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GOVERNMENT OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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REGULAR PUBLIC HEARING

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WEDNESDAY
NOVEMBER 20, 2024

+++++

The Public Hearing of the District of Columbia Board of Zoning Adjustment convened via teleconference, pursuant to notice at 9:35 a.m. EDT, Frederick L. Hill, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

- FREDERICK L. HILL, Chairperson
- LORNA L. JOHN, Vice Chairperson
- CARL L. BLAKE, Commissioner
- ROBERT E. MILLER, Vice Chairperson, Zoning Commission

BOARD OF ZONING ADJUSTMENT STAFF:

- KEARA MEHLERT, Secretary
- PAUL YOUNG, Data Specialist

The transcript constitutes the minutes from the Regular Public Hearing held on November 20, 2024.

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1 CHAIRPERSON HILL: Good morning ladies and gentlemen,
2 the Board of Zoning Adjustment. Today is November 20,
3 2024. This public hearing will please come to order. My
4 name is Fred Hill, Chairman of the District of Columbia
5 Board of Zoning Adjustment. Joining me today are Board
6 Members Lorna John, Carl Blake, Chrishaun Smith, and
7 Zoning Commissioner Rob Miller, I believe, and possibly
8 Dr. Namere (ph); but I'm not sure.

9 Today's meeting and hearing agenda are available to
10 you in the Office of Zoning's website. Please be advised
11 that the proceeding is being recorded by a court reporter,
12 and it's also webcast live via Webex and YouTube live.
13 The video webcast will be available on the Office of
14 Zoning's website after today's hearing. Accordingly,
15 everyone who is listening on Webex or by telephone will be
16 muted during the hearing. Also, please be advised that we
17 do not take any public testimony at our decision meeting
18 session.

19 If you're experiencing difficulty accessing Webex or
20 with your telephone call, then please call our OZ hotline
21 number at (202)727-5471 to receive Webex log-in or call-in
22 instructions.

23 At the conclusion of the decision meeting session, I
24 shall, in consultation with the Office of Zoning,
25 determine whether a full or summary order may be issued.

1 A full order is required when the decision it contains is
2 adverse to a party, including an affected ANC. A full
3 order may also be needed if the Board's decision differs
4 from the Office of Planning's recommendation. Although
5 the Board favors the use of summary orders whenever
6 possible, an applicant may not request the Board to issue
7 such an order.

8 In today's hearing session, everyone who's listening
9 on Webex or by telephone call-in will be muted during the
10 hearing; and only persons who have signed up to
11 participate or testify will be unmuted at the appropriate
12 time.

13 Please state your name and home address before
14 providing oral testimony or your presentation. Oral
15 presentations should be limited to a summary of most
16 important points. When you're finished speaking, please
17 mute your audio so that your microphone is no longer
18 picking up sound or background noise.

19 All persons planning to testify either in favor or in
20 opposition should have signed up in advance. They'll be
21 called by name to testify. If this is an appeal, only
22 parties are allowed to testify. By signing up to testify,
23 all participants will agree to the oath or affirmation as
24 required by Y 408.7.

25 Requests to enter evidence at the time of an online

1 virtual hearing, such as written testimony or additional
2 supporting documents other than live video, which may not
3 be presented as part of the testimony, may be allowed
4 pursuant to Y 103.13 provided that the persons making the
5 request to enter an exhibit explain, A, how the proposed
6 exhibit is relevant; B, the good cause justifies allowing
7 the exhibit in the record, including an explanation of why
8 the requester did not file the exhibit prior to the
9 hearing pursuant to Y 206; and how the proposed exhibit
10 will not unreasonably prejudice any parties.

11 The order for procedures for special exceptions and
12 variances are in Y 409. At the conclusion of each case,
13 an individual who is unable to testify because of
14 technical issues may file a request for leave to file a
15 written version of the planned testimony to the record
16 within 24 hours following the conclusion of public
17 testimony in the hearing.

18 If additional written testimony is accepted, then
19 parties will be allowed a reasonable time to respond as
20 determined by the Board. The Board will then make its
21 decision at its next meeting session but no earlier than
22 48 hours after the hearing; moreover, the Board may
23 request additional specific information to complete the
24 record. The Board and staff will specify at the end of
25 the hearing what is expected and the date when a person

1 must submit the evidence to the Office of Zoning. No
2 other information shall be accepted by the Board.

3 Finally, the District of Columbia Administrative
4 Procedures Act requires that the public hearing on each
5 case be held in the open before the public; however,
6 pursuant to 405(b) and 406 of that act, the Board may,
7 consistent with its rules and procedures and the act,
8 enter into a closed meeting on a case for the purpose of
9 seeking legal counsel on a case pursuant to D.C. Official
10 Code Section 2-575(b)(4) and/or deliberate on a case
11 pursuant to D.C. Official Code Section 2-575(b)(13) but
12 only after filing an administrative public notice in the
13 case in where it's a closed meeting after obtaining roll
14 call vote.

15 Madam Secretary, do we have any preliminary matters?

16 SECRETARY MEHLERT: Good morning, Chairman and
17 Members of the Board. In terms of the schedule today,
18 Application No. 21205 of Andria Matrone and Brian Miller
19 has been removed from the Consent Calendar as an expedited
20 review case and scheduled for hearing on December 11,
21 2024.

22 Application No. 20507-B of Legacy Lofts II, LLC and
23 Legacy Lofts III, LLC has been rescheduled to the January
24 22, 2025 hearing.

25 And Appeal No. 21142 of ANC 6C has been withdrawn.

1 In regards to late filings, the Chairman has reviewed
2 and granted waivers to allow late filing into the
3 applicant's case records pursuant to Subtitle Y, Section
4 206.7 and Section 103.13. Any other late filings during
5 the course of today's live hearing should be presented
6 before the Board by the applicant parties or witnesses
7 after the case is called.

8 Any other preliminary matters will be noted when the
9 case is called.

10 CHAIRPERSON HILL: Thank you. Good morning,
11 everybody. I -- there's been some issues -- or not
12 issues -- some things have been brought up to my attention
13 that some members of the Board have to leave earlier; and
14 so I'm hopeful that we're done by 11:45. That's at least
15 what I'm shooting for, and we'll see how the day goes. I
16 have two Board members, which is enough for my quorum; and
17 I suppose we can at least handle the next item of concern.

18 Madam Secretary, if you want to call it.

19 SECRETARY MEHLERT: This is from the Board's meeting
20 session. It's a party status request in Application No.
21 21205 of Andria Matrone and Brian Miller. This is a
22 self-certified application for special exceptions pursuant
23 to Subtitle X, Section 901.2; for a special exception
24 under Subtitle D, Section 5201; and the rear-yard
25 requirements of Subtitle D, Section 207.1; and from the

1 lot (indiscernible) requirements of Subtitle D, Section
2 210.1. This is for a rear deck addition to an existing
3 two-story semidetached principal dwelling located in the
4 R2 Zone at 3730 Windom Place Northwest, Square 1892, Lot
5 36. And before the Board is a request for party status
6 from Sarita Frattaroli and Travis Berge at 3732 Windom
7 Place Northwest.

8 And the -- earlier, this case was originally
9 scheduled for today's public meeting as -- on the
10 Expedited Review Calendar; however, per the regulations,
11 it was rescheduled for a hearing after the request for a
12 party status was filed.

13 CHAIRPERSON HILL: Great. Are the party status
14 people here with us? Okay. I see one.

15 Welcome Vice Chair John.

16 MS. FRATTAROLI: Hi there. I'm requesting party
17 status. My name is Sarita Frattaroli.

18 CHAIRPERSON HILL: Great. Ms. Frattaroli, so I --
19 you're the adjacent property; correct?

20 MS. FRATTAROLI: That's right. We're directly
21 attached --

22 CHAIRPERSON HILL: Okay. Great.

23 MS. FRATTAROLI: -- to --

24 CHAIRPERSON HILL: Great. Let's see. So I would
25 imagine that my fellow Board members would agree that you

1 are meeting the criteria for us to grant party status; and
2 so what I'd like to do is, again, just let you know how
3 that works if my fellow Board members agree we me, which I
4 believe they will.

5 You'll have an opportunity to go ahead and present
6 your testimony. The -- the applicant will present their
7 case. You'll then have an opportunity to present your
8 case. Then the Office of Planning will have an
9 opportunity to present their case. You'll have an
10 opportunity to ask questions of the applicant and also
11 questions of the Office of Planning.

12 You're -- you're a party in the case; so, you know,
13 you have an opportunity to give your testimony. And so if
14 you have any questions, let me know.

15 MS. FRATTAROLI: And would I know beforehand what the
16 Office of Planning is going to say so I can prepare for
17 that, or does that just happen at the hearing?

18 CHAIRPERSON HILL: Sure. No. That will be in the
19 record. Do you -- do you know how to access the record?

20 MS. FRATTAROLI: Yes, I do. Thank you.

21 CHAIRPERSON HILL: Okay. I think maybe -- Madam
22 Secretary --

23 SECRETARY MEHLERT: Yes.

24 CHAIRPERSON HILL: -- do we notify people -- do party
25 status people know when the Office of Planning submitted

1 their report?

2 SECRETARY MEHLERT: I don't think they're notified;
3 however, they are supposedly added to the record ten
4 days -- the requirement is ten days before the hearing
5 so --

6 CHAIRPERSON HILL: Okay.

7 SECRETARY MEHLERT: -- two Fridays, usually, before
8 the Wednesday hearing.

9 CHAIRPERSON HILL: So you can check the record then,
10 Ms. Frattaroli at that time; okay?

11 MS. FRATTAROLI: Thank you.

12 CHAIRPERSON HILL: All right. I'm going to make a
13 motion then.

14 Do my fellow Board members have any questions of
15 anyone? Okay.

16 I'm going to make a motion to approve the party
17 status of Ms. Frattaroli. And I -- is -- is -- Mr. Berge,
18 is he with you also?

19 MS. FRATTAROLI: He's in my house right now; but,
20 yeah, he's my husband.

21 CHAIRPERSON HILL: Okay. Well, Ms. Frattaroli, since
22 you're the only person here, it's okay, you're going to --

23 MS. FRATTAROLI: Okay.

24 CHAIRPERSON HILL: He -- he can testify with you, but
25 you're the one who's going to get party status because the

1 person has to be here; okay?

2 MS. FRATTAROLI: Okay.

3 CHAIRPERSON HILL: So we'll go ahead and give you
4 party status. I'm going to make a motion to approve the
5 party status for Ms. Frattaroli for Application 21205 and
6 ask for a second.

7 Ms. John?

8 VICE-CHAIRPERSON JOHN: Second.

9 CHAIRPERSON HILL: Motion made and seconded.

10 Madam Secretary, take a roll call.

11 SECRETARY MEHLERT: Please respond to the Chair's
12 motion to grant party status.

13 Chairman Hill?

14 CHAIRPERSON HILL: Yes.

15 SECRETARY MEHLERT: Vice-Chair John?

16 VICE-CHAIRPERSON JOHN: Yes.

17 SECRETARY MEHLERT: Mr. Blake?

18 MR. BLAKE: Yes.

19 SECRETARY MEHLERT: Commissioner Miller?

20 COMMISSIONER MILLER: Yes.

21 SECRETARY MEHLERT: Staff will record the vote as
22 four to zero to one to grant party status to Sarita
23 Frattaroli, the motion made by Chairman Hill and seconded
24 by Vice-Chair John.

25 CHAIRPERSON HILL: Great. Ms. Frattaroli, we'll see

1 you on 12/11.

2 COMMISSIONER MILLER: Mr. Chairman?

3 CHAIRPERSON HILL: Yes.

4 MS. FRATTAROLI: Thank you.

5 COMMISSIONER MILLER: I had a -- I had a question
6 about this case. I didn't see the Office of Planning
7 report in the record.

8 Could -- if it is in the record, could the Secretary
9 direct me to the exhibit number?

10 SECRETARY MEHLERT: I imagine it will be submitted
11 before the December 11th hearing. I think since it was --
12 it was removed from the Expedited Review Calendar for
13 today, that was --

14 COMMISSIONER MILLER: Okay.

15 SECRETARY MEHLERT: It, actually, affected the
16 timeline.

17 COMMISSIONER MILLER: So we're not considering merits
18 of the case today?

19 SECRETARY MEHLERT: No. No. It will be on December
20 11th.

21 COMMISSIONER MILLER: Okay.

22 CHAIRPERSON HILL: Okay. Perfect. Thank you. Thank
23 you, Ms. -- and I'll learn how to say your name next time.
24 How do you say it? Okay. All right.

25 I'm going to close this portion of the hearing and

1 the record and then again officially welcome Vice-Chair
2 John to the hearing. She is here now.

3 And you may call our next item.

4 SECRETARY MEHLERT: Next is in the Board's hearing
5 session. This is Application No. 21010 of NL 1271 5th
6 Street, LLC. As amended, this is a self-certified
7 application pursuant to Subtitle X, Section 901.12; for
8 special exceptions under Subtitle C, Section 703.2; from
9 the minimum parking requirements of Subtitle C, Section
10 701.5; under Subtitle C, Section 909.2; from the loading
11 requirements of Subtitle C, Section 901.1; under Subtitle
12 C, Section 1501.1(d) to allow an eating or drinking
13 establishment located within penthouse space; and then
14 there's Subtitle G, Sections 207.14 and 5200 from the rear
15 yard requirements of Subtitle G, Section 207.9.

16 This is for a new seven-story building with basement,
17 penthouse, and roof stack for use of the hotel with eating
18 and drinking establishment and ground floor retail and/or
19 service uses located in the MU-8B Zone at 1271 5th Street
20 Northeast, Square 3591, Lot 3.

21 This hearing was originally scheduled for December
22 13, 2023 and has been postponed several times while
23 waiting for the related zoning map amendment to be final.

24 CHAIRPERSON HILL: Thank you.

25 Vice-Chairman, you've -- you're on this case;

1 correct?

2 COMMISSIONER MILLER: That's my understanding.

3 CHAIRPERSON HILL: Okay. Great. Let's see.

4 Could the applicant please introduce themselves for
5 the record.

6 MR. UTZ: Sure. Good morning. I'm Jeff Utz with
7 Goulston & Storrs. I'm land use counsel on behalf of the
8 applicant.

9 CHAIRPERSON HILL: Great. Mr. Utz, welcome back. As
10 I mentioned, Mr. Utz, I'm trying to be efficient today;
11 and I know that we've had a lot of testimony concerning
12 this.

13 The questions -- I mean, now the -- the Zoning
14 Commission has acted. It's been set down. It was
15 published, et cetera. And so now we're able to -- to look
16 at this according to the -- the MU-8B Zone; and so my
17 questions, I guess, because I see that there are your
18 conditions or -- some of the conditions that you put
19 forward were in Exhibit 23; is that correct?

20 MR. UTZ: Yes. That is the set of conditions that
21 relates to the penthouse use, so that was a set of
22 conditions that was requested by the neighbor really
23 modeled on how there are similar approvals for the -- the
24 same, essentially, accessory restaurant/bar use for
25 hotels. We modeled this on that, and they imported, and

1 then fine-tuned it with the neighbor. So --

2 CHAIRPERSON HILL: Right.

3 MR. UTZ: -- yes, indeed.

4 CHAIRPERSON HILL: Okay. And then the -- you have a
5 loading management plan and a TDM plan; correct?

6 MR. UTZ: Correct.

7 CHAIRPERSON HILL: And which exhibits are those in
8 again, if they're easy for you to tell me?

9 MR. UTZ: So I will try for sure. The TDM plan is
10 Exhibit 22; and I think the loading management plan is
11 part of our CTR, which is 13A.

12 CHAIRPERSON HILL: I'm sorry. The -- the loading
13 management was in 22?

14 MR. UTZ: It is. But I was just notified that
15 Exhibit 30 consolidates everything into one condition set.
16 So we -- we --

17 CHAIRPERSON HILL: All of it?

18 MR. UTZ: Yeah.

19 CHAIRPERSON HILL: 23 is as well?

20 MR. UTZ: Yes. All of -- it -- it's intended to be,
21 kind of, an on-the-bus, kind of, condition snapshot for
22 this reason. So --

23 CHAIRPERSON HILL: Great.

24 MR. UTZ: -- you see it all in one place, yeah.

25 CHAIRPERSON HILL: That's helpful. Okay. All right.

1 As I said, we had a lot of testimony for this.

2 Does the Board have anything to ask of the applicant
3 or the Office of Planning?

4 Go ahead Vice-Chair John.

5 VICE-CHAIRPERSON JOHN: Were you going to hear from
6 the Office of Planning?

7 CHAIRPERSON HILL: I didn't have anything to hear
8 from the Office of Planning, but I can hear from them. Is
9 the Office of Planning with us?

10 MR. LAWSON: Hi. Good morning, Mr. Chair and Members
11 of the Board. Joel Lawson filling in for Maxine
12 Brown-Roberts (ph) on this case. I'm happy to stand on
13 the record in support of this case.

14 CHAIRPERSON HILL: Okay.

15 VICE-CHAIRPERSON JOHN: Okay. And just to clarify,
16 the map amendment is now final?

17 MR. LAWSON: Yes. It is final, and the order has
18 been issued by -- by the Zoning Commission.

19 VICE-CHAIRPERSON JOHN: Okay. Thank you.

20 CHAIRPERSON HILL: Okay. Great.

21 Mr. Young, is there anyone here wishing to speak?

22 MR. YOUNG: We do not.

23 CHAIRPERSON HILL: Okay. All right.

24 Well, Mr. Utz, you guys made it through; and I hope
25 the financing worked out for you; okay?

1 MR. UTZ: Thank you. Yeah. We really appreciate
2 your -- the flexibility with the scheduling and really
3 wanted to show our gratitude to the Office of Zoning Legal
4 Division and Zoning Commission on the issuance of that
5 order, so thank you.

6 CHAIRPERSON HILL: All right. Welcome. All right.
7 You all have a nice day. We're going to close the hearing
8 and the record.

9 MR. UTZ: Thank you.

10 CHAIRPERSON HILL: Oh, sorry. Hold on. Mr. Blake?

11 MR. BLAKE: Mr. Chair, I don't believe I've heard the
12 testimony from the applicant.

13 CHAIRPERSON HILL: No. They presented everything.

14 MR. UTZ: So we --

15 SECRETARY MEHLERT: No. Mr. Blake is correct.

16 The -- some merits haven't been heard for this --

17 CHAIRPERSON HILL: Oh, really?

18 SECRETARY MEHLERT: -- this case.

19 MR. UTZ: See we've -- we discussed the -- we're
20 happy to stand on the record. We do have an application
21 presentation that's in the record that essentially
22 summarizes the application materials to the statement.
23 We're happy to run through that in an expedited manner.
24 If you would want us to do so, we can do that.

25 CHAIRPERSON HILL: Sure. Go ahead. I -- I

1 apologize. I don't know why I thought that we heard the
2 merits.

3 MR. UTZ: Okay. Mr. Young, could you please pull up
4 the latest and the greatest presentation. Great. Thank
5 you.

6 So I'll dive right in. Again, I wanted to thank you
7 for, kind of, working through the procedural history here.
8 We're really glad to be here today and excited to be at
9 this step.

10 As we talked about before, this map amendment order
11 is now final. We do have support from the ANC, DDOT,
12 neighbors, and tenants; so this is, indeed, ready to move
13 forward.

14 Could you go to the next page, please.

15 Just for sake of orientation, the building is 1271
16 5th Street Northeast. It's currently approved with a
17 two-story structure that will be demolished to make way
18 for this project, which will be a hotel with eating and
19 drinking establishment uses on the ground floor, possibly
20 the second floor, and penthouse.

21 The existing building is nondescript. It was just
22 built in 1978. The image on the screen shows a context
23 image that Reynolds can address in more details; and we're
24 happy to answer questions as well.

25 The lot is mid-block, and it's about

1 13-and-a-half-thousand square feet.

2 The next slide, please. This is just a summary, kind
3 of, a snapshot of the procedural history where it ended up
4 on the map amendment; so it was, indeed, rezoned from
5 PDR-1 to MU-8B. And that order did come out last week on
6 the 15th.

7 Next slide, please. This is, kind of, a summary of
8 the stakeholders who have been involved to date. The ANC
9 is in support, OP is in support, DDOT filed a report of no
10 objections. They do have two conditions -- or one
11 condition relating to by -- parking, I believe, is really
12 in there for resolution. And we have some slides that can
13 speak to this; but we are in agreement with all the
14 conditions from DDOT. Neighbors are in support, and the
15 commercial tenants are in support as well.

16 Next slide, please. This slide's intended to be a
17 holistic snapshot of the relief being requested. So there
18 are four special exceptions. The first one is that
19 parking will not be provided on the site given its use as
20 a hotel and the amount of parking available nearby. This
21 is appropriate particularly when you consider the small
22 size of the lot and the infeasibility of building on-site
23 structure parking.

24 Secondly, loading is also required -- loading relief
25 is also required. There is one full-size berth and

1 platform being provided; but because of the potential size
2 of the hotel component just peaking above 50,000 square
3 feet, there is a need to get relief from that second
4 loading berth. So the team studied other similarly-sized
5 hotels in the area and determined that is second berth is
6 not necessary for a hotel of this size; and there's also,
7 as mentioned, a loading management plan that DDOT has
8 viewed.

9 Third, the project seeks to include an eating and
10 drinking use on the penthouse level, which requires a
11 special exceptions. As mentioned, this is fairly common
12 relief for a hotel; and EDENS agreed to conditions based
13 on those conditions that exist on other hotels and then
14 discussions with neighbors.

15 And then, fourth and finally, there is a request for
16 modest rear yard relief. The project could satisfy the
17 rear yard relief by shifting the building to the west out
18 towards the street and not setting back from that
19 building -- from the building lot line; however, EDENS did
20 want to create that closet area at the front of the
21 building to enhance the streetscape and create some
22 interesting opportunities for programming there.

23 The effect of the -- at the rear of the building is
24 to shorten the required rear yard; but doing so is
25 possible because there's a 35-foot-wide private alley at

1 the rear that the neighboring property owner, EDENS, and
2 the property owner to the south have entered into creating
3 a really nice interior courtyard.

4 With that alternative, over to Reynolds quickly to
5 speak about the applicant and some of the other components
6 of the project.

7 MR. ALLEN: Thank you, Jeff. Thank you all for
8 giving us time to present our project today. My name's
9 Reynolds Alan. I'm the managing director for EDENS or
10 developer, owner, and operator of community building
11 retail and mixed-use places across the country. Locally,
12 we've been working on the EDENS market project since 2006
13 really with the goal to try to influence the districts
14 vision for the area, which is laid out in the 2009 EC
15 counsel adopted for Avenue Market small-area employment.

16 Over the last 18 years, 15 of which I've been
17 involved in the project, we've been fortunate, really, to
18 form a strong bond and relationship with the community;
19 and in working with the community and working -- it's been
20 great to see that small-area plan that the community
21 envisioned coming to life. And this project that we're
22 here to speak about today, I think, furthers that.

23 Next slide, please. So what we're here to present
24 today is a project to enable us to bring a new hotel
25 project to -- to -- to the Union Market District. The

1 proposed will lower density to the surrounding properties.
2 It's also set back, proposed to create relief in massing
3 in the streetscape.

4 Next slide, please. So while the program results in
5 a lower overall building square footage, we really found
6 that we must add in the neighborhood in the long term,
7 which really matches how we view our projects. We invest
8 in the long-term perspective as the long-term owners and
9 operators of our -- of our properties.

10 Next slide, please. Just to orient you, the location
11 is a small parcel directly across the street from the
12 Village Cafe; and, actually, our offices for EDENS are
13 located right across the street as well. The building is
14 a vacant wholesale beauty supply building when we acquired
15 it nine years ago. It sits between a recently-constructed
16 120-foot apartment building called the Morse to the south,
17 which you see in the bottom right picture; and then the
18 planned development on getting that university and parcels
19 on the other two sides, which the project is approved for
20 120-foot height, a tall project on those -- that current
21 parking lot.

22 Our hotel project is proposed to be on half plate,
23 half behind the residential buildings on all those
24 adjacent parcels.

25 Next slide, please. What you see here is a page from

1 the Florida Avenue Market small-area plan that I've
2 mentioned. As you see here, the intent was to encourage
3 revitalization in the area. The property that we're
4 presenting today is the area known as medium-high density,
5 which we've followed the smaller plan to the T for the
6 direction on uses, height density for this project.

7 Next slide, please. When -- we first introduced the
8 idea of this project to OP and DDOT starting in early
9 2023, so we've been out in front making sure the community
10 and agencies were aware and had input for close to two
11 years now. We initially presented the project to ANC, to
12 their Zoning Development Committee in August of '23, then
13 went to the community as a whole. Ultimately, in
14 September of last year, we got our votes in support; and
15 then came back the ANC early of this year to update them
16 on projects, and adjustments needed to be made and all --
17 eventually, getting another letter of support, which was
18 included in our application filing today.

19 Also, starting back early last year, we reviewed our
20 plans at Gallaudet University, JBG Smith, ELCOR. All of
21 the neighbors all expressed support for the project,
22 agreeing with the use and looking favorably on the
23 increased light and air the project offered versus the
24 previously planned PUD that would have been here for
25 (indiscernible).

1 One request, as Jeff mentioned, were some conditions
2 related to the eating and drinking establishment at the
3 penthouse level, which we agreed to and included as part
4 of our submission, the letter signed by the parties
5 confirming these conditions. So, overall, the reception
6 of the plan has been pretty positive.

7 Next slide, please. So just quickly running through
8 the plans, the building section, I already mentioned the
9 ANC support for the penthouse use conditions. We've also
10 included letters of support from the tenants currently
11 operating the building. Both of these tenants have
12 long-term relationships before their tenancy here at Union
13 Market with EDENS.

14 Next slide, please. Ground floor, as I mentioned,
15 really what we envision is a community gathering place on
16 the ground floor. We're setting the building back to
17 create some really nice outdoor space as well.

18 Next slide, please. This is your typically floor
19 plate for the hotel floor.

20 Next slide, please. And then the -- the top
21 penthouse level as well.

22 Next slide, please. Conceptual rendering to give you
23 a feel for what we're envisioning for it but also how it
24 relates to the massing on either side.

25 And then next slide, please. And then I wanted to

1 hit on two things related to the relief requested today.
2 One is parking. So one special exception that we are
3 requesting is relief from parking, and I'd like to explain
4 the thinking and strategy around this. So what I mean is
5 that there's a comprehensive parking strategy for the
6 overall area, and it was recognized back in the early
7 stages of the Union Market revitalization, that we really
8 need to think about the 45-acre district holistically.

9 So based on the fact that there's a very large number
10 of small -- small properties owned by many different small
11 owners, plus the intent to preserve the 1930s buildings,
12 which we can refer to as the spine, there was a strategy
13 that we developed along with DDOT, along with other --
14 other owners in the area to really focus on a few larger
15 pools of parking on the larger parcels to support the
16 parking needs for the overall area.

17 So what we see on this slide are those larger parcels
18 where larger garages could or have been constructed to
19 support the parking needs for the entire area. So as of
20 today, there's 1,991 parking spaces that have been
21 constructed; and 602 of those are available for public
22 parking. Another 1,432 spaces are planned, adding another
23 421 spaces that will be open to the public resulting in
24 over 1,000 spaces open for public use. It's been a
25 really -- I think -- I would say well-thought-out,

1 well-coordinated plan that serves the neighborhood well to
2 keep attracting visitors to the area to support businesses
3 that are here and the ones to come.

4 The parking needs for this particular project, we are
5 presenting they are minimal, which I think we're also able
6 to discuss a bit further in a moment through a technical
7 lens. We've also discussed with multiple hotel operating
8 companies to make sure we're thinking about this the right
9 way. All of those have confirmed parking needs to be very
10 limited, as it's mostly ride-share; and that parking
11 strategy for the area is more than adequate to address
12 what limited parking needs there may be.

13 Next slide, please. Next, I just want to explain the
14 multiparty (indiscernible) agency planning that resulted
15 in what you see here regarding access, loading, and
16 servicing all buildings for this block. What you see here
17 is an illustration of the recorded easement between three
18 property owners that provide service access to all
19 buildings, homes, and block via a single curb cut to avoid
20 needing curb cuts and keep the traffic off of 5th Street.
21 This was is recommendation from DDOT, which then all
22 parties worked on to land at the best location for this
23 alley.

24 I mention this as loading this area -- loading is an
25 area of relief requested today; so I wanted to share with

1 you why we feel the relief is justified. We've also
2 discussed demand with experienced hotel developers and
3 operators; and the overwhelming response is that a hotel
4 this size does not any more than one loading berth at the
5 most, reason being we should expect, at most, three trucks
6 per day, which can easily be spread out throughout the day
7 to not need access to the loading berth at the same time.

8 And, last, this point also helps depict the rear yard
9 separation where the three parties have all agreed to this
10 shared alley that creates well -- more of them to combine,
11 let alone separation between the properties. The alley is
12 more than 30-feet wide, which is several feet wider than
13 what would be required between the two parcels.

14 And with that, I'll hand it off to Grove Slade.

15 MR. VANPELT: All right. Thank you, Reynolds. Good
16 morning. Next slide, please.

17 Good morning, I'm Dan VanPelt. I'm the
18 Vice-President and Senior Principal of Grove Slade.
19 We've been working with EDENS and the project team and
20 DDOT related to the transportation aspects of this
21 project.

22 At -- this slide shows the wealth of transportation
23 options that are afforded to the site. I'm not going to
24 go into in detail just in the interest of time, but I
25 would point out that we're a ten-minute walk from the

1 Union Market -- sorry -- Norma Gallaudet Metro Station.
2 And we have two high-frequency metro bus routes that are
3 just very nearby.

4 Next slide, please. So as mentioned by Reynolds, the
5 project proposes no on-site vehicular parking places, no
6 new curb cuts. The good thing, the curb cut on 5th Street
7 is going to be closed; and it will be provide on-street
8 parking that will serve as a hotel pickup/dropoff zone
9 along the frontage of the site. And the design of those
10 curbside improvements will be according to DDOT during the
11 public space permitting project.

12 There were two different developments in the area
13 that were considered. The applicant is requesting relief
14 from -- between 20 to 26 on-site vehicular parking spaces.
15 The number, kind of, depends on which one of those options
16 were chosen; so no -- no vehicular on-site parking spaces
17 are to be provided. It's not expected to have a
18 detrimental impact due to the site's proximity to all the
19 multimodal facilities that are -- were just on the
20 previous slide and given the fact that we have so many
21 offsite publicly-available parking garage spaces as
22 Reynolds discussed just a bit ago.

23 Also, with the robust transportation, the management
24 plan that's been coordinated with DDOT, that will help
25 mitigate impact and reduce the use of singular-occupancy

1 vehicles serving the new -- new project. Per the staff
2 report, DDOT's supportive of this requested parking
3 relief; and since there will be no spaces on site, the
4 hotel will utilize valet to either take patron cars to the
5 parking garages; or they will self-park themselves in the
6 publicly-accessible garages.

7 Additionally, the applicant is requesting the relief
8 to provide two loading berths; and they propose one
9 12-by-30-foot loading berth and one 100 square foot
10 loading platform. This relief is not expected to have a
11 detrimental impact based on data that was collected at
12 some comparable hotel sites in D.C. and some information
13 that was provided by EDENS on the expected operational
14 needs.

15 The proposed project is conservatively expected to
16 generate no more than six deliveries a day, which could be
17 adequately managed by the -- the single loading berth. So
18 DDOT's reviewed this information, and they're also
19 supportive of this relief if -- provided that we -- the
20 condition that we provide a loading management plan, that
21 that's implemented, and that has -- that has been agreed
22 to. And, also, all loading maneuverers are going to
23 happen in the private alley; so there will be no backing
24 from the street. It's all head-in/head-out.

25 Bicycle circulation is also shown on the slide in

1 light blue. There's pedestrian circulation shown in dark
2 blue. In response to DDOT recommendations, there will be
3 eight long-term bicycle parking spaces and ten short-term
4 bicycle parking spaces proposed regardless of the
5 development scenario; so it will meet or exceed the
6 district's minimum requirements for the retail hotel uses.
7 Access to long-term bicycle spaces will take place via 5th
8 Street in the alley, and the short-term spaces will be
9 available along the site's frontage on 5th Street. And
10 that -- those locations will be determined during public
11 space permitting.

12 There will also be two showers and four lockers for
13 employees to use. And pedestrian access will be from 5th
14 Street Northeast.

15 Next slide, please. I won't go into the
16 transportation management plan in detail. It contains
17 many of the -- the components that were expected by DDOT
18 and are pretty typical but happy to answer any questions
19 about that. And this is all captured in detail in the --
20 in the -- in the record and have been agreed to.

21 So the next slide, please. Just to wrap up, speaking
22 of a little more about DDOT coordination, we did a
23 comprehensive transportation review, which was scoped with
24 DDOT. Again, the study concluded that the site will not
25 have a detrimental impact given the -- the robust

1 transportation at work around it, the multiple modes; and
2 the fact that we're providing short-term and long-term
3 bicycle parking will help mitigate impact. The loading is
4 being accommodated out of the public roadway network. The
5 streetscape along the frontage is going to be
6 significantly enhanced, and the loading management plan
7 and the transportation management plans will also help
8 mitigate outside impacts. And so we're pleased to have no
9 objection in the staff report from DDOT.

10 And with that, I'll conclude my testimony and turn it
11 over to Jeff.

12 MR. UTZ: Great. Thank you, Dan.

13 Can we go to the next slide, please. So I'll just
14 quickly summarize the -- the standards and then how we
15 meet the standards. And I know that we're expediting
16 this, and I'm happy to answer any questions if I don't hit
17 on everything. So there are four more slides -- just
18 please bear with us -- each shining a light on the
19 individual components of the relief that we're requesting.
20 The detailed justification is Exhibit 17A.

21 But the first parking relief under Subtitle --

22 CHAIRPERSON HILL: Hey, Mr. Utz?

23 MR. UTZ: Yep.

24 CHAIRPERSON HILL: Yeah, go ahead and take your time.
25 I think -- for some reason, since I went through your

1 slide deck and everything, I thought you guys presented;
2 so please --

3 MR. UTZ: All right.

4 CHAIRPERSON HILL: -- go ahead and -- and take your
5 time. I don't want my Board members to feel as though
6 they don't have an opportunity to -- to ask questions.

7 MR. UTZ: Sure. Okay. Great. Thank you, Chairman.

8 So the first is for parking relief under Subtitle C,
9 Section 703.2. That permits the Board to grant special
10 exception relief for the number of parking spaces upon
11 satisfaction of any one or more of approximately ten
12 conditions. This project meets conditions in Subsection
13 703.2(b) through (e) and (g), which pertain to the
14 availability of transit nearby, the land use of the
15 neighborhood, the amount of traffic expected, the nature
16 of the expected uses, and the quantity of existing
17 commercial spaces other than on-street parking, which is
18 what Reynolds was shining a light on with the summary
19 slide for the Union Market District itself.

20 In sum, the site is very well-served by transit; and
21 given the hotel use, most visitors and employees would
22 either arrive by transit or via a ride-share where
23 overnight parking isn't necessary. For those guests and
24 employees who do need to park nearby, there's a large and
25 growing reservoir of parking in the neighborhood as

1 discussed.

2 Finally, EDENS has agreed to a DDOT-approved CDM
3 plan -- next slide, please, thank you -- for the loading
4 relief under Subtitle C, section 909.2. So the project
5 does provide one on-site berth but a second berth is
6 unnecessary given the type of use, the hotel, and the size
7 of the hotel. EDENS did agree to operate the project
8 subject to a loading management plan, as discussed by
9 Gorove Slade; and that was approved by DDOT.

10 Next slide, please. Third, for the penthouse relief
11 under Subtitle C, Section 1501.1(d), the proposed eating
12 and drinking establishment use in the penthouse would not
13 have adverse effects given its location and especially
14 given the conditions that EDENS agreed to with the
15 neighboring property owner. This use will be typical for
16 hotel uses of this type and really accentuate the -- the
17 ability for guests to integrate with the neighborhood and
18 enjoy the facility.

19 Next slide, please. Finally, for rear yard relief
20 under Subtitle G, Section 207.14, the probable does not
21 have any apartment windows or office windows. The private
22 alley at the rear of the project is effectively a rear
23 yard of the required width, but a portion of that alley is
24 shifted onto the abutting property given the agreed-upon
25 layout of the alley, which, again, was the subject of a

1 DDOT and -- and Office of Planning initiative and the
2 Zoning Commission -- ultimately, approval between those
3 property owners. So it is this nice contrived type
4 easement that creates open space and more, kind of,
5 operational control and cooperation in that alley; and the
6 result is that offset from 5th Street that creates an
7 additional enhancement to the public space. It's allowing
8 for more programming of the adjacent streetscape.

9 So with that, I -- I am happy to answer any questions
10 on the specifics of the standards and how this project
11 relates to them and satisfies them; but, otherwise, we
12 believe that this application is -- is set up to move
13 forward. We're happy to answer any questions or go back
14 to any slides that might be of interest. And thank you
15 for allowing us to present.

16 CHAIRPERSON HILL: Thank you, Mr. Utz.

17 Do -- does my Board members have any questions of the
18 applicant?

19 Go ahead, Vice-Chair Miller.

20 COMMISSIONER MILLER: I -- I'm not sure I have any
21 questions, but I just want to thank the applicant for the
22 presentation today and for all your work with district
23 agencies and the community and neighbor engagement that
24 you've done garnering the support of ANC 5D and also the
25 existing tenants in the -- in the building.

1 So are those tenants -- do you -- I -- have you
2 identified other space for them once the project gets
3 developed or -- I know they -- they -- I believe they've
4 submitted letters of support; but you -- have you
5 identified -- or you're -- you're working with them if
6 they have -- if they have a desire to be somewhere in the
7 Union Market District?

8 MR. ALLEN: We haven't -- thank you for all that. We
9 have not identified specific locations yet. One of the --
10 one of the businesses that's there, it's been in actual
11 multiple buildings for over a decade with us in the area;
12 and we'll look to continue to find locations for her --
13 for her, as well as the other business in the first floor
14 of that building. But we actually provided all of their
15 equipment and worked -- and opened their business to start
16 with, in fact, about eight years ago. We've done it for
17 over 15 years, so we hope to find new locations for them
18 within the overall Union Market District for sure.

19 COMMISSIONER MILLER: Well, thank you for that; and
20 thank you, Mr. Allen, for all of EDENS work in
21 revitalizing this -- this -- this area. Thank you.

22 MR. ALLEN: Thank you all.

23 CHAIRPERSON HILL: Thank you. Mr. Blake?

24 MR. BLAKE: I, actually, don't have any questions,
25 Mr. Chair.

1 I was -- I was curious if there was going to be a
2 contribution from the penthouse, but that's about the only
3 thing I -- I had as a question.

4 MR. UTZ: There will be.

5 CHAIRPERSON HILL: Mr. Utz, if --

6 MR. UTZ: So -- yep. So we estimate that it will be
7 about \$200,000 based on the approximate square footage of
8 that commercial space; so, indeed, there will be a CIC
9 addendum and a payment to get to the permit
10 (indiscernible).

11 MR. BLAKE: Thank you.

12 CHAIRPERSON HILL: Okay. Anyone else?

13 Vice-Chair John?

14 VICE-CHAIRPERSON JOHN: Just a question about one of
15 the condition that mentioned that the special exception
16 will go on for the life of the project; so I don't think
17 that's appropriate because the special -- you know,
18 special exception would continue as long as the use
19 exists. So we might want to look at that again and ask
20 the OZ -- OZ to modify that condition.

21 CHAIRPERSON HILL: I agree, and I don't think the
22 applicant -- do you have any issues with that, Mr. Utz?

23 MR. UTZ: We -- we do not. Thank you.

24 CHAIRPERSON HILL: Okay. Great. Thank you. All
25 right. Anyone else? Okay.

1 I'm going to go back. All right. Okay. I will
2 second Mr. Miller's comments on all the work that you guys
3 have done and -- particularly for that area. It's a
4 lovely area, I hope you guys with very successful.

5 All right. That's it. I'm going to close hearing
6 and the record.

7 MR. UTZ: Thank you so much.

8 CHAIRPERSON HILL: Thank you. Okay. Thanks. Okay.
9 I apologize to my fellow Board members. Every time I'm
10 trying to hurry up, I seem to, kind of, like, always get a
11 little bit gummed up myself. But I'll take a deep breath
12 and see if I can still make what I need to do -- I
13 think -- the only thing I can think of is I went through
14 the slide deck and the record, and I was like I thought
15 they presented.

16 So I didn't have any issues with the application. I
17 thought that the slide deck, in particular, made it very
18 easy to understand each step that they were walking
19 through. I thought that the conditions that they were
20 putting forward for -- in particular, for the restaurant
21 was helpful. I think that, you know, the fact that they
22 have also garnered the support of the ANC and the
23 neighbors and the Office of Planning also helps with my
24 feeling that they're meeting the criteria to grant the
25 relief and that they're meeting the -- the -- the

1 regulations.

2 So I'm going to be voting in favor of the application
3 with the conditions in Exhibit 30. And do thank the
4 applicant for putting everything together in one place and
5 then also noting that the OZLD would help craft the
6 condition in a way that it doesn't state for the life of
7 the project and adhere to the way that we normally put
8 that condition in.

9 Do you have anything to add, Mr. Blake?

10 MR. BLAKE: Sure. Thank you very much. I agree with
11 your analysis of the case. It does seem fairly
12 straightforward. The applicant has provided a fairly
13 comprehensive outline of the project and how the
14 conditions for the criteria for approval have been met for
15 all the areas of -- of relief.

16 This is an attractive collaborative development with
17 regards to the alley, dealing with the loading and so
18 forth; and I think that the parking, obviously, again, is
19 a very attractive collaborative effort given the -- the
20 zone and the area that has been developed with the
21 multiple parking options. I agree with the conditions as
22 outlined in Exhibit 30, which is titled Exhibit A, with
23 the only carve-outs being the phrase, as you pointed out,
24 for the life of the project in Sections B and C.

25 I give a great weight to the office of -- I -- I -- I

1 appreciate the Office of Planning's report, which also
2 collaborated -- supported the -- the application and give
3 great weight to their recommendation for approval. I know
4 DDOT supported the project with the conditions, of course,
5 provided in the TDM and load management plans. I note
6 that ANC 5B is in support, as well as the neighbors and
7 commercial tenants; so I will be voting in favor of the
8 application.

9 CHAIRPERSON HILL: Thank you.

10 Vice-Chair John?

11 VICE-CHAIRPERSON JOHN: Thank you, Mr. Chairman. I
12 agree with your assessment, as well as Board Member
13 Blake's comments; and I'm in support of the application.

14 CHAIRPERSON HILL: Thank you.

15 Vice-Chair Miller?

16 COMMISSIONER MILLER: Thank you, Mr. Chairman. I
17 concur with your comments and those of my fellow Board
18 members.

19 CHAIRPERSON HILL: Thank you. All right.

20 I'll make a motion to approve Application No. 21010
21 with the conditions in Exhibit 30B, as mentioned by my
22 colleagues, as well as referring to the life of the
23 project and OZLD crafting some different wording for that;
24 and I'll ask for a second.

25 Ms. John?

1 VICE-CHAIRPERSON JOHN: Second.

2 CHAIRPERSON HILL: Thank you. The motion was made
3 and seconded.

4 Madam Secretary?

5 SECRETARY MEHLERT: Please respond to the Chair's
6 motion to approve the application with conditions.

7 Chairman Hill?

8 CHAIRPERSON HILL: Yes.

9 SECRETARY MEHLERT: Vice-Chair John?

10 VICE-CHAIRPERSON JOHN: Yes.

11 SECRETARY MEHLERT: Mr. Blake?

12 MR. BLAKE: Yes.

13 SECRETARY MEHLERT: And, Commissioner Miller?

14 COMMISSIONER MILLER: Yes.

15 SECRETARY MEHLERT: Staff would record the vote as
16 four to zero to one to approve Application 21010 with
17 conditions on the motion made by Chairman Hill and
18 seconded by Vice-Chair John with Board Member Smith not
19 participating.

20 CHAIRPERSON HILL: Very good. Thank you.

21 Could we go to our next one when you get a chance,
22 Madam Secretary.

23 SECRETARY MEHLERT: Next is Application No. 21195 of
24 Asha Payne and Onay Payne, trustees. It was a
25 self-certified application pursuant to Subtitle F, Section

1 1002 for a use variance from Subtitle U, Section 201 to
2 allow a second principal dwelling.

3 So it's for a new principal dwelling in the basement
4 of an existing two-story attached principal dwelling.
5 It's located in the R-3 Zone at 10 Girard Street
6 Northeast, Square 3500, Lot 82.

7 And I would just ask -- you might want to ask the
8 applicant to clarify the relief they're requesting. There
9 were several documents submitted late last night. I'll
10 also note that ANC 5E submitted their report last night in
11 Exhibit 29.

12 CHAIRPERSON HILL: Okay. Great. Thank you.

13 If the applicant can hear me, if they could please
14 introduce themselves for the record.

15 MS. WILLIAMS: Hi. Good morning. My name is
16 Evangine Williams, an attorney on behalf of the applicant,
17 Ms. -- the Payne sisters.

18 CHAIRPERSON HILL: Okay. Ms. Williams, is -- the
19 relief that is requested, is it the same that the
20 secretary just read?

21 MS. WILLIAMS: Yes. We're -- this is a single-use
22 dwelling that we're wanting to turn into a -- a two -- or
23 create an accessory dwelling in it in the basement.

24 CHAIRPERSON HILL: Yep.

25 MS. WILLIAMS: And --

1 CHAIRPERSON HILL: Let me just say the relief that --
2 the relief that was spoken of is the relief that you guys
3 still have in your self-certified application; correct?

4 MS. WILLIAMS: Yes, that's correct.

5 CHAIRPERSON HILL: Okay. Great. What I'd like to
6 do, Ms. Williams, is go ahead and give you an opportunity
7 to present your case as to why you believe your client is
8 needing the relief requested. I'm going to put 15 minutes
9 on the clock just so I know where we are, and you can
10 begin whenever you'd like.

11 MS. WILLIAMS: All right. So we are requesting
12 the -- as a right, the single dwelling unit for our
13 clients to create the accessory dwelling unit in their
14 basement.

15 As you can see by Exhibits 2 and 3 that show the
16 front of the house, it already has the entrance for the
17 basement; and Exhibit 1 shows the rear of the house, which
18 shows that the basement entrance in the front and rear
19 already exist. The architectural drawings only show
20 alterations to the inside of the building; therefore,
21 nothing on the outside changes. It's in conformity with
22 the housing that's already there.

23 The reason that we're -- the only exception that
24 we're asking is that our clients are -- they're not going
25 to be using it as their main residence. They would rent

1 out the top unit and the bottom unit, and we're asking for
2 a relief from this requirement. I realize that 205.2(a)
3 relates to unattached; but the sentiment still remains the
4 same, that the nonresidential use is capable of being
5 established and operated without adversely affecting the
6 use and enjoyment of neighboring and nearby properties due
7 to traffic, noise, design, or other objectionable
8 conditions because the basement -- the basement in the
9 home -- it will be a two-unit home, except the homeowner
10 will be an hour away in Marlboro; and her sister resides
11 in New York.

12 CHAIRPERSON HILL: Okay. Let me hear from the Office
13 of Planning first, then I'll turn to my fellow Board
14 members.

15 MS. WILLIAMS: Okay.

16 MS. MYERS: Good morning, Crystal Myers for the
17 Office of Planning. The Office of Planning reviewed this
18 for relief from U201.1 for a use variance relief. The
19 additional relief in the -- in the file, OP didn't review;
20 and I'm only now just starting to get a little bit of
21 understanding of it. So, unfortunately, I can't really
22 speak too much on it.

23 But LP is recommending denial for the use variance.
24 We've said that we believe that an accessory apartment use
25 for the -- for the second unit is more appropriate than

1 asking for relief to do two principal dwelling units in
2 the building. An accessory apartment use could probably
3 be a matter of right; and, therefore, no BZA relief is
4 needed. However, if there is a need for some level of
5 relief, then it would be a special exception; but it would
6 mean that one -- the owner would have to live on the
7 property and the second unit then could be rented out. So
8 OP is recommending denial because there is another option,
9 the accessory apartment option.

10 And with that, I can stand on the record with the
11 staff report. Thank you.

12 CHAIRPERSON HILL: Great. Thank you, Ms. Myers.

13 Okay. Do my fellow Board members have any questions
14 for the applicant and/or the Office of Planning?

15 Sure. Good ahead, Vice-Chair Miller.

16 COMMISSIONER MILLER: I guess I -- thank you for the
17 presentation by the applicant and by the Office of
18 Planning. I appreciate all your work on the case.

19 Can -- Ms. Williams, can you indicate why the
20 alternative accessory dwelling unit option is not being
21 pursued, which would be a matter of right if the -- if you
22 met the conditions of the owner staying in the -- one of
23 the -- one of the units. I guess that's the condition
24 that you don't want to meet.

25 MS. WILLIAMS: Yes, that's correct. The -- while

1 that is an option, as one of our clients does live in the
2 nearby Maryland area, we -- they would like -- she
3 currently owns that house and would like to rent this one
4 out as a substitute; and the other sister lives up in New
5 York.

6 COMMISSIONER MILLER: Okay. Well, the use variance
7 is a very high threshold to -- to meet the criteria. I'll
8 just leave it at that for now. Thank you.

9 MS. WILLIAMS: Thank you.

10 CHAIRPERSON HILL: Okay. Mr. Young, is there anyone
11 here wishing to speak?

12 MR. YOUNG: Yeah. You have two ANC Commissioners on
13 the line.

14 CHAIRPERSON HILL: Oh, great. Let's see. I didn't
15 see them. Where are -- oh, there -- I didn't recognize
16 them.

17 Oh, Mr. -- Commissioner Vining -- all right,
18 Commissioner, would you like to go ahead and give your
19 testimony?

20 MR. VINING: It -- it's very, very brief. I'm noting
21 as -- Kirby Vining, I'm the ANC's -- Advisory Neighborhood
22 commission, a single member district 5E06 in which this
23 property is located, in the Stronghold neighborhood.

24 I'd like to ask before I go any further there -- the
25 Chair of our ANC 5E is joining us here. I -- I will be

1 addressing the case but wanted to ask if she had any
2 comment before I proceed.

3 CHAIRPERSON HILL: Sure. Madam Chairman, do you
4 have -- could you introduce yourself for the record. I'm
5 sorry. You're on mute, Commissioner.

6 MS. LEWIS: Sorry about that.

7 CHAIRPERSON HILL: That's all right.

8 MS. LEWIS: My name is Karla Lewis. I am the
9 Chairperson for ANC 5E.

10 This application has come before our Zoning
11 Committee, as well as ANC as the ANC Commission. And the
12 ANC Zoning Commission recommends denial of the application
13 because of what has been stated by the Office of Planning;
14 and the ANC 5E has also voted to deny the application
15 because, as was stated before, it already has an accessory
16 dwelling unit.

17 And what they're asking for here -- this is more or
18 less a zoning case, not really a BZA case -- they're
19 asking, basically, to change from an RF-3 to a RF-1; but
20 I'll let Commissioner Vining state the particulars.

21 MR. VINING: Thank you. We met with a
22 representative, legal counsel for the applicant on
23 September 11th; and something that immediately came to our
24 attention was looking in -- the proposed project
25 description, basically, described a standard accessory

1 dwelling unit. And I asked the counsel for the -- for the
2 property owner why wasn't -- that wasn't even being
3 considered because that's, as we understood it, the
4 description, basement apartment wouldn't even need to go
5 to the BZA at all; however, what was expressed in the
6 original statement of intended use did make explicit
7 reference to a request for a variance that would be RF-1
8 in an entirely R-3 -- R-3 neighborhood and pointed out
9 that there are many houses on the same block as this
10 property that have the standard accessory dwelling unit
11 in -- in -- in the basement.

12 I asked -- asked why that was -- why that was
13 requesting this -- this variance for RF-1. And we noticed
14 just yesterday the application was revised; and it removed
15 references to RF-1, which we were saying that would be
16 a -- a map amendment, go to Zoning, not BZA. But the
17 application still contained the words two principal
18 residence units and flats, both of which are terms for --
19 for RF-1 and not RF-3. But that was a September 11th
20 meeting, and we encouraged the -- the Zoning Committee
21 of -- ANC 5E encouraged the applicant to come back to us
22 and -- and consider the various options, as we -- we
23 thought this could be very easy if it was a direct
24 application for an accessory dwelling unit; but we did not
25 hear again from the representative of the property at all

1 until we saw an e-mail saying that the application been --
2 had been revised. And it just removed -- essentially, it
3 just removed the words RF-1, although asking for
4 permissions that are appropriate for RF-1 and not RF-3.

5 And a Chair of our ANC, Chair Lewis, just stated the
6 Form 129 we submitted last night. We're sorry that that
7 was so late. We had hoped to have another meeting at the
8 Zoning Committee at ANC 5E before that meeting, but there
9 was -- we were not able to make our -- make our case until
10 our ANC meeting last night.

11 Thank you. I'm available for questions on that, but
12 you've got our Form 129 now. It was submitted last night.

13 CHAIRPERSON HILL: Okay. Thanks, Commissioner.

14 All right. Does -- well, first of all, Mr. Young, is
15 there anyone else wishing to speak?

16 MR. YOUNG: No, we do not.

17 CHAIRPERSON HILL: Okay. Does the Board have any
18 questions of the Commissioners? Okay.

19 Oh, sorry. Commissioner Miller?

20 COMMISSIONER MILLER: Oh, no, I have no questions. I
21 just wanted to thank the ANC 5E, Karla Lewis, and Kirby
22 Vining for your work on this case and in the neighborhood
23 generally. Thank you.

24 CHAIRPERSON HILL: Thank you.

25 Does the applicant have any questions of the

1 Commissioners?

2 MS. WILLIAMS: I do not at this time.

3 CHAIRPERSON HILL: Okay. All right. Let's see.

4 Does anybody have any questions of anybody before I let
5 them go? All right.

6 Ms. Williams, do you have anything you'd like to add
7 at the end?

8 MS. WILLIAMS: Not at this time. Thank you.

9 CHAIRPERSON HILL: Okay. Thank you.

10 All right. I'm going to go ahead and close the
11 hearing and the record. Mr. young, if you'd please excuse
12 everyone.

13 I just realized we're -- well, I didn't -- Mr. Smith,
14 I guess, is not with us today; and so he's not going to be
15 with us today. So -- okay.

16 I think -- I just want to be clear. I asked the
17 applicant what they were here for, and they were here for
18 a self-certified application pursuant to Subtitle X 1002
19 for a use variance from Subtitle U201 to allow a second
20 principal dwelling. And this is for a new principal
21 dwelling in the basement of an existing two-story attached
22 principal dwelling; so it's here, again, for a use
23 variance.

24 And then we heard from the Office of Planning and
25 read the report where, you know, they don't see how

1 they're meeting the extraordinary or exceptional situation
2 for the use variance. And, as we all know, the use
3 variance is the highest standard that we have or the
4 highest relief that we can give; and I don't -- and even
5 in the application itself, they say that there's not
6 really an exceptional condition or situation other than
7 the person is unable to live there, I think, as, kind of,
8 the owner-occupied issue. But -- and then I don't even
9 think that that leads to a peculiar and exceptional
10 practical difficulty; and I also don't think that the
11 relief can be granted without substantial detriment to the
12 public good and without substantially impairing the
13 intent, purpose, and integrity of the zone plan.

14 And so I -- and then the ANC had gone through the
15 entire process with their Zoning Commission, as well, and
16 would agree that this is not something that they have met
17 the criteria for us to grant. So I'm not going to be able
18 to vote in favor of it because I don't think they've met
19 the criteria.

20 Mr. Blake, do you have anything you'd like to add?

21 MR. BLAKE: I agree with your assessment, Mr. Chair.
22 The use variance standard is a very high bar. It does
23 require that by reason of exceptional narrowness,
24 shallowness, or shape of a specific piece of property or
25 by reason of exceptional topographical conditions or an

1 exceptional situation or condition of a specific piece of
2 property, the strict application of any regulation would
3 result in exceptionally undue hardship upon the owner of
4 the property.

5 In this case, the applicant has not demonstrated that
6 the property is unique. In fact, as the Office of
7 Planning and the ANC pointed out and as well as you
8 pointed out, the applicant acknowledges that the property
9 itself is not exceptional or unique.

10 And, also, we realize that there are several other
11 properties around the area with a similar configuration;
12 but I do think the applicant has also argued that the
13 support of the variance centers really around its
14 contribution to the public good in addressing the clear
15 need for affordable housing, which is -- is in itself
16 together not a -- a reason to -- to -- a sufficient
17 situation to generate -- to meet the criteria for which we
18 have to make this decision.

19 I would admit that the physical attributes of the
20 property would be largely the same, but the regulations
21 for this R-3 Zone flies -- this request flies in the face
22 of that because those regulations they talked to are more
23 of a flat situation. And so I agree with the assessment
24 by -- by the ANC 5C that you would require some type of
25 an -- or some action by the Zoning Commission to really

1 make this work if they're unable to do what the
2 regulations in the R-3 Zone allow. So I give great weight
3 to the recommendation of the Office of Planning, and I
4 also give great weight to the issues and concerns that
5 were appropriately raised by the ANC 5E.

6 I will not be in support of this application.

7 CHAIRPERSON HILL: Thank you.

8 Vice-Chair John?

9 VICE-CHAIRPERSON JOHN: Thank you, Mr. Chairman. I
10 agree with your assessment and Board Member Blake's
11 assessment, and I am also not in support of the
12 application.

13 CHAIRPERSON HILL: Thank you.

14 Vice-Chair Miller?

15 COMMISSIONER MILLER: Thank you, Mr. Chairman. I,
16 too, agree with Board Member Blake's and your and Board
17 Member John's comments as -- and -- and their -- and the
18 testimony in -- in -- from the Office of Planning and ANC
19 5E that the criteria for a use variance has -- has not
20 been met in this case. Thank you.

21 CHAIRPERSON HILL: Thank you, Mr. Miller.

22 All right. I'm going to make a motion to deny the
23 application of 21195 and ask for a second.

24 Ms. John?

25 VICE-CHAIRPERSON JOHN: Thank you, Mr. Chairman. I

1 would just add as captioned and read by the Secretary,
2 and --

3 CHAIRPERSON HILL: Thank you. Yeah.

4 VICE-CHAIRPERSON JOHN: -- I would second that
5 motion.

6 CHAIRPERSON HILL: Thank you.

7 Madam Secretary, the motion has been made and
8 seconded, if you could please take a roll call vote.

9 SECRETARY MEHLERT: Please respond to the Chair's
10 motion to deny the application.

11 Chairman Hill?

12 CHAIRPERSON HILL: Yes.

13 SECRETARY MEHLERT: Vice-Chair John?

14 VICE-CHAIRPERSON JOHN: Yes, to deny.

15 SECRETARY MEHLERT: Mr. Blake? Mr. Blake?

16 MR. BLAKE: Yes, to deny.

17 SECRETARY MEHLERT: Commissioner Miller?

18 COMMISSIONER MILLER: Yes, to deny.

19 SECRETARY MEHLERT: Staff would record the vote as
20 four to zero to one to deny Application 21190 on the
21 motion made by Chairman Hill and seconded by Vice-Chair
22 John with Board Member Smith not participating.

23 CHAIRPERSON HILL: Okay. Great. Thank you.

24 Do you guys want to do one more and then take a
25 break, or do you want to take a break now?

1 VICE-CHAIRPERSON JOHN: Take a break now. Thank you.

2 CHAIRPERSON HILL: Okay. Great. All right. Then we
3 will see you guys in 20 minutes.

4 VICE-CHAIRPERSON JOHN: Thank you.

5 CHAIRPERSON HILL: Thank you.

6 (Off the record.) 104941

7 SECRETARY MEHLERT: The Board is returning to its
8 hearing session after a quick break; and the next is
9 Application No. 21196 of John Kenkel and Marka Peterson.

10 As amended, this is a self-certified application for
11 special exceptions pursuant to Subtitle X, Section 901.2;
12 under Subtitle E, Section 204.4 from the rooftop and
13 upper-floor element requirements with subtitle E, Section
14 204.1; under Subtitle E, Section 207.5 to allow the rear
15 wall of the row building to extend farther than 10 feet
16 beyond the farthest rear wall and adjoining principal
17 residential building on an adjacent property; and under
18 Subtitle E, Section 5201 from the lot occupancy
19 requirements of Subtitle E, Section 210.1.

20 So it's for a new third story with roof deck and a
21 three-story rear addition to an existing two-story
22 attached principal dwelling. It's located in the RF-1
23 Zone at 910 12th Street Northeast, Square 980, Lot 53.

24 CHAIRPERSON HILL: Thank you.

25 If the applicant could hear me, if they could please

1 introduce themselves for the record.

2 MR. SULLIVAN: Thank you, Mr. Chairman and Members of
3 the Board. Marty Sullivan with Sullivan and Barros.

4 CHAIRPERSON HILL: Great. Mr. Sullivan, if you want
5 to walk us through your client's application and why you
6 believe they're meeting the criteria to grant the relief
7 that is being requested, I'm going to put 15 minutes on
8 the clock so I know where we are; and you can begin
9 whenever you'd like.

10 MR. SULLIVAN: Thank you. If we could have the
11 PowerPoint loaded, please. And with me, also, is Patrick
12 Brian Jones, the project architect, if the Board has any
13 questions for him. I was planning to go through the --
14 through the presentation myself; but he'd be available if
15 you have any questions, as well as the applicant Ms.
16 Peterson.

17 CHAIRPERSON HILL: Great. Thank you, Mr. Sullivan.

18 MR. SULLIVAN: Next slide, please. The address is
19 910 12th Street Northeast. The property is in the RF-1
20 Zone, and the applicants are proposing a construct a third
21 story and a three-story rear addition for which three
22 areas of relief are being requested; one, for lot
23 occupancy to go to 69.9 percent; two, for architectural
24 element relief for altering the existing mansard; and,
25 three, for 10-foot Rule.

1 Based on some recent feedback from DOB, I don't think
2 we actually need that relief; but I'll -- what it is, is
3 the first floor is inset from the second floor. And we're
4 only 10 feet back or less from the second floor; so the
5 furthest rear wall, we're not more than 10 feet past. But
6 just in the event that DOB would look at it and say, well,
7 you're 17 feet past the -- the first floor rear wall,
8 which is inset -- I -- I don't want them to come back and
9 say that. I don't think they would just based on another
10 case that's coming up in a couple weeks where we've gotten
11 feedback on that issue, but we're asking for that relief
12 nonetheless.

13 Next slide, please. We have the support of the
14 Office of Planning and DDOT. ANC 6A has voted unanimously
15 in support; and we have nine letters of support from
16 neighbors, including both adjacent neighbors.

17 Next slide, please. There's the subject property.

18 Next slide, please. There's an overhead view of the
19 property.

20 Next slide. And there's a front view.

21 Next slide, please. The property is 910 12th, so you
22 see it all the way to the left here. Three doors to the
23 right -- the reason we're showing this photo -- shows a
24 third-floor addition that's a matter of right because it's
25 set back from the mansard; and the idea here was that

1 the -- the applicant and the architect did not believe
2 that that was an attractive addition in the context, even
3 though it's a matter of right. And so that's the reason
4 we're here asking for architectural element relief.

5 Next slide, please. This is the rear of the
6 property. You see a large addition two doors down, and
7 you get a sense of what's in the back alley here. And
8 then you can see on the property to the right where it's
9 inset, that's a second-story addition which lines up
10 with -- with the rear wall of the applicants' building.
11 It's -- actually, there's, like, a seven-foot porch
12 underneath that second floor overhang.

13 Next slide, please. That's another view of the alley
14 and then the addition on the other side.

15 Next slide, please. And this is across the street.

16 Next slide, please. Here's the plan showing the rear
17 addition.

18 Next slide, please. Next slide, please. These are
19 floor plans.

20 Next slide. Next slide. And a roof plan.

21 Next slide, please. So here's the front elevation;
22 so, essentially, the mansard is being raised up in its
23 same configuration to be a story higher; and that mansard
24 is, actually, just -- it's a faux mansard. It is,
25 actually, a parapet, as you can see from the section on

1 the right of this.

2 Next slide, please. There's the rear elevation.

3 Next slide, please. Next slide, please. So granting
4 relief is in harmony with the general purpose and intent
5 of the regulations and maps. The property will still be
6 used as a single-family dwelling, although the applicant
7 is considering converting it to two units with a
8 downstairs basement apartment; but that's permitted as a
9 matter of right because we're in the RF Zone.

10 And the granting of special exception will also not
11 tend to adversely affect the use of neighboring properties
12 as described below. Again, both adjacent neighbors are in
13 support, along with seven others.

14 Next slide, please. The specific requirements for
15 all three areas of relief are the same. The addition will
16 not unduly affect light and air available to neighboring
17 properties. The additions to rear wall, while it's
18 17-and-a-half feet past the first floor, it is only 10
19 feet past the second floor; and, as such, it doesn't
20 unduly impact the light and the air on that property.
21 And, again, that neighbor is supportive of the
22 application.

23 There's no windows proposed on either side there, so
24 there's no impact on privacy. And the portion of the
25 addition that increases the footprint will not be seen

1 from the front street, and it's also not out of character
2 with existing rear additions as you saw from the photos
3 and from other accessory buildings as viewed from the
4 alley.

5 And regarding the mansard alteration, the proposal
6 keeps the mansard design, merely moving it higher to gain
7 the permitted third story; and this proposal contrasts
8 with the matter of road construction that we showed you on
9 the building three doors to the right. And that addition
10 was a matter of right because it was set back three feet
11 from the mansard. This proposal, instead, works with the
12 existing mansard; and we believe it results in a better
13 overall design, which, apparently, the Office of Planning
14 and ANC and neighbors all agreed with as well. And I
15 think that's it.

16 Next slide, please. Yeah. That's it. Thank you.

17 CHAIRPERSON HILL: Okay. Great. Thank you,
18 Mr. Sullivan.

19 Before I turn to my Board, can I hear from the Office
20 of Planning.

21 MR. BRADFORD: Good morning, Chairman Hill and
22 Members of the Board. For the record, my name is Phillip
23 Bradford, Development Review Specialist with the Office of
24 Planning.

25 The Office of Planning recommends approval of the

1 requested special exception relief, and we stand on the
2 record of the report in Exhibit 30.

3 Thank you, and I'm available for any questions.

4 CHAIRPERSON HILL: Thank you.

5 Does the Board have any questions of the applicant or
6 the Office of Planning?

7 Mr. Young, is there anyone here wishing to speak?

8 MR. YOUNG: We do not.

9 CHAIRPERSON HILL: Okay. Mr. Sullivan, is there
10 anything you'd like to add at the end?

11 MR. SULLIVAN: I do not. Thank you, Mr. Chair and
12 Board members.

13 CHAIRPERSON HILL: Okay. Thank you. I'm going to
14 close the hearing and the record.

15 Okay. I appreciate that the applicant has come
16 forward with a -- a relatively clean application, in that
17 they've garnered the support of the Office of Planning,
18 that also of the ANC.

19 I would agree with the Office of Planning's report
20 concerning how they're meeting the criteria for us to
21 grant the relief that's being requested. I also would
22 note that I thought that the -- as the applicant said, the
23 rooftop architectural element being moved up, I think,
24 still is of a -- a nice design. I would agree with
25 granting the relief for the rear wall whether or not they

1 need -- you know, need it or not, it's something that -- I
2 think it'd be good for them to have available if DOB has
3 some issues with it. I'm fine with that, as well as the
4 lot occupancy.

5 Mr. Blake, do you have anything you'd like to add?

6 MR. BLAKE: Mr. Chairman, I agree with your analysis.
7 I believe the applicant really has presented a case that
8 meets the burden of proof to be granted the relief. I
9 also agree with the analysis that the Office of Planning
10 provided in its report, and I also give great weight to
11 its recommendation. DDOT has also no objection.

12 And I also note that the -- I gave great with to ANC
13 6A, which is in support, having stated no issues or
14 concerns. I would also point out the persons in support.
15 The adjacent neighbors have also chimed in, in support of
16 the application.

17 So I will be voting in favor of the application.

18 CHAIRPERSON HILL: Thank you.

19 Vice-Chair John?

20 VICE-CHAIRPERSON JOHN: Thank you, Mr. Chairman. I'm
21 in support of the application as presented. I am of the
22 view that relief from the 10-foot exception requirement
23 would be required, so I'm pleased that the applicant did
24 include it in the application. And so I'm generally in
25 support. Thank you.

1 CHAIRPERSON HILL: Thank you.

2 Vice-Chair Miller?

3 COMMISSIONER MILLER: Thank you, Mr. Chairman. I --
4 I agree with your comments, and I'm prepared to support
5 the -- and those of my colleagues, and I'm prepared to
6 support the application.

7 CHAIRPERSON HILL: Thank you.

8 All right. I'm going to make a motion to approve
9 Application No. 21196 as captioned and read by the
10 Secretary and ask for a second.

11 Ms. John?

12 VICE-CHAIRPERSON JOHN: Second.

13 CHAIRPERSON HILL: The motion made and seconded,
14 Madam Secretary, if you could take a roll call.

15 SECRETARY MEHLERT: Please respond to the Chair's
16 motion to approve the application.

17 Chairman Hill?

18 CHAIRPERSON HILL: Yes.

19 SECRETARY MEHLERT: Vice-Chair John?

20 VICE-CHAIRPERSON JOHN: Yes.

21 SECRETARY MEHLERT: Mr. Blake?

22 MR. BLAKE: Yes.

23 SECRETARY MEHLERT: Commissioner Miller?

24 COMMISSIONER MILLER: Yes.

25 SECRETARY MEHLERT: Staff would record the vote as

1 four to zero to one to approve Application 21196 on the
2 motion made by Chairman Hill and seconded by Vice-Chair
3 John with Board Member Smith not participating.

4 CHAIRPERSON HILL: Great. Thank you.

5 Madam Secretary, if you can call our next one when
6 you get an opportunity.

7 SECRETARY MEHLERT: The last case is Application No.
8 21197 of 10Q Northwest, LLC. This is a self-certified
9 application pursuant to Subtitle X, Section 901.2 for a
10 special exception under Subtitle A, Section 207.2 to allow
11 an extension of regulations applicable to the portion of a
12 lot in a less-restrictive use zone and to the portion of
13 the lot in a more-restrictive use zone; and pursuant to
14 Subtitle X, Section 1002 for an area variance from
15 Subtitle A, Section 207.1 to allow an extension of the
16 zone boundary line at a lot that was not in single
17 ownership on May 12, 1958.

18 This is for a new four-story detached building for
19 use as an apartment house with 29 unit with an art
20 gallery -- art gallery and community room space on a
21 flipped-zone lot. It's located in the MU-4 and RF-1 Zones
22 at 10Q Street Northwest, Square 615, Lot 318.

23 CHAIRPERSON HILL: Great. Thank you.

24 If the applicant could hear me, if they could please
25 introduce themselves for the record.

1 MR. DEBEAR: Yes. Good afternoon, Chair -- or good
2 morning, Chair, Eric DeBear on behalf of the applicant,
3 10Q LLC.

4 CHAIRPERSON HILL: Great. Thank you, Mr. DeBear.
5 Mr. DeBear, if you want to go ahead and walk us through
6 your client's application and why you believe they're
7 meeting the criteria for us to grant the relief
8 requested -- I did notice, Mr. DeBear that in your
9 argument, you, kind of, point to previous -- previous
10 testimony and hearings that the BZA had heard concerning
11 this case. And I guess if you could just -- you know, you
12 can go ahead and refer to it; but the Board's not bound by
13 any previous board's decision.

14 And so if you want to go ahead and, again, make the
15 argument that you were planning on making -- I've seen
16 your slide deck; so I think I will go ahead and put 15
17 minutes on the clock so I know where we are. And you can
18 begin whenever you'd like.

19 MR. DEBEAR: Thank you, Chair. If Mr. Young could
20 bring up our presentation filed in the record, that would
21 be appreciated.

22 Next slide. Just to give the Board the whereabouts
23 of the property, this is located at -- by the corner of
24 Florida and North Capitol.

25 Next slide, please. This is a picture of the current

1 existing condition of the property. This is a long-vacant
2 or underdeveloped parcel for many years. That one
3 structure on the property has been boarded up and unused;
4 otherwise, it is unimproved.

5 Next slide, please. Here's a picture of the zoning
6 map. This property is primarily located in the MU-4 Zone.
7 The reason we are here today and the crux of the two
8 relief requests is that little portion in the RF-1 Zone.

9 Next slide, please. Just to give a little background
10 on the applicant, the applicant is a subsidiary of Mi Casa
11 Inc.; and Mi Casa Inc. was the applicant in the prior case
12 that Chair ill-referenced. Mi Casa is a nonprofit
13 organization with 27 years in the district developing
14 affordable family-sized housing.

15 They promote affordable -- access to affordable
16 housing across the City preserving diverse neighborhoods
17 and preventing displacement of low-income residents.
18 Again, they do this primarily through both preservation of
19 existing affordable housing and building new affordable
20 housing.

21 Next slide, please. A brief background on the
22 project history, in 2014 this property was put up through
23 a solicitation by DHCD to redevelop these long-vacant
24 lots. In 2018, so six years ago, DHCD awarded the
25 property to Mi Casa to redevelop. In 2019, a year later,

1 Mi Casa through (indiscernible) O'Connor's assistance,
2 applied for zoning relief, the same relief that's being
3 requested in this application.

4 ANC -- the ANC supported that case as they are this
5 case. Unfortunately, due to some challenges with the
6 conveyance from DHCD, as well as COVID-19-related delays,
7 that BZA order in the prior case, 20095, was not vested.
8 So we are back with virtually the same project, as I'll
9 walk-through in a minute, and the same relief.

10 Next slide, please. The project now is a four-story
11 building as it was back in the prior case with, now, 29
12 all-affordable units. 75 percent of -- so three-quarters
13 will be two- or three-bedroom family-sized units; and as
14 with most DHCD solicitations, there will be an
15 affordability covenant. So half of the units, at least,
16 will be below 50 percent AMI.

17 The ground floor will have a lobby, a community art
18 gallery, and a community meeting space. There will be 11
19 parking spaces, which meets the requirement in zoning, and
20 a loading area to the rear of the building.

21 So just to give the Board a frame of reference, the
22 only material change from the case that was approved in
23 2019 is the removal of what was previously the ground
24 floor retail space and replacement with more residential
25 units and the art gallery space. We are asking for the

1 same zoning relief, except we no longer need loading. Due
2 to the reduction of retail space, loading is not required.
3 But, importantly, the building envelope is the same.

4 Next slide, please. We have unanimous support,
5 again, from ANC 5E. The Office of Planning is
6 recommending approval of both areas of relief, and DDOT
7 has no objection to the application.

8 Next slide, please. Here's an image of the ground
9 floor plan, which also functions as a site plan. You can
10 see the art gallery and community meeting space on the
11 right side along the alley and then units throughout the
12 remainder of the property.

13 Next slide, please. And here's a typical floor plan,
14 the second through fourth floor, which will, again, be --
15 will just be units.

16 Next slide. Here's a rendering. These are, again,
17 from the exterior. It's the same as what was previously
18 approved.

19 Next slide. Next slide. And here's just a diagram,
20 kind of, showing where the RF-1 Zone hits the property;
21 and I'll talk a little bit about those factors in a
22 moment. But you can see that the 35-foot -- between the
23 30- and 40-foot line there would be the maximum in the
24 RF-1 Zone. You also cannot have multifamily, so it would
25 impact the project significantly with that small portion

1 of the property in the RF-1 Zone.

2 Next slide. So, again, the zoning relief -- there
3 are two areas of relief. They are related. Subtitle A
4 207.2 applies when a zone boundary line crosses a lot. We
5 are requesting a special exception relief to extend the
6 bulk and use provisions of the less-restrictive MU-4 Zone
7 to the RF-1 Zone portion of the property.

8 Again, as I just mentioned, the RF-1 Zone does not
9 allow multifamily use, would limit the height to the 35
10 feet and the lot occupancy to 40 percent. The variance
11 relief is, actually, for a preamble of the application of
12 the special exception relief. That would require that all
13 of -- or I'm sorry -- the lot would have been in existence
14 as of 1958.

15 Here, while it's been subdivided in the last year or
16 two, previously it was, I believe, seven separate lots
17 that were all put forth in that same DHCD solicitation.

18 Next slide, please. In terms of the special
19 exception relief, again, for the zone boundary line and
20 extending it, the MU-4 to the RF-1, this does allow a
21 relatively modest increase in density in a neighborhood
22 that has seen a fairly significant -- actually, high
23 density development, including directly across North
24 Capitol Street. A new project called the Florian is -- is
25 being finished there I believe. Right next to this

1 project across the alley is the Truxton (ph), which is
2 also an MU-4 so very much consistent with what's being
3 proposed here. And the relief also allows for new
4 family-sized affordable units or, I should say, additional
5 family-sized affordable units.

6 We do not believe the relief will adversely affect
7 the neighboring property. The height and massing, again,
8 are consistent with the MU-4, which is only modestly
9 increased from the RF-1. There are nearby multifamily
10 developments; and even with the extension of that zone
11 boundary line, the project does step down in the RF-1
12 Zone. We also have a large rear yard that allows for an
13 adequate buffer along and across the alley.

14 Next slide, please. There are some special
15 conditions that we believe are fairly clear that we've
16 met. I wanted to touch on Subsection C, which is -- which
17 is some of the factors I've discussed and no adverse
18 affect on the present character and future development of
19 the neighborhood.

20 I think the most important part is this is a
21 long-vacant and underutilized assemblage of blocks, and it
22 is a major thoroughfare. While part of the property is in
23 the RF-1 Zone, this property very much fronts on Florida
24 Avenue and is directly nearby to North Capitol Street,
25 both of which are, again, major streets that can certainly

1 support this modest increase in density.

2 It is growing into an amenity-rich neighborhood, so I
3 believe that this relief is beneficial in terms of adding
4 more units to that amenity-rich neighborhood.

5 Next slide, please. Now, moving on to the variance
6 relief, which, again, is related to the special exception
7 relief; and that is a preamble.

8 You know, the Chair alluded to deciding this case on
9 its own merits; and I understand and respect that. I
10 would note that if no -- there had been no changes to the
11 property and if the Board found there to be exceptional
12 and unique conditions previously, that would strongly
13 indicate that there are exceptionally unique conditions
14 now.

15 Again, I think the primary impetus and -- for this
16 property being unique is that these lots, which are
17 again -- previously I mentioned seven. It was actually
18 eight lots. They were offered in one DHCD solicitation to
19 redevelop the property. Mi Casa now has a programmatic
20 need to adhere to that DHCD solicitation and, certainly,
21 in the benefit of the City to get this property
22 redeveloped.

23 As we discussed in -- five years ago, there is a
24 public service standard that allows the Board to consider
25 some of these programmatic needs related to the DHCD

1 solicitation. Again, this is an all-affordable
2 development with family units -- with family-sized units.
3 Again, the property's also been long vacant and
4 underutilized, which is unique in this neighborhood. We
5 do have an (indiscernible) lot line on Florida that, as
6 I'll mention, certainly contributes to a practical
7 difficulty; and the property is bounded by alleys on two
8 sides separating it from other MU-4 property.

9 Next slide, please. In terms of practical
10 difficulties, as I mentioned, there's no multifamily use
11 in the RF-1 Zone; so without relief from this provision
12 and the ability to apply -- extend the MU-4 Zone, that
13 would significantly impact that western side of the
14 project. You can see the ground floor plan there. There
15 is a portion of the lobby beyond the dotted line, which is
16 where the property turns into the RF-1 Zone; so the lobby
17 would have to be moved to the west. And, obviously, there
18 would be a significant reduction in the number of units
19 permitted in that portion of the property. Again, the
20 RF-1 zone does not allow for multifamily.

21 Again, there would be impacts to circulation and fire
22 access. Much of the core would have to move from the RF-1
23 Zone, which would really be an almost, kind of, separate
24 project, into the MU-4 where the multifamily would be
25 located. This creates challenges. Again, the angled lot

1 line makes the property a lot narrower toward the east; so
2 there's a lot fewer places where that lobby and stairwell,
3 which is needed for fire access, could be located.

4 And, of course, as I mentioned, if we were not
5 allowed to extend the MU-4 Zone, we would not be able to
6 comply with the DHCD solicitation. This would create
7 substantial delays again in the project, and they would
8 probable have to put it back up for a new solicitation.

9 Next slide, please. For many of the reasons we've
10 discussed, we do not believe the variance relief -- again,
11 because the property was not all one lot as of 1958 --
12 would have any detriment to the zone plan. It allows for
13 construction of the new affordable project that has been
14 long in line to be redeveloped. It increases the number
15 of family-sized units on a major thoroughfare.

16 Next slide, please. And with that, I will close our
17 presentation-in-chief and would open it up to any
18 questions from the Board.

19 CHAIRPERSON HILL: Thank you, Mr. DeBear.

20 Before I turn to my Board, can I hear from the Office
21 of Planning.

22 MS. THOMAS: Yes. Good morning, Mr. Chair and
23 Members of the board. Karen Thomas with the Office of
24 Planning, and we are in support of this application for
25 the reasons as stated by the applicant and as outlined in

1 our report. We do believe that the -- with respect to the
2 variance relief being requested, that there's a
3 programmatic need to adhere to the district's solicitation
4 and award requirements for affordable housing on this lot
5 and -- for an assembled parcel. And the assembled parcel
6 is -- is a condition that they inherited from the DHCD.
7 And should the parcels not remain as one solid unit, there
8 would be -- the applicant would not be able to meet the
9 requirements that are specified for affordable housing on
10 this parcel.

11 So, with that, we believe that there would be no
12 substantial detriment To the public good since the
13 affordable housing is the public good here in such a
14 high-cost land value area. And in support of that, we do
15 believe that the special exception relief standards would
16 be met should a variance relief be approved. So we are in
17 support, and we rest on the record of the rest of the rest
18 of our report. Thank you.

19 CHAIRPERSON HILL: Thank you, Ms. Thomas.

20 Does the Board have any questions for the applicant
21 and/or the Office of Planning?

22 Ms. John?

23 MR. YOUNG: You're on --

24 CHAIRPERSON HILL: You're on mute, Ms. John.

25 VICE-CHAIRPERSON JOHN: Thank you. So has --

1 question is for the applicant, has DHCD already conveyed
2 the property to Mi Casa?

3 MR. DEBEAR: I do not know the answer to that, Board
4 Member John. I believe so; but I know that as of the
5 last -- the last case, they had not, obviously, because
6 they had challenges in getting that conveyance finalized
7 before they could go to building permit, which is why they
8 didn't vest the order. I do not know if they currently
9 own the property or not. I believe so because I believe
10 they subdivided the property; but, you know, I don't know
11 for sure.

12 VICE-CHAIRPERSON JOHN: So in terms of the burden of
13 proof, the variance should be analyzed with respect to the
14 hardship to DHCD as the owner of the property; right?

15 MR. DEBEAR: I -- I'm not sure. I -- I mean, it's
16 the hardship -- it's related to the -- I mean, it could be
17 the contract purchaser. I mean, that's basically what 10Q
18 and Mi Casa are; so it's both. But it would be a hardship
19 for DHCD, as well, because if the relief isn't granted,
20 then Mi Casa won't be able to carry through on this
21 project that has now been in the solicitation process for
22 ten years. So DHCD would have to go back to the drawing
23 board and re-solicit the -- the development of this lot.

24 VICE-CHAIRPERSON JOHN: Okay. And so you would apply
25 the relaxed standard to that burden of proof?

1 MR. DEBEAR: Correct, yes. And we -- we certainly
2 believe when it comes to an all-affordable development
3 that's gone through DHCD's solicitation process and given,
4 kind of, the overall policy push for affordable projects
5 in highly amenitized neighborhoods, we do think that that
6 would apply here. And it would allow the Board to
7 consider, as part of the variance test, those programmatic
8 needs related to the DHCD solicitation that might not
9 otherwise apply in -- in other cases.

10 VICE-CHAIRPERSON JOHN: Okay. Thank you.

11 CHAIRPERSON HILL: Thank you.

12 Ms. Thomas, you seem to be nodding your head. Do you
13 know if DHCD -- they still have the property; right?

14 MS. LEWIS: Yes. They just -- I -- I believe so.
15 But --

16 MR. DEBEAR: They're listed as the owner on the
17 zoning map, so --

18 MS. THOMAS: Yeah.

19 MR. DEBEAR: -- I do know that the property was
20 subdivided; so, you know, clearly they've authorized Mi
21 Casa to begin the development process potentially. But I
22 don't know if the conveyance has occurred.

23 VICE-CHAIRPERSON JOHN: Yeah. There's an
24 authorization to Mi Casa.

25 MR. DEBEAR: They have a -- they have a disposition

1 agreement with DHCD; so that means it's, essentially, a
2 purchase -- a sale agreement. So I don't think the
3 property has officially been conveyed, but it is imminent.

4 VICE-CHAIRPERSON JOHN: So I -- for the Board's
5 purposes, right, there is an authorization from DHCD to Mi
6 Casa; so I will accept your -- your description of the
7 hardship to DHCD because it is the record owner of the
8 property. So I'm fine with that.

9 CHAIRPERSON HILL: Okay. Mr. Blake, you seem to have
10 your hand up.

11 MR. BLAKE: No. Ms. John addressed the issue. I had
12 a concern with -- I -- I agree that we approach it from
13 the district perspective. It's more appropriate than Mi
14 Casa.

15 And I know we -- we don't want to reference the prior
16 case; but I do notice that -- Mr. DeBear, you did not
17 request this relief in that case. Is that -- was that an
18 oversight or --

19 MR. DEBEAR: I did not request -- excuse me?

20 MR. BLAKE: The -- the -- that the rule on the
21 ownership, the -- the existent lot in the last variance
22 case when you were asking for a loading variance.

23 MR. DEBEAR: We did -- we -- we removed that. We
24 don't need the loading anymore, no.

25 MR. BLAKE: I -- I understand what you're saying.

1 MR. DEBEAR: Yeah.

2 MR. BLAKE: I -- I noticed you did not request the
3 variance relief you're asking for now. The conditions
4 were, essentially, the same; but you did not request that
5 variance; correct?

6 MR. DEBEAR: For the loading or for the -- this
7 preamble?

8 MR. BLAKE: Preamble.

9 MR. DEBEAR: We -- we requested that relief, and it
10 was granted.

11 MR. BLAKE: Got it. It wasn't updated. Okay. Thank
12 you.

13 MR. DEBEAR: Yep.

14 CHAIRPERSON HILL: Vice-Chair Miller, do you have any
15 questions?

16 COMMISSIONER MILLER: Thank you, Mr. Chairman; and
17 thank you, Mr. DeBear, on behalf of Mi Casa for bringing
18 this case forward to facilitate this project of 29
19 all-affordable units in one of the long -- long-vacant and
20 underutilized lot in an amenity-rich neighborhood as
21 you -- as you testified.

22 I believe the criteria has -- well, I'll get to that
23 in our deliberations; but I -- I appreciate you bringing
24 it forward. Thank you.

25 CHAIRPERSON HILL: Thank you, Mr. Miller.

1 Mr. Young, is there anyone here wishing to speak?

2 MR. YOUNG: Just the ANC Commissioner.

3 CHAIRPERSON HILL: Oh, I didn't see the ANC
4 Commissioner here.

5 Oh, Commissioner, you're busy today.

6 MS. LEWIS: Yes.

7 CHAIRPERSON HILL: All right. Commissioner Lewis, do
8 you want to introduce yourself for the record, please.

9 MS. LEWIS: Yes. My name is Karla Lewis. I'm the --
10 the Chairperson for ANC 5D, and I'm also the Commissioner
11 for ANC 5D02, and that's where this property resides.

12 CHAIRPERSON HILL: Okay. Well, Chairperson Lewis,
13 would you like to give us any testimony?

14 MS. LEWIS: Sure. This property has been vacant and
15 an eyesore to the community for over a decade now. We
16 want nothing more than to have some affordable housing
17 units in the place of the vacant property.

18 It was probably maybe a year, maximum two years ago
19 that one of the buildings that's on this property was
20 being used by homeless people; and they brought a grill
21 inside of it and caused a fire. And surrounding neighbors
22 were not very happy about this fact.

23 So the -- the development of the property is a
24 welcome -- welcome, you know, for -- the entire community
25 welcomes the development of the property.

1 We also probably would be more than happy, if we are
2 given the opportunity, to use their meeting space that was
3 mentioned with -- on this property because we do -- you
4 know, once we start having our hybrid meetings or
5 in-person meetings, it would be a welcome to the community
6 to be able to meet someplace nearby.

7 And although the community wanted a retail space,
8 which was recommended back in 2019, we think that having
9 more affordable housing is -- is -- is acceptable. So ANC
10 5E did approve this application for the -- to have the
11 29 -- what is it -- the 29-unit building in the community;
12 and we can't wait for them to start building and breaking
13 ground.

14 CHAIRPERSON HILL: All right, Chairperson Lewis --

15 MS. LEWIS: Mm-hm.

16 CHAIRPERSON HILL: -- thanks again for being with us,
17 and thank you for -- you've been with us a few time, so
18 nice to see you again.

19 MS. LEWIS: Thank you.

20 CHAIRPERSON HILL: Let's see. Does anybody have any
21 questions for the Chairperson? All right.

22 Mr. DeBear, do you have anything to add at the end?

23 MR. DEBEAR: I do not. Thank you to the Board for
24 its time today.

25 CHAIRPERSON HILL: Okay. Great. I'm going to go

1 ahead and close the hearing and the record.

2 Okay. I appreciate the -- the applicant putting
3 forward their argument. I think that they've clearly
4 indicated to me how they're meeting the variance criteria
5 and then, also, that of the extension of the lot from the
6 less-restrictive to -- I'm sorry -- from more-restrictive
7 to less-restrictive use.

8 And I also appreciate the announcement the Office of
9 Planning has put forward, wherein it is easier to
10 understand -- not easier -- it -- it -- it -- it seconds
11 the DHCD issue as to how this is an exceptional situation
12 resulting in a practical difficulty.

13 I would be viewing this, again, as a DHCD property as
14 to why they're meeting the criteria to grant the variance;
15 and I appreciate, again, the project. And I'm sure
16 Commissioner Miller is one who's already -- who's focused
17 on this issue quite -- more because of the Zoning
18 Commission, his -- his ability as the Vice-President of
19 the Zoning Commission will have some things to say as
20 well. But I'm going to be voting in favor of this
21 application.

22 Mr. Blake?

23 MR. BLAKE: Thanks, Chair. I agree with your
24 analysis, and I give great weight to the Office of
25 Planning's report. I'll be in support of the application.

1 CHAIRPERSON HILL: Thank you.

2 Vice-Chair John?

3 VICE-CHAIRPERSON JOHN: I'm in support of the
4 application for the reasons you stated and the testimony
5 offered by the applicant.

6 CHAIRPERSON HILL: Thank you.

7 Vice-Chair Miller?

8 COMMISSIONER MILLER: Yes. I -- I, too, concur with
9 your -- your comments, Mr. Chairman, that the criteria for
10 the variance for a very worthwhile project, that
11 (indiscernible) below 80 percent at meeting family income
12 and then there -- also, the large bedrooms, the two to
13 three bedrooms; and the park, alley, and community meeting
14 space seems like a good amenity too.

15 But the criteria had been met in this case, and I'm
16 pleased to support it today.

17 CHAIRPERSON HILL: Great. Thank you.

18 All right. I'm going to make a motion then to
19 approve Application No. 21197 as captioned and read by the
20 Secretary and ask for a second.

21 Ms. John?

22 VICE-CHAIRPERSON JOHN: Second.

23 CHAIRPERSON HILL: Motion made and seconded.

24 Madam Secretary, take a roll call.

25 SECRETARY MEHLERT: Please respond to the Chair's

1 motion to approve the application.

2 Chairman Hill?

3 CHAIRPERSON HILL: Yes.

4 SECRETARY MEHLERT: Vice-Chair John?

5 VICE-CHAIRPERSON JOHN: Yes.

6 SECRETARY MEHLERT: Mr. Blake?

7 MR. BLAKE: Yes.

8 SECRETARY MEHLERT: Commissioner Miller?

9 COMMISSIONER MILLER: Yes.

10 SECRETARY MEHLERT: Staff would record the vote as
11 four to zero to one to approve Application 21197 on the
12 motion made by Chairman Hill and seconded by Vice-Chair
13 John with Board Member Smith not participating.

14 CHAIRPERSON HILL: Okay. Great. Thank you.

15 Madam Secretary, do we have anything before the
16 Board?

17 SECRETARY MEHLERT: Nope. That's it.

18 CHAIRPERSON HILL: All right. I appreciate all of
19 your -- all the help today, and thank you for being with
20 us. And we are adjourned.

21 (Whereupon, the above-entitled matter was
22 adjourned.)

23

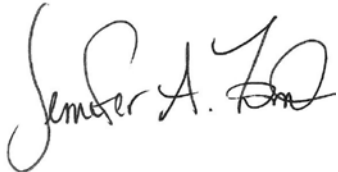
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C E R T I F I C A T I O N

This is to certify that the foregoing transcript in the matter of Public Hearing before DCBZA on November 20, 2024, via Webex videoconference was duly recorded and accurately transcribed under my direction; further, that said transcript is a true and accurate record of the proceedings.



/s/ Jennifer A. Zimbauer
Jennifer A. Zimbauer