

1 GOVERNMENT OF THE DISTRICT OF COLUMBIA
2 Office of Zoning
3 Board of Zoning Adjustment
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9 PUBLIC MEETING
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13 9:42 a.m. to 2:02 p.m.
14 Tuesday, July 19, 2016
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19 441 4th Street, N.W.
20 Jerrily R. Kress Memorial Room
21 Second Floor Hearing Room, Suite 220 South
22 Washington, D.C. 20001
23
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25

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3 ANITA BUTANI-D'SOUZA, Vice Chairperson

4 FREDERICK L. HILL, Board Member

5 JEFFREY L. HINKLE, Board Member

6 MARCIE COHEN, Zoning Commission

7 CLIFFORD MOY, Board Secretary

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13 BRANDICE ELLIOTT

14

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

2 MS. BUTANI-D'SOUZA: Good morning. The
3 hearing will please come to order. Good morning,
4 Ladies and gentlemen, we are located in the Jerrily
5 R. Kress Memorial Hearing Room at 441 4th Street
6 Northwest. Today's date is July 19th, 2016, and we
7 are here for the public meeting and hearings for the
8 Board of Zoning Adjustment for the District of
9 Columbia.

10 My name is Anita Butani, Vice Chairperson.
11 Joining me today is Fred Hill, Board Member, Jeffrey
12 Hinkle, Board Member, and Marcie Cohen, Member of the
13 Zoning Commission sitting in as a member of the board
14 today.

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

23 First, prior to testifying, each person who
24 wants to address the Board must complete two witness
25 cards per person, and give those cards, prior to

1 testifying, to the court reporter who is seated to my
2 right.

3 I need you now, number two, I need you now to
4 stand and take the oath which will be administered by
5 Mr. Moy, Secretary of the Board.

6 MR. MOY: Good morning.

7 [Oath administered to the participants.]

8 MS. BUTANI-D'SOUZA: Thank you, Mr. Moy.
9 Good morning. Do we have any preliminary matters?

10 MR. MOY: Yes, we do. Good morning, Madam
11 Chair and Members of the Board. Yes, this is for the
12 transcript to clarify cases for today's docket, or
13 rather in this instance, cases that will not be on
14 today's docket. Four. Four cases, Madam Chair, have
15 been rescheduled to September 27th, 2016. They are
16 19254. This is of 1612 7th Street Northwest. And
17 the next three cases are of Orpal Tucker (phonetic),
18 Application Numbers 19277, this is property on 18th
19 Street Northwest, 19278, which is property on 424
20 Irving Street Northwest, and 19292, property on 629
21 Columbia Road Northwest.

22 Two cases are withdrawn from today's docket,
23 Application Numbers 19284 of Furlough and Taggart and
24 18805-A of 1831 14th Street, LLC. This was a time
25 extension request. So these two, last two cases,

1 have been withdrawn. And let's see. Madam Chair,
2 whenever you want to take this up with the Board we
3 do have two preliminary matters. One is 8 -- 19303.
4 This is of Servant's Office, LLC. You'll recall that
5 this was a request from the applicant to postpone and
6 reschedule. Under Exhibit No. 31 and Application No.
7 19149 of Romi Satoh, Satoh, where staff has had
8 discussion, conversation with the applicant intending
9 to withdraw, but they have not filed a document into
10 the record. So all that's before the Board. Thank
11 you, Madam Chair.

12 MS. BUTANI-D'SOUZA: Thank you, Mr. Moy.

13 [Pause.]

14 MS. BUTANI-D'SOUZA: Mr. Moy, why don't we go
15 to 19149 of Romi Satoh? It's my understanding that
16 the Office of Zoning -- that the applicant has
17 expressed a desire to withdraw the case but has
18 failed to file the request in advance of the hearing
19 despite some discussion that --

20 MR. MOY: Yes, Madam Chair, Staff has made
21 two contacts, numerous contracts, but two that I have
22 personally handled, and the applicant stated that he
23 wanted to withdraw his application.

24 MS. BUTANI-D'SOUZA: Okay.

25 MR. MOY: And he was to file a letter into

1 the record to that point, and he has not done that.

2 MS. BUTANI-D'SOUZA: Okay. So I would make a
3 motion to dismiss this case on the grounds that the
4 applicant has -- is the applicant here? No. Okay.
5 So I would make a motion to dismiss Application 19149
6 on the grounds that the applicant has failed to
7 comply with Section 3100.6.

8 MS. COHEN: Second.

9 [Vote taken.]

10 MS. BUTANI-D'SOUZA: Okay. Motion passes.

11 MR. MOY: Staff would record the vote as four
12 to zero to one. This is on the motion of Chair
13 Butani to dismiss the application. Seconded the
14 motion, Ms. Cohen. Also in support, Mr. Hill and Mr.
15 Hinkle. Board member not present, not participating.
16 Motion carries, Madam Chair.

17 MS. BUTANI-D'SOUZA: Thank you, Mr. Moy.
18 Okay. So, Mr. Moy, can you call the first meeting
19 case, please?

20 MR. MOY: Okay. We have in order here, let's
21 see, let's see. We have, okay, the first three cases
22 I'm going to call, Madam Chair, are request for minor
23 modification. The first is Application No. 18890A of
24 Rock Creek-650, LLC. I'm going to read the caption
25 as advertised as quickly as I can. This is a request

1 for minor modification to modify the plans in BZA
2 Order [audio cuts out] originally approved for
3 variances from the parking requirements under 2101.1,
4 parking space size requirements under 2115.2, and the
5 loading requirements under 2201.1, and a special
6 exception from the HS Overlay special exception
7 requirements, 1325.1. This would allow an addition
8 that increases the gross floor area of an existing
9 building by more than 50 percent on the lot, that has
10 6,000 square feet or more of land, HS-H/C-2-B
11 District, 646 through 654 H Street Northeast, Square
12 858, Lots 1, 2, 800, 801, and 802.

13 MS. BUTANI-D'SOUZA: Thank you, Mr. Moy. I
14 would note that the Office of Planning recommends
15 approval on this case and we have a report of no
16 objection from DDOT. We have no letters in support
17 or opposition that have been entered into the record.
18 No reports from other agencies.

19 Per the Office of Planning this complies with
20 the aspects of the -- with all aspects of the
21 habitable penthouse space regulations. I note that
22 we don't have anything on the record from the ANC,
23 but the ANC was properly noticed.

24 Do any other board members wish to weigh in
25 on this case? No.

1 I would make a motion to approve. Is there a
2 second?

3 MR. HILL: Second.

4 MS. BUTANI-D'SOUZA: So the motion is to
5 approve the request for relief as captioned.

6 [Vote taken.]

7 MS. BUTANI-D'SOUZA: Okay.

8 MR. MOY: Staff would record the vote as four
9 to zero to one. This is on the motion of Chair
10 Butani. Seconding the motion -- this is the motion
11 to approve the request for minor modification.
12 Seconding the motion, Mr. Hill. Also in support, Ms.
13 Cohen and Mr. Hinkle. No other board member. Motion
14 carries.

15 MS. BUTANI-D'SOUZA: Thank you, Mr. Moy.
16 Shall we call our next case?

17 MR. MOY: Okay. Application No. 18906A of
18 Andecka (phonetic) Enterprises and 1320 Penelope,
19 LLC. Someone had a senior moment there, as they
20 would say. Minor modification of the plans approved
21 in 18906. This would allow conversion of an existing
22 office building into a mixed use building in the
23 DC/S-P-1 and C-3-C District, 1337 Connecticut Avenue
24 Northwest, Square 137, Lot 55.

25 MS. BUTANI-D'SOUZA: Thank you, Mr. Moy. I

1 see that the Office of Planning supports the
2 application. We have a letter of no objection from
3 the Department of Transportation. We don't have any
4 letters in support or opposition entered into the
5 record, no comments from other agencies.

6 I do see that we do not have an ANC report on
7 the record, but they did receive notification of the
8 application.

9 Are there any issues that the Board wishes to
10 discuss with regard to this application?

11 MS. COHEN: No.

12 MS. BUTANI-D'SOUZA: Okay. I would make a
13 motion to approve the relief as captioned. All those
14 in -- or is there a second?

15 MR. HILL: Second.

16 MS. BUTANI-D'SOUZA: Okay. We have a second.
17 [Vote taken.]

18 MS. BUTANI-D'SOUZA: Okay. The motion
19 carries.

20 MR. MOY: Staff would record the vote as four
21 to zero to one. This is on the motion of Chairperson
22 Butani approving the request for minor modification.
23 Seconding the motion, Mr. Hill. Also in support, Ms.
24 Cohen and Mr. Hinkle. Board member not present.
25 Motion carries, Madam Chair.

1 MS. BUTANI-D'SOUZA: Thank you, Mr. Moy.

2 MR. MOY: Summary order, waiving the
3 requirements?

4 MS. BUTANI-D'SOUZA: Yes, summary order.

5 MR. MOY: And on the first one too, right?

6 MS. BUTANI-D'SOUZA: Summary order as well.
7 Thank you.

8 MR. MOY: All right. Thank you.

9 The third request for minor modification is
10 Application No. 18902A of Frost-LaBule. I guess
11 that's how you pronounce that. Thank you. All
12 right. Let's see, this application was originally
13 approved for variances from the floor area ratio
14 requirements 402.2, off-street parking requirements
15 2101.1, special exception from the new residential
16 developments 353, Section 353 rather. This would
17 allow the construction of an apartment building for
18 low-income residents, R-5-A District, 2620 Bond Road
19 Southeast, Square 5869, Lot 83.

20 MS. BUTANI-D'SOUZA: Okay. I see that we do
21 not have a report from the ANC, but they were
22 noticed. The Office of Planning supports this
23 application. We have a report of no objection from
24 the Department of Transportation. There were no
25 letters in support or opposition entered into the

1 record and no comments from other agencies.

2 Are there any issues which the Board wishes
3 to discuss here? Okay.

4 I would make a motion, then, to approve the
5 relief as captioned. Is there a second?

6 [No audible response.]

7 MS. BUTANI-D'SOUZA: Okay.

8 [Vote taken.]

9 MS. BUTANI-D'SOUZA: Okay. The motion
10 carries.

11 MR. MOY: Staff would record the vote as four
12 zero -- four to zero to one. This is on the motion
13 of Vice Chair Butani. Seconding the motion, Ms.
14 Cohen. Also in support, Mr. Hill, Mr. Hinkle. No
15 other board member. Motion carries.

16 MS. BUTANI-D'SOUZA: Summary order.

17 MR. MOY: Summary order as well. Thank you.

18 MS. BUTANI-D'SOUZA: Thank you, Mr. Moy.

19 MR. MOY: All right. Application No. 19297.
20 This is of Thor 3000 M Street, LLC. Let's see. Let
21 me, I guess for the record, read the caption. This
22 was a request for a variance from the penthouse
23 height requirements 770.6, rear yard requirements
24 under 933, and off-street parking requirements under
25 2101.1, size of parking space requirements under

1 2115, access, maintenance and operation requirements
2 2117, and loading requirements 2201.1, special
3 exception from the penthouse use requirements and
4 under 411.4 Sub C, penthouse setback requirements
5 under 771. This would permit the renovation and
6 modernization of an existing hotel with additional
7 retail use in C-2-A and W-1 at 3000 M Street
8 Northwest, Square 1197, Lot 70.

9 If the Board will recall at its last hearing
10 on June 21st the Board voted to approve the relief
11 requested, except that it deferred its vote on the
12 penthouse height variance and requested additional
13 information. And, Madam Chair, that's in your case
14 folders. That was submitted by the application.

15 MS. BUTANI-D'SOUZA: Thank you, Mr. Moy. We
16 did receive the additional information. I understand
17 also that there is -- that we have an absentee ballot
18 on this one.

19 MR. MOY: We do, Madam Chair, from Mr. Peter
20 May.

21 MS. BUTANI-D'SOUZA: Did he submit any
22 comments?

23 MR. MOY: Yes. Should I read it now or
24 later? Now?

25 MS. BUTANI-D'SOUZA: Oh, should we deliberate

1 first? Okay. All right.

2 I see that they did submit the additional
3 information that we requested. They reconsidered the
4 penthouse relief that they had requested, and
5 significantly reduced the area for relief. I
6 appreciated their additional efforts and I'm
7 comfortable with the relief.

8 MR. HILL: Yeah, Madam Chair. I mean, we
9 went through this and approved most of it, and as you
10 recall, we were talking about kind of the penthouse
11 relief that was requested and I also am glad or, you
12 know, have looked through the additional submissions
13 and also am comfortable now moving forward and
14 approving.

15 MR. HINKLE: Madam Chair, I tend to agree. I
16 question whether they really need the relief now,
17 simply because it's an existing structure and I'm not
18 quite sure that the relief is necessary, but I'm
19 certainly supportive of the request at this point.

20 MS. BUTANI-D'SOUZA: Thank you. Okay. Do we
21 need to hear Commissioner May's comments?

22 MR. MOY: Okay. I can do that now as well.
23 Mr. May's written comment, as well as his vote, which
24 I'll state after someone makes a motion and seconds,
25 his comment is, quote, "I reviewed the proposed

1 changes to the design and I think it is acceptable.
2 Obviously I would prefer that the elevator overrun
3 met the 15-foot limit, but I believe the applicant
4 has made the case that the additional height is
5 needed. If the Board determines that relief is
6 needed to allow the elevator penthouse as proposed, I
7 vote in favor.

8 MS. BUTANI-D'SOUZA: Thank you, Mr. Moy. So
9 I would make a motion to approve the relief as
10 captioned. Is there a second?

11 MR. HILL: Second.

12 [Vote taken.]

13 MR. MOY: Staff would then record the vote as
14 four to zero to one. This is on the motion of -- I'm
15 just going to call you, Chair Butani, makes it
16 easier. Approving the application for the relief as
17 cited. Seconding the motion, Mr. Hill. Also in
18 support, Mr. Hinkle and Mr. Peter May by absentee
19 ballot. And no other member. So it's four to zero
20 to one. Motion carries.

21 MS. BUTANI-D'SOUZA: Can we do a summary
22 order?

23 MR. MOY: Yes.

24 MS. BUTANI-D'SOUZA: Is this the one where
25 there was a request on delaying the summary order?

1 MR. MOY: Yes. I'm glad you brought that up.
2 The applicant had requested that the written order
3 not be issued or filed in the record until after
4 August 31st, 2016, and we can certainly do that.

5 MS. BUTANI-D'SOUZA: Thank you, Mr. Moy.
6 Okay. We're rolling right through here, ready for
7 the next case whenever you are.

8 [Pause.]

9 MS. BUTANI-D'SOUZA: Okay. So we want to
10 note for the record that on the case of 19297, Thor
11 3000 M Street, there were extensive conditions that
12 were included and we did vote on those conditions at
13 the previous hearing on this case, or rather I
14 supposed the previous decision. I don't think that
15 we need to read the conditions since they were
16 already voted on. But just noting for the record
17 that the conditions were included previously. Thank
18 you, Mr. Moy.

19 MR. MOY: Very good. Very good. Thank you,
20 Madam Chair. All right. Before the Board again for
21 decision, this is Application No. 19312 of Allegro
22 II, Roman numeral II, LLC., request for variances
23 from the FAR requirements under 531.1, and the
24 nonconforming structure requirements under 2001.3,
25 and special exception from the penthouse setback

1 requirements, 411.18 Sub B. This would renovate
2 existing offices in the DC/S-P-1 District, 1714
3 through 1716 N Street Northwest, Square 159, Lots 829
4 through 830. And we also have an absentee ballot
5 from Mr. Miller who is participating.

6 MS. BUTANI-D'SOUZA: Thank you, Mr. Moy. So
7 for this one, when we previously met we requested
8 that the applicant provide revised plans showing the
9 setback of three feet. And we requested additional
10 information regarding the need for a conference room
11 and the penthouse. I would like to say, I did review
12 the additional information provided. I was satisfied
13 with the analysis. I thought it was terrific the way
14 that they showed that the conference room really
15 could not fit anywhere else within the building
16 without impairing the circulation space. So I did
17 appreciate that. And with that, I do support this
18 application and the relief requested.

19 Other comments?

20 MR. HILL: Well, I disagree with you, Madam
21 Chair, in what you had said and I did appreciate the
22 new diagrams that show again the conference room
23 wouldn't be able to fit in other places on the
24 building. So I'm also in approval.

25 MS. BUTANI-D'SOUZA: Terrific. Is there a

1 motion to approve the request?

2 MR. HILL: I'll make a motion to approve
3 Application No. 19312 as captioned.

4 MS. BUTANI-D'SOUZA: Second. So the motion
5 has been made and seconded.

6 [Vote taken.]

7 MS. BUTANI-D'SOUZA: Okay. The motion
8 carries.

9 MR. MOY: Okay. Before I read the vote back,
10 Madam Chair, we have an absentee ballot from Mr.
11 Miller who participated. He has brief comments I'd
12 like to read.

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

14 MR. MOY: One, Mr. Miller states, "I am
15 pleased that the applicant revised its application
16 and added a rear penthouse setback in response to
17 Office of Planning's request." And finally he states
18 that he's persuaded by arguments made in the
19 applicant's post-hearing submission. And of course
20 his vote is to approve the application.

21 So, that would give a final vote of four to
22 zero to one. This is on the motion of Mr. Hill.
23 Seconded the motion, Chair Butani. Also in support
24 of course, Mr. Rob Miller and Mr. Hinkle. No other
25 member participating. Motion carries.

1 MS. BUTANI-D'SOUZA: Thank you, Mr. Moy.
2 Summary order.

3 MR. MOY: Thank you.

4 Okay. Next up, Application No. 19307, this
5 is of Lock7 Development, LLC., request for variance
6 relief from the off-street parking requirements under
7 2101.1, which would renovate and expand an existing
8 apartment house, C-2-A District, 11 15th Street
9 Northeast, Square 1070, Lot 93. And I believe the
10 Board requested revised -- a statement revised
11 conditions which is in your file.

12 MS. BUTANI-D'SOUZA: Thank you, Mr. Moy. I
13 did review the revised conditions and I believe that
14 they do capture the discussion that we had on this
15 case where we requested that the applicant set aside,
16 or rather agree to abide by conditions wherein they
17 rented two parking spaces. The condominium board
18 kept those two parking spaces under lease in
19 perpetuity, provided reports to the ANC annually
20 showing that they continued to lease the spaces, and
21 I was satisfied that the conditions did provide for
22 that. Other thoughts?

23 Okay. Then I would make a motion to approve
24 the relief requested with the conditions proposed by
25 the applicant. Okay. The motion has been made and

1 seconded.

2 [Vote taken.]

3 MS. BUTANI-D'SOUZA: Okay. Motion carries.

4 MR. MOY: Let's see, before I give the final
5 vote count, Madam Chair, we have an absentee ballot
6 from Mr. Peter May, who participated. And if I might
7 read his brief comments which states that he believes
8 that the proposed conditions are acceptable. "But I
9 would support modifications by the Board if deemed
10 necessary." And of course his vote is to support, or
11 rather to approve the application.

12 So that will give you a final vote of four to
13 zero to one. This is on the motion of Chair Butani
14 to approve for the relief requested with a revised
15 condition. Seconding is -- was it Mr. Hinkle? Okay.
16 And also in support, of course, Mr. Peter May and Mr.
17 Hill. No other members participating. Motion
18 carries.

19 MS. BUTANI-D'SOUZA: Thank you, Mr. Moy.
20 Summary order.

21 MR. MOY: Thank you.

22 MS. BUTANI-D'SOUZA: Okay. We're ready for
23 the next case when you are.

24 MR. MOY: Okay. The next decision case, and
25 the last one in this meeting session is Application

1 No. 19311 of Manna Inc. as captioned for variance
2 relief from the FAR requirements under Section 402.4,
3 lot occupancy requirements under Section 403.2, and
4 the rear yard requirements under Section 404.1,
5 special exception from the residential development
6 requirements under Section 353, which would construct
7 12 row dwellings in the R-5-A District, which is at
8 2200 through 2210 Hunter Place Southeast, Square
9 5812, Lot 118.

10 And I believe in the record now, as of late
11 last night, Madam Chair, is a e-mail from the ANC.

12 MS. BUTANI-D'SOUZA: Thank you, Mr. Moy.
13 Yes, we do have a copy of the e-mail from the ANC.
14 As we all recall this case was held -- the record was
15 held open since the applicant was scheduled to meet
16 with the ANC on Monday the 18th, so yesterday. It
17 looks like they did present to ANC 8A's executive
18 meeting, and the commissioners expressed support for
19 the application, but they will not be releasing a
20 letter of support or voting on an official letter of
21 support until their August meeting, at which point
22 the BZA will be on recess.

23 So I would -- I'm comfortable with the
24 application and with the indication of support that
25 we've received from the ANC. I would be willing to

1 move ahead and put this for a decision. Or decide on
2 this case today. Okay.

3 Are there any other -- are there any comments
4 that the Board wishes to make on this application? I
5 would make a motion, then, to approve the relief
6 captioned.

7 MR. HILL: Second.

8 [Vote taken.]

9 MS. BUTANI-D'SOUZA: The motion carries.

10 MR. MOY: Staff would record the vote as
11 three to zero to two, Madam Chair, on your motion.
12 Seconded the motion, Mr. Hill. Also in support, Mr.
13 Hinkle. And the two would be no other member
14 participating and Peter May who did participate will
15 not be voting of course.

16 MS. BUTANI-D'SOUZA: Thank you, Mr. Moy.

17 MR. MOY: So --

18 MS. BUTANI-D'SOUZA: Summary order.

19 MR. MOY: Summary order. Thank you.

20 MS. BUTANI-D'SOUZA: And actually, let me
21 note also that there are conditions that are dated on
22 this application related to solar panels and working
23 with D.C. Water to resolve the issue of the proposed
24 storm sewer extension across Pomeroy Road. I noted
25 that the applicant has agreed to both conditions.

1 I also note that DDOT requested that the
2 applicant continue to work through the public space
3 process. So the conditions would be added to the
4 order.

5 MR. MOY: Okay. That would be recorded.
6 Thank you, Madam Chair.

7 MS. BUTANI-D'SOUZA: Thank you. Okay. So
8 that concludes our public meeting agenda.

9 MR. MOY: Yes.

10 MS. BUTANI-D'SOUZA: Okay.

11 MR. HILL: Madam Chair, I'd also like just to
12 note that it's nice that when somebody gets approval
13 they seem to quietly get up and walk out of the room.

14 MS. BUTANI-D'SOUZA: Yes.

15 MR. HILL: [Speaking off mic.]

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

17 MR. HILL: [Speaking off mic.]

18 [Pause.]

19 MR. MOY: Madam Chair, are you going to do
20 very quick, is there any reshuffling of the --

21 MS. BUTANI-D'SOUZA: Yes.

22 MR. MOY: -- applications for the hearing.
23 Okay.

24 MS. BUTANI-D'SOUZA: Yes. For the hearing
25 the Board would like to move 320 Webber down to the

1 be the second to last case of the day, right before
2 we do Dilan Investment.

3 MR. MOY: Okay. Very good.

4 MS. BUTANI-D'SOUZA: Okay.

5 MR. MOY: Okay. So --

6 MS. BUTANI-D'SOUZA: Shall we call our first
7 case?

8 MR. MOY: First case, top of the order is
9 Application No. 17527A, Alpha, as in Alpha, of the
10 John R. Klein II. If the parties can come to the
11 table? This is captioned and advertised for, I
12 believe, special exception relief on the parking lot
13 requirements under Section 213 to permit the
14 continued operation of a parking lot use in the R-1-B
15 District at premises, the rear of 4418-4420
16 Connecticut Avenue Northwest, Square 1971, Lot 825.

17 MS. BUTANI-D'SOUZA: Thank you, Mr. Moy.

18 Okay. If you could please introduce
19 yourselves for the record?

20 MS. OLSON: Hi. My name is Kate Olson with
21 the law firm of Greenstein, DeLorme, and Luchs and I
22 am appearing before you today for John Klein II, the
23 applicant in the case who is not able to be here
24 because he is in bad health.

25 MS. BUTANI-D'SOUZA: Okay.

1 MR. BORGE: I'm Joe Borge --

2 MS. BUTANI-D'SOUZA: Can you make sure your
3 mic is on?

4 MR. BORGE: I'm Joe Borge with Borge
5 Management. We're the management company for the
6 property that we are here to discuss today.

7 MS. BUTANI-D'SOUZA: Okay. Thank you. So it
8 looks like there is actually quite -- okay. So, I
9 don't think that there is a need for the applicant to
10 go through a full statement. I think we can focus on
11 the key issues that came up in the record.

12 The first issue would be, DDOT has indicated
13 that they cannot fully assess this request because
14 they have not been able -- they've not received or
15 seen in the record any vehicular turning diagrams
16 showing that the movements can be accommodated with
17 minimal impact. The public space sets the movements
18 within the parking lot.

19 It sounds like there is some question from
20 DDOT on whether this lot should continue to have 19
21 spaces or if the number of spaces should be reduced
22 and the sizes reconfigured to ease some of the
23 congestion issues in the alley.

24 I would also note that there is some question
25 about whether this parking lot complies with Section

1 2115.1. I don't think we've received any evidence
2 indicating that it does. And specifically Section
3 213, 213.4 says that all criteria in Chapter 23 must
4 be complied with and I don't think we have any
5 record, anything in the application, showing that
6 there is compliance with this.

7 So I see that we've just received some
8 additional information.

9 MS. OLSON: My apologies for the late
10 submission. We've been working with the applicant
11 and VICA (phonetic) and DDOT to submit to you the
12 turning radius diagrams which are located in the back
13 of that small packet that I just handed you. I have
14 not heard back from DDOT and it doesn't look they are
15 here today. They were sent this last week.

16 And as far as the requirements under the
17 Zoning Regulations for the parking dimensions and the
18 like, this parking lot has been in existence
19 continuously since 1948, and we believe we come under
20 Section 2000.4, which states a nonconforming use of a
21 structure or a land, or any nonconforming structure
22 lawfully existing on May 12th, 1958 that remains
23 nonconforming, and any use or structure lawfully
24 existing that became nonconforming on May 12th, 1958
25 may be continued, operated, occupied, or maintained

1 subject to the provisions of this chapter.

2 So this has been in continuous operation
3 since 1948. Since 1956 it was first allowed by the
4 BZA. We actually found a previous order to the 1961
5 order. And in all of the filings that I've reviewed
6 for these various renewals over the years there has
7 been nothing that has been stating the dimensions of
8 the parking lot and anything like that, the drive
9 aisle or -- it's just been continuously renewed as
10 these 19 spaces.

11 We have been made aware that there is concern
12 with regard to the size of the parking lot and the
13 angled spaces that are currently there. What you
14 have before you is a plan that shows the existing
15 configuration of the lot, which I've added in the
16 handicapped parking space because that was not --
17 that is not currently marked. And I've also enclosed
18 the proposed parking spaces.

19 We've been working with the ANC and VanNess
20 Main Street, and we're trying to figure out what
21 would allow the most maneuvering room so that cars
22 pulling out of the parking lot do not have to back
23 into the alley. And so, by allowing us to reduce the
24 parking spaces to nine by 16, with a drive aisle of
25 18 feet, we would allow for more room than what is

1 currently there.

2 MS. BUTANI-D'SOUZA: So I'm not sure I
3 understand. So on one hand you're saying that this
4 is a historic parking lot that's always been this
5 way.

6 MS. OLSON: Correct.

7 MS. BUTANI-D'SOUZA: But you'd like to
8 reconfigure it now.

9 MS. OLSON: Because we're trying to work with
10 the community and understand their concerns. And if
11 there is a concern about pulling out into the alley
12 we certainly are listening to them and trying to
13 figure out whether we can -- how we can refigure the
14 lot to make it a little easier.

15 The parking lot has been there for so long
16 that there are a lot of leases that are tied to the
17 various parking spaces within this lot. So it would
18 be very difficult for the applicant to actually
19 reduce any of these parking spaces. So they're just
20 trying to find a way that reassures DDOT.

21 We haven't heard back from DDOT, as I've
22 said. So I'm not sure if this meets their --

23 MS. BUTANI-D'SOUZA: Well, I'm sure that
24 giving them only a week to respond to this is really
25 probably not enough time for them. So I think in the

1 future it would be helpful if --

2 MS. OLSON: The report was issued last week.

3 MS. BUTANI-D'SOUZA: So you submitted this
4 after they had issued their --

5 MS. OLSON: I did, yes.

6 MS. BUTANI-D'SOUZA: Okay. So --

7 MS. OLSON: In response to their report.

8 MS. BUTANI-D'SOUZA: -- I think we need to
9 give DDOT an opportunity to weigh in on this. So,
10 let me see.

11 MS. COHEN: Madam Chair, I also think that I
12 need more information on the landscaping plan. I
13 appreciate the submission of landscaping plan but I
14 have no idea what type of landscaping is being
15 provided unless I didn't see it in the record. Is it
16 there?

17 MS. OLSON: It's the same landscape plan that
18 was from the previous order. And there's a
19 photograph in the application that shows that --

20 MS. COHEN: Can you tell me where that is,
21 then, because I thought I looked through it
22 carefully. And I've seen photographs and it
23 doesn't --

24 MS. OLSON: And as I understand it, the ANC,
25 nor OP, has an issue with how the applicant has

1 continued to keep the landscaping, and there's a
2 landscaping agreement.

3 MS. COHEN: What is it? Seven?

4 MR. MOY: 7B.

5 MS. COHEN: Thank you.

6 MS. OLSON: It should be under 7B.

7 MS. COHEN: Yeah, I saw those photos.

8 MS. OLSON: The caption is, "landscaping at
9 the rear of the lot."

10 MS. COHEN: I mean, what I did see was a
11 blank wall and maybe my computer is not --

12 MS. OLSON: And that's --

13 MS. COHEN: -- operating.

14 MS. OLSON: That's the adjacent parking lot
15 of Day's Inn. That's not under our ownership.

16 We have been in discussion with the VanNess
17 on Main Street to potentially put some sort of mural
18 there. That would obviously require Day's Inn's --

19 MS. COHEN: Are you having --

20 MS. BUTANI-D'SOUZA: Which exhibit is it?

21 MS. COHEN: We're having computer issues.

22 MS. OLSON: It's Exhibit 7B.

23 MS. BUTANI-D'SOUZA: I see a 7B-1, 7B-2, 7B-3
24 that are all --

25 MS. COHEN: Probably 7B-2.

1 MS. OLSON: It's right after the aerial
2 photos.

3 MS. COHEN: The photos that -- I see some.
4 [Pause.]

5 MS. OLSON: It was simply to show compliance
6 with the plan that's been approved.

7 MS. COHEN: And what did the ANC say, because
8 I didn't -- that it's -- is it well maintained?

9 MS. OLSON: Yes.

10 MS. COHEN: Okay.

11 MS. OLSON: And the ANC, I should say, has
12 proposed one of their conditions is for the applicant
13 to come back annually to check in on the various
14 conditions and the applicant agrees to do that.

15 MS. BUTANI-D'SOUZA: Okay.

16 MS. OLSON: My colleague, Pat Brown, from the
17 law firm of Greenstein, DeLorme, and Luchs, just
18 joined me.

19 MS. BUTANI-D'SOUZA: Thank you. Okay. So
20 I'd like to talk about the -- some of the conditions
21 here. It looks like the applicant has requested no
22 time limit and then modified it to a 10-year time
23 limit, which OP does not support.

24 OP is proposing a four-year time limit which
25 conflicts with the condition that -- I believe it's

1 OP's condition regarding the repaving of the lot with
2 a permeable substance.

3 MS. OLSON: Right.

4 MS. BUTANI-D'SOUZA: So, let's go through
5 these. So first, does the applicant understand that
6 OP is proposing a four-year time limit and is the
7 applicant comfortable with that?

8 MS. OLSON: So the applicant is comfortable
9 except for the term of years and the term of the
10 pervious paving. So everything else that Office of
11 Planning and ANC have proposed as conditions, the
12 applicant is fine with.

13 The applicant requests that the term of years
14 be 10 years since that is what it was previously and
15 now we will have this added condition of the
16 applicant going back annually to the ANC. So we feel
17 like there's another check involved annually for
18 that.

19 And we also requested that the pervious
20 paving be done in conjunction when the parking lot
21 would actually be needing to be repaved again, which
22 would be in six years.

23 MR. HILL: How do you get into the six year,
24 in terms of the paving?

25 MS. OLSON: Perhaps the property manager can

1 discuss this because we've asked him when the paving
2 would actually need to be repaved.

3 MR. HILL: Sure. So when was the last time
4 it was paved?

5 MR. BERGE: The last time it was paved was
6 just when we did the first 10-year parking in 2000.
7 It was paved. We paved and we striped it. It's been
8 restriped during that period in that ensuing 15
9 years. And our paving contractor surveyed the lot
10 and said you basically have six years' life left into
11 the parking lot. It needs to be sealed and striped
12 now, which we intend to do. But the service is in
13 good shape and that's how we came up with to do the
14 permeable surfaces in six years.

15 MR. HILL: So last -- I'm sorry, the last
16 time was in 2010?

17 MR. BERGE: No, 2000.

18 MR. HILL: 2000.

19 MR. BERGE: It's 15 years old.

20 MR. HILL: So the last time it was paved was
21 15 years ago.

22 MR. BERGE: Correct.

23 MR. HILL: But now you're saying that it
24 should be done every six years?

25 MR. BERGE: No, the life of the existing

1 pavement is, they say, has approximately six years'
2 life left in it.

3 MR. HILL: Okay.

4 MR. BORGE: Provided that we continue to seal
5 it as we do on a regular basis, and restripe.

6 MS. BUTANI-D'SOUZA: Can you provide a letter
7 in the record showing that from your paving
8 contractor?

9 MR. BORGE: That there's a --

10 MS. BUTANI-D'SOUZA: That's indicating that
11 this is going to last for another six years. Because
12 I'm looking at the pictures here and I don't really
13 think the -- I would be shocked if this lasted for
14 another six years. And I think that it seems to be
15 that that may be part of the reason that the
16 community is concerned about this. And also, of
17 course, we have the new storm water regulations that
18 are coming into effect, although certainly you
19 wouldn't be required to comply with those unless you
20 disturbed the land.

21 But it looks -- I see lots of cracking here.
22 So I think it would be helpful to have something in
23 the record from someone indicating that they do
24 believe that this is going to last for six years.

25 MR. BORGE: Okay.

1 MS. OLSON: And also, the applicant is ready
2 to restripe and fix all of the parking, the pavement
3 area right now, dependent on what plan is approved.

4 MS. BUTANI-D'SOUZA: Okay. I think what we
5 need to do here is wait until we get some information
6 from DDOT. And then I would also note that there are
7 some -- there is some lack of clarity in the
8 conditions that OP has proposed and the ANC has
9 proposed. I'm wondering whether we should go through
10 those today or whether we should just wait until we
11 have clarity from DDOT on what their opinion is on
12 this.

13 MS. COHEN: Well, first let me address the
14 timing. I think it should be six years in time for
15 the permeable pavings and that that happens.

16 But I think, you know, having DDOT's input is
17 important so I would probably postpone this decision.
18 But that's my own opinion.

19 MS. BUTANI-D'SOUZA: Okay. Okay. Does the
20 applicant wish to make any other statements before we
21 move to the Office of Planning?

22 MS. OLSON: No.

23 MS. BUTANI-D'SOUZA: Okay. Why don't we hear
24 from the Office of Planning?

25 MS. BROWN-ROBERTS: Good morning, Madam

1 Chairman and Members of the Board. Maxine Brown-
2 Roberts for the record.

3 Let's see. I'll start with the requirements
4 may request to address the request for relief for
5 2115.1.

6 From the -- one of the things is that we went
7 through all of the requirements that the parking lot
8 has to meet. And that was one of them. And so we
9 requested from the applicant to demonstrate to us
10 that either they don't need the -- they don't need
11 that relief. Or if they need the relief they need to
12 state what it is and how it's met. From --and the
13 applicant has stated this morning that it is not
14 needed because it comes under 2000.4.

15 From the plans that we got this morning in
16 regard to 2000.4, it would be related to the existing
17 parking lot, the existing size of the spaces and of
18 the drive aisle. There is a revised layout which
19 means that that requirement would not be applicable
20 anymore because they're making changes. So it's
21 either the changes are meeting the standard, or
22 they're asking for relief from 2115. So that is
23 where we stand on that.

24 Regarding the approval for four years, that
25 was -- we had two concerns. We were definitely

1 against the 10-year limit because the applicant
2 hasn't demonstrated that over the last 10 years that
3 they call the last time, that the parking lot has
4 been kept free of debris, and you know, the striping
5 has been kept. And so we had a concern about that.

6 So we went to the four years, which was
7 something that the -- which is the time limit of the
8 ANC. So, I think we are flexible for -- or six
9 years. But we had asked the applicant for
10 information regarding the striping. I think the same
11 questions that you had -- that you asked this
12 morning, we had asked that. We didn't get that
13 information, and so a fallback was if you see under
14 our Condition No. 3, where the second sentence we
15 said that the existing impervious material should be
16 replaced with pervious material the next time of the
17 resurfacing. So I think that was sort of our
18 fallback position such as we didn't get the timing
19 from the applicant.

20 On page 9 of our report in the Condition 3,
21 that was our original recommendation and we changed
22 it to the one that is on page 1.

23 MS. BUTANI-D'SOUZA: Okay. Thank you.

24 MS. BROWN-ROBERTS: Okay. And I'm open for
25 any other questions.

1 MS. BUTANI-D'SOUZA: Okay. So as I
2 understand it what you're saying is basically that
3 they would need to comply, either comply with 2115.1
4 or not reconfigure the parking lot.

5 MS. BROWN-ROBERTS: Right, because under the
6 section that they quoted, stated that if it remains
7 the same then they remain under, you know, then
8 there's no requirement. But if there are changes
9 then they either --

10 MS. BUTANI-D'SOUZA: Then there is a
11 requirement that they need to comply.

12 MS. BROWN-ROBERTS: Yeah, they need to meet
13 the requirement or --

14 MS. BUTANI-D'SOUZA: I see. Because this is
15 not a historic space.

16 MS. BROWN-ROBERTS: Oh, no, it's not.

17 MS. BUTANI-D'SOUZA: Or anything like that.
18 So there is no kind of carve out for historic --

19 MS. BROWN-ROBERTS: No.

20 MS. BUTANI-D'SOUZA: Okay.

21 MS. BROWN-ROBERTS: No.

22 MS. BUTANI-D'SOUZA: All right. So I think
23 that clarifies that issue. So, what we would need to
24 see would be information showing that this
25 application complies with 2115.1, which may in fact

1 mean reducing the number of spaces or reconfiguring
2 drive aisles, reconfiguring the size of spaces, et
3 cetera.

4 MS. OLSON: May I ask a question?

5 MS. BUTANI-D'SOUZA: Sure.

6 MS. OLSON: So, if we rest on we're under
7 Section 2004, as OP just stated that we had said, the
8 applicant is fine to leave the parking lot the way it
9 is. The applicant was just trying to help the
10 community with issues that they had found. It sounds
11 like the applicant is almost being penalized for
12 trying to do something to this parking lot that would
13 make it a little more -- would facilitate some of
14 this traffic.

15 If we were under -- if we come under the
16 existing parking lot and say that it's nonconforming
17 and that nothing is going to be changed, it sounds
18 like we would not need to seek relief for that.

19 MS. BUTANI-D'SOUZA: Well, what it sounds
20 like to me is that DDOT has indicated that this
21 parking lot as it stands, doesn't comply with some of
22 the regulations and they have concerns about that.
23 And although this hasn't been addressed in previous
24 requests for authorization for this parking lot, it
25 is being addressed now.

1 So I think the prudent thing to do would be
2 to decide whether you are going to be restriping the
3 parking lot or not, and update your application
4 accordingly, giving DDOT an opportunity to respond to
5 whatever your revised submissions are, and then
6 giving this Board an opportunity to determine whether
7 we support or do not support what you're trying to
8 do.

9 But I would say, I do note that we do have a
10 letter in opposition. It sounds like there are
11 significant concerns that have been raised by the ANC
12 about this parking lot. They've provided 11
13 conditions here. So, why don't we continue on with
14 the hearing?

15 Is there anyone here wishing to speak -- do
16 we have anyone from DDOT here? Okay.

17 Do we have anyone from the ANC wishing to
18 speak on this application? Anyone from the ANC?

19 Okay. Do we have any parties or persons in
20 support of the applicant that wish to speak? Any
21 persons in opposition?

22 Okay. So --

23 MS. COHEN: May I just insert? I do think
24 that that is a reason -- a dilemma that you brought
25 up and I think again, it's important for us to get

1 feedback from DDOT to eliminate that dilemma because
2 I understand what you're saying. It's a Catch 22.
3 We want to do something because we've been in
4 negotiations with the neighbors.

5 So I think it's very important for us to get
6 the feedback from DDOT to clarify where it stands
7 from their point of view.

8 MS. BUTANI-D'SOUZA: And I would just note in
9 the future that, you know, if you provide this level
10 of analysis on the day of the hearing, to me that
11 suggests that this case is not ready to be heard and
12 should be postponed. So just so that you're aware,
13 since I know your law firm does come in front of this
14 Board frequently, providing this kind of submission
15 on the day of really does not allow the Board the
16 opportunity to review it. It also doesn't allow the
17 agencies that the Board relies on for analysis, a
18 chance to review.

19 And so in the future we would request that
20 you would wait to come before the Board for a hearing
21 until your application is really complete. And I
22 would not consider this to be complete if you're
23 submitting things the day of. Okay. All right.

24 So with that I think we should go ahead and
25 postpone a decision on this application.

1 MR. MOY: Madam Chair, just a quick question.
2 Was the Board interested in a continued hearing or a
3 decision?

4 MS. BUTANI-D'SOUZA: Oh, continued hearing.

5 MR. MOY: Continued hearing. All right.
6 Then I think for the month of September if -- for the
7 Board, I think the earliest would be September the
8 13th.

9 MS. BUTANI-D'SOUZA: Okay. So, September
10 13th, does that work for the applicant?

11 MS. OLSON: Yes.

12 MS. BUTANI-D'SOUZA: Great.

13 MR. MOY: Okay. Then, Madam Chair, is the
14 Board interested in having the filing submitted by --

15 MS. BUTANI-D'SOUZA: Two weeks beforehand.

16 MR. MOY: Two weeks beforehand. So that
17 would be August the --

18 MS. BUTANI-D'SOUZA: Does that comply with
19 the new deadlines, because I think we're all going to
20 be on the new schedule in September. So should we
21 ask for three weeks ahead of time so that DDOT has a
22 chance to review?

23 MR. MOY: I'm posing on further submissions
24 it's flexible with the Board for additional
25 information.

1 MS. BUTANI-D'SOUZA: Okay.

2 MR. MOY: So whatever you wish to have it.

3 MS. BUTANI-D'SOUZA: I think it would be
4 helpful if you got everything in three weeks
5 beforehand to give DDOT ample time to review, and if
6 you need to have ongoing discussions with them that
7 will give them an opportunity to respond to you and
8 you can respond back to them.

9 And I would just ask again, that you make
10 sure that the application is fully baked before you
11 come back so that we can give you a decision timely
12 rather than having to postpone again.

13 MS. OLSON: Understood. Thank you very much.

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

15 MR. MOY: So, Madam Chair, that would be
16 August 23rd, submission of additional information,
17 continued hearing, September 13th.

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

19 [Pause.]

20 MS. BUTANI-D'SOUZA: Okay, Mr. Moy, can we
21 call our next case?

22 MR. MOY: Yes. Parties to the table to
23 Application No. 19293 of Gonzaga College High School
24 as captioned and advertised for variance relief from
25 the limitation on the number of stories requirements

1 under 400.1 and the height requirements under 770.1,
2 special exception from the private school
3 requirements under Section 206.1, which would permit
4 the installation of four monopole light arrays to
5 serve existing athletic fields on the campus of a
6 private school in the R-4/C-2-A District, 19 I Street
7 Northwest, Square 622, Lots 93, 844 through 845.

8 MS. BUTANI-D'SOUZA: Good morning. If you
9 could please introduce yourself for the record?

10 MR. LEWIS: David Lewis on behalf of the
11 application from the law firm of Goulston and Storrs.

12 MR. STEPHENSON: I'm Brian Stephenson, I'm
13 the landscape architect and site consultant to the
14 school.

15 MR. PLANNING: Reverend Steve Planning. I'm
16 the President of Gonzaga.

17 MR. KARCHA: Stephen Karcha, the project
18 manager and project construction manager for Gonzaga.

19 MS. BUTANI-D'SOUZA: Thank you. Okay. So,
20 we did note that the outlines for the witness
21 testimony were uploaded to the record and we do
22 appreciate your willingness to travel here for the
23 hearing. With that said, given the extensive
24 outreach that you've already done with the ANC and
25 OP, as well as the clear information in the record, I

1 don't think we need to have a full presentation.
2 Does the Board have any questions about the relief
3 being requested here? Okay.

4 MS. COHEN: Just, you know, just are they
5 willing to have the condition that the lights be out
6 by 10:00.

7 UNIDENTIFIED SPEAKER: Yes, ma'am.

8 MS. COHEN: Okay. How tall is this,
9 lighting? How tall are the --

10 UNIDENTIFIED SPEAKER: The four poles are
11 approximately 90 feet tall each.

12 MS. COHEN: And that's standard in the
13 industry?

14 UNIDENTIFIED SPEAKER: I'll let the architect
15 address that.

16 MR. STEPHENSON: The 90-foot height is taller
17 than you often see, but we've done that for a very
18 specific reason. Usually the fields are lit, the
19 poles around the sides of the field, and shining in.
20 And you'll see from the plan that we are putting
21 poles in the corners of the field shining from end to
22 end. We've done that specifically to control the
23 light spill. The light spill that goes out into
24 North Capital Street, and the light spill that will
25 be falling on the building that's to the west of the

1 field which is a residential apartment building.

2 By having the taller poles at the end we're
3 able to direct the light down, rather than across,
4 and we get much better light control.

5 MS. COHEN: Thank you.

6 MS. BUTANI-D'SOUZA: Okay. Does the
7 applicant have anything further before we turn to the
8 Office of Planning?

9 MR. LEWIS: The only thing I would say is we
10 did receive a letter this morning from the ANC. If
11 you'd like us to submit it, happy to. I don't think
12 it's been uploaded to the system yet, but I just --

13 MS. BUTANI-D'SOUZA: Sure. Yeah.

14 MR. LEWIS: -- I got it via e-mail.

15 MS. BUTANI-D'SOUZA: Yeah, if you could that
16 would be great.

17 MR. MOY: Okay.

18 MR. HILL: If you just -- what does the
19 letter say?

20 MR. LEWIS: The ANC is in support of the
21 application.

22 MS. BUTANI-D'SOUZA: Thank you. Okay. So
23 why don't we go ahead and turn to the Office of
24 Planning?

25 MR. MORDFIN: Good morning. For the record,

1 I'm Stephen Mordfin and the Office of Planning
2 continues to support this application subject to the
3 one condition in the report that the lights be turned
4 off by 10:00 p.m.

5 MS. BUTANI-D'SOUZA: Thank you. Okay. So we
6 have the report in front of us from the ANC
7 indicating that the ANC voted six to zero to zero to
8 support the application subject to the condition that
9 the lights be turned off every day by 10:00 p.m.,
10 which the applicant has agreed to.

11 Do we have any parties or persons here
12 wishing to speak in support of the application?

13 Okay. Seeing none, any parties here who wish
14 to speak in opposition to the application? Okay.
15 Sir, if you can come forward? If you can please
16 state your name for the record? Turn on your mic, if
17 you could?

18 MR. WRIGHT: Okay. My name is James Wright.
19 I'm a resident in the residential building to the
20 west.

21 MS. BUTANI-D'SOUZA: Okay. So we'll give you
22 three minutes to make your statement.

23 MR. WRIGHT: Okay. My primary objections
24 come down to elimination in my apartment, view
25 obstruction, potential insect propagation, increased

1 night time noise, increased traffic and noise from
2 the lights.

3 If we look at the architectural plans and
4 elevations as submitted you'll notice that the
5 residential property is devoid of much detail, and
6 with that, this is what it actually looks like, if I
7 can bring this forward?

8 MS. BUTANI-D'SOUZA: Sure. Thank you.

9 MR. WRIGHT: The placement of pole, or
10 potential Pole 1, is directly outside of my apartment
11 unit. And not only that, the light array at the top
12 of the pole would be at eye level with my unit.
13 Additional reference would be the view from my
14 apartment and a small diagram showing the pole
15 location.

16 MS. BUTANI-D'SOUZA: Can you state your name
17 again, sir?

18 MR. WRIGHT: James Wright. So, I think given
19 the obstruction that's either it shouldn't be allowed
20 to go through, or it should be relocated maybe 30 or
21 40 feet to the north of the current proposed
22 location.

23 MS. BUTANI-D'SOUZA: Okay.

24 MR. WRIGHT: So, I guess that's about it.

25 MS. BUTANI-D'SOUZA: Okay. Thank you.

1 MR. WRIGHT: All right. Thanks.

2 MR. HILL: No, Mr. Wright, that's all right.
3 I have a couple questions if I could.

4 MR. WRIGHT: Sure.

5 MR. HILL: So the 30 to 40 feet to the right,
6 you're saying, is that then going to be in front of
7 somebody else's window?

8 MR. WRIGHT: No, I'm on the corner unit.

9 MR. HILL: Okay. And did you hear the ANC
10 meeting?

11 MR. WRIGHT: No, I did not. I only learned
12 about this hearing based on the postings of the
13 orange signs, the placards on your outward fence.

14 MR. HILL: Okay.

15 MR. WRIGHT: Saying that this hearing was
16 today.

17 MR. HILL: Okay. And right now how is the
18 field lit at night?

19 MR. WRIGHT: It's really not.

20 MR. HILL: It's not. There's no lighting at
21 all at night?

22 MS. BUTANI-D'SOUZA: Mr. Wright, I think you
23 mentioned a few different issues at the start of your
24 statement. You said you were concerned about the
25 view, which we've discussed.

1 MR. WRIGHT: Correct.

2 MS. BUTANI-D'SOUZA: You also said you were
3 concerned about illumination of your apartment.

4 MR. WRIGHT: Right.

5 MS. BUTANI-D'SOUZA: And I think you said
6 vermin and traffic?

7 MR. WRIGHT: I said insect propagation. So
8 if it's directly in front of my apartment, you know,
9 maybe 30 feet straight across, you know to turn
10 lights on you'll have lots of bus, lots of you know,
11 unwanted pests from that regard.

12 MS. BUTANI-D'SOUZA: Okay.

13 MR. WRIGHT: The increased night time noise,
14 since there's no illumination at night there's no
15 usage of the field. I mean, that could be -- it
16 depends on how much usage it's intended to be done, I
17 suppose.

18 Increased traffic. If you're using it well
19 into the night I don't believe there are any students
20 that live on campus, so they would have to come in,
21 correct? So.

22 MS. BUTANI-D'SOUZA: Okay.

23 MR. WRIGHT: And then noise from the lights
24 themselves, again in such close proximity to the
25 lights then that could be a burden as well.

1 MS. BUTANI-D'SOUZA: Noise from the lights
2 themselves?

3 MR. WRIGHT: That's correct.

4 MS. BUTANI-D'SOUZA: Oh, like a buzzing
5 noise?

6 MR. WRIGHT: Yes.

7 MS. BUTANI-D'SOUZA: Okay. Okay. does the
8 Board have any other questions for this witness? No?

9 MS. COHEN: No.

10 MS. BUTANI-D'SOUZA: Okay. Does the
11 applicant have any questions for the witness?

12 MR. LEWIS: No, not right now. We're happy
13 to respond to some of his questions or concerns
14 though, for sure.

15 MS. BUTANI-D'SOUZA: Yes. I would like to
16 hear a response to some of these issues.

17 MR. LEWIS: Sure. So the first item to raise
18 is the height of the arrays. The arrays will be
19 taller, the lights themselves will be up above the
20 top of that building. They will not be in front of
21 any of the units.

22 MR. WRIGHT: About how far?

23 MS. BUTANI-D'SOUZA: What's the total height
24 of the building?

25 MR. STEPHENSON: The building, the penthouse

1 on the building at the corner is 90 feet, but the
2 roof above the apartment is 80 feet.

3 MS. BUTANI-D'SOUZA: It's not a habitable
4 penthouse though, is it?

5 MR. STEPHENSON: No, it's not. So the floor
6 level of the top floor apartments is, you know,
7 approximately 70 feet above the field and the lights
8 are on a pole, it's 90 feet. And the array is about
9 10 feet deep. So the lighting array itself will be
10 above the roofline of the apartments.

11 MS. BUTANI-D'SOUZA: So you said that the
12 pole, the total height of the pole, including the
13 array or the fixture is going to be 90 feet. That's
14 going to be the top.

15 MR. STEPHENSON: Correct.

16 MS. BUTANI-D'SOUZA: The array itself is 10
17 feet so that brings us to 80 feet.

18 MR. STEPHENSON: Right.

19 MS. BUTANI-D'SOUZA: And what's the height of
20 the building?

21 MR. STEPHENSON: The building roof where the
22 apartments are is about 80 feet.

23 MS. BUTANI-D'SOUZA: Is 80 feet. So the top
24 apartment would look out on to the pole.

25 MR. STEPHENSON: Look out on to the pole but

1 not the lighting. Or the lighting array will be
2 above them.

3 MS. BUTANI-D'SOUZA: Okay. Does that satisfy
4 some of your concerns about the view?

5 MR. WRIGHT: I think it makes sense if you're
6 looking directly out, but if you look up at all
7 you're still going to see the entire lighting array.
8 That is a concern of mine still.

9 MS. BUTANI-D'SOUZA: Okay. What about the
10 concerns about insect propagation?

11 MR. LEWIS: So one thing that would address
12 that is sort of the timeline of the usage of the
13 lights. Right now the field is used, you know,
14 outside daylight savings time as long as it's light
15 outside. The idea for these lights is to allow use
16 of the field during daylight savings time. So like
17 in the late fall, winter, early spring when it gets
18 dark at 4:00 or 5:00 at night that's the intent of
19 these fields. There's less insect activity in those
20 seasons; just the colder weather. So I guess that
21 would sort of go to the insect concern.

22 The same is true from a sort of noise or
23 usage perspective. The proposal is not to sort of
24 extend the use of the field throughout the course of
25 a day relative to what's used in the spring or early

1 fall. It's really about using it seasonally when
2 right now there's no light so at 5:30 in November
3 when it gets dark, you can't use the field. So our
4 understanding, our intent for the field is that it be
5 used -- the character of the use would be the same as
6 today, just seasonally we have lights on.

7 MS. BUTANI-D'SOUZA: So would you be willing
8 to add a condition to the approval where the lights
9 are not used over the summer? I think his concern is
10 the insects, that that would be over the summer. So,
11 is that something that you would be willing to do, or
12 would you want to do additional study to determine
13 what insect propagation is going to be an issue?

14 MR. LEWIS: So, as we confer here as a group,
15 our first proposal with the insects is if the bugs do
16 become a problem certainly happy to address that with
17 a pest control, working with the residents, or we did
18 meet, for what it's worth, we did meet with the
19 owners of the building. The architect did light
20 studies from some of the unoccupied units. I think,
21 did you do studies from the rooftop as well?

22 MS. BUTANI-D'SOUZA: I think we have a
23 question from the Board.

24 MR. LEWIS: Sure.

25 MR. HILL: No, I just had a question. Mr.

1 Wright again, is it a rental unit?

2 MR. WRIGHT: It is.

3 MR. HILL: Okay. So you rent there?

4 MR. WRIGHT: That's correct.

5 MR. HILL: Right? Okay. So, Madam Chairman,
6 my opinion on this again is that it just -- I mean, I
7 appreciate Mr. Wright coming down. I really do. And
8 if I could figure out a way that they could move the
9 light and --

10 MR. WRIGHT: Sure.

11 MR. HILL: -- do what you're speaking about,
12 I mean, as far as them addressing the issue of it's
13 above the, you know, our sightline, that's something
14 that's -- I mean, unfortunately, like I live right
15 out in front of a light pole myself. You know, and
16 that's just the way that works. But I do appreciate
17 -- I'm just, I guess what I'm trying to get at, Madam
18 Chair, is that it seems to be complicating the issue
19 in that they've gone through the ANC in terms of the
20 timing. You know, at 10:00 the lights are supposed
21 to be shut off, which is actually a pretty decent
22 time in my opinion.

23 So I don't know how the applicant is going to
24 address insects and things such as that. But I
25 suppose if you wanted to be willing to -- if the

1 apartment complex users have some issue with the
2 insects, taking some look at a solution, but I don't
3 even know how one solves that issue to be quite
4 honest. So what I'm getting at is, I don't know how
5 they're going to change their proposal is what I'm
6 getting at.

7 MR. LEWIS: I would say that the location of
8 the poles is really highly engineered to minimize --
9 to do two things, really. To minimize light spillage
10 off the site, but also to ensure the field is evenly
11 lit, which is very important for the users of the
12 field and that the field be evenly lit and that
13 lights not be shining in the user's eyes.

14 So the location of the poles is very -- would
15 be a very difficult challenge to solve. We're happy
16 to work with the neighbors, and we showed a
17 willingness to work with the neighbors before coming
18 here.

19 And one thing I would note to Mr. Wright's
20 concern is that the distance of the poles from the
21 building, there is fairly substantial distance
22 between the face of the building and the location of
23 the poles. It's not like the poles are right up
24 against the building.

25 MS. BUTANI-D'SOUZA: What's the distance?

1 MR. LEWIS: I think it's 50. Fifty.

2 MS. BUTANI-D'SOUZA: Fifty feet?

3 MR. STEPHENSON: We're about 28 and a half
4 feet from the façade of the building, and the
5 apartments do sit back from that.

6 MS. BUTANI-D'SOUZA: Okay.

7 MR. STEPHENSON: There is some terraces on
8 the first level, probably another 10 or 12 feet.

9 MS. BUTANI-D'SOUZA: Okay.

10 MR. STEPHENSON: So, you know, approximately
11 40 feet away.

12 MS. BUTANI-D'SOUZA: Okay. So, okay. All
13 right. Thank you.

14 Let's see. Do we have any -- let's see,
15 we've gone through the persons in support. Thank
16 you, Mr. Wright, for your comments.

17 MR. WRIGHT: Thank you.

18 MS. BUTANI-D'SOUZA: Does the applicant wish
19 to offer any rebuttal or closing statements?

20 MR. LEWIS: Yeah, it may be worth making just
21 a statement about the light level. Brian did an
22 extensive study in the building and on top of the
23 building about light spillage and it might just be
24 worth you understanding the analysis there.

25 MS. BUTANI-D'SOUZA: Yes.

1 MR. LEWIS: We did considerable study.

2 MS. BUTANI-D'SOUZA: Absolutely.

3 MR. STEPHENSON: This gentleman's concern
4 about light coming in to his apartment, clearly we're
5 aware that that would be a concern of the people who
6 live there and want to address that well. I've
7 already spoke to you about how we've lit the field
8 from poles that are taller than normal so that we can
9 get more light control on the field. There will,
10 however, be some light that spills off the field. We
11 estimate about two foot candles average will fall on
12 the façade of the apartment building.

13 MS. BUTANI-D'SOUZA: Can you help us
14 understand, since not everyone here is an expert in
15 foot candles, can you help us understand what a foot
16 candle is or what that's -- what two foot candles
17 would be equivalent to?

18 MR. STEPHENSON: Two foot candles would be
19 the lighting on a suburban residential street.

20 MS. BUTANI-D'SOUZA: Okay. At night.

21 MR. STEPHENSON: So maybe it's kind of --
22 this building is about, the room we're in now, we're
23 probably about 40 foot candles in here.

24 MS. BUTANI-D'SOUZA: Okay.

25 MR. STEPHENSON: In your apartment or your

1 home at night you're probably, if you have the lamps
2 on or the ceiling lights overhead, you're probably
3 anywhere from five to 10 foot candles.

4 MS. BUTANI-D'SOUZA: I see. So there's going
5 to be a little bit of light but not a tremendous
6 amount of light.

7 MR. STEPHENSON: Right. Now that's light
8 that is on the façade of the building. Realistically
9 only about half that light is actually going to get
10 through the glass into the apartment because we have
11 energy efficient glass which blocks a lot of, you
12 know, heat and that also blocks the light
13 transmission coming through.

14 MS. BUTANI-D'SOUZA: Okay. So this is
15 significantly less light than if, for example, you
16 had a street light out in front of your home, for
17 example?

18 MR. STEPHENSON: Definitely.

19 MS. BUTANI-D'SOUZA: Okay.

20 MR. STEPHENSON: In fact, I've been in two
21 apartments in the building, one that faces the field
22 and one that faces H Street. On H Street the street
23 lights are putting out about five to seven foot
24 candles. When you get inside the apartment there's
25 only about half of a foot candle. The windows are

1 that good at blocking the light that's coming in.

2 MS. BUTANI-D'SOUZA: Okay. That's very
3 helpful to know. Okay. Are there any other
4 questions?

5 MR. LEWIS: I'm sorry. Just one other point
6 to Mr. Wright's concerns. He did raise a concern
7 about traffic. Our intent to using the field is that
8 the students that would use the field would already
9 be on campus for school throughout the day. And in
10 fact right now they're bussed off campus to use
11 fields throughout the region when it gets too dark to
12 practice on the field. So our expectation is that it
13 will reduce traffic, you know, a de minimis amount,
14 the buses leaving campus. But there's no expectation
15 that this will increase traffic to the site.

16 MS. BUTANI-D'SOUZA: Okay. And you all did
17 extensive outreach with the ANC. Did you modify your
18 plans at all in --

19 MR. LEWIS: The ANC asked us to include the
20 10:00 shut-off, which we happily agreed to. And just
21 the way that works is that's an automatic override.
22 If for some reason whoever was using the field you
23 know, left without turning it off, a timer would turn
24 it off essentially 30 minutes before. It would start
25 to shut the lights down 30 minutes before 10:00. And

1 there's, of course, a manual override. So if
2 everyone is done with the field by 8:00 p.m. then the
3 lights could be shut off then.

4 MS. BUTANI-D'SOUZA: Terrific. Okay.

5 MR. LEWIS: And for what it's worth, when we
6 met with the owners of the building they were in
7 correspondence with the ANC as well, and didn't you
8 know, affirmatively raise any objections or concern
9 to the ANC. So their voice was heard in this process
10 as well.

11 MS. BUTANI-D'SOUZA: Thank you. Okay. So,
12 with that the hearing procedures are concluded, so I
13 would move that we go to deliberation on this case.
14 Okay.

15 So, Mr. Hill, would you like to start?

16 MR. HILL: Sure. I mean, again, Madam Chair,
17 as I had said earlier, I appreciate the level of
18 effort the school has gone through reaching out to
19 the ANC, working with the ANC, getting the 10:00 shut
20 off. I think that they have done you know, their
21 significant amount of community outreach and I would
22 be prepared to vote in favor of this. And also the
23 Office of Planning has reviewed, and I agree with
24 their analysis. I also do, you know, I appreciate
25 that Mr. Wright came down and had the opportunity to

1 kind of like speak and not to be flippant because I
2 don't -- you know, it's kind of nice, you can watch
3 football maybe, in the evening.

4 And so, but -- so that's where I stand.

5 MS. COHEN: Madam Chairwoman, I would concur
6 with my colleague in his assessment. So I am ready
7 to move if it's okay.

8 MS. BUTANI-D'SOUZA: Sure. I would just note
9 that first of all, Mr. Wright, I really do appreciate
10 you coming down here. I know that not everybody has
11 a chance to attend ANC meetings and I think it's
12 important for the applicant to hear your concerns.

13 MR. WRIGHT: Thank you.

14 MS. BUTANI-D'SOUZA: I do think the applicant
15 has mentioned that the light array is going to be
16 above the roofline of the apartments, which I think
17 is -- hopefully addresses some of your concerns. I
18 do think that whether they're 28 feet away or 40 feet
19 away, depending on how you count that, that's a
20 pretty far distance for insects to be a huge issue,
21 and it does sound as though they're not going to be
22 using this during the summer time very much.

23 So I think a lot of the concerns that were
24 raised were well discussed, so I am also inclined to
25 approve -- does Mr. Hinkle have anything to add? No?

1 Okay.

2 So in that case I would make a motion to
3 approve the relief requested with the condition that
4 has been recommended by the ANC and OP and approved
5 by the applicant. Is there a second?

6 MS. COHEN: Second.

7 [Vote taken.]

8 MS. BUTANI-D'SOUZA: Okay. The motion
9 carries. Thank you so much.

10 MR. LEWIS: Thank you.

11 MR. WRIGHT: Thank you very much.

12 MR. MOY: Staff would record the vote as four
13 to zero to one. This is on the motion of Chairperson
14 Butani for granting the relief as requested with the
15 one condition. Seconding the motion, Ms. Cohen.
16 Also in support, Mr. Hill and Mr. Hinkle. No other
17 board member. Motion carries, Madam Chair.

18 MS. BUTANI-D'SOUZA: Thank you, Mr. Moy.
19 Summary order.

20 MR. MOY: Thank you.

21 MS. BUTANI-D'SOUZA: Okay. And we're going
22 to take a five to 10 minute break since we've missed
23 our 10:30 break. Thank you.

24 [Short break.]

25 MS. BUTANI-D'SOUZA: Okay. Can everyone hear

1 me in the back? We've heard that it's a little bit
2 difficult to hear us. Okay. So the hearing is
3 coming back to order.

4 MS. COHEN: Madam Chair, if you cannot hear,
5 raise your hand and we'll look out and see that
6 you're unable to hear us. Is that okay?

7 MS. BUTANI-D'SOUZA: Okay. Okay. Mr. Moy,
8 if you can call our next case, please?

9 MR. MOY: Thank you, Madam Chair. Parties to
10 the table to Application No. 19295 of Michael Maddox.
11 This application was captioned and advertised for
12 special exception relief under Section 223, not
13 meeting the lot occupancy requirements under 403.2,
14 rear yard requirements 404.1, this would construct a
15 rear deck addition to an existing one-family dwelling
16 R-3 District, 1363 Rittenhouse Square -- Rittenhouse
17 Street. Sorry, my apologize. Northwest. Square
18 2789, Lot 118.

19 MS. BUTANI-D'SOUZA: Thank you, Mr. Moy. If
20 you could please introduce yourselves for the record.

21 MS. SHARE: Yeah. Hello. Hi. My name is
22 Thaham Share. I am the agent for my client, Michael
23 Maddox.

24 MR. MADDUX: And I'm Michael Maddox.

25 MS. BUTANI-D'SOUZA: Okay. Thank you.

1 MS. SHARE: He is the owner and resident of
2 the property.

3 MS. BUTANI-D'SOUZA: Okay. Thank you. So
4 the Board has reviewed all of the background
5 submitted to the record and I don't believe that we
6 need a full statement unless there's something that
7 you wish to particularly call our attention to?

8 MS. SHARE: No, I think we're good.

9 MS. BUTANI-D'SOUZA: Okay. So, with that I
10 would like to move directly to the Office of
11 Planning.

12 MR. JESICK: Thank you, Madam Chair and
13 Members of the Board. My name is Matt Jesick. The
14 Office of Planning can rest on the record in support
15 of the application. Thank you.

16 MS. BUTANI-D'SOUZA: Thank you, Mr. Jesick.
17 Okay. Let's see. I note that we have a report of no
18 objection from the Department of Transportation. Is
19 anyone from the Department of Transportation here to
20 speak?

21 Okay. Next we would move on to the Advisory
22 Neighborhood Commission. Is anyone here from the ANC
23 who wishes to speak? I note that we do not have a
24 report on file but the applicant noted that the ANC
25 is not opposed but is not intending on submitting a

1 report. Is that correct?

2 MS. SHARE: Yes. And also, on file there is
3 an e-mail that we received from Commissioner
4 Singleton saying that she also spoke to many
5 residents in the area and there was no objection, and
6 she did not mind using the e-mail in support of her
7 argument.

8 MS. BUTANI-D'SOUZA: Okay. Thank you. Are
9 there any persons who wish to speak in support of the
10 application?

11 Are there any parties or persons wishing to
12 speak in opposition to the application?

13 I do note that we have a letter in the record
14 expressing concerns about the project, but that the
15 applicant has supplied a response to those concerns
16 as well.

17 Does the Board have any questions for the
18 applicant?

19 Okay. So then I would move that we move to
20 deliberations on this case. Okay.

21 So although we don't have an ANC report on
22 file I do note that the ANC received notice of the
23 hearing on May 4th, which gave them over two months
24 to provide a report and the applicant indicated that
25 there is an e-mail exchange with the ANC in the

1 record.

2 As I saw this, I think it meets the criteria
3 for the special exception as outlined in OP's
4 analysis. Therefore, I would move to approve the
5 request for relief as captioned.

6 MR. HINKLE: Second.

7 MS. BUTANI-D'SOUZA: There has been a -- the
8 motion has been made and seconded.

9 [Vote taken.]

10 MS. BUTANI-D'SOUZA: The motion carries.

11 MR. MOY: Staff would record the vote as four
12 to zero to one. This is on the motion of Chair
13 Butani approving the applications for the relief
14 requested. Seconding the motion, Mr. Hill. Also in
15 support, Ms. Cohen, Mr. Hinkle, Ms. Heath not present
16 with us today. Motion carries, four to zero to one.

17 MS. BUTANI-D'SOUZA: Thank you. Summary
18 order.

19 MR. MOY: Thank you.

20 MS. SHARE: Thank you.

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

22 MR. MOY: Okay. The next application before
23 the Board, I believe, Madam Chair, is Application No.
24 19310 of Kenneth A. Golding, captioned and advertised
25 for relief for variances from the nonconforming

1 structure provision under 2001.3, special exception
2 from the apartment house expansion requirement
3 Section 336, lot occupancy requirements under Section
4 403.2, I believe, and the penthouse setback
5 requirements under 411.11. This would renovate and
6 expand an existing apartment house, R-4 District, 622
7 through 624 North Carolina Avenue Southeast, Square
8 871, Lot 42.

9 MS. BUTANI-D'SOUZA: Thank you, Mr. Moy.
10 Okay. Would you please introduce yourselves for the
11 record?

12 MR. GOLDING: Hi. I'm Alex Golding. I'm
13 representing my father who is --

14 MS. BUTANI-D'SOUZA: Can you turn your mic
15 on?

16 MR. GOLDING: Sorry. Excuse me. My name is
17 Alex Golding and I'm representing my father who is
18 shortly coming in.

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

20 MR. BLODNIKAR: I'm Eric Blodnikar, lead
21 designer for the project.

22 MS. AGBOOLA: Ajoke Agboola from Griffin,
23 Murphy, Moldenhauer, and Wiggins, land use counsel
24 for the applicant.

25 MS. MOLDENHAUER: Meredith Moldenhauer.

1 MS. BUTANI-D'SOUZA: Thank you. Okay. So,
2 we have reviewed the record here and I don't think we
3 need a full statement from the applicant. Does the
4 Board have any questions of the applicant?

5 No? Okay. Why don't we move --

6 MS. COHEN: Yeah, I just would like for the
7 record, the applicant to respond to the ANC's
8 objections. Right? This is Webster?

9 MR. HILL: No, no, no.

10 MS. COHEN: Oh, I'm sorry. Oh, okay. I'm
11 sorry. I'm in the wrong place. You know what, no
12 way, you don't have to do any of that.

13 MS. BUTANI-D'SOUZA: Okay. With that why
14 don't we turn to the Office of Planning?

15 MS. ELLIOTT: Thank you, Madam Chair. For
16 the record I'm Brandice Elliott with the Office of
17 Planning. We are recommending approval of all the
18 relief that's been requested for this project. I
19 would note that ordinarily we would take issue with
20 the variance from 336.5 where there is not 900 square
21 feet of land area per unit. But in this case it's an
22 existing apartment house. And in fact the
23 improvements are going to create, you know,
24 apartments that are more in demand for this area. So
25 because the units aren't being increased we are in

1 support of the request.

2 MS. BUTANI-D'SOUZA: So there's no additional
3 relief, then, required for the 900 square foot --

4 MS. ELLIOTT: The applicant has requested
5 that.

6 MS. BUTANI-D'SOUZA: Okay. I see. Any
7 questions for the Office of Planning?

8 Okay. Then we will move on. I see that we
9 have a report of no adverse impacts from the
10 Department of Transportation. Is there anyone from
11 the Department of Transportation who wishes to speak
12 on this application?

13 Okay, seeing none. We have a report from ANC
14 6B in support of this application, including the
15 additional relief that's been requested. Do we have
16 anyone from the ANC who wishes to speak? Seeing
17 none.

18 Are there any persons or parties who wish to
19 speak in support of this application?

20 Are there any parties or persons wishing to
21 speak in opposition to this application?

22 Okay. Seeing none, I don't think there is a
23 need for rebuttal or closing unless you wish to make
24 a statement.

25 MS. AGB00LA: Chairperson D'Souza, I just

1 want to note when reviewing the file last night I
2 noticed that our hearing notice, the posting, had the
3 wrong hearing date. And so we would request that
4 pursuant to 3100.5 that the Board waive that
5 technicality. I just want to note that the notices
6 that went out to the 200 footers all had the correct
7 hearing date, the ANC was aware of the correct
8 hearing date, the agenda noted the correct hearing
9 date, they have done outreach with the neighbors,
10 they knew the correct hearing date. If anyone was to
11 attend on July 6th they would have been informed by
12 the Office of Zoning that that was a typo. So we
13 don't think anyone has been prejudiced by that
14 technical error.

15 MS. BUTANI-D'SOUZA: Okay. Thank you. I'm
16 okay with that.

17 MS. COHEN: Yeah.

18 MS. BUTANI-D'SOUZA: Okay. All right. So, I
19 think with that I would say that we should move to
20 deliberation on this case.

21 I would make a motion to approve the request
22 for relief as captioned.

23 MR. HILL: Second.

24 MS. BUTANI-D'SOUZA: Okay. The motion has
25 been made and seconded.

1 [Vote taken.]

2 MS. BUTANI-D'SOUZA: Okay. Seeing none,
3 thank you.

4 MS. MOLDENHAUER: We'd request that you waive
5 your requirements for summary order.

6 MS. BUTANI-D'SOUZA: Yes, summary order.

7 MS. MOLDENHAUER: And make sure that it's not
8 the captioned request but the request with the added
9 variance relief.

10 MS. BUTANI-D'SOUZA: Mr. Moy, can we make
11 sure that the relief --

12 MR. MOY: Oh, absolutely, Madam Chair. Staff
13 would record the vote as four to zero to one. This
14 is on the motion -- this is on your motion to
15 approve, and of course noting the amendment.
16 Seconded the motion, Mr. Hill. Also in support, Ms.
17 Cohen, Mr. Hinkle, Marnique Heath not present with us
18 today, and this is a summary order.

19 MS. BUTANI-D'SOUZA: Thank you very much.
20 Thank you.

21 MR. MOY: Okay. Let's see. Application No.
22 19314 of the American Geophysical Union, captioned
23 and advertised for variance from the off-street
24 parking requirements 2101.1, special exception from
25 the penthouse setback requirements under 777 and

1 411.18, renovating an existing office building
2 including the installation of a rooftop solar array,
3 DC/C-3-B District, 2000 Florida Avenue Northwest,
4 Square 90, Lot 33.

5 MS. BUTANI-D'SOUZA: Thank you, Mr. Moy.
6 Would you please introduce yourselves for the record?

7 MS. PRINCE: Allison Prince with Goulston and
8 Storrs here on behalf of the applicant, the American
9 Geophysical Union.

10 MS. McENTEE: Christine McEntee, the Chief
11 Executive Officer of the American Geophysical Union.

12 MS. LENNIHAN: Holly Lennihan, Hickok Cole
13 Architects.

14 MR. FRECHETTE: Roger Frechette, the managing
15 principal with Interface Engineering.

16 MS. BUTANI-D'SOUZA: Thank you, so much. I
17 see that you have provided us with a rather lengthy
18 submission here. Is this something that's already in
19 the record or --

20 MS. LENNIHAN: It is. There are two slides
21 at the end that include information about the net
22 zero energy. We found at the Historic Preservation
23 Review Board hearing that it was helpful to have
24 them, so we provided the entire packet again.

25 MS. BUTANI-D'SOUZA: Thank you very much. So

1 this basically shows the -- why don't you go ahead
2 and explain to us what these two slides show?

3 MS. LENNIHAN: I'll go ahead and forward it
4 to them. Roger, if you want to go ahead and talk
5 about the -- they've asked about this, these two
6 slides.

7 MR. FRECHETTE: So the two slides at the end
8 of the package describe how the TV array contributes
9 to the overall building design. For the AG project
10 it was our design criteria to get to net zero energy,
11 and this is not an easy task. There's 5.6 million
12 office buildings in the United States. Only nine of
13 them have achieved net zero energy thus far, and
14 there are zero in Washington, D.C.

15 So to do that we have to start with the
16 building as it is today and reduce energy. And
17 that's measured in Eli Kilowatt hours per square foot
18 per year. And our starting point is 64. That's how
19 much energy that the building consumes today. So
20 there are a number, there are dozens of high
21 performing sustainable strategies that have been
22 applied to the design of the building. And by
23 applying these strategies we're able to get that Eli
24 from a number of 64 down to a number of 10.

25 But as with all other net zero energy

1 buildings it is impossible to get to net zero energy
2 without a renewable energy source. And in the case
3 of all of those other net zero buildings that is done
4 with [garbled speech].

5 That said, it's our intention to get to net
6 zero with the smallest possible solar array that we
7 can, and we've used the highest performing solar
8 panels that are available on the market. And the
9 array that is shown within the package is that
10 smallest array that we could fit on the building and
11 still get to that net zero energy mark.

12 MS. BUTANI-D'SOUZA: Thank you so much. Does
13 the Board have any questions for the applicant?

14 MS. COHEN: So you're adapting the building.
15 So that's the difficulty, why we probably don't have
16 other buildings making net zero. Is that correct?

17 MR. FRECHETTE: Yeah, within this
18 environment, with the amount of the sun and humidity
19 that we have it is difficult to get to net zero. So
20 just having one or two strategies we would not have
21 been able to get there. But by applying all the
22 strategies, including the PV, we get there but just
23 barely. And that was one of the points that I wanted
24 to make today. If this building were even one story
25 taller it would not have been possible to get to net

1 zero because the ratio of roof area to building area
2 is so important in that equation.

3 MS. COHEN: Ms. Prince is aware that I'm very
4 environmentally active, an activist. LEED Platinum,
5 because it's a new building, is it comparable for net
6 zero? Didn't things --

7 MR. FRECHETTE: You can get to LEED Platinum
8 with a much lesser reduction in total energy
9 consumption.

10 MS. COHEN: Okay.

11 MR. FRECHETTE: We have a number of LEED
12 Platinum buildings that we've designed where we've
13 reduced that energy consumption by 30 or 40 percent.
14 Where here we're reducing it by 85 percent prior to
15 the application of the renewable, so it is a very,
16 very very efficient building.

17 MS. COHEN: Well, I commend you and I'm sure
18 you're going to be on the speaker circuit. So, thank
19 you.

20 MR. FRECHETTE: Thank you.

21 MR. HILL: Thank you, Madam Chair. The only
22 question I have, I mean, I see as far as the outreach
23 and you have the letter from Councilmember Evans and
24 then also Director of D0EE, Tommy Wells in support.
25 But there's nothing from the ANC?

1 MS. PRINCE: The ANC has -- is unanimously in
2 support of the project. They filed a letter in the
3 HPRB record in support, 9-0. The Planning and Zoning
4 Committee has supported it and we appeared before the
5 ANC just last week on July 13th. They voted again
6 unanimously in support. We're not clear on why the
7 letter hasn't made it into the record. We've been
8 trying to track down our SMD and have not been able
9 to. But certainly the transcript of the ANC and
10 Daniel Warwick, our SMD, appeared before the HPRB and
11 gave a very impassioned plea in favor of our project.

12 MR. HILL: Okay. And you'll just add it into
13 the record when you get it?

14 MS. PRINCE: We will.

15 MR. HILL: Okay. Thank you.

16 MS. BUTANI-D'SOUZA: Thank you. If there are
17 no other questions for the applicant I think we
18 should turn to the Office of Planning.

19 MS. VITALE: Good morning, Madam Chair,
20 Members of the Board. Alisa Vitale with the Office
21 of Planning, and we will rest on the record in
22 support of the requested relief. I can answer any
23 questions at this time. Thank you.

24 MS. BUTANI-D'SOUZA: Thank you. Okay. So, I
25 note that we have a report of no objection from the

1 Department of Transportation provided that the
2 transportation demand management plan is submitted to
3 the record. Has that been submitted to the record?

4 MS. PRINCE: Yes, we downloaded that to IZIS.

5 MS. BUTANI-D'SOUZA: Wonderful. DDOT also
6 notes that the applicant will need to continue to
7 work with DDOT on public space issues, which I assume
8 is not going to be an issue.

9 MS. PRINCE: Yes. One of the TDM measures is
10 the installation of bike racks in public space and
11 they need to clearly approve that.

12 MS. BUTANI-D'SOUZA: Wonderful. Okay. We
13 don't have a report in the record from the Advisory
14 Neighborhood Commission, but we've heard that they
15 are in support of the project. Is there anyone here
16 from the ANC who wishes to speak on this application?

17 Okay. Are there any parties or persons who
18 wish to speak in support of this application? I do
19 note that we have a letter in the record from
20 Director Tommy Wells of the Department of Energy and
21 the Environment who enthusiastically supports this
22 project.

23 Are there any parties or persons who wish to
24 speak in opposition to this application?

25 Okay, seeing none. We do have also concept

1 approval from the Historic Preservation Review Board,
2 and I don't think there's a need for any closing
3 statement or rebuttal, but certainly if you wish to
4 make any statements.

5 MS. PRINCE: Not necessary if it's not
6 necessary for you.

7 MS. BUTANI-D'SOUZA: Okay. Thank you. So I
8 would -- I think that we should move to deliberation
9 on this case. So first of all I would just like to
10 also commend the applicant on putting together a
11 unique industry leading building here, building
12 renovation. This is not something that we typically
13 see. We all know the tremendous impact that
14 buildings have on the environment, that the built
15 environment has on our environment as a whole, and I
16 know how difficult it is to achieve something like
17 this so that really is commendable.

18 This is extremely well aligned with the
19 City's sustainability goals, including the recently
20 implemented storm water management runoff
21 regulations. This is the first of -- I believe the
22 applicant noted that this is the first renovation of
23 its kind and that Director Wells has noted that he
24 hopes that this will be a catalyst for other
25 buildings in the District of Columbia. I know that

1 the District of Columbia really leads the country in
2 terms of its green buildings. So I am
3 enthusiastically in support of this application.

4 MR. HILL: I agree.

5 MS. BUTANI-D'SOUZA: Okay. Any other
6 comments?

7 Okay. So I would make a motion to approve
8 the relief as captioned.

9 MS. COHEN: Second.

10 [Vote taken.]

11 MS. BUTANI-D'SOUZA: Okay. The motion
12 carries.

13 MS. PRINCE: Thank you.

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

15 MR. FRECHETTE: Thank you.

16 MS. BUTANI-D'SOUZA: Summary order.

17 MR. MOY: Staff would record the vote as four
18 to zero to one. This is on the motion of Chairperson
19 Butani for the relief requested, approval. Seconding
20 the motion, Ms. Cohen. Also in support, Mr. Hill and
21 Mr. Hinkle. Ms. Heath not present today. Motion
22 carries.

23 MS. BUTANI-D'SOUZA: Thank you, Mr. Moy.
24 Summary order. And I think we are ready for our next
25 case when you are.

1 MR. MOY: Okay. Application number --
2 parties to the table to 19319 of Capitol Hill Squash
3 Club Association. This is a request for a special
4 exception relief from the nonconforming structure --
5 or rather, nonconforming use requirements under 2003,
6 to use the second floor of a building as a group
7 instruction, and in parens, (exercise studio) the
8 CAP, C-A-P/R-4 District, 218 D Street Southeast,
9 Square 763, Lot 2.

10 MS. BUTANI-D'SOUZA: Thank you, Mr. Moy.
11 Would you please introduce yourselves for the record?

12 MR. GAON: Joe Gaon from the law firm Holland
13 and Knight on behalf of the Applicant.

14 MS. BUTANI-D'SOUZA: Can you --

15 MR. CRICK: Sorry. I'm Mark Crick, I'm the
16 owner of Balance Gym.

17 MS. BUTANI-D'SOUZA: Thank you. Okay. So we
18 have reviewed the information submitted to the
19 record. I don't think we need a full statement
20 today. Does the Board have any questions for the
21 applicant?

22 MS. COHEN: No.

23 MS. BUTANI-D'SOUZA: Okay. Why don't we go
24 ahead and move, then, to the Office of Planning?

25 MS. THOMAS: Good morning, Madam Chair.

1 Karen Thomas for the Office of Planning. We have
2 nothing further to add to the record and we stand on
3 the record of our approval. Thank you.

4 MS. BUTANI-D'SOUZA: Thank you, Ms. Thomas.
5 Okay. I note that we have a letter of no objection
6 from the Department of Transportation. We have also
7 -- is there anyone from the Department of
8 Transportation who wishes to speak on this? I see no
9 one.

10 We have a unanimous resolution from ANC 6D,
11 unanimously supporting the requested relief. Is
12 there anyone from the ANC who wishes to speak?

13 Okay. Seeing none. Are there any persons
14 who wish to speak in support of this application?

15 Seeing none, any persons who wish to speak in
16 opposition to the application? Okay.

17 I don't think that there's a need for a
18 rebuttal or a closing statement unless you feel
19 compelled. No? Okay.

20 All right. Then I would say we should move
21 to deliberations. I would make a motion to approve
22 the request for relief as captioned. Is there a
23 second?

24 MS. COHEN: Second.

25 MR. HILL: Second.

1 MS. BUTANI-D'SOUZA: There's an enthusiastic
2 second. Okay.

3 [Vote taken.]

4 MS. BUTANI-D'SOUZA: Okay. The motion
5 carries. Thank you.

6 MR. MOY: Staff would record the vote as four
7 to zero to one. This is on the motion of Chairperson
8 Butani for the relief requested. Seconding the
9 motion staff will take liberty and Ms. Cohen
10 seconding, since this probably may be your last time
11 with the Board. Also in support, Mr. Hill and Mr.
12 Hinkle. Ms. Heath not present.

13 MS. BUTANI-D'SOUZA: Thank you. Summary
14 order.

15 MR. MOY: Thank you.

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

17 MR. MOY: Application No. 19244 of Club
18 Monaco. Special exception relief on the roof mounted
19 mechanical equipment requirements under 411.11. This
20 is to construct or install a new rooftop mechanical
21 equipment in the C-2-A District, 3295 M Street
22 Northwest, Square 1206, Lot 38.

23 MS. BUTANI-D'SOUZA: Thank you, Mr. Moy.
24 Okay. Would you please introduce yourself for the
25 record?

1 Good morning, Madam Chairperson, Board.
2 Andrew Lee of MNA, representing the applicant, Club
3 Monaco.

4 MS. BUTANI-D'SOUZA: Thank you. Okay. It
5 looks like your application is complete. I don't
6 think we will need a full presentation. I see that
7 there is no ANC report on file, but it looks like the
8 ANC was notified of the hearing back in February.

9 Can you help us understand what efforts you
10 have made to reach out to the ANC?

11 MR. LEE: I did upload -- I know it was late,
12 just yesterday, correspondence with Bill Sterills
13 (phonetic) the Vice Chairman of ANC 2E. That's
14 Exhibit No. 37. And then also Exhibit No. 38, an e-
15 mail from Peter Sakler (phonetic) that this project
16 would not be put on the agenda for review.

17 The agenda for the May 31st ANC hearing
18 reflects that.

19 MS. BUTANI-D'SOUZA: Thank you. Just give us
20 one moment to take a quick look at these exhibits.

21 [Pause.]

22 MS. BUTANI-D'SOUZA: Okay. So it looks as
23 though the ANC has chosen not to review this
24 application, which is their prerogative.

25 Okay. So why don't we go ahead and move to

1 the Office of Planning?

2 MS. FOTHERGILL: Good morning. For the
3 record I'm Anne Fothergill with the Office of
4 Planning.

5 The Office of Planning supports the request
6 for a zoning relief based on the operating
7 difficulties and conditions related to the structural
8 support of the building. But I do want to note that
9 CFA, there was some e-mail correspondence yesterday
10 with CFA regarding this application, and they are
11 concerned about visibility from Prospect Street. And
12 so they were discussing the height of the equipment
13 and possible screening. And so I would -- I think
14 that's part of the applicant's submission. It's
15 related to the relief they're requesting, but I just
16 wanted to bring that to your attention.

17 MS. BUTANI-D'SOUZA: So CFA may choose to
18 impose a requirement for screening?

19 MS. FOTHERGILL: No, they have already
20 reviewed it.

21 MS. BUTANI-D'SOUZA: They've already reviewed
22 it.

23 MS. FOTHERGILL: That's right.

24 MS. BUTANI-D'SOUZA: They don't require
25 screening from Prospect Street.

1 MS. FOTHERGILL: I think that they reviewed
2 it and thought it was not visible from Prospect, and
3 now have --

4 MS. BUTANI-D'SOUZA: Possibly changed their
5 mind?

6 MS. FOTHERGILL: Well, they're not going to
7 review it again is my understanding. But again, the
8 applicant can -- has had more communication with them
9 than the Office of Planning has. But I think they
10 just wanted to bring it to the Office of Planning's
11 attention, to then bring it to your attention.

12 MS. BUTANI-D'SOUZA: Okay. Does the Office
13 of Planning have any concerns about the sight lines?

14 MS. FOTHERGILL: I think it's the same, you
15 know, analysis that we did as part of the zoning
16 relief, and it's mechanical equipment and based on a
17 number of factors we support the relief that was
18 requested.

19 MS. BUTANI-D'SOUZA: Okay. Thank you. Does
20 any member of the Board have a question for the
21 Office of Planning? Okay. We have a question for
22 the applicant.

23 MS. COHEN: Thank you, Madam Chair. Just a
24 question, the Georgetown Historic District, have they
25 reviewed it and approved it?

1 MR. LEE: Yes.

2 MS. COHEN: I didn't see anything in the
3 record, but that -- maybe I just --

4 MR. LEE: Exhibit No. 33, e-mail from Timothy
5 today, lists --

6 MS. COHEN: Ask the Commission to final --

7 MR. LEE: Right, which --

8 MS. COHEN: Isn't there more a neighborhood
9 based --

10 MR. LEE: The OGB, which is the Old
11 Georgetown Board, is a subset of the CFA.

12 MS. COHEN: Okay. All right. Thank you for
13 that clarification.

14 MS. BUTANI-D'SOUZA: Okay. Thank you very
15 much. Do we have any other questions for the
16 applicant or for OP? No?

17 Okay. So then let's move right along.
18 Department of Transportation. Do we have anything in
19 the record from the Department of Transportation? I
20 didn't see anything but I don't think that this
21 actually --

22 MS. COHEN: Exhibit 25.

23 MS. BUTANI-D'SOUZA: Oh, Exhibit 25?

24 MS. COHEN: I'm sorry.

25 MR. LEE: Yeah, 25.

1 MS. COHEN: Yeah.

2 MS. BUTANI-D'SOUZA: Okay. So we have a
3 report of no objection from the Department of
4 Transportation. I see that we do not have any
5 letters in the record in support or opposition. Let
6 me actually rewind for a moment.

7 Do we have anyone from the Department of
8 Transportation who wishes to speak on this
9 application?

10 Okay. Seeing none. We have already
11 discussed the ANC. Is there anyone from the ANC who
12 wishes to speak on this application?

13 All right. And we do have the recommendation
14 for approval from CFA. Are there any parties or
15 persons who wish to speak in support of this
16 application?

17 Okay. Seeing none, are there any parties or
18 persons who wish -- excuse me. Parties or persons
19 who wish to speak in opposition to this application?
20 Okay. Why don't you come forward, sir?

21 Okay. If you could please introduce yourself
22 for the record?

23 MR. DeMICHAELIS: Sure. My name is Jeremiah
24 DeMichaelis.

25 MS. BUTANI-D'SOUZA: DeMichaelis. Mr.

1 DeMichaelis. Okay. We're going to give you three
2 minutes.

3 MR. DeMICHAELIS: Very good. I'm the owner
4 of the property at 1217 33rd Street. 33rd Street is
5 of course a north/south street with rear gardens
6 facing east. There are about 10 or 11 townhouses
7 proceeding up 33rd Street.

8 When you stand in your garden at 33rd Street
9 what you see is a 20-foot high brick wall which is
10 the Eaton Court project, which was permitted to build
11 that project right up to the property line.

12 The property behind our townhouses consists
13 of about 15 feet of garden and a two or three-foot
14 easement. Then right at that property line you have
15 a sheer wall going up blocking the sun facing from
16 the east.

17 Now you're proposing on the south end of this
18 walkway, easement, and the gardens, a raising of the
19 elevation for Club Monaco. That's the only gap of
20 sun coming from the south. So you have your
21 townhouse to the right, 15-foot garden easement, a
22 sheer brick wall, and a gap south where sunlight
23 comes in. That's one significant concern,
24 diminishing the sunlight from the south.

25 The second concern has to do with this notion

1 that is contained in the applicant's -- I see it in
2 the applicant's letter dated February 5th, that this
3 project is not visible from public space. This is
4 false on its face. I have owned that property for 40
5 years and I'm intimately familiar with what is
6 visible from public space and what isn't. This has a
7 direct line of sight to Prospect Street. It is
8 obscured when the foliage is out. That's six months.
9 But Fine Arts does not consider foliate when it
10 determines whether or not a property comes within
11 their jurisdiction.

12 They made an on-site visit, Fine Arts, in
13 May, and concluded that it was not visible from
14 public space. I wrote them thereafter. I said,
15 you're mistaken. This is visible from public space.
16 They revisited the site a matter of three weeks ago,
17 and I have communications, e-mail communications from
18 them indicating they made, and I will characterize it
19 as rare, they made a rare mistake.

20 They have concluded upon reexamination of a
21 second on-site visit, that they do have jurisdiction,
22 what they're going to do with that jurisdiction I
23 can't say. This is the staff. I'm not talking about
24 the Board itself. The staff has concluded that this
25 is visible from public space. And they have informed

1 the Preservation Review Board of this reconsideration
2 and redetermination of this material fact.

3 On the basis of the false statement contained
4 in applicant's letter, reiterate -- now mind you,
5 this letter is February 5th. The Old Georgetown
6 Board didn't even make a determination until after it
7 made its first visit in May. So the applicant was
8 not relying on any statements of the Old George -- or
9 misstatements on the Old Georgetown Board.

10 This letter by the applicant indicating that
11 it was not visible from public space is false on its
12 face. And on that basis alone, in addition to the
13 concerns I have about diminished lighting, should be
14 grounds for disapproving the application.

15 Finally, applicant talks about the hardship
16 involved in the financial hardship of relocating --
17 of relocating the duct work on the interior of the
18 properties. All the residents have to do that. They
19 take their duct work, mechanical duct work, and they
20 put it, they put an air handler and a compressor on a
21 roof with direct access into the building for heating
22 and cooling.

23 The current duct work in the back of this
24 project, I refer to as the octopus. It is a
25 monstrosity of the large ducts which we have had to

1 live with for 40 years. Now that they propose to
2 elevate it one would have hoped in the last 40 years
3 that in consideration for their neighborhoods and
4 being a good corporate citizen, that they would have
5 put up some lattice work or barrier to what is there
6 currently. No.

7 MS. BUTANI-D'SOUZA: Okay. Okay. Thank you,
8 sir.

9 MR. DeMICHAELIS: Yes.

10 MS. BUTANI-D'SOUZA: I'm a little bit
11 confused. I'm sorry. Can you state your name again?

12 MR. LEE: Andrew Lee.

13 MS. BUTANI-D'SOUZA: Okay. Mr. Lee. Is this
14 already built?

15 MR. LEE: It is, yes.

16 MS. BUTANI-D'SOUZA: It is already built.
17 So, Mr. DeMichaelis, the first issue that you raised,
18 I do want to talk about your second point regarding
19 the visibility from Prospect Street, but I first want
20 to address the first question that you raised
21 regarding the diminishing sunlight from the south.

22 So this is already in place. Have you had
23 this issue of diminished sunlight from the south?

24 MR. DeMICHAELIS: Well, I would have -- I
25 thought they wanted to go higher.

1 MS. BUTANI-D'SOUZA: No, they do not want to
2 go higher. This is already what's there.

3 MR. DeMICHAELIS: Well, you know, this would
4 have been helpful to know at an ANC meeting, which I
5 attended when they were on the agenda, and they
6 didn't show up, number one.

7 What's the -- isn't the variance for
8 elevation of height by so many feet?

9 MS. BUTANI-D'SOUZA: So, in this case what's
10 happened is it looks as though this was constructed
11 without a permit. Is that correct?

12 MR. LEE: There were permits received in July
13 2015.

14 MS. BUTANI-D'SOUZA: Okay.

15 MR. LEE: It was constructed and completed in
16 December 2015.

17 MS. BUTANI-D'SOUZA: And then it was
18 determined that you need to come before CFA and this
19 Board?

20 MR. LEE: As part of the certificate of
21 occupancy process a member of the Office of Zoning
22 Administration sent a memo on a condition for the
23 certificate of occupancy to receive BZA relief on the
24 two units on the roof.

25 MS. BUTANI-D'SOUZA: I see. So in order to

1 receive your certificate of occupancy the Zoning
2 Administrator indicated by way of letter that you
3 needed to receive relief from the Board of Zoning
4 Adjustment, and I would assume also, the Historic
5 Preservation Review Board and that's why you came in
6 front of us shortly after?

7 MR. LEE: No, I actually went both to the OGB
8 and subsequently CFA, and then building permits in
9 July. When we were undergoing the BZA application
10 for this hearing I understand that the application
11 was released to all the various parties required to
12 review it. The OGB noticed that there was some duct
13 work which was not on the original application and
14 they questioned the duct work.

15 So the most recent OGB hearing was not in
16 relation to the two units. It was instead in
17 relation to the duct work that is associated with the
18 units.

19 On May 20 the OGB or CFA gave approval for
20 that duct work.

21 MS. BUTANI-D'SOUZA: Okay. So --

22 MR. LEE: However, talking about the units
23 here.

24 MS. BUTANI-D'SOUZA: Okay. So, Mr.
25 DeMichaelis, is your concern pertaining to the duct

1 work or to the units.

2 MR. DeMICHAELIS: Yeah, the duct work.

3 MS. BUTANI-D'SOUZA: The duct work.

4 MR. DeMICHAELIS: It's a monstrosity.

5 MS. BUTANI-D'SOUZA: Okay.

6 MR. DeMICHAELIS: I don't know how anybody
7 could tolerate that -- leaving that thing in visible
8 from public space.

9 MS. BUTANI-D'SOUZA: Okay. Help me
10 understand. Have you looked into providing screening
11 for this?

12 MR. LEE: We have considered and we've
13 discussed with OP and OZ as well regarding screening.
14 Because there are two units on the northwest corner
15 and the northeast corner to screen both units as it
16 pertains in the Zoning Regulations would create quite
17 a large screen that spans the whole width of the
18 property. And it will also extend to contain both of
19 those units.

20 Due to the location of those units in the
21 corners, such screening would -- may affect access to
22 those units as well as securing it to the building
23 itself, which is a building from 1910 or 1911.

24 MS. BUTANI-D'SOUZA: So there's concerns
25 about the building being able to support --

1 MR. LEE: Correct.

2 MS. BUTANI-D'SOUZA: -- the size of the
3 screen that would be required here?

4 MR. LEE: Or even to move the units or one
5 not -- the structural capacity of the building
6 utilizes the corners of the building where the steel
7 dunnage is in the strongest points of the building to
8 support these units. And might I add that those --
9 that location was also for the previous units prior
10 to the renovation as well, which is included in the
11 submission, original submission.

12 MS. BUTANI-D'SOUZA: Thank you. So as I
13 understand it, and I apologize because I don't have
14 the plans in front of me -- actually, do you have a
15 question to ask?

16 MS. COHEN: I do. What you did was you did
17 not change the footprint of the mechanical system.
18 Is that correct?

19 MR. LEE: Prior to renovation?

20 MS. COHEN: From prior.

21 MR. LEE: From prior renovation, there was
22 one unit located -- or two units located in the
23 northeast corner of the property. And in the
24 renovation there's one unit now located in the
25 Northeast corner, and one unit located in the

1 northwest corner.

2 MS. COHEN: These units are set back? Not at
3 the --

4 MR. LEE: The application is for relief both
5 to setback and enclosure requirements for these
6 units.

7 MS. COHEN: So basically whoever did the
8 replacement did not follow zoning. And so now we're
9 kind of trying to correct what was done as opposed to
10 -- see, I have a problem if you don't set it back
11 without the setback, as in it may be visible from the
12 various streets as mentioned.

13 MR. LEE: No, I completely understand your
14 concerns about the setbacks. However, this
15 particular property, the roofline slopes towards the
16 street. So at the [simultaneous speech] --

17 MS. COHEN: Oh.

18 MR. LEE: -- point of the property is lower.
19 So, if the -- yes, even if I locate it to the rear of
20 the property the visibility from public way is
21 minimized. The moment the units are brought forward
22 they are also brought up.

23 MS. BUTANI-D'SOUZA: That's in relation to M
24 Street, correct?

25 MR. LEE: Correct. And --

1 MS. BUTANI-D'SOUZA: But we're talking about
2 Prospect Street.

3 MR. LEE: Yes, but Prospect Street is much
4 sloped up from M Street. There is a steep incline
5 from M Street.

6 MR. DeMICHAELIS: Not in the rear. Not in
7 the rear. It is on the street, not in the rear.
8 It's level.

9 MS. BUTANI-D'SOUZA: I'm not sure that I --

10 MR. LEE: But in either case, the moment you
11 move it back you will raise the units as well.

12 I can refer you to an exhibit.

13 MS. BUTANI-D'SOUZA: Sure.

14 MS. COHEN: Party in opposition, a question
15 for you. So you can see all this in the months when
16 there are no leaves on the trees.

17 MR. DeMICHAELIS: Yes.

18 MS. COHEN: The mistake was just maybe six
19 months of the year.

20 MR. DeMICHAELIS: Yes.

21 MS. BUTANI-D'SOUZA: You said you have e-
22 mails from the CFA. Can you bring those up?

23 MR. DeMICHAELIS: Yes. Sure.

24 [Pause.]

25 MR. HILL: Is it just one copy?

1 MR. DeMICHAELIS: I only have one copy. I
2 only brought one copy.

3 MR. HILL: Mr. Lee, I'm sorry. You said the
4 duct work was installed in 2015?

5 MR. LEE: Yes.

6 MR. HILL: Okay. Thank you.

7 MS. COHEN: Can you tell us why it was such a
8 mess?

9 MR. LEE: The duct work?

10 MS. COHEN: Yeah.

11 MR. LEE: It's usually the roof construction,
12 there is a wooden roof construction and it is very,
13 very old. To navigate that construction which was
14 two levels of ceiling joists and roof joists, the
15 duct work needed to be on the roof.

16 MS. BUTANI-D'SOUZA: And Club Monaco is
17 already open in this space. Is that correct?

18 MR. LEE: Correct, they are.

19 MS. BUTANI-D'SOUZA: And I see that your
20 certificate of occupancy expires in August unless you
21 receive this approval?

22 MR. LEE: Correct. I've been renewing the
23 conditional certificate of occupancy since it opened.

24 MS. BUTANI-D'SOUZA: Okay. So there is an
25 opportunity to renew the conditional certificate

1 of -- excuse me, certificate of occupancy while you
2 get this issue resolved?

3 MR. LEE: Yes, it requires the BZA
4 resolution.

5 MS. BUTANI-D'SOUZA: Okay. So in listening
6 to everything here my feeling is that we do have
7 documentation indicating that CFA did make a mistake,
8 which is highly unusual, and that this duct work is
9 visible from Prospect Street. We also have our
10 member of the Zoning Commission concerned, I think
11 rightly so, about setbacks here.

12 MR. LEE: But I think --

13 MS. COHEN: But I think that there are -- his
14 rational about the age of the building and the
15 existing slope of the roof that it can't meet the
16 standards and I guess I would ask OP if they concur
17 with that analysis.

18 MS. FOTHERGILL: We had recommended support
19 of the relief based on all these different factors
20 because the roof slopes. So actually setting the
21 equipment in would raise its height because of the
22 structural issues of the building.

23 But I -- you know, I don't know. I don't
24 have an answer about the CFA issues and process.

25 MS. BUTANI-D'SOUZA: What about the

1 screening. Do you think the building couldn't
2 support screening?

3 MS. FOTHERGILL: I had discussed screening
4 with the applicant and I think it's a question of if
5 the units stay in their location, if there is
6 adequate space, and then access to the units. And so
7 I would defer to the applicant on that. Certainly if
8 there can be screening then I would encourage that.

9 MR. DeMICHAELIS: And additionally --

10 MS. BUTANI-D'SOUZA: The part that I'm
11 confused about is actually the screening of the duct
12 work. It sounds like there is no opportunity to
13 screen the units, which I understand. But the issue
14 at hand is really the duct work. So I don't
15 understand why that can't be screened. Is there --
16 do you have any thoughts on that?

17 MS. FOTHERGILL: I do not.

18 MS. BUTANI-D'SOUZA: Okay. So maybe the
19 applicant can explain why the duct work can or can't
20 be screened.

21 MR. LEE: My understanding is that the Zoning
22 Regulations require mechanical units to be screened,
23 not duct work to be screened, firstly.

24 The second item would be if we were to screen
25 the duct work in addition to the mechanical units the

1 sunlight which this gentleman is pointing out will be
2 reduced because he will have a screen that spans from
3 one side of the property to the other side of the
4 property.

5 MS. BUTANI-D'SOUZA: Can you help me
6 understand this duct work? So this duct work, is
7 there a parapet wall in the back?

8 MR. LEE: There is no parapet wall on the
9 back. There is a pinch roof at the front.

10 MS. BUTANI-D'SOUZA: Okay.

11 MR. LEE: Which includes a somewhat of a
12 parapet. At the back there is, on to the west
13 there's a taller property which actually screens most
14 of one of the units. And then directly to the rear
15 of the property there's a townhouse.

16 MS. BUTANI-D'SOUZA: Okay. And maybe Ms.
17 Cohen can help us understand whether this question
18 about the setback relief only pertains to the units.
19 I would imagine that anything on the roof would be
20 required to meet the setback requirements. So I
21 think your understanding is --

22 MS. COHEN: No, I think it is a structural
23 [Speaking off mic].

24 MR. LEE: And I guess if we could refer to
25 Exhibit 27, that would really show the location of

1 the unit and the duct work that is on the roof.

2 MR. DeMICHAELIS: Madam Chair.

3 MS. BUTANI-D'SOUZA: Just a moment, sir.

4 MR. DeMICHAELIS: This building was --

5 MS. BUTANI-D'SOUZA: Just a --

6 MR. DeMICHAELIS: -- renovated extensively at
7 some point; has a beautiful façade on M Street.

8 MS. BUTANI-D'SOUZA: Okay.

9 MR. DeMICHAELIS: And it is supporting, I
10 believe, heavy equipment now with mechanical
11 equipment on the very joists we're worried about
12 whether it can take a little light-weight lattice
13 work.

14 MS. BUTANI-D'SOUZA: Okay.

15 MR. DeMICHAELIS: I don't understand that.

16 MS. BUTANI-D'SOUZA: Thank you, Mr.
17 DeMichaelis.

18 Okay. So I see Exhibit 27, which is a
19 planned view of the duct work. So, I'm not entirely
20 certain how this is going to answer the questions
21 here.

22 MR. LEE: Correct. So the top left corner,
23 you can see one unit labeled CU1, and to the top
24 right corner you see another unit labeled RTU1.

25 MS. BUTANI-D'SOUZA: So, Mr. Lee --

1 MR. LEE: These two --

2 MS. BUTANI-D'SOUZA: -- the issue is not
3 pertaining -- I think you may have missed the
4 exchange with Commissioner Cohen. Anything that's on
5 the roof is required to be set back. It's not
6 specifically related to the mechanical units. So if
7 the duct work is not set back appropriately, that
8 would also be an issue for Zoning.

9 MR. LEE: My understanding from the Office of
10 Zoning Administrator was that the relief was required
11 only for the mechanical units and not the duct work.
12 And this exhibit -- Exhibit 39, e-mail correspondence
13 with Kathleen Beeton, the Deputy Zoning
14 Administrator, which replies to an e-mail from myself
15 to her outlining what our BZA application needed to
16 address.

17 MS. COHEN: Excuse me, but no matter what
18 it's the structure itself that doesn't support. It
19 would be more visible if you had --

20 MR. LEE: Correct.

21 MS. COHEN: Whether it's the duct work or the
22 mechanicals.

23 MR. LEE: Correct. It's a combination of --
24 good combination of both the screen and the setbacks.

25 In terms of the structural standpoint, the

1 very final page of Exhibit 26 shows a structural plan
2 where a steel dunnage was installed spanning from the
3 masonry walls to support the units. This steel
4 dunnage requires to be anchored to these masonry
5 walls to support the units. So from a structural
6 standpoint the ideal location for the units are where
7 they are right now.

8 In terms of screening, if we were to move the
9 units further back and also provide screening, we are
10 creating a more visible enclosure which will be
11 higher than what it is and be larger than what it is
12 currently.

13 MS. COHEN: All right. Are you a structural
14 engineer yourself?

15 MR. LEE: I work for the architectural
16 office.

17 MS. COHEN: So you have the expertise in
18 knowing that what these structural --

19 MR. LEE: Correct. Yeah.

20 MS. BUTANI-D'SOUZA: So I'm looking at the
21 memo or the e-mail with Kathleen Beeton that you've
22 directed us to. I'm not sure what point you're
23 making here because this pertains purely to the unit
24 heights. You're not, in this e-mail, asking any
25 questions about whether the duct work needs to be set

1 back. So I'm not sure how you can testify that the
2 Zoning Administrator has indicated to you that the
3 duct work does not need to be set back because that's
4 not addressed in this e-mail at all, as far as I can
5 see. I think it's a little bit disingenuous for you
6 to say that to be honest. I don't see anything about
7 duct work here.

8 MR. LEE: Okay. My correspondence with her
9 was regarding the units. Yeah.

10 [Pause.]

11 MS. BUTANI-D'SOUZA: Okay. So the issue that
12 we're coming to here is whether or not the screening
13 of the duct work is a structural issue. So can you
14 state why the duct work itself, not the units, but
15 the duct work, cannot be screened.

16 MR. LEE: Sure. So if we refer back to
17 Exhibit 27, which shows the duct work, if we are
18 required to enclose all of the duct work that is
19 indicated on Exhibit 27 --

20 MS. BUTANI-D'SOUZA: When you say enclose,
21 what do you mean by that? If we are -- you're
22 saying, your assumption is that if we are required to
23 enclose all of the duct work. I don't think
24 that's --

25 MR. LEE: To screen it. Sorry. So part of

1 the -- if we are to screen it as part of the Zoning
2 Regulations --

3 MS. BUTANI-D'SOUZA: Screen it from the -- I
4 don't know what direction this is. Is this from the
5 back of the building only?

6 MR. LEE: My understanding is that the Zoning
7 Regulations require screening from all sides at a
8 uniform height.

9 MS. BUTANI-D'SOUZA: If it is not set back
10 sufficiently, correct?

11 MR. LEE: No, if the equipment is over four
12 feet. So the duct -- my own saying is that it is due
13 to the mechanical equipment being too high that
14 requires screening, not the duct work. But in any
15 case, if the screening needs to surround both the
16 mechanical units as well as the duct work the
17 screening will need to be sufficient in height to
18 enclose the two units, as well as all the duct work
19 that you see on Exhibit 27, which will then increase
20 visibility from public right of way.

21 MS. COHEN: And reduced sunlight --

22 MR. LEE: To this gentleman's property.

23 MS. BUTANI-D'SOUZA: Maybe I'm just not
24 understanding because this plan doesn't actually show
25 the street names or any direction really. I mean,

1 it's a mechanical plan.

2 So this is M Street and then in the back is
3 the alleyway?

4 MR. LEE: There's a right of way from our
5 property through the corner property. But if you'd
6 like to --

7 MS. BUTANI-D'SOUZA: What is plan north?
8 What's behind the building on plan north?

9 MR. LEE: It's a townhouse.

10 MS. BUTANI-D'SOUZA: It's a townhouse. And
11 where is Prospect Street in relation to this?

12 MR. LEE: It's to the north.

13 MS. BUTANI-D'SOUZA: So plan north is also
14 north, directional north?

15 MR. LEE: Correct. Yes.

16 MS. BUTANI-D'SOUZA: Okay. So the issue
17 that's under discussion then, which is again going
18 back, this is CFA has indicated that this is visible
19 from public space from Prospect Street. So in my
20 view as I understand it, the only screening that
21 would be needed would be the north on the north edge
22 of the building. That's where it's visible. It's
23 not visible elsewhere.

24 So what I'm trying to understand is why are
25 you -- you are saying that you are structurally

1 unable to support screening. So I'm trying to
2 understand if you can explain if that is in fact what
3 you're saying; that you are not able to screen the
4 duct work only from the north.

5 MR. LEE: The duct work or the units, or
6 both?

7 MS. BUTANI-D'SOUZA: Only the duct work, only
8 from the north.

9 MS. COHEN: May I make a suggestion? Maybe
10 what you could do is show us what it would look like
11 if you had to put the screening on. And I think that
12 that would demonstrate that it would look worse, that
13 it can't be supported, and therefore the neighbors
14 would even have a harder time dealing with it,
15 because I think I understand what you're saying about
16 the structure. But I think that, you know, you could
17 have elaborated more in the file.

18 MR. LEE: Could I refer to you a to a
19 photograph in Exhibit 26, perhaps?

20 If we go to Exhibit 26, on page --

21 MS. BUTANI-D'SOUZA: Hang on just a sec and
22 let us get there. Okay. Which page?

23 MR. LEE: It's the page labeled A-201E. It
24 will be page 9 of that PDF.

25 MS. COHEN: A-201E?

1 MR. LEE: Uh-huh.

2 MS. BUTANI-D'SOUZA: So none of these show
3 Prospect Street?

4 MR. LEE: No, but they're from the
5 neighboring property which this gentleman described
6 with the sheer brick wall, the elevator terrace.

7 MS. BUTANI-D'SOUZA: Okay. So that's not
8 really the issue here, then. The issue is the view
9 from Prospect Street.

10 MR. LEE: But you can -- but in terms of the
11 photograph on E4, it shows the unit and the
12 guardrail. So if screening were to be provided you
13 couldn't understand the height of the screening
14 required.

15 MS. BUTANI-D'SOUZA: That's if you want to
16 cover the unit, correct?

17 MR. LEE: But the duct work spans between
18 those units. So, if we go back to I guess --

19 MS. BUTANI-D'SOUZA: What's the top elevation
20 of the duct work? From the roof?

21 MR. LEE: The duct work. It is roughly I
22 think in the order of three feet or four feet,
23 depending because the roof slopes as well.

24 MS. BUTANI-D'SOUZA: So from the edge of the
25 roof on the south, or sorry, on the north? From the

1 edge of the roof on the north what's the elevation of
2 the duct work?

3 MR. LEE: The taller duct work is actually
4 set back. So the duct work that is to the north, the
5 duct work is 14 by 8 and 12 by 4, and it's slightly
6 elevated above the roof. But the duct work itself
7 is --

8 MS. BUTANI-D'SOUZA: How high is it elevated
9 above the roof?

10 MR. LEE: I don't have that value for you.

11 MS. BUTANI-D'SOUZA: Okay. For me personally
12 I think it would be helpful to see some information
13 on the screening requirement. This is a really
14 frankly ugly set of equipment and a terrible looking
15 guardrail. So I can understand a concern about being
16 able to see this from Prospect Street, and I
17 certainly can understand if CFA is admitting now that
18 they've made a mistake. For me, I would like to see
19 more information but of course you know, I would be
20 willing to hear what the other members of the Board
21 have to say about this.

22 MS. COHEN: I think if we could start from
23 the beginning and take down the building everything
24 would be resolved to the satisfaction. But we have
25 an existing building that has historic impact in the

1 neighborhood, and I think that the best that they
2 could do is what they've done because of the
3 structure.

4 So yes, we would prefer setbacks. Yes, we
5 would prefer screening. But if the building cannot
6 support that we, I think, need to just move ahead and
7 I'm afraid that we would end up creating a worse
8 situation if we required that the screening be done.
9 And it would be visible; much more visible than it is
10 now.

11 MR. HILL: Yeah, Madam Chair, I agree with
12 Commissioner Cohen in terms of I don't think that
13 anything can be done. I mean, and where I sit I'm
14 happy to move to deliberation, I'm happy if you need
15 more, or the rest of the Board needs more
16 information. Again, the Office of Planning has
17 agreed with the analysis. The ANC has signed off on
18 it. Whether or not, you know, the CFA comes back now
19 and has different plans in terms of like the six
20 months, and even if the gentleman in opposition, you
21 know, the -- and I would ask this question actually
22 of you, as far as there being, you know, some kind of
23 screening -- the screening would go now all the way
24 to -- it wouldn't go as high to cover the mechanical
25 because if it did then it would even block the sun

1 even more, the mechanical is so high. And you can
2 answer, I just want to ask you, would you rather have
3 -- there is a guardrail there so you can see where
4 the screening might have been or might be there. And
5 then that, I think, would affect your light even
6 more.

7 So, would -- I just have a simple question.
8 Would you rather have the guardrail there, or would
9 you rather have screening there?

10 MR. DeMICHAELIS: Screening.

11 MR. HILL: Okay. So you'd rather have
12 screening there.

13 And so, you know, whether or not you know,
14 the applicant -- and now that's where I don't know if
15 screening is allowed that close to the edge there or
16 not, but you know, I'd be comfortable moving forward
17 with deliberations.

18 MS. BUTANI-D'SOUZA: So my feeling on this --
19 I'm sorry, Mr. Hinkle. Were you going to go? My
20 feeling on this is the applicant has indicated that
21 he can extend the conditional certificate of
22 occupancy so that there's no impact on Club Monaco's
23 operations or business, or any shuttering of space on
24 M Street. So, I feel that it's important to get this
25 right, especially since CFA has indicated that they

1 made a mistake.

2 So for me, I think I would be more
3 comfortable being in favor of this if there were some
4 sort of analysis or exhibit showing either why this
5 cannot be screened, why the duct work cannot be
6 screened, why it would cast more shadow on the
7 neighboring property, or block the sun more. Or why,
8 perhaps, structurally this does not work. Or perhaps
9 I note that the CFA letter indicates that the duct
10 work should be moved inside. So, you know, if the
11 option is either screen from end to end, which is not
12 structurally feasible, or move it inside, why that's
13 not feasible.

14 I just think that in this instance we have a
15 historic building. We have, you know, a neighbor
16 that's expressed concern. We have CFA which has
17 expressed concern. I think it's just better for
18 everyone if we just answer the question so that we
19 can, you know, move on with comfort knowing that
20 we've, you know, addressed this to the best of our
21 ability. So that's my feeling on this.

22 I'm curious if Mr. Hinkle has anything to
23 say.

24 MR. HINKLE: Yeah. And maybe the Office of
25 Planning could answer this question, but I understand

1 that below four feet you don't need screening. So,
2 is that correct in terms of the duct work?

3 MS. FOTHERGILL: So, I don't have the regs in
4 front of me, but in the OP report, Section 411.7,
5 clearly states that greater than four feet in height
6 mechanical equipment shall be enclosed.

7 MR. HINKLE: So I think that's where we get
8 to the point of looking at screening for the two
9 major equipment units, but not the --

10 MS. FOTHERGILL: But I'm not sure we know the
11 height of the duct work today.

12 MR. HINKLE: Okay. Okay.

13 MS. BUTANI-D'SOUZA: It sounds like we don't
14 know the height of the duct work.

15 MR. HINKLE: Right. I mean --

16 MR. LEE: So I mean, if the height of the
17 duct work required --

18 MR. HINKLE: I'm not concerned about the
19 setback for the screenings and I think, you know,
20 they're even requesting some relief from that. But I
21 would like to see some analysis in terms of different
22 types of screening that could work, whether it goes
23 across the whole back side or, you know, just covers
24 the two units on the corners or what have. Including
25 various materials. I'm not quite sure what would

1 work with this structure. But that's what I would
2 like to see with this application.

3 MS. BUTANI-D'SOUZA: Okay. So unless the
4 Board has -- other members of the Board have big
5 issues with it, I would actually move that we close
6 the record -- well, no. I think we need to continue
7 the hearing to provide the applicant with the
8 opportunity to provide some additional submissions.

9 The Board does not meet again until
10 September, so this means that you would need to
11 submit this to the record and you would need to
12 extend your C of O in order to allow the BZA adequate
13 time to review these issues.

14 MR. LEE: Now, as the Board meets in
15 September and we are following the current Zoning
16 Regulations --

17 MS. BUTANI-D'SOUZA: Yes, this would be
18 vested under the 1958 regulations.

19 Mr. Moy, do we have a date that we can give
20 them?

21 MR. MOY: Okay. I think I heard you say
22 continued hearing. I was looking at September 27th
23 but the Board is pretty full.

24 MS. BUTANI-D'SOUZA: Why don't we do the
25 13th? Can we do that?

1 MR. MOY: We can do the 13th. So we do
2 continued hearing September 13th. If the applicant
3 can file three weeks prior as we did with our earlier
4 case, then that would be -- it was August 23rd, your
5 filing.

6 MS. BUTANI-D'SOUZA: And I would definitely
7 recommend that you -- since CFA will likely be
8 involved here, that you take some time to, if you
9 need to, run whatever you're planning to file by CFA
10 or by the staff of HPRB. That's just my thoughts.

11 MR. LEE: Right. So I guess on a few items I
12 guess we can provide the Board with information
13 regarding the height of the duct work. As the first
14 option.

15 The second options would be if screening is
16 required, what screening might that be. And also,
17 for the screening to be installed, that will require
18 OGB or CFA approval for that.

19 However, if it is determined that the duct
20 work is not a sufficient height to require screening
21 and the screening is not required, I will not need to
22 go back to OGB.

23 MS. BUTANI-D'SOUZA: Yes. So we're asking
24 you to show us either screening is not required or
25 not possible for structural reasons, in which case I

1 would highly recommend that you have your structural
2 engineer provide that analysis. If screening is
3 feasible or required, then we would ask that you
4 provide materials and some indication of what that
5 screening would look like.

6 MR. LEE: And I guess before September 13 do
7 you want OGB approval of that screening? Or do you
8 want us to propose those two options first and then
9 see where we go from there? Or that was the --

10 MS. BUTANI-D'SOUZA: So whether you get OGB
11 approval before or after the BZA, I believe that's
12 the choice of the applicant.

13 MR. MOY: Yes. Yes. If I may also add,
14 Madam Chair, that if the Board would desire
15 considering the comments I've just heard, if the
16 applicant moves toward an option with the screening,
17 it might be useful to see rendered --

18 MS. BUTANI-D'SOUZA: Yes.

19 MR. MOY: Rendered drawings from Prospect
20 Street.

21 MS. BUTANI-D'SOUZA: Right.

22 MR. MOY: What that screen may look like,
23 what those option alternatives are.

24 MS. BUTANI-D'SOUZA: And I would also
25 encourage you to evaluate the visibility and

1 potential light impact for any screening if it is
2 proposed. And finally, I would also recommend that
3 you -- you may need to do some additional outreach
4 with the ANC given Mr. DeMichaelis's comments. I'm
5 sure he'll be taking those to the ANC perhaps. So --
6 go ahead.

7 MR. HILL: Mr. DeMichaelis, I'm just trying
8 to figure out exactly where your property is. So if
9 you -- I mean, I'm looking at a photo. I can't
10 remember the exhibit.

11 MS. BUTANI-D'SOUZA: Exhibit --

12 MR. HILL: And it's four, and I see like a
13 courtyard and then are you in that courtyard? Is
14 that your backyard?

15 MR. DeMICHAELIS: Well, I'm not sure what
16 you're looking at there.

17 MR. HILL: Okay.

18 MR. DeMICHAELIS: But if you're looking north
19 along the easement.

20 MS. BUTANI-D'SOUZA: We're looking at the
21 back yard of 3286 M Street residential terrace,
22 looking southwest. 3286 M Street, residential
23 terrace, looking southwest.

24 MR. HILL: If you're facing the back of the
25 building are you to the right?

1 MR. DeMICHAELIS: Well, I can't figure --
2 yeah, if you look at the Figure E1.

3 MS. BUTANI-D'SOUZA: Can you turn the mic on,
4 or the mic on where you're --

5 MR. DeMICHAELIS: If you look at the picture
6 in the E1.

7 MS. BUTANI-D'SOUZA: E1. Uh-huh.

8 MR. HILL: Yes.

9 MR. DeMICHAELIS: Okay. That's 33 Street
10 coming north. Do you see the one, two, three -- the
11 fourth townhouse from the right?

12 MR. HILL: Yes.

13 MR. DeMICHAELIS: That's my townhouse. The
14 rear of that townhouse is about 70 feet from the Club
15 Monaco property in the --

16 MR. HILL: Okay. Okay. I'm with you.

17 MR. DeMICHAELIS: Yeah. One, two, three,
18 fourth townhouse from the -- sorry, from the left.
19 Fourth townhouse from the -- so light colored
20 townhouse.

21 MS. BUTANI-D'SOUZA: Okay.

22 MR. DeMICHAELIS: And the back of that is 70
23 feet from Monaco, which is just around the corner
24 on --

25 MR. HILL: But your courtyard opens up into

1 that easement is what you're saying?

2 MR. DeMICHAELIS: Yes. My garden opens up to
3 the easement.

4 MR. HILL: Okay. All right. Thank you.

5 MS. BUTANI-D'SOUZA: Okay. Thank you, sir.

6 MR. LEE: We were looking at Exhibit 6. So
7 do you mind pointing out where your property is in
8 Exhibit 6? This is M Street running here.

9 MS. BUTANI-D'SOUZA: Okay. I think we
10 understand. I think we've laid out what we're
11 looking for. We would request that you make the
12 submissions by August 23rd so that the Board has
13 ample time to review and Office of Planning has time
14 to review so that we may proceed on the 13th. If
15 you're not able to get them in by the 32nd then we
16 would ask that you work with the Office of Zoning to
17 delay the hearing, the continued hearing.

18 MR. LEE: Thank you.

19 MS. BUTANI-D'SOUZA: Thank you so much, Mr.
20 Lee, and thank you, Mr. DeMichaelis.

21 MR. DeMICHAELIS: Thank you.

22 MS. BUTANI-D'SOUZA: Okay. We're going to
23 take a five-minute break.

24 [Off the record for a short break.]

25 MS. BUTANI-D'SOUZA: Mr. Moy, are we ready

1 to --

2 MR. MOY: Yes. Yes.

3 MS. BUTANI-D'SOUZA: -- call our next case?

4 MR. MOY: Apologize. Going through -- okay.

5 MS. BUTANI-D'SOUZA: It's okay.

6 MR. MOY: I believe we're with -- we're at a
7 point with Application No. 19308 of 1111 H Street,
8 LLC. And as captioned and advertised for relief for
9 variances from the court requirements under 776, off-
10 street parking requirements under 2101.1. The H/S
11 overlay design requirements 1324.4, special exception
12 from the single enclosure penthouse requirements
13 411.6. This would renovate an existing structure
14 into an apartment building containing up to eight
15 dwelling units with ground floor retail in the HS-
16 R/C-2-C District, 1111 H Street Northeast, Square
17 982, Lot 57. And I believe a variance from the rear
18 yard has been removed but if there's been any other
19 updates I'd appreciate clarification. Thank you.

20 MS. BUTANI-D'SOUZA: Thank you, Mr. Moy. If
21 you could please introduce yourselves for the record?

22 MS. MOLDENHAUER: Good afternoon. My name is
23 Meredith Moldenhauer, land use counsel from the law
24 firm of Griffin, Murphy, Moldenhauer, and Wiggins.

25 MR. KENNERKNECHT: Good afternoon, Jim

1 Kennerknecht with the developer.

2 MR. SCHNECK: Good afternoon, Ron Schneck,
3 Square 134 Architects.

4 MS. BUTANI-D'SOUZA: Thank you. So we've
5 reviewed the record and I don't think that a full
6 presentation is necessary, but I think we do have a
7 couple of questions. So I think if it's okay with
8 the applicant, we'd like to just focus on those
9 questions.

10 MS. MOLDENHAUER: Sure. There's also a
11 preliminary matter. The affidavit of posting was
12 required to be filed earlier. It was posted on July
13 1st, the Friday before the holiday weekend. It was
14 properly posted, but we did not submit the affidavit
15 so we would ask the Board to waive the requirement
16 for filing the affidavit. We have submitted into the
17 record this morning when we noticed that that was not
18 in the file. We have hard copies now for the board
19 members to review as well if they'd like to review
20 the hardcopies.

21 We also had gone to four different ANC
22 meetings and went to one just recently this past
23 Thursday evening in regards to having this extensive
24 outreach that the community was very much aware of
25 the case coming forward.

1 MS. BUTANI-D'SOUZA: Where was this posted?
2 I'm just curious, in relation to the building.

3 MS. MOLDENHAUER: We've got pictures that I
4 can provide copies of. It was -- this is probably
5 the best one where it was posted, two on the front of
6 the building. And we can provide copies of these and
7 these were filed at Exhibit 42 this morning, and I
8 apologize for the delay.

9 MS. BUTANI-D'SOUZA: Okay. And also the --
10 this was sent out to everyone who lives within 200
11 feet. Is that correct?

12 MS. MOLDENHAUER: Yes.

13 MS. BUTANI-D'SOUZA: So the reason that I'm
14 asking such specific questions about the posting is
15 because, correct me if I'm wrong, but it looks like
16 this building is going to be built right up against
17 the balconies of the neighboring building. Is that
18 correct?

19 MS. MOLDENHAUER: Yes. It will be built on
20 its property line. But in regards to the abutting
21 property owner, we have had -- and I've got a list.
22 We had a meeting with the condominium association of
23 that abutting building on May 2nd. We had extensive
24 communication with them and their condominium board
25 throughout May 18th, the 25th, June 1st. We had e-

1 mail exchanges. They were actually very much part of
2 the ANC communication and dialog. We even presented
3 them with a settlement offer that they ended up not
4 wanting to accept. But we had extensive
5 communication with them and they presented at each
6 and every subcommittee to the ANC, which is why we
7 postponed the case initially, so that we could go
8 back and have further discussions.

9 Brad Greenfield and Phil, the ANC chair and
10 single-member district, we actually had extensive e-
11 mail communications discussing with these condominium
12 owners to the abutting property, and they presented -
13 - they presented, you know, their concerns. Not as
14 much about the balconies, but more about the back
15 wall and you know, sun. And so we had extensive
16 discussions on sun, shadow studies with them, and the
17 ANC ended up voting five to two to support the
18 relief.

19 MS. BUTANI-D'SOUZA: Do we have anything from
20 the condominium association, the neighbors indicating
21 where they stood on this?

22 MS. MOLDENHAUER: They have not filed
23 anything.

24 MS. BUTANI-D'SOUZA: Curious about whether
25 any other board members have questions about this

1 issue or any questions for the applicant.

2 [No audible response.]

3 MS. BUTANI-D'SOUZA: Okay.

4 MR. HILL: I mean, I suppose. I mean, Madam
5 Chair, to your issue. So the ANC, they didn't have
6 any comments or questions about the condominium
7 building next door?

8 MS. MOLDENHAUER: They, I mean, they have --
9 they had a lot of comments and questions because
10 that's why we ended up extending it a second. So
11 initially we were coming before the Board on July
12 12th.

13 MR. HILL: Uh-huh.

14 MS. MOLDENHAUER: They had an ANC meeting, I
15 believe. Let me just double-check.

16 MR. HILL: So and I'm sorry. So what
17 questions did they have that you were able to resolve
18 so that they got approval of the --

19 MS. MOLDENHAUER: So one was the question of
20 the rear yard. We ended up removing the rear yard
21 completely from the relief. Initially we were
22 providing only an 11-foot rear yard where a 15-foot
23 rear yard was required, and we were asking for 77
24 percent lot occupancy. We actually ended up pulling
25 that back to 75 percent lot occupancy and providing

1 an 18-foot rear yard when only a 15-foot rear yard is
2 actually required. And the ANC -- so the ANC felt as
3 though those changes you know, mitigated the concerns
4 that they heard in regards to the adjacent
5 condominium owners.

6 MR. HILL: Okay. And was the vote five to
7 two?

8 MS. MOLDENHAUER: Five to two, yes.

9 MR. HILL: So two people were opposed?

10 MS. MOLDENHAUER: Yes.

11 MR. HILL: And can you tell me kind of why
12 they were opposed?

13 MS. MOLDENHAUER: They were opposed because
14 they were obviously -- the condominium owners were
15 present and they presented their concerns about loss
16 of view and the, you know, sun. And they voted to
17 oppose the project.

18 MR. HILL: Yeah.

19 MS. MOLDENHAUER: Even though the chair, who
20 was also the SMD for this project, voted to support
21 it.

22 MR. HILL: And I mean, I understand. I mean,
23 those balconies aren't you know, they're not --
24 they're at risk, you know? So I understand how you
25 got to that point with the balconies. So, thank you.

1 MS. BUTANI-D'SOUZA: Thank you. Does the
2 applicant wish to make any other statements or shall
3 we -- are you ready for us to turn to the Office of
4 Planning?

5 MS. MOLDENHAUER: We are fine to rest on the
6 record.

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

8 MS. MOLDENHAUER: And continue with rebuttal
9 if any is necessary.

10 MS. BUTANI-D'SOUZA: Thank you. Office of
11 Planning.

12 MS. FOTHERGILL: Good afternoon. For the
13 record I'm Anne Fothergill with the Office of
14 Planning, and the Office of Planning does recommend
15 approval of the requested relief, the special
16 exception, and the three variances. We find that the
17 application meets the variance test and we rest on
18 the record in support of the application.

19 MS. BUTANI-D'SOUZA: Thank you. Does the
20 Board have any questions for the Office of Planning?
21 Okay.

22 MS. COHEN: Yes. What is the rationale for
23 providing a variance for the design requirements?

24 MS. FOTHERGILL: For the lot occupancy?

25 MS. COHEN: No, design review. Under 1324.4.

1 MS. FOTHERGILL: Oh, the lot occupancy.

2 MS. BUTANI-D'SOUZA: Or the HS overlay design
3 requirements.

4 MS. FOTHERGILL: So the lot occupancy, the --
5 as you will see, and the applicant has a PowerPoint
6 they can show, this is a very narrow site. You can
7 see in their plans and so it is a very -- it's very
8 difficult to build on into, to make the residential
9 building work and meet lot occupancy. So they have
10 requested relief. Five percent -- 70 percent is
11 allowed and they've requested 75 percent.

12 You will see that they have a unique
13 floorplan. They're providing a court to provide some
14 amenity space for the residents, and then the units
15 are very small, it's very tight. And then they have
16 to provide two sets of stairs for egress.

17 And so it was a complicated configuration
18 from a design standpoint based on this exceptional
19 situation of the very narrow lot.

20 MS. COHEN: And there's still a blank wall,
21 though. You're not asking for any type of patterning
22 or anything? Is there a blank wall?

23 MS. BUTANI-D'SOUZA: Do you mean for the
24 balconies? Up against the balconies, or --

25 MS. COHEN: No, I thought that one of the

1 walls was pretty -- maybe I -- I looked at this a
2 long time ago. Oh, God. But I'm going to look at it
3 in a very long time from now.

4 MS. MOLDENHAUER: Just to maybe assist.

5 MS. COHEN: Yeah, the wall. Yeah. On the --
6 what's -- yeah. No, here. The courtyard.

7 MS. MOLDENHAUER: Commissioner Cohen.

8 MS. COHEN: Yeah.

9 MS. MOLDENHAUER: There is a pattern on the
10 wall that does meet the design requirements as shown
11 in, this is the HS 13204.2. It does meet the design
12 requirements, and there is a pattern. It's hard to
13 see maybe, in the black and white of this.

14 MS. COHEN: Yeah. I didn't -- all right.
15 Thank you.

16 MS. BUTANI-D'SOUZA: Actually, I do want to
17 go back to Commissioner Cohen's question. Can you
18 speak specifically about the request for variance
19 from the HS overlay design requirements? Can you
20 help us understand?

21 MS. FOTHERGILL: Well, I believe that it's
22 specifically for lot occupancy and that they comply
23 with all the other --

24 MS. BUTANI-D'SOUZA: I see. So the only HS
25 overlay design requirement they're getting --

1 MS. FOTHERGILL: That's right.

2 MS. BUTANI-D'SOUZA: I understand.

3 MS. FOTHERGILL: And I think it's outlined in
4 their application, the other requirements and how
5 they meet them, for example. The pattern on the wall
6 meets a specific design requirement. The only one
7 they have requested relief from is the lot occupancy.

8 MS. BUTANI-D'SOUZA: Okay. Thank you.

9 MS. FOTHERGILL: That's my understanding. I
10 will defer to the applicants if that's not correct.

11 MS. BUTANI-D'SOUZA: Thank you. Is that not
12 correct?

13 MS. MOLDENHAUER: That is correct.

14 MS. BUTANI-D'SOUZA: Thank you. Okay. Do we
15 have any other questions for the Office of Planning?

16 MS. COHEN: No.

17 MS. BUTANI-D'SOUZA: All right. I do note
18 that we have a report from the Department of
19 Transportation indicating no objection, but the need
20 to continue to work with DDOT on public space
21 requests. So I assume the application intends on
22 working with DDOT on public space.

23 I don't see any letters in support or
24 opposition to the application. Are there any parties
25 or persons wishing to speak in support of the

1 application?

2 Are there any parties or persons wishing to
3 speak in opposition to the application?

4 And just to make sure we cover all of our
5 bases, is there anyone from the ANC who wishes to
6 speak on this application?

7 Okay. Do we have any other questions from
8 the Board? Does the applicant wish to make a
9 rebuttal or a closing statement?

10 MS. MOLDENHAUER: Thank you. No closing
11 statements.

12 MS. BUTANI-D'SOUZA: Okay. So then I would
13 move that we proceed on to deliberations on this
14 case. So, I actually think that this is a very neat
15 way to maximize the usage of this property and I
16 actually commend the development team on this very
17 creative way of using a long and skinny lot and
18 making it more productive. And so I think that this
19 would be great and I'm glad to hear that there was
20 extensive outreach with the community, particularly
21 on the balconies issue, and on the issues pertaining
22 to the neighboring property and the at-risk
23 balconies, because I think that that would otherwise
24 have been a bit of a concern. But I'm glad that
25 everybody is on board with that issue.

1 So, I would make a motion to approve the
2 relief requested. I'm sorry. Would anyone else like
3 to --

4 MR. HILL: I second.

5 MS. BUTANI-D'SOUZA: Okay. All right. And I
6 don't see any conditions here. Are there?

7 MR. HILL: There was a condition.

8 MS. BUTANI-D'SOUZA: There are conditions?

9 [Discussion off the record.]

10 MS. BUTANI-D'SOUZA: So, I see that we --
11 excuse me. I see that we have two conditions that
12 are proposed by ANC 6A. Does the applicant have any
13 issues with these conditions?

14 MS. MOLDENHAUER: We consent to those
15 conditions.

16 MS. BUTANI-D'SOUZA: Terrific. Okay. So
17 then I would make a motion to approve the requested
18 relief as captioned, subject to the conditions
19 outlined in the ANC report.

20 MR. HILL: And, Madam Chair, before I second
21 I also do want to commend the architect. I mean, as
22 having experience with very narrow properties it's
23 one that I wish you the best of luck with and really
24 think it's a very interesting design. So, I second.

25 MS. BUTANI-D'SOUZA: Okay.

1 [Vote taken.]

2 MS. BUTANI-D'SOUZA: Okay. The motion
3 carries. Thank you so much.

4 MR. MOY: Staff would record the vote as four
5 to zero to one. This is on the motion of Chair
6 Butani to approve the application for the relief
7 requested with the two conditions. Seconding the
8 motion, Mr. Hill. Also in support, Ms. Cohen, Mr.
9 Hinkle, Marnique Heath not present today. Motion
10 carries, Madam Chair.

11 MS. BUTANI-D'SOUZA: Thank you, Mr. Moy. And
12 we are ready for our next case, which I believe we
13 were going out of order.

14 MR. MOY: Well, did you waive the record? I
15 mean, waive the record.

16 MS. BUTANI-D'SOUZA: Summary.

17 MR. MOY: Waive the -- thank you.

18 MS. BUTANI-D'SOUZA: Yes, thank you.

19 [Discussion off the record.]

20 MR. MOY: All right. Next is, in the hearing
21 session is Application No. 19303 of Servants Office,
22 LLC. This is a request for special exception from
23 the GA Overlay design requirements 1330.2, which
24 would allow for a floor to ceiling height less than
25 14 feet on the ground level of a structure in the

1 GA/C-2-A District at premises 4009 Georgia Avenue
2 Northwest, Square 3026, Lot 45. And as the Board is
3 aware there's a filing under Exhibit 31 from the
4 applicant requesting for a postponement as well as I
5 believe, vesting under the 1958 regulations if the
6 Board chooses to postpone their hearing today.

7 MS. BUTANI-D'SOUZA: Is there anyone from
8 this application?

9 Okay. I don't see anyone in the room here so
10 I don't know how we can open a hearing if there is
11 nobody here. Are there rules of procedure about
12 that, that I'm not aware of?

13 Does OAG have any thoughts on this?

14 UNIDENTIFIED SPEAKER: I've never seen it
15 done before. I do think the letter asked to postpone
16 or withdraw.

17 MS. BUTANI-D'SOUZA: And it's asking to
18 postpone or withdraw subject to 1958. Is that
19 possible? I don't think it -- can we withdraw but
20 keep this under 1958? I don't think --

21 UNIDENTIFIED SPEAKER: I would not think so.

22 MS. COHEN: No.

23 MS. BUTANI-D'SOUZA: Okay. All right. So in
24 that case would we make a motion to dismiss this
25 case, or would we simply --

1 MR. MOY: And pursuant to a section in the
2 regulations, Madam Chair, there is a spot where the
3 Board can dismiss. But in actual practice the Board
4 typically, before dismissing would give an applicant
5 another opportunity to be present.

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

7 MR. MOY: Before dismissal. And that's been
8 -- we've been operating under that advisement from
9 OAG counsel, in the past.

10 MS. BUTANI-D'SOUZA: I see. So we've
11 basically been postponing --

12 MR. MOY: That's right. Which would be, the
13 next hearing would be our September 13th hearing.

14 MS. BUTANI-D'SOUZA: I think it's highly
15 unusual to have an applicant not even bother to show
16 up. In fact, I'm inclined to make a motion to
17 dismiss because I don't really think that that's an
18 appropriate use of this Board's time.

19 UNIDENTIFIED SPEAKER: Or you could allow her
20 to withdraw by consensus because I think that was in
21 the order.

22 MS. BUTANI-D'SOUZA: Okay. So, is there any
23 opposition to this case being withdrawn?

24 MS. COHEN: No.

25 MS. BUTANI-D'SOUZA: Okay. Then this case is

1 withdrawn. So with that we're ready to call our next
2 case.

3 So, just to be clear, this did not -- that
4 didn't count as opening the hearing. It's not vested
5 under 1958. Okay. All right. So that was not
6 vested under 1958. Okay. All right. Thank you.

7 MR. MOY: Okay. so I have on my list, 19316,
8 or is that the other one? Is this Webster's? Okay.

9 I'm sorry. Bear with me, Madam Chair. I'm
10 trying to find my page. Ah, okay. Okay. I see the
11 parties are to the table. So this is Application No.
12 19304 of 320 Webster Street, LLC. And I believe this
13 was amended for a special exception relief on the use
14 requirements under 336, to convert a two-story one-
15 family dwelling into a three-story, three-unit
16 apartment house, R-4 District, 320 Webster Street
17 Northwest, Square 3310, Lot 68.

18 MS. BUTANI-D'SOUZA: And I believe that we
19 have a preliminary matter for a request for party
20 status in opposition. Is that correct?

21 Okay. So, why don't we begin with
22 introductions. If you can please introduce yourself
23 for the record?

24 MR. SULLIVAN: Sure. Thank you, Madam Chair
25 and Members of the Board. My name is Martin Sullivan

1 with the law firm of Sullivan and Barros.

2 MS. BUTANI-D'SOUZA: Can you turn your
3 microphone on?

4 MR. CLEVELAND: Yes. Will Cleveland,
5 architect.

6 MR. TAYLOR: I'm Michael Taylor. I'm the
7 developer here.

8 MR. GOODMAN: Jonah Goodman, Commissioner for
9 C10.

10 MR. SULLIVAN: Madam Chair, I was informed by
11 one of the adjacent neighbors that the person that
12 filed the party status request is okay with the
13 project now that the neighbor is okay with it. So,
14 that's hearsay, I know, but just to let you know. He
15 was here earlier and he had to leave, one of the
16 adjacent neighbors.

17 MS. BUTANI-D'SOUZA: Okay. So, just to be
18 clear, the person who requests party status in
19 opposition, is he here today?

20 [No audible response.]

21 MS. BUTANI-D'SOUZA: Okay. He's not here.
22 All right.

23 MS. COHEN: Was this the neighbor who left?

24 MS. BUTANI-D'SOUZA: This is 316 Webster
25 Street.

1 MR. SULLIVAN: No, Commissioner Cohen. The
2 neighbor that left is one of the supporting neighbors
3 and he just relayed to me that Mr. Serrus (phonetic)
4 I think it was, is now okay with the project because
5 he's okay with the project, because the two neighbors
6 are okay with it.

7 MS. BUTANI-D'SOUZA: Okay. Since the party
8 who wished to have status in opposition is not here I
9 don't think we can consider their request for a party
10 status in opposition. So, we'll move on from that.

11 So, I don't think that we need a presentation
12 from the applicant unless there are certain aspects
13 of this that you would wish to call our attention to.

14 MR. SULLIVAN: I don't think so. Just to
15 point out that we now have the support of the
16 neighbors. We achieved that last week, and that we
17 amended it to remove our penthouse relief request.
18 So we're just asking for the special exception relief
19 under 336. And that the architect and the applicant
20 are here to answer any questions. Thank you.

21 MS. BUTANI-D'SOUZA: Thank you. So, does the
22 Board have any questions for the applicant?

23 MR. HILL: Not yet.

24 MS. BUTANI-D'SOUZA: Okay. I think we do
25 have some questions. So, I think we have quite a few

1 questions so if you give us a moment so that we can
2 get ourselves organized in terms of our questions.

3 [Pause.]

4 MS. BUTANI-D'SOUZA: Okay. So just for the
5 sake of completeness, I note that the owner of 316
6 Webster Street Northwest, Mr. Zerabee (phonetic)
7 indicated that should the Board approve the proposal
8 a rear expansion will affect my property because it
9 will block sunlight to my property in the afternoon
10 hours, adversely impacting the use and enjoyment.

11 He also notes that there are some privacy
12 concerns pertaining to the roof deck. He notes that
13 the 18-foot rear extension will stick out from all
14 other homes. He notes that there would be more car
15 traffic, and for those reasons he's opposed.

16 So, for completeness purposes, I understand
17 that the applicant has submitted revised plans and
18 changed the relief. If the applicant could respond
19 just briefly to those concerns raised by the
20 neighbor, I think that would be helpful to show us
21 how those concerns have been addressed or are no
22 longer relevant due to the revised plans.

23 MR. SULLIVAN: Okay. Thank you, Madam Chair,
24 and I'm not sure how much of it, how much of my
25 response relates to revised plans or just to a

1 response to the comments to begin with. But we did
2 remove the penthouse on the top of the roof, if that
3 was a concern of his. And we do have a shadow study
4 in the record which would show, it's his buildings --
5 two buildings away there's not -- there's a very
6 minimal effect on that.

7 And then the main thing about the addition
8 that we would point out is that the addition is
9 limited to 45 percent lot occupancy, which is 15
10 percent less than the matter of right lot occupancy,
11 and that was a big consideration, I know, for the
12 adjoining neighbors, that it would be limited to 45
13 percent.

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

15 MR. SULLIVAN: And the architect has the
16 shadow studies up now if you wanted to specifically
17 go over his property two doors away.

18 MS. BUTANI-D'SOUZA: Yeah, go ahead.

19 MR. HILL: No, just quickly. I'm just
20 curious, so why did you lose the 15 percent? Just to
21 appease the neighbors? The developer is shaking his
22 head yes. I assume that's correct. Okay. And you -
23 - okay. All right. Thanks.

24 MS. BUTANI-D'SOUZA: So can you help me
25 understand what is the material that you guys are

1 going to be using to clad this addition?

2 MR. CLEVELAND: In the rear it's going to be
3 a cementitious siding, like a Hardy siding, seven-
4 inch exposure.

5 MS. COHEN: Could you speak louder?

6 MR. MOY: The microphone.

7 MR. CLEVELAND: Yeah, it's going to be like a
8 cementitious siding, Hardy Plank, seven-inch
9 exposure.

10 MS. BUTANI-D'SOUZA: Is there going to be any
11 kind of masonry parapet wall concealing this third
12 story addition in the front, because to me it just
13 looks wildly out of character to have a row of homes
14 that are literally identical and then have this
15 frankly really ugly -- no offense, but it's ugly,
16 cementitious siding product extending above the
17 roofline. I'm not an architect, but I mean, wow.

18 MR. CLEVELAND: Our goal is to be completely
19 invisible from the front of the building. And so
20 what we did is we set back from the front. So all
21 you would see, really, from the front is the row
22 house exactly as it exists today.

23 MS. BUTANI-D'SOUZA: Okay. Do you have a
24 view of that? Can you just --

25 MR. CLEVELAND: These four images are all of

1 the row that we're on.

2 MS. BUTANI-D'SOUZA: Okay.

3 MR. CLEVELAND: As you can see there -- well,
4 you can start to see it in the top --

5 MS. BUTANI-D'SOUZA: Are these images or --
6 these are renderings, correct?

7 MR. CLEVELAND: These are renderings.

8 MS. BUTANI-D'SOUZA: Okay. Which is the --
9 which house is it?

10 MR. CLEVELAND: Exactly. That's exactly what
11 our goal was.

12 MS. BUTANI-D'SOUZA: So you can't -- so you
13 won't be able to see the cementitious siding --

14 MR. CLEVELAND: That's right.

15 MS. BUTANI-D'SOUZA: -- product. What about
16 from the back of the side?

17 MR. CLEVELAND: From the back it takes on a
18 more conventional nature. So that cementitious
19 siding is really kind of appropriate and sort of
20 companion to the bump backs that are there now, which
21 are all wood frame construction and residential
22 types. So there you can see a side view. And side
23 view. Arnd rear view here. So it's really more
24 contiguous with how the rear of the row dwelling
25 looks. Our goal, again, is impact minimal if little

1 to no impact on the front of the building.

2 MS. BUTANI-D'SOUZA: So that view that you
3 have right there on the right side, that's not going
4 to be the view from the street. You can't see that
5 from the street?

6 MR. CLEVELAND: Right. We produce elevations
7 but it's an architectural elevation. It's a
8 projected elevation. The three-dimensional view as
9 seen in the computer model, looks like this from the
10 front. And if you can see the railing there that has
11 the light colored railing on it, it's actually the
12 only one with a railing, that --

13 MS. COHEN: Do you have a pointer?

14 MR. CLEVELAND: I don't, no. And we were
15 wondering about that. I can -- if you guys can hear?

16 MS. COHEN: No, you have to be on --

17 MS. BUTANI-D'SOUZA: I think we have a
18 microphone.

19 MR. CLEVELAND: Is that okay? This unit
20 right here is our unit. And you can see it stacks
21 up. You can just see the top edge of it right there.
22 And what we did in response to the initial comments
23 was to lower that front forehead of the building.
24 And we also did a step back there as well to
25 eliminate. You used to be able to see a little bit

1 more of that roof, but we eliminated that forehead of
2 the building so that you don't see anything.

3 MS. BUTANI-D'SOUZA: I see. So you're only
4 really going to be able to see this if you're in the
5 second story of the buildings across the street?

6 MR. CLEVELAND: The building across the
7 street, from the second story, is really the only
8 impact. That's correct.

9 MS. BUTANI-D'SOUZA: Okay.

10 MR. CLEVELAND: And that's, you know, without
11 foliage. There are significant street trees there.

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

13 MR. CLEVELAND: On either side of the street,
14 so.

15 MS. BUTANI-D'SOUZA: Okay. My other question
16 -- can we go back to the shadow or sun study?

17 MR. CLEVELAND: Yeah.

18 MS. BUTANI-D'SOUZA: Can you help us
19 understand the impact on 316 Webster Street in the
20 afternoon hours since they indicated that that was an
21 issue?

22 MR. CLEVELAND: So, we produced a shadow
23 study that did 9:00 a.m. to 3:00 p.m. for equinox and
24 both solstice times. We discerned, in that period of
25 time we had no impact to 316. So if you can follow

1 on the drawings, worst case scenario is summer, 3:00
2 p.m. We're 320, 316 is right here. That's our 3:00
3 p.m. shadow.

4 MS. BUTANI-D'SOUZA: That's the existing
5 shadow, correct?

6 MR. CLEVELAND: No, that's the proposed.

7 MS. BUTANI-D'SOUZA: So what's the existing
8 condition?

9 MR. CLEVELAND: The existing condition is all
10 flat, so there would be no shadow.

11 MS. BUTANI-D'SOUZA: Okay. So there is a
12 shadow cast in the summer.

13 MR. CLEVELAND: On 318, not 316.

14 MS. BUTANI-D'SOUZA: Not on 316.

15 MR. CLEVELAND: Not on -- between 9:00 and
16 3:00.

17 MS. BUTANI-D'SOUZA: And what about in the --
18 right. So that was going to be my next question
19 is --

20 MR. CLEVELAND: Yeah.

21 MS. BUTANI-D'SOUZA: -- I would imagine that
22 the shadows get longer in the afternoon as you go
23 later in the afternoon, correct?

24 MR. CLEVELAND: Yeah. They're impacted
25 beyond, outside of the hours of 9:00 and 3:00. But

1 they're impacted from shadows from trees, from
2 additional rows, there's a lot of impact outside of
3 those hours.

4 MS. BUTANI-D'SOUZA: Okay.

5 MR. CLEVELAND: Beyond our addition. So.

6 MS. BUTANI-D'SOUZA: And can you also address
7 the privacy concerns that 316 raised?

8 MR. CLEVELAND: The privacy concerns in terms
9 of views from the roof deck?

10 MS. BUTANI-D'SOUZA: Yes.

11 MR. CLEVELAND: We were proposing for a roof
12 -- occupiable roof. We have access to the roof. I
13 think that we were anticipating that being used that
14 way. We didn't anticipate any privacy concerns from
15 that. I mean, the use of those back yards occurs
16 now. I'm not -- I guess, what's the question again?

17 MS. BUTANI-D'SOUZA: So the neighbor at 316
18 indicated that they were upset about this project
19 because they would have sight lines. Or rather the
20 applicant -- the users of the property would have
21 sightlines from their roof deck into their back
22 yards. So I'm just curious about how the applicant
23 responds to that.

24 MR. SULLIVAN: Madam Chair, I think I would
25 add that the roof deck portion of it is something

1 that's permitted, so they could do that as well.
2 They could put a roof -- anybody can put a roof deck
3 in without asking for relief. And it would just --
4 it would be no different than looking out a window or
5 a balcony, into somebody else's yard. So I don't
6 think that increases privacy concerns.

7 MS. BUTANI-D'SOUZA: Okay. Okay. So with
8 that why don't we turn to the Office of Planning?

9 MS. FOTHERGILL: Good afternoon. For the
10 record I'm Anne Fothergill with the Office of
11 Planning.

12 The Office of Planning recommends approval of
13 the 336 conversion, the special exception relief that
14 is needed and went through the review criteria and
15 found that it met them, as well as it meets the 900
16 square feet per unit criteria. So we recommend
17 approval and rest on the record.

18 MS. BUTANI-D'SOUZA: Thank you. Are there
19 any questions for the Office of Planning?

20 Okay. So, with that why don't we turn now to
21 our representative from the ANC?

22 MR. GOODMAN: Good afternoon. My apologies.
23 I have a bit of a cold. So, clearing my throat a
24 bit. I'm sorry.

25 So, the ANC has opposed this unanimously in a

1 June meeting, and I believe there's been some
2 tremendous work that we've attempted to work out with
3 the developer since then, as I think is evident from
4 the two neighbors at this point, not opposing this
5 effort. Upon the June meeting and the opposition
6 from both the -- mostly the full block and the ANC,
7 the developer came back with a proposition that said
8 if it was not supported in full that the alternative
9 option would to be, build a unit about twice the
10 density in terms of square footage on the property, a
11 37-foot or so, house, a 24-foot courtyard, another
12 37-foot separate structure that would be connected by
13 some sort of walled walkway so that the individual at
14 318 would have something about 50 or 60 feet of wall
15 going through the full back yard, all the way almost
16 to the parking pad.

17 And then the neighbors on either side were
18 given the option to come back and support in full the
19 initial plan, or this would essentially be placed
20 upon them for the duration of their time in the
21 neighborhood. The neighbors, I believe, are in a
22 very difficult situation of trying to get the best of
23 non-ideal conditions out of this. And I believe
24 wholeheartedly that is why they are in support of
25 this. It's a bad situation for them, and understand

1 that this is going to change the complexity of the
2 neighborhood for quite some time.

3 The ANC, at this point I believe, and on
4 behalf of representing them, would be in support of
5 relief to 336 in exchange for fully removing the roof
6 deck which they do have by right, and future could
7 come back and add that, but believe in good faith
8 that this would address some of the issues that the
9 neighbors would want in exchange for the three units.

10 MS. BUTANI-D'SOUZA: Can you help me
11 understand? So, what you're saying is that the
12 developer said that if the neighbors did not support
13 this proposal that they would build a very large
14 building by right. Is that correct?

15 MR. GOODMAN: Yes, a two-unit that would
16 hit --

17 MS. BUTANI-D'SOUZA: A large two-unit.

18 MR. GOODMAN: That would essentially hit this
19 occupancy which would essentially be two free-
20 standing units with a courtyard in between.

21 MS. BUTANI-D'SOUZA: And they were saying
22 that they would do that by right. Just curious,
23 Office of Planning, is that allowable by right?

24 MS. FOTHERGILL: I don't know off the top of
25 my head, but I do see that they are allowed 60

1 percent lot occupancy and there certainly are things
2 that can be done with meaningful connections and
3 various things. So I would imagine if they said it
4 was by right, that it was. I had not heard of that
5 discussion.

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

7 MR. CLEVELAND: Can I make a comment on that?

8 MR. HILL: No.

9 MR. CLEVELAND: No. Okay.

10 MR. HILL: Mr. Commissioner, so again -- and
11 I understand the situation that the neighbors were
12 put in and the way that the zoning is already set up.
13 I mean, it is what it is. And so what -- the
14 proposal that you had just mentioned was that, and I
15 just didn't hear you correctly or I wondered if you
16 could clarify for me, was to get rid of the roof deck
17 or the possibility of the roof deck. And then you
18 think that the ANC would have been able to sign on to
19 this?

20 MR. GOODMAN: I believe that we would be okay
21 at this point if in exchange for allowing the relief
22 on 336 that yes, the ANC at this point would say we
23 will sign off on this reluctantly.

24 MR. HILL: Uh-huh. And what does the
25 developer have to say about the roof deck? I mean, I

1 know you want to get what you can get. I'm just
2 curious.

3 MR. TAYLOR: We already made a great deal of
4 compromises to minimize the footprint of this
5 building. The roof deck was essential to the
6 building for us.

7 MR. HILL: When you say it's essential to the
8 building, how is it essential to the building?

9 MR. TAYLOR: Well, it was essential for our
10 profit and loss at the end of the day for the
11 building. We minimize a lot of different other areas
12 and compromise in those other areas. A roof deck was
13 essential for us. We made an alternative compromise
14 to the neighbors. Instead of doing the roof deck we
15 said we can change our floorplan a bit. And they
16 said no, they prefer us to do the roof deck. And
17 that's how we got here.

18 In fact, they signed off on letters saying
19 exactly that. We put different proposals to them.
20 This is the one they said they liked the best.

21 MR. HILL: As the architect, can you show me
22 where the roof deck is?

23 MR. CLEVELAND: I can. Yes. And we're not
24 doing a roof deck structure. We're basically doing a
25 ballasted roof, so it's not really a separate

1 structure. Essentially a walkable roof on pedestal
2 pavers.

3 This is the area of the roof deck right here.
4 So, again, setting back the forehead we did bring
5 back the front of the roof deck. There's no railing
6 around it. It's a parapet wall, so it won't appear
7 as a roof deck. It will just appear as somebody on
8 the roof.

9 MR. HILL: What's -- it goes all the way to
10 the back of the property, right?

11 MR. CLEVELAND: It does go all the way to the
12 back of the property.

13 MR. HILL: Okay.

14 MS. COHEN: I don't understand why you're not
15 going to put a -- people are going to be up there
16 without a rail?

17 MR. CLEVELAND: They will have a guard.

18 MS. COHEN: What's the difference? I'm
19 sorry.

20 MR. CLEVELAND: A railing is one type of
21 guard. This wall would be a guard.

22 MS. COHEN: Guard. Okay.

23 MR. CLEVELAND: Anything that protects you
24 from falling is a guard. So there's no guard rail,
25 but there is a guard.

1 MR. HILL: That they'll be using as a roof
2 deck.

3 MS. BUTANI-D'SOUZA: Can we just --

4 MR. CLEVELAND: Well, and that's not
5 insignificant because I think it is a closed
6 enclosure. So some of the neighbors' concerns about
7 things falling on their roof, it's not going to be an
8 open rail.

9 MR. HILL: And so is that going to be a
10 shared roof deck for all the units, or that's just
11 the top unit?

12 MR. TAYLOR: That is for the penthouse unit.

13 MR. HILL: For the penthouse unit.

14 MS. BUTANI-D'SOUZA: I see that the letters
15 from the neighbor, the form letter from the neighbor,
16 indicates that they object to the special exception
17 request for penthouse relief. And that was removed.
18 Is that correct?

19 MR. CLEVELAND: Yes, that's correct.

20 MS. BUTANI-D'SOUZA: So, I'm curious. I'm
21 just curious about why you don't just go ahead and
22 pursue the as-of-right option that you described to
23 the neighbors.

24 MR. TAYLOR: Well, we put it before them and
25 -- in the beginning I met with both the neighbors. I

1 sat down with them and told them we were looking to
2 do a three-unit concept here. We sat down, we went
3 over different plans, it took a while for us to get a
4 development plan together. We put it in front of
5 them.

6 We also developed the two-unit concept that
7 would make sense for us as well. And we said -- we
8 told them, hey, this is a three-unit concept. We're
9 trying to minimize the footprint, minimize the
10 impact. These are other three-unit concepts we've
11 done in the past. We've changed our design in order
12 to minimize it and make it better for you. Our two-
13 unit concept is going to be worse for you. We prefer
14 to do the three-unit concept. We're looking for your
15 support. And that's how it was presented to them
16 from the beginning.

17 There wasn't any type of threat to them. It
18 was just, this is what we do, or this is what we do.
19 And we tried to make one better for them than the
20 other. Better than what we've done historically as
21 well.

22 MS. BUTANI-D'SOUZA: Can you just help us
23 understand better how?

24 MR. TAYLOR: Well, typically another concept
25 we'd use the full lot coverage. We'd maximize our

1 footprint. In this, we didn't. We only used 45
2 percent lot coverage instead of 60 percent lot
3 coverage. And we did that to minimize our bump back
4 to them. We did that in different ways to structure
5 it so that -- in fact we removed windows, we took out
6 the penthouse. We did several things to make it
7 better for the neighbors, and something that they
8 could sign off on.

9 MS. BUTANI-D'SOUZA: Okay. And question for
10 the ANC commissioner. Can you help me understand why
11 is it that the ANC is so opposed to the roof deck?

12 MR. GOODMAN: The neighbors are opposed to
13 roof decks.

14 MS. BUTANI-D'SOUZA: The neighbors.

15 MR. GOODMAN: So when the second option,
16 which was the two-unit by right and they came back,
17 the neighbors on either side had asked them to remove
18 the roof deck. They removed the relief for the
19 penthouse staircase up to it, but not the roof deck.
20 The neighbors went back and asked, we wanted the
21 entire roof deck removed and the response was
22 essentially, we can't maximize our profit if we do
23 that.

24 MS. BUTANI-D'SOUZA: So help me understand,
25 what's the concern about the roof deck?

1 MR. GOODMAN: So, neighbors on either side
2 had concerns about either access to their roofs, with
3 individuals above it, trash, some other general
4 dangers. And then as the unit at 316 had talked
5 about was the fact that individuals will be behind
6 the rear roofline of adjoining houses and looking
7 down was their privacy concerns with those bedroom
8 windows.

9 MS. BUTANI-D'SOUZA: Bedroom windows. That
10 they can see into the bedroom -- I don't understand
11 how it's possible for them to see in. You're saying
12 that if you come to the back edge of the roof deck
13 and you turn around and you look back you can see
14 into the windows in 316?

15 MR. GOODMAN: You'll be 18 feet past the rear
16 of the adjoining properties down the block. So they
17 had concerns about somebody being elevated, looking
18 at that second level. Whereas on the ground floor
19 you're two floors below where essentially a bedroom
20 would be.

21 MS. BUTANI-D'SOUZA: Okay. I see. And can
22 you -- I'm sorry. You know, I wrote down your name
23 but it's --

24 MR. CLEVELAND: Will.

25 MS. BUTANI-D'SOUZA: -- another -- Mr.

1 Cleveland. Can you just -- let's just go back to
2 this guardrail or guard wall issue here. Is there,
3 on the sides of the structure, what kind of -- it
4 looks like there's almost a parapet wall along the
5 sides that would -- or, actually, this extends so far
6 above the other homes. I'm just trying to understand
7 the concern.

8 So the concern is that people are going to
9 throw trash on to the roofs?

10 MR. GOODMAN: That was the shared concern,
11 yes. It was just -- I'm just restating neighbors'
12 concerns. Yeah.

13 MS. BUTANI-D'SOUZA: No, no, I understand.
14 I'm just trying to wrap my head around everything.
15 So the concern is trash being thrown on the roof.
16 And the other concern was people jumping down from
17 the roof on -- from the roof deck on to the
18 neighboring roof?

19 MR. GOODMAN: Yeah, and that was to adjoining
20 and I think they've kind of possibly backed off from
21 that a bit. But that was the -- other neighbors who
22 haven't submitted letters on behalf of those, who
23 came and talked about opposition, that was
24 essentially a concern.

25 MS. BUTANI-D'SOUZA: Okay. Looking at this

1 elevation, I mean, to me it seems as though you
2 actually have less of a security concern when you
3 have such a high building because you don't have
4 people who have the ability to run across the roofs
5 of the connected homes. But with regard to the trash
6 concern, I'm just curious about whether you have any
7 thoughts on how to prevent people who occupy these
8 units from -- these are condos, correct? From
9 throwing trash on their neighbor's roof.

10 MR. TAYLOR: Well, they are.

11 MS. BUTANI-D'SOUZA: Or trash blowing on to
12 their neighbor's roof which I think would be
13 probably --

14 MR. TAYLOR: Well, typically in this price
15 range you don't have people that are willing to throw
16 trash off their roofs. This is not that type of
17 neighborhood and it's not that type of demographic, I
18 would imagine, that would do that.

19 MS. BUTANI-D'SOUZA: Okay. So you feel like
20 that's just less of a concern here?

21 MR. TAYLOR: I don't think that would be a
22 great concern, and I don't think there would be much
23 of a concern in terms of privacy because I don't
24 think you'll be able to look into a neighbor's back
25 yard from there. To look above the parapet wall and

1 look into somebody's house you'd probably have to,
2 you know, kind of lean over the roof and do some type
3 of --

4 MS. BUTANI-D'SOUZA: Really have to get in
5 there.

6 MR. TAYLOR: -- acrobatics to get to that
7 point.

8 MS. BUTANI-D'SOUZA: Can you remind me, how
9 high is the parapet on the sides?

10 MR. CLEVELAND: Above the permitted roof
11 height we are four feet.

12 MS. BUTANI-D'SOUZA: Four feet. Okay. Okay.
13 Does anyone else have any other questions for the ANC
14 or for the applicant? No?

15 Okay. Let's keep moving then. Are there any
16 persons who wish to speak in support of this
17 application? Is there anyone who wishes to speak in
18 opposition to this application.

19 I don't think that -- go ahead.

20 MR. HILL: Just one more, Madam Chair, for
21 the ANC. And again, this is just for clarity because
22 we've gone through this quite a bit, actually, over
23 the past year in terms of like the conversions and,
24 you know, it was at 40 feet, then it was at 35, then
25 the lot occupancy and push back and forth. And it's

1 more, again, just for my understanding and education
2 because again the developer's by right can do X. And
3 then they go in and talk to the community and through
4 discussions come to a different agreement with the
5 possibility of doing a third unit.

6 And so you again, as well as the community,
7 understands that they could do by right, two units in
8 this exact same configuration if they wanted to.
9 They're asking for a third unit. I'm just clearing
10 up. That is the -- I mean, everyone knows that they
11 could do two units with this configuration by right.

12 MR. CLEVELAND: Yes, absolutely. And just
13 the opposition is that we are not signing on to
14 everything they're asking for at this point. So
15 we're not in agreement. We had hoped for some
16 compromise to, you know, give relief on 336 in
17 exchange for that roof. And that's what we were
18 essentially offering knowing that they could also go
19 by right to something much larger than, you know,
20 potentially would sit on the market.

21 MR. HILL: Right. Okay. Thank you.

22 MS. BUTANI-D'SOUZA: Are there any other
23 questions for the applicant or the ANC?

24 Okay. Seeing none, does the applicant wish
25 to make any kind of rebuttal or closing statement?

1 MR. SULLIVAN: Thank you, Madam Chair. Just
2 briefly.

3 On the issue of presenting two different
4 plans, and I think this is the way these cases have
5 evolved in that if you're going to get support for
6 your conversion, you can't come with 60 percent lot
7 occupancy and say, hey, I want to do the full
8 building just like I could do with two units and I'd
9 like you to grant me support for a third unit.

10 So the initial plan starts out with much less
11 of a footprint than the 60 percent. And so that's
12 just the way -- that's just the way it works when
13 somebody is developing a building. And the extra
14 unit gives them some additional value over and above
15 what the additional footprint would be. So you're
16 trading mass for that unit, I think, which is maybe
17 how it was intended to work out. And if you can do
18 that in a way that secures the support of the
19 neighbors then it gives the Board the opportunity to
20 say yes on an individual case-by-case basis. And I
21 think that's how this one played out for the most
22 part. Thank you.

23 MS. BUTANI-D'SOUZA: Thank you. Are there
24 any other questions or can we move to deliberation on
25 this one?

1 Okay. So why don't we start with Mr. Hill?

2 MR. HILL: No, no, I just had a -- I just
3 wanted to respond to Mr. Sullivan. I'm also curious
4 as this continues to move forward, I agree completely
5 with what you said. There is a point at one point
6 where it doesn't feasibly make sense to make two
7 units that size. And that's where I'm always kind of
8 -- it's just more comment, and just more comment.

9 And so I'm ready to go to deliberations if
10 you like, Madam Chair. Is that what you were asking
11 for?

12 I understand and you know, the Zoning
13 Commission kind of brought this -- this is what I
14 think was supposed to happen in terms of the density
15 in that, you know, it's by right, the height, the
16 massing, and I've struggled before with kind of how
17 the community is going to develop, because I think
18 this is how the community is going to develop. I
19 mean, I think that these streets are going to go this
20 way, you know, and how the ANC responds to it and how
21 they kind of negotiate, I suppose, what's best for
22 their neighborhood is what you're trying to do.

23 And I, you know, I'm going to go with
24 approving this as-is, and I'm going to go with, you
25 know, the recommendation of the Office of Planning.

1 The roof deck for me was something that, you know, I
2 could have gone back and forth with, with the ANC I
3 suppose. I felt better about it because it wasn't a
4 shared roof deck. It's like, you know, one family
5 would have it rather than the whole building which
6 might -- there might be more you know, parties or
7 things or what have you. But still, nonetheless, so
8 I'm comfortable approving this as it meeting the
9 standard as the way the zoning has been set up.

10 MS. BUTANI-D'SOUZA: I tend to agree. I
11 think we've had a very interesting discussion here
12 about the leverage that various parties have with the
13 regulations that the Zoning Commission has set up.
14 And you know, this is how the regulation goes that
15 the ANC can get some compromises, that the community
16 can get some compromises when a building is
17 developed. And, you know, the developer has the
18 option to pursue a larger set of units by right.
19 Right now it doesn't sound like the market is there
20 for that, but perhaps that changes over time.

21 I think it's -- I appreciate that the
22 developer has worked pretty extensively with the
23 community to come to something that is maybe not
24 fully agreeable to the ANC, but is palatable at
25 least, to the neighbors, enough so that they are

1 willing to support the application on the record. So
2 I would be in support of this. Any other comments?

3 Okay. So motion to approve the relief as
4 captioned.

5 MR. HINKLE: Second.

6 MS. BUTANI-D'SOUZA: Okay. The motion has
7 been made and seconded. Are there --

8 [Vote taken.]

9 MS. BUTANI-D'SOUZA: Okay. The motion
10 carries. Thank you.

11 MR. HILL: And, Mr. Commissioner, I do
12 appreciate you coming down here, even sick and
13 everything, and expressing the views of your
14 neighbor.

15 MR. GOODMAN: Thank you.

16 MR. MOY: Staff would record the vote as
17 three to zero to one. This is on the motion of Chair
18 Butani to approve the application for the relief
19 requested. Seconding the motion, Mr. Hinkle.
20 Supporting, Ms. Cohen, Mr. Hill. Marnique Heath not
21 present today. Motion carries, Madam Chair.

22 MS. BUTANI-D'SOUZA: Thank you, Mr. Moy.
23 Summary order, please.

24 MR. MOY: Was the ANC still in opposition?

25 MS. BUTANI-D'SOUZA: Oh, the ANC is in

1 opposition so it's a full order.

2 MR. MOY: Okay.

3 MS. BUTANI-D'SOUZA: Mr. Moy, is this our
4 last case, Dilan?

5 MR. MOY: Okay. Yes, Madam Chair, this is
6 the last case for the day. Application No. 19316 of
7 Dilan Investment, LLC. advertised for a special
8 exception relief from the residential development
9 requirements under 353 to construct a 12-unit
10 apartment building, R-5-A District, 1904 Irving
11 Street Northeast, Square 4207, Lot 15.

12 And I believe there's a party status request
13 under Exhibit 28.

14 MS. BUTANI-D'SOUZA: Thank you, Mr. Moy.
15 Okay. If you could please introduce yourselves for
16 the record.

17 MR. BELLO: Madam Chair, good afternoon.
18 Board Members. Toye Bello, representing the
19 applicant.

20 MR. MEHMETOGLU: Good afternoon. My name is
21 Jehat Mehmetoglu with Dilan Investments.

22 MR. NORTON: Mike Norton, Norton Land Design,
23 landscape architects.

24 MS. BUTANI-D'SOUZA: Thank you. And I
25 understand that we have a request for party status in

1 opposition. Why don't you come forward?

2 MS. ABNEY-BARBER: Felicia Abney-Barber.

3 MS. BUTANI-D'SOUZA: Okay.

4 MS. ABNEY-BARBER: In opposition.

5 MS. BUTANI-D'SOUZA: Okay. Good afternoon,
6 Ms. Abney-Barber. I did read your -- we all read
7 your submission. It was very detailed. And I'm
8 inclined to grant the request for party status in
9 opposition. I don't know if there is any --

10 MR. HILL: Sure.

11 MS. BUTANI-D'SOUZA: Okay. So we're going to
12 go ahead and grant your party status in opposition.
13 So what that means is that you have the opportunity
14 to make a statement, call witnesses, I believe, and
15 you would be informed of, automatically informed of
16 any movements on this case.

17 MS. ABNEY-BARBER: Thank you.

18 MS. BUTANI-D'SOUZA: Okay. So, with that --

19 MS. COHEN: Madam Chairwoman, I'm surprised
20 that they're here today not asking for an extension
21 because OP, the ANC, you know, are both objecting to
22 it. So I haven't seen anything come in to modify
23 that.

24 MS. BUTANI-D'SOUZA: Thank you. Yes. So
25 before we go into a statement from the applicant, in

1 looking at the record here you have significant
2 opposition and as you know this Board is required to
3 give great weight to the opinion of the ANC, and the
4 opinion if OP. So I'm going to tell you, judging by
5 the amount of opposition you have here, I think
6 you've got a lot of work to do. So just going to
7 through that out there.

8 Though, we can go through information from
9 you, and we can then look and see whether this is
10 ready to be voted on today. And again, I think -- I
11 can't imagine that there's sufficient information
12 here, or information that you're going to present
13 that would, you know, allow the Board to actually
14 approve this. I think you are pretty much facing a
15 situation where we would vote to deny this.

16 So I would question whether it would be more
17 sensible to postpone this hearing until you've had a
18 chance to work through some of the issues that have
19 been raised by the various folks who have something
20 to say about this case.

21 MR. BELLO: Okay. And I appreciate that,
22 Madam Chair. I don't think the applicant is averse
23 to continuing discussions with the ANC and the
24 neighbor if we thought that it was any headway in
25 doing so. I think we've embarked on a significant

1 amount of community outreach and we simply believe
2 that the opposition is just based on not wanting an
3 apartment house there.

4 I'll let Office of Planning speak for itself.
5 I think their recommendation of denial was based on
6 not receiving documentation early enough to do so. I
7 don't know what their position has changed, but I'll
8 let them testify to that. But if it boils down just
9 to the opposition of the ANC and the neighbor, their
10 opposition is simply that they don't want to see an
11 apartment house there and I don't know how we get
12 beyond that point.

13 MS. BUTANI-D'SOUZA: Okay. So, if you can
14 clarify? So is it your opinion that you want to
15 continue on with this hearing today, or are you going
16 to be engaging in greater work with the community and
17 the Office of Planning, the ANC on these --

18 MR. BELLO: Well, I think our submission is
19 full. If what I'm hearing from the Board is that the
20 potential for denying is exclusively based on the
21 opposition of the ANC --

22 MS. BUTANI-D'SOUZA: I think there's a
23 significant amount of opposition here. We have the
24 ANC on the record, opposed. We have the Office of
25 Planning opposed. We can certainly hear from the

1 Office of Planning today to see if they've changed
2 their mind about that. We have -- I don't believe
3 that we have sufficient information on the record in
4 terms of the proposed design. Certainly the issues
5 that OP raised I'm curious to hear whether the
6 elevations that have been submitted really speak to
7 all of the issues that they raised.

8 And then we also have a party status in
9 opposition. So again, it's your call. We can go
10 through this and I'll listen to everything. But I
11 suspect that you're going to have to come back
12 anyway.

13 MR. BELLO: We're glad to come back, but
14 perhaps if Office of Planning wants to make their
15 position known to you at this point.

16 MS. BUTANI-D'SOUZA: Okay. Okay. So we will
17 go on. Does the applicant wish to make a statement
18 at this time, beyond what you've already stated?

19 MR. BELLO: Well, I just need to clarify. I
20 mean, the applicant is not averse to postponing and
21 coming back. But I just need some clarity. If the
22 position of the Board is that your initial position
23 is based on OP's recommendation, I think OP's
24 position has changed slightly on that. So the
25 question that I have for the Board is, if OP's

1 position has changed and we've done quite a bit of
2 outreach through the neighbor and the ANC, and from
3 my opinion the basis of the objection is they simply
4 do not want an apartment house here.

5 MS. BUTANI-D'SOUZA: Okay. So we have the
6 party in opposition here. And we have the Office of
7 Planning here. So why don't we go ahead and hear
8 from the folks that have come here. And I know you
9 all have waited the whole day for this. So we'll go
10 ahead and hear from everyone that's here, and then
11 we'll go from there. Okay?

12 MR. BELLO: Thank you.

13 MS. BUTANI-D'SOUZA: All right. So do you
14 wish to make any further statement at this time?

15 MR. BELLO: Well, the only statement is that
16 if the opposition, particularly the party status
17 request, is open to further dialog, we're open to
18 that. But I just --

19 MS. BUTANI-D'SOUZA: Okay. We'll hear
20 from -- we will be hearing from her, so there will be
21 an opportunity for you to, I believe, ask her some
22 questions as well.

23 MR. BELLO: Thank you.

24 MS. BUTANI-D'SOUZA: Okay. All right. So,
25 let's hold on for just one moment.

1 [Pause.]

2 MS. BUTANI-D'SOUZA: Okay. So next we're
3 going to hear from the party who wishes to speak in
4 opposition. So, Ms. Barber, is it? Ms. Abney-
5 Barber?

6 MS. ABNEY-BARBER: Barber is fine.

7 MS. BUTANI-D'SOUZA: Okay. Ms. Barber. So,
8 I believe, is there a time limit on this? No.
9 Correct?

10 MR. MOY: The chair can set time limits
11 for --

12 MS. BUTANI-D'SOUZA: Okay.

13 MR. MOY: -- parties.

14 MS. BUTANI-D'SOUZA: Is five minutes enough?

15 MS. ABNEY-BARBER: That's more than enough.

16 MS. BUTANI-D'SOUZA: Okay. Go ahead.

17 MS. ABNEY-BARBER: For reasons I've already
18 stated in my request for party status, starting with
19 the proximity of this building, directly next door to
20 me, I'm totally opposed to how close this building is
21 going to be next door to me.

22 From where 1904 is to the end of my block are
23 single-family homes. And it should stay single-
24 family homes. We have four apartment buildings to
25 the right of me. And from those apartment buildings

1 you get trash, parking problems, congestion, and
2 right now we're fighting this issue with drugs.
3 Another apartment building would not edify or add any
4 harmony to this area, especially directly next door
5 to me, which I think would devalue my property.

6 When someone is looking for a single-family
7 home, do they really want to live next door to an
8 apartment building, if you're looking for a single-
9 family area? No, I think that's going to hurt me and
10 devalue my property.

11 I'm concerned about where they're going to
12 put their trash dumpster. They're proposing 12
13 parking spaces in the back. If you look at their
14 diagram, parking spaces three, four, and five, how
15 are they going to maneuver and get in and out. Where
16 is the dumpster going to go?

17 I think I read DDOT's suggestion that they
18 put a bike parking thing in the back of their
19 garages. Well, where is all this going to go in that
20 small space? You're proposing 12 units. They're
21 proposing 12 small units. What are your demographics
22 for these small units? And again, I'm concerned
23 about the people that are going to move in. I'm
24 directly next door.

25 You're going to take away my sunlight. I'm

1 concerned about my property during your construction,
2 the vibrations, the debris, the noise. I'm opposed
3 to it.

4 MS. BUTANI-D'SOUZA: Okay. Thank you. Does
5 the Board have any questions for the party in
6 opposition?

7 MS. COHEN: It appears to me that anything
8 more than a single-unit home would be unacceptable to
9 you. Is that correct?

10 MS. ABNEY-BARBER: Basically that's correct.

11 MS. COHEN: However, it is zoned to accept a
12 multi-unit building, and therefore they need to
13 maximize the use of their property, otherwise it
14 becomes less valuable.

15 I mean, your property is valued based on the
16 sales of similar single-family homes and the multi-
17 family building will not have a major impact because
18 again, if you sell your property it's based on
19 similar sales of similar properties, and there are
20 adjustments made but it's usually not regarding a
21 multi-family building next to you.

22 So I think that I just want to put out there
23 for you to contemplate that, you know, if the zoning
24 allows them to put up a multi-unit building, 12 may
25 not be the proper number, but something less might

1 be.

2 MS. ABNEY-BARBER: I had a question or I can
3 make a statement after that? I plan --

4 MS. BUTANI-D'SOUZA: Just a moment. Okay.
5 The party in opposition wanted to answer the question
6 or make a response.

7 MS. ABNEY-BARBER: More like make a response.
8 I don't plan on moving but who doesn't want to know
9 that their property is worth something.

10 My concern is, I plan on living there and I
11 want to enjoy living in my space.

12 MS. BUTANI-D'SOUZA: Okay. So I have a
13 couple of questions for the applicant based on the
14 testimony that we've heard here. So the first one is
15 -- well, actually first I'd just like to note that
16 issues pertaining to construction are outside the
17 purview of this board. So if you're concerned about
18 any construction issues that's something that you
19 would have to negotiate separately with the
20 applicant. I believe that there is -- I believe that
21 DCRA can help with that. But what often happens is
22 that applicants negotiate construction management
23 agreements with neighboring properties to address
24 issues like vibrations, dust, noise of construction.
25 I would also highly recommend that you

1 request and that the applicant provide an insurance
2 certificate to the neighbor for the construction. So
3 any time that anything is constructed the
4 construction companies carry insurance and you should
5 request a certificate of insurance listing you as an
6 additional insured. That's a pretty standard thing
7 and it shouldn't be that big of a deal. A quick way
8 to address some of those issues.

9 So the questions that I have for the
10 applicant are, the party in opposition has raised
11 questions about the location of the dumpster and
12 sunlight. So can you help us understand how your --
13 where is the trash going to be located and how this
14 is going to impact sunlight to this property?

15 MR. BELLO: Well, there's going to be a trash
16 enclosure right behind the building, which is open to
17 the sky. It's going to be locked, gated, and cleaned
18 regularly. The applicant has other rental property
19 that he has management, a property management company
20 that handles, is a very good neighbor, and he does
21 quite a bit of construction around the city. He's
22 not adverse to sitting down with the neighbor to work
23 out a construction activity agreement.

24 He wants to be a good neighbor. He's
25 actually approached the neighbor and gone to her

1 door, but she refused to engage. So for those issues
2 that she's raised that we are very sympathetic to and
3 we think they're legitimate issues. We don't mind
4 postponing the hearing to have a sit-down with her if
5 she's not adverse.

6 MR. HILL: No, Madam Chair, I was just going
7 to make a comment.

8 Ms. Barber, again, so what Commissioner Cohen
9 had just mentioned again, that the zoning there in
10 that area is for apartment buildings, is for multi-
11 unit buildings. I say that in that that's something
12 that whether or not this moves forward, that's the
13 kind of the zone that you are in. And you know,
14 we're going to get to the Office of Planning. We'll
15 see what -- I mean, currently right now everybody is
16 opposed to this. Right? Like, so nobody said yes
17 yet, and we'll see what happens over with Office of
18 Planning now.

19 So I think we are going to come back here
20 regardless at some point. I think. I don't know.
21 And if we did, as Mr. Bello, you just mentioned, you
22 know, working with the opposition kind of coming up
23 with some type of solutions. I mean, this is an
24 opportunity to -- I mean, I haven't pulled it up and
25 you can take a look, but I don't know where the

1 dumpster is. I don't know if there's a way that
2 again, if we get -- hear what Office of Planning says
3 and you have an opportunity to work with Office of
4 Planning, the applicant has an opportunity to work
5 with Office of Planning, kind of figuring out where
6 to put the dumpster in a way that would better
7 satisfy the opposition as well as, you know, the
8 parking three, four, and five, like we haven't looked
9 yet. Whatever parking three, four, and five is,
10 whatever the concerns are with that, whatever the
11 concerns are with, you know, DDOT's recommendation
12 concerning the bike rack, you know, I think that
13 getting somebody to be in support of this, you know,
14 be it the immediate neighbor, that would obviously be
15 helpful.

16 Your property, Ms. Barber, it's right as
17 you're facing the development, is it to the right?

18 MS. ABNEY-BARBER: I'm to the left.

19 MR. HILL: You're to the left. Okay. So it
20 looks like there is a gap, though, right? You're not
21 sharing a common wall?

22 MS. ABNEY-BARBER: No.

23 MR. HILL: Okay. So the distance between the
24 properties, do you know what the distance is?

25 MR. BELLO: That will be 16 feet, face to

1 face.

2 MR. HILL: Okay. Sixteen feet, face to face.
3 Okay. So thank you, Madam Chair. I mean, I am
4 interested, obviously, in seeing how OP is going to
5 comment on any of this. But if what I think is going
6 to happen is that we're going to come back for a
7 limited hearing again, Ms. Barber, having an
8 opportunity to meet with the applicant and talk to
9 them in a way that you get something out of this, is
10 you know -- and when I say that again, I mean like,
11 you know, somehow work it out so that some of your
12 concerns can be met knowing that there is the
13 possibility of an apartment building in some
14 capacity.

15 MS. BUTANI-D'SOUZA: And I think I also
16 appreciate that Mr. Bello has indicated that they
17 wish to be good neighbors. So, as Commissioner Cohen
18 has indicated, it is very likely that since this is
19 zoned for apartments, that there would be an
20 apartment building. And you have an opportunity here
21 with a developer who has indicated that they want to
22 be a good neighbor, that they're flexible about
23 issues related to trash location. And they may be
24 flexible about other issues as well.

25 So I would encourage you to at least be

1 willing to meet with them and have a discussion.

2 I didn't hear anything about sunlight. Can
3 you talk a little bit about sunlight impacts here?

4 [Pause.]

5 MS. BUTANI-D'SOUZA: If we're having
6 technical difficulties we can pause on the sunlight
7 question and hear from the Office of Planning.

8 MR. BELLO: Okay.

9 MS. BUTANI-D'SOUZA: Okay. So we'll turn now
10 to the Office of Planning.

11 MS. ELLIOTT: Thank you. And good afternoon.
12 I'm Brandice Elliott with the Office of Planning.

13 Our recommendation of denial was a result of
14 not receiving information with enough time to review
15 it. We had had multiple discussions with the
16 applicant regarding the design of the building, and
17 we're aware that changes were coming but in the
18 meantime our report had to be filed before we had
19 those modifications. So our report is a reflection
20 of that.

21 We have been working with the applicant ever
22 since, and I would like to note that in this case the
23 project is well within the development requirements.
24 The bulk and massing for this zone. For instance,
25 the proposed height is 28 and a half feet and they

1 could go up to 40 feet by right. Also, a rear yard
2 of 82 feet has been provided and only 20 feet is
3 required.

4 The side yards have been provided as
5 required. And so we think that the structure, while
6 it is an apartment building next to single-family,
7 it's not as large and ominous, you know, as it could
8 potentially be.

9 Part of what the 353 special exception allows
10 OP to do is review for things like design and
11 landscape, which is a little unusual. We get a
12 little more consideration with these particular
13 cases. And that's really where most of our issues
14 were.

15 So, we weren't too impressed with the
16 elevations as they were proposed. And something that
17 I'm not too sure about is, the image that was on the
18 screen, I think that that's different from the latest
19 proposal. And so I just want to make sure that I'm
20 looking at the right elevation because I think what
21 was submitted to the Board most recently in the
22 prehearing statement shows an all brick building, and
23 it also has some articulation around the windows and
24 a cornice just above the first floor and around the
25 top of the building, whereas the original submission

1 did not have that.

2 So, if I'm looking at the right elevation we
3 think that there has been an improvement. And I'm
4 sorry, I don't have the exhibit number or anything at
5 my fingertips.

6 MS. BUTANI-D'SOUZA: Which is understandable
7 because it wasn't submitted on time and we do like to
8 receive timely submissions. But I think we have
9 another question from the Board. Go ahead, Mr. Hill.

10 MR. HILL: No, I just wanted to make a
11 statement. I don't know if we're getting to this or
12 not in that, you know, I'd like to see again, things
13 submitted to the Office of Planning and get a new
14 report from the Office of Planning concerning their
15 recommendations because I think we're going to come
16 back. And if we're going to come back, then let's
17 just come back.

18 And if that were the case, then also sitting
19 down with the neighbor and having a -- I was going to
20 say a calm discussion. You know, a good discussion,
21 a good discussion, knowing that it would be better to
22 have the support of the opposition than not, and also
23 as the opposition, knowing it's zoned for this type
24 of use, and just kind of where you are in terms of
25 the negotiations, that you both have something to

1 gain and lose.

2 But that's what I -- because, you know,
3 Office of Planning is now saying that they might be
4 on board but they haven't -- and I haven't seen the
5 latest drawings. I don't know what we're looking at
6 so I'd want to come back anyways. So that's where I
7 am.

8 MS. BUTANI-D'SOUZA: Okay. So I tend to
9 agree with Mr. Hill.

10 Number one, Mr. Bello, I think it would be
11 helpful if you could submit revised plans timely, and
12 if you're unable to do that then I would request that
13 you would ask to have the case postponed in the
14 future. It's very -- as you may be aware, there are
15 many moving pieces associated with BZA review, and
16 there are a number of people, not just on this dais,
17 but throughout the Office of Zoning that review these
18 cases and it's very frustrating to waste the time of
19 10 or 15 people because you can't put your exhibits
20 in on time.

21 So we ask as a Board, as a rule, that
22 applicants provide -- excuse me, that they provide
23 their submissions timely so that there is an
24 opportunity for everyone to review them. And when
25 there is not that time that they work with the Office

1 of Zoning to postpone the case until there has been
2 time to get everything submitted.

3 So I don't really think that -- I do think we
4 need something supplemental from OP. It sounds like
5 we also need some clarity on exactly what the final
6 plans are. And it sounds like the applicant, excuse
7 me, needs to sit down with the party who stands in
8 opposition, and the party in opposition also needs to
9 come into that meeting with open ears.

10 The bottom line here is that something is
11 going to get built, and as the Office of Planning has
12 pointed out, that something can be a lot bigger and
13 more intrusive than what's been proposed. So you
14 have an opportunity to have a conversation where some
15 of the concerns not pertaining to the presence of
16 apartments, but the how of apartments are addressed.
17 So I would definitely encourage you to work with the
18 applicant. And likewise, I would encourage the
19 applicant to work with the party who is in opposition
20 as Mr. Hill said. You're going to need somebody to
21 support you guys.

22 So, I hope you will be the good neighbor that
23 you would like to be.

24 MS. COHEN: I would like to just ask.

25 MS. BUTANI-D'SOUZA: Go ahead.

1 MS. COHEN: Thank you, Madam Chair. I also
2 suggest that you work with the ANC because they're
3 objecting to this as well.

4 But maybe even more important is to get the
5 ANC, yourselves, and the party in opposition together
6 with some of the owners of the other buildings that
7 are obviously have some blighting influence, some
8 issues that are creating the bias that no one wants
9 additional density on that block. And a lot of it
10 has to do with the way I think the other buildings
11 may be managed, if there's trash and whatnot.

12 I mean, I think as a good neighbor as the
13 possibility, with the ANC engaged, you can clean up
14 that block so that there isn't that view that all
15 multi-family is bad. I have multi-family buildings
16 surrounding, you know, our housing and you know,
17 they're well maintained and so we don't have a
18 problem.

19 MR. BELLO: Appreciate that, Madam Chair, and
20 I apologize for the late filings. But not offered as
21 an excuse but you know, in responding to some of the
22 design recommendations of the Office of Planning we
23 had to keep working on the design. All the filings
24 are in place, but in my supplemental report I will
25 identify all those filings and submissions that are

1 already in there.

2 MS. BUTANI-D'SOUZA: Thank you. And while I
3 certainly appreciate that you endeavor to make -- to
4 respond to the Office of Planning, the point that I
5 am trying to make is that we really can't evaluate
6 your response if the Office of Planning doesn't have
7 enough time to review it. So that's why I would say
8 that it's important to get these things in with
9 enough time to review and if you're going to be
10 submitting something let, to try to work with OP to
11 see what they can do, which, you know, going forward.

12 MR. BELLO: Thank you.

13 MS. BUTANI-D'SOUZA: Okay. Go ahead.

14 MR. HILL: And just for the applicant, Mr.
15 Bello, I would be interested when you come back,
16 about the dumpster and the three, four, and -- was it
17 three? Yeah, three, four, and five parking slots.
18 And then I'm just specifically interested in those
19 issues raised. Thanks.

20 MR. BELLO: Thank you, sir.

21 MS. BUTANI-D'SOUZA: Okay. So with that why
22 don't we put this on for a continued hearing? Mr.
23 Moy, what dates do we have available?

24 MR. MOY: Okay. Madam Chair, I don't recall,
25 I apologize, when ANC 5 meets in September, but so

1 not knowing that --

2 MR. HILL: Mr. Bello, do you know when the
3 ANC meets in September? Do you know when the ANC
4 meets in September?

5 MR. BELLO: I'm not sure. I will have to
6 find out. I think the first week of September is the
7 date.

8 MR. MOY: Okay. All right. Because, Madam
9 Chair, I was looking at September 27th but --

10 MS. BUTANI-D'SOUZA: But that date is full?

11 MR. MOY: -- we have 11 cases. Yeah, we have
12 11 cases for the 27th.

13 MS. BUTANI-D'SOUZA: I think it's okay to add
14 this one.

15 MR. MOY: Okay, yeah. What's one more,
16 right?

17 MS. BUTANI-D'SOUZA: Or we could put it to
18 October, but I think --

19 MR. MOY: Oh, we can do that too.

20 MS. BUTANI-D'SOUZA: I think it's okay to put
21 it on the 27th.

22 MR. MOY: Okay. We could always move it if
23 the 27th doesn't work out.

24 MS. BUTANI-D'SOUZA: Sure.

25 MR. MOY: So, to a later date.

1 MS. BUTANI-D'SOUZA: So that would mean that
2 you would need to have everything -- they're not
3 going to have an ANC report in time though. If the
4 ANC meets the first week of September and we need to
5 get everything in three weeks ahead of time.

6 MR. MOY: Yeah, with the Labor Day -- is it
7 Labor Day?

8 MS. BUTANI-D'SOUZA: Yes.

9 MR. MOY: Yeah, Labor Day weekend, I don't
10 know how that changes their --

11 MS. BUTANI-D'SOUZA: So why don't we look at
12 October for this?

13 MR. MOY: Okay. So, the first opportunity in
14 October for the Board would be October the 4th. And
15 this would be the only case for the moment.

16 MS. BUTANI-D'SOUZA: Mr. Moy, can you help me
17 understand? So there is a party in opposition here.
18 So, a summary order would not be possible unless the
19 party in opposition were to withdraw, correct?

20 MR. MOY: That's correct.

21 MS. BUTANI-D'SOUZA: So, and until you
22 receive the order you cannot apply for your building
23 permit. Is that correct?

24 MR. MOY: Typically.

25 MS. BUTANI-D'SOUZA: So I think it's very

1 much in the interest of the applicant to work with
2 the party in opposition to try to see if you can
3 address some of her issues so that she's more
4 supportive of the project and possibly move your
5 timeline up. Just putting that out there.

6 MR. BELLO: Yes. And if we can get an
7 earlier time the better for us. I think we can work
8 out our differences in time for the 27th hearing.

9 MS. BUTANI-D'SOUZA: I'm open to it, but
10 again we're going to hold you to a high standard.
11 Everything needs to be in with enough time for every
12 relevant party to review here.

13 MR. BELLO: Absolutely.

14 MS. BUTANI-D'SOUZA: Okay. All right. I'm
15 fine with putting it on the 27th, then.

16 MR. MOY: Okay. 27th. Then the filings
17 would have to be in the record by --

18 MS. BUTANI-D'SOUZA: We're going to need to
19 have somebody read the record for this because --

20 MR. MOY: Is it two weeks or three weeks?

21 MS. BUTANI-D'SOUZA: Three weeks.

22 MR. MOY: Okay. So that would be September
23 6th.

24 MS. BUTANI-D'SOUZA: And we're going to need
25 to have them, the member of the Zoning Commission,

1 read the record for this since Commissioner Cohen
2 won't be here. So, very important that you get
3 everything in timely.

4 MR. BELLO: Absolutely.

5 MS. BUTANI-D'SOUZA: Okay. Thank you very
6 much.

7 MR. MOY: One more thing. It's easy.

8 MS. BUTANI-D'SOUZA: So, just to confirm,
9 three weeks before the 27th we would need to have all
10 the submissions in.

11 MR. BELLO: By the 6th.

12 MS. BUTANI-D'SOUZA: Yes.

13 MR. BELLO: Yes.

14 MR. MOY: September 6th.

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

16 MR. MOY: Continued hearing on the 27th.

17 MS. BUTANI-D'SOUZA: Okay. Thank you very
18 much.

19 MR. BELLO: Thank you.

20 MS. BUTANI-D'SOUZA: Okay. Okay. In
21 accordance with Section 405C of the Open Meetings
22 Act, D.C. Official Code Section 2575C, I move that
23 the Board of Zoning Adjustment hold closed meetings
24 on the Mondays of September 12th, September 19th, and
25 September 26th. These meetings start at 4:00 p.m.

1 and are held for the purpose of obtaining legal
2 advice from our counsel and deliberating upon but not
3 voting on the cases scheduled to be publicly heard or
4 decided by the Board on the day after each such
5 closed meeting.

6 Those cases are identified on the Board's
7 public meeting and hearing agendas for September
8 13th, September 20th, and September 27th. A closed
9 meeting for the purpose is permitted by -- for these
10 purposes is permitted by Section 405(b)(4) and
11 (b)(13) of the Act. Is there a second?

12 MS. COHEN: Second.

13 MS. BUTANI-D'SOUZA: The motion has been made
14 and seconded. Will the secretary please take a roll
15 call vote on the motion?

16 MR. MOY: Thank you, Madam Chair. When I
17 call the member's name if you would reply with a yes
18 or no.

19 [Roll call vote taken.]

20 MR. MOY: The motion carries, Madam Chair.

21 MS. BUTANI-D'SOUZA: Thank you. I request
22 that the Office of Planning provide notice of these
23 closed meetings in accordance with the Act.

24 Yes?

25 MR. HILL: I just wanted to say something.

1 This is our last opportunity with Commissioner Cohen
2 and I really did very much enjoy -- it's only been a
3 year for me and I know that many people have been
4 working with you for a long time. But I very much
5 enjoyed this past year working with you and I wish
6 you well on the next journey.

7 MS. COHEN: Thank you so much, and I think
8 you just like the wisecracks that come out. Thank
9 you.

10 MS. BUTANI-D'SOUZA: I agree.

11 MS. COHEN: Thank you.

12 MS. BUTANI-D'SOUZA: Wish you best of luck.

13 MS. COHEN: You saved my life today. Thanks.

14 MS. BUTANI-D'SOUZA: With what? Oh, with
15 those?

16 MS. COHEN: Yeah.

17 MS. BUTANI-D'SOUZA: I'm sorry, I should have
18 brought them out earlier.

19 MS. COHEN: No, it's okay.

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

21 MS. COHEN: Thanks. Thank you.

22 MR. MOY: Well, and on behalf of the staff,
23 Ms. Cohen, it's been a pleasure and you are always
24 welcome back.

25 MS. COHEN: Thank you.

1 MS. BUTANI-D'SOUZA: So are we adjourned
2 until September 6th?

3 MR. MOY: That's correct.

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

5 [Whereupon, at 2:02 p.m., the Board Hearing
6 was adjourned.]

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