said earlier,  
15 something is going to happen. And so now you might as  
16 well talk a little bit together, see if you guys can  
17 come together on the same place, you know, and be  
18 reasonable. Otherwise, just roll the dice and see  
19 what happens.

20           CHAIRPERSON HEATH: All right. So, we're  
21 going to --

22           MR. MILLER: Madam Chair.

23           CHAIRPERSON HEATH: Oh, go ahead.

24           MR. MILLER: I did have a couple questions but  
25 I wanted to know if we're going to give the ANC

1 commissioner an opportunity to ask questions of Office  
2 of Planning and the applicant if they want to?

3 CHAIRPERSON HEATH: Did you have questions?

4 MS. SHROPSHIRE: Yeah. I know that we were  
5 talking about a revision of the -- or redoing the sun  
6 shade study.

7 CHAIRPERSON HEATH: Uh-huh.

8 MS. SHROPSHIRE: So when would they -- when  
9 would they do that and when would we be able to see  
10 that because I think that was the biggest concern.

11 CHAIRPERSON HEATH: Yeah, we'll address timing  
12 of all the documents that the Board is requesting --

13 MS. SHROPSHIRE: Uh-huh.

14 CHAIRPERSON HEATH: -- just before we wrap up  
15 today on this case. So we'll get dates on all of  
16 those submissions and when your -- any responses to  
17 those submissions will be due. We'll clarify exactly  
18 when that will happen, along with when this will come  
19 back before the Board.

20 MS. SHROPSHIRE: Okay.

21 CHAIRPERSON HEATH: All right. Any other  
22 questions? Did you have questions for Office of  
23 Planning?

24 MS. SHROPSHIRE: No.

25 CHAIRPERSON HEATH: Okay.

1 MS. SHROPSHIRE: Well, I guess if we make a  
2 decision to draw up a construction management plan,  
3 who would we work with to make sure that -- would we  
4 talk to the Office of Planning? How can we ensure  
5 that it is representative of what we want to happen  
6 there?

7 MS. THOMAS: I mean, I can be -- I will be  
8 happy to look at it. I can't you know, say that this  
9 is the best construction management plan or you know,  
10 we do not evaluate construction management plans. But  
11 I would be happy to take a look at it. The Office of  
12 Planning does not evaluate construction management  
13 plans. It has to be an agreement, something that's  
14 agreed to between both parties. And if that's what it  
15 -- whatever is agreed to, we don't have any say in it.

16 MS. SHROPSHIRE: Are there draft construction  
17 management plans available for us to see?

18 CHAIRPERSON HEATH: The Board doesn't deal  
19 with any construction issues or construction  
20 management plans or, so that's going to be up to you  
21 to work with the applicant on.

22 MR. MILLER: But I would interject, Madam  
23 Chair, that in many Zoning Commission planned unit  
24 development cases there are, in the record,  
25 construction management agreements that ANCs have

1 negotiated, and I think the Office of Zoning might be  
2 able to direct you to a few. I'm sure the applicant's  
3 attorney could too, which as the Board Chair, as Chair  
4 Heath said, we can't enforce it. But sometimes in the  
5 Zoning Commission orders are referenced that they  
6 exist after they've been negotiated and agreed to by  
7 the applicant and at the ANC. So I think you'll find  
8 some --

9 MS. SHROPSHIRE: Thank you.

10 MR. MILLER: -- good models there.

11 MS. SHROPSHIRE: Thanks.

12 MS. BUTANI-D'SOUZA: And it sounds like  
13 there's a training being offered to ANCs coming up, so  
14 that may be a good question for that training as well.

15 MS. SHROPSHIRE: Okay. Thanks.

16 CHAIRPERSON HEATH: All right. Did you have  
17 something else?

18 MR. MILLER: Yeah. I just wanted to ask a  
19 couple questions. One question of the ANC  
20 commissioner and one of the applicant.

21 You are fully aware, based on all your work on  
22 this case which has been a lot of work, that the  
23 matter of right option could very well result in a  
24 larger, more adversely impactful project on the  
25 adjacent properties?

1 MS. SHROPSHIRE: Yes, I am.

2 MR. MILLER: And on the character. Even the  
3 character of the neighborhood.

4 MS. SHROPSHIRE: Yes.

5 MR. MILLER: Okay. And as your submission  
6 that you read from today that we got this morning,  
7 summarizing where you are with your work, you do  
8 acknowledge that a lot of concerns have in fact been  
9 addressed, or they're willing to address. But where I  
10 see the two issues, which would not have to be  
11 addressed in any matter of right scenario, not even  
12 what they've done so far, but the two issues are in  
13 terms of design impact, are the matter of right  
14 property being built up right next to -- so I guess  
15 that's one area to explore with the applicant. If  
16 there's any willingness to pull back, even though they  
17 don't have any obligation to do so.

18 And then next to Ms. Purnell's property, which  
19 is adjacent to the subject property that's the subject  
20 of this application, you already have pulled back.  
21 But the request is, in two places, to not go back as  
22 far. And you're only going back 10 feet beyond the  
23 rear of hers. But I guess that would be the other  
24 area to -- those would be the two areas to explore,  
25 pulling the rear back next to -- not going back as

1 far, and pulling away from the at-risk windows that  
2 are on Mr. Mathis's property.

3 So I don't think I want to ask the applicant  
4 about that. I think you all should ask the applicant  
5 about -- that you probably haven't gotten no, or the  
6 brick wall, or whatever you've gotten.

7 MS. SHROPSHIRE: We're willing to revisit it.

8 MR. MILLER: Okay. So that was my only  
9 comment.

10 MR. HILL: And the applicant might want to  
11 show what the green wall looks like. I don't know if  
12 that's been clearly shown to Ms. Purnell.

13 MS. BUTANI-D'SOUZA: And I would just also  
14 like to thank the ANC member for, it sounds like  
15 you've done a tremendous amount of work mediating  
16 between all of the parties. And that is a very  
17 difficult job. And so, you know, I just want to  
18 commend you for your efforts. This Board understands  
19 how difficult it is to be an ANC member and how much  
20 work is involved and really appreciates all of your  
21 hard work here. So, thank you.

22 MS. SHROPSHIRE: Thank you.

23 CHAIRPERSON HEATH: All right. So --

24 MS. SHROPSHIRE: Can I say something about the  
25 green wall? We hadn't seen that. So this was the

1 first time. We'd like to have a closer look at that.

2 CHAIRPERSON HEATH: Okay. So you should  
3 absolutely be privy to all of the drawings that are  
4 available, or that have been produced. So we're going  
5 to continue this and the Board has asked for a number  
6 of additional documents. One being the sun study, all  
7 from the same angle so that we can get a clear  
8 understanding of the variation during the different  
9 times of year.

10 We also want the parties to continue working  
11 together. To that end I think it would be really  
12 helpful if either the head of the ANC or the party in  
13 opposition could put together a list of the  
14 communities' priorities so that that can be shared  
15 with the applicant and with the Board as well. If one  
16 of the two of you, or the two of you could work  
17 together on that, I think it would be helpful. And  
18 that's something that we probably need sooner rather  
19 than later because if there are any things that the  
20 applicant can do to revise the current design in order  
21 to address some of your concerns, we'd want them to be  
22 able to do that prior to submitting anything, or prior  
23 to coming back to the Board, so that when they do come  
24 back they have whatever revisions they're able to make  
25 that address your concerns.

1           So we'll talk about the timing of all of those  
2 things. Was there anything else? The setbacks,  
3 right.

4           So clearer plans that show both the setbacks,  
5 but also what is existing versus what's new, so we  
6 understand how this really fits the criteria of being  
7 a conversion and not a new building.

8           [Discussion off the record.]

9           CHAIRPERSON HEATH: Right. And right, Mr.  
10 Hill has asked for the by-right so that I think it's  
11 helpful for the community to understand what you could  
12 do as a matter of right versus what you've proposed  
13 because I think that what you've put forward and what  
14 you've said is that this is more in keeping with the  
15 scale of what the community has asked, what you've  
16 proposed is more in keeping. But we want them to  
17 understand that and I think it's hard for -- it was  
18 hard for us to understand a lot of what was going on  
19 in the drawings, because there were some things that  
20 were unclear. And certainly people who don't look at  
21 drawings every day have an even more difficult time  
22 understanding what's there and how it compares to what  
23 you have described you might do. So if we could make  
24 that clear I think that will help with the discussions  
25 and the negotiation going forward.

1 All right. Anything else that the Board would  
2 like to see? All right.

3 MR. MOY: Madam Chair, just I think there were  
4 two other things unless it's already been answered  
5 with the Q and A. Earlier on the Board had questions  
6 about calculations related to the structure or the  
7 demolition plan, or are we beyond that? I wasn't  
8 clear on -- when someone, one of you mentioned  
9 calculations. We're past that?

10 CHAIRPERSON HEATH: Right. Yeah, if we could  
11 get the drawings that show what's existing versus  
12 what's new, and clarity on that, I don't think we need  
13 to see any calculations.

14 MR. MOY: Okay. And the other was there was  
15 some question from, I can't remember which board  
16 member, about seeing or demonstrating the character of  
17 the neighborhood through further drawings or  
18 photographs. Yes, or no?

19 CHAIRPERSON HEATH: Yeah, if that is still a  
20 concern for the ANC it would be helpful to see  
21 photographs of more context of what the neighborhood  
22 character is so we understand how this is in keeping,  
23 or if it's in keeping with the context of the  
24 neighborhood. Just some photos that you can upload to  
25 the electronic system, ISIS, would be really helpful.

1 MR. MOY: And the last thing I have, Madam  
2 Chair, is I'm assuming that when you asked for the  
3 sun/shade study that the 3-D or axonometric drawings  
4 also show the relationship with adjacent properties  
5 with your proposed site. So when you see that, we're  
6 on the same picture. Right? Yes. Okay.

7 MR. MILLER: I think it may have been  
8 incorporated within your request, but I had asked  
9 early on about the side elevations to see --

10 CHAIRPERSON HEATH: Okay.

11 MR. MILLER: -- how, or any illustration that  
12 would show the relationship between the subject  
13 application property and Ms. Purnell's property.

14 CHAIRPERSON HEATH: Sure.

15 MR. MILLER: And I'd like to see how that's  
16 going to look on the other side too, even though it's  
17 matter of right that's not before us today, but there  
18 has been a lot of discussion about it. Just how it's  
19 going to look next to --

20 CHAIRPERSON HEATH: Okay.

21 MR. MILLER: -- Mr. Mathis's property.

22 CHAIRPERSON HEATH: So that side elevation as  
23 well, as a part of clarifying your drawings. All  
24 right.

25 So, Mr. Moy, we need some dates from you.

1 MR. MOY: All right. A couple days. The  
2 first date would be, Mr. Miller is back -- if this is  
3 a continued hearing, Mr. Miller is back on June the  
4 7th.

5 CHAIRPERSON HEATH: Okay. He's willing to  
6 come. Okay. All right.

7 MR. MOY: Okay. So --

8 CHAIRPERSON HEATH: So, I do think though,  
9 that based on the issues and the things that we've  
10 requested, that we should give the parties time to do  
11 that work. And so I don't think trying to rush this  
12 makes any sense.

13 MR. MOY: All right, Madam Chair. I'm looking  
14 at May 17th for the continued hearing. Or decision,  
15 whichever one you desire. So if the applicant can  
16 provide materials prior to May 17th I would suggest at  
17 least a week before, which would be May 10th, if  
18 that's doable.

19 CHAIRPERSON HEATH: Okay. That would mean  
20 that your list of your priorities would need to be in  
21 just ahead of that. And so could you get the -- I  
22 don't know how much time you need to be able to  
23 articulate those in a document that you could send to  
24 us. Could you get those to us by the first week of  
25 May? Yeah, May 5th. Would that work?

1 [No audible response.]

2 CHAIRPERSON HEATH: Okay. So May 5th.

3 UNIDENTIFIED SPEAKER: [Speaking off mic.]

4 CHAIRPERSON HEATH: Okay. Okay. So May 6th  
5 for that. And then responses from the applicant by  
6 May 10th. It's tight turnaround but -- okay.

7 UNIDENTIFIED SPEAKER: [Speaking off mic.]

8 CHAIRPERSON HEATH: Okay. And then any other  
9 responses to the documents that you're also submitting  
10 on May 10th, the additional drawings. Any responses  
11 to those we'd need by the 13th.

12 UNIDENTIFIED SPEAKER: [Speaking off mic.]

13 CHAIRPERSON HEATH: If you have any responses  
14 to the drawings that they're -- they've been asked to  
15 submit a number of additional drawings to clarify what  
16 they're doing or what they could do. And so if you  
17 have any responses to those drawings, which will be in  
18 on May 10th, we need your responses by May 13th.

19 What I'm trying to avoid is the Board getting  
20 responses the Monday before the hearing on the 17th,  
21 because it doesn't give us time to properly review and  
22 address additional documents if they come in that  
23 late. All right.

24 MS. DUMAS: [Speaking off mic.]

25 CHAIRPERSON HEATH: Can you make sure your

1 microphone is on?

2 MS. DUMAS: Thought I pushed it on. I'm  
3 sorry. I just want to thank you and the Board for  
4 taking this opportunity to listen to our concerns, and  
5 as well as giving them the same opportunity to do what  
6 we've been asking all along. And I appreciate  
7 everything that you've done so far. And we do look  
8 forward to coming to a win/win. We do recognize that  
9 by right we would be more adversely affected. But we  
10 definitely appreciate this opportunity to go back to  
11 the table and meet our heads together and come up with  
12 a win/win. And hopefully we can do that prior to  
13 coming back to you.

14 CHAIRPERSON HEATH: Sure. Sure. I really  
15 hope. We've asked for a number of things, but I  
16 really hope that you all will spend some time working  
17 together because we don't like to make anybody  
18 unhappy. But at some point we have to make a decision  
19 that will make somebody unhappy if you all haven't  
20 come to your own agreement. So we strongly encourage  
21 you to spend this time doing work together. All  
22 right.

23 Thank you all for taking the time --

24 MS. DUMAS: Thank you.

25 MS. SHROPSHIRE: Thank you.

1 CHAIRPERSON HEATH: -- and for hanging in  
2 there with us. I know it's been a long day so far,  
3 but we appreciate you taking the time.

4 MR. MOY: Madam Chair, just very quickly. Was  
5 this for a continued hearing or a meeting? If it's a  
6 continued hearing we'll tee it up as the first case of  
7 the day. But however you want to handle this.

8 CHAIRPERSON HEATH: Let's do this as a  
9 continued hearing just because we've asked for a lot  
10 and --

11 MR. MOY: Yeah.

12 CHAIRPERSON HEATH: -- I just want to make  
13 sure that the Board has a chance to ask questions.

14 MR. MOY: I would agree. And we'll take this  
15 as the first case of the day.

16 CHAIRPERSON HEATH: Okay. So then if anybody,  
17 if you all want to come back you don't have to wait  
18 quite as long as you did today. All right. Thank  
19 you.

20 All right. We're going to take a quick break.

21 [Off the record from 1:56 p.m. to 2:16 p.m.]

22 MR. MOY: Okay. Parties, this would be to  
23 Application No. 19237 of Wacap, LLC. captioned and  
24 advertised for variance relief from the off-street  
25 parking requirements under Section 2101.1. This is

1 for construction of a new four-story residential  
2 addition containing four units above an existing  
3 restaurant, C-2-A district, 3700 14th Street  
4 Northwest, Square 2692, Lot 43.

5 And Madam Chair, there are new entries on the  
6 record. There's an ANC 4C report under Exhibit 30 and  
7 I think there are some new drawings from the applicant  
8 yesterday and today.

9 CHAIRPERSON HEATH: Okay. Can you introduce  
10 yourselves, please?

11 MR. SULLIVAN: Good afternoon, Madam Chair,  
12 Members of the Board. Marty Sullivan with Sullivan  
13 and Barros.

14 MR. WATSON: Good afternoon, Michael Watson,  
15 applicant.

16 CHAIRPERSON HEATH: Okay. We have received  
17 some new filings on this and I think we've made this  
18 point but I just want to reiterate that the Board  
19 spends a lot of time going through a number of  
20 documents on every case over the weekend in  
21 preparation for hearings. And when we receive things  
22 at the last minute it is really unfair to the Board  
23 because it doesn't give us the appropriate amount of  
24 time to be able to fairly weigh in on those additional  
25 documents, or to properly weigh in on those additional

1 documents.

2           We received revised plans yesterday and a  
3 cover letter accompanying that. And we also, it looks  
4 like just today, received another letter from the ANC.  
5 And I don't even know if you've seen that because we  
6 hadn't until just two minutes ago. And so it just --  
7 and there are a number of issues associated with that  
8 letter that we want to properly address. But the  
9 Board is not in a position to do so now. So --

10           MR. SULLIVAN: Madam Chair, if I may? Mea  
11 culpa on the plan, I should have caught this earlier.  
12 But the only reason for the revised plan, and it has  
13 nothing to do with the building or the relief being  
14 requested, we had shown some parking space. There  
15 were two parking spaces showing in the public space,  
16 or in the BRL area, which I knew are not permitted.  
17 And then it wasn't until I caught it when DDOT  
18 mentioned it on their report as well.

19           And so I asked the applicant then to just  
20 revise it and take those parking spaces off because we  
21 didn't want to represent that we were providing any  
22 parking. They were never legal spaces, and they were  
23 never being offered as legal spaces. And we did catch  
24 this before the ANC meeting last week, and I talked to  
25 the SMD commissioner about it, and we went over it.

1 And so they had all the information in front of them  
2 too when they made their decision.

3           Regarding the ANC letter, that is not an ANC  
4 letter. It's a letter from a person in opposition  
5 that's not the single-member district commissioner.  
6 And the ANC letter of support is in from last week, I  
7 believe. So that's all we're talking about is those  
8 two parking spaces that weren't really part of the  
9 application. I thought it was right to get those off  
10 the plan and not represent that they were on there.

11           CHAIRPERSON HEATH: This property is within  
12 the district of ANC 4C.

13           MR. SULLIVAN: Correct.

14           CHAIRPERSON HEATH: And it's adjacent to ANC  
15 1A.

16           MR. SULLIVAN: Correct. And we have support  
17 from both of those ANCs.

18           CHAIRPERSON HEATH: Okay.

19           MR. SULLIVAN: Also, I would add --

20           MS. BUTANI-D'SOUZA: I'm sorry. You have  
21 support from ANC 4C? I see a letter in opposition  
22 from ANC 4C.

23           MR. SULLIVAN: That's a letter from a person  
24 that probably shouldn't be writing on ANC letterhead  
25 because it's not ANC. It's not the -- ANC had a

1 meeting last week and the only official word from the  
2 ANC is in the letter that came from that. And that is  
3 -- I don't have the exhibit number in front of me.  
4 I'll find it.

5 MS. BUTANI-D'SOUZA: Okay. Just sorry, to --

6 MR. SULLIVAN: But that's a letter from  
7 another commissioner who is not the single-member  
8 commissioner.

9 MS. BUTANI-D'SOUZA: Okay. I just want to go  
10 back to the point though, that you made earlier in  
11 response to Madam Chair's comment about the late  
12 submission. So just to be clear the Board spends many  
13 hours on the weekend reviewing these documents. And  
14 it is extremely frustrating to receive a submission  
15 that in a sense -- that in essence requires us to push  
16 the hearing because it is so late that not only the  
17 Board hasn't had a chance to review it, but the other  
18 parties to the case have also not had a chance to  
19 review it.

20 So the request that we are making, Mr.  
21 Sullivan, since you appear before this Board  
22 regularly, is that you please try to get your  
23 submissions in by Thursday so that the Board may have  
24 a chance to review them. And if it is not possible  
25 for you to do that, that you please submit your

1 request for postponement by Thursday so that the Board  
2 does not spend literally hours over the weekend  
3 reviewing your case only to have it then postponed.

4           So that is the request that we are making  
5 because it is very frustrating for us to have to spend  
6 this time and then have to rereveiw the case at a  
7 future date.

8           MR. SULLIVAN: Thank you. I perfectly  
9 understand that. This is a new policy to have this  
10 not be able to make changes when a change is required.

11 I'm sorry that the change had to be made. I'm sorry  
12 I made the mistake. That's why we gave the cover  
13 letter to show that it's a minor immaterial change.  
14 The other thing bumping up against this timewise is  
15 that if we wait a couple more weeks this is matter of  
16 right anyway as Mr. Uqdah alluded to in his previously  
17 testimony on another case.

18           CHAIRPERSON HEATH: So why not wait a couple  
19 weeks?

20           MR. SULLIVAN: Well, it's a few months and  
21 we'd like to get it done. You know, we'd like to get  
22 moving and get this -- this property is not -- it's  
23 another nuisance property in a sense that needs to be  
24 corrected.

25           MS. BUTANI-D'SOUZA: If you would like to get

1 it done then it would be helpful if you reviewed  
2 DDOT's comments and requested that the changes be made  
3 to your drawings timely so that we don't have to move  
4 the hearing.

5 MR. SULLIVAN: Yeah, I understand. I  
6 understand.

7 MS. BUTANI-D'SOUZA: And it's not a new  
8 policy. It's a request. But I appreciate you taking  
9 it seriously.

10 MR. SULLIVAN: Understood. Thank you.

11 CHAIRPERSON HEATH: All right.

12 MS. BUTANI-D'SOUZA: You should point that  
13 out.

14 CHAIRPERSON HEATH: Yeah. There are some.

15 MS. BUTANI-D'SOUZA: Mr. Hinkle has pointed  
16 out to me that it is -- no? You go ahead, and you --

17 MR. HINKLE: [Speaking off mic.]

18 MS. BUTANI-D'SOUZA: That there is a  
19 requirement about a 14-day period.

20 CHAIRPERSON HEATH: For some documents.  
21 Right.

22 MR. SULLIVAN: Yes, there is a requirement. I  
23 understand. I'm not saying that. I'm saying in this  
24 case I don't think the change made as a result of my  
25 mistake, warrants postponing the hearing after my

1 client has sat here all day.

2 CHAIRPERSON HEATH: Okay. All right. So, the  
3 only change that you've noted in this revised drawing  
4 is that you've removed the parking, which was never  
5 intended to be there. Other than that --

6 MR. SULLIVAN: That's correct. It's not legal  
7 parking. It's in the BRL. It doesn't satisfy the  
8 requirement for parking.

9 CHAIRPERSON HEATH: Okay.

10 MR. SULLIVAN: Otherwise we wouldn't have  
11 filed the application in the first place.

12 CHAIRPERSON HEATH: Okay. All right. Go  
13 ahead.

14 [Discussion off the record.]

15 CHAIRPERSON HEATH: Okay. So we're not going  
16 to postpone. We'll keep going. And we'll hear the  
17 concerns of the representative from ANC 4C as well,  
18 who is here, at a later time during this hearing. All  
19 right.

20 So, any questions of the Board just in general  
21 on this application, now that we've gotten clarity on  
22 this new plan that's been submitted?

23 Okay. All right. All right. Okay. Then if  
24 there -- since the Board doesn't have any questions at  
25 this time, I'm sure we're going to have questions

1 later, we will turn back to you for questions at that  
2 time as long as you're okay with us proceeding on. So  
3 we'll do so.

4 MR. SULLIVAN: Yes, thank you.

5 CHAIRPERSON HEATH: All right. Go ahead.

6 MR. MILLER: Thank you, Madam Chair. I do  
7 have one quick question, and unrelated to the relief  
8 being requested but just looking at the drawings. If  
9 you can just confirm what the height is of the  
10 mechanical penthouse is on top of the structure and  
11 that it's -- and confirm that it meets the setback,  
12 the one to one setback requirements.

13 I believe that it's in a C-2-A zone, which  
14 this is. I think it's a 15-foot maximum under the  
15 penthouse regulations that were recently adopted.

16 MR. SULLIVAN: I don't know that I'm prepared  
17 to --

18 MR. MILLER: I don't need that. I don't need  
19 that now, and it is unrelated to the relief. I just  
20 was looking at the drawings and the penthouse jumped  
21 out at me and I was trying -- I'm not an architect but  
22 I'm getting better at reading these drawings, but I  
23 just didn't see the height.

24 MR. SULLIVAN: If I don't figure it out before  
25 the end of the hearing I can -- well, if we could take

1 five minutes at the end and I'll --

2 MR. MILLER: Okay. Thanks. Thank you. Thank  
3 you, Madam Chair.

4 CHAIRPERSON HEATH: Okay. All right. So then  
5 with that I'd like to see if Office of Planning has  
6 anything further to add on this application.

7 MS. FOTHERGILL: Good afternoon. For the  
8 record, I'm Anne Fothergill from the Office of  
9 Planning.

10 The Office of Planning reviewed the  
11 application and found that it does meet the variance  
12 test, the building footprint essentially occupies  
13 almost all of the buildable area on the property and  
14 we support the requested relief and rest on the  
15 record.

16 CHAIRPERSON HEATH: Okay. Thank you. All  
17 right. Any questions of Office of Planning? Does the  
18 applicant have any questions of Office of Planning?

19 MR. SULLIVAN: No, thank you.

20 CHAIRPERSON HEATH: Okay. So we do have in  
21 the record, because as you clarified, this property is  
22 within the jurisdiction of ANC 4C, but adjacent to ANC  
23 1A. We do have letters from both of those ANCs  
24 supporting this project and we'll hear from the person  
25 in opposition shortly. But in addition to that we

1 have a letter of no objection from Department of  
2 Transportation. They raised issues about public space  
3 but I would just ask that you continue to work with  
4 DDOT on those issues. They're not under the purview  
5 of the Board but I will ask that you work with DDOT on  
6 their concerns regarding public space.

7 All right. Is there anyone here wishing to  
8 speak in support of this application? Anyone in  
9 support? Anyone in opposition to this application?

10 If you could state your name for the record,  
11 Mr. Uqdah and then --

12 MR. UQDAH: Yes.

13 CHAIRPERSON HEATH: -- you can present.

14 MR. UQDAH: Good afternoon. Taalib Din Uqdah.  
15 Last name is spelled U-Q D as in David, A, H as in  
16 Henry, and I am the single-member district  
17 commissioner for ANC 4C-01.

18 I'd like to begin by, excuse me, by clarifying  
19 a couple of things. One is I believe the last minute  
20 submission that you're referring to that just got to  
21 you actually came from the commissioner who supports  
22 the project. He was here for a number of hours, had  
23 to leave for a 2:00 meeting. But he told me he sent a  
24 note to BZA offering some additions to his testimony.  
25 So that's what I think you're looking at that just

1 came in two minutes ago.

2           With respect to Mr. Sullivan's assertion that  
3 I sent something on ANC stationary, I would invite you  
4 to look at what I submitted for the record. It is on  
5 my own personal 4C-01 stationary, which I am allowed  
6 to do. I'm quite aware of what the rules and the  
7 process is. ANC's official letterhead has all 10  
8 commissioners listed on it. My single-member district  
9 only has my own name.

10           CHAIRPERSON HEATH: Okay.

11           MR. UQDAH: And I'm only here representing ANC  
12 4C-01. I'm not here representing 4C.

13           CHAIRPERSON HEATH: Okay.

14           MR. UQDAH: All right?

15           CHAIRPERSON HEATH: Thank you for clarifying  
16 that.

17           MR. UQDAH: Yes, ma'am. Having said that,  
18 because I know when it gets to the afternoon, you  
19 know, these afternoon sessions the Board likes to move  
20 quickly, you know, through this. So I will do that  
21 with this.

22           Again, my concerns are how these two ANCs, 4C  
23 and 1A, treated this. If you look at 1A's report that  
24 they submitted to the BZA, it is word for word exactly  
25 what the applicant put in in their statement. So

1 essentially 1A did no work at all. They just took the  
2 applicant's statement, made everything that the  
3 applicant said a where-as, and then sent it in to the  
4 Board as support. Again, I've said this before, I'll  
5 say it again. That's not a report. That's not  
6 telling you the things that you want to know.

7           And here's what you need to know. This  
8 particular area, this particular subject property, I  
9 went and took a look at two blocks south of it in 1A  
10 and two blocks north in 4C. There is almost a perfect  
11 storm that is happening right at the intersection of  
12 14th and Spring Road where this subject property is  
13 located.

14           That perfect storm that this Commission is not  
15 aware of, because the projects that are taking place  
16 on Spring Road are matter of right, so there would be  
17 no need for these individuals to come to you. More  
18 specifically the nonprofit organization, So Others May  
19 Eat, they are putting -- they have two apartment  
20 buildings that they are going to be rehabbing.  
21 There's another nonprofit organization, Hope. They  
22 are constructing or renovating another apartment  
23 building on Spring Road. Both of these properties are  
24 a half a block away from the subject property.

25           Also, the District Government is going to be

1 revitalizing the old Hebrew Home on Spring Road. Last  
2 I heard it's 123 units, plus. That's down the street  
3 from the subject property. And this, this BZA, on the  
4 29th of February, approved -- and this was BZA Case  
5 19088, they approved a variance on another C-2-A  
6 property just across the street. For six units.

7           So when you add all of these up, I mean,  
8 you're talking about -- you're talking about on Spring  
9 Road alone, you're talking about 160 units between  
10 16th Street and Georgia Avenue. And then when you  
11 look -- and when you add all of that into what is  
12 going to be offered just within four blocks, two  
13 blocks south and two blocks north of this subject  
14 property, there is going to be increased density.

15           This increased density, as far as I'm  
16 concerned, is going to affect things like the natural  
17 light and air quality. The subject property's  
18 footprint is going to be, what, at least 50 feet tall,  
19 or adjacent to is a resident. But I haven't seen how  
20 that's going to affect that particular part of the  
21 block.

22           There is commercial on the other side. The  
23 other concern that I have, and this is a big concern,  
24 is that the continual improvements of these properties  
25 are not doing anything for neighborhood serving

1 retail. In this particular block -- in this  
2 particular block on this particular side of the  
3 street, the west side of the 3700 block of 14th  
4 Street, there are 10 commercial buildings. Of those  
5 10 commercial buildings seven of them have alcohol  
6 related business, including the subject property. The  
7 three that are left is a cleaners, a clothing store,  
8 and a food store that does not serve BNY. Those are  
9 the only three that don't.

10 But yet, when you look at the Small Area Plan  
11 for the 3700 block, and actually for what they call  
12 Node 1 from Spring Road to Shepherd Street, it calls  
13 for neighborhood serving retail. And I'm here to  
14 suggest to you that a neighborhood cannot survive on  
15 alcohol alone. And to have the sheer number that we  
16 have in this one particular block is a concern.

17 And lastly, I want to report -- I want to  
18 address DDOT's report. That report told this Board  
19 absolutely nothing. With the way transportation  
20 issues exist in the District of Columbia right now, I  
21 have absolutely no faith in Metro whatsoever. It is  
22 now being proposed that another BikeSharing station be  
23 placed at this property. But when I look at the  
24 plans, the plans call for outdoor seating along Spring  
25 Road.

1           The 4C Commission, as a commission, they have  
2 asked that a bike station be there. But I don't know  
3 how those two things are going to, you know, going to  
4 coincide. And so I do have these concerns. I have  
5 submitted my opposition in writing. I can't tell you  
6 that it got to you timely because the ANC only voted  
7 on it on the 13th of this month. Our meetings are the  
8 second Wednesday of every month.

9           I did submit my opposition to the ANC so they  
10 knew that I was opposed to this. They knew why I was  
11 opposed to it, et cetera. But that's the gist of what  
12 I have to say to you this afternoon. And only because  
13 -- and I've got to admire you all. I don't know how  
14 you all do these long days like this.

15           CHAIRPERSON HEATH: We don't either, really.  
16 But we power through.

17           MR. UQDAH: Okay. But thank you.

18           CHAIRPERSON HEATH: Thank you. And thank you  
19 for sticking around and reiterating your concerns.  
20 You know, we've raised with DDOT our concern about the  
21 totality of the parking requests that we approve and  
22 the impacts of those on a neighborhood, because when  
23 we get those reports from DDOT they're really just  
24 looking at that one project. And so we've raised this  
25 with them. I think we're hopeful that as some of

1 these developments come online and they can do more  
2 in-depth studies, that we'll get a truer reading of  
3 the impacts of what we're approving. But until then  
4 we share that frustration that you can approve each  
5 one individually, but nobody is looking at what this  
6 does to an entire community.

7           So we hear you and we're going to keep pushing  
8 on that to try to get answers that really speak to  
9 what the community is telling us are some of the  
10 concerns.

11           MR. UQDAH: And, Madam Chair, that's what  
12 keeps bringing me down here.

13           CHAIRPERSON HEATH: Uh-huh.

14           MR. UQDAH: Because they can provide the  
15 imperial data. All I have is anecdotal data. I mean,  
16 I'm not a traffic engineer. But I can go around and  
17 count parking spaces. I can know that you know, ANC  
18 4C wanted the applicant to consider putting the  
19 loading zone on the Spring Road side of the property.  
20 Well, I'm not a traffic engineer, but I can tell you  
21 a loading zone can't go there. The street is not  
22 going to be able to handle it. Right now there's no  
23 parking there.

24           Now there is loading zones on 14th Street.  
25 But because I'm not a traffic engineer I don't have a

1 report, you know, that I can give you, you know, that  
2 shows you that. But I do own property along 14th  
3 Street. In fact, I own a property that is very much  
4 like the applicant's property, where I've got anywhere  
5 from 15 to 18 feet that extend from the corner that is  
6 not mine. It's public space.

7           And I had to put in applications to DCRA,  
8 their Public Space office, to improve it. But I  
9 improved it for the benefit of, you know, my property  
10 and the community. And this was -- I'm very familiar  
11 with the applicant's property. I mean, the former  
12 mayor, one of is Ward 4 people came to me looking for  
13 suggestions as to what they can do because there were  
14 complaints, you know, about the property using part of  
15 the property as a pad for trash receptacles.

16           Now, I mean, where were the trash cans going  
17 to go? I mean, other than where they were? But  
18 technically they were on public space. And so I mean,  
19 I gave them some recommendations but, you know, again  
20 I'm nobody man. Nobody wants to listen to me.

21           CHAIRPERSON HEATH: You are somebody.

22           MR. UQDAH: Nobody wants to listen to me.  
23 Okay. But thank you.

24           CHAIRPERSON HEATH: Thank you. Thank you.  
25 Question for the applicant. In going through the

1 ANC's resolution and then the subsequent letter that  
2 we received from ANC 4C, there are a number of  
3 conditions that were listed that they've asked you to  
4 address. Have these been addressed or are they  
5 continuing to be addressed? Where do you stand with  
6 respect to what the ANC has requested?

7 MR. SULLIVAN: Yeah. The applicant has agreed  
8 to everything that they've requested. I think Mr.  
9 Halpern's letter today alluded to the issue of the  
10 change in the plans with the parking spaces going away  
11 and discussed two conditions that I think at least are  
12 legitimately part of the BZA's jurisdiction, which is  
13 the green space that would go in the back instead of  
14 the proposed parking space. Even though that's in  
15 public space. So I think there could be a condition  
16 that the applicant would work with DDOT or would  
17 propose green space for that area.

18 And the other issue was the roll-top door, I  
19 think, that would -- mechanical door that would be --  
20 that's going to be taken off because it's not needed  
21 anymore since you can't get a car in there anyway, to  
22 load and unload.

23 And I think regarding the loading zone  
24 question, it's a loading zone no parking area now and  
25 the ANC asked the applicant to work with DDOT and try

1 to get that improved, either by reducing the hours.  
2 Mr. Halpern mentioned that it was a 24-hour loading  
3 zone, which nobody seems to want or need. And so the  
4 applicant agreed that they would appeal to DDOT to  
5 have those hours reduced at least, so that there could  
6 be some parking spaces there.

7 CHAIRPERSON HEATH: All right. Okay. Does  
8 the Board have any -- go ahead, Mr. Miller.

9 MR. MILLER: Thank you, Madam Chair. Yeah,  
10 the ANC 4C, my reading of it is that yeah, they did  
11 ask the applicant to work with DDOT to reduce the  
12 hours and to maybe produce the area that's provided  
13 for the loading zone in order to free up more parking  
14 and you said you've agreed to talk to the ANC, so --  
15 conditions.

16 Can you address the -- you also agreed to  
17 consider, I guess, ANC's request that for an enclosed  
18 bike -- some kind of bike storage area. Can you  
19 address whether that's going to be feasible and where  
20 it would be?

21 MR. WATSON: The conversation I had with them  
22 was not to put it on Spring Road, was to put it in the  
23 back, in the alley next to the parking, where the  
24 parking was supposed to be. So now that we don't have  
25 a parking there we can basically put the bike rack

1 there.

2 MR. MILLER: And so you can work with DDOT on  
3 -- that would have to go through their Public Space  
4 permitting process. So you've agreed to -- you're  
5 agreeing to do just that?

6 MR. WATSON: Yeah, that's correct.

7 MR. MILLER: All right. Thank you.

8 CHAIRPERSON HEATH: Okay. Any other questions  
9 from the Board? All right.

10 Anyone else here wishing to speak in  
11 opposition to this application?

12 All right. Then we did --

13 [Discussion off the record.]

14 CHAIRPERSON HEATH: Okay. Then we'll turn  
15 back to you, Mr. Sullivan, for any closing statement  
16 you might want to make.

17 MR. SULLIVAN: Just a short closing or  
18 rebuttal, I guess. Commissioner Uqdah's comments are  
19 understandable but I think they relate to issues  
20 outside of the BZA's charge in this particular case.  
21 One is how the ANC has treated this. That sounds like  
22 an issue for Mr. Simon or for him to talk to, to his  
23 ANCs. But there were several meetings in addition to  
24 the ANC meeting there was a community meeting for each  
25 of the ANCs, I think, outside of the full ANC meeting.

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1 And then regarding other projects, that's more of an  
2 issue for the Zoning Commission, I believe, to look at  
3 the area in large. But this is a property that will  
4 have no parking requirement come September 6th. So we  
5 know where the planning is headed on this one.

6 So, other than that I would just say,  
7 reiterate that it's a minor request. It's just a  
8 four-unit building above the existing retail. It is  
9 intended to continue to be neighborhood serving retail  
10 as well. And for a small property like this there's  
11 little else that it could be, I think.

12 So I think it's a good project and I think it  
13 addresses some of his concerns as well. That's all I  
14 have. Thanks.

15 CHAIRPERSON HEATH: Okay. Thank you. I'm  
16 going to just put this on for decision on a later date  
17 so that we can -- I've skimmed the documents that we  
18 just received. But I just want to make sure that we  
19 have time. As I said, earlier, to go through them  
20 thoroughly the way that we expect the Board should.  
21 And so, Mr. Moy, I don't think we need a lot of time  
22 for that. It could even be on for decision. You  
23 could submit an absentee next week or the week after.  
24 Okay. So in the next week or two, on for decision.

25 MR. MOY: Okay. May I ask, will the Board be

1 requesting any conditions on this from the -- or is  
2 that something agreed among the parties?

3 CHAIRPERSON HEATH: I believe we have them.

4 MR. MOY: Okay.

5 CHAIRPERSON HEATH: I just want to go through  
6 the two ANC letters that we have to make sure they're  
7 all clarified. So I'm not asking for anything else.

8 MR. MILLER: As long as we're putting it off,  
9 I was prepared to go forward, but as long as we're  
10 putting it off. If you can get an answer to the  
11 question about the height of the -- just confirm what  
12 the height of the mechanical penthouse is on top of  
13 the roof and that it's compliant with the setback  
14 requirements. Even though that's unrelated to the  
15 relief, the parking relief that's being requested.

16 And on that note, I would just note that the  
17 issue of density and use are a matter of right for  
18 this property. So.

19 CHAIRPERSON HEATH: Okay. So, that additional  
20 request will need a -- we'll need to have in just  
21 before our decision date.

22 MR. MOY: [Speaking off mic.]

23 CHAIRPERSON HEATH: Your mic is not on.

24 MR. MOY: I'm sorry. The Board already has  
25 two other cases for decision next week, next Tuesday.

1 So we can add this as a third case for decision if  
2 the Board is ready for that.

3 CHAIRPERSON HEATH: That's fine.

4 MR. MOY: And if the applicant, to fulfill Mr.  
5 Miller's request, can have that in by end of this  
6 week, Friday?

7 MR. SULLIVAN: Sure.

8 MR. MOY: That would be sufficient.

9 CHAIRPERSON HEATH: Okay. So next week.  
10 Thank you. Thank you. Uh-huh.

11 MR. SULLIVAN: And thank you --

12 MR. WATSON: Thank you all very much.

13 MR. SULLIVAN: -- for hearing it today. I  
14 apologize for the late submission again. But I  
15 appreciate you hearing it. Thank you.

16 CHAIRPERSON HEATH: Thank you. We appreciate  
17 you listening to our request and adhering to it in the  
18 future.

19 All right. So, Mr. Moy, our last case.

20 MR. MOY: Yes, the next and last case for  
21 today, Madam Chair, is Application No. 18983 of Carrie  
22 and Phong Trieu. If you can come to the table.

23 As amended for relief for special exception  
24 under Section 223; 223, not meeting lot occupancy  
25 requirements under Section 403, nonconforming

1 structure provisions under 2001.3. This is to  
2 construct an addition to -- an addition to a detached  
3 garage in an R-1-B district, 5236 Sherier Place  
4 Northwest, Square 1415, Lot 85.

5 And I believe, Madam Chair, that Mr. Miller is  
6 going to be participating on this application.

7 MR. MILLER: That's correct, Madam Chair.  
8 Commissioner Turnbull had been here the last time, but  
9 I have reviewed the record and watched the video and  
10 prepared to participate on behalf of the Zoning  
11 Commission in this case.

12 CHAIRPERSON HEATH: Okay. So, if you all  
13 could introduce yourselves, if you decide in what  
14 order. We'll start at my left, then.

15 MS. GATES: Alma Gates, ANC 3D.

16 MR. BECKA: Zdenek Becka, 5238 Sherier Place,  
17 adjacent neighbor.

18 MR. DODD: Tom Dodd, a neighbor in Palisades  
19 area.

20 MR. FENN: Michael Fenn, architect. Also a  
21 neighbor in the Palisades.

22 MR. TRIEU: Phong Trieu, applicant.

23 MS. TRIEU: Carrie Trieu, applicant.

24 MR. LOZIER: Daniel Lozier, I live at 5230  
25 Sherier Place Northwest.

1 CHAIRPERSON HEATH: Okay. So are you the --  
2 you're the architect for this application?

3 MR. FENN: Yes. Yes.

4 CHAIRPERSON HEATH: Okay. All right. And  
5 let's see. Can you repeat your name again, sir?

6 MR. DODD: Thomas Dodd, D-O-D-D.

7 CHAIRPERSON HEATH: Okay. And you are?

8 MR. LOZIER: Daniel Lozier.

9 CHAIRPERSON HEATH: Okay. Because we had a  
10 party in opposition --

11 PARTICIPANT: [Speaking off mic.]

12 CHAIRPERSON HEATH: Okay. All right. Just  
13 making sure I had the right person. Okay. So you are  
14 -- and we granted you party status.

15 PARTICIPANT: Yes. Thank you.

16 CHAIRPERSON HEATH: At the last hearing.  
17 Okay. So, it looks like some more work has happened  
18 since the last time you all were before us. And you  
19 even brought a model which we're all really interested  
20 in seeing.

21 And so as I understand it so far based on the  
22 information we've received, you've reduced the size of  
23 this garage. The height is now consistent with the  
24 existing garage at 13 feet, approximately. So what's  
25 still in question is the footprint, the size, and how

1 -- I guess, which direction the roof pitch takes, and  
2 how, really how wide this garage is because it sounds  
3 like your neighbor wants to maintain eight feet. You  
4 now have six. You were at five. You now have six.

5           But I think we're going to need to go through  
6 what you've -- I think, we understand how you've  
7 revised it, but what are your solutions on the table  
8 now in order to address the concerns that are still  
9 being raised about the garage?

10           So we'll hear from you first and then we will  
11 hear from the party in opposition. And then we'll  
12 hear from witnesses after we go through any  
13 presentation and questions or additional statements  
14 you might want to make along with the ANC. So, we'll  
15 start with you as the applicant.

16           MS. TRIEU: Just to repeat what you said, you  
17 know, we lessened the footprint. We've brought it in  
18 six feet and we really, per your advice, we really  
19 took a hard look at what our needs were for the  
20 building. And we made it in the smallest possible  
21 footprint that met our needs. And unfortunately that  
22 was still -- it was 21 by 23. So it was the six feet  
23 of space.

24           And then we went ahead and looked at the  
25 criteria that we needed to meet, the Section 223,

1 which is what we're asking the special exception from  
2 to build, you know, on the 48 percent of our property.  
3 And we've, based on the shadow study, we felt like it  
4 -- we found that it unduly affected their light and  
5 air, so there are some ways that we could address  
6 privacy and enjoyment of use by putting in a privacy  
7 fence if that's something that Mr. Becka would find  
8 suitable. So that's -- and we gave him options on  
9 three different roof designs, that which one -- we  
10 talked to the neighbor at 5234. She has preferences  
11 too, over the three designs. But you know, there are  
12 some options on the table.

13 CHAIRPERSON HEATH: Okay. All right. And  
14 does your model represent what the different roof  
15 pitches are that are still on the -- you said there's  
16 two now that one of your neighbors is in support of.

17 MS. TRIEU: So what this model shows is, this  
18 is our property as it is today. This is our property  
19 as it is today. This toothpick here represents the  
20 neighbor's fence that goes along the back lot line.  
21 This is the trolley track that is public access. This  
22 is the shed, the size it is. You can barely see it  
23 but one thing that we talked a lot about at the last  
24 BZA hearing was the difference in height. I didn't --  
25 you know, the neighbor here, this is the retaining

1 wall that divides our property, so her property is  
2 fairly flat. But you can see it's higher than -- this  
3 does not represent his property level. This is 18  
4 inches. And at the lot line his is about eight  
5 inches, about approximately eight inches lower than  
6 ours and it continues to slope down towards Arizona  
7 Avenue.

8           So this is how it exists right now. And then  
9 this is the size of the building that we're proposing.  
10 I did not show the shed with the middle -- with the  
11 peak in the middle. I thought we could -- that you  
12 could see enough information from that.

13           But the pitch could be here. The peak could  
14 be here. The peak could be in the middle. Or it  
15 could be over more on 5238 property line.

16           CHAIRPERSON HEATH: Okay. But your neighbor  
17 on that side, the side that you're standing on now,  
18 once the peak --

19           MS. TRIEU: Our preference is for this or in  
20 the middle.

21           CHAIRPERSON HEATH: Okay. And what's with the  
22 existing garage, is the distance from the edge of the  
23 garage to your neighbor's fence, Mr. Becka's fence,  
24 eight feet?

25           MS. TRIEU: No, it's 10 feet.

1           CHAIRPERSON HEATH: Okay. I was just  
2 wondering where the eight feet came from. And I guess  
3 we can talk about that in just a moment. So, okay.  
4 All right. So, Mr. Becka, do you have any comments or  
5 questions based on what the applicant has --

6           MR. BECKA: Yes. Thank you very much for you  
7 know, listening to me after such a long day. And so  
8 yes, I'm here to express, you know, opposition to the  
9 plans, current plans for a new accessory building as  
10 described in Exhibit 48. Again, it's a great model.  
11 I like it. What it doesn't really indicate is that it  
12 is a very small lot. It is a nonconforming lot  
13 already. There's so many nonconformities on it, it's  
14 not even funny.

15           And what we're discussing here today is adding  
16 more nonconformities to an already nonconforming lot.

17           And given the rather large absolutely size of the  
18 shed, clearly it's not a great idea and so I'd like to  
19 address why it's not a great idea in terms of the  
20 rules that we have here. And so there are four things  
21 I want to talk about.

22           One is the context of the evaluation. Like  
23 what regulations should be applying to this. The  
24 scale, the scale of the structure is completely out of  
25 whack with, you know, the existing buildings. The

1 purpose, what is the underlying purpose of the  
2 building. And which set of Zoning Regulations should  
3 we be using in discussing this? And I found this very  
4 difficult to get my head around because, you know, you  
5 kind of look at it and go yeah, it shouldn't be a big  
6 problem. You want a larger shed. Not a big deal.  
7 But then you go and you stand in the yard and you go,  
8 wow, that is really, really big. Right?

9           And so, you can't just come here and argue,  
10 it's big, you know, don't let them build it right? So  
11 here we go. So, it's a new accessory structure. It  
12 is not an addition. I've got to tear everything down,  
13 put in sewer lines, rebuild the whole thing. It's  
14 new. Right?

15           I don't know, I'm not the Office of Planning.  
16 I don't know what new regulations -- I mean, what  
17 regulations apply to new buildings, but it seems like  
18 it should have gone down that route rather than just a  
19 simple addition to an existing structure.

20           On a sort more technical note, notice that the  
21 last Office of Planning report was for a set of plans  
22 that were quite far back in time. The ones that we  
23 did discuss at the last meeting, there were a couple  
24 of errors in there. They have not been updated. I  
25 don't know if they ever will be updated. I don't know

1 if they're applicable. So.

2 CHAIRPERSON HEATH: What were the errors?

3 MR. BECKA: Well, they were referencing a deck  
4 in there. They were making categorical statements  
5 like, well, one of the neighbors doesn't really mind  
6 so the air and light situation shouldn't be a problem.  
7 They just basically kind of -- kind of the stuff  
8 where if my 10th grader came in and put those in an  
9 essay you'd say, no, go back and find some real  
10 reasons.

11 Anyway, so there hasn't been an updated OP  
12 report for the new drawings. So I'm just wondering if  
13 that's normal or we're expecting to see something like  
14 that.

15 So scale. Yeah, so as you can see, when you  
16 look down -- so my house is -- well, you can see where  
17 my house is, that big blank spot, right. You can sort  
18 of look down and it forms a nice tunnel, right. A  
19 jagged edge tunnel, right, with all the things there.  
20 It's not great and because the proposed new structure  
21 is quite large I don't think it fits in with the  
22 character of the neighborhood. You know, it's fairly  
23 low density.

24 You know, one of the things that you charged  
25 us with back in the January 26th meeting was to come

1 and discuss alternatives. And unfortunately we  
2 weren't super fruitful on that. But at the ANC  
3 meeting one of the suggestions was, why don't we align  
4 it with the eight feet setback of the second part of  
5 the house. At least that way it's kind of in the same  
6 line. You know. That's one of the things that kind  
7 of made sense to me. I thought that would have been a  
8 good thing to try and do.

9           And back to the scale, it's kind of really odd  
10 that the width of this building, the new structure, is  
11 actually wider than the main structure. I mean, that  
12 seems, something is not quite right. So, purpose.  
13 All right. So we've been at this for four or five ANC  
14 meetings and now two BZAs. It's clear that the  
15 intended purpose of this really isn't just a shed.  
16 Right? Because there's much ado about a shed I guess,  
17 because you know, sheds are easy to talk about.

18           You know, this became somewhat clear when the  
19 OP issued a supplemental report that was discussing  
20 using the new accessory structure as an apartment  
21 under the new Zoning Regulations. I don't know where  
22 that came from but kind of opens the door saying, well  
23 okay, geeze, maybe it is going to be used for more  
24 than just a shed. Then we need to probably talk a lot  
25 more honestly about what's going to -- what are the

1 effects of that.

2           And then finally, yeah, the zoning  
3 applicability. Yes, we have a current set of zones.  
4 I don't know what they're called. Yeah, regulations.  
5 The ones we have today. And then in September we're  
6 getting a whole new set. Excellent. I like change.  
7 But migrating to that new set of regulations is  
8 somewhat problematic because they are different and  
9 they differ.

10           And it seems like we can kind of pick and  
11 choose, cherry pick if you will, specific sets from --  
12 specific items from each set of regulations to justify  
13 what we want to do today without really looking at it  
14 in the sort of the long term, because the OP  
15 supplemental report lists a bunch of things. I took a  
16 look at it, I read the new regulations, and well, we  
17 have some issues that we can discuss in detail. But I  
18 just don't think categorically that OP is saying, you  
19 know, it meets this, this, and this works. So.

20           So, thank you. I think that's about it. You  
21 know, I'd like to close. We do respect the Trieu's  
22 desire to replace their current shed; replace their  
23 current shed. But we would ask that the BZA deny the  
24 new nonconforming structure that is opposed by both  
25 neighbors who it will have the new structure in daily

1 sight. Thank you.

2 CHAIRPERSON HEATH: Okay. So if they were to  
3 reduce the width by two feet, from 21 to 19 feet wide,  
4 that would give you the eight feet.

5 MR. BECKA: Right.

6 CHAIRPERSON HEATH: It would align their  
7 accessory structure with their -- the main residence.  
8 Would you be in support of this at that point?

9 MR. BECKA: In support? Probably not. I'd  
10 love it if it was smaller, but wouldn't be against it.

11 CHAIRPERSON HEATH: Okay. And obviously the  
12 reduction in height is something that came about as a  
13 result of the applicant hearing the neighborhood's  
14 concerns. So that's one step in the right direction,  
15 but you would not -- well, I guess, would you no  
16 longer oppose, maybe not support, but would you no  
17 longer oppose this garage if that was the one  
18 adjustment that they made? Still being the same  
19 depth, just not the same width.

20 MR. BECKA: Yes.

21 CHAIRPERSON HEATH: Okay. So it's really the  
22 width.

23 MR. BECKA: Yes. I think everyone would be  
24 happier if it wasn't as, what is it like, deep.

25 CHAIRPERSON HEATH: As deep.

1 MR. BECKA: Deep, yeah.

2 CHAIRPERSON HEATH: Uh-huh.

3 MR. BECKA: I think it would be nicer. I  
4 think my neighbor would like -- 5236. Sorry, 5234  
5 neighbor would be happier as well. But I understand  
6 you need to fit your stuff somewhere and you want to  
7 build a shed. So.

8 CHAIRPERSON HEATH: Okay. What about the  
9 fence that they've proposed? Do you currently have a  
10 fence between?

11 MR. BECKA: No, this is the ironic part. So  
12 we've been neighbors for, I don't know, how old is my  
13 son. Twenty, 21 years almost, right? And for the  
14 longest time the common wisdom was that, we didn't  
15 want to put a fence up there because that's not what  
16 we wanted to do. We wanted to have the vistas, you  
17 know, because they're tiny lots. Right. And you  
18 wanted to have just a little bit of freedom to let  
19 your eyes look out a little bit further. So there's  
20 been no fence. I mean, there is, but it's a little  
21 thin wire almost, just to prevent balls from going  
22 over when you're kicking them around.

23 CHAIRPERSON HEATH: Okay. So you would not be  
24 in support of a new fence being added to create more  
25 of a --

1 MR. BECKA: Okay. How high can I put the  
2 fence up? Six feet? Or no, I mean like, six feet?  
3 Eight feet?

4 CHAIRPERSON HEATH: I don't know.

5 MR. BECKA: I mean, the building is --

6 CHAIRPERSON HEATH: Right. Right.

7 MR. BECKA: -- very --

8 CHAIRPERSON HEATH: But either way it sounds  
9 like you wouldn't be -- would you be in support of a  
10 fence if it were --

11 MR. BECKA: I don't see what that would do.

12 CHAIRPERSON HEATH: Okay.

13 MR. BECKA: That seems kind of -- it goes  
14 against what I would want from looking outside of my  
15 house.

16 CHAIRPERSON HEATH: Okay. All right. Okay.  
17 And does the pitch, the location of the pitch of the  
18 roof, matter to you at all?

19 MR. BECKA: You know --

20 CHAIRPERSON HEATH: The --

21 MR. BECKA: -- I don't know enough. I can't  
22 imagine that part enough to say one way or the other.

23 CHAIRPERSON HEATH: Okay.

24 MR. BECKA: It's like -- yeah.

25 CHAIRPERSON HEATH: I mean, based on the model

1 that they've shown, do you have a preference for the  
2 highest portion of the roof being closer to you or  
3 farther away from you?

4 MR. BECKA: I don't know, it seems like that  
5 would be a nasty thing to do to 5234, so put it in the  
6 middle, I guess.

7 CHAIRPERSON HEATH: Okay. All right. Okay.  
8 All right. Board have any questions of the party,  
9 opposition party?

10 All right. Does the applicant have any  
11 questions of the opposition party? Or comments based  
12 on what they've stated.

13 MR. TRIEU: Yeah. The only comment to address  
14 the purpose, we're not trying to show and we're not  
15 trying to deceive anybody here. I think the last time  
16 we met for the purpose of this is will be an accessory  
17 structure for storage, for all the stuff that we have.  
18 You've seen in the plan, there is going to be sewer  
19 in there. There's going to be water. There is going  
20 to be a drain; place for me to clean my bike or wash  
21 my dog or shower my -- wash my kids off if they're  
22 running in the park.

23 And we also followed up that if it ever was  
24 necessary that my in-law or my mom required some  
25 responsibility, increased responsibility from me to

1 take care of either one of our parents, really, then  
2 that is an opportunity with the proposed footprint  
3 that we have there to convert this to a dwelling unit.  
4 So that is the purpose I think we have set forth and  
5 have followed through with to this day.

6 CHAIRPERSON HEATH: Okay.

7 MR. BECKA: May I follow up on that one,  
8 please?

9 CHAIRPERSON HEATH: Sure.

10 MR. BECKA: Is that okay?

11 CHAIRPERSON HEATH: Sure.

12 MR. BECKA: Yeah. Okay. While I don't have  
13 any issues with that use, unfortunately when we build  
14 structures they last a long time. They're here  
15 permanently. And just because that is your intent  
16 doesn't mean that the next owner's intent would be the  
17 same. And having that as an accessory part unit in  
18 that particular location, then we can talk about the  
19 issues with that.

20 So I don't know if you want to bring that up  
21 at this point or not. I seek your guidance on that.

22 CHAIRPERSON HEATH: Okay. All right. We'll  
23 come back to that. All right.

24 So no other questions?

25 MS. TRIEU: I do want to make one more.

1 CHAIRPERSON HEATH: Make sure your mic is on.

2 MS. TRIEU: I do want to make one more  
3 clarification regarding the fence because I do think  
4 it's an important clarification to make.

5 There is no fence between our house, on the  
6 lot line that we share. However, on Mr. Becka's back  
7 lot line there is a six-foot fence that parallels the  
8 trolley track. So this is -- so that's the fence.  
9 And I bring the point up because when he looks out his  
10 back yard this roof, if the peak is over this way,  
11 will be 30 inches, less than three feet higher than  
12 his fence.

13 So as far as views and vistas go and having  
14 open space, the fence in the back essentially cuts  
15 that off.

16 CHAIRPERSON HEATH: There is a fence in the  
17 back, just not between your properties?

18 MS. TRIEU: Correct.

19 CHAIRPERSON HEATH: Okay.

20 MR. BECKA: And that is true. And it is also  
21 much further back, and therefore it doesn't play as  
22 big -- does not have as much of a visual impact.

23 CHAIRPERSON HEATH: Okay.

24 MR. BECKA: If any, because it's also the  
25 color of the trees and that kind of stuff. So, yeah,

1 true. And there's a fence, same height, next to our  
2 other neighbors. The ones on our other side, 5240.

3 MS. GATES: Madam Chair, I would like to  
4 address the fence along the trolley line. It is an  
5 open public space that has been proposed as a bike  
6 path. It is -- it provides access to the rears of all  
7 these houses. If my house were there I would have a  
8 fence for safety and privacy purposes.

9 CHAIRPERSON HEATH: Okay.

10 MS. GATES: So I don't find fault with Mr.  
11 Becka's fence.

12 CHAIRPERSON HEATH: Okay. I wasn't finding  
13 fault with it either, but thank you for clarifying the  
14 need for the justification for it. That helps to  
15 understand.

16 Okay. So a question for the Trieus. What  
17 would be the harm to the purpose of your shed if you  
18 were to reduce this two feet in width?

19 You've given us a really detailed layout plan,  
20 which I've never seen anybody go to this level of  
21 detail before. So we completely understand everything  
22 that you want to be stored in here. We see the size  
23 and scale of it, where it would be stored. And it  
24 looks to me like you have some wiggle room in here to  
25 be able to shave this off two feet and still be able

1 to store the largest things that you have in here,  
2 which are your two canoes. So, and I would expect  
3 that your canoes could probably be stacked even, so  
4 that you have a little bit more wiggle room on that  
5 one wall that is now 21 feet in width.

6 MS. TRIEU: I took your suggestion to look at  
7 our needs to hear, as you can tell. And I really did  
8 plan our space out very detailed wise. And it's not  
9 just two feet that we're asking. It's actually four  
10 because the original building that I proposed was 23  
11 by 23. And the additional two feet do make a  
12 difference in how everything fits and how you'll be  
13 able to move into the space of the new building.

14 And I think further to that point, we're  
15 asking for a special exception to build on 48 percent  
16 of our property instead of the allowed 41 percent.  
17 And in order to do that, according to Section 223,  
18 there is four criteria that need to be met, and we  
19 meet those criteria.

20 So we are not unduly affecting our neighbors'  
21 light. There's a shadow study. We are not unduly  
22 affecting their privacy or enjoyment of use. We have  
23 offered to put up a privacy fence. It does not  
24 visually intrude upon the character, scale, or  
25 patterns of houses. The accessory building will have

1 no impact on the view from Sharier Place. And it is  
2 in line with other free-standing accessory buildings  
3 on the shared trolley track line; the open space  
4 behind our lot. And those are the criteria you need  
5 to meet for the special exception. So.

6 CHAIRPERSON HEATH: Yeah, I understand that.  
7 I just wanted to ask the question because I appreciate  
8 that you created such a detailed plan showing us how  
9 you intend to use this. But you have to live next  
10 door to each other from now until you no longer live  
11 there. And so, I think that if we can help you come  
12 to some sort of agreement where both parties are happy  
13 and you feel like you've gotten what you needed out of  
14 this garage, then we always want to help you get  
15 there. So, aside from whether you've met the  
16 criteria, I just want to see if we can come to some  
17 agreement that makes the parties happy before we make  
18 a decision one way or the other.

19 So that's why I ask the question about the two  
20 feet. It looks like you might be able to -- I  
21 understand you've already given up two feet based on  
22 what you originally wanted. But another two feet,  
23 getting the person that you have to live next door to  
24 forever, to continue an amicable relationship, I just  
25 wanted to know if that was possible. It sounds like

1 the answer is now. So okay. Thank you. Fair enough.

2 All right.

3 Any other questions from the Board? All  
4 right. So then before we hear from the ANC I'd like  
5 to hear from -- do you have an additional statement.  
6 You've asked some questions. Did we ask you if you  
7 had an additional -- you made a statement.

8 MR. BECKA: Yeah, I think so.

9 CHAIRPERSON HEATH: I'm sorry, my --

10 MR. BECKA: It's been a long day. Yeah.

11 CHAIRPERSON HEATH: It's been a long day so I  
12 just want to make sure.

13 MR. BECKA: No, I don't think I have anything  
14 more to say.

15 CHAIRPERSON HEATH: Okay. All right. So  
16 before we hear from the ANC I just want to hear from  
17 Office of Planning to address some of the comments  
18 that have been made and whether you've addressed the  
19 current plans with your statement.

20 MS. RAPPOLT: Yes. Yes. For the record, I'm  
21 Megan Rappolt. I'm the staff planner from OP that  
22 worked on this case since last March, I believe is  
23 when it might have originally been scheduled for. So  
24 it's been a long time.

25 And I apologize. I wasn't here for the

1 January -- I think it was late January meeting. I was  
2 ill that day and I had Brandice Elliott was covering  
3 for me in this case. And so I watched the tapes and  
4 the hearing and spoke with her, spoke with you, spoke  
5 with DCRA. I've done a lot of work since then in  
6 getting DCRA to hone in on their letter of relief to  
7 correctly sort of address some of the -- or just the  
8 fact that it's a lot occupancy relief. It's a 223.  
9 The correct zoning, the correct name of the structure,  
10 or type of the structure, and some other information  
11 that wasn't consistent from the three different  
12 letters that had been submitted from DCRA.

13           So they willingly did that and worked with  
14 Carrie and her husband on that.

15           I would say that from the very beginning this  
16 has been characterized as an addition. I talked to  
17 DCRA about that and I'm still not clear why that's  
18 been characterized like that. It doesn't appear to be  
19 an addition to me either, but DCRA and the Zoning  
20 Administrator are sort of the authority on that. So  
21 we just sort of have gone with that.

22           And then back to the first hearing, the reason  
23 why OP wrote a supplemental report was to offer a  
24 recommendation, which we didn't before. We are  
25 recommending approval because 48 percent lot occupancy

1 is within the 223 criterion. We cannot stand on your  
2 property. I can't stand on your property. I'm not  
3 allowed to, to see what the impacts of light, air, and  
4 privacy are on a daily basis. So we have to take some  
5 sort of leniency. And as Mr. Becka said, we did say  
6 there's a party in opposition and it's his  
7 responsibility to come forward, as he has, and explain  
8 what those impacts are since our jurisdiction is only  
9 in the sidewalk, or on the trolley path. So we're not  
10 going to be able to go out in your yard and stand  
11 there and see what's happening.

12 So that's one thing I would like to address.  
13 And then the reason why we put in information about  
14 the future Zoning Regulations that will become  
15 effective in September, is that it's my understanding  
16 and from watching on the tape, that that was a  
17 question that had come up at the BZA, at the last  
18 hearing. So we thought we would address the fact  
19 that, you know, the regulations and having accessory  
20 dwelling units was, I think, highly debated before my  
21 time at OP. And so knowing that just wanted to say  
22 that it was, you know, very sort of discussed a lot  
23 publically.

24 And in fact this particular building could, in  
25 the future, likely be used as an accessory dwelling

1 unit. All the criterion would need to be meet, and I  
2 think we said that in our report. This report isn't  
3 saying, you know, it meets the criteria now and should  
4 go ahead and move forward as an accessory dwelling  
5 unit.

6           There is some criteria it needs to meet. It  
7 seems like it would likely meet it, and that's about  
8 as all we can say from that perspective. So let me  
9 know if I didn't answer anything that I think we  
10 discussed. I'm happy to continue to answer questions.

11           CHAIRPERSON HEATH: Okay. Thank you. Any  
12 questions from the Board?

13           MR. HILL: I do.

14           CHAIRPERSON HEATH: Go ahead.

15           MR. HILL: So just under the new regulations,  
16 and it's been a long day, my brain is also a little  
17 tired, in that the size -- so that has nothing to do  
18 with the new regulations. Like, they'd still have to  
19 come here for the lot occupancy variance, or --

20           MS. RAPPOLT: I would need to look at this a  
21 little bit more carefully. What I do know is that an  
22 accessory unit is permitted in this district in the  
23 future. There's certain accessibility requirements  
24 that must be met and I need to check if --

25           MR. HILL: That's okay. I'm getting nods from

1 the ANC over here --

2 MS. RAPPOLT: Okay. Okay.

3 MR. HILL: -- that that's the case.

4 MS. RAPPOLT: Okay.

5 MR. HILL: So thank you very much.

6 CHAIRPERSON HEATH: Okay. Does the applicant  
7 have any questions of Office of Planning?

8 Does the opposition party have any questions  
9 of Office of Planning?

10 Okay. All right. Then at this time we'll  
11 hear from the ANC commissioner.

12 MS. GATES: You have our letter, I believe, in  
13 the record. And we also took to heart your  
14 recommendation that we provide some flexibility.  
15 Initially we recommended that the initial footprint be  
16 replicated. We have now moved and we have allowed the  
17 shed to move from 285.21 square feet to 437, giving it  
18 dimensions of 23 by 19 and providing an eight-foot  
19 setback.

20 Our rationale for the setback was, it is what  
21 is required in an R-1-B zone, but it also brings into  
22 line the existing house and the side of this accessory  
23 building. So, I think that's where we are on that. I  
24 think one thing that's very important to keep in mind  
25 is the fact that this is a special exception request

1 for 48 percent lot occupancy in a low density zone  
2 district. This happens to be a lot that only provides  
3 60 percent of the required lot size. So we're talking  
4 about significant density.

5 And in the future, while an accessory dwelling  
6 unit would be allowed by right, this would still have  
7 to come because it cannot meet the requirements for  
8 the lot occupancy. So they would still have to come.

9 And the ANC asked that you grant our vote the great  
10 weight to which it's entitled under D.C. law.

11 CHAIRPERSON HEATH: Okay. So your support,  
12 though, is contingent upon the applicant meeting the  
13 criteria that you set forward; the square footage and  
14 the setback --

15 MS. GATES: Yes.

16 CHAIRPERSON HEATH: -- requirement that you  
17 set forward. Okay.

18 MS. GATES: Yes.

19 CHAIRPERSON HEATH: Which is not consistent  
20 with what the applicant is currently proposing.

21 MS. GATES: Well, the applicant, when they met  
22 earlier in January with Mr. Becka, offered this same  
23 21 by 23, that hasn't really changed. That was on the  
24 table before. So the ANC felt that we could find a  
25 bit of a compromise to meet the setback.

1 CHAIRPERSON HEATH: Okay. Reducing another --

2 MS. GATES: Which is eight feet.

3 CHAIRPERSON HEATH: -- two feet.

4 MS. GATES: Yes.

5 CHAIRPERSON HEATH: Because right now it's six  
6 feet.

7 MS. GATES: Thank you. Yes.

8 CHAIRPERSON HEATH: Okay.

9 MS. GATES: Another two feet.

10 CHAIRPERSON HEATH: Okay. All right. That  
11 would bring the house and this accessory building into  
12 a --

13 MS. GATES: Alignment.

14 CHAIRPERSON HEATH: -- straight line on their  
15 property.

16 MS. GATES: Okay.

17 CHAIRPERSON HEATH: Do you have a question?

18 MR. HILL: So just to be clear for me again,  
19 it's the 23 by 19 that you were in -- that the ANC was  
20 in approval of?

21 MS. GATES: Yes. And that allows an eight-  
22 foot setback.

23 MR. HILL: Yes.

24 CHAIRPERSON HEATH: Okay. All right. Does  
25 the applicant have anything that you want to say to

1 that? I mean, you've heard that from -- that question  
2 from multiple parties. But as the architect and the  
3 applicant --

4 MR. FENN: Just, may I say a couple of things  
5 here? Take a look at the model first. Well, number  
6 one, just to emphasize --

7 CHAIRPERSON HEATH: Do we need a hand mic, or  
8 can you --

9 MR. FENN: Everybody hear me?

10 CHAIRPERSON HEATH: There's a hand mic there.

11 MR. FENN: Oh, okay. Well, here, I'll talk in  
12 this.

13 CHAIRPERSON HEATH: That's fine. You can do  
14 that.

15 MR. FENN: Can you hear me now?

16 CHAIRPERSON HEATH: Yes.

17 MR. FENN: I'd just like to emphasize a couple  
18 of things vis-à-vis the model. The Trieus' lot is  
19 well below the trolley car right of way, and it  
20 demonstrates here with this wall. So the impact of  
21 this particular structure is practically nothing on  
22 one's view across the trolley car because this  
23 property is below almost in its entirety, below the  
24 trolley car right of way.

25 And there's another thing that I'd like to

1 emphasize here. When we were designing the roof, this  
2 is a shared property line here. This is Mr. Becka's  
3 property. It makes sense to me if there is a steeper  
4 slope here and a lesser slope here, that it's a  
5 neighborly kind of thing to do to have the steeper  
6 slope on this side because this side of the building is  
7 set back from Mr. Becka, and this side has a shared  
8 property line.

9           So it just makes sense to have the less steep  
10 slope on the side of the neighbor that you're sharing  
11 a property line with. And any shape like that would  
12 just put the highest point of the ridge on both sides,  
13 so it doesn't really make any sense. And it's not  
14 really a neighborly kind of thing to do. So that's  
15 how I'd like to demonstrate.

16           That was the thinking behind the roof pitch.  
17 To put this -- the neighbor at 5234 has been in favor  
18 of this accessory building all along, and in the  
19 beginning it was a lot bigger. And this neighbor, who  
20 is the most affected by this structure has been in  
21 favor of it all along. The Trieus have been trying to  
22 be good neighbors since day one.

23           Now, I'd like to bring up a couple of other  
24 things that have been brought up here, and that's the  
25 fact that this lot is smaller. It's a small -- all

1 these lots along Sherier here are smaller. And I'd  
2 just like -- can I bring up some past cases? Is that  
3 okay?

4 CHAIRPERSON HEATH: If they're relevant.

5 MR. FENN: Well, I think they're relevant  
6 because one of them is 5232, which is one door down,  
7 also in a very narrow nonconforming lot, and that's  
8 BZA Case 18073 where we not only had the special  
9 exception for the lot occupancy but we had a rear yard  
10 variance and a side yard variance, and a court  
11 variance. And the Board actually granted those. And  
12 that was a case where we actually had an existing  
13 garage in the back of a very narrow house, and joined  
14 the two into one house. So I think that's a pretty  
15 interesting precedent for this case because the houses  
16 were pretty much the same.

17 And this particular solution is much more  
18 modest than that one, if you want to take a look at  
19 that case.

20 Also, 5240, which is once again one lot over  
21 on Mr. Becka's side, we not only had to do an addition  
22 to a single-family dwelling, but we had to extend an  
23 existing party wall. So also in actually 5232 we had  
24 to extend an existing party wall there too. So we've  
25 got different cases in the neighborhood that are

1 actually quite similar to this that the Board did  
2 grant. As a matter of fact, they're a little bit more  
3 draconian than this one is.

4           So what I want to say is that the Trieus are  
5 trying to be good neighbors. And this is a very  
6 modest proposal, and land sakes, if they ever decided  
7 to use it for a rental unit, I mean, the whole world  
8 would know. So that's not in -- that's not going to  
9 happen. That's just not in the cards.

10           So I'd just like to say that there have been a  
11 lot of neighbors who have been for this project, even  
12 when it was much bigger and it was going to be  
13 actually used for Mr. Trieu's father to live in. So  
14 it's much more modest. The Trieus have really cut it  
15 back quite a bit and the use has been cut back. It's  
16 just a storage shed. And it's below the trolley car  
17 right of way. So I don't see how we're going to  
18 interfere with anybody's light and air, especially  
19 since we're backing on a national park. And we're not  
20 encroaching on any of that view either.

21           So I'd just like to say in closing, very  
22 modest.

23           CHAIRPERSON HEATH: Okay. While you're there  
24 can you just, before you walk away from the model --

25           MR. FENN: Yeah.

1 CHAIRPERSON HEATH: -- or you can point it  
2 out. We've talked a couple times about the fact that  
3 the eight feet came from the side. So it's just the  
4 back portion of the house.

5 MR. FENN: Yes, that was a new addition.

6 CHAIRPERSON HEATH: Okay.

7 MR. FENN: Yes.

8 CHAIRPERSON HEATH: Not the front of the  
9 house.

10 MR. FENN: Yes.

11 CHAIRPERSON HEATH: Which was original. Okay.  
12 Because that goes almost --

13 MR. FENN: The front of the house is like an  
14 inch from the property line, or something like that.  
15 Right.

16 CHAIRPERSON HEATH: Right.

17 MS. TRIEU: It's eight inches, and then  
18 further back here.

19 MR. FENN: Yeah. Yeah.

20 CHAIRPERSON HEATH: Okay.

21 MS. TRIEU: But further. There's a little bit  
22 more.

23 MR. FENN: Yeah.

24 MS. TRIEU: It's not straight, but --

25 CHAIRPERSON HEATH: Okay. All right.

1 Understood.

2 MS. TRIEU: This is the existing part of the  
3 house and this was what was added on.

4 CHAIRPERSON HEATH: Okay. All right. Okay.  
5 All right. You can go ahead.

6 MR. HILL: Thank you, Madam Chair. As an  
7 architect, and we have an architect here as well,  
8 which is nice. But so if there was two feet less,  
9 because this is just where I am right now, just a  
10 little bit here. If there was two feet less what do  
11 you think of the size of the shed? How less usable do  
12 you think it would be?

13 MR. FENN: Well, I think it would be less  
14 usable.

15 MR. HILL: You can speak in the microphone.  
16 Speak in the microphone please. Thank you.

17 MR. FENN: Oh, I'm sorry. I think it would be  
18 less usable and it's such a modest structure. And of  
19 course I have an axe to grind here and it's going to  
20 be absolutely, you know, beautiful. And but I think  
21 it would make a difference. Two feet makes a  
22 difference. I've come across numerous design problems  
23 with a lopped off foot or even six inches from a  
24 space, and it does make a difference. It really does.

25 And I think this is so modest --

1 MR. HILL: All right. That's okay. I mean,  
2 we're --

3 MR. FENN: We've cut it back so much already.

4 MR. HILL: We're here and whether one thinks  
5 something is modest or another person thinks it's  
6 modest, obviously there's a big difference here. All  
7 right. So, but thank you. Thank you for your answer.

8 CHAIRPERSON HEATH: Okay. Did you have  
9 another point you wanted to make?

10 MR. BECKA: Oh, just that I'm six feet, eight  
11 inches. Right? When I stand next to somebody, they  
12 kind of go like this to me, back away. So I've  
13 learned, don't come that close to somebody. It's all  
14 about scale and proportion. That's all we're saying  
15 here.

16 CHAIRPERSON HEATH: All right. That's a great  
17 example. Thank you. All right. I'd like to hear  
18 from anyone here wishing to speak in support of this  
19 application. Okay.

20 MR. DODD: My name is Thomas Dodd and --

21 CHAIRPERSON HEATH: Sure. We'll give you up  
22 to three minutes.

23 MR. DODD: Sure. Oh, I can do that.

24 CHAIRPERSON HEATH: Okay. All right.

25 MR. DODD: And I'm here to support this

1 proposal. I think my colleague --

2 CHAIRPERSON HEATH: Mr. Dodd, can you give us  
3 your --

4 MR. DODD: -- to my left here, just a minute  
5 ago --

6 CHAIRPERSON HEATH: Mr. Dodd, can you give us  
7 your address?

8 MR. DODD: 2345 King Place.

9 CHAIRPERSON HEATH: Okay.

10 MR. DODD: Northwest, Washington, D.C.

11 CHAIRPERSON HEATH: Okay. How far is that  
12 from the property area?

13 MR. DODD: I'd have to call on my name is, I  
14 guess it's near enough to walk.

15 CHAIRPERSON HEATH: Okay.

16 MR. DODD: I guess I could do that very  
17 easily.

18 CHAIRPERSON HEATH: Okay.

19 MR. DODD: And the Triens to my house, so I  
20 think that would --

21 CHAIRPERSON HEATH: Okay.

22 MR. DODD: -- give you an answer, Madam Chair,  
23 and you know.

24 CHAIRPERSON HEATH: Okay. Go ahead.

25 MR. DODD: My colleague here, just a minute

1 ago I think, put his fingers right on it. This couple  
2 really is a community builder, and perhaps the best in  
3 Palisades where we both live. And I can't say enough  
4 about them as being people who really build  
5 communities. And they're a very good example of that,  
6 I think, in the District of Columbia, and specifically  
7 in Palisades. I've known them for a good many years.  
8 My wife has too.

9 So I enthusiastically support this. But as I  
10 say, the underpinning is a community building family  
11 with their neighbors and friends all across the  
12 Palisades area, and I don't think I really know  
13 another couple, another family like them. Thank you.

14 CHAIRPERSON HEATH: Thank you. Okay. Just  
15 give us your name and where you live as well, and then  
16 we'll give you up to three minutes.

17 MR. LOZIER: All right. Again, I'm Daniel  
18 Lozier. I live at 5230, which is I guess the third  
19 house up from the Trieus.

20 It hasn't been explicitly mentioned today,  
21 there's been a lot of discussion of light and air. In  
22 the ANC meetings and at other venues, I believe, there  
23 has been the opinion expressed by the opponent that  
24 this shed would negatively impact the marketability  
25 and sales of his house, and that this was largely due

1 to the impact on light and air.

2           So I wanted to raise three points in regard to  
3 that. The first point is that a detailed shadow study  
4 was done. And in that shadow study it showed quite  
5 clearly that the shadow that's cast by this new  
6 building, which is slightly larger than the shadow  
7 that was cast by the existing building, occurs only in  
8 the morning hours and is at the very rear of the  
9 opponent's property. Nowhere close to his dwelling to  
10 his house, but only on the rear part of his property,  
11 next to the trolley line.

12           Also, if you look at the variation of that  
13 shadow by time of year, this only happens in the  
14 morning because the afternoon sun is throwing the  
15 shadow in the opposition direction. So in January the  
16 shadow is much, much greater, even though still small,  
17 than it is later in the year. January is not a time  
18 of the year when people are sitting around in their  
19 back yard, close to the rear corner in their lawn  
20 chairs or something. So the shadow is really a  
21 negligible issue.

22           My second point is that the Triues' house is a  
23 center house in a row of five houses that are on very  
24 narrow lots. All these lots are about the same size.  
25 Two of the houses are attached. The other three

1 houses are free-standing. The type of person who  
2 would be looking for a house in that neighborhood  
3 would be interested in the neighborhood because of the  
4 urban nature of the neighborhood. There's places you  
5 can walk to for shopping and restaurants, post-  
6 offices, and veterinarians. Starbucks is there.

7           And they're not looking, if they're shopping  
8 for a house in that neighborhood, for a large house  
9 with an expansive side yard, rear yard, and front  
10 yard. If they want that they would go to Gaithersburg  
11 or they go to Springfield, or they go to someplace  
12 else. That's not the reason people buy in the  
13 Palisades.

14           My third point is that, it's very hard for me  
15 to see how this improvement to the Trieu's property  
16 could affect the marketability of a neighboring house.  
17 The main factor in, you know, impacting the  
18 marketability and sales price of a house is the  
19 condition of the house. You know, if somebody wants  
20 to buy a house they want -- you know, they may be  
21 willing to buy a house that needs some fixing up. If  
22 that's the case they're willing to buy it but they're  
23 not going to pay as much as if they were buying a  
24 house that was in perfect condition.

25           So what really determines the price of the

1 house, and particularly in a desirable neighborhood,  
2 which I think you can fairly say the Palisades is  
3 these days, people are going to be looking at the  
4 condition of the house that they're buying and what  
5 its future prospects are on the lot that it sits on.  
6 I cannot imagine that anybody who was seriously  
7 interested in buying a house on that end of Sherier  
8 Place in the Palisades, would be concerned about this  
9 accessory building.

10 CHAIRPERSON HEATH: Thank you. All right.  
11 Board, any questions of the witness? All right.

12 Okay. Anyone here -- anyone else here wishing  
13 to speak in support? Please come forward.

14 MS. EVANS: My name is Mary Evans. I live at  
15 5231 Sherier Place, sort of kitty corner from the  
16 Trieus and Daniel, toward that end; toward Arizona  
17 end. But I'm across the street.

18 My two really comments, other than agreeing  
19 what these other gentlemen have said, is that I think  
20 I heard, and correct me sir, you said fit into the  
21 neighborhood. What does that mean? I don't have a  
22 clue, because if you look at our neighborhood, go down  
23 a block or two, even what's their name, Peter Dunn,  
24 they have a huge place in back. I just don't know  
25 what it means.

1           And nonconforming structure? I don't know  
2 what that means either. My house is very modern. You  
3 don't know it from the outside because it's a Cape  
4 Cod, but inside you could call it nonconforming. I  
5 don't know what this is, nonconforming. That's what I  
6 heard you say. I'm sorry. Maybe I misunderstood.

7           CHAIRPERSON HEATH: Nonconforming refers to a  
8 zoning term.

9           MS. EVANS: Okay. Then, my mistake.

10          CHAIRPERSON HEATH: And so that's a --

11          MS. EVANS: Okay.

12          CHAIRPERSON HEATH: And that is a part of the  
13 requested relief.

14          MS. EVANS: Okay. Then that explains it.

15          CHAIRPERSON HEATH: But we'll allow him to  
16 explain any other questions that you might have or  
17 to --

18          MS. EVANS: Okay.

19          CHAIRPERSON HEATH: -- rebut any statements  
20 that you make.

21          MS. EVANS: Okay. Then that's it.

22          CHAIRPERSON HEATH: Okay. All right. Thank  
23 you.

24          MS. EVANS: You're welcome.

25          CHAIRPERSON HEATH: All right. Do you want to

1 speak to her first point?

2 MR. BECKA: Yeah. Right now when you look at  
3 the regulations, right, they're basically -- they came  
4 out and said, hey, we want to make things, you know,  
5 good for lots of people. Right? Make it a useful, a  
6 habitable space for the good of the people who are  
7 using. And so part of that is, well, when we looked  
8 at it, when we were looking to buy 20 years ago it was  
9 like, oh, there's a small yard. Oh, there's trees in  
10 the back. Oh, the houses are pretty small and all.  
11 You know, it's not great but you know, it's kind of a  
12 nice place. So that's the kind of place. It's a low  
13 density neighborhood.

14 Now, you may want to have a larger house.  
15 Okay, you got a larger house. You got an addition on  
16 to it. That was great. It's now good. You have a  
17 lot more room. We still retained some yard. Kind of  
18 the character of the houses didn't really change.

19 Now what you're saying is, hey, we really want  
20 to put a big shed in the back. And what you're doing  
21 is you're cutting your yard in half. You're changing  
22 the tone, the tone of your -- yeah, the scale of the  
23 lot. And so that's what I mean by that.

24 And I really like the fact that you brought in  
25 all these character references. None of this has to

1 do with me saying that the Trieus are bad people, or  
2 evil people. I think this has nothing to do with it.

3 This is strictly about the size of a shed. I think  
4 that's clearly out of scale with the lot that it's on  
5 and that's what this discussion should be about.

6 That's all I have. Thank you.

7 CHAIRPERSON HEATH: Okay. Thank you. Any  
8 questions from the Board? Okay. All right.

9 Then we will -- yeah, we're going to turn back  
10 to you for closing at this point. I assume, Mr.  
11 Becka, that that was your closing as well, if you  
12 wanted to make a final statement.

13 MR. BECKA: No, I'm done. Thank you.

14 CHAIRPERSON HEATH: Okay. All right. So  
15 closing by the applicant.

16 MS. TRIEU: I wanted to take a moment to say  
17 that the people we brought here with us today was not  
18 necessarily as character references. It was actually  
19 -- our motivation for this project is to create a  
20 space that allows us to meet the needs of our family  
21 now, as well as in the future.

22 As our children grow and our parents age, our  
23 responsibilities and our family's responsibilities,  
24 our family's needs, they're going to change. This  
25 building will allow us the space we need to meet our

1 future responsibilities, as well as our  
2 responsibilities now.

3           And I want to live in a neighborhood that  
4 supports families, both young and old, and people who  
5 have both young and old in their families. And this  
6 building will allow us to meet those responsibilities  
7 and those needs.

8           MR. TRIEU: I just want to thank you for the  
9 support that we got here. They came out voluntarily  
10 and I tried to discourage them to come out because of  
11 the length of these meetings, how far it can go, and  
12 how hungry you can get, the stomach growlings that you  
13 can hear. So my thanks to them, you know, for coming  
14 out voluntarily to come and support us on this  
15 project.

16           CHAIRPERSON HEATH: Thank you all.

17           UNIDENTIFIED SPEAKER: Quite a day.

18           CHAIRPERSON HEATH: I know.

19           MS. TRIEU: And thank you to too. We are the  
20 last one of the day and you did grant us the ability  
21 to postpone this because we weren't able to get ready  
22 in time for the first time, and we appreciate that and  
23 we appreciate the time that you've taken today. Thank  
24 you.

25           CHAIRPERSON HEATH: Okay. Thank you. And we

1 always appreciate when people take the time to come  
2 down and to speak. Whether it's in support or  
3 opposition, it helps us to understand the conditions  
4 within a neighborhood and concerns that neighbors have  
5 when they're actually here and we can hear your  
6 testimony firsthand and ask questions as necessary.  
7 That's a really helpful part of our process. So we  
8 appreciate when neighbors participate in the process.

9 Is the Board ready to deliberate on this?  
10 Anybody want to start? Okay.

11 MR. HINKLE: Madam Chair, I'll make a go of  
12 it.

13 CHAIRPERSON HEATH: Okay.

14 MR. HINKLE: You know, if this were a  
15 variance, if they were looking for greater than 50  
16 percent lot occupancy I think they would have a  
17 serious problem. But you know, this is a special  
18 exception and we're required to actually grant this  
19 given that they meet certain criteria, and that  
20 criteria gets to of course, the impacts to  
21 neighborhoods, primarily.

22 And you know, we've been talking about two  
23 feet here. And I was at the point, well you know, if  
24 they just reduced it by two feet we'd be okay. But  
25 I'm actually in support of the application as it is.

1 I think the impacts to the neighbors are not rising to  
2 the level that is substantial in terms of what the  
3 requirements are. So certainly I'm in support of  
4 this. I think if it was greater than 50 percent lot  
5 occupancy, they would have a tough sell. But I think  
6 they're there.

7 CHAIRPERSON HEATH: Okay.

8 MR. HILL: And, Mr. Hinkle, I commend you for  
9 going first. I would agree with you. I mean, I was  
10 also really just kind of struggling with the 19 -- I'm  
11 sorry, the eight-foot versus the six-foot setback. I  
12 mean, I was thinking about like, you know, compromise  
13 and how everybody doesn't get what they want. But I  
14 think that the applicant has reduced the footprint  
15 already from what was originally there, working with  
16 the ANC and getting the Office of Planning's approval  
17 was something that was important to me.

18 As far as -- and so those are just the  
19 specifics as to how I'm kind of getting to how the  
20 special exception is being met from -- you know, so  
21 I'm kind of going with what OP's recommendations were  
22 and how they arrived in their analysis. And that's  
23 what I'm kind of standing behind.

24 From a standpoint with the applicant, I  
25 suppose you know, it is as this does happen often with

1 us, there's neighbors that have difference of opinion.  
2 Some people don't get what they want, then even the  
3 applicant isn't exactly getting what they had  
4 originally wanted, depending upon how this goes, I  
5 suppose. But I do appreciate that the applicants  
6 here, you know, it sounds like you're a lovely  
7 contribution to the neighborhood. I hope very much  
8 that regardless of how this goes, you know, you're  
9 neighbors. You guys can all get along. I can't  
10 believe you've been there for 21 years already, and so  
11 it must be just a -- it must have been just a real big  
12 strain and I'm sorry for both parties on that.

13 But that was my struggle, was the eight foot  
14 versus the six foot. But I would go along with the  
15 application the way it stands now as well.

16 CHAIRPERSON HEATH: Okay. I think you both  
17 made really great points and I'm also in support of  
18 this now. And I think it's through the work that the  
19 applicant has done to address some of the neighbor's  
20 concerns by reducing the scale, you've reduced the  
21 footprint. You've reduced the height. You also  
22 address some of the questions that the Board had about  
23 how the roof might be sloped and exactly what you were  
24 storing here and showed justification for that. I  
25 appreciate the need to allow your home to evolve and

1 change with your needs, and the needs of your family.

2 We all can appreciate that.

3 And so I support you in supporting your  
4 family, and for doing what it takes to continue to  
5 make this your home, work for you as your needs change  
6 and evolve. And I think aside from that, the fact  
7 that you have met the special exception criteria, I  
8 think is probably first and foremost. And so I am in  
9 support of this.

10 I agree, I think had you gone above the  
11 requirements for special exception and we're in to a  
12 variance, that there might be a lot more question  
13 here. But at this point, based on what you've put  
14 forward in the revisions you've made, I would support  
15 this. So. Did you want to say something?

16 MR. MILLER: Thank you, Madam Chair. Yeah. I  
17 can go along with my colleagues. It obviously would  
18 have been easier for us if the applicant had adjusted  
19 to where the ANC was in terms of the 19-foot width.  
20 And the party in opposition saying they would no  
21 longer oppose it.

22 But just looking -- I'm not great at math, but  
23 just looking at the calculation, I mean, it went from  
24 -- you were at 23 by 23. They were at 23 by 23  
25 originally, so that's 529 square feet, and going to

1 the 23 by 21, that's 483 square feet. And then if you  
2 were going to go to 23 by 19, it goes down to 437. So  
3 it's about 50 square feet for each, in terms of the  
4 surface area, I believe.

5 So, I mean, 437 for one of my -- for my in-  
6 law, you're getting a little tight. You want to have  
7 the grandkids be able to all get in there, visit with  
8 them, and the dog or whatever else that needs to be  
9 washed nearby.

10 So, it seems like a -- it does seem like a  
11 modest, and that they've made adjustments in terms of  
12 where it's located to minimum the impact and due to  
13 the slope. So I think it does meet the special  
14 exception criteria. And their willingness to work  
15 with the neighbors on adjusting the peak of the roof  
16 and the design of the façade. So I appreciate  
17 everybody's work on this.

18 CHAIRPERSON HEATH: Okay. Then I will move  
19 that we approve the amended application as it's been  
20 amended, the request for special exception to  
21 construct an addition to a detached garage in the R-1-  
22 B at 5236 Sherier Place Northwest. I would say that I  
23 would grant flexibility to the applicants as to the  
24 final design of the roof. But all other plans as  
25 they've been proposed.

1 MR. HILL: Second.

2 CHAIRPERSON HEATH: The motion has been made  
3 and seconded. Any further discussion?

4 [Vote taken.]

5 CHAIRPERSON HEATH: The motion carries. Thank  
6 you.

7 MR. MOY: Staff would record the vote as four  
8 to zero to one, this is on the motion of Chairperson  
9 Heath to grant the request for special exception  
10 relief as amended, as well as flexibility for final  
11 design of the peak of the roof.

12 Seconded the motion, Mr. Hill. Also in  
13 support, Mr. Robert Miller, Mr. Jeffrey Hinkle. We  
14 have a board member not participating. Again, four to  
15 zero to one, this is a full order, Madam Chair.

16 CHAIRPERSON HEATH: Yes, it is. Thank you.  
17 Any other matters coming before the Board today?

18 MR. MOY: Yes. I have just one minor -- and I  
19 apologize for bringing this up, but as the day has  
20 worn on it's been brought to my attention that on the  
21 decision case on the & Pizza case, 18770, there were  
22 three areas on the condition language where there are  
23 typographical and technical errors that if you  
24 delegate it to me as the staff to correct, I can do  
25 that. As well as even forward you the final special

1 order to look at.

2 CHAIRPERSON HEATH: Okay. I will delegate  
3 that to staff.

4 MR. MOY: Thank you.

5 CHAIRPERSON HEATH: To you and the staff.  
6 Thank you. Thank you.

7 [Whereupon, at 3:56 p.m., the Board Meeting  
8 was adjourned.]

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