

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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REGULAR PUBLIC HEARING

+ + + + +

WEDNESDAY

DECEMBER 13, 2023

+ + + + +

The Regular Public Hearing of the District of Columbia Board of Zoning Adjustment convened via Video/Teleconference, pursuant to notice at 9:30 a.m. EST, Frederick L. Hill, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

FREDERICK L. HILL, Chairperson
LORNA L. JOHN, Vice Chairperson
CARL BLAKE, Board Member

ZONING COMMISSION MEMBERS PRESENT:

ROBERT MILLER, Vice Chairperson

OFFICE OF ZONING STAFF PRESENT:

MARK HAMALA, Zoning Specialist
PAUL YOUNG, A/V Production Specialist

OFFICE OF PLANNING STAFF PRESENT:

SHEPARD BEAMON
JONATHAN KIRSCHENBAUM
JOEL LAWSON
CRYSTAL MEYERS
KAREN THOMAS

OFFICE OF ZONING ATTORNEY ADVISORS PRESENT:

SARAH BAJAJ, ESQ.
COMETRIA COOPER, ESQ.
CARISSA DEMARE, ESQ.
RYAN NICHOLAS, ESQ.

The transcript constitutes the minutes from
the Regular Public Hearing held on December 13, 2023.

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

(9:30 a.m.)

MR. HAMALA: We are now in our public hearing session. And our first application is Number 21003 of RWD Properties, LLC. This is a self-certified application pursuant to Subtitle X 91.2, for special exceptions under Subtitle G 5200.1, from the non-conforming structure requirements of Subtitle C section 202.2(c), and from the lot occupancy requirements of Subtitle G 210.1. And this would be for rear in third floor additions to an existing three story attached office building for use as a three story -- or sorry, a three-unit apartment house in the MU-4 zone located at 1775 T Street, NW (Square 151, Lot 241).

And we do have one preliminary matter. The agent, who's also the architect, is requesting to be proffered as an expert in architecture.

CHAIR HILL: Okay. If the Applicant could hear me, if they could please introduce themselves for the record?

MR. AHMANN: Thomas Ahmann, Ahmann LLC, 4408 Beachwood Road, University Park, Maryland 20782.

CHAIR HILL: All right, Mr. Ahmann.

So, you would like -- oh here we go. Let me just look at your resume.

Okay. I don't have any issue with Mr. Ahmann

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1 being admitted as an expert in architecture, him being an
2 architect. And does the Board have any issues with that?
3 Please speak up.

4 All right.

5 Mr. Ahmed, can you use your camera, or is it
6 not working?

7 MR. AHMANN: I don't see the camera on button.
8 So I don't -- I'm not used to WebEx, so I don't know where
9 to turn the camera on. I don't --

10 CHAIR HILL: That's all right, Mr. Ahmann. I
11 can hear you. Yeah. At the very bottom of your screen,
12 there should be a "start video/stop video" --

13 MR. AHMANN: Oh. I see it now. Yes. It says
14 I have to quit WebEx to do it.

15 CHAIR HILL: Okay. That's all right, Mr.
16 Ahmann. I can hear you.

17 Let me see. So Mr. Ahmann, I know that the
18 office has been in contact with you. In the past,
19 recently, we've had some discrepancies between getting
20 relief from 202.2(c). And in this particular case, it's
21 not something that probably the Board would be able to
22 argue for -- or you would be able to argue for. And so, I
23 think that if you were going to argue that, I think then,
24 you would need to come back with an SRU for a variance.

25 However, if you think that that's something

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1 that you would not wish to argue, then what I would need
2 from you is a revised self-certification that is removing
3 the request for that. And -- before we could actually
4 vote on this. And so I just wanted to hear your thoughts
5 on that before I have you present your case.

6 And also going to turn to the Office of
7 Planning real quick. Because the Office of Planning did
8 not speak to 202.2(c). So, Mr. Kirschenbaum if you can
9 introduce yourself, please.

10 MR. KIRSCHENBAUM: Yes. Good morning.
11 Jonathan Kirschenbaum for the Office of Planning.

12 CHAIR HILL: So, am -- am I correct? I always
13 get a little -- all right. Sorry. I'm getting confused
14 recently about 202.2(c). Is -- Is that not something that
15 would be -- your -- your report was silent to it.

16 MR. KIRSCHENBAUM: Right. Because you can
17 never get C 202.2 relief by special exception. And text
18 amendment 19-14 in 2019 further amended this section to
19 clarify that you never need relief from this section when
20 you're getting either a special exception or a variance
21 from the relative development standard. So it's a -- it's
22 a moot point.

23 I -- I know the Applicant requested it based on
24 something that in writing from the Zoning Administrator's
25 Office, but it's -- it's just not correct.

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1 CHAIR HILL: Mr. Ahmann, do you understand what
2 I'm saying?

3 MR. AHMANN: Yes, I do. And -- and given that
4 the Office of Planning sees it as a moot item, I would be
5 willing to drop it, and I'd be happy to submit a revised
6 self-certification accordingly.

7 CHAIR HILL: Okay. Then, Mr. Ahmann, what I'm
8 going to do is rather than walk through this now, if you
9 want to go ahead and submit your revised self-cert to the
10 Office, and unless the Board has any issues with it, I'll
11 go ahead and allow that into the record. And then we'll
12 come back and hear from you at the end of the day, which
13 is not particularly long. We only have a couple of cases
14 today.

15 MR. AHMANN: Sure. That's fine. I'd be glad
16 to send it in shortly.

17 CHAIR HILL: Okay.

18 Mr. Hamala, do you have Mr. Ahmann's contact
19 information? And can you explain to him how to submit
20 that so I know we're all on the same page?

21 MR. HAMALA: We have each other's contact
22 information. And he can email it to me, or he can email
23 it to bzasubmissions@dc.gov. And both will work.

24 MR. AHMANN: Okay. Thank you so much.

25 CHAIR HILL: Okay.

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1 Then Mr. Hamala, I'm going to keep -- I'm going
2 to close this portion of the hearing, and we will --

3 Mr. Young, is there anyone here wishing to
4 speak on this?

5 That's all right. Is there -- Is there anyone
6 here wish to speak on this from the public?

7 MR. YOUNG: They do not.

8 CHAIR HILL: Okay. All right.

9 So then we'll come back at the end of the day.
10 Mr. Ahmann, we'll -- just go ahead and submit all that.

11 Mr. Hamala, let me know when we get all that,
12 and we'll come back at the end of the day. Okay? Thank
13 you, Mr. Ahmann.

14 MR. AHMANN: All right. Thank you. I'll be
15 back in touch.

16 CHAIR HILL: All right. Bye-bye.

17 All right. Okay. We can call our next case
18 when you get an opportunity, Mr. Hamala.

19 MR. HAMALA: Our next application is number
20 21004 of District Dogs. And this is a self-certified
21 application pursuant to Subtitle X 91.2 for a special
22 exception under Subtitle K 915.2(a) to allow an animal
23 care and Boarding use. And the animal care Boarding use
24 would be in a six-story building in the WR-2 Zone located
25 at 7170 12th Street, NW (Square 2950, Lot 988). And there

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1 is one preliminary matter before the Board, and the
2 Applicant is proffering Ryan Beible as an expert in real
3 estate development.

4 CHAIR HILL: Okay.

5 Okay. As the preliminary matter -- Well first
6 of all, could the Applicant introduce themselves for the
7 record?

8 MR. DEVANE: Hello, Aaron DeVane. I'm the
9 owner of District Dogs franchise.

10 CHAIR HILL: Hi, Mr. DeVane. So as far as the
11 expert witness status, I mean, I don't have any issues
12 having the -- Mr. Beible? Is it -- Did you pronounce --

13 MR. BEIBLE: Yeah. You got it. It's Beible.

14 CHAIR HILL: Can you introduce yourself for the
15 record, Mr. Beible?

16 MR. BEIBLE: Yeah. I'm Ryan Beible. My
17 address was 42687 Leaflet Lane at Chantilly, and I'm
18 working for Aaron here as his project manager and
19 construction manager.

20 CHAIR HILL: Okay. So, I mean, again, I don't
21 have any issue asking -- or, I'm sorry -- having Mr.
22 Beible be submitted as being able to be an expert in real
23 -- in -- What is it again, Mr. DeVane, that you're asking
24 for?

25 MR. DEVANE: We're asking for a special

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1 exception.

2 CHAIR HILL: No, no, no. I'm sorry. The
3 expert witness status.

4 MR. DEVANE: Oh. Mr. Beible --

5 MR. BEIBLE: I think there's some confusion. I
6 submitted my resume. But I'm not technically -- I don't
7 think I'm seeking permission as an expert witness. But
8 I'm helping Aaron with this project and this case. So I
9 was going to lead the presentation of --

10 CHAIR HILL: Okay.

11 MR. BEIBLE: I know that --

12 Then, hold on a second. Because I know -- I
13 know Vice Chair John is going to tell me also how --
14 actually, I shouldn't say that. Vice Chair John is
15 usually better at the expert witness status area that I
16 am. And so I think maybe this seems to be something that
17 you all are withdrawing. Like, -- I -- I -- I'm -- You
18 know -- You're not claiming to be an expert in real estate
19 development. Is that correct, Mr. Beible?

20 MR. BEIBLE: No, I -- I do real estate
21 development and construction management. But for this
22 matter, I'm not claiming to be an expert in that. I'm
23 just working for Aaron and with Aaron here and presenting,
24 you know, the case.

25 CHAIR HILL: That's great. That's great. So,

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1 unless my fellow Board members have any issues, I'll just
2 deny the request for expert status in real estate
3 development.

4 And this is something maybe that the Board can
5 take up at a training or talk with the Office's own Legal
6 Department as that expert witness status. I always tend
7 to think sometimes -- I'm not clear when I think about it.
8 And so -- it -- meaning expert witness status. And --
9 because I don't know what it really means within our
10 regulations. So that's going to be my thought on this.
11 Vice Chair John, do you have any thoughts as well?

12 VICE CHAIR JOHN: Mr. Chairman, what I hear the
13 Applicant saying is that he would like to withdraw the
14 request for expert status because he's presenting on
15 behalf of the Applicant as the project manager. So, I'm
16 not sure if the response is to deny it, or if it's for the
17 Applicant to withdraw the request for, and I think that
18 might be the simplest way to go. I'd be interested in
19 hearing what others think, but that would be my
20 recommendation.

21 CHAIR HILL: Okay. Mr. Blake, do you have any
22 thoughts?

23 MEMBER BLAKE: Yeah. I would agree with the --
24 Vice Chair John's assessment on that.

25 CHAIR HILL: Vice Chair Miller, do you have any

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1 thoughts?

2 ZC VICE CHAIR MILLER: I concur with -- with
3 the Vice Chair John as well and would just know -- and the
4 Applicant representative said they're not holding himself
5 out to be an expert.

6 And in my recollection, the Zoning Commission
7 has not generally given expert status in that kind of a
8 category of real estate development and planning in
9 general. But that's just my recollection.

10 So yeah, I will concur with the comments that
11 have been made.

12 CHAIR HILL: Thanks, Vice Chair Miller. And
13 that's helpful, actually. That's something that I think
14 will the Board would like to know what areas of expertise
15 is commonplace for us. I know architecture is, and
16 traffic issues.

17 Mr. DeVane, are you withdrawing your request?

18 MR. DEVANE: Withdrawing request.

19 CHAIR HILL: Okay. All right. So we're
20 withdrawing the request of expert status for Mr. Bieble.

21 All right. Mr. Beible, you said that you're
22 going to be giving the presentation.

23 MR. BEIBLE: Yes, sir.

24 CHAIR HILL: Okay. All right.

25 Mr. Beible I'm going to go ahead and put

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1 fifteen minutes on the clock so I know where we are. And
2 if you can explain to us why you believe your client is
3 meeting the criteria for us to grant the relief requested.
4 And you can begin whenever you're like.

5 MR. BEIBLE: Sure thing. And I have a
6 PowerPoint, and I've submitted it to -- to Mark. So, do I
7 share my screen and share the PowerPoint or --

8 CHAIR HILL: They'll pull it up? There you go.

9 MR. BEIBLE: Okay.

10 CHAIR HILL: Mr. Young will pull it up.

11 MR. BEIBLE: Okay.

12 So again, this is case 21004. This is at 7170
13 12th Street, NW. Aaron is a business owner here, and on
14 the right is a photo of the storefront.

15 Next slide, please. Here's an overview of the
16 property. It's at the former Walter Reed. It's called
17 The Parks at Walter Reed, also known as The Marketplace,
18 and it's in the WR-2 Zone. So, this property is at the
19 intersection of Elder Street, NW, and then 12th Street,
20 NW.

21 Next slide please. To center of the view,
22 that's a planned view -- view shot of the retail section
23 up here in this northeast corner. And there's a couple of
24 elevations highlighted in blue, are the -- that's the east
25 elevation and the north elevation of where this is

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1 located.

2 Next slide, please. Okay. So here's the floor
3 plan. It's about three thousand square feet. There's a
4 check-in area, a few internal play yards. Grooming,
5 boarding, and then restroom, feeding, back of house.

6 Next slide, please. So the special exception
7 we're seeking is case section 915.2(a), which is to allow
8 animal sales care and boarding here in this property and
9 in this zone.

10 Next slide, please. So here's a list of the
11 special exception criteria that must be met. I have
12 individual slides for each one. So, we can go the next
13 slide. We can run through them.

14 So, the first requirement is that the use shall
15 produce no noise or odor objectionable to nearby
16 properties. So you utilize industry standard sound
17 absorbing materials, such as acoustical floor and ceiling
18 panels, acoustical concrete and masonry, and acoustical
19 landscaping.

20 So here in this building, we're on the ground
21 floor. There's a fourteen-inch thick concrete slab above
22 that separates the space from the residential uses above.
23 All of the ceilings throughout have a sound isolation
24 ceiling installed. And there's a detail of it over on the
25 right side. So that it's hung by vibration isolators

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1 three quarters-inch -- or five-eighths-inch drip and then
2 six inches of soundbite insulation above it.

3 Minimum twelve-inch air gap. However here, I
4 think we have about four feet of air gap because the deck,
5 I believe, is about eighteen feet. All the walls are
6 doubled up walls. We have two partitions with an air gap
7 in between. This is all been engineered in the past by
8 acoustical consultants, but there's not going to be any
9 exposed masonry or concrete anywhere inside the space.

10 HVAC systems is completely independent and
11 separate from all other systems serving the adjacent
12 retail spaces as well as the residential portion.

13 And then in the dog areas, this protect-all
14 flooring system is installed. So the photo on the right
15 is a typical photo of a play yard. And you can see the
16 gray flooring is just rubber protect-all flooring.

17 Next slide please. Okay, so some more specific
18 requirements that I have an individual slide on. So we
19 can actually go to the next slide please, and I can walk
20 through them. Sorry. We can go to the next slide.

21 Okay. So one condition is that the use will
22 take place entirely within an enclosed building, and this
23 use is entirely inside.

24 Next slide please. The windows and doors of
25 the space devoted to animal boarding use shall be kept

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1 closed. So, here none of the windows are operable. None
2 of the dog areas have exterior doors. The two sets of
3 exterior egress doors will remain closed at all times and
4 door closers. And all of the interior doors to dog areas
5 and rooms have door closers and will be kept shut at all
6 times.

7 Next slide please. No animals shall be
8 permitted an external yard on the premises. This is
9 similar to the first condition. Entire use is inside.
10 There is no external yard here.

11 Next slide. Okay. Animal waste shall be
12 placed in closed waste disposal containers and shall
13 utilize a qualified waste disposal company to collect and
14 dispose of animal waste at least weekly. Animal waste
15 here is placed in closed containers, and it gets picked up
16 daily by a professional disposal company.

17 Next slide please. Odors will be controlled by
18 means of air filtration system or an equivalent effective
19 odor control system. Again, the HVAC -- HVAC system here
20 is dedicated space, and it will be designed to have
21 approximately ten fresh air changes per hour. Merv 13
22 filters are installed. And additionally there's --
23 there's more pre filters installed, and returning over air
24 grills.

25 And then they're actually -- There are pretty

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1 strict building codes on animal -- animal uses and HVAC
2 systems which have to be followed, but just as a side, in
3 these buildings, the HVAC -- HVAC serving the dog areas
4 specifically are completely isolated from the non-dog
5 areas like reception, corridors, feeding, and the
6 restroom.

7 Next slide please. And then there's the
8 general criteria. We need to be in harmony with the
9 general purpose intent of the zoning regs and zoning maps,
10 and will not tend to adversely affect it versus the use of
11 neighboring property.

12 So here, we're applying -- applying for under
13 special exception, not a variance. And we feel that we
14 meet the conditions of the special exception, which as a
15 result should put us in harmony with the general purpose
16 and intent of the zoning regs.

17 Additionally, you know, Walter Reed is a pretty
18 exciting new development, and this retail space should
19 contribute to the creation of this vibrant town center,
20 and it also provides clearly visible retail use along 12th
21 Street. You know, we've kind of touched on this before,
22 but as far as affecting neighboring properties adversely,
23 it's completely indoors, the construction of the space as
24 we've talked through, will prevent any nuisances to
25 neighboring properties.

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1 So next slide. Thank you for letting Aaron and
2 I apply and speak in front of you and spend the time to
3 hear us.

4 CHAIR HILL: Thank you. Thank you, Mr. Beible.
5 I'm going to first turn to the Office of
6 Planning.

7 MS. MEYERS: Crystal Meyers from the Office of
8 Planning. The Office of Planning is in support of this
9 case. And we can stand on the record of the staff report,
10 but of course are here for questions. Thank you.

11 CHAIR HILL: Thank you.

12 All right. Does the Board have any questions
13 of the Applicant or the Office of Planning?

14 Okay. Mr. Young is there anyone wishing to
15 speak?

16 MR. YOUNG: Yes, we do. We have two
17 commissioners signed up.

18 CHAIR HILL: Oh. Great. Okay. Could you give
19 me their names please?

20 MR. YOUNG: Paula Edwards and Colleen Costello.

21 CHAIR HILL: Okay. Commissioner Edwards, can
22 you hear me?

23 MS. EDWARDS: Yeah.

24 CHAIR HILL: Are you -- are you a commissioner
25 in this ANC?

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1 MS. EDWARDS: Yes. There's an error on the
2 website. It says ANC 4C. It's actually ANC 4A.

3 CHAIR HILL: Okay. I see it. Okay.

4 Commissioner, would you like to give us your
5 testimony?

6 MS. EDWARDS: Yes. I'm just here to support
7 the Applicant. I was not designated by the ANC to speak
8 on behalf of the ANC. So I'm just speaking as one who
9 voted in favor of the Applicant at the presentation. And
10 the Applicant presented to us. I think that he met the
11 burden and we support his application.

12 We had previously supported the application of
13 the Southern Veterinary Partners, which is a similar
14 business and is located close to this Applicant.

15 I reviewed the public record, the landlord
16 testified before us and the Applicant, and the Mr. Beible
17 testified before us. And we felt they met the burden.
18 So, I'm just here to speak and answer any questions that
19 you may have about what transpired.

20 CHAIR HILL: Okay, great. Thanks,
21 Commissioner.

22 MS. EDWARDS: Mm-hmm.

23 CHAIR HILL: Commissioner Costello, can you
24 hear me?

25 MS. COSTELLO: Yes, I can.

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1 CHAIR HILL: Would you like to introduce
2 yourself for the record?

3 Of course. My name is Commissioner Costello.
4 Colleen Costello, and I am a Single Member District
5 Commissioner for 5B05.

6 CHAIR HILL: For 5 -- For which one again?

7 MS. COSTELLO: 5B as in Bravo 05.

8 CHAIR HILL: I see. Okay, Commissioner, would
9 you like to give us your testimony?

10 MS. COSTELLO: Of course. I'll make it brief.

11 First, I think it would be prudent of the Board
12 to postpone consideration of this application. And the
13 reason for that is very simple but very important. The
14 Department of Health is currently in the process of
15 drafting new regulations for animal boarding facilities.
16 And, as I've been told, those regulations will likely
17 include specific requirements for fire suppression systems
18 and fire alarms, among other things. And the regulations
19 will also likely impose restrictions on who is permitted
20 to apply for an animal boarding facility license.

21 Given that these draft regulations are
22 currently in progress, and as I have been told, will
23 likely be issued publicly sometime early in the new year
24 in January. I think it would be prudent for the Board to
25 consider this application under the new proposed zoning

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1 regulations.

2 Second, I also want to bring to the Board's
3 attention one procedural matter. The -- the ANC in which
4 this proposed facility would be located held a meeting, I
5 think, in October, which I attended, and considered the
6 Applicant's request. However, I was very concerned that
7 the meeting was not conducted in accordance with the ANC
8 statute, which requires that meetings be made open to the
9 public, and that the public be given an opportunity for
10 comment.

11 As it happens, the ANC actually restricted
12 members of the public's ability to offer comments. People
13 were only permitted to offer comments orally and -- excuse
14 me -- written comments in the chat. They were not
15 permitted to speak orally. And for members of the public,
16 like myself, who were joining by phone, we did not have
17 access to the chat function, and therefore could not offer
18 any public comments.

19 Accordingly, I don't think the ANC's vote on
20 this matter should be given great weight since their
21 meeting was not conducted in accordance with the ANC
22 statute and was not open to the public. And if I'm able
23 to -- It doesn't look like I can share content, but I
24 would be glad to provide this to the Board. I do have a
25 screenshot of the chat where other residents who were in

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1 attendance confirmed in the chat that people who were
2 joining by phone we're not allowed to offer any comments
3 whatsoever.

4 CHAIR HILL: Okay. So Commissioner, a couple
5 of things. I appreciate your testimony. And now we're
6 going to think about what you're saying. But just for the
7 record, you as well as -- actually I think it might just
8 be Commissioner Costello, but you are here as a member of
9 the public. I appreciate you being a Commissioner. Thank
10 you for your service, because I know it's -- it's
11 definitely a lot of work. But you're here as a member of
12 the public, just to let you know.

13 And so some of the things you're bringing up
14 are things that really are within the purview of the Board
15 in terms of how an ANC may or may not have conducted
16 themselves.

17 I'm going to look at the report real quick.
18 And so --

19 MS. COSTELLO: With all due respect, sir, it is
20 actually within the Board's purview because you are only
21 entitled to give great weight to an ANC's views on
22 applications like this one, if those views were adopted at
23 a publicly held meeting, and the meeting was held in
24 accordance with district law, which this evening
25 unfortunately, was not.

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1 CHAIR HILL: Yeah. What I'm trying to say is
2 that if they submit the report the way that they're
3 supposed to submit their report, then if they've completed
4 it the way that they're supposed to have completed it,
5 then I have to assume that it's been done the correct way.

6 But regardless of that, let me let me look here
7 at the letter, and I can ask, since I have time today, it
8 looks like, maybe I can ask the Office of Zoning's Legal
9 Department to help me in other areas, and we might
10 actually do that.

11 All right. Does the Board have any questions
12 for either witness? Go ahead, Vice Chair John.

13 VICE CHAIR JOHN: So, I'm looking at the ANC's
14 letter, and I wanted to ask Ms. Edwards to talk about the
15 meeting. I see where there were seven commissioners in
16 attendance. And there was a quorum and three persons
17 voted yes, zero voted no, and four abstained. So can you
18 talk about how the meeting was noticed?

19 MS. EDWARDS: The meeting was properly noticed
20 on several lists serves more than a week before, I
21 believe, we reached out to different constituents. Each
22 ANC Commissioner reached out to constituents in his or her
23 own SMD.

24 And we conducted the meeting in the same way
25 we've conducted all our meetings during the hybrid crisis.

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1 Not the hybrid, but the virtual meeting regulations. We
2 allowed people to ask questions in the chat. And the
3 Chair read the questions to the commissioners. There was
4 nothing different in the way the meeting was conducted as
5 to any other meeting.

6 And we've never been told that the way that we
7 conduct a meeting is improper.

8 VICE CHAIR JOHN: Okay. I think that's helpful
9 and Ms. -- who is the chair of the ANC?

10 MS. EDWARDS: That is Ms. Singleton, Patience
11 Singleton. And she is SMD 4A04.

12 VICE CHAIR JOHN: Okay. And District Dogs is
13 within which --

14 MS. EDWARDS: It is SMD --

15 VICE CHAIR JOHN: Is it your --

16 MS. EDWARDS: It's 4A03. That's Commissioner
17 Hara. H-A-R-A.

18 VICE CHAIR JOHN: Okay. And you are not
19 authorized to speak on behalf of the ANC. So you're
20 really speaking as a member of the public as well?

21 MS. EDWARDS: Well, I voted for it. But, I
22 assume then, you know, whatever designation you have for
23 that.

24 VICE CHAIR JOHN: Right. No. But in terms of
25 --

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1 MS. EDWARDS: Yes --

2 VICE CHAIR JOHN: -- being authorized to speak
3 on behalf of the --

4 MS. EDWARDS: I'm not authorized to speak on
5 behalf --

6 VICE CHAIR JOHN: -- ANC.

7 MS. EDWARDS: -- of the ANC. No.

8 VICE CHAIR JOHN: So only thing we have is the
9 letter in the record that supports the application.

10 MS. EDWARDS: Okay. Thank you, Mr. Chairman.
11 That was it.

12 CHAIR HILL: Thank you. I -- What I'm going to
13 do, since we have a little bit of time here today, and if
14 you, the Board, will indulge me, I'd like to speak with
15 legal counsel. Because I'm curious about the Department
16 of Health question.

17 Before I let the witnesses go, does the Board
18 have anything else for the witnesses?

19 VICE CHAIR JOHN: No. I just would note that
20 the vote -- the Board does not conduct itself based on
21 proposed regulations that are not related to the special
22 exception. Or really there are two reasons. There's a
23 special exception in front of us, and if the Applicant
24 meets the criteria for this special exception, and the
25 Board must ordinarily grant the special exception. If

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1 there's information with respect to the Board of Health,
2 that's not in the application. I mean, it's not one of
3 the special criteria that the Board is supposed to review
4 as far as I can tell.

5 And the second thing is that, as I mentioned
6 before, the Board does not review applications based on a
7 proposed regulation. Only -- only the current regulation
8 is what is applicable to the Board.

9 So, I'm in favor of us confirming my
10 observations with Office of Legal, or OCLD, since we have
11 some time.

12 CHAIR HILL: Okay, thank you.

13 All right. Mr. Young, if you can please excuse
14 the witnesses.

15 I'm going to -- as Chairman of the Board of
16 Zoning Adjustments in the District of Columbia, in
17 accordance with 407 of the District of Columbia
18 Administrative Procedures Act, I moved that the Board of
19 Zoning Adjustment hold a closed meeting on December 13,
20 2023, for the purposes of seeking legal counsel on case
21 21004, deliberate but not vote on case number 21004, as
22 cited in DC Official Code section 2-575(b)13. Is there a
23 second?

24 VICE CHAIR JOHN: Second.

25 CHAIR HILL: Motion made and seconded. Mr.

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1 Hamill if you could take a roll call please.

2 MR. HAMALA: When I call your name, please vote
3 yes, no or abstain to motion by Chairman Hill. Chairman
4 Hill?

5 CHAIR HILL: Yes.

6 MR. HAMALA: Vice Chair John?

7 VICE CHAIR JOHN: Yes.

8 MR. HAMALA: Board Member Blake?

9 MEMBER BLAKE: Yes.

10 MR. HAMALA: Zoning Commissioner Miller?

11 ZC VICE CHAIR MILLER: Yes.

12 MR. HAMALA: The motion passes 4-0-1 to go to a
13 closed emergency meeting with Mr. Blake in support, and
14 Industrial Zoning Commission Miller in support, and Board
15 Member Smith not participating.

16 CHAIR HILL: Thank you.

17 As it appears motions passed, I hereby give
18 notice that the Board of Zoning and Adjustment will recess
19 this procedure at 10:44 p.m. on December 12 -- I'm sorry.
20 December 13, 2023 until a closed meeting pursuant to the
21 District of Columbia Administrative Procedure Act. A
22 written copy of this notice was posted in the Jerileigh R.
23 Crafts Memorial Hearing Room.

24 All right, you guys. I will see you on our
25 next video call. We'll come back -- Everybody, we'll come

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1 back here in a few minutes. Thank you.

2 (Whereupon, the above-entitled matter went off
3 the record at 10:44 a.m. and resumed at 10:57 a.m.)

4 CHAIR HILL: All right. Mr. -- Mr. Hamala, can
5 you hear me? Can you call us back please?

6 MR. HAMALA: After a brief break for a closed
7 meeting with legal staff, the Board is back now in session
8 and has returned to Application Number 21004 of District
9 Dogs.

10 CHAIR HILL: Okay. I'm waiting for the
11 Applicant. Mr. Young -- Mr. Young, can you hear me?

12 MR. YOUNG: Yes, I can.

13 CHAIR HILL: Can you find the Applicant?

14 MR. YOUNG: Yes.

15 MR. DEVANE: Hello. I'm here.

16 CHAIR HILL: Okay. Thanks, Mr. DeVane. Or is
17 it -- how you say your name again, sir?

18 MR. DEVANE: Ryan Beible and Aaron DeVane.

19 CHAIR HILL: DeVane? Is that how you say that?

20 MR. DEVANE: That's correct.

21 CHAIR HILL: DeVane. Okay. I okay. I mean, I
22 got further clarification as to what is before us and
23 again, what is before us are all of the regulations that
24 are in Subtitle 915.2(a) as in apple. And you, Mr.
25 Beible, have gone through those. Mr. DeVane, I think some

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1 of this, you know, comes up from all of the, you know, the
2 very unfortunate incident that happened with another
3 daycare center where there was flooding, and some of the
4 dogs did not survive that. And so, you know, I think
5 that's where some of that comes from.

6 And so, you know, but what I have been, again,
7 further clarification on is that things that are before
8 the Department of Health, those are things that are before
9 the Department of Health and are not something that is --
10 that pertains to these zoning issues.

11 But Mr. DeVane, you're aware of that whole
12 situation with the -- the dog facility, previously. What
13 -- I'm just curious, like, do you have a comment on -- on
14 how you guys are going to make sure things like that don't
15 happen to you guys?

16 MR. DEVANE: Yeah. So that was a natural
17 disaster. It is very unfortunate for all parties
18 involved. But like I said, we're going to make sure that
19 our safety regulations are up to par, and nothing like
20 that, you know, will ever happen. It was very
21 unfortunate. They were in a bad area in a flood zone.
22 And, you know, that's all I can say about it.

23 CHAIR HILL: Okay. All right.

24 Does the Board have any questions of the
25 Applicant or the Office of Planning?

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1 All right. I'm going to go ahead and close --
2 Oh. Did somebody have their hand up? No. All right.

3 MEMBER BLAKE: While we're on this point of
4 clarification, Mr. DeVane, would you just tell me with the
5 Commissioner mentioned about a whole bunch of new
6 regulations that might come from the Department of Health.
7 How would that apply to you, and how would you -- Just out
8 of curiosity, how would you address those issues if they
9 did change some of the regulations or something like that?

10 MR. DEVANE: We will have to address it as it
11 came. If there's regulations that they're putting on, if
12 there's anything that's going to harm a dog, that's our
13 first priority. Our whole priority is protecting these
14 animals that are beloved family members. So that would be
15 our first priority is to address those issues.

16 MEMBER BLAKE: Okay. That'd be regulated by
17 the Board of Health through your licensing, is that
18 correct?

19 MR. DEVANE: Yes. And also because I'm a
20 franchise, we all will act accordingly, so we will go up
21 to the franchise to the top corporate level.

22 MEMBER BLAKE: Okay. Thank you. Thank you.

23 MR. DEVANE: Mm-hmm.

24 CHAIR HILL: Okay. Well, Mr. DeVane, I wish
25 you all the best of luck and -- and, you know, if this

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1 does pass, and you know, I got a dog. I love my dog, and
2 I'm -- you got a dog. You love your dogs.

3 And so, all right. I'm going to close the
4 hearing and the record. Mr. Young, if you can please
5 excuse everyone?

6 MEMBER BLAKE: Have we heard from the Office of
7 Planning?

8 CHAIR HILL: Oh, shoot. Did I not do that?
9 Yeah. I thought I did, but maybe not.

10 Hold on. Don't go anywhere, Mr. DeVane, or --
11 or -- I thought I did, but maybe not.

12 MEMBER BLAKE: You did.

13 CHAIR HILL: Okay. I did. Yeah. Because I
14 got to the -- I got to the -- Yeah, yeah. Because I got
15 to the public testimony.

16 All right. Did you have a further question,
17 Mr. Blake, with the Office of Planning, or no? Just
18 clarification?

19 MEMBER BLAKE: I do not.

20 CHAIR HILL: Okay. All right.

21 So I am going to close the hearing and the
22 record. Mr. Young, right? You've excused everyone.

23 I mean, I thought that the Applicant had gone
24 through the -- the regulations very clearly, as to how --
25 what we're supposed to look at. I mean, I know that we

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1 looked at like, the separation with the -- the housing
2 units, and the -- how the air is clean, and in particular,
3 like you know, how the waste is controlled and managed.
4 And I believe that they have met all of those criteria for
5 us to approve this special exception.

6 In addition to that, I do see that the ANC has
7 given their analysis that they're again in approval of
8 this facility, and that, you know, I again, can understand
9 how the public wants to be very sure that this is -- that
10 the animals are protected. And I believe, I mean, it's a
11 brand new facility here, also, that I think will be that
12 administered by the Department of Health.

13 So I will be voting in favor of this
14 application. Vice Chair Miller, do you have anything to
15 add?

16 ZC VICE CHAIR MILLER: I don't think I have
17 anything significant to add. I would concur with your
18 comments, Mr. Chairman, that the Applicant in this case
19 has met the specific and general criteria for the special
20 exception and has addressed how they're meeting the --
21 that specific criteria, which is designed to mitigate
22 against any objectionable impacts from odor, or noise, or
23 from the waste storage and disposal that all those
24 measures are being addressed in this application.

25 And we do have, as you said, the -- the letter

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1 from ANC 4A, at Exhibit 25, signed by the Chair, Patience
2 Singleton, indicating that the ANC did vote in favor of
3 the -- of the application by a vote of three yes, zero no,
4 four abstain, and they only had positive things to say
5 about the -- the application in terms of how it will
6 benefit the -- the residents there and the neighborhood.

7 So, we have Office of Planning support, as
8 well. And as far as any -- as -- as has been discussed, I
9 concur with all the comments that have been made in terms
10 of the health regulations. They'll apply if they apply.
11 And that's not under our purview. That's another agency
12 that does its own regulation and licensing. And -- and
13 that will be addressed if it -- if it has to be.

14 It may be that this -- that the permit is not
15 even applied for or -- or received prior to those
16 regulations going into effect. But that depends on those
17 regulations, but it's not a zoning regulation. It's a
18 Department of Health regulation. And it may involve the
19 building code, I don't know, or just licensing. So it's
20 not -- it's not under -- in front of us.

21 So I'm prepared to support the application
22 today. Thank you, Mr. Chairman.

23 CHAIR HILL: Thank you.

24 Mr. Blake?

25 MEMBER BLAKE: Yes, sir. I'll be voting in

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1 favor of the application. I do think the Applicant has
2 demonstrated through testimony, documentation,
3 illustrations, and so forth that they meet the proposed --
4 the special exception criteria -- requirements Subtitle K
5 915.2(a), as well as the general standards. I do recall
6 the Office of Planning report, as she referenced it, and
7 stood on the record. And I do believe that that does
8 support the fact that it meets the criteria. And that
9 report does meet the criteria, and it also supports the
10 fact that it's in -- consistent with zoning regulations
11 and maps. And I believe this is a very good application.
12 I'm in support of it. And if we've already gone through
13 the whole issue about the other regulations that may
14 apply, and I'm comfortable with that. So, I'll be voting
15 in favor.

16 CHAIR HILL: Okay, thank you.

17 Vice Chair John?

18 VICE CHAIR JOHN: So, I -- I'm also in support,
19 and I believe that my fellow Board members have covered
20 all of the issues adequately. I would just add that I
21 appreciate that the two commissioners were available to
22 testify, although neither of them was authorized by the
23 ANC to speak on behalf of the ANC, so all we have is a
24 letter in support. And that letter does not issue any --
25 does not state any legally relevant zoning issues for the

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1 Board to consider in order to give it great weight. So --
2 so we can give great wait to the letter in the file, which
3 is in support. And so, again, I support the application.

4 CHAIR HILL: Thank you. And I will note that
5 there -- during the witness who was a commissioner, she
6 had mentioned a postponement or requesting a postponement.
7 It wasn't an official request for postponement. But I
8 would not be interested in postponing this for all of the
9 matters stated. And I don't think that it's something
10 that, again, is within the purview, unless it is within
11 our purview, as stated earlier, concerning those
12 department of health regulations, unless some of my fellow
13 Board members have an issue with that, and if so, please
14 speak up.

15 VICE CHAIR JOHN: Well, Mr. Chairman, I believe
16 we said that the -- the health issues were not zoning
17 issues and are not legally relevant to our determination.
18 So even if we were to consider it, you know, the basis for
19 the continuance would not be zoning issues.

20 And the second reason is that that commissioner
21 is not authorized to speak on behalf of the ANC. So I
22 would not be interested in postponing for those reasons.

23 CHAIR HILL: Thank you. Just wanted to clarify
24 about the --

25 ZC VICE CHAIR MILLER: And I just wanted to add

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1 that the commissioner was not even within the commission
2 in which the application is located. It's an adjacent
3 ANC. They're a member of the public. I think they may be
4 in the -- in the ANC where that unfortunate incident with
5 the dog care facility, may have happened in that flood
6 zone. So they're, they're an interested member of the
7 public. I appreciate them coming forward.

8 But I just wanted to clarify that it wasn't a
9 commissioner even within the ANC 4A that had -- had
10 requested the postponement or the consideration of those
11 health -- Department of Health Regulations. It was an
12 adjacent -- a commissioner in an adjacent ANC -- Well, I
13 don't know if it's an adjacent ANC. In another ANC.

14 CHAIR HILL: Okay. Thank you.

15 And yeah, I was just trying to clarify the --
16 if there was any doubt about our discussion about a
17 postponement. So that's why I was kind of mentioning
18 that.

19 However, you know, as we all said, like, I'm a
20 pet owner. And, you know, I feel so sorry for all those
21 people that were in that situation, and it was just awful.
22 And so I understand why the commissioner is trying hard to
23 do what she's doing, and I appreciate that. And so I want
24 to make sure she understands that we're listening. It
25 just -- that's something that was in our purview, and that

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1 we empathize. It's just horrible.

2 So. All right. All that being said, I'm going
3 to make a motion to approve Application Number 21004, as
4 captured by the secretary, and ask for a second. Vice
5 Chair John?

6 VICE CHAIR JOHN: Second.

7 CHAIR HILL: Motion made and seconded. Mr.
8 Hamala, if you could take a roll call please?

9 MR. HAMALA: Respond with a yes, no, or
10 abstain. Chairman Hill?

11 CHAIR HILL: Yes.

12 MR. HAMALA: Vice Chair John?

13 VICE CHAIR JOHN: Yes.

14 MR. HAMALA: Mr. Blake?

15 MEMBER BLAKE: Yes.

16 MR. HAMALA: Zoning Commissioner Miller? Staff
17 would record the vote as 4-1-0 to approve the application
18 on the motion made by Mr. Hill, second by Ms. John with
19 Board Member Blake and Zoning Commissioner Miller in
20 support, and with Board member Smith not present.

21 CHAIR HILL: Okay. Y'all want to take like a
22 ten-minute break real quick? And then we'll come back?
23 I'm going to go hug my dog.

24 (Whereupon, the above-entitled matter went off
25 the record at 11:11 a.m. and resumed at 11:26 a.m.)

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1 CHAIR HILL: Mr. Hamala, can you hear me?

2 MR. HAMALA: I can.

3 CHAIR HILL: Excuse me. You may call us back
4 and call our next case when you get an opportunity.

5 MR. HAMALA: After a brief recess, the Board
6 has returned to its hearing session at about 11:25 a.m.
7 And our next case is number 21005 of Jake's Tavern, a
8 self-certified application pursuant to Subtitle X 901.2,
9 for a special exception under Subtitle G 5200.1, from the
10 residential lot occupancy requirements of Subtitle G
11 210.1. This would be for a rear staircase and deck over
12 first floor roof of an existing two story tower -- a two
13 story building that functions as a restaurant in the MU-4
14 Zone. And this is located at 1606 7th Street, NW (Square
15 420, Lot 23).

16 CHAIR HILL: Great. Could the Applicant, if
17 they could hear me, please introduce themselves for the
18 record?

19 MR. CRAIN: Hi, I'm Adam Crain. I'm joined by
20 the owner, Todd Ciuba.

21 CHAIR HILL: Okay.

22 MR. CIUBA: Hi. This is --

23 CHAIR HILL: Go ahead, Mr. Ciuba.

24 MR. CIUBA: Oh. I was just going to introduce
25 myself. I'm Todd Ciuba. Yup.

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1 CHAIR HILL: Okay. Good afternoon, Mr. Ciuba.
2 Mr. Crain, nice to see you.

3 Oh. Commissioner Padro, would you like to
4 introduce yourself also for the record?

5 MR. PADRO: Hi. I'm Alexander Padro. I'm
6 Chair of the Advisory Neighborhood Commission 2G. I'm
7 Single Member District Commissioner for a Single Member
8 District 2G02, in which the subject property is located.
9 Thank you.

10 CHAIR HILL: Okay. Well, Commissioner Padro,
11 welcome. I've -- I've meant to attend the hearing and
12 address -- express my support for you as the Chair.

13 Also you are -- this is my ANC. And -- and so
14 just to let everybody know. So, Commissioner Padro is not
15 my commissioner. Commissioner McCarthy is but --
16 McCartney. And so however, welcome. That will not -- I
17 will not sway my issue with this case.

18 But, Mr. Crain, are you aware that we don't
19 even know if you need this relief?

20 MR. CRAIN: I am. I've spoken with the owner
21 and I figured we're this far, so we might as well see it
22 through. We may have been incorrectly referred to the
23 BZA. This -- this project has been going on in permitting
24 since 2019. There was kind of a pause put due to COVID
25 and financial hardships that hit most of the restaurants

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1 in town. So we've been breathing life back into this.

2 And honestly, I'm not sure where the referral
3 come. I've been to locate that. But at some point we
4 were told we need to go to BZA for this -- the second
5 egress stair that was putting it over the allowable lot
6 occupancy, which been in looking at it, it seems like it's
7 a residential requirement, not a commercial one, which I
8 think is -- is where the relief may not be requested. But
9 we'd submitted everything, so we're here to say it
10 through.

11 CHAIR HILL: Sure.

12 Mr. Lawson, can you hear me, or can the Office
13 of Planning hear me?

14 MR. LAWSON: Yes, Mr. Chair. Good morning.

15 CHAIR HILL: Good morning. Still Good morning.
16 Yeah. Mr. Lawson, if you could just clarify again, this
17 is not -- this is something that the Office of Planning is
18 not -- does not think is necessary, correct?

19 MR. LAWSON: That is correct. And we discussed
20 that with the Department of Building, and they agreed that
21 in this case relief should not be requested or required.
22 So --

23 CHAIR HILL: Okay.

24 So Mr. Crain, as you know, the Board is unable
25 to weigh in on anything that not is really before us.

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1 MR. CRAIN: I understand

2 CHAIR HILL: So, I'm trying to think what's the
3 cleanest thing to do here for you guys. And I think,
4 probably, it would be to withdraw your application. And
5 I'm going to just ask OZLD that that is the cleanest thing
6 rather than us to deny or mentioned again, not that we
7 haven't already, that on the record, this is not something
8 that is really before us.

9 So OCLD, is that correct? That's the most --
10 the cleanest thing to do? I don't know if Ms. Cooper can
11 hear me or -- okay. Well, I'll look at my fellow Board
12 members. I mean, Vice Chair John, would you agree that
13 that's the most prudent thing to do?

14 VICE CHAIR JOHN: I agree, Mr. Chairman.
15 Because the use -- the proposed use would be residential,
16 I believe.

17 CHAIR HILL: Okay.

18 VICE CHAIR JOHN: Oh. I'm sorry. It's the
19 proposed use is a restaurant on both floors.

20 CHAIR HILL: Yes.

21 VICE CHAIR JOHN: Yes.

22 CHAIR HILL: And -- and this --

23 VICE CHAIR JOHN: And that would be a
24 commercial use.

25 MS. COOPER: Hi.

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1 VICE CHAIR JOHN: Go ahead.

2 MS. COOPER: Hi. This is Cometria. Sorry. I
3 had some technical issues.

4 The Board can either make a determination of
5 whether the application meets the requirements, or they
6 can dismiss it as not needed. Either one of those are
7 options for the Board to take an action if the Applicant
8 does not to withdraw the application.

9 CHAIR HILL: Okay. Well, actually now that
10 that has been clarified, I would actually go ahead and
11 then prefer to dismiss it as not needed. Therefore,
12 there's something in the record that the Applicant can
13 point to at the Department of Buildings if there's any
14 kind of issue that might come up. And that would be my
15 thoughts.

16 Let's see. Does the Board have any questions
17 on anything that I just said?

18 ZC VICE CHAIR MILLER: I would concur with your
19 comments, Mr. Chairman, and I think it was helpful for Mr.
20 Lawson to -- from the Office of Planning to put on the
21 record that the --that they had spoken with the Department
22 of Buildings, which agrees with the Office of Planning's
23 assessment that relief is not necessary under the
24 application that was proposed. It's not -- The
25 application was not necessary because the relief is not

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1 necessary. So I would support your -- if you do a motion
2 to dismiss, I would support that.

3 CHAIR HILL: Thank you. Commissioner Padro,
4 since you've been here, they already -- they -- Mr. Ciuba
5 came before you guys and everything, and they already --
6 you all heard this, is that correct?

7 MR. PADRO: That is correct. Mr. Ciuba came to
8 both our Zoning and Planning and our Preservation
9 Committee and got the Committee's support. It came to the
10 full commission, and got the full commission's support.
11 We submitted our Form 129, and a resolution of support,
12 and registered as a witness for this proceeding today.

13 So it's somewhat concerning that that amount of
14 time and effort has been wasted. It could have been put
15 to more productive time. But nonetheless, we're grateful
16 that Mr. Ciuba can move forward with his project.

17 CHAIR HILL: Thank you, Commissioner Padro.
18 Okay. All right.

19 ZC VICE CHAIR MILLER: I do want to thank
20 Commissioner Padro's ANC and him personally for the
21 support his work in the community, and for your work on
22 this case, even though you didn't get to testify, and so
23 I'm sorry to get to see you testify. But I think I get --
24 I'll have more opportunities in the future. So thank you.

25 MR. PADRO: Thank you. And I'm sure that

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1 you're correct that we will have future opportunities to
2 see each other.

3 CHAIR HILL: Vice Chair John, you had your hand
4 up.

5 VICE CHAIR JOHN: So I was just trying to
6 clarify that the issue is -- is that G10 does not have a
7 lot occupancy limit for nonresidential uses in that zone.
8 So -- is the basis for the dismissal?

9 CHAIR HILL: Mr. Lawson? Did you hear that
10 question?

11 MR. LAWSON: I'm sorry.

12 CHAIR HILL: Did you hear that question?

13 MR. LAWSON: I'm sorry, I did not.

14 CHAIR HILL: Ms. John, could you repeat that,
15 please?

16 VICE CHAIR JOHN: Yes. So the issue seems to
17 be that subsection G 210 does not have a lot of limit for
18 nonresidential units uses in the MU-4 Zone.

19 MR. LAWSON: That's -- That's correct. It
20 applies a bit more broadly than MU-10 Zone -- or sorry,
21 the MU-4 Zone. But --

22 VICE CHAIR JOHN: Right.

23 MR. LAWSON: that's correct, that there is no
24 lot of occupancy limit for nonresidential uses in this
25 zone.

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1 CHAIR HILL: Okay. Anyone else have anything
2 else for anyone else?

3 All right. I am going to go ahead and dismiss
4 -- I'm sorry, I'm going to go ahead and close the hearing
5 and the record and excuse everyone. Thank you.

6 Okay. As stated, and as was articulated by the
7 -- both by Vice Chair John and the Office of Planning, I
8 do not think that this relief is necessary, and I would
9 make a motion to dismiss Application Number 21005 as not
10 being -- as relief that is not necessary and to ask for a
11 second. Vice Chair John?

12 VICE CHAIR JOHN: Second.

13 CHAIR HILL: Motion made and seconded. Mr.
14 Hamala, if you can take roll call please?

15 MR. HAMALA: When I call your name, please
16 respond with a yes, no, or abstain. Chairman Hill?

17 CHAIR HILL: Yes.

18 MR. HAMALA: Chairman John?

19 VICE CHAIR JOHN: Yeah.

20 MR. HAMALA: Vice Chair John?

21 VICE CHAIR JOHN: Yes.

22 MR. HAMALA: Apologies.

23 Board Member Blake? Zoning Commissioner
24 Miller?

25 ZC VICE CHAIR MILLER: Yes.

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1 MR. HAMALA: Staff would record the -- record
2 the vote as 4-0-1 to dismiss -- to dismiss the application
3 on the motion made by chair Hill and seconded by Ms. John,
4 with Mr. Blake and Zoning Commissioner Miller in support,
5 with the Board Member Smith not present.

6 CHAIR HILL: Okay. Thank you, Mr. Hamala, and
7 you may call our next one.

8 MR. HAMALA: Next is 21006 of Josh Green, and
9 as amended, a cell Certified Application pursuant to
10 Subtitle X 901.2, under Subtitle D 5201, for special
11 exception relief from the rear yard requirements of
12 Subtitle D 207.1, and from the lot occupancy requirements
13 of Subtitle D 210.1. And this would be a rear addition to
14 an existing three story somewhat attached principal
15 dwelling in the R-3 Zone. And this will be located at
16 2905 28th Street, NW (Square 2106, Lot 89).

17 CHAIR HILL: Okay. If the Applicant can hear
18 me, if they could please introduce themselves for the
19 record? You're on mute I believe, sir. Yep.

20 MR. GREEN: I'm here. Joshua Green, the owner
21 of 2905 28th Street, NW. I'm joined by my architect Scott
22 Williams, who has worked with me on this project.

23 CHAIR HILL: Okay. Mr. Williams, can you hear
24 me, and if so, could you introduce yourself for the
25 record?

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1 MR. WILLIAMS: Yes. My name is Scott Williams
2 of 7361 Clifton Road, Clifton, Virginia. And, yes, I'm
3 the architect.

4 CHAIR HILL: Okay. Mr. Green, are you going to
5 be presenting as Mr. Williams?

6 MR. GREEN: We figured I would -- I would start
7 and just give an introduction of the project, and then any
8 questions -- specific questions can be directed to Scott.
9 That's okay?

10 CHAIR HILL: Sure.

11 MR. GREEN: Okay. This is a request for a
12 variance. We're not even a hundred percent sure we need
13 it because we received the similar variance --

14 CHAIR HILL: Not a variance. Not a variance.
15 It's okay. You're here for a special exception.

16 MR. GREEN: Special exception, that's correct,
17 sir.

18 CHAIR HILL: Yep.

19 MR. GREEN: And -- and we received this in 2015
20 for a renovation. Scott Williams was the architect then
21 as well, where we expanded a rear deck and put a parking
22 pad underneath that. This project now would simply build
23 up from that rear deck and add two bedrooms on top of that
24 rear deck. It -- in, you know, onto the rear of the
25 house.

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1 CHAIR HILL: Okay. I'll tell you what. Mr.
2 Williams, can you hear me?

3 MR. WILLIAMS: Yes.

4 CHAIR HILL: Can you go ahead -- I'm going to
5 ask you to -- Mr. Young to pull up Exhibit Number 5.

6 And Mr. Williams, if you wouldn't mind walking
7 through -- walking us through, please, Exhibit Number 5,
8 and you can just ask Mr. Young to advance as you walk
9 through this.

10 MR. WILLIAMS: Okay. Let's see. Go to the
11 next page. Probably -- and keep going -- Probably the 3D
12 view is the -- Yeah, this is probably the easiest.

13 The -- the top rendering shows the existing
14 condition where there's an open carport underneath,
15 there's an overhead door to -- to the alley, but then
16 there's a deck above it. And we had applied for the
17 special exception in 2015 to build that structure.

18 And this the -- the lower rendering is for the
19 proposed project, which is to enclose the deck in a screen
20 porch and add an addition up above it for two small
21 bedrooms. It's the exact same footprint, so it doesn't
22 affect the lot occupancy, and the rear -- and rear yard is
23 exactly the same that was asked for the special exception
24 in 2015.

25 CHAIR HILL: Okay. Did you guys go to your

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1 ANC?

2 MR. GREEN: We did, we sent the materials to
3 the ANC and there was no -- no objection. They were --
4 they were in support. In fact, two ANC reps came out to
5 visit the property and said -- they turned around and
6 looked down the alley where everybody else has done a
7 similar project and said yeah, this is done all the time.
8 No, you know, we don't see a problem.

9 CHAIR HILL: Yeah. Because I don't see
10 anything from the ANC in terms of in the record.

11 MR. GREEN: Yeah. We sent them -- I sent them
12 all the materials as requested, and I got an email back
13 from the commissioner saying all looks good, you need us
14 to do something? I said I don't know the process. I
15 assume you know what you need to do. And -- and that's
16 what we got.

17 I mean, I have that email. But -- but they
18 didn't even hear it. They --

19 CHAIR HILL: I got you.

20 MR. GREEN: -- you have to go to a hearing.

21 CHAIR HILL: Did you submit that email into the
22 record?

23 MR. GREEN: The email from -- back from the
24 commissioner?

25 CHAIR HILL: Yes.

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1 MR. GREEN: I don't believe so. I was unaware
2 that that was required. I figured --

3 CHAIR HILL: It's not required. I'm asking you
4 if -- If it's easy for you to do.

5 MR. GREEN: Oh. If I can do. Yeah. There's -
6 -

7 MR. WILLIAMS: Yeah. I can upload it, Josh.

8 MR. GREEN: Okay. I'm just searching for it.

9 CHAIR HILL: Mr. Williams, do you have that
10 handy?

11 MR. WILLIAMS: I don't -- He -- I think he's
12 going to pull it right now.

13 CHAIR HILL: Okay. As you start to do that, as
14 you do that, can I go ahead and turn to the Office of
15 Planning before I turn to my Board members? Mr. Young, if
16 you could drop that slide deck, or that slide? Can I hear
17 from the Office of Planning, please?

18 MR. BEAMON: Good morning. This is Shepard
19 Beamon with the Office of Planning. We recommend approval
20 of the requested relief for the rear yard and the lot
21 occupancy requirements to allow the proposed rear
22 addition. We find that the request meets the criteria
23 under Subtitles D and X and we stand on the record of the
24 report as shown in Exhibit 23. And we're open to any
25 questions. Thank you.

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1 CHAIR HILL: Okay. Does the Board have any
2 questions for the Applicant or the Office of Planning?

3 ZC VICE CHAIR MILLER: I just had one question
4 for Ms. -- I appreciate the Applicant's and Office of
5 Planning's presentations here and participation. Mr.
6 Beamon, is this your -- is this your first appearance
7 before the BZA or Zoning Commission? I guess -- I -- or,
8 I'm just curious.

9 MR. BEAMON: No. This is not my first
10 appearance of the BZA. I have not been to Zoning
11 Commission yet. But I've been with the Office of Planning
12 for about two months now. So I've been to a few BZA
13 meetings prior to this one.

14 ZC VICE CHAIR MILLER: Well, welcome to this
15 proceeding. And I look forward to seeing you maybe at the
16 Zoning Commission proceedings, and I'm glad you're on
17 board. So, thank you for your work.

18 MR. BEAMON: Thank you.

19 CHAIR HILL: Okay.

20 Mr. Green, did you reach out to your neighbors?

21 MR. GREEN: All were notified and I talked to
22 all them, particularly the one right across the alley, to
23 the -- I guess that would be north of my property, who
24 could conceivably have some sun shading from that. And
25 they are -- they're supportive of the project. I mean,

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1 they wouldn't have any sun shading given the -- given the
2 alley in between us. But they are friends and are
3 supportive.

4 CHAIR HILL: Okay. Mr. Williams, did you get
5 that email from Mr. Green?

6 MR. WILLIAMS: Not --

7 MR. GREEN: I have -- Here, I have -- What --
8 How would I -- How would I submit that? Is there an email
9 address to which I can send this?

10 CHAIR HILL: Yep. Mr. Hamala, could you tell
11 that to Mr. Green please?

12 MR. HAMALA: If you submit it to
13 bzasubmissions@dc.gov we'll get it right away.

14 MR. GREEN: Okay.

15 CHAIR HILL: Okay. What I'm going to do is I'm
16 going to close the hearing and the record except for that
17 email, because I just like quickly take a look at it. And
18 then we can come back and have a vote.

19 Unless my fellow Board members have any issues
20 with what I was just about to suggest. And if so, please
21 speak up.

22 Okay. All right. Then, Mr. Green, and Mr.
23 Williams, I don't need anything else from you. You don't
24 have to come back. But we're going to vote on this after
25 I get that email, Mr. Green.

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1 MR. GREEN: Great. I've sent you two emails.
2 The email I sent to the -- to the ANC and the email I
3 received back from the commissioner saying, acknowledging
4 receipt, and do we need to do anything, and in subsequent
5 conversations when he came to visit the property.

6 CHAIR HILL: Okay. And Mr. Green, I appreciate
7 your testimony. Like, your testimony would be enough for
8 me but now I just -- since we have a little bit of time
9 here today, I'm going to --

10 MR. GREEN: Sure.

11 CHAIR HILL: -- kind of put your vote at the
12 end of the day. So --

13 MR. GREEN: Oh. At the end of the day?

14 CHAIR HILL: The day today. There's only two
15 more cases. You don't have to -- you don't have to watch.
16 Unless you want to.

17 And so I'm going to close the hearing and the
18 record.

19 Mr. Green, you look at like you're about to say
20 something. Are you going somewhere?

21 MR. GREEN: I was just going to ask, so -- so
22 we'll just be notified later if we can't -- I do have to
23 get back into the office. At one point we're told this
24 we're going to be first on the docket. So we were a bit
25 surprised. So we'll just be notified of a decision later?

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1 CHAIR HILL: Yeah. You'll -- you'll be
2 notified. Mr. Green, I think -- I think things look
3 pretty well. The record looks pretty full and things look
4 as though they will proceed accordingly to your plan, or
5 your hopes. And so I don't think it's necessary for you
6 to watch. But if you want to you may, but what I'm saying
7 is I'm waiting for that email. So I can take a look at
8 that email, and then we'll vote. So I don't need anything
9 else from you guys.

10 MR. WILLIAMS: Okay.

11 CHAIR HILL: Okay?

12 MR. GREEN: Okay.

13 CHAIR HILL: But I'm waiting for that email,
14 Mr. Green. Okay?

15 MR. GREEN: Yeah. I've sent them both. So you
16 should you should have them now, but okay.

17 MR. HAMALA: We just received it sir.

18 CHAIR HILL: Oh. Okay. Well, then just go
19 ahead and wait -- let's just wait for staff to upload it
20 into the record then.

21 MR. GREEN: Okay. Thank you.

22 CHAIR HILL: Mr. Hamala, can you let me know
23 when it's up there?

24 MR. HAMALA: Yes. It should only be another
25 minute or so.

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1 CHAIR HILL: No problem.

2 MR. HAMALA: It's a -- it's in there now as
3 Exhibit 24.

4 CHAIR HILL: Okay, great. Thank you, and
5 thanks, Mr. Hamala, to staff for their quick response to
6 us.

7 Okay. So again, Mr. Green, this doesn't say
8 anything about -- And it's all right. We couldn't give
9 great way to it anyway. About their vote. But way you're
10 saying is they didn't actually vote at the ANC. Correct?

11 MR. GREEN: I do not believe they have even
12 considered it as something --

13 CHAIR HILL: Okay.

14 MR. GREEN: -- they --

15 CHAIR HILL: So, you're telling me
16 commissioners came to your --

17 MR. GREEN: Yes. That -- that person, Gawain
18 Kripke, as well as -- I'm looking for the name of the
19 other woman, Janell Pagats, which is ANC 3C-SMD-03.

20 They both came to my property prior to that
21 email chain, which is why he was kind of like, do you need
22 anything from me, because I think he -- he had already
23 visited property and said -- said verbally, yeah, this is,
24 this is standard, we don't see any problem with this.

25 I can send you both their names and the other

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1 woman's name if that's helpful.

2 CHAIR HILL: Okay. Mr. Green, that testimony
3 is sufficient for me. Again, we can't give great weight
4 anyway, but -- Does the Board have any final questions or
5 thoughts? All right. All right, Mr. Green, Mr. Williams,
6 thanks for your participation. I'm going to close the
7 hearing and the record.

8 Okay. I would agree that they are meeting the
9 criteria for us to grant the relief that's requested. I
10 mean, I didn't have any issues with it, I suppose. I
11 mean, I know there has been some internal discussion with
12 the Board about things that we approve, and then whether -
13 - if they are or aren't able to build above things that we
14 approve. And so, this is just again, further data points
15 for us, the Board, to consider when we're going through
16 these special exceptions.

17 The -- I am comforted by the fact that the
18 commissioners have gone to the site. Although again,
19 there's not great weight for that. I'm comforted by the
20 fact that the Applicant has provided testimony that they
21 have reached out to their neighbors, and they don't have
22 any issues with that.

23 I didn't see or need -- or feel the need for a
24 sun study because I would agree with the analysis that the
25 Office of Planning has provided concerning whether or not

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1 they're meeting the criteria for us to grant this relief
2 requested.

3 I will be voting in favor of the application.
4 And I have nothing further to add. Commissioner Miller,
5 do you have anything you'd like to add?

6 ZC VICE CHAIR MILLER: Thank you, Mr. Chairman.
7 I support this application going forward. I appreciate
8 the Applicant's presentation and the Office of Planning's
9 presentation. Their written report at Exhibit 23, which
10 noted that the relief that they're seeking as part of a
11 special exception application from the rear yard and the
12 lot occupancy, it would result in no further -- no
13 different dimension than the existing dimensions of the
14 rear yard and lot occupancy, that it's currently fifteen
15 point seven feet existing rear yard, and it will be
16 fifteen seven feet proposed. And it's currently fifty-two
17 point seven percent existing lot occupancy, and that's the
18 -- there's no change in that with the enclosure of the
19 deck.

20 So, and I agree that it is a data point of the
21 -- that an application does come for when -- when an
22 enclosure happens of a previous deck that was approved by
23 special exception, and it does come back. I think it that
24 that previous case that I was on, or I listened to, I
25 think we thought that it might come back as a modification

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1 of consequence in the future or a modification, but I
2 guess this is -- this is another way that we will see
3 future enclosures of decks that don't really change the
4 dimensions for the rear -- rear yard and lot occupancy.

5 It's a long way to saying I support this
6 application. Thank you, Mr. Chairman.

7 CHAIR HILL: Thank you, Commissioner Mr.
8 Miller.

9 Mr. Blake?

10 MEMBER BLAKE: Yeah. I don't have much to add.
11 I do believe the Applicant has met the burden of proof to
12 be granted the relief. It should not have unduly impact
13 to the light, air, and privacy of the adjoining
14 properties, and it's pretty much in keeping with the
15 landscape of the alley and streetscape. As it is pretty
16 much on an alley, and it is, you know, in the same
17 footprint, as you discussed.

18 I give great weight to the Office of Planning's
19 recommendation, and again would agree with you that I feel
20 comfortable that the Applicant has at least reached out to
21 the neighbors and the ANC. And I -- I -- Although there's
22 nothing to give great weight to, I am comfortable with the
23 application and will be voting in favor.

24 CHAIR HILL: Thank you.

25 Vice Chair John.

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1 VICE CHAIR JOHN: I agree with all of the
2 comments so far, and I'm in support of the application.

3 CHAIR HILL: Thank you.

4 Okay. I'm going to make a motion to approve
5 application number 21006 as captioned and read by the
6 secretary and ask for a second. Vice Chair John?

7 VICE CHAIR JOHN: Second.

8 CHAIR HILL: Motion made and seconded. Mr.
9 Hamala, if you can take a roll call.

10 MR. HAMALA: When I call your name, please
11 respond with a yes, no, or abstain. Chairman Hill?

12 CHAIR HILL: Yes.

13 MR. HAMALA: Vice Chair John?

14 VICE CHAIR JOHN: Yes.

15 MR. HAMALA: Mr. Blake?

16 MEMBER BLAKE: Yes.

17 MR. HAMALA: Zoning Commissioner Miller?

18 ZC VICE CHAIR MILLER: Yes.

19 MR. HAMALA: Staff would record the vote as 4-
20 0-1 to approve the application on the motion by Mr. Hill,
21 seconded by Ms. John, with Mr. Blake and Commissioner
22 Miller in support of the application, with Board Member
23 Smith not present.

24 CHAIR HILL: Okay. Thank you. All right.

25 I'm going to ask my fellow Board members. We

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1 have two more cases. Do we want to push through or break
2 for lunch?

3 I will be taking a vote.

4 Vice Chair Miller?

5 ZC VICE CHAIR MILLER: I'm comfortable with
6 pushing through but I'll defer to the majority of the
7 Board.

8 CHAIR HILL: Mr. Blake?

9 MEMBER BLAKE: I will defer to Ms. John.

10 CHAIR HILL: Vice Chair John?

11 VICE CHAIR JOHN: Ten-minute break.

12 CHAIR HILL: Ten-minute break?

13 VICE CHAIR JOHN: Yes.

14 CHAIR HILL: Okay. Let's take -- let's say a
15 fifteen-minute break, and we'll try to snack.

16 VICE CHAIR JOHN: Yes.

17 CHAIR HILL: And then we'll come back.

18 VICE CHAIR JOHN: Perfect. Thank you.

19 CHAIR HILL: All right. Fifteen minutes.

20 Thank you

21 (Whereupon, the above-entitled matter went off
22 the record at 11:56 a.m. and resumed at 12:27 p.m.)

23 CHAIR HILL: All right. Mr. Hamala, can you
24 hear me?

25 MR. HAMALA: Yeah.

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1 CHAIR HILL: Great. If you would go ahead and
2 call our next case?

3 MR. HAMALA: The Board is back in its hearing
4 session after a brief recess at about 12:26 p.m. And our
5 next application is 21009 of 2639 41st Street, NW, LLC, a
6 self-certified application pursuant to Subtitle X section
7 901.2, for a special exception under Subtitle U section
8 421 to allow a new res -- a new res -- new residential
9 development in the RA-1 Zone. And this will be a creation
10 of three new dwelling units and an existing four-unit
11 apartment house. And it would include a third story
12 addition. And this would all be located at 2639 41st
13 Street, NW (Square 1807, Lot 45).

14 And I believe Mr. Matthew Lee will actually be
15 the presenter today, or maybe not. Sorry, Mr. Place.

16 CHAIR HILL: Okay. If the Applicant is here,
17 if they could please introduce themselves for the record?

18 MR. LEE: Matt Lee at R. Michael Cross design
19 group. I'm the architect and will be presenting today.

20 CHAIR HILL: Okay, Mr. Lee. Can you use your
21 camera or is it not working?

22 MR. LEE: There we go.

23 CHAIR HILL: Okay, great. Perfect. All right.
24 Mr. Lee, if you want to walk us through your client's
25 application and why you believe you're meeting the

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1 criteria for us to grant the relief requested? I'm going
2 to put fifteen minutes on clock so I know where we are.
3 And you can begin whenever you'd like.

4 MR. LEE: Sure.

5 Is it possible to pull up Exhibit Number 23,
6 which is the plan set?

7 CHAIR HILL: Sure.

8 MR. LEE: Perfect. Thank you very much.

9 So as was stated, this project proposes
10 renovation of an existing four-unit structure at 2639 41st
11 Street, NW, to become -- it's seven-unit, three-story.
12 This is applied for under BZA application 21009.

13 The majority of the units being proposed are
14 two bedrooms, two baths, with one unit being a one
15 bedroom, two bath plus a den.

16 While this property is zoned for residential
17 apartments in the RA-1 Zone. Any new residential
18 development or development related to the expansion of
19 existing structure requires relief as a special exception
20 under the DCMR Subtitle U section 421.1. If I can get the
21 next slide please?

22 Thank you. Here, we have photos of the sitemap
23 showing that this project is located mid-block on 41st
24 Street between Davis Place, NW, and Edmunds Street, NW.
25 Next slide for the site plan.

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1 Thank you. The total land area is about four
2 thousand five hundred and fifty-seven square feet. We are
3 proposing to largely maintain the existing footprint,
4 removing and replacing the existing rear edition, and
5 maintain the existing lot occupancy of forty percent,
6 which is allowed as matter of right in this zone. And the
7 remaining sixty percent of the site is to be used as green
8 cover, pavers, window wells, and parking.

9 The zoning code requires only one parking space
10 for such a development. However, we are proposing four
11 parking spaces with two full-size and two compact.
12 There's a dedicated trash bin space at the rear of the
13 property. Trash will be collected by private service at
14 intervals set to meet the building demand, as this is more
15 than three units.

16 This project will be subject to the green area
17 ratio regulations, which will require additional plantings
18 around the site, minimizing the offsite runoff.

19 Next slide please. Here we have the cellar
20 floorplan, with two two-bedroom units. One in the front
21 and one in the rear. An existing crawlspace will be
22 excavated, and the foundations will be underpinned to
23 provide adequate height to the new cellar units.

24 It should be noted that the landscaping from
25 the previous slide, I forgot to mention, was added to the

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1 site plan per the recommendation of the OP report, which
2 we updated accordingly.

3 Next slide please. This is the first floor
4 layout showing typical two-bedroom units. All units would
5 be afforded with increased natural light through larger
6 windows on three sides. These units have access to
7 outdoor space via their rear balconies. And each unit is
8 proposed to be anywhere between seven-hundred-and-seventy-
9 five and nine hundred square feet.

10 Next slide please. Similar to the first floor,
11 this layer -- layout shows two two-bedroom units. Every
12 unit would have access to outdoor space via private patio,
13 balcony, or rooftop deck.

14 Next slide showing the addition, which is the
15 third floor, a seventh unit autonomous located on the
16 partial third story addition over the existing two-story
17 building. This is a two bedroom, two bath, and has access
18 to outdoor space through a private roof deck.

19 Next slide. Front out front and rear
20 elevations. We are proposing to maintain the existing
21 mansard in the front to keep the look and feel of the
22 neighborhood -- neighboring structures. The brick on the
23 existing front and sidewalls is also to remain with
24 repairs as required. The third story addition's setback
25 from the front elevation allowing the original massing to

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1 largely remain.

2 Last slide please. Sorry. This is the side
3 elevation which shows the existing side brick to remain
4 and the rear stick built siding is being taken down and
5 replaced with brick facade as well.

6 And then next slide. This is the other
7 elevation, just showing the party wall, how its profile
8 matches to ours.

9 Next slide. Cross section showing that we're
10 underpinning the lower units and the third story addition
11 and how it's set back from the rear of the street. So
12 that, at a forty-five degree angle from the sidewalk, you
13 would not be able to perceive it.

14 Next slide. I think that might be it.

15 I would just like to also mention that we have
16 two letters of support in the record, and none in
17 opposition. Additionally, we have worked with both the
18 ANC and the OP on this project and have received their
19 support. Just filled in the record as well. We
20 appreciate your time and welcome any questions that you
21 may have. Thank you very much.

22 CHAIR HILL: Commissioner -- I mean, Mr. Blake?

23 MEMBER BLAKE: Yeah. I have a quick question
24 for you. I was looking at architectural drawings. The
25 original ones, and then the -- the re -- the most updated

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1 ones. The primary difference between the two I saw was
2 the omission of two photos -- two renderings of the
3 property. Can you please walk that -- walk through the
4 two of those for me, so I understand what the differences
5 are?

6 MR. LEE: Yes.

7 MEMBER BLAKE: Also, give me some color on the
8 landscaping adjustments that you made based on your
9 conversation with the Office of Planning.

10 MR. LEE: Absolutely. So when we originally
11 submitted this BZA set, it was largely before we had
12 finalized the DOEE application and worked with landscape
13 architect to develop the planting to meet the GAR, the
14 green area ration. And so, those renderings no longer
15 reflect the landscaping. And we chose to pull them out
16 because they are no longer accurate. That site plan on
17 BZA 03 that sheet is -- is the current -- our current
18 proposal for landscaping.

19 MEMBER BLAKE: Where is that one? Could you
20 put that up so I can just see it? Mr. Young, can you put
21 up what he's talking about? The landscaping plan?

22 CHAIR HILL: I think, Mr. Young, it's again,
23 Exhibit 23, and 03 at the bottom of the page.

24 MR. LEE: Yeah. It should be page number three
25 of that PDF.

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1 Thank you.

2 MEMBER BLAKE: Okay. So this would be the
3 updated version of the landscaping plan, which would
4 reflect the comments from DOEE and Office of Planning?

5 MR. LEE: Yes. Office of Planning wanted to
6 see more extensive planting on the site plan, which we had
7 already begun work for with DO -- as part of our DOEE
8 application, and so, sort of synergistically, went hand-
9 in-hand, and we updated it and submitted this revised plan
10 schedule. And as I mentioned, the renderings no longer
11 accurately reflect what we're proposing for the
12 landscaping, so I chose to take it out because it wasn't
13 accurate.

14 MEMBER BLAKE: Okay. Thank you very much. I
15 appreciate that.

16 MR. LEE: Of course.

17 CHAIR HILL: Okay. Are there any other
18 questions for the applicant?

19 Okay. Can I turn to the Office of Planning?

20 MS. THOMAS: Yes. Good afternoon, Mr.
21 Chairman, members of the Board. Karen Thomas for the
22 Office of Planning. And we will rest on the record in
23 support of the application and we are satisfied that the
24 Applicant did address our comments regarding the
25 landscaping and included that in Exhibit 23, Sheet --

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1 Sheet 03 of its recent submission. So it should satisfy
2 our condition that that be included in the order. Thank
3 you.

4 CHAIR HILL: Okay. Does anybody have any
5 questions for the Office of Planning? Mr. Blake?

6 MEMBER BLAKE: Yeah. Just a quick question. I
7 just -- I -- I like the fact that you've included it,
8 obviously. But just got a question for you. What was the
9 rationale for you wanting to include the additional
10 landscaping treatments?

11 MS. THOMAS: Well, typically for the RA
12 development, right now, we have seen a rash of these
13 developments over time. And we have recently decided that
14 -- to make sure that sometimes the landscaping is part of
15 the permitting set at DOB, we have included these
16 conditions in our report. And apart from the fact that we
17 do want to improve landscaping, to satisfy the GAR
18 requirements for the site. And we noticed that previously
19 sometimes they -- what is being permitted is not what was
20 shown at the BZA. So, we are now asking for that to be
21 included.

22 MEMBER BLAKE: Okay. Thank you.

23 CHAIR HILL: Okay. Anyone else from my Board?
24 Okay. Mr. Young, is there anyone here wishing to speak?

25 All right. Does the Applicant have anything

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1 they would like to add at the end?

2 MR. LEE: Nope. Just that we really appreciate
3 your time. Thank you.

4 CHAIR HILL: Okay. I'm going to close the
5 hearing and the record.

6 Okay. Okay. I didn't have any issues with
7 this Application. I thought that it was relatively
8 straightforward. I think that the fact that they aren't
9 expanding the -- the current lot and they're providing
10 four parking spaces, I mean it just makes me feel more
11 comfortable with the new dwelling that they're creating,
12 or the new residential development, I should say.

13 I will also note that the ANC has weighed in
14 with their support, and I would agree with the Office of
15 Planning's recommendations, as well as their condition,
16 that would include the landscaping plan that is in Sheet
17 03 at Exhibit 23.

18 I don't have a lot, really, to add about this.
19 Does anyone else have something else they would like to
20 add? Commissioner Miller.

21 ZC VICE CHAIR MILLER: Chairman, I concur with
22 your comments, and you may have noted this, that the ANC
23 3B at Exhibit 20, was it? Exhibit 20, recommended
24 approval and a unanimous vote. They had no issues or
25 concerns.

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1 And I appreciate Ms. Thomas's report on behalf
2 of the Office of Planning and looking at that landscaping
3 issue. Thank you.

4 CHAIR HILL: Thank you. Mr. Blake?

5 MEMBER BLAKE: Yes, Mr. Chairman. My only
6 question is, given the fact that the adjustment has been
7 made, is it necessary to put the condition in? I think
8 the commission -- I think the con- -- the recommendation
9 for a commissioner -- the change -- the condition preceded
10 the change in the plans. So I'm not sure that it's
11 necessary to add that given the fact that the plans in the
12 document state -- or it's laid out the way it is. Unless
13 it's a new requirement to do that, I just want to be clear
14 on that.

15 CHAIR HILL: Sure. I don't know --

16 MEMBER BLAKE: I'll finish up. I'm in support
17 of the application, period. That's my only question.

18 CHAIR HILL: Sure. I don't know. Sometimes,
19 to be quite honest, Mr. Blake, over the past, even since
20 you've been kind of away, like, we've tended to include
21 things such as this, even if they had been already
22 supplied. That way it's there as a condition in there
23 that the Office of Planning has kind of made note of.
24 That -- that seems to be the way we've been doing it as of
25 late.

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1 And then Vice Chair John can tell me if that's
2 wrong or if she has a different opinion on that. But
3 that's as I recall. Vice Chair John, do you have anything
4 you'd like to weigh in on?

5 VICE CHAIR JOHN: I think in this case, they've
6 already incorporated the landscaping. What I've seen is
7 that we've said that the landscaping will be maintained
8 for the life of the project. And maybe the Office of
9 Planning can opine on that, but that's my recollection.
10 But, no. You know, I'm fine with leaving out the
11 conditions in this case. Because they're already in the
12 plans and they have to build to the plans that are in the
13 records.

14 CHAIR HILL: Okay. I guess I will ask OZLD's
15 opinion as well as I'm going to bring back in the Office
16 of Planning. So I'm going to reopen the hearing, and
17 bring in the Office of Planning.

18 And also, Mr. Young, if you would bring in the
19 Applicant, just in case there's any question.

20 Can the Office of Planning hear me? Can the
21 Office of Planning hear me?

22 MS. THOMAS: What was the question? I was
23 leaving.

24 CHAIR HILL: Sure. No problem. Ms. Thomas,
25 the question was if we -- if you still wanted us to

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1 include this as a condition, given that they've already
2 now included the landscaping plan in the plans that they
3 then have to build to.

4 MS. THOMAS: Yes, we do. We would like it to
5 be still included.

6 CHAIR HILL: As a condition?

7 MS. THOMAS: As a condition.

8 CHAIR HILL: Okay. No problem. I don't really
9 have a problem with that. Does the Applicant have a
10 problem with that, Mr. Lee?

11 MR. LEE: No, I don't think so. We've worked
12 pretty closely with the DOEE. We feel confident that this
13 is the plantings design, landscape design that will be
14 constructed.

15 CHAIR HILL: Yep. Yep. Let's see. All right.
16 Does my Board have any other questions?

17 Okay. Then I'm going to close the hearing once
18 again, and the record. And please excuse everyone, Mr.
19 Young.

20 Okay. As, I think, we've already deliberated
21 on this, I believe I can go ahead and make a motion.

22 Okay. I'm going to go ahead and make a motion
23 to approve application number 21009 as captioned and read
24 by the secretary, including a condition that the Applicant
25 adhere to the landscaping plan that they have submitted in

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1 Exhibit 23, Sheet 03, and ask for a second. Vice Chair
2 John?

3 VICE CHAIR JOHN: Second.

4 CHAIR HILL: The motion has been made and
5 seconded. Mr. Hamala, if you could please take a roll
6 call?

7 MR. HAMALA: When I call you name, please
8 respond with a yes, no, or abstain. Chairman Hill?

9 CHAIR HILL: Yes.

10 MR. HAMALA: Vice Chair John?

11 VICE CHAIR JOHN: Yes.

12 MR. HAMALA: Mr. Blake?

13 MEMBER BLAKE: Yes.

14 MR. HAMALA: Zoning Commissioner Miller?

15 ZC VICE CHAIR MILLER: Yes.

16 MR. HAMALA: Staff would record the vote as 4-
17 0-1 to approve the application with the condition that the
18 Applicant will adhere to the landscaping plan in Exhibit
19 23 of the record shown on Sheet 03 on the motion made by
20 Mr. Hill, seconded by Ms. John, with Mr. Blake and Zoning
21 Commissioner Miller in support of the motion, with Board
22 Member Smith not present. The motion passes.

23 CHAIR HILL: Thank you.

24 All right. Mr. Hamala, if you could call our
25 last case, please?

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1 MR. HAMALA: And our last case, we are coming
2 back to Application Number 21003 of RWD Properties, LLC.
3 And for the record this is a self-certified application
4 pursuant to Subtitle X Section 901.2 for special
5 exceptions under Subtitle -- for special exceptions under
6 Subtitle G 5200.1, the lot occupancy requirements of
7 Subtitle G 210.1.

8 And for the record, this application was
9 amended, and this is for a rear and third floor addition
10 to an existing three-story office building to be used as a
11 three-story apartment house in the MU-4 Zone, located at
12 1775 T Street, NW (Square 151, Lot 241).

13 CHAIR HILL: Okay. Thank you. If the
14 Applicant can hear me, if they could introduce themselves
15 for the record?

16 MR. AHMANN: Thomas Ahmann, Ahmann LLC, 4408
17 Beachwood Road, University Park, Maryland 20782.
18 Architect for the project.

19 CHAIR HILL: Okay. Mr. Ahmann, if you could
20 walk us through your client's application and why you
21 believe they are meeting the criteria for us to grant the
22 relief requested. I'm going to put fifteen minutes on the
23 clock so I know where we are. And you can begin whenever
24 you'd like.

25 MR. AHMANN: So I did send in to Mark a PDF

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1 presentation, and I guess he said I should ask if you can
2 enter it into the record?

3 CHAIR HILL: Okay. Yes. If you could please
4 enter it into the record, unless my fellow Board members
5 have any issues with that. Because if we were in person,
6 that would be something that would just be before us. So,
7 go ahead and do that.

8 And then, Mr. Young if you could bring that up
9 and allow Mr. Ahmann to walk us through that, that would
10 be helpful. Thank you.

11 MR. YOUNG: I did not receive it so I'll have
12 to wait --

13 CHAIR HILL: Oh.

14 MR. YOUNG: -- until it's in the record.

15 CHAIR HILL: Okay --

16 MR. AHMANN: Oh. I'm sorry. I sent it to your
17 -- to your personal email.

18 CHAIR HILL: Okay.

19 MR. AHMANN: Okay. Well, if you could --

20 CHAIR HILL: No, no, no, no. Hold on now a
21 second, Mr. Ahmann. We waited this long.

22 So, do you -- you sent that to -- did you send
23 it to -- Mr. Hamala, can you tell him who to send that to,
24 please? You'd think I'd have that memorized by now.

25 Mr. Hamala, can you hear me?

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1 MR. HAMALA: Sorry about that. I muted myself.
2 You can send that to bzasubmissions@dc.gov.

3 What we received earlier was, I think, a
4 communication with the Historic Preservation Board.

5 MR. AHMANN: Yeah. So if you could enter that
6 into the record, too. I was going to bring that up later,
7 but if we're just bringing stuff in, that would be
8 helpful.

9 So I'm sending this to you now. Here, let me -
10 -

11 You know, it's a large file so it's using
12 Maildrop. Hopefully, that's something you can open.

13 MR. HAMALA: I'm not sure. I think we're going
14 to have to see once we receive it.

15 MR. AHMANN: Yeah. It's left the -- it's left
16 my building.

17 CHAIR HILL: Well, let's just see whether or
18 not -- Mr. Hamala, if you can't even open it, then I won't
19 worry about it. But -- and then we'll let Mr. Ahmann just
20 walk us through the application. However, I would like to
21 see it. I mean, if we could see the PowerPoint it would
22 be great.

23 MR. AHMANN: Yeah. Otherwise I can walk you
24 through the burden of proof which has some of -- some
25 similar of the images.

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1 CHAIR HILL: I understand, Mr. Ahmann. Give me
2 one minute here.

3 Let -- let Mr. Hamala see what he can and just
4 let me see if I can try to open something else up.

5 Mr. Hamala, were you -- were you able to open
6 it?

7 MR. HAMALA: We haven't received it on our end.

8 CHAIR HILL: Okay. Forget about that --

9 MR. AHMANN: Maybe --

10 CHAIR HILL: What?

11 MR. AHMANN: Maybe it's getting blocked or
12 something, because it's a large file --

13 CHAIR HILL: I'm sorry, Mr. Ahmann. Give me
14 one second to try to understand what it is. So I see the
15 re -- I see the revised self-cert. There was something
16 that you had said was from HPRB?

17 MR. AHMANN: Yeah. So, that was really just to
18 show that we have had numerous community meetings
19 regarding this.

20 CHAIR HILL: Okay.

21 MR. AHMANN: We met with the ANC --

22 CHAIR HILL: Mr. Ahmann, Mr. Ahmann, give me a
23 second.

24 MR. AHMANN: Sure.

25 CHAIR HILL: We don't -- I'm not going to wait

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1 for that. You can provide us your testimony on that when
2 you're giving us your argument. Okay?

3 MR. AHMANN: Sure.

4 CHAIR HILL: Okay. So, go ahead and walk us
5 through your application again. And, begin whenever you'd
6 like, just off of what -- your burden of proof and
7 project.

8 MR. AHMANN: Yeah. So basically, the project
9 is an addition on the third floor, extending, you know,
10 the third floor back, which will meet the next-door
11 neighbor's third-floor addition that was put on a few
12 years back.

13 In the far rear, we are adding, we're
14 converting a two-story open porch with roof into a two-
15 story rear addition and -- and with basement. So it's the
16 same footprint. We're cleaning up some of the issues
17 inside -- in what -- you know, it used to be called the
18 court, but now it's considered the side yard.

19 CHAIR HILL: Mr. Ahmann?

20 MR. AHMANN: Yes.

21 CHAIR HILL: Mr. Ahmann? I'll tell you what.
22 Why don't you walk us through -- Mr. Young, if you could
23 pull up Exhibit 18?

24 All right, Mr. Ahmann, why --

25 MR. AHMANN: If you could go --

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1 CHAIR HILL: Yeah. Just walk us through this,
2 okay?

3 MR. AHMANN: Sure. If you can go to this --
4 the next -- next page. Here you see the site plan, and
5 then, this is Lot 241. You see the light grey area in the
6 middle of the plan. That's an addition that we're putting
7 on the third floor. The dark grey in the back is where
8 we're converting the existing porch into a two-story plus
9 basement addition.

10 And then in this side court where you see sort
11 of that red stairway, that's a fire escape that we're
12 removing that went from the alley up to the second floor.
13 And we're cleaning up some of the side yard conditions
14 over there as part of the project.

15 If you could go to, I think, the most helpful
16 thing would be the building section, which is on slide
17 number 5. There, that one. That's good.

18 So if you see there, on the -- on the top
19 floor, you could see sort of in the middle of this section
20 that we're extending the third floor out to that point.
21 And then beyond that we're proposing a roof deck, and then
22 beyond that is the roof of the rear addition that's
23 replacing the existing porch.

24 You see the roof plan. We've done what we can
25 to, you know, minimize the impact of the HVAC sight lines

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1 from the front. They're all blocked by the turret, so
2 there's nothing on the roof that's visible from the
3 street.

4 If you could go to the next slide. On the
5 right, you see the front. We're just doing cleanup there
6 and some material replacement, and we've kind of vetted
7 all that with the Historic Preservation Office. On the
8 left, you see that the rear addition, which was the same
9 footprint as the existing porch. And then above that,
10 beyond, is the third-floor addition.

11 So we have vetted this project through ANC 2B
12 through four different meetings. First with their Land
13 Use Committee, for -- for this BZA submission, and then
14 for Historic Preservation review board, and then we also
15 met with Dupont Circle Conservancy.

16 (Audio interference.)

17 MR. AHMANN: It was already -- The ANC
18 submitted one to the BZA as well, and you have that in
19 your record. We also emailed, we --

20 (Audio interference.)

21 MR. AHMANN: -- adjoining and property owners,
22 and to the adjoining and confronting property owners for
23 both the BZA and for the Historic Preservation Review
24 Board, so there's been plenty of notice. And we've had no
25 response from the neighbors in terms of, you know, we

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1 offered to answer questions, address any concerns. We've
2 received no phone calls, emails, or mailed responses, so
3 we feel there's no vocal opposition to the project.

4 ANC 2B and Office of Planning support the
5 requested relief. And as I said, you know, it went
6 through Dupont Circle Conservancy for History Preservation
7 Review Board as well, and they were supportive.

8 So we feel that we are meeting the intent of
9 the zoning ordinance in terms of, you know, the way that
10 we presented this, you know, to the public and in terms of
11 the requirements of the, you know, the zoning requirements
12 for showing that's in harmony with the, you know,
13 adjoining projects, the adjoining buildings, and the other
14 various different aspects of the criteria for approval.

15 CHAIR HILL: Okay. Mr. Young, you can go ahead
16 and drop that. Can I go ahead and turn the Office of
17 Planning first before I turn to my Board members?

18 MR. KIRSCHENBAUM: Chair Hill and members of
19 the Board of Zoning Adjustment, I am Jonathan Kirschenbaum
20 from the Office of Planning, and we were given approval of
21 the special exception for lot occupancy. And just a quick
22 correction to our report. The first page flips around the
23 lot occupancies, but this is a special exception to reduce
24 the existing lot occupancy from sixty-seven point four
25 percent to sixty-four and a half percent.

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1 Yeah.

2 MR. KIRSCHENBAUM: But even though the lot
3 occupancy is being reduced, it's only special exception
4 relief because it's over the matter of right limit of
5 sixty-percent. Thank you.

6 CHAIR HILL: Okay. I'm a little confused. Is
7 this -- and I'll turn to the applicant -- this is an
8 office building and you're creating -- you're keeping it
9 an office building?

10 MR. AHMANN: No. This is converting into a
11 three-unit apartment building. It's currently -- it is
12 currently owned by the same owner that will own it as the
13 -- as the apartments. They use it right now as an office
14 space, and that's how -- they have a C of O for that
15 currently.

16 So it will be converting to three units. Three
17 apartment units.

18 CHAIR HILL: Okay. I'm sorry. I was looking
19 at the wrong plans.

20 Yeah your plans are in Exhibit 18. Correct?

21 MR. AHMANN: Yes. Correct.

22 CHAIR HILL: Okay. Great. Okay. Does anyone
23 have any questions for the Office of Planning or the
24 Applicant?

25 VICE CHAIR JOHN: Just the Office of Planning,

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1 Mr. Kirschenbaum. So, you mentioned C -- did you say C
2 202 was amended recently?

3 MR. AHMANN: Not that recently. In 2019.

4 VICE CHAIR JOHN: 2019. I couldn't remember
5 when. And that was just to clarify that there is no
6 special exception relief from C 202?

7 MR. KIRSCHENBAUM: There is no -- I'm sorry.
8 My headphones cut out for a second. Could you repeat the
9 question? I'm so sorry.

10 VICE CHAIR JOHN: Was that to clarify that
11 there was no special exception relief from C 202? Because
12 the Board has gone -- used to go back and forth on this.

13 MR. KIRSCHENBAUM: Right. I --

14 VICE CHAIR JOHN: There was some confusion at
15 one point.

16 MR. KIRSCHENBAUM: Yes. And -- and to add --
17 so what happened was, Subtitles D, E, and F used to say
18 under Chapter 52 that you could get -- had to get relief
19 from C 202.2 as part of getting your yard relief or
20 whatever it was. And that was all allowed by special
21 exceptions.

22 Subtitle G, which is the Mixed Use Zones, never
23 allowed it under any circumstance by special exceptions,
24 so the Board -- the Board would get these applications
25 where it was like, you get, someone was requesting special

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1 exception for a side yard, but then was requesting
2 variance relief from C 202.2, which didn't -- just didn't
3 make any sense.

4 So, the text amendment in 2019 just clarified
5 that under no circumstances was relief ever necessary from
6 C 202.2 when you are getting either special exception or
7 variance relief from the, you know, applicable development
8 standard. You didn't need to get all this additional
9 relief. That was sort of unnecessary.

10 VICE CHAIR JOHN: Right. Thank you.

11 MR. KIRSCHENBAUM: Yep. No problem.

12 CHAIR HILL: Okay. Mr. Young, is there anyone
13 here wishing to speak?

14 Okay. All right. Mr. Ahmann, do you have
15 anything you'd like to add at the end?

16 MR. AHMANN: No, I really appreciate the
17 Board's consideration and look forward to, you know, to
18 your ruling.

19 CHAIR HILL: Thank you. All right. I'm going
20 to close the hearing and the record.

21 Okay. I don't have a lot to -- to add, if you
22 guys want to color what I'm about to say that'd be
23 helpful, or not. I'm going to agree with the
24 recommendation as provided by the Office of Planning. I
25 will also agree with the analysis of the ANC as put

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1 forward, or at least their report of it. And I would
2 agree with the arguments that the Applicant has made
3 concerning their application and vote to approve.

4 Vice Chair Miller, do you have anything to add?

5 ZC VICE CHAIR MILLER: I concur with your
6 comments, Mr. Chairman, and appreciate the Applicant's
7 outreach to neighbors and to ANC 2B, which as you
8 indicated is supportive of this application.

9 Which -- it reduces the lot occupancy,
10 actually, even though it's still noncompliant, it reduces
11 it. And in making it residential use, it kind of fits
12 more compatibly into the neighborhood, even though the
13 Zone did allow the office use that was there previously.
14 But I think it's compatible with the neighborhood.

15 CHAIR HILL: Thank you. Mr. Blake?

16 MEMBER BLAKE: I don't have a lot to add. It
17 does meet the general standards for approval, and I will
18 be in support.

19 CHAIR HILL: Thank you. Vice Chair John?

20 VICE CHAIR JOHN: Whether or not relief is
21 required for this application under C 202. And I think we
22 said that --

23 MEMBER BLAKE: Didn't we remove that, Ms. John,
24 with the --

25 VICE CHAIR JOHN: Oh. This is the application

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1 we removed it. Thank you. Oh boy. Thank you. I do need
2 coffee.

3 CHAIR HILL: That's all right.

4 VICE CHAIR JOHN: So, I have nothing to add.
5 I'm in support of the application so far.

6 CHAIR HILL: Okay.

7 VICE CHAIR JOHN: There were two cases that had
8 the same issue today. And when I was looking at the
9 earlier case, I was thinking it was this case. Okay. I
10 have nothing to add. I'm in support.

11 CHAIR HILL: Okay. Great. All right. Thanks,
12 Vice Chair John.

13 I'm going to make a motion to approve
14 Application -- Approve Application Number 21003 as revised
15 with the self-cert, and read by the secretary, and that
16 the plans are reflected in Exhibit 18, and ask -- and
17 making a motion to approve, and ask for a second. Vice
18 Chair John?

19 VICE CHAIR JOHN: Second.

20 CHAIR HILL: The motion has been made and
21 seconded. Mr. Hamala, if you could take a roll call,
22 please?

23 MR. HAMALA: When I call your name, please
24 respond with a yes, no, or abstain. Chairman Hill?

25 CHAIR HILL: Yes.

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1 MR. HAMALA: Vice Chair John?

2 VICE CHAIR JOHN: Yes.

3 MR. HAMALA: Mr. Blake?

4 MEMBER BLAKE: Yes.

5 MR. HAMALA: Zoning Commissioner Miller?

6 ZC VICE CHAIR MILLER: Yes.

7 MR. HAMALA: Staff would record the vote as 4-
8 0-1 to approve the application on the motion made by Mr.
9 Hill, seconded by Ms. John, with Mr. Blake and Zoning
10 Commissioner Miller in support of the motion, Board Member
11 Smith is not present. And the motion passes.

12 CHAIR HILL: Thank you. All right, you all.
13 Thank you so much.

14 Mr. Blake, once again, welcome back, and we'll
15 see you all next week. Bye.

16 VICE CHAIR JOHN: Bye.

17 (Whereupon, the above-entitled matter went off
18 the record at 1:01 p.m.)

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In the matter of: Public Hearing

Before: DC BZA

Date: 12-13-23

Place: teleconference

was duly recorded and accurately transcribed under my direction; further, that said transcript is a true and accurate complete record of the proceedings.



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