

1 GOVERNMENT OF THE DISTRICT OF COLUMBIA
2 Office of Zoning
3 Board of Zoning Adjustment
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9 PUBLIC HEARING
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13 9:55 a.m. to 11:48 a.m.
14 Tuesday, June 21, 2016
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20 441 4th Street, N.W.
21 Jerrily R. Kress Memorial Room
22 Second Floor Hearing Room, Suite 220 South
23 Washington, D.C. 20001
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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
5 Hearing Room at 441 4th Street Northwest. Today's
6 date is June 21st, 2016 and we're here for the public
7 meeting and hearings of the Board of Zoning
8 Adjustment of District of Columbia.

9 My name is Marnique Heath, Chairperson.
10 Joining me today is -- or will be, Anita Butani-
11 D'Souza, Vice Chairperson, Fred Hill, Board Member,
12 Jeffrey Hinkle, also Board Member, and we'll have
13 both Rob Miller and Peter May sitting in as a member
14 of the Zoning Commission on the Board today.

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

22 All individuals wishing to testify today will
23 need to do two things. The first is, prior to
24 testifying, each person who wants to address the
25 Board must complete two witness cards. That's two

1 witness cards, and give them to the court reporter
2 who is seated to my right.

3 The second thing you will need to do is now
4 stand and take the oath as administered by the Board
5 Secretary, Mr. Moy.

6 MR. MOY: Good morning.

7 [Oath administered to the participants.]

8 MR. MOY: Ladies and gentlemen, you may
9 consider yourselves under oath.

10 CHAIRPERSON HEATH: All right. Good morning,
11 Mr. Moy.

12 MR. MOY: Good morning, Madam Chair, Members
13 of the Board.

14 CHAIRPERSON HEATH: Do we have any
15 preliminary matters coming bf the Board today?

16 MR. MOY: I do, very briefly. This is for
17 the record, so it's clear which cases are on the
18 docket for today. First off, there are two cases or
19 applications that have been rescheduled to July 6th,
20 2016. Those two cases are Application Numbers 19263
21 of Michael and Kimberly Baker, and 19280 of Martin
22 Hardy. Application No. 19153 of Independence Avenue
23 Investments, LLC. has been rescheduled to July 12th,
24 2016. Application No. 19256 of Kerry Reichs has been
25 withdrawn by the applicant. And let's see, there's

1 one other preliminary matter. Actually, I might as
2 well do this now that I wanted to tee up for the
3 Board, if I may. There is a preliminary matter where
4 the ANC, this is their appeal to Application No.
5 19274 of ANC 3D where they made a motion to postpone
6 their hearing of July the 28th to a future date. So
7 I'd like to bring that before the Board.

8 And I will tell you, Madam Chair, that on the
9 size of the dockets we look good for the Board to
10 handle this on either July 6th or July 12th.

11 CHAIRPERSON HEATH: Okay. All right. So, I
12 understand the ANC's request to postpone based on
13 their inavailability on June 28th, and we, the Board
14 moved their case to the 28th. So I think I'm
15 certainly willing to accommodate their request to
16 move to July 6th. I think that probably looks better
17 than the 12th. So.

18 MR. MOY: Yes, it does, Madam Chair.

19 CHAIRPERSON HEATH: Okay. So we can shift
20 that appeal to July 6th.

21 MR. MOY: Thank you very much. I'll inform
22 the parties.

23 CHAIRPERSON HEATH: Okay. Does that conclude
24 preliminary matters?

25 MR. MOY: Yes, that's all there is for me,

1 Madam Chair.

2 CHAIRPERSON HEATH: Okay. Then while we have
3 Commissioner Miller with us, let's talk about the --
4 let's call the Case No. 19047, the motion for
5 consideration and rehearing.

6 MR. MOY: Yes. Thank you, Madam Chair. For
7 the record and the transcript, this is Appeal No.
8 19047 of Michael Cushman. It was a request for
9 motion for reconsideration and rehearing of the
10 Board's decision of September 22nd, 2015. The order
11 was issued on April 29th, 2016. And let's see, for
12 the record, let me read the caption of the order
13 which read as, "From the administrative decision of
14 the Department of Consumer and Regulatory Affairs in
15 the issuance of Certificate of Occupancy 1501450,
16 allowing seven private parking garages and four open
17 parking spaces for a total of 11 parking spaces
18 located in the R-4 District at 20 14th Street
19 Northeast, Square 1035, Lot 810."

20 And the appellant's motion to reconsider is
21 in your case folders under Exhibit 49.

22 CHAIRPERSON HEATH: Okay. All right. Thank
23 you, Mr. Moy. Actually went back and reviewed the
24 tape on this appeal again. All of us participated
25 but I just wanted to refresh my memory on this. And

1 so the subject of this appeal at this point is really
2 the four open parking spaces. The Board denied the
3 appeal of the seven garage parking spaces for
4 timeliness, because it was clear that the appellant
5 should have known about those parking spaces within
6 the garage, but that the open parking spaces were
7 somewhat questionable.

8 And it's clear that the Board denied that
9 appeal in the end, and so the appellant has asked for
10 both reconsideration and/or rehearing of this matter.

11 You know, based on the rules governing
12 reconsideration and rehearing I think the appellant
13 has -- or I find that the appellant has met the
14 requirements based on the 10 day filing, 10 days
15 after the final order is issued. They certainly met
16 that.

17 They have served their appeal, or their
18 motion for reconsideration on all parties. But the
19 one part of the requirements that I'm still having a
20 hard time with, and I think this will be the portion
21 of this request that I think the Board will
22 deliberate on most is whether or not the Board really
23 erred in whether the appellant has shown that the
24 Board erred in some way.

25 The appellant made the argument that the,

1 then chair, cited a case inaccurately as a part of
2 the deliberation on this case, stating that -- and I
3 believe it was BZA Case No. 17906, where Chairman
4 Jordan cited that case as precedent for two principle
5 uses. And after looking at that further, I think the
6 appellant is correct that that case looked at a
7 number of different ways to consider uses, but in
8 fact it wasn't found that there were two principle
9 uses as a part of that case.

10 But you know, legally just mentioning a case
11 during oral deliberations doesn't constitute evidence
12 of an error by the Board, and after going back
13 through the order, although that case was cited as a
14 part of the deliberation, it wasn't a part of the
15 order. And so not a part of the final decision.

16 And so I didn't find that, you know, that the
17 appellant really focused their argument on that, and
18 I didn't find that argument to be substantive enough
19 to either reconsider or rehear this case. So I'm
20 curious to hear what my colleagues have to say about
21 this, and if there's further discussion that we want
22 to have.

23 MR. MILLER: Thank you, Madam Chair. As the
24 only one who voted against denying the appeal of the
25 ZA's C of O for the four open parking spaces, that is

1 I was the lone vote in support of the appeal, I of
2 course would support the appellant's motion for
3 reconsideration of this BZA decision that upheld the
4 ZA's decision on the four open parking spaces.

5 However, I did not feel strongly enough to
6 sua sponte this case to the Zoning Commission within
7 the appropriate time period for that because I
8 generally believe that sua sponte is not appropriate
9 unless there is clearly egregious error by the Board
10 or some other compelling reason for the Zoning
11 Commission to take up its valuable time on a BZA
12 case.

13 In this case there is ambiguity, or silence,
14 actually, in the 1958 Zoning Regulations which we are
15 still under for a few more months. So there are
16 reasonable conflicting interpretations about what is
17 or what is not permitted.

18 I still personally believe that a more
19 reasonable interpretation -- so I leave the Board's
20 rationale for allowing the four open spaces, not
21 seeing much of a distinction between that and the
22 parking garages, is a reasonable interpretation.
23 Although, we never got to the merits of the intensity
24 of use of those parking garages.

25 But be that as it may, I still believe that

1 the four open parking spaces being leased to a
2 commercial for-profit car sharing service is not a
3 permitted matter-of-right principle or accessory use
4 in an R-4 zone. So if any of you who upheld the ZA
5 on the four open parking spaces want to reconsider, I
6 would certainly join you in approving such a
7 reconsideration motion.

8 As I understand it, the practical effect of
9 if we were to reconsider the appeal and overturn the
10 ZA on this issue would simply require that the four
11 car sharing spaces would have to go through a special
12 exception hearing process before the Board to
13 continue it to be permitted, which would allow
14 adverse impacts to the open spaces to be considered
15 and potentially mitigated by conditions.

16 As you may recall, the appellant in this
17 case, the adjacent neighbor, was willing to live with
18 two of the four open parking spaces, which was in
19 addition to the owner's seven parking garages. But
20 the owner of the parking spaces did not accept that
21 compromise by the appellant the day we decided the
22 case.

23 So, I would just -- so there are reasonable
24 conflicting interpretations because the existing
25 regulations are not explicit in what is permitted or

1 prohibited. It's of note, not maybe of legal note,
2 but of note, that under ZR-16, only two car sharing
3 spaces would be permitted as a matter of right in an
4 R-4 -- what will be the R-F zone, the existing R-4
5 zone, parking -- the matter-of-right parking in an R-
6 4 zone under the ZR-16 is surface parking spaces for
7 use by residents of the square, not more than two car
8 sharing spaces, and parking garage on a lot not
9 containing another use shall meet the following
10 conditions.

11 No more than two motor vehicles may be housed
12 on the lot. So that's going to clarify the seven
13 parking garages issues as well, which we never got to
14 the merits of.

15 But, you know, I think it's the equity in the
16 situation. I just think the intensity of the parking
17 going on in this residential townhouse alley lot zone
18 is something that the Board or the adjacent neighbors
19 should have the opportunity to argue for this Board
20 as to whether or not there are adverse impacts and
21 what conditions might be able to mitigate.

22 So that's -- I'm not really trying to
23 necessarily say that the Board erred in its previous
24 decision; in its decision or its order. But I think
25 that it could have gone either way and I don't think

1 that the -- I think the parties involved here would
2 have the opportunity to use your valuable time if you
3 were to reconsider, to maybe come to a solution that
4 might work out best for this particular square. So
5 that's where I am on this one, Madam Chair.

6 MR. HILL: Well, Commissioner Miller. Thank
7 you for coming down here and expressing your opinion
8 and also, you know, I do think that it is, you know,
9 very good of you to explain yourself for the
10 appellant and what your opinion is and your
11 dissenting vote for when we had originally heard this
12 case.

13 What I kind of just continue to go back and
14 forth with, and I did go back and again looked at the
15 tape and saw, you know, the deliberations and what we
16 came to, but I just came back to that I didn't think
17 there was any new evidence in this that brings me to
18 be able to vote for a rehearing, you know, the motion
19 for the rehearing. You know, again, whether or not
20 during the deliberations a case was mentioned, I
21 mean, I know that that didn't necessarily have any
22 bearing on what I was thinking about. You know, and
23 so you know, now to me it's just kind of grasping at
24 straws, I think, to kind of get a rehearing.

25 I do understand your opinions and just

1 respectfully disagree as far as just me getting past
2 the new evidence to have a rehearing. So I would not
3 be in favor of the rehearing or the reconsideration,
4 Madam Chair.

5 MR. HINKLE: Yeah, thank you, Madam Chair. I
6 tend to agree with Board Member Hill.

7 You know, I don't see any new evidence that
8 justifies any rehearing. I've read the submissions a
9 number of times trying to see what they were trying
10 to say, but I just don't see that. And I'm glad that
11 the ZR-16 is addressing this issue. I think it's
12 important, but because we're working with the
13 regulations that we have, I was basing my decision on
14 kind of the established process of the Zoning
15 Administrator. You know, he's looked at the
16 ambiguity in the regulations and has come up with a
17 process over time and I think that's what this Board
18 needs to depend on at this time.

19 So I am not in support of either the motion
20 for rehearing or reconsideration.

21 CHAIRPERSON HEATH: All right, so it sounds
22 like three of us are unfortunately still not in favor
23 of this. So unless there's any further deliberation.

24 MR. HILL: No, that's it.

25 CHAIRPERSON HEATH: We're all in agreement.

1 MR. HILL: Commissioner Miller made a good
2 argument.

3 CHAIRPERSON HEATH: Right. Yeah. And I do
4 appreciate you coming down, Commissioner Miller.

5 MR. MILLER: I just like to see you.

6 CHAIRPERSON HEATH: Right.

7 [Laughter.]

8 CHAIRPERSON HEATH: You're welcome to come
9 every Tuesday.

10 But yeah, I just, I didn't see any error or
11 new evidence. So I will make a motion, then, that we
12 deny the motion for reconsideration and for
13 rehearing.

14 MR. HINKLE: Second.

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

17 [Vote taken.]

18 CHAIRPERSON HEATH: Okay. So the motion
19 carries.

20 MR. MOY: Staff would record the vote as
21 three to one to one. This is on the motion of
22 Chairperson Heath to deny the request for
23 reconsideration/rehearing. Seconded the motion, Mr.
24 Hinkle. Also in support, Mr. Hill. Opposed to the
25 motion is Mr. Rob Miller. We have no other board

1 member participating. The motion carries.

2 CHAIRPERSON HEATH: All right. Thank you,
3 Mr. Moy. Thank you.

4 All right. So, let's see where we are. All
5 right. We'll give our other members time to join us
6 and then you can call our last meeting case, Mr. Moy.

7 [Pause.]

8 MR. MOY: The next decision case for the BZA,
9 and it's the last one in the public meeting session,
10 is Application No. 17535A, A as in Alpha, of Mary
11 Goodman. Captioned as a request for a special
12 exception from the accessory apartment requirements
13 under Section 202.10 to establish an accessory
14 apartment above an existing garage, R-3 District,
15 30254 O Street Northwest, Square 1230, Lots 125 and
16 825.

17 As the Board will recall the last hearing was
18 on May 17th, 2016. At that time the Board completed
19 testimony and closed the record and scheduled its
20 decision for today, June 21st.

21 CHAIRPERSON HEATH: All right. Thank you,
22 Mr. Moy. Is the Board ready to deliberate on this
23 case?

24 MR. HILL: Uh-huh.

25 CHAIRPERSON HEATH: All right. All right.

1 Anybody want to start? If not, I'll jump in. Okay.
2 All right.

3 So this is a case that I struggled with at
4 first. Similar to the ANC's issue with this, you
5 know, we saw evidence as to this applicant trying
6 since 2001 to do something similar with this property
7 to create a garage and/or accessory apartment in
8 different ways and based on the history of what this
9 applicant has done with their property it just seemed
10 very questionable as to what their motives were and
11 what they were really trying to accomplish here.

12 And so I understood the ANC's position on
13 this and struggled as well. I also initially
14 struggled with the way the applicant was trying to go
15 about the support of the special exception relief
16 under 202.10, requesting a waiver from the preamble
17 section of this particular zoning relief. And I
18 found it to be helpful during our May 17th, I think
19 it was, hearing, where the applicant brought forward
20 a more substantive argument in support of their
21 request for the waiver and of the preamble in citing
22 other cases that the BZA has approved.

23 One in particular was Sanborn, BZA Case No.
24 18232, where the Board found it was acceptable to
25 waive the preamble, the introductory paragraph of

1 202.10. And again, this case, you know, the section
2 202.10 I makes it clear that you can waive two
3 requirements specified in paragraphs A through H.
4 But Number 3 under I also, it's somewhat vague, but
5 it opens the door for the possibility of waiving the
6 preamble. And given that we have precedent for this
7 on Sanborn and other cases, I began to get on board
8 with the possibility of waiving the preamble. And so
9 I'm now in support of the relief being requested
10 under 202.10.

11 I think the relief under 223, 404 rear yard,
12 I never really struggled with. I think we saw
13 evidence in the testimony during the hearing that
14 there isn't a major impact to light and air based on
15 the addition of this garage and/or the expansion of
16 the garage and the addition of the accessory
17 apartment. And so I now stand in support of this
18 application.

19 I think the other issue that the BZA -- or
20 the ANC raised was, their recommendation of denial or
21 deferral with regard to this issue around the
22 ownership of the alley. Mr., I'm going to call him
23 Zhere (phonetic). Okay. I was going to say Z, but
24 there was an issue that the ANC and other neighbors
25 raised. And Mr. Zhere was actually here. But

1 there's no -- there was no way for the Board to get a
2 handle on when that issue could be resolved. It
3 looked like something that could go on for a really
4 long time and we didn't think that it was justified
5 or justifiable to hold this case for that long,
6 indefinitely.

7 So I didn't support the ANC's request to
8 defer this until that matter is resolved. I hope
9 that at some point that will be resolved, but until
10 then we also saw that if, for some reason, the owner
11 of the alleys is able to do something with that
12 property and prevent others from exiting, we saw that
13 the applicant has a solution for having egress from
14 the apartment through the yard and around to the
15 front of the house. So I didn't think that that was,
16 again, a substantive argument towards denying or
17 deferring this application. So that's where I stand.
18 I'm now in support.

19 Anybody else?

20 MR. HILL: Sure. I'll be interested to see
21 how this one goes.

22 So I would be in denial. And the reason why
23 I'm kind of there is basically for a, you know,
24 there's so many times when it's a confluence of
25 factors as to why we're in support. For me this is

1 more like, you know, a -- really, basically because
2 the ANC was in such opposition to it and their -- you
3 know, the Office of Planning was saying that the --
4 and what was getting me, say you know, the
5 regulations, the appearance and character of the
6 property. And as I said, I'll be interested to see
7 how the Board discusses this, but I did separate
8 appearance and character from the -- you know, what
9 was proposed.

10 And you know, the applicant, I don't think
11 that the appearance is affected. I think, I guess
12 the character would be, in terms of, you know, that -
13 - you know, the alley or there being a rental unit
14 there and kind of the -- and really just again, the
15 ANC and the single-member district was just so
16 opposed to it and the great weight that we give the
17 ANC.

18 So that was one consideration. Another for
19 me was just that this is something that the applicant
20 has been trying to do in a number of ways and had
21 been rejected. And, you know, that the trellis was
22 something that was approved for the meaningful
23 connection and that the trellis hadn't been built.
24 And you know, let's see.

25 And then there was the alley issue, I guess.

1 As far as like, you know, the ownership. I mean, it
2 didn't really completely weigh heavily for me. And
3 as you mentioned, Madam Chair, it's something that's
4 not going to be resolved for a long time. But just
5 all those different factors and really again, just
6 the strong opposition from the ANC, and that I think
7 that, again, the separation between appearance and
8 character, for me it was more of a character issue.

9 So, but so I would be in opposition.

10 MR. MAY: Yes, I think it will be
11 interesting.

12 MR. HILL: Yeah.

13 MR. MAY: So, let's see. Generally speaking,
14 I am pretty strict when it comes to the
15 interpretation of the regulations. But that applies
16 both when I think the regulations dictate a denial
17 and also when they dictate an approval, even if I am
18 not totally comfortable with certain aspects of it.

19 The way I read the regulations, this is a
20 special exception that should be granted. I don't
21 particularly like the trellis mechanism in
22 circumstances like this. I've never liked it. But
23 it is an established practice. I also question the
24 validity of waiving the preamble of 202.10. I mean,
25 initially my reaction was there's just no way that

1 that should be raised. But again, it is something
2 that has become an accepted practice of this Board
3 and I think that given that I am compelled to agree
4 with that argument.

5 I believe the relief can be granted without
6 substantial detrimental impact on adjoining
7 properties in the neighborhood. There are other
8 modest two-story garages in the neighborhood, and
9 even one on this block. There are other homes that
10 have accessory apartments in the neighborhood.
11 Comings and goings in the alley will be quite
12 limited, and possibly completely avoided because of
13 the occupant of this apartment could be entering from
14 the street side because it's a fully detached house.

15 Also, this is a very large property and it
16 can easily support two units, and I think that was
17 one of the arguments that Office of Planning made
18 that this is a sort of circumstance where two units
19 on this property makes sense.

20 I also think that this, you know, steps will
21 be taken to protect the character of the alley. When
22 it goes through any other further design reviews it
23 will be needed.

24 So I am -- I mean, there are aspects about it
25 that I don't like and I was conflicted as we went

1 through it, but I have to conclude that we should
2 support this relief. Thank you.

3 MR. HINKLE: Yeah. I think I'm in agreement
4 with Commissioner May on this. I am. I think it
5 meets the requirements of the special exception. I
6 continue to be bothered with the use of the trellis
7 to accomplish what they're trying to accomplish, but
8 we have -- you know, as Mr. May stated, that's been
9 established by this Board as an appropriate means to
10 create a single structure. And you know, I too was
11 bothered by the waiving of the preamble. I thought
12 that was an odd approach to these regulations. But
13 again, it's been established by the Board that that's
14 something we could do.

15 I think what's being proposed is designed in
16 a way to not negatively impact the neighborhood,
17 which is essentially the requirements of the special
18 exception. So I am in support of what's being
19 requested.

20 MS. BUTANI-D'SOUZA: So I really struggled
21 with this case. I mean, I think I was in favor of
22 it, in favor of the relief, opposed to the relief. I
23 went back and forth. I think that Mr. May's comments
24 are very helpful because I too didn't really want to
25 agree that the preamble was waivable, but it's pretty

1 clear from past cases and the guidance that we've
2 received from OAG that that is a waivable provision;
3 that it is a single provision. The ANC argued that
4 the preamble constituted multiple provisions. I
5 didn't find that compelling. I believe that the way
6 that the regulation is written each of the
7 subparagraphs, subcriteria are single, even though
8 they may encompass multiple features.

9 I really struggled with the appearance and
10 character issue. I actually, I also agree with Board
11 Member Hill. I do believe that they're different.
12 Appearance is one thing and I think character gets to
13 the use.

14 But when I thought about that some more, you
15 know, there are houses, or rather there are
16 structures that open on to the alley. And many of
17 these houses do have accessory apartments. So I do
18 believe that you can get around the use issue
19 embedded in character, because I think that this
20 whole concept of single-family character with an
21 accessory unit, I think that this meets that
22 character. So, that's where I ended up on that
23 issue.

24 With regard to Mr. Zhere's point about the
25 alley being owned by him, I did review the additional

1 documents that he put forth, and I believe that as I
2 interpreted it, DDOT -- I believe it was DDOT did
3 indicate that he was actually not able to build on
4 those lots, whereas I think he had testified that
5 DDOT had indicated that he could build on the lots.
6 So I think that there was a little bit of confusion
7 there.

8 But as I read the documents, he did not have
9 anything definitively giving him that right so I
10 didn't think it was compelling that we not approve
11 this for that reason.

12 I think generally in a city like this where
13 you have a tremendous housing crisis, I think I tend
14 to believe that we should look very carefully at
15 requests to increase density because there is such a
16 need for it. And although I did, you know, respect
17 the ANC's -- I gave a lot of consideration to the
18 points that the ANC raised, and I found many of them
19 to be compelling. Ultimately I tend to agree that I
20 think the relief should be granted here.

21 CHAIRPERSON HEATH: All right. Anything --
22 anybody else have any other -- all right. So then,
23 all right. You're on an island. I will make a
24 motion, then, that we grant the request for special
25 exception relief under 202.10 and 404 for Application

1 No. 17535A.

2 MR. MAY: Second.

3 CHAIRPERSON HEATH: The motion has been made
4 and seconded. Any further discussion?

5 [Vote taken.]

6 CHAIRPERSON HEATH: All right. There you go.
7 The motion carries.

8 MR. MOY: Staff would record the vote as four
9 to one to zero. This is on the motion of Chairperson
10 Heath to approve the application. This is for the
11 relief for special exceptions under 223, rear yard
12 404, as well as 202.10 for the accessory apartment.

13 Seconded the motion, Mr. Peter May. Also in
14 support, Vice Chairperson Butani and Mr. Hinkle. Mr.
15 Hill is opposed to the motion. The motion carries,
16 Madam Chair.

17 CHAIRPERSON HEATH: All right. So full order
18 on this one.

19 MR. MOY: Yes. Thank you, indeed.

20 [Pause.]

21 CHAIRPERSON HEATH: All right. So, we can
22 start our hearing cases, Mr. Moy.

23 MR. MOY: And I believe, Madam Chair, just as
24 a reminder, you were going to go over quickly the
25 lineup for the hearing cases for this morning. For

1 the public.

2 CHAIRPERSON HEATH: Right. So I think we're
3 going to need to take Application No. 19297 if DDOT
4 is still here.

5 [Pause.]

6 MR. MOY: Okay. To the table, and let me
7 read for the record, this is Application No. 19297 of
8 Thor 3000 M Street, LLC. Bear with me, for the
9 record there's a number of relief here.

10 This is a request for variance from the
11 penthouse height requirements under 770.6, rear yard
12 933, off-street parking requirements, 2101.1, size of
13 parking space requirements, 2115, the access
14 maintenance operation requirements under 2117, and
15 loading requirements under 2201.1, special exception
16 from the penthouse use requirements, 411.4, Sub C and
17 the penthouse setback requirements under 771. This
18 would permit the renovation and modernization of an
19 existing hotel with additional retail uses, C-2-A,
20 and W-1 District, 3000 M Street Northwest, Square
21 1197, Lot 70.

22 And I believe the updated architectural plans
23 are under Exhibits 30E-1 through 30E-4.

24 CHAIRPERSON HEATH: All right. Good morning.

25 MR. TUMMONDS: Good morning.

1 CHAIRPERSON HEATH: Would you all please
2 introduce yourselves?

3 MR. TUMMONDS: Sure. My name is Paul
4 Tummonds. I am with the law firm of Goulston and
5 Storrs.

6 MR. COHEN: David Cohen with Thor 3000 M
7 Street.

8 MR. BLUMENTHAL: Ari Boumenthal with the
9 architectural firm, Shalom Baranes Associates.

10 CHAIRPERSON HEATH: All right. So, before
11 you get started, Mr. Tummonds, I think I don't have a
12 lot of questions about this. Really I think the most
13 complicated part of this now is resolution on the
14 conditions.

15 MR. TUMMONDS: Yes.

16 CHAIRPERSON HEATH: And so unless the Board
17 has any other questions I think we could probably not
18 have a full presentation from you and really just
19 focus on trying to resolve what are the conditions --

20 MR. TUMMONDS: Sure.

21 CHAIRPERSON HEATH: -- that the Board should
22 consider. I think we asked DDOT to be here with us
23 today because they had some additional conditions and
24 some parts of your TDM plan that they wanted to
25 remove.

1 MR. TUMMONDS: Sure. And I can address that.

2 CHAIRPERSON HEATH: Okay.

3 MR. TUMMONDS: First.

4 CHAIRPERSON HEATH: That would be helpful.

5 MR. TUMMONDS: So as you noted, DDOT had
6 three conditions in their support. First was that we
7 offer daily Capitol BikeShare passes to the hotel
8 guests. We agree to that. Second, they wanted to
9 unbundle the parking costs from the costs of the
10 hotel rooms. We assume that that means when you call
11 up and you say what's it going to cost for a hotel
12 room we say, your room will be X, and if you want
13 parking it will be another amount. We're fine with
14 that.

15 And then finally, DDOT asked that we remove
16 two elements from the TDM plan as they said that
17 they're not specifically designed to discourage auto
18 use and/or encourage non-auto transportation modes.
19 I think this is more nomenclature than anything else.
20 So we are completely fine with not having that be
21 part of our quote/unquote, TDM. We were just
22 consistent with our commitment to the ANC and to the
23 citizen's association in Georgetown, I think those
24 could just go under a different heading in the
25 conditions.

1 I've spoken with DDOT. I think they agree
2 that it is really more of an issue of nomenclature
3 than the actual substance of those conditions.

4 CHAIRPERSON HEATH: Okay. I assumed that was
5 probably the case, but we wanted to just hear from
6 you and from DDOT on this to make sure you all were
7 in agreement.

8 We're going to go a bit out of order, but if
9 we could hear from DDOT on that recommendation.

10 MR. ROGERS: Sure. Good morning. For the
11 record, Jonathan Rogers with the District Department
12 of Transportation. Mr. Tummonds summed up the
13 situation well. It really is an issue of
14 nomenclature. Transportation demand management is a
15 term of art. It's something specific to discouraging
16 single-occupancy vehicle travel. And two of the
17 elements in the proposed TDM package did not really
18 meet that test, and so we ask that just for clarity
19 and for cleanliness that those two elements be
20 removed from the TDM package. They can still be part
21 of the applicant's proposal in accordance with their
22 commitments that they made to the ANC. But we just
23 ask that the TDM package itself be reserved for
24 elements that fit within that definition of what TDM
25 should be.

1 And based on Mr. Tummonds's presentation this
2 morning, that is something that DDOT would be fully
3 comfortable with and we appreciate the coordination
4 on this matter. Happy to answer any questions.

5 CHAIRPERSON HEATH: Okay. Thank you. Does
6 the Board have any questions of DDOT? Applicant, any
7 questions of DDOT?

8 MR. TUMMONDS: No.

9 CHAIRPERSON HEATH: Okay. So, Mr. Tummonds,
10 then just for simplicity for the Board's sake, where
11 would you recommend moving? These are E and F under,
12 yes, Roman Numeral section 2. Section 2 is your TDM
13 plan. Where would you recommend that those two
14 points be relocated?

15 MR. TUMMONDS: What if we created a new Roman
16 Numeral 5, miscellaneous?

17 CHAIRPERSON HEATH: Okay.

18 MR. TUMMONDS: And then they go there.

19 CHAIRPERSON HEATH: Okay. Perfect. Perfect.
20 Okay. All right.

21 MR. TUMMONDS: Miscellaneous is not a term of
22 art yet.

23 CHAIRPERSON HEATH: All right. Okay. Does
24 the Board have any other questions specific to the
25 conditions or of the applicant? All right.

1 MR. MAY: You're throwing it wide open for
2 everything?

3 CHAIRPERSON HEATH: If you have other
4 questions, yes. Anything.

5 MR. MAY: Okay. Well, I might have a few
6 questions and comments about the whole thing. I
7 mean, we're just foregoing any kind of presentation.
8 I mean, that's fine with me. I just, I get to jump
9 straight to my questions.

10 CHAIRPERSON HEATH: Yes. Please, do.

11 MR. MAY: All right. So first of all, we're
12 going to start off with a lecture. Sorry, Mr.
13 Tummonds.

14 Your initial submission and your subsequent
15 submission made reference to the rear yard relief
16 being requested, and I won't read it exactly but
17 basically it says something like, there is no impact
18 on adjacent properties because the adjacent property
19 is parked in MPS land.

20 And I just want to correct the misperception
21 that somehow because you're abutting park land there
22 is no impact on property. It is property. It's
23 United States property. It's the property of all of
24 us in this room and everybody in the country. And if
25 anything that elevates the concern about impacts on

1 that property.

2 And I don't ever want to see language like
3 that in an order from you or from anybody else. I
4 hope everybody listens to this because, you know, we
5 often fight the battle with people who simply look at
6 park land, particularly in a place like Washington
7 where we have lots of little bits and pieces. And
8 they simply say, oh, it's unused land. It's
9 undeveloped land, it doesn't matter. And it does
10 matter. It matters a lot.

11 Now, first of all, I read in your submission
12 that you have met with the Park Service about the
13 property and I assume that they voiced no objections
14 to this particular development.

15 MR. TUMMONDS: Mr. Cohen.

16 MR. COHEN: Yes. We met with the Park
17 Service last week and they did not have any
18 objections.

19 MR. MAY: Who did you meet with?

20 MR. COHEN: His name was Kevin Bryant.

21 MR. MAY: Okay.

22 MR. TUMMONDS: And I think --

23 MR. MAY: He's the Superintendent. Yes.

24 MR. TUMMONDS: Yes. He's the superintendent.
25 You know, I would say in general we talked to a lot

1 to about what the Park Service's plans are for that
2 property. In the immediate short term they are
3 redoing -- I'm sure you know this more than anyone.
4 They are redoing the locks.

5 MR. MAY: Right.

6 MR. TUMMONDS: And so at two blocks they are
7 pulling out the big stones, marking them. They are
8 going to then place them on this Park Service
9 property, and then when they rebuild it they will put
10 those back in. So the immediate short-term is that
11 this is going to be a lot of construction staging for
12 that.

13 We also talked about, probably more
14 importantly, for my client and also with the
15 Georgetown Bid, we talked about, what's the future of
16 that park going to be? And the idea is that there is
17 going to be an extensive amount of community outreach
18 to talk about what is the future of this place going
19 to be?

20 Some of the things talked about, this could
21 be the place for the donkeys that pull the canal
22 boats. That might be a staging area for that. Maybe
23 not the thing that my client wanted to hear as much
24 about the -- but that would just be for the short-
25 term. But then also talking about the real of the

1 future of how do we make this an important place.

2 And from a design perspective Superintendent
3 Bryant, I mean, they liked the new design. There's
4 now more windows and glass along that back --
5 fronting on to the parkland it is a more hospitable
6 probably treatment. And then another discussion was,
7 would there be access back there? And our answer was
8 no.

9 MR. MAY: Uh-huh. Okay. So, yeah, I mean,
10 that actually, that area was historically used as the
11 mule yard, and I don't know how close they were to
12 the building. Maybe that's why there weren't windows
13 before. I don't know.

14 But the other thing you need to understand, I
15 mean, this is windows right on the property line. So
16 technically they are at risk. And, you know, that
17 needs to be in the record today. They are at risk,
18 you know they're at risk, and at some point if there
19 is a reason why the Park Service wants to develop
20 that property right up to the property line, as they
21 are entitled to do, as we are entitled to do, I
22 guess, those windows would be lost. And I assume the
23 rooms with them. You'd have to convert to a
24 different use or something.

25 MR. MAY: Okay. All right. So, I'm going to

1 roll into other questions. What happened with the
2 last project? I mean, did the property change hands?
3 Did it -- couldn't get financing? What was the deal?

4 MR. TUMMONDS: I think so, this applicant is
5 the contract purchaser.

6 MR. MAY: Uh-huh.

7 MR. TUMMONDS: That previously project, they
8 bought the property. I think they just decided that
9 that micro-unit model maybe was not the right model
10 for this location.

11 MR. MAY: Uh-huh.

12 MR. TUMMONDS: I think certainly what we saw
13 in working with the community, the community was
14 pretty happy with the idea of this coming back as a
15 hotel --

16 MR. MAY: Okay.

17 MR. TUMMONDS: -- with retail. So that with
18 the approval of this project, that micro-unit project
19 goes away.

20 MR. MAY: Okay. The next question, what's
21 the overall height of the building on M Street? I'm
22 sure it was in the drawings but I just missed it and
23 didn't get a chance to go back and look at it.

24 MR. TUMMONDS: This is the lower --

25 MR. MAY: Yeah. The M Street portion.

1 MR. BLUMENTHAL: It's approximately 35 feet.

2 MR. MAY: Okay. Plus the seven for the
3 enclosure.

4 How did the existing building park 52 cars?

5 MR. TUMMONDS: Some might say that is the
6 million dollar question. We have not been able to
7 figure out how they could have ever parked that many
8 cars.

9 MR. MAY: Was there only ever one level of
10 parking?

11 MR. TUMMONDS: That's correct.

12 MR. MAY: So it was approved at 52 cars and
13 might not have ever parked that many.

14 MR. TUMMONDS: From what we saw is the zoning
15 computation sheet from when this building was built
16 in the 70's, it says 52 cars.

17 MR. MAY: Yeah. Yeah, I thought it was
18 bizarre. Okay. Well, it implies that somehow you're
19 taking away a level of parking because that wasn't
20 clear from the drawings, but that's not the case.

21 MR. TUMMONDS: Correct.

22 MR. MAY: Okay.

23 MR. TUMMONDS: All right. So then we'll talk
24 a little bit about penthouses. Is there actually a
25 view that shows that there is no -- that you can't

1 really see the lack of setback on the -- from the
2 side street, for the M Street wing, you know, where
3 you've got the seven foot enclosure? Did you
4 actually have a view of that? Yeah, no. So that
5 wouldn't show it. I'm talking about being down the
6 street a little bit and looking back. I'm not
7 worried about the view from M Street when I'm
8 thinking about this.

9 MR. TUMMONDS: From coming up 30th.

10 MR. MAY: 30th, yeah. Yeah.

11 MR. BLUMENTHAL: [Speaking off mic.]

12 MR. MAY: You need to be on a mic if you're
13 going to talk.

14 MR. MOY: I can't catch you on the -- thank
15 you. It's on.

16 MR. BLUMENTHAL: I'm sorry. The view that
17 you are concerned about.

18 MR. MAY: Yeah, I'm --

19 MR. BLUMENTHAL: I didn't quite understand.

20 MR. MAY: I'm concerned about the ability of
21 the public to see the penthouse that is not set back.
22 So the only place it could possibly be seen might be
23 from across 30th Street.

24 MR. BLUMENTHAL: Yeah.

25 MR. MAY: Do you have a view that shows that?

1 MR. TUMMONDS: We do not.

2 MR. MAY: Okay.

3 MS. BUTANI-D'SOUZA: It sounds like you do,
4 actually. A33.

5 MR. HINKLE: Exhibit 30E-3, Sheet A33. I
6 guess that's page 8, page 9.

7 MR. TUMMONDS: And maybe what there is the
8 architectural treatment of that screen wall is the
9 same as the building below. So I think that's when
10 you see it.

11 MR. MAY: So, I'm sorry. What sheet am I
12 looking at, though?

13 MR. TUMMONDS: A33 in our June 7th
14 submission.

15 MR. MAY: Oh, got it. Okay. Thank you. All
16 right. So next question. Regarding the penthouse on
17 the taller section where it's set back 14.2 but it's
18 18.2 tall, the existing 18 foot, two section would be
19 retained in its entirety and then extended?

20 MR. TUMMONDS: That's correct.

21 MR. MAY: Okay. So it's shown in the drawing
22 as that portion of penthouse would be a gray brick.
23 Are you going to -- are you planning to reface it or
24 rebuild it?

25 MR. BLUMENTHAL: Yes, we are refacing it.

1 MR. MAY: Refacing it. So what's the
2 structure behind it?

3 MR. BLUMENTHAL: It's a steel frame
4 structure.

5 MR. MAY: So you're going to take down all
6 the brick that's on that and leave the steel frame in
7 place and put in new brick.

8 MR. BLUMENTHAL: Correct.

9 MR. MAY: So explain to me why it is a
10 practical difficulty for you to do that and reduce it
11 to 15 feet. Or somebody explain it to me, because I
12 mean, you know, if you're doing that much work to the
13 penthouse I do not understand the practical
14 difficulty that allows you to grandfather that
15 height, in essence. Because I mean, one of the
16 things that have come up in the new penthouse
17 regulations is that if you're going to try to capture
18 habitable space on the roof, that you comply with all
19 of the regulations and not just the ones that are
20 convenient for what you want to try to do.

21 So I'm a hard nose on this. Explain to me
22 why it's a practical difficulty.

23 MR. BLUMENTHAL: The existing elevator -- the
24 elevator core is in the same location. They are
25 being refurbished and we need that overrun height to

1 be maintained. And we are limited. We're extreme --
2 the footprint of that tower is also very limited.
3 And so in order to house all the mechanical
4 equipment --

5 MR. MAY: Yeah, but if you had less habitable
6 space you'd have more space to put your mechanical
7 equipment.

8 MR. BLUMENTHAL: That is a factor.

9 MR. MAY: Yes.

10 MR. BLUMENTHAL: But I mean, the --

11 MR. MAY: Well, maybe a fact. It's not a
12 factor, it's a fact.

13 MR. BLUMENTHAL: The driving factor is the
14 overrun for the elevator --

15 MR. MAY: Okay. So how high is the actual
16 overrun of the elevator?

17 MR. BLUMENTHAL: Oh, it maxes out with the
18 existing --

19 MR. MAY: It is the full 18-2, and you're
20 rehabbing it in place. You're not replacing it with
21 a high efficiency belt-drive elevator that doesn't
22 require that height?

23 MR. BLUMENTHAL: We are renovating it with --
24 it is going to be new machines.

25 MR. MAY: Right.

1 MR. BLUMENTHAL: -- for those elevators, yes.

2 MR. MAY: And is it possible for you to
3 reduce the height of the overrun as a result of that
4 since most of them don't require that height anymore?

5 MR. BLUMENTHAL: Well, not with that -- no.
6 Not with the steel frame building and the -- in order
7 to use that to service that elevator. To service
8 that equipment that's on the roof as well, because
9 the existing stairwells are also undersized. So the
10 only way to service the equipment that's on that roof
11 is to have elevator access for it.

12 MR. MAY: All right. I'm not questioning
13 elevator access to the roof. I'm questioning whether
14 the overrun that necessitates the 18-2 height is
15 what's necessary.

16 MR. BLUMENTHAL: It is.

17 MR. MAY: So --

18 MS. BUTANI-D'SOUZA: Maybe it would be
19 helpful to see some architectural analysis showing
20 why it's necessary, rather than just stating that it
21 is. I think Commissioner May is asking some really
22 great questions here, that are not really shown in
23 the record.

24 MR. BLUMENTHAL: We could provide that
25 information.

1 MR. MAY: Yeah. I mean, I think it's
2 probably a more technical diagram of drawing that
3 shows your existing elevator shaft and where the
4 equipment is actually going to be placed.

5 And I don't know, I mean, I guess what I want
6 to understand also is why it's not possible to
7 redesign it. I mean, you haven't done your elevator
8 design work yet, right? You're still on entitlement.
9 You haven't gotten that far along. It seems to me
10 that there's still an opportunity for you to redesign
11 the elevator with modern equipment and reduce that
12 overrun. And that's what I think you should be doing
13 rather than requesting relief. But if you want to
14 submit some additional information to make the
15 argument that it has to be 15 feet.

16 If not for the elevator overrun would you
17 still need that full height?

18 MR. BLUMENTHAL: No. We need it for the
19 elevators.

20 MR. MAY: Right. Okay. All right. So, you
21 know -- well, we'll talk about how we handle this
22 when it comes to decision making.

23 Also, there is a, on one of the drawings, on
24 page A34, there is a five foot high volume that's
25 sort of appended to the penthouse. What is that and

1 I mean, don't you need relief -- do you need relief
2 of some sort for that?

3 MR. TUMMONDS: It's a stair tower.

4 MR. MAY: It's the stair tower.

5 MR. TUMMONDS: Yeah. This is the stair tower
6 so as long as it's -- that can be a separate height,
7 and as long as it meets the five-foot setback --

8 MR. MAY: Right. Yeah. It wasn't a setback
9 issue. It was just the multiple heights issue. So
10 you were allowed to have a separate height for
11 stairwells and habitable space, mechanical space,
12 and --

13 MR. TUMMONDS: Stair towers can be separate.

14 MR. MAY: They can be separate. Okay. Thank
15 you for reminding me of the regulations we just
16 wrote. All right. That's it for my questions.

17 MS. BUTANI-D'SOUZA: I think it would be very
18 helpful when you prepare your architectural analysis,
19 that you take I think the feedback that you're
20 getting here, that if you are going to request a
21 variance for the penthouse height relief, or I
22 suppose it's setback relief.

23 MR. MAY: I mean, they're going to need
24 setback relief no matter what.

25 MS. BUTANI-D'SOUZA: Uh-huh.

1 MR. MAY: The question is -- because I mean,
2 it's only set back 14-2 and I don't think it's
3 possible, given the depth of the floor, I don't know
4 that it's possible to reduce it all the way down to
5 14-2. I mean, ideally it would be great to reduce
6 the whole thing to 14-2, but that's pushing it.

7 MS. BUTANI-D'SOUZA: So I think the point
8 that I'm making is that the case that you make for
9 that variance needs to be extremely compelling. We
10 have seen a very high bar of architectural analysis
11 presented to this Board to justify that kind of
12 relief, and whatever relief -- whatever argument you
13 make I think it's going to need to meet a very high
14 bar. We've seen several cases that pertain to
15 elevators and relief to allow for elevators.

16 So let me just emphasize that I think this is
17 actually a really important issue from a consistency
18 point of view in the Board, and also just from
19 meeting the new regulations point of view, and I
20 really appreciate Commissioner May bringing this up
21 to us.

22 MR. MAY: So I actually, this is something
23 else to ponder for us, and I think for the applicant
24 is that we could -- I mean, if we're prepared to move
25 forward on everything except for that question we

1 could do that, and then they could either fix it and
2 no longer need relief from the 15-foot requirement,
3 and simply submit revised drawings that show that
4 they don't. I mean, anyway. It's just a thought.
5 We can talk more about that later.

6 MS. BUTANI-D'SOUZA: I would certainly be
7 comfortable with that.

8 MR. MAY: Yeah.

9 CHAIRPERSON HEATH: All right. Anybody else
10 have any other questions? Okay. All right.

11 Then, Mr. Tummonds, if you're okay with us
12 proceeding on I'd like to hear from Office of
13 Planning.

14 MR. TUMMONDS: Yes.

15 CHAIRPERSON HEATH: Unless you have any other
16 -- okay. All right.

17 MS. THOMAS: Good morning, Madam Chair.
18 Karen Thomas for the record.

19 For the record and OP -- notwithstanding the
20 questions you may have regarding the penthouse, we
21 will stand on the record of our report in support of
22 this application.

23 And I just like to refer to Mr. May's comment
24 about National Park Service property. We do respect
25 it.

1 MR. MAY: Thank you. I know the applicant
2 and Mr. Tummonds do as well. It's just the way it
3 was written it sort of brushed it aside.

4 MS. THOMAS: Well, just a note to -- the way
5 we would look at it, we just looked at it from light
6 and air and because it was undeveloped, so from that
7 aspect it wasn't going to affect the light and air to
8 any other existing property that built structure on
9 the property. So that was it.

10 CHAIRPERSON HEATH: Okay. Board, any other
11 comments or questions of Office of Planning?

12 MS. BUTANI-D'SOUZA: So I guess since this is
13 still -- you're still the contract purchaser and not
14 actually purchased the property, this hasn't gone
15 before any -- like the Old Georgetown Board. Is that
16 relevant here?

17 MR. TUMMONDS: We have gone -- so, Exhibit A
18 to our statement, we went and we have conceptual
19 design approval from OGB.

20 MS. BUTANI-D'SOUZA: Okay. I must have
21 missed that. Oh, the CFA approval.

22 MR. TUMMONDS: Sorry, yes. OGB does it, then
23 it goes under CFA for lack of a better term.

24 MS. BUTANI-D'SOUZA: Okay.

25 MR. TUMMONDS: Paper.

1 MS. BUTANI-D'SOUZA: Right.

2 CHAIRPERSON HEATH: All right. Any other --
3 no other questions of Office of Planning. Does the
4 applicant have any questions of Office of Planning?

5 MR. TUMMONDS: No.

6 CHAIRPERSON HEATH: Move on. Okay. All
7 right. Thanks.

8 Is there anyone here from ANC 2E on this
9 application? ANC 2E? And of course we have their
10 recommendation for approval with their conditions and
11 we've talked about those and the modifications to
12 those should we move forward with approval of this
13 application.

14 We've heard from DDOT. Is there anyone here
15 wishing to speak in support of this application?
16 Anyone in support? Anyone wishing to speak in
17 opposition to this application? Any opposition?

18 All right. Then we'll turn back to the
19 applicant for any closing you'd like to make.

20 MR. MAY: Madam Chair, can I ask one --

21 CHAIRPERSON HEATH: Sure.

22 MR. MAY: Just to clarify. I mean, you
23 submitted that the ANC conditions more or less
24 verbatim. Does that mean that you're in complete
25 agreement with all of those interesting overlapping

1 and somewhat hard to define acoustical requirements?

2 MR. TUMMONDS: We envisioned that those were
3 going to be the requirements of any sort of liquor
4 license application.

5 MR. MAY: Right.

6 MR. TUMMONDS: So, yes. And they were, I
7 think, meticulously negotiated.

8 MR. MAY: Okay.

9 MR. TUMMONDS: With BNC and with CAG, so
10 we're comfortable with it.

11 MR. MAY: Okay. All right. Good. Thanks.

12 CHAIRPERSON HEATH: All right. So, you're
13 on.

14 MR. TUMMONDS: Sure. We appreciate your time
15 today. I think what, you know, we gather that we
16 don't see any problems with all of the other areas of
17 relief. The loading of the parking. It seems like
18 we have one outstanding issue here.

19 I think what we'd like to do is, if you give
20 us the opportunity to provide information on the one
21 specific area of setback relief for the south tower,
22 we think that makes sense versus trying to
23 bifurcating any sort of approval. We ask that we be
24 given -- or I say, we want to have a decision on this
25 obviously prior to the recess so we can work with

1 staff as to when we should provide that.

2 CHAIRPERSON HEATH: And you've requested the
3 order prior to [simultaneous speech] --

4 MR. TUMMONDS: And so and right, we would
5 not --

6 CHAIRPERSON HEATH: -- too.

7 MR. TUMMONDS: We don't want an order prior
8 to August 31st anyways, so I think that it makes
9 sense for us to say, allow us to address the issues
10 that you heard today with regards to the specific
11 setback and penthouse structure site, and we would
12 look forward to a decision on this case in July.

13 MS. BUTANI-D'SOUZA: Can you just remind us
14 why exactly -- or, I don't know, was it in the
15 record, why you'd like to --

16 MR. TUMMONDS: As you said, we're contract
17 purchaser. The closing is not to occur prior to an
18 issuance of a written order.

19 CHAIRPERSON HEATH: Right.

20 MR. TUMMONDS: The parties are still not
21 quite at the point that they want to close on the
22 property. But they would do that on and around
23 September 1st. So it's a rare case that I've ever
24 worked on where we've asked for a --

25 CHAIRPERSON HEATH: A delay of the order.

1 MR. TUMMONDS: -- of a delay of a written
2 order.

3 CHAIRPERSON HEATH: Right.

4 MR. TUMMONDS: This is a first. But I think
5 it fits, and that request would still exist today.
6 and truly it has nothing to do with the BZA. It's
7 just a -- it's really a transactional matter between
8 the contract purchaser and the current owner.

9 CHAIRPERSON HEATH: Okay. Okay. So, we'll
10 put this on for decision and you requested two weeks.

11 MR. MAY: Madam Chair, can I make one last
12 pitch for this?

13 CHAIRPERSON HEATH: Yes.

14 MR. MAY: So here is the situation. You
15 could get a decision in favor of all of the relief
16 except for the 15-foot -- relief from the 15-foot
17 requirement today. And then you could submit later
18 and either prove the case that you need 18-2, or
19 simply send us a letter saying, we'll live within 15
20 feet because our architects are so brilliant they
21 figured out a way to do it, and they want to save the
22 applicant money on their lawyers.

23 Okay. You don't have to include those two
24 points.

25 MR. COHEN: It's quite a leading question for

1 my client here, Mr. May.

2 MR. MAY: Yes. And maybe the client wants to
3 speak instead of a lawyer. I don't know. No, I
4 mean, we could do it that way or we could defer the
5 whole thing and you essentially have the same choice.
6 You can submit saying, hey, we figured it out. We
7 don't need relief from that. Or you can make the
8 case. I'm just trying to tee it up so that you have
9 some incentive to --

10 MR. TUMMONDS: You are a very good
11 negotiator, Mr. May. My client would like to --
12 yeah, let's take the decision we can today.

13 MR. MAY: Yeah.

14 MR. TUMMONDS: And then we will -- so it
15 sounds like then, approval today for all of the
16 elements but for the roof structure --

17 MR. MAY: Fifteen foot height limit.

18 MR. TUMMONDS: Fifteen-foot height --

19 MR. MAY: Limit.

20 MR. TUMMONDS: Limit.

21 MR. MAY: But the setback relief would be
22 granted.

23 MR. TUMMONDS: Okay.

24 MR. MAY: And I mean, of course I'm
25 negotiating this but it is up to the rest of the

1 Commission, the Chair in particular if you want to go
2 ahead in this fashion.

3 MR. TUMMONDS: Right. And then in two weeks
4 we would give a decision --

5 MR. MAY: Right.

6 MR. TUMMONDS: -- yay or nay, we are going to
7 seek it, here is the answer, or we're not. Thank you
8 for your time.

9 MR. MAY: Yes.

10 CHAIRPERSON HEATH: So are we just delaying
11 the --

12 MR. TUMMONDS: So it sounds like --

13 MR. MAY: We would decide -- basically we
14 would approve all of the relief except for the relief
15 from the 15-foot requirement.

16 CHAIRPERSON HEATH: My question is, are we
17 denying it or are we delaying --

18 MR. MAY: No, we're simply deferring it.

19 CHAIRPERSON HEATH: Defer. Okay.

20 MR. MAY: Yeah.

21 CHAIRPERSON HEATH: All right. All right.

22 MR. TUMMONDS: I'll look at that we would
23 still continue our request that the written order not
24 be issued prior to August 31st.

25 MR. MAY: All right.

1 CHAIRPERSON HEATH: Okay. All right.

2 MR. MAY: So.

3 MS. GLAZER: Madam Chair, I mean, I have no
4 problem doing that with the Board doing that. I just
5 think that it would not be a final order today anyway
6 because part of the case is --

7 CHAIRPERSON HEATH: Referral.

8 MS. GLAZER: -- is not being decided.

9 CHAIRPERSON HEATH: Right.

10 MS. GLAZER: So there would have to be
11 another vote. And the only way it could be final
12 would be if the applicant withdrew the request for
13 the penthouse, not the -- yeah, the penthouse.

14 CHAIRPERSON HEATH: Yeah, the penthouse.

15 MR. MAY: Right. The penthouse height.

16 Yeah.

17 MS. GLAZER: Height.

18 MR. MAY: So I mean, I think that's what they
19 would have to submit in two weeks if --

20 CHAIRPERSON HEATH: Yeah. I don't think --
21 you wouldn't be comfortable with drawing that now,
22 certainly.

23 MR. MAY: No.

24 CHAIRPERSON HEATH: So, yeah.

25 MR. TUMMONDS: We'd have to start over.

1 CHAIRPERSON HEATH: Right. Exactly.

2 MR. MAY: Right.

3 CHAIRPERSON HEATH: And that doesn't benefit
4 you in any way.

5 MR. TUMMONDS: I mean, I do think that from
6 what we've heard today I think we have enough to go
7 for my client for the property owner to understand
8 that this approval is here, but for this other thing.
9 So I think, you know, I'm comfortable that we can --
10 let's not ask for any decision today.

11 CHAIRPERSON HEATH: Okay.

12 MR. TUMMONDS: And give us two weeks to file.
13 But I think that's our problem is that I think what
14 Ms. Glazer is saying is, even if you did a decision
15 today it wouldn't really be a decision today. Isn't
16 that what you're saying, Ms. Glazer?

17 CHAIRPERSON HEATH: It's not a final
18 decision.

19 MS. BUTANI-D'SOUZA: But it would be a
20 decision on all of the --

21 MS. GLAZER: It's not because if you don't
22 have plans for a new building that shows a difference
23 in the height and a difference in the penthouse, it's
24 not buildable. So you need new plans.

25 MR. MAY: Yeah, but I mean, it's really just

1 a paperwork matter, right? It's a matter of what
2 they submit in two weeks. They either submit the
3 additional information to get the additional relief
4 that we've deferred deciding. Or they withdraw the
5 request for the relief because they don't need it
6 anymore. I mean --

7 MS. GLAZER: Well, I guess there's a third
8 possibility that they don't do either. That they --

9 MR. MAY: I don't think they're going to --

10 MS. GLAZER: They want to go ahead.

11 MR. MAY: I think they're going to want to do
12 one or the other. I'm trying to, you know, inspire
13 the architect to demonstrate their brilliance in
14 figuring out this problem. Or, you know, to
15 demonstrate exactly why the relief is needed.

16 But I'd just assume dispose of as much of it
17 today as we could.

18 CHAIRPERSON HEATH: Okay. So then in that
19 case we would put this on for decision likely July
20 6th.

21 MR. MAY: So we're going to defer everything?

22 CHAIRPERSON HEATH: They prefer to defer
23 everything.

24 MR. MAY: I know, but I'm looking at them
25 again and --

1 MS. BUTANI-D'SOUZA: You know --

2 MR. MAY: -- I'm seeing indecision.

3 MS. BUTANI-D'SOUZA: -- there's an old
4 saying, a dollar today is worth more than a dollar
5 tomorrow. I would highly recommend that you go
6 forward with this majority approval of the relief
7 that you're requesting.

8 MR. TUMMONDS: Yeah. I think we still agree
9 and it's just a matter of -- it sounds like what Ms.
10 Glazer is saying is that you are going to have to
11 take a vote on July 6th regardless.

12 CHAIRPERSON HEATH: We are.

13 MR. MAY: No, I don't think we do.

14 CHAIRPERSON HEATH: Unless you withdraw
15 the --

16 MR. MAY: If you withdraw --

17 CHAIRPERSON HEATH: -- relief for penthouse
18 height.

19 MR. MAY: Yeah. I mean, if you were to
20 withdraw that relief -- if what you submitted in two
21 weeks was a withdrawal of that request for relief
22 then we wouldn't need to take a vote, right?

23 MS. GLAZER: Well, you would have no plans.
24 If they withdraw --

25 MR. MAY: Right. So they would have to --

1 MS. GLAZER: Withdrew that --

2 MR. MAY: They would have to submit the
3 plans, revised plans.

4 MS. GLAZER: But any approval is based upon
5 the plans. So a vote today would be based on the
6 plans that exist now.

7 MR. MAY: We've done something similar to
8 this in a previous case. I don't see why it's a
9 problem now. You remember which case I'm talking
10 about?

11 MS. GLAZER: No.

12 MR. MAY: I'll tell you afterwards.

13 MS. GLAZER: I have seen cases where the
14 Board has taken votes and then asked for submissions
15 and changes, and there have often been problems when
16 that's been done. So that wouldn't be my
17 recommendation, but I think it's clear to the
18 applicant that the Board is inclined to grant most of
19 the relief requested at this point. But it's really
20 up to the Board.

21 MR. TUMMONDS: And, Mr. May, so our question
22 is, we have an existing -- if you look at page A34,
23 we note that the existing 18-foot two inch penthouse
24 is 36 feet in width, I guess I'd call it. In length.
25 The previous BZA approved extending that to

1 56-7. We're talking about extending that to 61-5.
2 Is your -- what you want to see from us is that we
3 have zero of it at 18-2, or that we are able to
4 maintain the 36 feet at 18-2, just any new has to be
5 at 15?

6 MR. MAY: No, I'm not suggesting that there
7 be three heights of penthouse.

8 MR. TUMMONDS: You mean all of the mechanical
9 penthouse is at 15?

10 MR. MAY: That's what I'm suggesting, and I'm
11 suggesting if what's driving that is the elevator
12 shaft, then I would like them to take a look at the
13 elevators, since they're going to rebuild them, to
14 see whether it can be done within 15 feet.

15 And the reason why it's different from the
16 previous BZA decision is that --

17 MR. TUMMONDS: We didn't have the --

18 MR. MAY: -- there was no habitable space
19 then.

20 MR. TUMMONDS: And previously we --

21 MR. MAY: There was no 15 feet. Right.

22 MR. TUMMONDS: Exactly.

23 MR. MAY: Yeah. So, I mean, if the Board
24 would prefer to defer the entire decision until some
25 later date, I mean, I'm certainly going to go along

1 with that. But I'd prefer to vote on everything we
2 can today and simply defer that decision because I
3 think it adds inspiration to fixing the, you know --

4 CHAIRPERSON HEATH: Prefer that we not have
5 to come back.

6 MR. MAY: -- eliminating the need for the
7 relief. So, I think it really is up to the
8 applicant.

9 CHAIRPERSON HEATH: Uh-huh.

10 MR. MAY: One last try.

11 CHAIRPERSON HEATH: Yeah, I would leave it up
12 to you.

13 MR. TUMMONDS: The applicant agrees with Mr.
14 May's proposal.

15 CHAIRPERSON HEATH: Okay.

16 MR. MAY: Okay. So --

17 CHAIRPERSON HEATH: All right.

18 MR. MAY: I need to pull it up and I can make
19 a motion. I will.

20 MS. BUTANI-D'SOUZA: Hang on. One other
21 point. The architectural analysis that you provide,
22 if you are not able to brilliantly solve this problem
23 and you do have to come back here, I think we should
24 put a limit on the amount of pages and drawings and
25 diagrams that we are receiving.

1 MR. MAY: I'm sure that -- I mean, this is --
2 we're dealing with a very experienced architect and
3 legal team. I think that they can present this
4 information concisely. They simply need to
5 demonstrate why it's necessary to have that elevator
6 overrun at that height. So it's, you know, a couple
7 of diagrams and a couple of pages of words, I think.

8 MS. BUTANI-D'SOUZA: Okay. So just the
9 request is that it be concise. Thanks.

10 MR. MAY: Okay. So I would move approval of
11 Section 993 for rear yard, 27 feet required, none
12 proposed, 2101.1 parking, 149 spaces required, 24
13 spaces proposed, 2115.5 and 2117 to allow eight
14 compact size spaces and reduced drive aisle widths,
15 2201 loading, one berth required at 55 feet, one at
16 30, and one at 20, and one 20-foot delivery space
17 required, and proposed is only one 30-foot berth and
18 one 100 square foot platform. Special exception
19 relief under 4411.18B and 777 screen wall setback,
20 seven feet required, none proposed, and 411.18B,
21 penthouse setback, 18-2 required and 14-2 proposed.
22 The 18-2 is a bit debatable, but the point is that
23 14-2 is not going to meet it no matter what. And
24 then 411.4, penthouse to be used for habitable space.
25 A complicated motion.

1 CHAIRPERSON HEATH: Second. The motion has
2 been made -- I don't know why I'm waiting for you.
3 Motion has been made and seconded. Any further
4 discussion?

5 [Vote taken.]

6 CHAIRPERSON HEATH: Anyone opposed? So that
7 motion carries. So we've approved the motion for the
8 relief read by Commissioner May and deferred the
9 relief under 770.6 for penthouse height, 15 max
10 permitted, 18-2 proposed, and you'll get back to us
11 in two weeks with your resolution on that.

12 MR. TUMMONDS: Correct.

13 CHAIRPERSON HEATH: Okay.

14 MR. TUMMONDS: And I'm sorry, and just to
15 reiterate, the order not be issued prior to August
16 31st.

17 CHAIRPERSON HEATH: Sure.

18 MR. TUMMONDS: Thank you.

19 MR. MOY: Madam Chair before I give the vote
20 count, because I anticipate how this is going to row,
21 then the next appearance for Mr. May will be July the
22 12th.

23 MR. MAY: No, I can --

24 MR. MOY: You can do that?

25 MR. MAY: Whatever it is.

1 MR. MOY: You don't need to -- okay.

2 MR. MAY: [Speaking off mic.]

3 MR. MOY: Okay. Okay. So the vote count is
4 five to zero to zero. This is on the motion of Mr.
5 Peter May to approve the relief as he cited.
6 Seconding the motion, Chairperson Heath. Also in
7 support, Mr. Hill, Vice Chair Butani, and Mr. Hinkle.
8 Motion carries, Madam Chair.

9 MR. TUMMONDS: Just so -- so we're
10 submitting, two weeks from today. And then the
11 decision on that would be on what date?

12 CHAIRPERSON HEATH: On the -- yeah, it can't
13 be the same day. Right. You'd need to submit
14 before. So I mean, we could put a decision on the
15 12th.

16 MR. MOY: If you submit in two weeks, that
17 two weeks' date would be July the 5th.

18 CHAIRPERSON HEATH: Right.

19 MR. MOY: Submission date. So then the
20 decision then would be --

21 CHAIRPERSON HEATH: The 12th.

22 MR. MOY: The 12th.

23 CHAIRPERSON HEATH: So that works.

24 MR. TUMMONDS: Perfect.

25 CHAIRPERSON HEATH: Okay. Thank you.

1 MR. TUMMONDS: Thank you.

2 MR. COHEN: Thank you.

3 [Pause.]

4 CHAIRPERSON HEATH: We'll take a five-minute
5 break since we're all breaking anyway. We'll come
6 back in five minutes.

7 [Off the record from 11:15 a.m. for a brief
8 recess.]

9 CHAIRPERSON HEATH: All right. We'll come
10 back to order.

11 Mr. Moy, if you could call our next case?
12 Let's call Application No. 19281.

13 MR. MOY: Yes. Thank you, Madam Chair.
14 That's again, Application No. 19281 of DGS of D.C.
15 This application, Madam Chair, has been advertised
16 for relief for a variance from the parking
17 requirements under 2100, special exception from the
18 rooftop, mounted mechanical equipment requirements,
19 411.6, 411.7, and 411.18. This would permit the
20 installation of new rooftop mounted mechanical
21 equipment to an existing public school, R-5-B
22 District, 1150 5th Street Southeast.

23 CHAIRPERSON HEATH: All right. Would you
24 please introduce yourself? Your mic is not on.

25 MR. PICKEN: Hello. My name is Kevin Picken.

1 I'm with -- an agent of DGS.

2 CHAIRPERSON HEATH: Okay. So, Mr. Picken, it
3 was our understanding that based on the fact that
4 this application is not complete that you were going
5 to be requesting a postponement.

6 MR. PICKEN: For next week. That's correct.

7 CHAIRPERSON HEATH: The Board certainly
8 appreciates, in our effort to be as efficient as
9 possible if these things can be handled
10 administratively.

11 MR. PICKEN: Uh-huh.

12 CHAIRPERSON HEATH: And so, you know, it's
13 certainly acceptable to send a letter in, in advance
14 so that you don't need to come down here and waste
15 your morning.

16 MR. PICKEN: Yeah, no. We had -- I had sent
17 a letter and apparently a couple of me e-mails on the
18 outbox got -- from my person that usually uploads
19 it --

20 CHAIRPERSON HEATH: Okay.

21 MR. PICKEN: -- didn't get it until about
22 10:00 today.

23 CHAIRPERSON HEATH: Okay. All right.

24 MR. PICKEN: So it's uploaded, but clearly I
25 figured --

1 CHAIRPERSON HEATH: After the fact.

2 MR. PICKEN: I wanted to make sure that you
3 guys knew that we weren't brushing it over and were
4 here to answer questions. And I spoke to Mr. Moy
5 about whether I should just step out or just come and
6 be here to answer any questions for next week or
7 just --

8 CHAIRPERSON HEATH: Okay. Now, I don't know
9 if next week is going to give you enough time because
10 we still don't have a letter from Office of Planning,
11 and if it was --

12 MR. PICKEN: Can I give you the background on
13 that?

14 CHAIRPERSON HEATH: Sure.

15 MR. PICKEN: Yeah, so basically during their
16 investigation I found a PUD that was in effect, and
17 we have looked it over and made a letter to them.
18 The letter was just produced yesterday around 7:00.
19 So they should be reviewing it and I hope to be able
20 to conclude it for next Tuesday.

21 CHAIRPERSON HEATH: All right. So, but we
22 would need that information from you.

23 MR. PICKEN: Hours.

24 CHAIRPERSON HEATH: Yes, right. In order for
25 the documentation to be in so that the Board can do

1 their review prior to next Tuesday's hearing.

2 MR. PICKEN: Understood. We have a 1:00
3 meeting that we're reaching out to them to --

4 CHAIRPERSON HEATH: Very good.

5 MR. PICKEN: -- hopefully nail it out and --

6 CHAIRPERSON HEATH: Okay. Then with that we
7 will put this on. If for some reason you find that
8 you're not ready, you don't have all your documents,
9 please let this office know.

10 MR. PICKEN: Absolutely.

11 CHAIRPERSON HEATH: Because again, we don't
12 want to waste the Board's time. And there's no
13 reason for us to put this on the docket next week if
14 you're not ready.

15 MR. PICKEN: Understood. Yeah, we'll make
16 sure that -- I'll confirm that. We get that letter
17 uploaded for a postponement if it's necessary.

18 CHAIRPERSON HEATH: Okay. All right.

19 MR. PICKEN: Okay. Thank you.

20 CHAIRPERSON HEATH: As soon as possible. But
21 that would mean by tomorrow, so.

22 MR. PICKEN: Okay.

23 CHAIRPERSON HEATH: All right?

24 MR. PICKEN: All right.

25 CHAIRPERSON HEATH: Okay. So, Mr. Moy, we'll

1 put this on for next week. And if there is a need
2 for postponement you should send a letter --

3 MR. PICKEN: By tomorrow.

4 CHAIRPERSON HEATH: -- by tomorrow. Yes.
5 Correct. All right. Thank you.

6 MR. PICKEN: Thank you.

7 MR. MOY: Thank you, Madam Chair. That would
8 be the Board's hearing on June 28th and the
9 applicant's filing by tomorrow, June the 22nd.

10 CHAIRPERSON HEATH: If they're going to need
11 to postpone --

12 MR. MOY: Correct.

13 CHAIRPERSON HEATH: -- beyond the 28th.
14 Okay. All right.

15 MR. PICKEN: Thank you. I look forward to
16 seeing you next week, hopefully.

17 CHAIRPERSON HEATH: Thanks. All right. So,
18 we'll go back to the top of our order, Mr. Moy, of
19 our hearing cases. And call number 19279.

20 MR. MOY: Yes. Thank you, Madam Chair. So,
21 parties to the table to Application No. 19279. This
22 is Bridget Brink and Nicholas Higgins as amended for
23 special exception relief under Section 223, not
24 meeting the side yard requirements 405.9, and
25 nonconforming structure requirements, 2001.3. This

1 is for a two-story addition to an existing one-family
2 dwelling, R-2 District, 3512 Rodman Street Northwest,
3 Square 1958, Lot 802.

4 CHAIRPERSON HEATH: All right. Good morning.
5 Would you please introduce yourselves? Make sure
6 your mic is on. It's not right now.

7 MR. SNOWBER: There we go. Good morning. My
8 name is Chris Snowber with Hamilton Snowber
9 Architects.

10 MR. HIGGINS: Good morning. My name is Nick
11 Higgins. I'm the owner.

12 CHAIRPERSON HEATH: Okay. We understand
13 there were some revisions made to your drawings and
14 that those were being reviewed by the ANC as recently
15 as last night.

16 MR. SNOWBER: Yeah. They had told me they
17 would get their resolution done and an e-mail sent to
18 you. I didn't see it as of late last night but I
19 just had an e-mail from Margie Siegel from the ANC
20 saying they did vote in approval and she was sending
21 a note to Steve Varga. That was about an hour ago
22 while I was sitting here. So.

23 CHAIRPERSON HEATH: Okay. All right.
24 Doesn't look like it's been uploaded for us yet, so
25 we'll see. But there was approval --

1 MR. SNOWBER: There was approval.

2 CHAIRPERSON HEATH: -- of the revised plans.

3 MR. SNOWBER: Of the revised plan, right.

4 CHAIRPERSON HEATH: Good. All right. Does
5 the Board have any other questions on this
6 application?

7 All right. So it appears that beyond that we
8 don't have any other specific questions for you at
9 this point so if you're okay with us proceeding on we
10 will do so without having a full presentation from
11 you.

12 MR. SNOWBER: I'm fine with that. Thank you.

13 CHAIRPERSON HEATH: All right. So, we'll
14 turn to Office of Planning.

15 MR. MORDFIN: Good morning, I'm Stephen
16 Mordfin and the Office of Planning continues to
17 support this application and stands on the record.
18 Thank you.

19 CHAIRPERSON HEATH: All right. Thank you.
20 Board, any questions of Office of Planning?

21 Application, any questions of Office of
22 Planning? Okay.

23 MR. SNOWBER: No, thank you.

24 CHAIRPERSON HEATH: All right. Then I assume
25 there's no one here from ANC 3C, otherwise they

1 probably would have spoken up already, but I need to
2 call them anyway, just in case. ANC 3C.

3 All right. So if we could get that letter,
4 if you could just follow up to make sure that it is
5 in the record.

6 MR. SNOWBER: Okay.

7 CHAIRPERSON HEATH: That would be much
8 appreciated.

9 We also have a letter of no objection from
10 Department of Transportation. And then --

11 MR. SNOWBER: Excuse me. To be clear, do you
12 want Ms. Siegel from the ANC just to write an e-mail
13 saying we approved this last night, or do you want to
14 see a revised resolution? I'm sure she could get
15 that within --

16 CHAIRPERSON HEATH: A revised resolution is
17 what really is necessary --

18 MR. SNOWBER: Okay.

19 CHAIRPERSON HEATH: -- in order to be given
20 great weight.

21 MR. SNOWBER: Sure.

22 CHAIRPERSON HEATH: And that's technically
23 what we need. So, that -- if she can do that.

24 MR. SNOWBER: Okay.

25 CHAIRPERSON HEATH: That would be best. Do

1 we have it?

2 MR. MOY: No, I was just informed by the
3 staff that it is not in the record.

4 CHAIRPERSON HEATH: Okay.

5 MR. MOY: It's not here, so if we're -- I was
6 listening as I was jotting notes. So if it needs to
7 go back to the full ANC for a revised resolution it
8 might be more prudent for the Board to perhaps
9 complete the record than make a set of schedule for
10 decision at a later point until we have a copy of the
11 official letter.

12 CHAIRPERSON HEATH: Okay.

13 MR. MOY: That's my recommendation.

14 MR. SNOWBER: To be clear, though, they did
15 have the meeting last night. They had a full ANC
16 meeting last night and they did agree to the
17 resolution. It's a matter of the paperwork
18 processing, not that they have yet to schedule that
19 vote or anything.

20 CHAIRPERSON HEATH: Okay. Okay. All right.
21 Then we'll continue on. But certainly if you could
22 get that letter.

23 MR. SNOWBER: I will get that letter.

24 CHAIRPERSON HEATH: Okay. All right. Is
25 there anybody here wishing to speak in support of

1 this application? Anyone in support?

2 Anyone in opposition to this application? No
3 opposition? All right. Then we would normally turn
4 back to you for closing. I don't know that there's
5 any reason for you to make a closing statement at
6 this point but --

7 MR. SNOWBER: Just thank you for your
8 consideration. We appreciate it.

9 CHAIRPERSON HEATH: All right.

10 MR. SNOWBER: Sorry. And one other thing.
11 Also the great support of the staff and the Office of
12 Planning, Mr. Mordfin. It's really, you know, it's a
13 great professional experience for us to work with you
14 all, so --

15 CHAIRPERSON HEATH: Good.

16 MR. SNOWBER: Thank you.

17 CHAIRPERSON HEATH: Good. Thank you for that
18 comment. So, I would, given the relief that's been
19 requested and the fact that we had the ANC's
20 approval, they met, they reviewed it last night,
21 we've heard testimony that they did in fact approve
22 it again, we just don't have the letter yet, I would
23 be fine to proceed on with this.

24 MR. HILL: I would agree, Madam Chair.

25 CHAIRPERSON HEATH: Okay. All right. Then

1 unless the Board has any other comments I will make a
2 motion that we approve the request for special
3 exception under 223, 405.9, and 2001.3 under
4 Application No. 19279.

5 MR. HILL: I second.

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

8 [Pause.]

9 CHAIRPERSON HEATH: Any further discussion?

10 [Vote taken.]

11 CHAIRPERSON HEATH: So, the motion carries.
12 Thank you.

13 MR. SNOWBER: Thank you very much.
14 Appreciate it.

15 MR. MOY: Okay. The staff would record the
16 vote as five to zero to zero. And this is on the
17 motion of Chairperson Heath to approve the
18 application for the relief requested. Seconding the
19 motion, Mr. Hill, also in support Vice Chairperson
20 Butani, Mr. Hinkle, and Mr. Peter May. Motion
21 carries, Madam Chair.

22 CHAIRPERSON HEATH: All right. Thank you.
23 And we'll get a summary order but we'll hold it until
24 we get that and letter.

25 All right. You can call our next

1 application, No. 19291.

2 MR. MOY: All right. Parties to Application
3 No. 19291 to the table. This is of Jeffrey Earl and
4 Cecillia Cortes -- Cortes-Earl? Thank you. This is
5 a request for special exception relief under Section
6 223, not meeting lot occupancy requirements, 403.2
7 and the rear structure requirements 404.1. This is
8 to construct a back deck to an existing one-family
9 dwelling in an R-4 District, 1632 Hobart Street
10 Northwest, Square 2591, Lot 798.

11 CHAIRPERSON HEATH: All right. Good morning.
12 Would you introduce yourself, please? Make sure your
13 -- just push the button that says push.

14 MR. EARLE: Got you. Good morning. My name
15 is Geoff Earle, and I'm the owner of 1632 Hobart.

16 CHAIRPERSON HEATH: Okay.

17 MR. EARLE: Thanks for your time.

18 CHAIRPERSON HEATH: Sure. Thank you for your
19 application. It appears to be complete and so I
20 don't know that the Board is going to have very many
21 questions for you. Are there any?

22 [No audible response.]

23 CHAIRPERSON HEATH: All right. So we're not
24 going to need to hear a full presentation from you.

25 MR. EARLE: That's fine. I'm glad to waive.

1 CHAIRPERSON HEATH: Perfect. All right.
2 Does Office of Planning have anything further that
3 you'd like to add?

4 MS. RAPPOLT: Nothing to add. We'll stand in
5 support of the application and available for
6 questions.

7 CHAIRPERSON HEATH: Okay.

8 MS. RAPPOLT: Thanks.

9 CHAIRPERSON HEATH: Thanks. Board, any
10 questions of Office of Planning? All right. I
11 assume the application doesn't have any questions of
12 Office of Planning?

13 MR. EARLE: None at all. Thank you.

14 CHAIRPERSON HEATH: All right. Is there
15 anyone here from ANC 1D on this application? ANC 1D?
16 We do have their letter recommending approval.

17 MR. EARLE: Yes.

18 CHAIRPERSON HEATH: Thank you for --

19 MR. EARLE: Yes.

20 CHAIRPERSON HEATH: -- making sure we have
21 that. We also have a letter of no objection from
22 Department of Transportation on this. And in
23 addition we have letters in support from your
24 adjacent neighbors. So we appreciate the work that
25 you did to get those.

1 MR. EARLE: Thank you.

2 CHAIRPERSON HEATH: Is there anyone here
3 wishing to speak in support? Anyone in support?
4 Anyone wishing to speak in opposition to this
5 application? Any opposition?

6 All right. Then we're -- the Board is likely
7 ready to deliberate on this if you're okay with us
8 concluding.

9 MR. EARLE: That's fine with me.

10 CHAIRPERSON HEATH: Okay. I will make a
11 motion that we approve the request for special
12 exception under 403.2, 404.1, for Application No.
13 19291.

14 MR. HILL: Second.

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

17 [Vote taken.]

18 CHAIRPERSON HEATH: The motion carries.
19 Thank you.

20 MR. EARLE: Thank you.

21 MR. MOY: Staff would record the vote as five
22 to zero to zero. This is on the motion of
23 Chairperson Heath to approve the applications for the
24 relief requested. Seconded the motion, Mr. Hill,
25 also in support, Mr. Hinkle, Vice Chairperson Butani,

1 and Mr. Peter May.

2 CHAIRPERSON HEATH: All right. Summary.

3 MR. MOY: Thank you.

4 CHAIRPERSON HEATH: All right. And then our
5 last case, Application No. 19296.

6 MR. MOY: Okay. Application No. 19296 of
7 James Little and William Colwell as advertised and
8 captioned for a special exception relief on the
9 rooftop structure requirements under 400.24. This is
10 for a third-story addition to an existing flat, R-4
11 District, 26 Adams Street Northwest, Square 3123, Lot
12 50.

13 CHAIRPERSON HEATH: All right. Good morning,
14 still. Introduce yourselves.

15 MS. FERREIRA: Good morning, Catarina
16 Ferriera, architectural.

17 MR. COLWELL: Good morning, Bill Colwell,
18 owner.

19 MR. LITTLE: James Little, owner.

20 CHAIRPERSON HEATH: All right. Thank you.
21 Did you all meet with the ANC on this application?

22 MS. FERREIRA: Yes.

23 CHAIRPERSON HEATH: Did it just come in?
24 Okay. Perfect. Very good. And I assume that was a
25 letter of approval? Okay. All right. Good. So we

1 do have that letter of approval of a vote of eight to
2 zero in support. So, very good. Thank you for doing
3 that and getting that letter to us.

4 Any other questions of the Board?

5 MS. BUTANI-D'SOUZA: I had two questions.
6 One, why did you guys request to be removed from the
7 expedited review calendar? Just curious.

8 MS. FERREIRA: It was just recommended that
9 we could get a more timely decision --

10 MS. BUTANI-D'SOUZA: Okay.

11 MS. FERREIRA: -- on the case if we did so.
12 That was the only reason.

13 CHAIRPERSON HEATH: Okay. It could be put on
14 the calendar earlier?

15 MS. FERREIRA: More expedited, yes.

16 MS. BUTANI-D'SOUZA: Interesting. Okay. So
17 second thing, I looked at the plans and I looked at
18 the 3-D sun study, and I was just a little bit
19 confused with what exactly you're doing here. So,
20 you're -- can you just explain it very quickly?

21 MS. FERREIRA: Sure.

22 MS. BUTANI-D'SOUZA: Like exactly how this is
23 going to work. You're creating a roof deck on the
24 flat portion and then you're just extending the
25 roofline of the higher portion with a set of dormers?

1 MS. FERREIRA: It's a dormer on the rear of
2 the main roof of the property.

3 MS. BUTANI-D'SOUZA: Uh-huh. Yep, I saw
4 that.

5 MS. FERREIRA: And that is all that we are
6 seeking relief for is the raising that center section
7 of the roof over the sliding doors, and for
8 installing a four-panel sliding door unit underneath
9 that dormer. So it's really to create additional
10 ceiling height inside the bedroom and bring more
11 natural light in.

12 MS. BUTANI-D'SOUZA: Okay. All right. So, I
13 think the sun study kind of showed that, so.

14 CHAIRPERSON HEATH: Yeah, and the neighbors
15 are fine with this.

16 MS. BUTANI-D'SOUZA: Uh-huh.

17 MS. FERREIRA: Thank you.

18 CHAIRPERSON HEATH: All right. Okay. Any
19 other questions from the Board?

20 All right. Then if you're okay with us
21 proceeding on with this hearing I don't -- we'll come
22 back to you if we have any questions, but we're not
23 going to need a full presentation.

24 MS. FERREIRA: Okay.

25 CHAIRPERSON HEATH: All right. Thanks. So

1 with that we'll turn to Office of Planning if you
2 have any additional comments.

3 MR. JESICK: Thank you, Madam Chair, Members
4 of the Board. My name is Matt Jesick. The Office of
5 Planning is happy to rest on the record in support of
6 the application. Thank you.

7 CHAIRPERSON HEATH: All right. Thank you.
8 And is there anyone here from ANC 5E? As I noted
9 just a moment ago, we do now have their report
10 indicating their support of this application.
11 Unanimous support.

12 We also have a letter of no objection from
13 Department of Transportation and a letter in support
14 from your neighbor on this. So it's always great
15 when you take the time to meet with your community
16 and with your adjacent neighbors specifically, and
17 when you get their support.

18 All right. All right. Then is there anyone
19 here wishing to speak in support of this application?
20 Anyone wishing to speak in support? Anyone in
21 opposition? No opposition?

22 All right. Then normally we'd turn back to
23 you for closing, but it's probably not necessary at
24 this point. So if you're okay with us concluding the
25 hearing --

1 MS. FERREIRA: Yes, please.

2 CHAIRPERSON HEATH: -- move to deliberation.

3 Okay. Anybody want to make a motion?

4 MR. MAY: Before we do I just want to comment
5 on this. This is sort of an unusual circumstance.
6 You know, if you had done this a year ago you
7 wouldn't have required this relief. It was a
8 reaction to -- or it was a new provision that came in
9 with the new R-4 regulations, and it was designed
10 more specifically to address things like when you're
11 doing a full floor addition. And I think the
12 Commission, Zoning Commission, really wanted to avoid
13 having impacts on important architectural features of
14 row houses in R-4 districts.

15 And I think the fact that you had to come in
16 to get this little bit of relief was not an intended
17 consequence. I hope it wasn't too burdensome.
18 Certainly do appreciate it. I mean, this is a very
19 modest addition and it is I think respectful of the
20 features of your home, which is I think a very --
21 it's got a fairly unique feature in the way the
22 treatment is -- of that third floor in the back. So
23 I hope it hasn't been too rough and I appreciate your
24 going through this effort for the sake of preserving
25 the character of our R-4 neighborhoods.

1 MS. FERREIRA: Thank you for the
2 clarification.

3 MR. MAY: Okay.

4 CHAIRPERSON HEATH: You're on.

5 MR. HILL: Sure. Well, said, Commissioner
6 May. I'd like to go ahead and make a motion to
7 approve Application 19296 under 400.24 to construct a
8 third-story addition to an existing flat in the R-4
9 District at premises 26 Adams Street Northwest.

10 CHAIRPERSON HEATH: Second. The motion has
11 been made and seconded. Any further discussion?

12 [Vote taken.]

13 CHAIRPERSON HEATH: The motion carries.
14 Thank you.

15 MS. FERREIRA: Thank you so much.

16 MR. COLWELL: Thank you.

17 MR. MOY: Staff would record the vote as five
18 to zero to zero. This is on the motion of Mr. Hill
19 to approve the application for the relief requested
20 and I believe was it Vice Chair Butani who seconded?

21 CHAIRPERSON HEATH: Me.

22 MR. MOY: Sorry.

23 CHAIRPERSON HEATH: It was me.

24 MR. MOY: Chairperson Heath seconding. Also
25 in support, then Vice Chairperson Butani, Mr. Peter

1 May, and Mr. Hinkle. So I think that adds up to
2 five. So the motion carries, Madam Chair.

3 CHAIRPERSON HEATH: Summary.

4 MR. MOY: Thank you.

5 CHAIRPERSON HEATH: Thanks. So we are
6 adjourned.

7 [Whereupon, at 11:48 a.m., the Board Hearing
8 was adjourned.]

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