

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

JUNE 17, 2026

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The Regular Public Hearing of the District of Columbia Board of Zoning Adjustment convened via videoteleconference, pursuant to notice at 10:09 a.m. EDT, Michelle Pourciau, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

MICHELLE POURCIAU, Chairperson
PAUL GOLDSTEIN, Vice-Chairperson
MELISSA LINDSJO, NCPC Designee

ZONING COMMISSION MEMBER PRESENT:

JOSEPH S. IMAMURA, PhD, AOC Designee

OFFICE OF ZONING STAFF PRESENT:

KEARA MEHLERT, Secretary
PAUL YOUNG, A/V Program Manager

OFFICE OF PLANNING DEVELOPMENT REVIEW STAFF PRESENT:

SHEPARD BEAMON, Development Review Specialist
MATTHEW JESICK, Development Review Specialist
CRYSTAL MEYERS, Development Review Specialist
JOSHUA MITCHUM, Development Review Specialist
KAREN THOMAS, Development Review Project
Manager

1 OFFICE OF ZONING ATTORNEY ADVISORS PRESENT:

2 SARAH BAJAJ, ESQ.
3 CARISSA DEMARE, ESQ.

4 ADVISORY NEIGHBORHOOD COMMISSION PRESENT:

5 PAULA EDWARDS, Chairperson, ANC4A01

6 The transcript constitutes the minutes from the
7 Regular or Public Meeting held on June 17, 2026.

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CONTENTS

1		
2	Application No. 21429 of Rachel Kohli	4
3	Application No. 21434 of Maria Del Carmen Cabieses	19
4	Application No. 21437 of HDR Holdings, LLC	30
5	Application No. 21439-A of Ed Fendley	53
6	Application No. 21430 of 1365 Perry, LLC	100
7	Application No. 21441 of District Line Development,	152
8		
9	Application No. 21447 of Christopher Boehmler	162
10	Application No. 21438 of Emerald Wings, LLC	166
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

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

2 (10:09 a.m.)

3 SECRETARY MEHLERT: Yes, the first case in
4 the hearing session is application number 21429 of
5 Rachel Kohli. This is a self-certified application
6 pursuant to sub-title X, section 901.2 for special
7 exceptions under sub-title D, section 5201. 2, from
8 the lot occupancy requirements of sub-title D,
9 section 210.1, and the maximum building area
10 requirements for an accessory building under sub-
11 title D, section 50003.1.

12 This is for a new 2-story accessory
13 building in the rear yard of an existing 2-story
14 detached principal dwelling. It's located in the R-
15 1B zone at 3704 Brandywine Street, Northwest, square
16 1888 Lot 37.

17 MS. KOHLI: Good morning, Rachel Kohli
18 here. Thank you to the Board for hearing our
19 special exception case. I'm here today with my
20 architect, Lisa Rigazio, and we'll do a brief
21 presentation for you all on the special exception.

22 I am the owner of this unit of this
23 property at 3704 Brandywine Street, and I lived here
24 since 2021 with my family. And we are submitting
25 the application for special exception relief for

1 zoning district R-1B to allow for the construction
2 of a 2-story accessory dwelling unit where there is
3 currently a garage located at the south end of our
4 property.

5 And I'll speak -- if we could go to the 2nd
6 slide. Oh, I don't know if we're actually sharing
7 slides, but we did submit some slides. Thank you.
8 Thank you. So this is just an overview and Lisa
9 will go into more detail about the special
10 exception, but we're seeking 2 special exceptions
11 from maximum lot occupancy and square footage of the
12 accessory dwelling unit.

13 It's really related to the fact the pie
14 shape of our lot and being able to kind of having to
15 do a bit of a weird and odd shape and a regular
16 shape for the accessory dwelling unit and be able to
17 put in the 2-story 2-bedroom accessory dwelling
18 unit.

19 If you could go to the next slide, please.

20 This is an elevation for additional orientation,
21 but it's looking West, showing the principal
22 dwelling unit on the right side of the screen where
23 the garage is currently located.

24 It's about 14 feet high, and then the
25 proposed accessory dwelling unit more or less in the

1 spot where it is where the garage is located right
2 now. The new proposed would be go from 14 feet
3 garage at the top of the garage to 22 feet, the
4 allowable height for the accessory dwelling unit.
5 If you could go to the next slide, please.

6 The next photo is looking South. On the
7 East side is my principal dwelling unit looking
8 South existing on the left hand side as compared to
9 the proposed accessory dwelling unit. So, again,
10 similar location, just a slightly taller structure.
11 And you can start to see the foliage that's there,
12 so we have a lot of foliage, which will provide and
13 add to the to the privacy as and we're working with
14 an arborist already to preserve the trees that you
15 see.

16 And you also kind of see on the left side
17 of the existing is existing garage structure. So
18 there's a numerous existing garage structures and an
19 additional accessory dwelling unit within 100 feet
20 radius. So, it's definitely seems is in line with
21 the character. We're trying to make sure it fits in
22 with the character of the surrounding alley and
23 properties.

24 If you could go to the next slide. Just
25 one

1 more existing on the outside on the book ends here,
2 showing more of the foliage with the proposed --the
3 proposed, you know, unfortunately doesn't show the
4 trees, but I think you can get the idea as we're
5 planning to we've already consulted an arborist and
6 working with the city to complete a tree
7 preservation plan, which we will share with our
8 neighbors to ensure that we preserve the trees that
9 provide this kind of privacy and shade.

10 And then the last slide before I hand it
11 over to Lisa is just to highlight a little bit of
12 the neighborhood engagement that we've done. We
13 have a majority -- all of our adjacent neighbors
14 have supported it or are in non-opposition as
15 supported to the record.

16 We have been in contact with them, which is
17 why we are in contact about the arborist as well as,
18 you know, ensuring that site lines are minimally
19 looking at the neighboring properties, but luckily
20 we have over 80 feet of distance between the
21 accessory dwelling unit and the properties, the
22 closest property, so there's a good amount of
23 distance. And then, of course, the trees help. And
24 we, you know, have approval, Department of Planning
25 Report and DOT -- or DDOT, you know, take no issue

1 with it.

2 And just to address a couple of letters,
3 two letters of opposition, that were submitted into
4 the record. Those are really -- as far as I can
5 tell, those are really just issues with accessory
6 dwelling units in the R-1B zone, as opposed to
7 issues, you know, with a special exception that we
8 are asking relief for. It really doesn't directly
9 impact these properties as reflected in the letters
10 and hopefully in the presentation.

11 And I'd like to turn it over to Lisa for a
12 couple additional details.

13 MS. RIGAZIO: Hello. All right. If we can
14 move forward to the next -- one more slide, please.

15 Thank you.

16 I'm Lisa Rigazio. I'm the architect for
17 the project. The property is located in R-1B zone,
18 which is established to preserve quiet residential
19 areas with detached dwellings on moderately sized
20 lots. ADUs are a matter of right in the zone and
21 detached ADUs are allowable with restrictions on
22 area lot occupancy, totals and setbacks.

23 As you can see on this map, the lot is a
24 triangular shape bound by public alleys on both the
25 East and South sides. The circle drawn here shows

1 that the closest neighboring homes are about 80 feet
2 away. The project is seeking relief of the maximum
3 lot occupancy requirement and the maximum accessory
4 building area due to the existing lot shape, which
5 creates a real practical difficulty.

6 So, I'd like to walk you through the site
7 conditions that led us to request this relief. If
8 you can go to the next slide, please. Thank you.
9 Here we see the site plan. Highlighted in red is
10 the area of the property that is available for
11 construction while preserving zoning setback
12 requirements.

13 The site already has a garage and a parking
14 space located on this part of the property. We have
15 placed the proposed building as far South as
16 possible while also providing a parking space,
17 preserving the existing already very narrow
18 backyard, and creating a building footprint with
19 usable interior space for an apartment and storage.

20 I'd like to also note that 75 square feet
21 approximately will actually be restored back to
22 pervious grass yard under this plan.

23 The proposed ADU footprint of 665 square
24 feet exceeds the current maximum building area
25 requirements. However, it is consistent with the

1 new zoning regulations that are currently being
2 updated to 650 square feet. The total resulting lot
3 occupancy will be 43%, which exceeds the 40%
4 maximum. Those are the two exceptions that we are
5 asking for today.

6 Next slide, please. Okay, here's the floor
7 plans. This is a two-story ADU with 572 gross
8 square feet on the first floor and 665 gross square
9 feet on the second floor.

10 Note that the footprint on the first floor is
11 slightly smaller to make room for the parking space
12 on grade. The footprint of the building follows the
13 shape of the lot with the West and East sides
14 constructed on the property lines.

15 The existing garage to be demolished is the
16 homeowner's only exterior storage area. Since they
17 do not have the space available on the lot to build
18 a shed, the first floor includes some storage and
19 recreation space for their use. The total net
20 rentable area proposed over the two floors is 795
21 square feet, which is considered an average size
22 apartment in D.C.

23 Next slide, please. These are the building
24 elevations. The roof is low sloped to maintain the
25 22-foot maximum height restriction. The siding will

1 match the existing principal residence and material
2 color. The East elevation is along the alley and
3 has several windows into the second floor apartment
4 space.

5 The South elevation shows the door into the
6 apartment next to the parking space. The last
7 submission we had, just for reference, the last
8 submission showed a balcony on the second floor, but
9 the owners decided to remove it after speaking with
10 adjacent neighbors.

11 We've replaced the balcony with the glass
12 door and guardrails to allow in light and air and
13 also protect neighbor privacy. The North elevation
14 has a door into the owner-only accessible storage
15 space. And the West elevation is on the property
16 line, so it's a one-hour fire rated wall and does
17 not have any openings.

18 Next slide, please. The building sections
19 shown here describe the open interior space on the
20 second floor and establish the building height of 22
21 feet on the North elevation, as shown. Also worthy
22 of notice that the first floor slab is proposed at
23 two different heights.

24 The general contractor has been working
25 with DC Urban Forestry to document the location of

1 roots from the neighboring heritage tree. We've
2 determined that raising the slab in this location
3 would not disturb the roots.

4 Next slide. This is the final slide.
5 We're circling back to a few images from the
6 beginning of the presentation, which shows views of
7 the proposed ADU from the alley. That's it for me.
8 Thank you for your time. We're happy to take any
9 questions.

10 CHAIRPERSON POURCIAU: Thank you so much.
11 It was a nice presentation.

12 Are there questions from the Board? Vice
13 Chair Goldstein? I see Commissioner Imamura has
14 some questions. Why don't we start with you? Thank
15 you.

16 DR. IMAMURA: Oh, well, thank you, Chair
17 Pourciau. I'll show deference to Vice Chair
18 Goldstein, though. I'm sorry that if he has any
19 questions.

20 VICE CHAIRPERSON GOLDSTEIN: Oh, no need to
21 be deferential. I'm happy to let you start, but I
22 did have one question. I think the ANC wants you
23 all to put in a rain barrel or rain garden. I'm
24 just curious. What is your feelings about that?

25 MS. KOHLI: Yeah, we said we would

1 investigate it and look into it. So as we continue
2 design, Lisa and I have said that we would plan to
3 integrate it if there's a good spot for it.

4 VICE CHAIRPERSON GOLDSTEIN: Okay. I think
5 overall, it's a terrific looking project, really
6 creative. I like the design and good work. And
7 thank you for your excellent presentation.

8 MS. KOHLI: Thank you so much, Chair.

9 DR. IMAMURA: All right. Thank you, Madam
10 Chair. I'll jump in here. I do have a few
11 questions.

12 Ms. Rigazio, thank you for walking us
13 through your creative design solution and layout.
14 I'm curious. I didn't see the tree preservation
15 plan in the record, but I would like to know and I'm
16 interested in your conversations with the arborists
17 and what their concerns are and how you're
18 mitigating those. I know you had mentioned the
19 elevated slab, but if you could just describe your
20 conversations a bit more.

21 MS. RIGAZIO: Sure. We don't have the plan
22 yet because it's in process. We are actively
23 working with DC Urban Forestry. And for full
24 transparency, the contractor has been having those
25 conversations on site directly with Urban Forestry.

1 What they've done to date is they trenched the area
2 along the property line to actually locate and
3 measure the size of the roots.

4 So we have a very detailed plan right now
5 of where all of the roots are that cross the
6 property line onto this piece of property. And DC
7 Forestry has also come out to take a look at that.
8 So what our plan is, in short, is to locate all of
9 those roots, locate their depth, and the plan to
10 preserve them is to essentially avoid them by
11 raising our slab.

12 We are going to have to have some kind of a
13 strategy, whether or not we're going to put sleeves
14 in the stem wall along the foundation, or if we're
15 going to put this part on piers in order to avoid
16 those is unknown yet. We have yet to engage our
17 engineer to see what all of the options are, but
18 essentially what we're trying to do is avoid the
19 larger roots.

20 DR. IMAMURA: Can you provide a timeframe?

21 MS. RIGAZIO: A timeframe for when this is
22 going to happen?

23 DR. IMAMURA: Sure.

24 MS. RIGAZIO: Can you just outline sort of
25 your schedule?

1 MS. RIGAZIO: Yeah, I mean, this project is
2 planning to go to design development in the next
3 couple of months once we get approval from here.

4 DR. IMAMURA: Okay, great.

5 Ms. Kohli, have you had conversations with
6 the residents who submitted the letters in
7 opposition?

8 MS. KOHLI: Yes. Well, one of them I did,
9 and the other one, they were on the list of letters.
10 They're a bit further. They're within the 200-foot
11 radius, but not -- you know, kind of a bit further
12 off. So I had the conversations with one of them,
13 and again, they were just taking issues with ADUs
14 generally, how it changes the character of the
15 neighborhood and the scale of the neighborhood.

16 And, you know, I tried to explain to them
17 our need and our desire to have family age in place
18 and have that flexibility for an accessory dwelling
19 unit. And so they understand that. It was just a
20 difference of opinions, I guess.

21 And the other ones across the street, they
22 were part of the mailing, but I haven't had a direct
23 conversation with them because they just submitted
24 it, I think, yesterday or the day prior.

25 DR. IMAMURA: I would note I think in their

1 letter, they had expressed some general concern
2 about ground coverage and percolation of impervious
3 surface. And so your consideration for the rain
4 barrel might help assuage some of their concerns
5 there. So certainly give that some earnest thought
6 and deliberation.

7 MS. KOHLI: Yes, for sure. And adding
8 impervious square footage, I'll also let them know
9 of that as well.

10 DR. IMAMURA: Very good.

11 Madam Chair, I don't think I have any other
12 questions or comments and am prepared to move
13 forward.

14 CHAIRPERSON POURCIAU: All right, very
15 good. I think Office of Planning is here, and I
16 think they had a comment about trash doors. So
17 let's call on them.

18 That's Mr. Mitchum. Yes, Mr. Mitchum. Thank you.

19 MR. MITCHUM: Yes. Hi, Madam Chair of the
20 Board. My name is Josh Mitchum in the Office of
21 Planning.

22 We are in support of this application, having
23 believed that it has met the burden of proof for
24 their special exception from lot occupancy and
25 accessibility requirements. And we're available for

1 any questions you have. Thank you.

2 CHAIRPERSON POURCIAU: Mr. Mitchum, was
3 there a concern about trash storage being shown on
4 the site plans? Was that from you?

5 MR. MITCHUM: I don't believe so.

6 CHAIRPERSON POURCIAU: Okay.

7 MR. MITCHUM: Yeah, I don't think that was
8 from Office of Planning.

9 CHAIRPERSON POURCIAU: Okay. Great. Thank
10 you for that clarification.

11 Are there questions for Mr. Mitchum from
12 the Board? No? Okay. Thank you.

13 Thank you, Mr. Mitchum. Please stay around
14 if anything else comes up.

15 There was no other district agencies
16 indicated that they would present on this, not DDOT
17 or anyone else. The ANC is not present, but I
18 believe they submitted a letter of support. There
19 were no parties signed up either in support or
20 opposition. No parties. Letters were provided in
21 the record.

22 And so if the Board has completed its
23 deliberation, which I believe we have, we can close
24 the hearing record and move to discuss this case.
25 If after deliberations, the Board is ready to vote,

1 we can proceed to a motion.

2 Madam Secretary, is there anything before
3 we proceed to deliberation?

4 MS. MEHLERT: No, Mr. Young has excused the
5 witnesses.

6 CHAIRPERSON POURCIAU: Very good. Thank
7 you very much.

8 Any more discussion on this or is someone
9 ready to enter a motion on this case? And I should
10 have thanked them, but thank you, Ms. Kohli and Ms.
11 Rigazio for your presentation.

12 VICE CHAIRPERSON GOLDSTEIN: I feel ready
13 to vote on this application. I think they've done a
14 great job in demonstrating how they meet the
15 requested relief. I don't see a reason to condition
16 this on a rain barrel or rain garden as suggested by
17 the ANC, but I'm encouraged to hear that they're
18 going to explore it. And it may also help address
19 some of the concerns that may have been raised by
20 neighbors and opposition. So, I'm ready to move to
21 a vote.

22 CHAIRPERSON POURCIAU: All right, go ahead
23 and make a motion, please.

24 VICE CHAIRPERSON GOLDSTEIN: I'd make a
25 motion to approve application number 21429 for 3704

1 Brandywine Street, Northwest, as captioned and read
2 by the secretary.

3 CHAIRPERSON POURCIAU: Is there a second?

4 DR. IMAMURA: Second.

5 CHAIRPERSON POURCIAU: Very good.

6 Madam Secretary, would you call the vote,
7 please?

8 MS. MEHLERT: Please respond to the Vice
9 Chair's motion to approve the application. Chair
10 Pourciau?

11 CHAIRPERSON POURCIAU: Yes.

12 SECRETARY MEHLERT: Vice Chair Goldstein?

13 VICE CHAIRPERSON GOLDSTEIN: Yes.

14 SECRETARY MEHLERT: And Dr. Imamura?

15 DR. IMAMURA: Yes.

16 SECRETARY MEHLERT: Staff would record the
17 vote as 3-0-2 to approve application number 21429 on
18 the motion made by Vice Chair Goldstein and seconded
19 by Dr. Imamura

20 CHAIRPERSON POURCIAU: Excellent.

21 Madam Secretary, I believe we're ready to
22 move forward with case number 21434.

23 SECRETARY MEHLERT: Next is application
24 number 21434 of Maria Del Carmen Cabieses as
25 amended. This is an application pursuant to

1 Subtitle X, section 901.2, for special exceptions
2 under Subtitle U, section 421, to allow a new
3 residential development under Subtitle F, section
4 5201, from the lot occupancy requirements of
5 Subtitle F, section 210.1, and under Subtitle C,
6 section 703.2, from the minimum vehicle parking
7 requirements of Subtitle C, section 701.5.

8 This is for a 2-story rear addition to an
9 existing 2-story attached building and an increase
10 in the number of dwelling units from 4 to 6. It is
11 located in the RA-1 zone at 314 Delafield Place,
12 Northwest, square 3304, lot 59. And as a
13 preliminary matter, the applicant submitted a
14 request to waive the filing deadline to submit an
15 updated zoning administrator's memo in Exhibit 28A.

16 CHAIRPERSON POURCIAU: Thank you, Madam
17 Secretary.

18 Ms. Cabieses, are you speaking on behalf of
19 the applicant? Are you the advocate?

20 MS. CABIESES: Good morning. Yes, I am
21 Maria Cabieses. I am the owner of the Delafield
22 building.

23 CHAIRPERSON POURCIAU: Very good. We're
24 ready for your presentation.

25 MS. CABIESES: Yeah, actually, we do not

1 have anything to present other than just sharing our
2 requests for approval. First, I wanted to say thank
3 you to all for hearing us today. The project on 314
4 Delafield, zoning case 214.34 is to make an
5 additional 170 square foot and we are asking -- we
6 believe that we meet the criteria for granting the
7 zoning relief.

8 The project is for a special exception for
9 the increase of dwelling units in an RA-1 zone.
10 Currently, the building has four units of one
11 bedroom and one bathroom apartment, and the proposed
12 increase is for six units, two bedrooms, and two
13 bathroom apartments. The special exception request
14 for this increase is for U 421.1.

15 We are also requesting a special exception,
16 F210.1, and the proposed area will be 43, which
17 passes the 40% maximum allow. And lastly, the
18 increase of an apartment building requires a minimum
19 of one parking per zoning C 701.5, and it was not
20 added in the previous drawings that we submitted to
21 DOV.

22 However, I am requesting the architect to
23 add. Since we do have the space in the back, we are
24 adding three spaces for the parking in our next
25 submission to DOV. That is it.

1 CHAIRPERSON POURCIAU: Thank you. Are
2 there questions of the applicant from the Board?

3 VICE CHAIRPERSON GOLDSTEIN: Thank you very
4 much. I think the project to me looks very modest
5 and restrained in what it's proposing. It's a small
6 expansion, only two additional units. I did have a
7 question about the parking, so I'm glad that you
8 kind of raised it. So, my understanding is that you
9 actually intend to provide the required parking.
10 So, as a result, you would not need parking relief
11 from this board. Is that correct?

12 MS. CABIESES: That is correct. That was
13 our initial plans. However, I oversee when I
14 submitted the drawings on DOV, and when talking with
15 the architect, and he will revise the plans that we
16 will submit in our next submission. So, yes, you
17 are correct. We do not need the relief for the
18 parking.

19 VICE CHAIRPERSON GOLDSTEIN: Would -- I'm
20 just trying to think, would the architect -- I don't
21 know what kind of timeframe you're thinking, but
22 would the architect be able to submit to our Board a
23 revised plan that represented the proposed parking,
24 just so that it's documented in the record that the
25 project meets the parking requirement?

1 MS. CABIESES: The architect believes that
2 he will have the plans ready by Wednesday or Friday
3 next week. And, yes, we can submit it before the --
4 before -- where do we need to submit it before, so
5 it can be revised by you.

6 VICE CHAIRPERSON GOLDSTEIN: Okay, I think
7 I would encourage that we got a revised plan so that
8 we're not in this in between where we're not
9 approving your request for relief but having gotten
10 the record that you meet the standards.

11 I think it would be best to get an updated
12 plan that represented the parking that you meet the
13 requirement. I think it's only one space. Is that
14 right? So you're actually proposing to provide more
15 than required.

16 MS. CABIESES: That is correct. Yes, the
17 minimum that we require is one parking space, and we
18 are adding three parking spaces.

19 VICE CHAIRPERSON GOLDSTEIN: Okay. And I
20 also had no objection to the revise the motion to
21 waive the weight filing from the Department
22 buildings. I just wanted to put that on the record
23 too. Otherwise, that's all the questions that I
24 have.

25 CHAIRPERSON POURCIAU: Thank you.

1 Commissioner Imamura, do you have anything
2 you'd like to discuss?

3 DR. IMAMURA: Thank you, Madam Chair. No,
4 Vice Chair Goldstein, I think, covered my questions.

5 CHAIRPERSON POURCIAU: Okay, good. I think
6 at this time, we'd like to hear from Office of
7 Planning Karen Thomas. I see you're on. Thank you.

8 MS. THOMAS: Yes. Good morning Chairperson
9 and members of the Board. Forgive my voice. I'm
10 sorry. I'm not too well this morning. For the
11 record, I'm Karen Thomas for the Office of Planning,
12 and we are recommending approval of the applicant's
13 request for special exception relief to allow two
14 additional units. And to permit a lot occupancy of
15 42% and relief from the one required parking space.

16 And just listening to this right now, Ms.
17 Cabieses says she does not need it. And if that is
18 so, we are in support of that. The only one thing
19 I'd add is that we did ask that she shows that on
20 the plans while they're preparing the plans to show
21 the location and screening the onsite trash and
22 storage. So, if that could be included as well.

23 And because I know we're going to put in
24 three spaces, so we just want to make sure that is
25 included as well. We do believe that this addition

1 is a modest addition, all of the 5 feet and a 2-
2 story addition and basement units.

3 The project remains within the permitted
4 height and density and the addition is largely below
5 grade, which would significantly limit any potential
6 impacts on abutting neighbors. And the addition
7 would not unduly affect light and air or privacy for
8 adjacent properties.

9 With respect to subtitle U 421, we reviewed
10 the adequacy of public services. Nearby schools
11 operate within or below the target utilization
12 range. And the site is well served by transit and
13 recreation amenities and data has indicated no
14 objection if the applicant, in fact, needs parking
15 relief.

16 And, with that, I will send in a record of
17 my report and continue to recommend approval of the
18 requested special exception. Thank you.

19 CHAIRPERSON POURCIAU: Thank you so much,
20 Ms. Thomas.

21 Any questions from the Board? Thank you
22 for bringing up the trash storage. I had mixed up
23 my notes on that. So, I'm glad to see that. I just
24 put it in the wrong place. Any questions from the
25 Board on this one?

1 DR. IMAMURA: No questions. I hope you
2 feel better, Ms. Thomas.

3 CHAIRPERSON POURCIAU: Yes.

4 VICE CHAIRPERSON GOLDSTEIN: I second that.

5 MS. THOMAS: Thank you.

6 CHAIRPERSON POURCIAU: I have I have my hot
7 tea here, so I know what you're going through.
8 Please feel better.

9 Any questions for Planning from the
10 applicant? No? Okay. Very good. At this -- I
11 don't see that there's anything on the record from
12 the ANC. Did Planning receive anything? Ms.
13 Cabieses, did you speak with the ANC?

14 MS. CABIESES: Yes, I participated in the
15 ANC meeting, I believe a couple of weeks ago. They
16 approved the recommendation.

17 CHAIRPERSON POURCIAU: Okay, was that in
18 the file and I missed it?

19 MS. CABIESES: I didn't get any copy,
20 although I requested a few times by email. You have
21 and I believe he was sent to show me the referendum.

22 CHAIRPERSON POURCIAU: Okay. All right.
23 Thank you.

24 There are no other District agencies that I
25 can see that are here to present. No Office of

1 Planning. I mean, no DDOT. The ANC is not here.
2 No parties has signed up in either support or
3 opposition, and there are no individuals present.
4 Is there any further deliberation from the Board
5 before we move to the next phase of discussion?

6 VICE CHAIRPERSON GOLDSTEIN: I would just
7 like to ask the applicant to address the Office of
8 Planning's request to also put storage and screening
9 on a revised plan. Is the applicant agreeable to
10 that request?

11 MS. CABIESES: Yes, we will add a storage
12 space for the trash in the back by the parking lot.

13 VICE CHAIRPERSON GOLDSTEIN: Okay.

14 CHAIRPERSON POURCIAU: I think I want to
15 ask a question.

16 Go ahead. What is your question? Sorry.

17 VICE CHAIRPERSON GOLDSTEIN: I didn't have
18 any further questions. Please continue.

19 CHAIRPERSON POURCIAU: Thank you, Mr.
20 Goldstein. I believe the plans -- the change in the
21 plans are a little -- not too significant but they
22 do make a change to even the application itself.
23 So, in that type of case, I think maybe we might
24 want to move this to a decision agenda, you know,
25 versus deferring.

1 Madam secretary, can you advise us is that
2 a way we might proceed on this one?

3 SECRETARY MEHLERT: Yes, the Board could
4 request the updated plans showing the trash
5 screening in the parking space, you know, perhaps by
6 next Wednesday and then you could schedule it for a
7 decision on July 1st if that's -- if that's the
8 route you wanted to take.

9 CHAIRPERSON POURCIAU: Very good, thank
10 you.

11 Ms. Cabieses, does that seem favorable to
12 you?

13 MS. CABIESES: Yes, it does.

14 CHAIRPERSON POURCIAU: Okay. So I guess I
15 need to make a motion. Do I make a motion on this?

16 SECRETARY MEHLERT: No, you don't. You can
17 just close the record, except for the requested
18 information and note that it is scheduled for
19 decision on July 1st if that's what you would like
20 to do.

21 CHAIRPERSON POURCIAU: Very good. So, at
22 this point, I'll close this hearing and the record
23 and I don't believe we need any further
24 deliberation. We will defer the decision pending
25 submission of revised plans showing the parking

1 spaces, removing the requests for a reduction in
2 parking, and showing the onsite trash and storage on
3 the plans.

4 DR. IMAMURA: To include screening, Madam
5 Chair.

6 CHAIRPERSON POURCIAU: Yes, to include
7 screening. Thank you for that amendment. Do I need
8 a motion? That doesn't need to be a motion? Okay.

9 So, with that, we'll close out this agenda item.
10 Thank you again, Ms. Cabieses. It looks like a nice
11 project and we look forward to seeing the revised
12 drawings.

13 MS. CABIESES: Thank you, thank you so
14 much.

15 CHAIRPERSON POURCIAU: Madam secretary, did
16 you need to close that officially with that date or
17 are we ready to move to the next item?

18 SECRETARY MEHLERT: Yep, just confirming
19 the applicant submission will be due next Wednesday
20 the 24th, and this will be on the Board's meeting
21 agenda on July 1st.

22 CHAIRPERSON POURCIAU: Good, thank you.

23 SECRETARY MEHLERT: Would you like me to
24 call the next case?

25 CHAIRPERSON POURCIAU: Yes, unless someone

1 wants a break at this time? No? Okay. Let's call
2 it the next case, 21437.

3 SECRETARY MEHLERT: Great. The next
4 application is 21437 of HDR holdings LLC. This is a
5 self-certified application pursuant to subtitle X,
6 section 901.2 for a special exception under subtitle
7 K, Section 915.2D to allow fast food establishment.

8 This is for a new fast food establishment use and
9 200 square feet on the ground or an existing 6-story
10 building or retail residential.

11 It is located in the WR-2/WR-3 zone at 1155
12 Dahlia Street, Northwest, square 2950, lot 909. And
13 I will note there is a letter from ANC Commissioner
14 Paul Edwards that has not been added to the record
15 yet if you'd like to add it. And Commissioner
16 Edwards is also present.

17 CHAIRPERSON POURCIAU: Very good, let's add
18 that to the record. I do want to note that we do
19 enjoy seeing those submissions a little earlier by
20 the submission date, as we really look at these
21 things in advance and want to give a good decision
22 for the applicant.

23 And with that, I'd like to welcome Mr.
24 Williams, who I believe will be presenting on behalf
25 of the applicant.

1 Do you have a presentation to make Mr.
2 Williams?

3 MR. WILLIAMS: Yes, madam chair members of
4 the Board. Good to see you again. My name is Zach
5 Williams.
6 I'm a land use attorney with Venable representing
7 the applicant today.

8 Before we get started, a representative
9 from the applicant should also be on, Jason
10 Bottcher. I just don't see him in the panelist list
11 yet. There he is. Okay, great.

12 Mr. Young, could we pull up that
13 presentation? Thank you, Mr. Young.

14 This is an application at 1155 Dahlia
15 Street, Northwest. This is an application to
16 establish a new Wonder Location, which is a new food
17 and service, food restaurant, delivery service.
18 It's established at a couple of occasions in D.C.
19 This will be the most recent one and we'll get more
20 into what Wonder is all about in a few minutes here.

21 Next slide please. Here's the location of
22 the proposed new location. This is in the Walter
23 Reed development at 1155 Dahlia street. It's going
24 to be in an existing retail bay in an existing
25 building that's already been built across from the

1 Whole Foods just up there in the Walter Reed
2 development. I'm just to the West of Georgia and
3 Dahlia Street, Northwest intersection. The zoning
4 is WR-3, which is the Walter Reed specific zoning
5 district.

6 Next slide please. Here's another view,
7 bird's eye view, of where that new location would be
8 located.

9 As you can see, this building is already built and
10 existing and this retail bay is currently vacant.
11 It's a new retail bay. This is a new building and
12 Wonder would be going in on the corner there just
13 across -- if you're familiar with the Whole Food it
14 is just across the street.

15 Next slide please. I'm going to turn it
16 over to Jason Bottcher with Wonder now to talk a
17 little bit about what Wonder is all about. Jason.

18 MR. BOTTCHEER: Thank you, Zach. And thank
19 you to the Board for your time and the opportunity
20 to present on Wonder and who we are.

21 So, if you're not familiar Wonder, like
22 Zach had mentioned, is a relative newcomer in the
23 quick serve restaurant world and there are a few
24 things that set us apart and it's really tied to,
25 first of all, what we offer and how we approach the

1 business and our business strategy. I'll just give
2 you a really high level of what that is.

3 What we do is we partner with chefs and
4 restaurants that are well known chefs that you've
5 heard of, and then best in class restaurants across
6 any number of different cuisines. We work with them
7 to reproduce and present their menu items, their
8 cuisines, in our storefronts across our service
9 areas.

10 We're north of 130 some odd locations at
11 this point, ranging from the Boston area down
12 through northern Virginia. And we're hoping this
13 will be the next add to our D.C. portfolio.

14 But getting back to some of those partners,
15 like I said, some names that you've probably
16 recognized. Bobby Flay, for example, was our first
17 partner. Marcus Samuelson, who's a very well-known
18 chef and has several successful restaurants in New
19 York City and throughout the country. When it comes
20 to some of the cuisines and restaurants that we've
21 worked with beyond, you know, just singular chefs,
22 you know, Di Fara Pizza out of Brooklyn, which some
23 would argue is the best pizza in the country.

24 Maydan, a name that you guys are probably
25 well aware of. They are a partner of ours as well.

1 And like I said, we work with them to be able to
2 present these cuisines and these well-known members
3 of the culinary world across our service area.

4 If you can move on to the to the next
5 slide. So how we work and in terms of our
6 operational details, how we interact and interface
7 with our customers. We are a very tech forward
8 company. Most of our orders and the way we interact
9 with our customers is through our the Wonder mobile
10 app, which has undergone a huge expansion over the
11 five years that I've been here.

12 About 80 percent of our orders will come
13 through that app. The balance coming from other
14 third party food apps that you're probably familiar
15 with as well; DoorDash, Uber Eats, other third
16 parties like that. Orders come in through the
17 mobile app. We also offer in-store kiosks for
18 customers that happen to walk into any one of our
19 locations.

20 And you can also order off the Web.

21 But the orders come in, they get prepared
22 and then we offer dine in, pick up and delivery
23 services for our customers. With that, we purchased
24 Grubhub. I want to say it was two years ago at this
25 point. And Grubhub is the principal courier for all

1 orders that come in through the Wonder app so 80
2 percent of our orders are directly managed
3 essentially through Wonder.

4 If you can move on to the next slide. This
5 is just a high level of our layout. A vast majority
6 of our locations are pretty, let's call it,
7 systematic and predictable, I guess is the right
8 word. Usually about 80 percent of our floor space
9 is back of house, with 20 percent being front of
10 house. This space in particular is give or take
11 2,900 square feet, with about 800 square feet
12 dedicated to the front of house where we would have
13 13 guest seats.

14 That includes, I believe, this one is three
15 two-tops, along with seven counter seats. We would
16 have two public restrooms. And we are proposing
17 outdoor seating for this location with four
18 additional two-tops during the warmer weather.

19 If you can see in the layout, and perhaps
20 it's not incredibly clear, but towards the top right
21 of the front of house area, you can see this is
22 where our built in pickup shelves would be located,
23 along with our front of house attendant. We don't
24 have traditional wait staff and everything is self-
25 bussed.

1 So, but we do have a front of house
2 attendant that is there to assist with customers
3 that might happen to be walked -- might happen to
4 walk in, unfamiliar with who we are or how our
5 platform works. And so we're poised to be able to
6 present, to provide any assistance that might be
7 required.

8 That pickup shelf that is towards the top
9 right, like I said, that's some of the amenities
10 that we provide for pickup customers and for
11 couriers alike. You know, post 2020, post COVID,
12 the restaurant world to a certain extent has changed
13 where, you know, I would say all restaurants really,
14 including those that are traditional sit down
15 restaurants are dependent on some degree of
16 delivery. And so recognizing that we've designed
17 the space very intentionally to provide the
18 amenities and make that process as efficient as
19 possible.

20 So if you want to move on to the next
21 slide. This is some photographs of our new front of
22 house design. The four images to the top left,
23 these are being rolled out in D.C. for the first
24 time. So I do not believe our existing stores in
25 D.C. might have this front of house design at this

1 point. And then you see some representative
2 examples of signage on the top right there.

3 So you can see the design of this space is
4 very intentional. It's meant to provide a welcoming
5 space for customers that are opting to dine in, but
6 also to provide all the efficiencies and the
7 amenities required to keep the operation moving for
8 both couriers and for customers that are walking in
9 to order or just picking up.

10 So given a location like this, you know, I
11 think we're going to see a lot of pass through
12 traffic. You know, this is an area that that's
13 undergoing quite a bit of development and you have a
14 lot of new residents coming in. And then you have a
15 lot of long term residents as well.

16 So cognizant of that, this space is really meant to
17 design to accommodate all of those users.

18 The bottom left two images are just some
19 quick renders of what the signage for this specific
20 location will be. You'll see there's two mounted
21 signs over an existing on an existing overhang. And
22 then one projecting sign or blade sign that just
23 says Wonder. So the signage itself, the design is
24 very clean, relatively unassuming and really meant
25 to work with the design of the building and the

1 facade that's there.

2 And Zach, I don't believe there's any other
3 slides for me at this point.

4 MR. WILLIAMS: Go to the next slide, Mr.
5 Young.

6 MR. BOTTCHEER: Apparently there is. So,
7 yeah, in store amenities, like I said, we're going
8 to have seating for 13 interior, an additional 8
9 exterior. Our average front of houses is pretty
10 typical to what we're presenting here. Usually we
11 have seats for 10 to 15.

12 Like I had mentioned, the amenities for
13 those that are opting to dine in, that are picking
14 up, that are ordering in from inside that storefront
15 and for couriers and that comes through a waiting
16 area, pick up shelves, very tech forward courier
17 management.

18 Like I said, we do own Grubhub, so we are
19 in a relatively unique position to manage delivery
20 services in a way that most other users are not.
21 And I would argue any other user is not unless
22 you're talking about a pizzeria that actually
23 employs their delivery driver.

24 So we are put in a position where we can
25 have a much more active courier management to

1 mitigate concerns that might be raised. And I do
2 believe the letter that was submitted by the ANC
3 this morning kind of speaks to some of the larger
4 issues. So, you know, thankfully, we're, like I
5 said, in a unique position where we can address
6 those concerns ahead of time.

7 MR. WILLIAMS: Next slide, Mr. Young.

8 CHAIRPERSON POURCIAU: Mr. Williams, I'm
9 sorry to interrupt. I think Mr. Bottcher had not
10 received the oath before he testified, so I just
11 want to interrupt briefly so that we can take care
12 of that before we move on. It won't affect your
13 time.

14 SECRETARY MEHLERT: Mr. Bottcher, if you
15 could raise your right hand. Do you swear or affirm
16 that the testimony that you will give today is the
17 truth?

18 MR. BOTTCHER: I do.

19 SECRETARY MEHLERT: You may consider
20 yourself under oath. Thank you.

21 MR. WILLIAMS: I think we have just another
22 couple of slides to finish off our presentation.
23 Thank you, Mr. Bottcher for that.

24 Getting into the zoning relief requested,
25 the relief is to establish a new fast food use in

1 the Walter Reed 3 zone. Wonder, as you've heard, is
2 not a traditional fast food use as we would
3 typically think of a fast food establishment.

4 However, under the D.C. zoning regulations,
5 this use would fit within the fast food category.
6 We did meet with the zoning administrator to confirm
7 that. That being said, there is no drive through
8 proposed. There will be interior seating.

9 As you heard, orders are all placed through
10 the online app or through self-serve or a kiosk in
11 the one location and all trash will be handled
12 internally in a building. Given these conditions,
13 the use will meet the specific conditions for a fast
14 food establishment in the Walter Reed 3 zone.

15 Turning to the standard for a special
16 exception. Next slide, please, Mr. Young. The
17 general standards for a special exception are,
18 first, that the use should be in harmony with the
19 general purpose and intent of the zoning
20 regulations.

21 Here, this use is in harmony with the WR-3
22 Walter Reed 3 zoning district, as it will be a
23 neighborhood serving food establishment established
24 at ground level within the existing shopping center.

25 It will provide access for vehicles, pedestrians,

1 as well as Metro riders from the Tacoma Metro
2 station. It will be serving not just the Walter
3 Reed community, but also the surrounding community
4 as well.

5 Next slide, please.

6 The next general standard is that the
7 relief should not adversely affect neighboring
8 property. Typically, when looking at this standard,
9 we think about light, air and privacy. In this
10 case, the relief should not adversely affect
11 neighboring properties. As I mentioned, this
12 building is already built. This is an existing
13 retail bay that already exists.

14 There's no changes that are proposed to the
15 exterior of that building that's already been built.

16 All operations will be located within the building
17 and oriented towards the entrance of the new Wonder
18 location so there shouldn't be any impacts felt to
19 the rear of the property.

20 The proposed hours of operation will be 10
21 a.m. to 12 a.m. There'll be no alcohol served at
22 the location. Majority of couriers, and couriers
23 and delivery are probably if there is an issue of
24 concern, that was the one, although it was not a
25 major concern. I think the bigger concern we should

1 hear from the ANC is from some of the other tenants
2 and businesses in the area.

3 Wonder is going to do a number of things to
4 mitigate that from its standpoint. First, majority
5 of the couriers will be bicycle couriers rather than
6 vehicle couriers. Wonder's control of Grubhub is
7 significant, and then that courier will provide 80
8 percent, estimated 80 percent of deliveries.
9 Wonder, in being able to control that, can
10 efficiently manage and organize deliveries and
11 couriers to ensure an efficient operation.

12 The service area here is approximately two
13 to three miles. There's additional Wonder locations
14 that are now located throughout D.C. that will serve
15 other neighborhoods. The service area and service
16 location is fairly limited in that sense.

17 Next slide, please. To conclude the
18 presentation, I did want to mention that we do have
19 a support in the record from the ANC. The letter
20 that came in today was from a specific commissioner.

21 We have another letter in the record that came in a
22 few weeks ago that reflects the ANC's vote in
23 support of the application. We also have support
24 from the Office of Planning.

25 And with that, I'll conclude our

1 presentation. We're available for any questions.
2 Thank you.

3 CHAIRPERSON POURCIAU: Thank you both. Any
4 questions from board members? Yes, Mr. Imamura.

5 DR. IMAMURA: Thank you, Madam Chair. No
6 questions for Mr. Williams on the relief requested.

7 That seems pretty straightforward to me. I do have
8 a question, or rather a comment, for Mr. Bottcher.

9 I did spend some time in Brooklyn and lived
10 there, and I know that you had commented that Di
11 Fara is probably the best pizza in Brooklyn. I
12 would posit that 3 Luigi's in Clinton Hill might
13 challenge that, and perhaps maybe Wonder might
14 consider them as well.

15 But this seems like a pretty
16 straightforward model. That is my only contention
17 with this case, that I put forward 3 Luigi's over Di
18 Fara.

19 MR. BOTTCHEER: I have been. It is a good
20 choice.

21 VICE CHAIRPERSON GOLDSTEIN: Well, I don't
22 know how we've resolved that dispute, so I guess
23 you'll have to move on. But I do have a bit -- I
24 would like to ask a bit more about the pickup and
25 drop off. Could you describe where people are going

1 to park and how that is localized to your
2 establishment versus maybe greater issues for other
3 fast food restaurants?

4 MR. BOTTCHEER: Sure. I do believe that
5 there is public parking tied to this space. There
6 is also street parking here. But as Mr. Williams
7 had mentioned, when it comes to the courier
8 operation, which I think would be kind of the crux
9 of the issue here, the expectation is that it would
10 be predominantly bicycle or two wheeled couriers.

11 And so with that, parking becomes a non-
12 issue, which is great. In the suburbs it's a
13 different conversation in more urban environments
14 like this. It's much less of an issue. But we do
15 also address that no matter the situation or the
16 circumstances.

17 And that's through a training that we have
18 with our front of house staff on how to communicate
19 with and to couriers to make sure that we are all
20 behaving within the confines of the regulations that
21 exist. And to make sure that we are not in any way
22 a nuisance to residents in the area.

23 So we address it twofold there between the
24 couriers. When it comes to residents, the
25 expectation is with a lot of the development that's

1 going on here. Like I said, there's going to be
2 significant pass through traffic, especially during
3 our dinner service, where there would be walking in,
4 picking up and then walking home.

5 The balance of that being delivery where it would be
6 predominantly bicycle.

7 VICE-CHAIR GOLDSTEIN: Just ask where do
8 those bicycles where you anticipate them parking?

9 MR. BOTTCHER: The expectation is that they
10 would be, you know, they're going to be busy. So
11 they're getting there. They get their notification
12 that an order has been placed and they can accept
13 that order.

14 And the way our operation works and our
15 preparation times on site, the timing for them to
16 get their pickup and be off site, our target is less
17 that they're on site for less than 4 to 5 minutes.
18 So, in terms of queuing, I wouldn't expect that to
19 be an issue for this location whatsoever.

20 VICE CHAIRPERSON GOLDSTEIN: Okay. I
21 didn't see anything in the record from DDOT. Did
22 you have any discussions with DDOT that you could
23 relate to us?

24 MR. BOTTCHER: We did not.

25 Zach, if you want to jump in on that.

1 MR. WILLIAMS: No, DDOT wasn't involved in
2 this application and they didn't engage or ask any
3 questions.

4 VICE CHAIRPERSON GOLDSTEIN: Thank you.

5 MR. BOTTCHEER: Thank you.

6 CHAIRPERSON POURCIAU: Thank you
7 commissioners. I have -- I believe I've seen other
8 D.C. locations. And I was "Wondering" what they
9 were. Are there other locations within close
10 proximity? I mean, if you're expecting mainly
11 bicycle deliveries, I would think that there's only
12 a certain radius you expect to receive orders from
13 or deliver from.

14 MR. BOTTCHEER: Yeah, so I believe our
15 closest location, at least in D.C. proper here would
16 be Cleveland Park, which also came before this Board
17 about a year ago I would say. I think that would be
18 the closest location geographically. I can check
19 that real quick.

20 But our service area is generally limited
21 to a 2 to 3 mile radius. I think everybody here has
22 ordered before. The most important thing when it
23 comes to food quality is food temperature so we like
24 to keep that delivery radius relatively tight
25 because we don't want to be delivering food that's

1 cold and nobody enjoys that. It doesn't look good
2 for us, ratings drop and stores struggle so we tend
3 to keep that pretty tight.

4 CHAIRPERSON POURCIAU: Thank you. If there
5 are no more questions, I think we'll move on to --

6 DR. IMAMURA: One more question, Madam
7 Chair.

8 CHAIRPERSON POURCIAU: Yes.

9 DR. IMAMURA: I'm sorry, for Mr. Bottcher.
10 Did I hear correctly that there will be another
11 Wonder location in Fairfax, Virginia with 3 Luigi's
12 coming soon?

13 MR. BOTTCHER: I don't recall putting that
14 on the record. In terms of a Fairfax location, I do
15 believe we do have a Fairfax location.

16 DR. IMAMURA: All right, only testing.
17 Thank you. Mr. Bottcher.

18 Thank you for your indulgence, Madam Chair.

19 CHAIRPERSON POURCIAU: You're welcome. So,
20 we'll hear from the Office of Planning now. Mr.
21 Jesick, are you ready to provide your report?

22 MR. JESICK: Yes, thank you, Madam Chair
23 and members of the Board. For the record, my name
24 is Matt Jesick presenting OP's testimony in this
25 case. I think the Office of Planning can largely

1 rest on the record in support of this application.

2 We reviewed the application against the
3 relevant criteria of K, Section 915.2(d) and found
4 that the application met those criteria.

5 Vice Chair Goldstein, in regard to your
6 question of DDOT, we also asked DDOT about this
7 case. They said that they did not comment on this
8 case, because this section of 12th street is a
9 private street and that any loading or parking
10 operations would be managed by the private
11 developer.

12 VICE CHAIRPERSON GOLDSTEIN: Thank you for
13 addressing that.

14 CHAIRPERSON POURCIAU: Very good. That's
15 understandable.

16 Any other questions for OP? Does the
17 applicant have any questions for OP? All right,
18 hearing none, I think we'll move on to hear from Ms.
19 Edwards from the ANC.

20 MS. EDWARDS: Hello.

21 CHAIRPERSON POURCIAU: Hello, hello.

22 MS. EDWARDS: Hi. I apologize for the
23 lateness of my letter, but it is the second letter
24 we have submitted and I am an unpaid volunteer and a
25 CPA who works in compliance for elections. So you

1 can imagine that we had been extremely busy at this
2 time.

3 My testimony is in support of the
4 application. The applicant has been very
5 cooperative in meeting with the community. We held
6 two meetings for due diligence because I was
7 concerned about the courier issue, but we received
8 no negative comments from the public at that time.

9 Subsequent to our drafting of the letter
10 and submission of the letter, we began getting
11 complaints from neighbors in the nearby residential
12 community that delivery drivers for Walter Reed were
13 staging in residential areas. They were loitering.

14 They were parking illegally, they were
15 idling their cars. And it took us a little while to
16 track down the locus to Walter Reed. And our
17 concern now is that in some way, this could
18 exacerbate the operations of Wonder because their
19 model is so delivery dependent. They are in a
20 unique position because they do own Grubhub.

21 We have -- I really have no reservations
22 about supporting their application. I just wanted
23 to note this deficiency in the record so that -- so
24 that the management of Walter Reed is aware of it,
25 that they are aware of it and DDOT will eventually

1 take over this private space. So I've also notified
2 DDOT of that. But at this point, the street is
3 private, and it is under the management of Walter
4 Reed.

5 CHAIRPERSON POURCIAU: Thank you so much,
6 Ms. Edwards.

7 MS. EDWARDS: Surely.

8 CHAIRPERSON POURCIAU: Those comments were
9 very valuable. Thank you for your public service,
10 too. We need it.

11 MS. EDWARDS: Thank you.

12 CHAIRPERSON POURCIAU: We really appreciate
13 that.

14 Any questions from Board members for the
15 ANC commissioner? Okay. Any from the applicant?
16 No? Okay.

17 All right. Thank you again, Ms. Edwards.

18 At this point, we don't have comments from
19 DDOT or any other agency, any other D.C. agency.
20 We've heard from the ANC. There are no parties
21 listed to testify in support or opposition. Are any
22 additional items we'd like to deliberate on before
23 closing the hearing part of this application? No?
24 Okay. Very good.

25 So at this point, we will close the hearing

1 and the record. The witnesses can be excused. And
2 then we'll take on any further deliberation. Okay.

3 Thank you. I believe we are ready for a
4 deliberation now. Board members, any thoughts on
5 this application other than they don't have Detroit
6 style pizza. That's my preference.

7 VICE CHAIRPERSON GOLDSTEIN: We can make
8 that a condition.

9 CHAIRPERSON POURCIAU: Yes, okay.

10 VICE-CHAIR GOLDSTEIN: I think the
11 application is ready for a vote. I would be
12 supportive of the application and really have
13 nothing further to add.

14 DR. IMAMURA: I agree it's ready for
15 action.

16 CHAIRPERSON POURCIAU: Mr. Imamura, you
17 want to make a motion on this one?

18 DR. IMAMURA: Gladly, Madam Chair. I move
19 that the Board approve application 21437 of HDR
20 Holdings LLC at 1155 Dahlia street, Northwest as
21 captioned in red by the secretary and ask for a
22 second.

23 VICE-CHAIR GOLDSTEIN: I'll second.

24 CHAIRPERSON POURCIAU: Excellent.

25 Madam Secretary.

1 SECRETARY MEHLERT: Please respond to Dr.
2 Imamura's motion to approve the application.

3 Michelle?

4 CHAIRPERSON POURCIAU: Yes.

5 SECRETARY MEHLERT: Vice Chair Goldstein?

6 VICE-CHAIR GOLDSTEIN: Yes.

7 SECRETARY MEHLERT: And Dr. Imamura?

8 DR. IMAMURA: Yes.

9 SECRETARY MEHLERT: Staff would record the
10 vote as 3-0-2 to approve application number 21437 on
11 the motion made by Dr. Imamura and seconded by Vice
12 Chair Goldstein.

13 CHAIRPERSON POURCIAU: Excellent. And I
14 would like to take a quick break. Could we take --
15 is five minutes enough? We'll return at 11:20.
16 Thank you.

17 VICE CHAIRPERSON GOLDSTEIN: Thank you.

18 (Whereupon, the above-entitled matter went
19 off the record at 11:15 a.m. and resumed at 11:20
20 a.m.)

21 CHAIRPERSON POURCIAU: Thank you. We will
22 re-enter session, and Madam Secretary, could you
23 please case number 21349-A.

24 MS. MEHLERT: Yes, the board is back from a
25 quick break and returning to the hearing session.

1 Next is application number 21349-A, of Ed Fendley.

2 As recently amended, this is a self-
3 certified request pursuant to Subtitle Y, Section
4 704, for modification with hearing of the order
5 issued in application number 21349, to add an area
6 variance from the alley width access requirements of
7 Subtitle U, Section 301.1(c)(4)(c), pursuant to
8 Subtitle X, Section 1002.

9 And, this is for new two-story accessory
10 building for use as a principal dwelling in the rear
11 yard of an existing two-story row dwelling.

12 The modification seeks additional relief
13 that was not identified previously. The project is
14 located in the RF-1 zone, at 628 15th Street NE,
15 Square 1051, Lot 113.

16 And as a preliminary matter, the applicant
17 has requested a waiver of the filing deadline for a
18 previous version of the self-certification form in
19 exhibit 42.

20 CHAIRPERSON POURCIAU: Thank you so much,
21 Madam Secretary. I want to start by saying we're a
22 pretty new board, and we take this responsibility
23 very seriously.

24 And, we spend a lot of time trying to
25 prepare to make sure we act in the best interests of

1 all parties. Late submissions do not allow us the
2 opportunity to do that in the best possible way.

3 So, I think we're going to move ahead but
4 we have a lot of concerns about that. Vice Chair,
5 did you want to add anything at this point, or are
6 you ready to hear from the applicant now?

7 VICE CHAIRPERSON GOLDSTEIN: Yes, no, I
8 thank you for mentioning that. As you know, a lot
9 of revised self-certifications, it becomes
10 challenging for us to know what relief you're asking
11 for when it keeps changing.

12 Even the most recent one doesn't look quite
13 right in my eyes. So, I think that really be
14 mindful and we'll kind of as the chair said, we'll
15 pursue the hearing.

16 But it makes it very difficult for us, and
17 for anyone interested in the case, to really know
18 what you're asking for in this application.

19 MS. SCHINDER: I'll be very brief. I'm the
20 applicant's architect. This is an application for
21 an amendment of a previous approved application by
22 Board of Zoning.

23 We were very fortunate that this project
24 did not receive any opposition during the October
25 approval, in which we pursued the parking exception,

1 and some other minor buildings.

2 This was a very restricted site. Upon
3 approval, of Board of Zoning, the Office of Planning
4 within the Department of Building, realized that we
5 also needed to apply for the center line from the
6 alley, and from access from the alley.

7 So, there was a lot of discussion between
8 Board of Zoning staff and the Office of Planning,
9 and the zoning within Department of Building.

10 That's why you see so many because this was
11 an amendment, which is very unusual for such a small
12 project.

13 So, we agreed and you will see the drawings
14 to contribute, to introduce a change to contribute 3
15 feet from the owner's property, to satisfy the
16 requirement of the center line clearance of the
17 alley, so that removed the requirement.

18 Still, the existing narrow alley, we needed
19 to ask for the variance on the access requirement,
20 just because it's narrow.

21 And, Department of Buildings and also the
22 zoning staff, agreed that if we add a sprinkle, if
23 we fully sprinkle the building, and along with the
24 3-foot extra rear setback, the building as
25 presented, did not present a danger to neighboring

1 properties.

2 And it did not present any challenges, did
3 not add to any challenges to, for secure vehicles in
4 case of a fire. Also, it's within a reasonable
5 distance from the mouth of the alley.

6 So, after so many meetings, it's funny the
7 design slightly changed by moving the building 3
8 feet into the property.

9 So in a way, this project in this
10 amendment, which is just the access of the alley,
11 the existing width of the alley, is something that
12 we can change.

13 We respectfully ask for your approval. It
14 is true we went back and forth just because we went
15 through so many different staff reviews; different
16 people had different opinions on how we had to share
17 the information.

18 That's why we saw so many. I wish as
19 applicants, we had the capacity to remove outdated,
20 outdated documents just because yes, we went through
21 so many iterations with different staff, that had
22 different opinions on how that needed to be
23 presented.

24 We responded to every one of them, besides
25 fortunately, no ANC, no neighbors, presented any

1 opposition in the original application that was
2 approved. And also, this application, as well.

3 VICE CHAIRPERSON GOLDSTEIN: Madam Chair,
4 do you mind if I follow up real quick on that? I
5 just, two things I'd like to clarify. One is you
6 are now proposing to modify the previously approved
7 plans, is that correct?

8 MS. SCHINDER: The only modification is
9 we're maintaining the height, the lot clearance.
10 The only modification is a benefit to the city by
11 adding 3 feet to the alley width.

12 So in a way, we allow neighboring
13 properties and vehicles going through, to have more
14 space to maneuver. That is the only modification.

15 VICE CHAIRPERSON GOLDSTEIN: Okay.

16 MS. SCHINDER: The rear setback that we
17 didn't have before, but none of the other items.
18 The opening to the neighboring property setbacks,
19 none of that changed.

20 VICE CHAIRPERSON GOLDSTEIN: Okay, but just
21 to clarify, you are changing the plan from what was
22 previously approved in the earlier BZA hearing --

23 (Simultaneous speaking.)

24 MS. SCHINDER: The location --

25 VICE CHAIRPERSON GOLDSTEIN: -- is what I'm

1 hearing.

2 MS. SCHINDER: -- of the building?

3 VICE CHAIRPERSON GOLDSTEIN: Yes.

4 MS. SCHINDER: Yes.

5 VICE CHAIRPERSON GOLDSTEIN: Okay.

6 MS. SCHINDER: But not the distribution of
7 interior spaces, the condition of the existing mass,
8 the proposed massing, openings, none of that
9 changed.

10 VICE CHAIRPERSON GOLDSTEIN: Could you just
11 tell me, what is the area of relief you're seeking?
12 Just technically.

13 MS. SCHINDER: We are looking for --
14 (Simultaneous speaking.)

15 VICE CHAIRPERSON GOLDSTEIN: -- yes.

16 MS. SCHINDER: -- let me open the file so I
17 make sure that I don't make another mistake. Give
18 me one second. I have it open.

19 And, it is the, I have it right here, which
20 is the one that allows for its access. That is, is
21 the width of the alley itself. The existing width
22 of the alley, that would be U, 301(c)(4)(c).

23 That is the description and it's a very,
24 very specific one that gives relief to properties
25 that have an alley that it's so old that doesn't

1 comply with existing requirements of width.

2 So they say hey, we understand this alley's
3 too narrow. If you contribute something to the
4 city, we understand that it's better than the
5 existing 10-foot alley; now you are making it a 13-
6 foot alley, instead of 10.

7 VICE CHAIRPERSON GOLDSTEIN: I just want to
8 clarify because that still doesn't sound like the
9 right citation, but it's close. And I know what
10 you're getting at.

11 I think it should be U, 301.1(c)(4)(c).
12 Would you agree with that?

13 MS. SCHINDER: Let me open it. So, just
14 yesterday or was it Monday, I went back and forth
15 with Ms. Mehlert, and we had agreed that this was
16 the proper one.

17 I'm super happy to change it. Like I said
18 --

19 VICE CHAIRPERSON GOLDSTEIN: Okay.

20 MS. SCHINDER: -- so many different staff
21 from DOB and BZA made me change these forms. And
22 every time I talk with someone, I try to satisfy
23 their comments.

24 And then the next person that sees it, asks
25 me to change it again. I'm happy to put any

1 requirement label wise. I just want to understand
2 that conceptually, we're all trying to satisfy the
3 same requirement.

4 The alley is too narrow.

5 VICE CHAIRPERSON GOLDSTEIN: Okay.

6 MS. SCHINDER: We can't change that as
7 homeowner. What we can do is contribute 3 feet to
8 the alley. I can label that any way BZA ask me to,
9 and I'm happy to change that as well.

10 But I just, I've gone through so many staff
11 people that ask me to change this in the exact same
12 way you're asking me, that as far as I have one
13 final comment in writing that will satisfy this
14 requirement, I will edit it. I have no issue with
15 that.

16 VICE CHAIRPERSON GOLDSTEIN: Okay, I think
17 that's what your intending, but I can let others
18 chime in.

19 MS. SCHINDER: So when I see for example, I
20 have right now the zoning plan. It says matter of
21 rights uses, 301.1.c. If you go to .c.4, which is
22 permanent access, and .4.c it says on an improved
23 alley no less than 15 feet, right?

24 VICE CHAIRPERSON GOLDSTEIN: Yes, I --

25 (Simultaneous speaking.)

1 MS. SCHINDER: So --

2 VICE CHAIRPERSON GOLDSTEIN: -- I think
3 you're self-cert missed a .1 in there, but I hear
4 that's what you're intending, so that would be how I
5 would review it.

6 MS. SCHINDER: Okay. Is it something that
7 you want me to re-file, or you think that after this
8 hearing, your resolution can comment on that in
9 writing?

10 VICE CHAIRPERSON GOLDSTEIN: Well, I think
11 that I can leave it for others. I think that may be
12 good enough that we clarified --

13 MS. SCHINDER: Okay.

14 VICE CHAIRPERSON GOLDSTEIN: -- it with
15 you.

16 MS. SCHINDER: Okay.

17 VICE CHAIRPERSON GOLDSTEIN: And that's I
18 believe, the way it's actually captioned in the
19 case.

20 MS. SCHINDER: Perfect.

21 VICE CHAIRPERSON GOLDSTEIN: I just wanted
22 to make sure. As you acknowledge, there's been a
23 few, a number of self-certification revisions that
24 were on the same page.

25 MS. SCHINDER: Uh huh.

1 VICE CHAIRPERSON GOLDSTEIN: Thank you.
2 I'm sorry, Madam Chair, thank you for allowing me to
3 ask a couple questions then.

4 CHAIRPERSON POURCIAU: That's fine. Mr.
5 Imamura, did you have any questions?

6 MEMBER IMAMURA: Thank you, Madam Chair. I
7 do have one question and I thank Vice Chair
8 Goldstein, for providing added clarity I think for
9 the applicant here.

10 My question is, Ms. Schneider, Ms.
11 Schinder, what, where did the 3, I understand your
12 concession is 3 additional feet from a 10-foot alley
13 to a 13-foot alley.

14 I'm just sort of curious where the 3 feet
15 come from? Why not 4, why not 5, why not 2?

16 MS. SCHINDER: Right, so here is what we
17 encaptured between the homeowner and the design was.

18 So, we needed to balance a few things.

19 A very super tight lot. So, the number
20 that we use was we were trying to satisfy the center
21 line clearance that we needed.

22 So, the center line clearance by supplying
23 3 feet, that would supply the, that would fulfill
24 the requirement of the center line of the alley.

25 So, also I know that 3 feet does not

1 complete the 15-foot wide, which is the requirement
2 of that subsection. But we also assume that if this
3 project inspires other properties and everybody else
4 contribute 3 feet on their side, then this alley
5 will become a de facto 15-foot alley, which is the
6 minimum requirement that the city needs.

7 So in a way, we take about half the burden
8 to widen the alley from a practical perspective.
9 But the 3-foot gave the satisfaction of the center
10 line, even if the 3-foot addition didn't satisfy the
11 complete width of the alley, which was the
12 subsection requirement.

13 So in a way, we, I wish we could have added
14 more but this, our lot is so tiny that if we keep
15 pushing it in, then we become like a concrete valley
16 within our property.

17 So, that's why it was 3 feet and no more.

18 MEMBER IMAMURA: Thank you for the
19 rationale, I appreciate that.

20 MS. SCHINDER: You're welcome.

21 MEMBER IMAMURA: No further questions.
22 Madam Chair, I yield back.

23 CHAIRPERSON POURCIAU: Okay, thank you so
24 much. Ms. Schinder, I appreciate your explanation,
25 and I feel a little frustration. I know how it can

1 be going back and forth in a process.

2 Again, we may be fair in that frustration,
3 being a little confused or perplexed about the
4 various things in the file.

5 Mr. Goldstein, how would you like to
6 proceed on this?

7 VICE CHAIRPERSON GOLDSTEIN: Oh, thank you,
8 I don't mean to cut you off. I did have a few more
9 questions in case you were, did you address
10 everything that you wanted to say at the moment.

11 Okay, I just want to clarify the 3-foot.
12 So, because you're providing 3 feet, you're
13 withdrawing the earlier zoning relief request for
14 the alley line center setback, is that correct?

15 MS. SCHINDER: Correct.

16 VICE CHAIRPERSON GOLDSTEIN: I would like
17 to turn to your area variance argument though. And,
18 I'm trying to understand it. What is the unique, or
19 exceptional situation for the property?

20 MS. SCHINDER: The most unique situation is
21 that it's backing into an alley that is too narrow
22 to create an accessory structure, right?

23 This is a situation where we can't as
24 homeowner, get around any way. It's not a matter
25 that we can control in setbacks, or any other

1 characteristics that we, as designers, could design
2 around it.

3 The rule is very clear. It says 15-foot or
4 else, right? So we're telling the city saying,
5 we're telling the city with this design, is that
6 additional dwelling units which supply affordable
7 housing, should be allowed to be created in alleys
8 that may not comply with the access requirement, if
9 the creation of those dwellings do not put extra
10 burden on say, safety measures, or other quality of
11 life for the neighborhood.

12 So what we're telling the city with this
13 application, we're telling the board, is saying
14 look, we understand our alley is too narrow.

15 We also understand that we can provide two
16 things. We can provide the idea that by sharing our
17 private, a portion of our private lot -- land, by
18 adding 3 feet back to the city, and by adding
19 additional dwelling unit, we make the, we made the
20 case that properties backing 10-foot alleys should
21 not be banned from creating dwellings, right?

22 So, that is our argument is that the
23 existing condition of the site prevent us from
24 creating an accessory dwelling unit, but there's
25 nothing we can do as homeowners to change that,

1 other than contributing valuable land back to the
2 city.

3 That is the intellectual exercise that we
4 think the city should look kindly on.

5 VICE CHAIRPERSON GOLDSTEIN: Okay, I hear
6 that and I'm just trying to think through it. So,
7 all your neighbors who abut the 10-foot alley, could
8 essentially say the same thing, is that correct?

9 MS. SCHINDER: Correct. And even if they
10 said the same thing, the city would earn significant
11 land for emergency vehicles; for maneuvering; for,
12 have eyes on the street.

13 If everybody actually did what we did, the
14 alley would be effectively wider. And, the city
15 wouldn't have to do anything for it.

16 VICE CHAIRPERSON GOLDSTEIN: 10-foot wide
17 alleys are pretty common in the city.

18 MS. SCHINDER: Right.

19 VICE CHAIRPERSON GOLDSTEIN: Is that right?

20 MS. SCHINDER: Correct, and this is an
21 issue we understand for turning vehicle, security,
22 trash, and all that kind of stuff.

23 So in a way, we're saying not only we can
24 improve alley access by just being there, but also
25 by providing housing by improving facades on the

1 alley, we can contribute other elements to the
2 public space.

3 VICE CHAIRPERSON GOLDSTEIN: Yes, I hear
4 what you're saying and I understand what you're
5 getting at. To me, that sounds more like a policy
6 argument, rather than a variance argument, which is
7 what --

8 (Simultaneous speaking.)

9 MS. SCHINDER: Well --

10 VICE CHAIRPERSON GOLDSTEIN: -- I'm
11 struggling a bit with.

12 MS. SCHINDER: -- the way I understand this
13 project, like many projects I do, I specialize in
14 additional dwelling unit. That's why I come so often
15 to the Board of Zoning.

16 Because the city does not have an
17 intellectual way to accepting that small
18 improvements to the city, are made from a one-by-one
19 case.

20 What I'm trying to argue with this project
21 and in general, is that having an abandoned garage
22 that doesn't serve any purpose for other than like
23 storage, we can have affordable housing if we allow
24 it to not only contribute the housing unit, but also
25 to contribute public space to an alley, right?

1 Improve access, eyes on the street,
2 lighting, more pedestrian movement, things like
3 that. So, I understand that it's easier to ban
4 something than to argue that this building
5 contributes many things in many levels, not as yes,
6 it may look as policy if we take it as an example to
7 change the rules in the future.

8 But also as an architectural exercise, it
9 shows that we can do a lot better for the city, not
10 only with affordable housing, but also improving
11 public space in Class B public space, which is
12 considered an alley.

13 We give more maneuvering space, eyes on the
14 street, more setback, more space for fire trucks, or
15 ambulance, or whoever wants to go through it.

16 VICE CHAIRPERSON GOLDSTEIN: I hear that,
17 and I'm just struggling with it. This to me, isn't
18 really a negotiation. It's a variance test.

19 And, there may be as the third prong,
20 public good as a result of this. And I don't, I may
21 not contest that but I'm still struggling a bit with
22 meeting the variance test.

23 I'll certainly ask the Office of Planning
24 about it, as well, but what you're describing is a
25 condition that effects many properties, including

1 the adjacent neighbors.

2 It sounds more like a policy discussion and
3 in fact, I think and I don't recall all the details,
4 but the omnibus text amendment from the Zoning
5 Commission, may be getting at this issue.

6 That may be another thing to discuss with
7 the Office of Planning, but it sounds like we're
8 unique because we can't meet the rule is to me, just
9 a difficult argument to hear.

10 MS. SCHINDER: What I'm trying to say is
11 that we're unique, but not only that we can't meet
12 the rule, the rule is an existing addition we can't
13 change.

14 And also, we're meeting a rule by
15 contributing private property to the public good.
16 And by then, improving the public access to
17 adjoining properties.

18 So in a way, it's easier to say that's not
19 allowed, or on the other hand, it's maybe more
20 positive for Board of Zoning to say hey, this is a
21 rule that devalues every single property in
22 Washington, D.C., that faces an alley narrower than
23 15-feet.

24 And, if they go through the exercise of
25 showing that they can have a positive contribution,

1 we're going to allow them to carry on.

2 As I said, we haven't received a single
3 opposition letter of anybody on the ANC, and we
4 presented to two ANC, not just ours. Not a single
5 opposition letter. Nobody questioned from DDOT,
6 fire, nobody had an issue.

7 And in a way, I'm trying to argue through
8 design, that the city can change for the better.
9 And we can oppose it by saying it's in the book, or
10 saying hey, it's in the book but maybe the book in
11 this case, is not right.

12 So in this particular case, we'll allow it,
13 and we'll allow others to have a positive
14 contribution if they design to design this way.

15 VICE CHAIRPERSON GOLDSTEIN: Okay, thank
16 you. I'm not sure I'm there with you at the moment,
17 but I'll, I appreciate your responses.

18 CHAIRPERSON POURCIAU: Thank you, Mr.
19 Imamura, do you have any follow up questions?

20 MEMBER IMAMURA: Thank you, Chair Pourciau,
21 I do. And, I think Vice Chair Goldstein has raised
22 some very important issues here in terms of the
23 three prongs. It is a high bar here.

24 I'm curious, Ms. Schinder, you had
25 mentioned FEMS. I notice they don't have any, they

1 don't have a report in the record, but the fact that
2 you mentioned them by name, I'm curious what
3 conversations you had, and what were the results of
4 those conversations?

5 MS. SCHINDER: We did reach out to them
6 multiple times. We are not positive it's their
7 system or we have not received a reply.

8 And again, to reduce and maybe eliminate
9 the burden of danger to our building and neighboring
10 properties, this building is going to be fully
11 sprinkled and all the walls in the external massing,
12 they're fireproof. There is cement board siding.

13 So not only the building will not be fire
14 or smoke danger within itself, but also fire will
15 not jump or receive, it's reduced danger from if
16 there's a fire next door, for our building to catch
17 on fire.

18 Just to let you know, there's been less
19 than 10 deaths on fully sprinkled buildings in the
20 United States, in the last decade or so.

21 So in a way, we're contributing affordable
22 housing that is safe, that is within every, would
23 satisfy every requirement that the city has except a
24 requirement that we can't change.

25 And because we can't change it, we're

1 helping the city improve their public space.

2 MEMBER IMAMURA: Again, I agree with Vice
3 Chair Goldstein. I understand that you're trying to
4 make a policy argument for a regulatory requirement
5 here. And, I think that's where the rub is.

6 And, I appreciate your point of view about
7 contributing 3 feet to the public space, and then if
8 others did on the other side, it would certainly
9 increase the width of the alley.

10 But that still doesn't meet the 15-foot
11 center line requirement. So my question is, good
12 design can usually solve some challenging problems
13 here.

14 And I'm curious, this goes back to my
15 question about why the 3 feet, and why not 5. And,
16 what that would do to the reconfiguration of the
17 interior space since you've already pushed this
18 inboard 3 feet.

19 I saw your plans are at 22 feet 10 inches,
20 I think, so I'm curious where --

21 (Simultaneous speaking.)

22 MS. SCHINDER: So, just to clarify.

23 MEMBER IMAMURA: -- what that impact would
24 have?

25 MS. SCHINDER: Right. At this time, the

1 rear wall of the existing building and the rear wall
2 of basically both walls that face the interior
3 patio, is less than 20 feet.

4 If you think that by, if you think that by
5 contributing another 2 feet to these 3, so we make
6 it 5 instead of 3, would BZA look more candidly on
7 this type of project?

8 I'm sure my client would have no issue
9 about it. What I'm trying to clarify is that this
10 type of project, all the discussion about affordable
11 housing and mil density, it all comes down to death
12 by a million tiny paper cuts.

13 And, I want to make sure that when we go
14 after these projects, when my clients seek our
15 services, they understand that the path is not easy.

16 But we do the best we can to satisfy their
17 private, and the public good.

18 MEMBER IMAMURA: Sure, I, again, I know
19 that you're certainly advocating for your client.
20 And I understand your perspective there.

21 Again, this really boils down to making,
22 meeting the three-pronged test here. And, again, I
23 understand your perspective and your argument for
24 this.

25 And, I don't have any further questions,

1 Madam Chair, so I'll yield back.

2 CHAIRPERSON POURCIAU: Thank you so much.
3 I think at this point, let's hear from the Office of
4 Planning. I see Ms. Thomas is here with us. Thank
5 you, Ms. Thomas.

6 MS. THOMAS: Yes, good morning again Madam
7 Chair and members of the board. And, I am Karen
8 Thomas, with the Office of Planning.

9 And, we are recommending approval of the,
10 this request for a modification of the significance
11 to include area variance relief from the alley width
12 access requirements of Subtitle U, 301.1.

13 We believe this modification is necessary
14 because it seems there's a confluence of factors
15 involved here in this situation.

16 Because during permit review, the
17 Department of Buildings identified that the alley
18 width behind the property is in fact, 10 feet, and
19 not 15 feet shown in the plans in the original
20 approval.

21 The applicant since revised the design to
22 eliminate the need for alley center line, based on
23 our conversations with them.

24 And, we asked the applicant to remove that
25 relief request because we believe that they could

1 satisfy it as a physical condition.

2 So, they removed the need for the alley
3 center line setback and so, they remain with the
4 alley width condition being a fixed physical
5 constraint.

6 We find that it satisfies the area variance
7 test because first, the property faces an
8 extraordinary condition of the permanent 10-foot
9 alley, combined with the regulatory requirement and
10 the board approved design in the first place, that
11 assumed the 15-foot width alley.

12 And, this measurement discrepancy was
13 discovered only at permit review, and is not the
14 result of any action by the applicant, per se.

15 In second part, we believe that the strict
16 application of the 15-foot alley standard, would
17 create an exceptional practical difficulty for the
18 applicant since the applicant cannot widen or alter
19 the alley, and without relief, cannot obtain the
20 permits for an accessory dwelling unit that the
21 board had already approved.

22 And, we'd just like to note that this
23 project does not rely on vehicular access, as no
24 parking is proposed and parking relief was not
25 previously granted, which is one of the points and

1 intent of alley width for maneuvering, and turning.

2 I'd also like to point out that the
3 location, the property's location does satisfy the
4 distance requirement to the nearest public street.

5 And that was cleared up in the original
6 approval. And that is important for FEMS and fire
7 issues related to buildings off of alleys,
8 particularly narrow alleys such as this.

9 So, it does meet that requirement. And the
10 other part is since there's no reliance on vehicular
11 access, the building would be sprinkled. And FEMS
12 does require the building to be sprinkled,
13 particularly in situations such as this.

14 Third, the relief would cause no
15 substantial detriment to the public good. The
16 accessory structure's size, massing, and use, remain
17 unchanged from the original approval.

18 The project does not introduce any new
19 traffic, noise, or service impacts. And, trash and
20 service vehicles will continue to use the alley as
21 they do today.

22 The structure will also again as I
23 mentioned, be sprinkled as shown in the updated
24 plans.

25 And finally, the relief would not impair

1 the intent or integrity of the zoning regulation.
2 Where one zone anticipates moderate density
3 residential use, and does allow accessory dwelling
4 units, subject to specific standards.

5 And, we believe that the requested relief
6 simply allows the applicant to implement the project
7 the board has already found compatible with the
8 zone.

9 And so for these reasons, we will continue
10 to support recommending approval for the requested
11 modification. Thank you.

12 CHAIRPERSON POURCIAU: Thank you, are there
13 questions from the board members?

14 VICE CHAIRPERSON GOLDSTEIN: I have some
15 questions, and thank you Ms. Thomas. I'm sorry I'm
16 catching you on a day that you're not feeling as
17 well, and really appreciate your testimony.

18 MS. THOMAS: That's fine, thank you.

19 VICE CHAIRPERSON GOLDSTEIN: You filled in
20 some information about FEMS. That was helpful as
21 well. You heard my questioning earlier, and I'm
22 just still kind of struggling with the uniqueness
23 here.

24 I've heard essentially two things is that
25 it's on too narrow an alley, which I find difficult

1 because there are so many properties on narrow
2 alleys, including all the neighbors along the alley.

3 And then, another aspect of the exceptional
4 condition is that unfortunately, and I don't know
5 the full history, but the self-certified relief
6 wasn't asking for everything needed in the original
7 hearing.

8 And, I have trouble seeing that as a basis
9 for this being an exceptional condition. Is there
10 something else you can provide me with, that would
11 be helpful about this?

12 MS. THOMAS: There is only one, there was
13 one case that we found within the 1600 number where
14 the board did approve a alley width variance relief
15 similar to this case, for an accessory dwelling
16 unit.

17 I can't remember the number but it was in
18 the 1600s. And, this situation, it is a situation,
19 a situation just related to this application, to
20 this project or property.

21 In that yes, it was misread. But when we
22 looked at it, we could support it from the fact that
23 we could have only supported it having her to meet
24 the alley center line requirement; and also, the
25 fact that it did meet the distance requirement to a

1 public street.

2 So, we struggled with the unusual situation
3 that in combination with the misreading of the
4 measurement, and the fact that it had been approved
5 by the board, we struggled with it.

6 And, we think that this in combination, not
7 in any basis by itself, each one by itself, but
8 together, creates an exceptional condition for this
9 applicant.

10 And creates a practical difficulty in, for
11 the applicant in moving forward with this accessory
12 structure.

13 CHAIRPERSON POURCIAU: All right, thank
14 you.

15 MS. THOMAS: In a 10-foot alley. But one
16 thing by itself I agree, will not form the basis.

17 VICE CHAIRPERSON GOLDSTEIN: You may not
18 know on the spot. Does the omnibus text amendment,
19 which I believe has been approved but not published,
20 have any impact on the relief requested?

21 MS. THOMAS: No, it does not. I did ask
22 Matt that question and who worked on the omnibus,
23 and he said it only has to do with alley lots.

24 VICE CHAIRPERSON GOLDSTEIN: I think
25 there's the, okay, so that the relief changed for

1 alley access for alley lots, but relief did not
2 change for --

3 (Simultaneous speaking.)

4 MS. THOMAS: Yes, accessory.

5 VICE CHAIRPERSON GOLDSTEIN: -- for access
6 for accessory buildings, is that right?

7 MS. THOMAS: Yes, that's what his comment
8 was 2506 has no impact on accessory buildings, only
9 alley lots and alley buildings.

10 VICE CHAIRPERSON GOLDSTEIN: Okay. So, I
11 think what I would encourage, and we can get to this
12 further. So, I think that 2506 was an alley lot
13 focused case.

14 And then, I whatever question whether the
15 omnibus text amendment, different zoning commission
16 case itself, impacted the access relief requirement.

17 So, I would encourage, we can talk about
18 next steps, but I would encourage another look at
19 that. Thank you, Ms. Thomas.

20 MS. THOMAS: Thank you.

21 CHAIRPERSON POURCIAU: Mr. Imamura, do you
22 have questions for Ms. Thomas?

23 MEMBER IMAMURA: Thank you, Madam Chair.
24 One question, one comment. If it helps, Ms. Thomas,
25 I think you sound a little better than you did 5

1 minutes ago, so sounds like you're on the mend.

2 Essentially because the board previously
3 approved this particular application, I do feel some
4 sense of compassion for the applicant in the what I
5 would call zoning gymnastics, or zoning yoga here.

6 Would that be a fair assessment, Ms.
7 Thomas?

8 MS. THOMAS: In a sense, yes. Like I would
9 say it's not just one thing by itself. Not anything
10 of the property itself, but there's this combination
11 of issues and factors that created this exceptional
12 condition.

13 And like I said, we haven't had many cases
14 of accessory structures on 10-foot alley width.

15 MEMBER IMAMURA: Hmm.

16 MS. THOMAS: It's the only one we've seen
17 so far.

18 MEMBER IMAMURA: Can --

19 (Simultaneous speaking.)

20 MS. THOMAS: Maybe the second.

21 MEMBER IMAMURA: -- you foresee, I'm a
22 little reluctant to set any precedent here on the
23 board, but can you foresee --

24 MS. THOMAS: I don't think it would be a
25 precedent. I don't think it will be a precedent and

1 we, we take each case individually.

2 And again this case, it's just based on the
3 situation a confluence of factors, a term we don't
4 like to use often.

5 But in this case, a confluence of factors
6 that brought us to this point.

7 MEMBER IMAMURA: All right, thank you Ms.
8 Thomas. I hope if you're on any other cases, that
9 we'll see you in another 5 or 10 minutes and you'll
10 feel even better then. Thank you.

11 CHAIRPERSON POURCIAU: Okay, I think we
12 don't have any other, any other bodies to testify.
13 Is the ANC signed up to testify? I don't think so,
14 but I believe they have approved.

15 DDOT is not here, or any other agencies.
16 And, there were no parties in support or opposition,
17 or individuals in support or opposition.

18 I'd like to ask the applicant if you have
19 any closing remarks you'd like to offer at this
20 time?

21 MS. SCHINDER: The only closing remark is
22 to thank Ms. Thomas. She worked with us diligently,
23 by challenging and asking us to revisit the design
24 where we worked with the setback, and the fire
25 protection.

1 Also, so let you know that I also
2 understand the position that the board is in.
3 Considering it's a new board, I come here a lot you
4 will notice in future hearings.

5 So, the six months that we were without a
6 hearing also probably made it more challenging for
7 the staff to help us out, and collaborate with them.

8 So, I really appreciate the time you have
9 taken, and I remain open to contribute any
10 information, and any documentation that shows how
11 this is a positive contribution not just to the
12 homeowner, but also to the neighborhood as a whole.

13 CHAIRPERSON POURCIAU: Thank you. Is the
14 board ready to take action on this case?

15 (No audible response.)

16 CHAIRPERSON POURCIAU: Or are there any --
17 go ahead.

18 VICE CHAIRPERSON GOLDSTEIN: Oh, no, I'm
19 not sure I am, unfortunately. I'm just not there
20 yet. I think it's a good project, and I understand
21 what the applicant is suggesting about benefits of
22 the project.

23 But I just can't get there quite yet on the
24 variance argument. I would suggest and I'm curious
25 for others' thoughts, that we give the applicant

1 some additional time and the Office of Planning, to
2 supplement the record on the variance argument.

3 And additionally, I would encourage the
4 applicant and the Office of Planning, to, and maybe
5 my memory is off on this, but there may be an
6 opportunity with the omnibus and the way it handles
7 alley access, that may have an impact on this
8 relief.

9 It's at least worth a look, but at this
10 point, I just can't seem to get there on the
11 variance argument.

12 MS. SCHINDER: One very quick note about
13 the omnibus. We did look at that. We did look
14 about reaching out and trying to work with them.

15 However, it's a non-starter. This is not
16 something that the omnibus will even make room for a
17 project of this tiny scale.

18 So, if the omnibus amendment is a condition
19 for this, for you as a voter approve or decline this
20 project, for us it's such a this is a 400-square-
21 foot tiny house.

22 So, we have zero chance as taxpayers to
23 influence that type of policy. We don't have the
24 money to lobby. We don't have the time.

25 So in a way, we are as taxpayers have said,

1 completely shut out of that type of zoning decision.

2 So, we have no impact on how that kind of this
3 happen.

4 If that is a condition for you to approve
5 this project, unfortunately, we are, there's nothing
6 we can do about it as applicant.

7 We can contribute land, add more feet,
8 redesign it, but we don't have the legal power to
9 influence larger zoning decisions.

10 I'm a small firm, I --

11 (Simultaneous speaking.)

12 MEMBER IMAMURA: Ms. Schinder?

13 MS. SCHINDER: -- do affordable housing.

14 MEMBER IMAMURA: If I could interject here,
15 Ms. Schinder, I'm sorry. The reason why I want to
16 interject here is I think we've already heard your
17 case.

18 And, Vice Chair Goldstein would like, I can
19 tell he's trying to get to yes. And, I can, we can
20 see on the board here that you may or may not have
21 the votes here.

22 And, I think Vice Chair Goldstein is at
23 least, and I don't want to speak for Chair Pourciau,
24 but what he's asking for is to come back with a
25 little stronger argument for the variance test, and

1 the variance relief. And, not just the applicant,
2 but also for the Office of Planning.

3 So, I understand the six months delay has
4 certainly impacted your ability to move forward with
5 this. But if you're trying to get to yes, and you
6 want to work with Vice Chair Goldstein, it would
7 behoove you and the applicant to fine tune, sharpen,
8 strengthen, improve, the area variance argument.

9 And, I would also recommend that you remove
10 or maybe revisit your argument and that it's less
11 policy focused, and focus on the regulation itself.

12 So, take out the taxpayer part. Take out
13 the fact that your ability to influence the
14 regulations. This is about meeting the standard,
15 and meeting the regulations.

16 So, and I only mention this and I never
17 really interject and so I apologize to the Chair,
18 and to the Vice Chair here, but he's really trying
19 to work with the applicant, with the Office of
20 Planning here.

21 So, I encourage you to take him up on that
22 offer.

23 MS. SCHINDER: I also have one follow up
24 question then. Considering that Office of Planning
25 already supported and their arguments seem to be

1 solid and strong, I'm trying to be curious about
2 what other argument we can bring in.

3 I already offered even offering more land
4 to the alley but aside from that, I'm not sure what
5 else can Office of Planning say to strengthen and
6 be, have a favored view of this project.

7 If Mr. Goldstein has something that is
8 precise, that could satisfy his requirement, I am
9 happy to introduce it.

10 But Ms. Thomas argument was so solid that
11 I'm having a hard time finding even better wording.

12 VICE CHAIRPERSON GOLDSTEIN: Thank you, and
13 I'm not going to make the argument for you, I hate
14 to say. But I'm just telling you that I am finding
15 it unconvincing at this point.

16 And, I'd like you to revisit it. You can
17 talk to the Office of Planning, and see if there's
18 something really unique or exceptional. Because I
19 haven't found it quite yet.

20 I would also say I think your understanding
21 of the omnibus is not accurate. My understanding is
22 that it's actually been approved, it just hasn't
23 been published.

24 So, I'm not sure that there's any
25 engagement that you need to go into, but what I'm

1 suggesting and you can listen to this or not, is
2 that perhaps there's something helpful in what's
3 been adopted that it hasn't yet become effective,
4 but is adopted.

5 But I don't recall the precise details. I
6 asked Ms. Thomas about the details, and it may
7 require some more follow up.

8 But perhaps there is something there that
9 could be helpful for your application.

10 MS. SCHINDER: We did look at it. There's
11 no alterations from the original zoning ruling to,
12 about accessory structures, whether they are garages
13 or additional dwelling units facing alleys.

14 There is absolutely no change from the 2016
15 ruling to the current one. So, they don't address
16 it. It was almost like it was ignored.

17 Alley lots are different from rear-facing
18 structures on existing properties. So, I can look
19 it up, but basically they ignored it. So I can look
20 into it, but there's nothing there.

21 VICE CHAIRPERSON GOLDSTEIN: Okay, I don't
22 want to keep the back and forth, but I would suggest
23 that you look at it again and talk with the Office
24 of Planning again.

25 MS. SCHINDER: Uh huh.

1 CHAIRPERSON POURCIAU: Ms. Schinder, can I
2 ask another question about the alley?

3 MS. SCHINDER: Sure.

4 CHAIRPERSON POURCIAU: Is it, is there
5 trash collection provided for that area?

6 MS. SCHINDER: There is trash collection;
7 currently the alley is populated by abandoned
8 garages. Most of them are derelict.

9 It's dark and in fact, the alley is
10 currently used by drug users. And, there has been
11 several safety issues on dark corners. So, that is
12 the existing conditions of the alley.

13 CHAIRPERSON POURCIAU: And I noticed in the
14 DDOT report, they talk about other properties that
15 access the alley. Is that what you mean abandoned
16 garages, or are there --

17 (Simultaneous speaking.)

18 MS. SCHINDER: Yes, there --

19 CHAIRPERSON POURCIAU: -- is it --

20 MS. SCHINDER: -- the existing structures I
21 think there since the 1930s and 40s, that have not
22 been maintained. They're too small to fit current
23 cars.

24 So in a way, they're like abandoned in
25 different states of demolition. Some are standing,

1 some have collapsed, but they're none of them are
2 used for parking.

3 Very few of them in fact, are used for
4 parking. The existing condition of the alley is just
5 really dangerous. There's been all kinds of police
6 reports about like public use of the alley at this
7 time.

8 There are dark corners. There's an odd
9 turn. So that is the existing condition of the
10 alley, and this is what we're trying to do.

11 Unfortunately again, we can't change the
12 width of the alley, and this is, that is the only
13 rule that's preventing us from improving it. And I
14 wish we could, but we can't do it.

15 CHAIRPERSON POURCIAU: And, I think my last
16 question is about in other areas of the city, I know
17 especially in some historic areas, there are
18 numerous alley dwellings, as well as commercial
19 properties.

20 And, I would imagine some of those alleys
21 are pretty narrow. Do you have anything to offer us
22 on any --

23 (Simultaneous speaking.)

24 MS. SCHINDER: We didn't have --

25 CHAIRPERSON POURCIAU: -- item like that --

1 MS. SCHINDER: -- previously about --
2 (Simultaneous speaking.)

3 MS. SCHINDER: Yes, 5 years ago --

4 CHAIRPERSON POURCIAU: I think I heard OP
5 talk, I mean the idea that this is the first time
6 something like this would be approved, is, I find it
7 to be, we find that remarkable. It's hard to
8 believe.

9 MS. SCHINDER: Well, this additional
10 dwelling unit, I do them a lot. They're extremely
11 challenging. They're not cheap. And, it's they
12 tend to work with whatever land we have.

13 I had previously a project approved on New
14 York alley. It's a different zone, but we had the
15 same issue about the center line of the alley, and
16 same issue about not being able to move the building
17 forward towards the existing property.

18 Fortunately, that project was approved.
19 Again, it wasn't exactly the same site -- the same
20 requirement, the same sort of code section, that's
21 why it wasn't quoted.

22 The building has been built. It's an
23 amazing contribution because now the alley has more
24 pedestrian access, more eyes on the street.

25 So even if this one is, this current case

1 is the first one, I do find that it is a positive
2 contribution to sort of set a new standard how we
3 should treat alleys, not just like dump ground.

4 But how we can all sort of see the rules,
5 and how some rules that were set, some alleys that
6 were set few hundred years ago, they can be
7 improved.

8 I understand that, that sometimes you take
9 solid creative thinking. That's why I appreciate
10 the way Office of Planning work with us, and they
11 demanded we push the design, we make a better
12 contribution to the public way.

13 Now we're just like waiting for Board of
14 Zoning to say hey, you know what? This is actually
15 a better idea than the existing conditions. And
16 will inspire others to move forward.

17 CHAIRPERSON POURCIAU: Okay. I'd like to
18 ask Vice Chair Goldstein a question. If the
19 applicant was willing to go back and add something
20 to the record regarding the hardship, as well as
21 maybe a little more about this alley use, and other
22 areas, would you be willing to defer a decision to a
23 decision meeting?

24 Would that feel like it would give us a
25 little more information but not prolong the case too

1 much, and cause us to have to review the whole file
2 again?

3 VICE CHAIRPERSON GOLDSTEIN: That is one
4 path is to ask for information, put it to decision.

5 I certainly can understand sort of the economy of
6 not having another continued hearing.

7 I guess the only limitation is we can't ask
8 follow up questions. I'm kind of willing to sort of
9 consider both, and either one could be a reasonable
10 option.

11 MEMBER IMAMURA: Madam Chair, if I may jump
12 in here. Ms. Schinder, you said that you've come
13 before the board numerous times.

14 You've worked on these before and you can
15 do the math, as I can. And, you can hear the
16 hesitation with Vice Chair Goldstein.

17 But you also know then because you've come
18 before the board many times, that you know we're
19 also short a board member who has probably submitted
20 an absentee ballot, right?

21 And so, it may be an opportunity. As an
22 architect, I share your sense of optimism. So, it
23 may be an opportunity to look at this in a different
24 way in that we have, maybe we do a continued hearing
25 where we have our other board member with us.

1 That might, and I can't speak for them, but
2 you'd certainly have another board member in the
3 room that might help carry the vote that you need to
4 move this forward, in terms of just plain
5 practicality here.

6 So, that way the Chair can move along with
7 the rest of the hearings for the day because I think
8 we've had plenty of banter back and forth, and
9 there's no resolution here that we'll reach today.

10 So, I think that would be advantageous to
11 you and your client. Thank you, Madam Chair.

12 MS. SCHINDER: To establish the next step,
13 I plan to, and strengthen my argument, you will
14 probably receive it if not Friday, by Monday, to
15 satisfy Mr. Goldstein's questions.

16 And then, you're saying that the next steps
17 would be another hearing, or what do you think the
18 next step should be from the board's side?

19 MEMBER IMAMURA: My recommendation to the
20 Chair and to the Vice Chair, would be a continued
21 hearing with an additional board member present, who
22 is not here with us today, to be able to hear your
23 argument and your improved argument, as well as OP
24 to come back to Vice Chair Goldstein.

25 Certainly Ms. Schinder, I understand that

1 you took a look at the omnibus. I was there, I
2 voted for the omnibus.

3 But OP is the one that needs to come back
4 in order for us to give great weight to the report.

5 And so, that's where Vice Chair Goldstein needs to
6 hear from them to say yes or no, it's in the omnibus
7 and this is how we strengthen the argument for that.

8 So, I understand this requires an
9 additional amount of time, and I know the secretary
10 is probably searching quickly to find time on a
11 compressed calendar already.

12 But again, this probably is your, could be
13 your best path forward is just to strengthen that
14 argument and allow a little more time, for another
15 board member to hear your argument.

16 MS. SCHINDER: Can you describe the
17 difference between a continued hearing, and a
18 regular hearing?

19 MEMBER IMAMURA: Go ahead, Madam Chair.

20 CHAIRPERSON POURCIAU: Ms. Mehlert, I would
21 like Ms. Mehlert to explain it, please. Thank you.

22 MS. MEHLERT: Typically, a continued
23 hearing is based on any, specifically any new
24 filings that came in, and any additional questions
25 that the board had. It's not restarting from the

1 beginning of.

2 MS. SCHINDER: Okay, excellent, okay.

3 VICE CHAIRPERSON GOLDSTEIN: I would like
4 to say if the omnibus does have something helpful,
5 it's not effective yet. So I don't know what the
6 timing of that would be.

7 So, that may be some discussions. So if
8 the idea certainly take a look. If the idea if
9 there's something helpful that you see, or that the
10 Office of Planning can share with you, that may
11 impact the timing of when you'd want a continued
12 hearing. Or it may not. It depends on what you
13 determine, so that's one piece.

14 And the other piece is, I'm really looking
15 for what is unique or exceptional that creates a
16 practical difficulty, how you meet each element of
17 the variance test.

18 And, I've heard sort of a policy argument.

19 I really want more of a variance argument, is what
20 I'm going to be looking for. So, thank you.

21 CHAIRPERSON POURCIAU: All right, thank you
22 everyone. At this point, I think we will continue
23 this hearing.

24 MS. SCHINDER: Thank you so much.

25 CHAIRPERSON POURCIAU: Madam Secretary --

1 thank you, Ms. Schinder. Madam Secretary, can you
2 advise us on the next actions on this, please?

3 MS. MEHLERT: So, would you like to
4 continue this into July?

5 CHAIRPERSON POURCIAU: I would like to
6 continue it into September. Because we're not
7 meeting in August. And, July is very crowded
8 already. So, could we do early September?

9 MS. MEHLERT: Yes, we could do it on
10 September 2 or September 9, and allow the applicant
11 to submit their revised argument.

12 It's a still a little far out from now, but
13 they're, anything they would like to submit and then
14 a supplemental report from OP, if you would like to
15 hear from them.

16 CHAIRPERSON POURCIAU: Yes, that would be -
17 -

18 (Simultaneous speaking.)

19 MS. MEHLERT: -- to support them.

20 CHAIRPERSON POURCIAU: I'd like that.

21 VICE CHAIRPERSON GOLDSTEIN: And,
22 Commissioner Imamura, I don't know if you would be,
23 I don't know if we have scheduling for the zoning
24 commission members already out to September.

25 But I think it would be great if you could

1 participate that day.

2 MEMBER IMAMURA: Absolutely, Vice Chair
3 Goldstein. I will be participating because I've
4 already read into the record. I've been here, and
5 so I'll certainly be part of that continued hearing.

6 And September seems reasonable enough. I
7 know we've already pushed one of the cases out for
8 decision for July 1.

9 And, I don't know how much additional time
10 we'll need. My hope would be to dispense with this
11 before the August recess, would be my recommendation
12 if we could.

13 I think if Planning could turn something
14 around quicker, I think this could be a rather quick
15 continued hearing.

16 It's really just a matter of the additional
17 board member reading into the record, and seeing
18 what the added arguments are.

19 So, that's where my recommendation or
20 preference would be but I don't know what the
21 schedule looks like on July 1. Only the Chair and
22 the Secretary.

23 CHAIRPERSON POURCIAU: I really appreciate
24 that, but July, our meetings have been very long
25 just coming back in, and I've been working with the

1 secretary and she's been doing a lot to try to keep
2 them as manageable as possible.

3 So, I'd ask her not to add things for July
4 at this point. So I'm sorry for the extended delay,
5 but I think we're going to need to look at
6 September.

7 All right, so with that, we'll close the
8 record for this case at this time. Is that the way
9 I say it?

10 MS. MEHLERT: Well if you're doing a
11 continued hearing, you will not be closing the
12 record. You leave it open.

13 Just to finalize the dates here, did you
14 want to do September 2 or September 9?

15 CHAIRPERSON POURCIAU: September 2 seems
16 fine.

17 MS. MEHLERT: Okay. Okay.

18 CHAIRPERSON POURCIAU: Thank you. All
19 right, we'll move on to the next case, thank you
20 again.

21 MS. SCHINDER: Thank you everyone for your
22 time.

23 CHAIRPERSON POURCIAU: You're welcome.

24 MS. MEHLERT: Yes. Next is Application
25 21430 of 1365 Perry, LLC.

1 This is a self-certified application
2 pursuant to Subtitle X, Section 901.2 for special
3 exceptions under Subtitle C, Section 1501.1C, to
4 allow a penthouse space above the matter of right
5 for the type of building.

6 Under Subtitle E at Section 204.4, to allow
7 removal or significant alteration of a rooftop
8 architectural element original to the principal
9 building.

10 Under Subtitle E, Section 207.5, to allow
11 the rear wall of the building to extend farther than
12 10 feet beyond the wall of any adjoining principle
13 residential building on any adjacent property.

14 And under Subtitle U at Section 320.2, to
15 allow the conversion of an existing residential
16 building existing on the lot prior to May 12th,
17 1958, to a 3-unit apartment house.

18 To construct a new third story and three-
19 story rear addition, with penthouse and roof deck at
20 an existing two-story attached principal dwelling
21 and conversion to a three-unit apartment house.

22 Project is located in the RF-1 zone at 710
23 Taylor Street, N.W., Square 3134, Lot 53.

24 And I believe there was a late filing. Let
25 me just double check here.

1 There was a late letter in opposition.
2 That's not yet in the record, if the Board would
3 like to have that.

4 CHAIRPERSON POURCIAU: Sorry, I was on mute.
5 Was there a late letter from the ANC chair
6 as well?

7 MS. MEHLERT: No. That was not the best use
8 of that letter.

9 CHAIRPERSON POURCIAU: Okay, thank you.
10 All right. I think we should enter the
11 late filing in the record. Again, the lateness of
12 these items, they impact our ability to make the
13 best decisions.

14 But having said that, I see Ms. Wilson is
15 on from the agent from the applicant, Mr. Akan and
16 Mr. Abebe are -- Is Mr. Abebe here?

17 MS. WILSON: He is here, yes.

18 CHAIRPERSON POURCIAU: Okay, very good.
19 All right. If you're ready, we'd love to
20 hear your presentation.

21 MS. WILSON: Great. Thank you so much.

22 And give me one moment. I'm just trying to
23 find the letter, because we were not sent that
24 letter in opposition there. But I can look after I
25 present.

1 Mr. Young, could you please pull up the
2 presentation?

3 Thank you so much.

4 Good afternoon. My name is Alex Wilson
5 from Sullivan and Barros on behalf of the applicant.

6 And with me are Mr. Akan for the ownership
7 team and Mr. Abebe, who is the project architect.

8 We're here requesting for special
9 exceptions and for approvals to construct an
10 addition to and convert a pre-1958 row house into
11 three residential units. And we have about a 10-
12 minute presentation.

13 Next slide, please.

14 Thank you.

15 Next slide, please.

16 The property is located at 710 Taylor
17 Street, N.W. It's in the RF-1 zone, located in Ward
18 4, and within the bounds of ANC 4C.

19 It has 2,725 square feet of land area,
20 which is just over the 2,700 square foot minimum for
21 three units.

22 The existing structure has two stories plus
23 a cellar, and it is a single family row house.

24 The proposal adds a third story, a rear
25 addition, and a penthouse stair access. And it will

1 convert the building to three units where two are
2 allowed by right.

3 It is also located near Georgia Avenue, New
4 Hampshire Avenue, and it's about a 5 to 7-minute
5 walk to the Metro. So, excellent public transit is
6 available.

7 Next slide, please.

8 In terms of neighborhood context, the
9 subject property is under the red arrow. The row
10 block has stepped furnace height, varied paint, and
11 varied porch treatment. And some don't even have
12 porches.

13 Next slide, please.

14 So, moving closer to the subject property
15 you can see the building is fairly well screened by
16 the street trees in the warmer months.

17 Next slide, please.

18 This just shows another angle.

19 Next slide, please.

20 Now we're moving away from the house to
21 show the other side.

22 Next slide, please.

23 And then this angle which shows foliage
24 even in the cooler months here.

25 Next slide, please.

1 So, we are seeking for a special exception
2 of the 10-foot rule for the rear addition, the
3 rooftop element required -- requirements for the
4 mansard extension, the dormers, and the porch with
5 railing, the penthouse height to allow for access to
6 the roof, and the residential conversation to three
7 units.

8 Next slide, please.

9 Office of Planning is recommending approval
10 of all of these special exceptions.

11 Next slide, please.

12 Regarding outreach, the adjacent owner of
13 712 Taylor expressed general support in person to
14 the applicant. And multiple follow-up means the
15 possibility to secure a letter. And there were
16 multiple attempts to reach out to 708 Taylor.

17 And as of this morning when I checked,
18 there were no objections in the record. And I
19 haven't had a chance to review the letter.

20 And regarding the ANC, the applicant did
21 attend three meetings but no vote was ever taken.

22 Next slide, please.

23 The first area of relief is from the 10-
24 foot rule for the rear addition.

25 Next slide, please.

1 Thank you.

2 So, the addition extends 29 feet past the
3 east neighbor, and 21 feet past the west. The
4 project is within the RF-1 height, lot activity, and
5 the yard limit. So, the prescribed bulk and density
6 limits are actually in compliance.

7 Even the rear yard is well over the 20-foot
8 requirement. It's about 73 feet, including a
9 parking area which has two parking spaces. So, the
10 open space at the rear is nearly four times the
11 requirement.

12 There are no side windows on the addition.
13 And rear views are into the subject property's rear
14 yard, which is unchanged, satisfying the privacy
15 requirement.

16 The rear addition isn't visible from Taylor
17 Street. And, again, from the alley there is nearly
18 four times the required rear yard. The lots are
19 very long.

20 OP found no undue impact with respect to
21 the criteria.

22 Next slide, please.

23 The site plan on the left shows the
24 addition footprint relative to the adjacent
25 neighbors.

1 The elevation on the right shows the rear
2 facade.

3 Next slide, please.

4 The shadow study is in Exhibit 20A, and it
5 models four seasons, three times a day. The
6 standard for this prong is that the addition not
7 create an undue impact on light and air. And
8 "undue" is typically defined as excessive.

9 So, of course, that's contextual depending
10 on the orientation and adjacent lots. In this case,
11 the lots are 140-feet long, so we have relatively
12 long lots here. We have a 70-foot rear yard, and so
13 I've demonstrated by the shadow studies the addition
14 will only impact one adjacent property at a time,
15 and only a small percentage of the total property,
16 given the length of the lot. And for only a few
17 hours.

18 For the property to the west, that's in the
19 morning, and the property to the east, the
20 afternoon.

21 So, in this context, given the limited
22 number of hours and percentage of impact, the impact
23 does not rise to the level of excessive. And
24 perhaps if these were shorter lots, the percentage
25 of lot impact could be greater. But that's not the

1 case here.

2 Next slide, please.

3 This just shows the other times during the
4 year. The same analysis would apply.

5 Next slide, please.

6 Thank you so much.

7 So, the second area of relief is related to
8 the architectural elements. And this area of relief
9 is always interesting because whether or not an
10 addition or a change to a building substantially
11 visually alters the character of a neighborhood can
12 be subjective.

13 We know the standard has to be lower than
14 the standards for a historic review because this is
15 not a historic district. And reviewing it under
16 historic requirements would create a de facto
17 historic zone.

18 And I think OP's report speaks to that in
19 terms of how they've reviewed it, meaning, yes, it
20 is a little different but it's not substantially
21 altering the fabric of the neighborhood.

22 Next slide, please.

23 And so, we are seeking relief from E 204.1,
24 which protects original rooftop elements. We may
25 not substantially alter the mansard roof, dormers,

1 and porches. And this is to preserve streetscape
2 cohesion.

3 A lot of thought went into this design that
4 we'll show. And I know the really egregious
5 architectural elements in relief cases tend to have
6 designs that don't attempt to match the neighborhood
7 at all. So, here there were numerous discussions
8 about how to update this in a cohesive manner. And
9 also, the determination was to extend the slope of
10 the existing roof line, extend that mansard to
11 integrate into the third story and replace the
12 dormers.

13 And we're also adding a railing to the
14 porch roof that matches the existing style of
15 railing on the first square porch railing, which
16 also exists on the block.

17 Can we skip to Slide 21, please?

18 Thank you. And I will go back to show the
19 elevations.

20 Yes, this one. Thank you so much.

21 I'll go back to show the elevations and
22 renderings. But I think it can be hard sometimes on
23 paper to understand what the intent and final design
24 will look like in real life.

25 On the right is the design inspiration and

1 intention. And this design shows that the proposal
2 can be integrated in a way that reads as intentional
3 rather than added on.

4 Can we please go back to Slide 19? I'll
5 quickly go through the elevations in sections.

6 This is the front elevation. Shows the
7 mansard integration and new dormer. And this is, of
8 course, not how it will look like from the street.
9 This is a straight-on view.

10 Next slide, please.

11 Thank you.

12 So, this section drawing shows the mansard
13 extension and how far back the penthouse is located.

14 And you can get a better understanding of how its
15 continuing angle of the mansard.

16 Next slide, please.

17 Thank you.

18 So, we've just seen this slide. But there
19 are other places in the District that have done
20 similar additions, including the porch railing.

21 And for context, this is Park Road on the
22 left, about 3 minutes away.

23 And then, as noted, the design inspiration
24 shows the intent to create a high quality cohesive
25 design rather than an add-on. And you can see the

1 older style two-story row home adjacent to the
2 updated style in this photo. And the updated style
3 has another story. And how it can be cohesive if
4 done correctly.

5 Next slide, please.

6 And then, of course, what is the
7 alternative? So, by right, the owner could waive
8 and rebuild this exact design with less constraint.

9 We obviously don't want to do that for a number of
10 reasons.

11 So, if this relief is not granted, the
12 option is to add a flat box. And that flat box you
13 see on the left at 724 and 730 Taylor. Those are by
14 right because they are set back 3 feet from the
15 original roof.

16 I, personally, think those look more
17 disruptive. And so, the intent was to do something
18 cohesive. But, again, that's the option without
19 architectural elements relief, to add a third story.

20 And that's what a lot of people do.

21 So, instead of taking the simpler route,
22 these applicants have put a lot of thought into
23 design. The mansard extension maintains the same
24 roof form, slope, and relationship. And it tends to
25 read as a natural continuation of the building

1 rather than an add-on.

2 Next slide, please.

3 And these are the renderings that, again,
4 we've seen in Slide 21 for a real life example of
5 how this could potentially be integrated, and how
6 it's intended to look.

7 Next slide, please.

8 The third area of relief is for the
9 penthouse height. The proposal includes 10-foot
10 square height, putting the roof at about 30 feet.
11 And the penthouse stair reaches 39 feet, which is
12 over the limit.

13 If you could go to the next slide, please.

14 Thank you.

15 So, without the relief, the penthouse would
16 be limited to 4 feet within -- or 5 feet within the
17 existing available height. And at that height, no
18 one would be able to stand up to get on the roof,
19 which isn't safe or functional.

20 The penthouse is set back over 30 feet from
21 the front facade, and the additional height is
22 limited entirely to the penthouse structure.

23 Next slide, please.

24 This just shows the penthouse footprint and
25 its location.

1 Next slide, please.

2 The final area of relief is for the
3 residential conversion. And the requirements are
4 extremely straightforward.

5 Next slide, please.

6 U 320.2 has objective criteria. First, the
7 building must exist today and at the time of permit,
8 and it does. And the property must have 900 square
9 feet of land area per unit. In this case it is
10 three units, or 2,700 square feet. And the lot has
11 2,725 square feet, meeting that requirement.

12 IZ does not apply in this case because it's
13 triggered at four units, and we do not have enough
14 area for that.

15 Accordingly, all the priorities are
16 satisfied.

17 Next slide, please.

18 This just shows the floor plan.

19 Next slide, please.

20 In conclusion, each special exception meets
21 the specific criteria. OP recommends approval. And
22 the applicant respectfully requests the Board grant
23 all four.

24 Thank you again for your time today. And
25 we are happy to answer any questions.

1 And just the full set of plans is located
2 in Exhibit 20A, if that would assist with any
3 technical questions.

4 CHAIRPERSON POURCIAU: Thank you so much,
5 Ms. Wilson.

6 Are there questions from the Board?

7 Vice Chair Goldstein, would you like to go
8 first, please?

9 VICE CHAIR GOLDSTEIN: Thank you. I do have
10 some questions.

11 Could you help me? There was a rendering
12 that I didn't quite understand. I think it may have
13 just been a similar plan. It was in page 21 of your
14 presentation.

15 I guess it's just design ideas. And I just
16 want to make sure I kind of understand what you are
17 suggesting there, if you, if you have that slide out
18 there?

19 MS. WILSON: I do have it out. Yes.

20 VICE CHAIR GOLDSTEIN: Okay. So that --

21 MS. WILSON: I also, I also have the
22 architect drawing, too. Yes.

23 VICE CHAIR GOLDSTEIN: Yes. So, that isn't,
24 that isn't necessarily the design you're proposing,
25 that's just inspirational ideas of designs?

1 MS. WILSON: Yes. And I think Mr. Akan or
2 Mr. Abebe can talk more about that. Because the
3 roof slope would be different.

4 But this was one of the inspirations when
5 designing the current building.

6 VICE CHAIR GOLDSTEIN: Okay. So, the one on
7 the right is not what you're proposing, but just an
8 illustration of the type of mansard roof concept
9 that you're going for?

10 MS. WILSON: Correct.

11 And, Mr. Abebe, feel free to jump in, but I
12 believe the dormer only has three windows, for
13 example. And we have one less window on the second
14 story.

15 So, the intent is to have it look similar.

16 But there are -- this is not the exact design.
17 Correct.

18 VICE CHAIR GOLDSTEIN: Okay.

19 I don't know that I need further questions
20 on that point. Thank you.

21 A couple things that I'd like to ask about.

22 One, I think you did it in your presentation, but
23 just to make sure you met the criteria. It is a
24 pre-'58 building; is that correct?

25 MS. WILSON: That is correct.

1 VICE CHAIR GOLDSTEIN: Okay. Okay.

2 I was struggling a little bit with your
3 shadow study to understand it. I'm wondering if you
4 could just bring it up again and help me understand
5 what it's, what it's showing.

6 I see the blue. I kind of want to ask,
7 what is the blue incorporating of this design?
8 What, is it, is it all inclusive of the, of the rear
9 addition?

10 It looks shallower than I would have
11 expected.

12 And then is the red just additional impact
13 for red? Is that what, what it's trying to show?

14 MS. WILSON: Correct.

15 So, the top one on each time of year shows
16 the matter of right option. So, the top one, matter
17 of right, that would be 10 feet past.

18 And then the one directly underneath it
19 shows the additional impact in red between the 10
20 feet and what we're proposing.

21 VICE CHAIR GOLDSTEIN: And just to be clear
22 by what you're proposing, it's, it's basically 40
23 feet, is that right, with the deck? If the deck's
24 in the back.

25 MS. WILSON: Yes.

1 VICE CHAIR GOLDSTEIN: Yeah.

2 MS. WILSON: Yes.

3 VICE CHAIR GOLDSTEIN: Is that inclusive of
4 the 40 feet, or just the 29 feet?

5 MS. WILSON: I don't think the -- and this
6 is it wouldn't be typical of us to include the decks
7 because these decks don't count for the 10 foot
8 rule. So, they're not strictly included in the
9 shadow study which shows the impact.

10 VICE CHAIR GOLDSTEIN: I think that that
11 kind of leads to another question I have. And I
12 feel like this case is a little bit different.

13 The side walls go all the way out; is that
14 correct? So, the massing is more like 40 feet
15 rather than 29 feet in this case. So, I think
16 that's a mistake not to include the additional 11
17 feet in the shadow study.

18 MS. WILSON: Okay. Well, we can either
19 update that or look at the side walls then.

20 But this was just done in terms of strictly
21 how DOB would review whether that was included or
22 not.

23 VICE CHAIR GOLDSTEIN: Okay. And I would
24 like to ask about those side walls.

25 So, I can see sort of two areas of argument

1 here. You know, one is that it's extending the
2 solid massing another approximately 11 feet, which
3 in some ways creates additional impact on the
4 adjacent properties.

5 And I can see the other side of the
6 argument being that perhaps there's a privacy issue
7 for those neighboring properties.

8 I, personally, would come down on the first
9 side, to have more light and less volume as part of
10 that extension. It's already a pretty deep,
11 although they're deep properties, it's a pretty
12 lengthy extension relative to the neighbors.

13 But my own view in that tradeoff would be
14 to have something more penetrating for the neighbors
15 as far as volume is concerned as opposed to the
16 privacy concern.

17 And I'd love it if you all could address
18 that, that point.

19 MS. WILSON: Sure, I mean, I'm, I'm happy to
20 chime in.

21 We didn't really get feedback on the walls
22 directly and, so, haven't had additional discussions
23 with the neighbors. Maybe we'd have reduced the
24 wall.

25 In our discussions with OP we didn't

1 receive that kind of feedback on the walls as well.

2 And so, we did go back and forth just like
3 you said. There is one, on one hand you can say,
4 okay, it allows more light and air. But on the
5 other hand, it does protect privacy of all parties.

6 And so, that could go either way, depending
7 on who's next to you.

8 And I know that in, obviously this is a
9 different board, there was a case of the 10 foot
10 rule where I think it was 20 feet back. And the
11 adjacent owner or neighbor didn't even want the
12 screening, but the board said, hey, there's a
13 privacy complaint, let's put up the screen.

14 And so, we'd be happy to go back and look
15 at reducing that, if that's something the Board is
16 more comfortable with. But we haven't had the
17 feedback on that either way, I guess I would say.

18 VICE CHAIR GOLDSTEIN: Okay. Well, thank
19 you. I appreciate that. And I'm curious for my
20 fellow board members and the Office of Planning.

21 My own personal preference would be to not
22 have solid walls, to minimize the extent of the
23 massing impact on the neighbor. But I'd be open to
24 others kind of addressing that.

25 I do have -- I'm sorry, fellow board

1 members, I have another question or two. I
2 apologize, if you'll indulge me a bit.

3 I feel a little bit bad for you all in that
4 you've reached out to neighbors and hadn't heard
5 responses. And then you suddenly at the day of the
6 day of hearing learn that there's concerns. And I
7 kind of feel a bit it's unfortunate for you all that
8 those concerns did not get expressed earlier.

9 MS. WILSON: Yes.

10 VICE CHAIR GOLDSTEIN: Just in a quick look
11 at the submission, it appears that both adjacent
12 neighbors signed that letter expressing concerns.
13 Which you're in a little bit of an unfortunate
14 situation with the timing and being able to address
15 those neighbors and their concerns.

16 I'm, I'm not quite sure what to do with it.
17 But it does give me a little bit of pause, given
18 that both adjacent neighbors have now gone on record
19 saying that they have some issues.

20 I'm not quite sure what to do with that.

21 MS. WILSON: I'm happy --

22 VICE CHAIR GOLDSTEIN: Yeah?

23 MS. WILSON: I'm happy to speak to that
24 because it looks like the date of the letter is from
25 May or earlier. So, it does seem like this was

1 sitting around for a while at least, is the thought.

2 And then beyond that, we've gone to three
3 ANC meetings and no one came forward at the ANC
4 meetings, which is unfortunate. And there were
5 multiple attempts.

6 And, also, we filed this case in December
7 2025. So, it does seem like there was ample
8 opportunity to have those discussions. And it
9 really is unfortunate that we're now in this
10 position.

11 It does seem a bit intentional. But we, of
12 course, are willing to review the concerns of the
13 neighbors. It's just we haven't had an opportunity
14 to do so because this was not sent to us in a
15 reasonable time frame.

16 VICE CHAIR GOLDSTEIN: Okay. I can
17 appreciate that.

18 And I, I'm not quite sure what to do about
19 that as of this moment. But I understand your
20 viewpoint.

21 I also want to ask my last set of questions
22 about the front porch roof.

23 And, you know, on the block I don't see any
24 other porches on top of the roof. And so, that's
25 just a little bit different than what I think some

1 of the neighbors have. That's more about a use
2 issue, I think, necessarily than an architectural
3 issue.

4 But would -- are the railings about the
5 same height that you find on neighboring buildings?

6 I don't know if you know the answer to this at the
7 moment.

8 Do the railings have to be higher to meet
9 certain safety in our building code, compliance
10 issues relative to what the neighbors have?

11 MS. WILSON: I'll defer to the architect on
12 that point.

13 MR. ABEBE: Thank you for giving me this
14 opportunity.

15 Yes, the railings has to be from 38 to 42
16 inches high. We are going to, we are designing it
17 to have a similar material and look, just like the
18 other railings in the neighborhood. However, it has
19 to be 38 to 42 inches high.

20 VICE CHAIR GOLDSTEIN: Okay. So,
21 potentially a little bit higher than what you find
22 on some of the neighboring roofs. But your
23 contention would be it's in character nonetheless.
24 Is that right?

25 MR. ABEBE: Correct. Correct.

1 VICE CHAIR GOLDSTEIN: Okay. I think that's
2 all I have for now. Thank you very much.

3 MS. WILSON: Thank you.

4 CHAIRPERSON POURCIAU: Mr. Imamura?

5 MEMBER IMAMURA: Thank you, Madam Chair.

6 Ms. Wilson, good to see you.

7 What I will approve today is the new
8 branding of your background and slide deck. An
9 improvement, so please tell Marty that it's a nice
10 new look for you all.

11 Separate from that, there's a couple things
12 that you made comments about that I just wanted to
13 address.

14 One was good design is subjective. So, I'm
15 not convinced that that's true. Good design is good
16 design. And there are reasons for that, much of
17 which has to do with proportion, scale, mass, all
18 the things that we evaluate.

19 And I think that one of the things that I
20 hear Vice Chair Goldstein have some reservation
21 about is just the expansive of all the, the
22 extension here. It's quite substantial.

23 And as you know, in cases like this I've
24 always had some reservation about that as well. I
25 understand these are deep lots. It always just

1 gives me pause.

2 What I thought was effective about your
3 argument, and it's always a roulette game, I
4 suppose, because you don't know which commissioner's
5 going to be on the BZA, so I feel as if your slide
6 deck probably was prepared just in case Commissioner
7 Imamura came on board. Because I thought it was
8 really effective at least to show the matter of
9 right, the box in which you described or the way you
10 described that as the box design solution here.

11 The inspiration slide that Vice Chair
12 Goldstein had, I had to bring up again. It is, it's
13 helpful. But to your comment about it's just a
14 matter of how it's really executed is so true.

15 And so, the renderings that I think Mr.
16 Abebe had provided are okay but it, it introduces
17 some questions about the dormer. And certainly it
18 doesn't really align with the inspirational slide
19 that you guys provided.

20 So, my question is for the architect here.

21 If you could walk us through what other iterations
22 you tried in terms -- and please speak to sort of
23 the proportion of the dormers and the mansard roof
24 that didn't work, and how you arrived at this
25 particular design solution would be helpful, at

1 least for the street-facing facade there.

2 MR. ABEBE: So, when we look at the entire
3 block and see each house and how the mansard roof
4 and the dormer windows are characterized, what we
5 thought, okay, this might be a better solution
6 instead of doing the usual pop-up and setback third
7 floor addition.

8 So, the approach that we have used is we
9 have, so, we have that kind of design the parapet
10 wall to match with the neighbor's parapet wall so
11 that we, we can get that in a parapet height on the
12 third floor addition on the dormer windows, on the
13 dormer roofs.

14 And if you see the character of the
15 dormers, they have kind of gable and rectangular top
16 on them. However, that also would not be functional
17 with the style of dormer that we are designing. So,
18 we went with the idea of the, basically, the
19 inspiration design.

20 And then went the decision to have a flat
21 top instead of a gable kind of dormer roof. And
22 that means, basically, what approaching other than
23 that we just continued existing mansard roof, we
24 just include the height. And then we tried to blend
25 it with providing a parapet wall exactly the same

1 height as the neighbor's parapet wall, which we have
2 every other unit.

3 MEMBER IMAMURA: Thank you for your
4 response.

5 And I'm curious I guess programmatically,
6 did you try the gable roof dormer as you described
7 it?

8 You said that that wouldn't work, but is it
9 just because programmatically it just didn't give
10 you enough interior height or -- and not to say that
11 I would say that would be the appropriate solution,
12 because it's never a good idea to try to imitate
13 something. But maybe that's why this might seem a
14 little out of character.

15 And I think maybe the materiality, just the
16 way it -- if you see me looking off to the left it's
17 just because I have another screen here -- it could
18 just be the way it was rendered and the materiality,
19 especially when you put it up against the
20 inspiration slide.

21 Yeah, was that inspiration that you had
22 tried in your designs and iterative process, at
23 least with the gable dormer roof?

24 MR. ABEBE: Yes. Correct. We have tried
25 that option as well.

1 However, that when we do the 3-dimensional,
2 not the rendering but how it we have best thematic
3 3-dimensional projections, we found that the scale
4 and the proportion of that gable kind of dormer
5 window does not appeal. And, and it would,
6 actually, even more divert -- it diverts more from
7 the neighborhood characteristics. And it would pop
8 out even more and then show the difference in scale,
9 which does not, which we think does not, would not
10 look characteristic with the neighboring units.

11 MEMBER IMAMURA: Okay. Thank you for that
12 response.

13 And I guess one other question: 29 feet
14 proposed beyond the neighboring property is pretty
15 substantial. Is that just -- programmatically did
16 you look at, at all, how to dial that back maybe and
17 pull that in at all, and just you weren't able to do
18 that, or?

19 MR. ABEBE: Basically, yeah, it's 29 feet is
20 because we wanted to have a unit with -- especially
21 basement, and second, first floor units with two
22 bedrooms, and living room in the middle. And then
23 good outdoor space, which is very convenient for the
24 tenants.

25 Other than that, we have not --

1 MEMBER IMAMURA: Okay.

2 MR. ABEBE: -- that's how we came up with
3 that.

4 MEMBER IMAMURA: Appreciate that.

5 All right. Those are, I think that
6 concludes my questions.

7 So, I guess the only other comment that I
8 would have -- and Ms. Wilson's probably already run
9 this down -- with the new letter in opposition,
10 certainly there was ample time since this was filed
11 back in December 2025, I think is what Ms. Wilson
12 said, however, it's important to be good neighbors.

13 Especially if this does move forward, you know,
14 when you have a neighboring property that it could
15 be very, a very long process and very painful one
16 for both the applicant and the neighbors.

17 So, I would certainly be inclined and open
18 to perhaps the applicant working with the neighbors
19 to resolve at least, or maybe come to some kind of
20 agreement, or at least address their concerns moving
21 forward.

22 But that's generally where I stand. And
23 I'm fair, but for all of my technical questions I
24 think they've been answered.

25 So, I yield back.

1 CHAIRPERSON POURCIAU: Thank you so much.

2 I think we should hear from Office of
3 Planning because I think that is the only entity
4 that signed up to testify. And Office of Planning
5 is planning is on, so let's hear from Ms. Myers.

6 Thank you.

7 MS. MYERS: Good afternoon. Crystal Myers
8 with the Office of Planning.

9 The Office of Planning is in support of
10 this case. Definitely been hearing the
11 conversation, and so I'll just make a comment about
12 the rear addition portion of this.

13 We're, we thought that, as has been
14 discussed, the depth of the lot, the fact that the
15 shadow study shows some impact but not to the level
16 that we would consider undue when we compare the
17 matter of right with the proposal.

18 We did not feel that it was undue, so we
19 thought that the addition's impacts on the adjacent
20 neighbors was not, like I said, undue, to the undue
21 level.

22 The fact that there's no windows on either
23 side of the walls is another factor that we looked
24 at as being limiting the privacy concerns.

25 And I know that the side walls along the

1 outdoor section of the balcony or, sorry, the
2 outdoor patios in the back was a concern. We
3 thought that that actual helped with the privacy
4 concerns as well.

5 So, for these reasons, these were okay with
6 the real addition portion of this. But, you know,
7 if, you know, we're just seeing the letter as well
8 from the adjacent neighbors. I think, you know, we
9 always encourage the applicant to work with their
10 neighbors if there was any adjustments they would
11 like to do to support that.

12 But we thought it did meet the level of the
13 special exception test.

14 And so, with that I will conclude our
15 testimony. And then, you know, stay on the record,
16 the staff report or if you have other questions.

17 Thank you.

18 CHAIRPERSON POURCIAU: Do board members have
19 questions for OP?

20 VICE CHAIR GOLDSTEIN: Thank you. Thank
21 you, Ms. Myers.

22 Yeah, I'm still that sort of tradeoff of
23 privacy versus light and air in the rear addition,
24 particularly I think the 29 feet is always fair,
25 fairly deep addition relative to the neighbor. But

1 the additional 11 feet of the rear porches, in your
2 view of the balance between sort of light and air,
3 volume, and privacy, your testimony is that you
4 think it's better to have solid walls for privacy
5 purposes?

6 MS. MYERS: We thought it was addressed, it
7 allows for privacy. Again, no windows in walls do
8 exist.

9 When it comes to light and air, we look at
10 the shadow study. And the shadow study showed us
11 that the impacts were not to the undue level.

12 So, that's just kind of how we laid it out.

13 If we see a shadow study that is showing us
14 something different, then we would look at it
15 differently. But in light of the fact that this is
16 a deep lot, we thought that this met the test.

17 VICE CHAIR GOLDSTEIN: Okay. And with the
18 information that I, I think the applicant confirmed,
19 but maybe it was just preliminary that the 11 feet
20 additional solid walls were not taken into account
21 in the shadow study, does that at all impact your
22 reliance on it?

23 MS. MYERS: I'd have to see an updated
24 shadow study.

25 VICE CHAIR GOLDSTEIN: As far as the front

1 porch roof and the railings -- and I may have
2 misstated, I don't know that any of the other front
3 porch roofs do or do not have railings on them, but
4 this one will -- was that part of your analysis as
5 far as the character?

6 Or did you analyze that as part of it or
7 just it's not an issue in your mind?

8 MS. MYERS: That is you can have, you can be
9 the first on the block to have a porch roof with,
10 with a balcony if it still fits into the character
11 of the neighborhood, if it's still designed in a way
12 that still fits in.

13 I believe in our report we have pointed out
14 there is some variety in the front facades of the
15 buildings, different housing on this street that you
16 can see some differences. I mean, I believe some of
17 them do have porch roofs, some of them don't;
18 colors; slightly different designs. And so, we
19 thought that having a porch roof with a balcony kind
20 of just is another way of looking at variety along
21 the street when it comes to how they are -- the
22 front facades look.

23 VICE CHAIR GOLDSTEIN: Okay. Thank you. No
24 further questions.

25 MEMBER IMAMURA: I'll jump in here if the

1 chair should allow.

2 So, Ms. Myers, thank you. You're always,
3 reports are always thorough.

4 I guess I'm curious to know in terms of,
5 yeah, the additional shadow study. I guess if that
6 would -- Well, let me back up here

7 What, if you could provide for those who
8 are listening in the public, what would be undue for
9 something like this?

10 So, you said it's not undue. So, what
11 would undue look like?

12 MS. MYERS: A pretty significant loss of
13 light for a long duration of time. As has been
14 mentioned a few times, these are, are deeper lots
15 and, so, because of that it does allow for a large
16 portion of their lot to not be as impacted, which is
17 a benefit to the adjacent neighbors.

18 If it shows something different, I know
19 there has been mention of the shadow studies maybe
20 being missing or not having the additional 11 feet,
21 would want to see what that would look like when it
22 comes to shadow impacts. But currently it does not
23 look to the, you know, to the point where the
24 adjacent neighbors would not be able to enjoy
25 sunlight in the majority of their property.

1 And so, that would weigh into if we are
2 able to support it and approve the light and air.
3 But if it shows something different, I believe it
4 was a case I had years ago where there was a
5 significant loss of sunlight on the adjacent
6 neighbors, majority of the adjacent neighbors'
7 property. And in that case I did recommend --
8 actually, I believe I recommended denial or did not
9 make a recommendation. And I forget exactly how it
10 went, but that was a concern. And we had brought
11 that up with the BZA at the time.

12 So, there has been one or two times where a
13 substantial loss of sunlight has risen to the level
14 of not being able to support it based on that
15 criteria.

16 MEMBER IMAMURA: Okay. You've certainly
17 seen a number of these cases in your tenure, haven't
18 you, Ms. Myers?

19 MS. MYERS: Yes, I have.

20 MEMBER IMAMURA: So, I think that grants you
21 substantial credibility. And so OP is lucky to have
22 you.

23 Thank you. I don't have any further
24 questions for you, Ms. Myers.

25 And, Madam Chair, I do, if you'll indulge

1 me, I do have a question for the architect to come
2 back, if you'll allow. And this does speak to a
3 little bit about I think Vice Chair Goldstein's
4 concern or just question, query about the enclosed
5 patios, I guess, or the enclosed decks.

6 And so my sense is at least it's a little
7 difficult to tell from the drawings. They always --
8 it's a big file. I suppose it's just sticking on my
9 laptop.

10 But I appreciate OP's perspective that
11 there are no windows and openings to, you know,
12 protect privacy. But it looked or it appears as if
13 those enclosed decks are facing due south, which I
14 would think would generate significant heat buildup
15 certainly in the summertime, without much air
16 circulation.

17 And what I'm getting at here is I'd like to
18 know from the architect if they've considered using
19 a different material, maybe something with a little
20 more porosity but still retain, I guess, a sense of
21 privacy on either side of those to allow at least
22 some air flow through those decks, which also might
23 help break up the facade and the view?

24 Could the architect speak to that at all?

25 MR. ABEBE: So, first, Mr. Akan is the

1 owner. He can also speak to this.

2 MEMBER IMAMURA: Okay.

3 MR. AKAN: Yeah. If I can interject a
4 little.

5 I think we have gone through different
6 variations of these porches on different projects.
7 And I don't want to say what applies to one BZA
8 project applies to this one. But we have gotten
9 stuck with fire rating with the DOB, and we did not
10 close the porches.

11 Because there is some egress fire rating
12 and, you know, sometimes we like to leave them open.

13 Sometimes we put, you know, gap panels and allow
14 air and sunlight to go.

15 And if either ANC or the next door
16 neighbors approached to us in advance and gave their
17 concerns, we could have definitely addressed it.
18 But, you know, so we just ventured the safest
19 approach for our DOB approval purposes because they
20 are asking for a fire rating on some of these
21 occupied porches.

22 MEMBER IMAMURA: Okay. I appreciate that's
23 very helpful. That cuts to the chase. So, thank
24 you.

25 MR. AKAN: Yes.

1 MEMBER IMAMURA: All right, Madam Chair, I
2 yield back.

3 CHAIRPERSON POURCIAU: Thank you.

4 I think what I'd like to do at this point
5 is just say for the record that there are no other
6 District Government agencies that are here to
7 testify.

8 I see that submitted for the record no
9 objections.

10 The ANC is not here. And we have not
11 received an ANC report, I don't believe.

12 No party has signed up in support or
13 opposition to testify today. And --

14 MR. YOUNG: Sorry, Madam Chair?

15 CHAIRPERSON POURCIAU: Yes?

16 MR. YOUNG: We actually do have one, we have
17 one person that signed up to testify.

18 CHAIRPERSON POURCIAU: Okay, thank you.

19 MR. YOUNG: And that is Janelle Gail.

20 CHAIRPERSON POURCIAU: Janelle Gail. Okay.

21 That was 21430? I don't see her name on
22 the list that I was provided.

23 MS. MEHLERT: They signed up after the list
24 was sent out, Chair.

25 CHAIRPERSON POURCIAU: Oh, okay. Thank you.

1 All right, Ms. Gail, you may testify at
2 this time. You have 3 minutes.

3 MS. GAIL: Yes, please. Yes, please.

4 I wanted to address the counsel's
5 characterization of the late submission of the
6 letter. We are an owner/architect who don't have --
7 we don't have legal representation. So, you know,
8 we were trying to prepare the letter and get the
9 neighbors to respond, if possible, within the time
10 frame that we had. And we were traveling, so
11 getting it organized was, you know, a little bit
12 more, more involved, required a lot of coordination
13 on our part.

14 And so, it wasn't strategic or intentional
15 in any way.

16 We I think really would just like to focus
17 on the, on the four issues that the applicant is
18 asking relief for, namely, the shadow, the light
19 that will be affected in the rear of the house of my
20 neighbor at 712. I don't think that the shadow
21 study is addressing the light that will be hindered
22 inside the house. It shows, it's addressing the
23 shadow in the backyard but it doesn't affect -- it
24 doesn't really address the issues of light coming
25 into the rear or the house.

1 We would also like for the Board to
2 consider the three additional, or one additional
3 unit added to the building. The elevated rear decks
4 at the second floor it just, you know, I think it
5 does provide privacy harm.

6 And we have not been contacted by the, the
7 owners, or the lawyers, or any, any parties at 710
8 regarding this, regarding this renovation. So, I'm
9 not really sure why the counsel said that they tried
10 to reach out to use on multiple occasions. I
11 haven't heard anything.

12 So, I don't know about any of the other
13 neighbors, but I haven't had any contact regarding
14 this issue.

15 CHAIRPERSON POURCIAU: Thank you, Ms. Gail.
16 Thank you for staying within your time.

17 MS. GAIL: Thank you.

18 CHAIRPERSON POURCIAU: Do board members have
19 questions for Ms. Gail, please?

20 VICE CHAIR GOLDSTEIN: Thanks. Thank you
21 very much for your testimony.

22 Could you tell me where you live in
23 relation to the project?

24 MS. GAIL: Oh, I'm directly east. I'm at
25 708 Taylor Street.

1 I apologize for not mentioning that up
2 front.

3 VICE CHAIR GOLDSTEIN: Okay. Thank you.

4 MS. GAIL: Uh-huh.

5 CHAIRPERSON POURCIAU: Any other questions
6 from the Board?

7 MEMBER IMAMURA: Yes, ma'am. Thank you,
8 Madam Chair.

9 Ms. Gail, I guess I'm curious what is the
10 optimal outcome in your point of view?

11 MS. GAIL: I think if we could make the
12 extension more reasonable. I think that, you know,
13 it's the allowable extension is 10 feet. They're
14 asking for almost three times that. So, if they
15 could scale it back some so that it, so that the
16 disruption, one, is minimal and, two, the privacy
17 issue is, is addressed, the privacy on both sides
18 actually.

19 I heard, I heard the submission that the
20 walls would be solid so that there wouldn't be any
21 windows on this full extension, which I couldn't
22 really tell if that was representative in the plans.

23 But I think that with the pop-up or the rooftop
24 penthouse there will be, that will be, there will be
25 windows there, and there will be a privacy issue

1 there as well.

2 So, if, if that could be scaled back
3 significantly, they get substantially closer to the
4 10 foot standard that already exists for that
5 purpose, that would be a good outcome.

6 MEMBER IMAMURA: All right. Thank you.

7 MS. GAIL: Or a reasonable compromise.

8 MEMBER IMAMURA: A reasonable compromise.

9 MS. GAIL: Uh-huh.

10 MEMBER IMAMURA: Okay. A compromise. All
11 right.

12 Thank you very much.

13 No further questions, Madam Chair.

14 CHAIRPERSON POURCIAU: Thank you.

15 Does the applicant have any questions for
16 Ms. Gail?

17 MS. WILSON: No, thank you.

18 CHAIRPERSON POURCIAU: Okay. Thank you so
19 much, Ms. Gail. Thank you for coming.

20 MS. GAIL: Thank you.

21 CHAIRPERSON POURCIAU: And just the lateness
22 is a little problematic for us. But in the future
23 please try to adhere to the required schedule.

24 At this point we've heard all the public
25 testimony. Would the applicant like to make

1 concluding remarks, please?

2 MS. WILSON: Yes.

3 I'd just like to reiterate that it is
4 unfortunate in terms of the timing because I'm sure
5 any, you know, discussions with the adjacent
6 neighbors would have been beneficial.

7 There's been some comments today about the
8 adjacent wall, or walls being adjacent to the
9 balconies. Mr. Akan has testified that that is a
10 DOB issue and that's where that's come from. If
11 there are any requests from the Board to revisit the
12 shadow studies or that rear addition, we would just
13 like to request a short turnaround time for that.

14 The last minute opposition doesn't, you
15 know, for a case that's been going on now for 6 or 7
16 months they've had an opportunity to this, and
17 having been given one doesn't delay it another 2 or
18 3 months. Because at that point it's pretty
19 devastating to the project.

20 So, that would be my request. Thank you so
21 much.

22 CHAIRPERSON POURCIAU: Thank you for that.

23 I just want to say the new board members
24 we've been trying hard to attack our agendas. We've
25 got a short month in July and then we're on recess

1 in August. So, I can't guarantee you that, you
2 know, I -- we'll look at, hopefully, September.
3 Right? So, that's the only, the issue here is there
4 is, we've got so many, you know, competing points
5 to, to deal with these issues.

6 I think what I'm hearing from my fellow
7 board members is, you know, as you've stated,
8 there's concern about even, even beyond the lateness
9 of the opposition letter and the participation in
10 the meeting, the Board itself has concerns with the
11 extensive nature of the extension, the air and light
12 report, the privacy versus no privacy. But, you
13 know, there we were struggling with those issues.
14 And now on top of that hearing from an adjacent
15 property owner I think adds just a little more to
16 that concern.

17 I believe we should continue this hearing
18 and give you an opportunity to enter into the record
19 revised reporting on, and I don't know which of the
20 four items it is, in order to better justify and
21 provide for an explanation that the Board can better
22 understand and maybe more compassionate of. And, in
23 addition, work with the adjacent property owners,
24 and perhaps the ANC as well.

25 What are your thoughts on that, please?

1 VICE CHAIR GOLDSTEIN: I'm sorry, Madam
2 Chair, are you asking for our opinion or the
3 applicant's opinion?

4 CHAIRPERSON POURCIAU: I think other Board
5 members. Thank you.

6 VICE CHAIR GOLDSTEIN: Oh, sure.

7 I just want to start off by saying I think
8 in my view I think you've met most of the relief
9 request. I think I have no issue with the
10 conversion to three units. I don't have any issue
11 with the penthouse.

12 I think there may always be different views
13 of the design, as my fellow board member referenced.

14 I'm generally okay with the design. In my mind
15 it's really, you know, the rear addition. You know,
16 I don't have the right answer necessarily. I posed
17 some questions about privacy versus light and air.
18 I don't know the right mix.

19 I'd love you to talk to the neighbor about
20 sort of that tradeoff.

21 And I do feel it's unfortunate that this
22 came up at the last moment. It doesn't, it doesn't
23 serve any of us well. And there may be extenuating
24 circumstances, as was referenced, but it just, it's
25 very hard on applicants as well to hear these at the

1 last moment.

2 So, I'm sympathetic to that.

3 So, I just want to say I'm generally, I
4 think you've generally made your case. I think it
5 would be helpful to have a shadow study, depending
6 on where you land.

7 I would love to see if we can get this on a
8 shorter time frame. I think, I know we're tight,
9 Madam Chair, and I'd love to see if there's another,
10 another look at a shorter time frame.

11 MEMBER IMAMURA: All right, I guess I'll
12 fill in the inter-time there.

13 CHAIRPERSON POURCIAU: Yes.

14 MEMBER IMAMURA: So, first, not related to
15 this case, I saw Ms. Wilson take a drink of water
16 with S&B. That must have been a product plant
17 matching their new branding there.

18 I'm in agreement with Vice Chair Goldstein,
19 though. I think this could be a quick turnaround.
20 I don't see a reason why. But I do think what is
21 important here, though, Ms. Wilson, is just as a
22 matter of fact, to put in a correct shadow study
23 with the walls, the extension of the 11 feet for the
24 porches there or the decks. I think just as a
25 matter of accuracy more than anything.

1 I would like, it would be great if during
2 that time you could at least work through some
3 concerns with the neighbor.

4 I also am sympathetic that I think
5 September seems like a distance off there. But, in
6 general, I think as Vice Chair Goldstein had pointed
7 out, you've met the standard for relief here. And I
8 think it's just making sure that it would be
9 helpful, too, if the ANC had a report in the record,
10 too, for us to great weight and involve it.
11 Obviously, we have OP's report to give great weight
12 to.

13 So, I think just some reassurance would be
14 helpful. So, just a more accurate study and then
15 just to acknowledge that you've spoken with the
16 neighbor and to resolve maybe some things that could
17 easily be modified. I'd be, I'd be open to that.

18 It would be helpful, too, if the architect
19 could just maybe improve at least the materiality
20 for the rendering. That would be helpful at least
21 for me. And the dormers. At least more detail; I
22 think that would be helpful.

23 But, otherwise, I think that's where I
24 stand.

25 So, I'll yield back, Madam Chair.

1 CHAIRPERSON POURCIAU: Thank you.

2 VICE CHAIR GOLDSTEIN: I'm sorry. If I may
3 just jump in real quick.

4 I think I didn't see who all the
5 signatories were to the letters put in. It maybe
6 more than one neighbor we'd encourage you to reach
7 out to.

8 And you've reached out to the ANC, I'm
9 guessing, but you just haven't gotten any vote or
10 submission; is that right?

11 MS. WILSON: Correct. We've presented twice
12 and attended three times.

13 VICE CHAIR GOLDSTEIN: Okay.

14 MR. AKAN: And I do have a text message,
15 calls, you know, record of, you know, communication
16 with 712. And we tried numerous times to meet. No
17 response.

18 So, once I see a letter dated on 25th and
19 submission on 16, last day, you know, we'll try to
20 work, you know, work, work, work with them and do
21 our best. But I, you know, I don't see this as, you
22 know, a constructive discussion, at least, you know
23 --

24 MS. WILSON: We, we're happy to reach out.

25 MR. AKAN: Yes.

1 MS. WILSON: I was going to say we're going
2 to go back and update the shadow study.

3 And obviously I'll defer to the Board, but
4 given, given that we're pretty close, perhaps there
5 could even be a decision if it's a concern to add to
6 the Board's agenda.

7 So, again, we will reach out. We will
8 address all the comments that you've made. We'll
9 defer to the board on whether a decision will be
10 made.

11 CHAIRPERSON POURCIAU: is there a thought on
12 a decision from board members versus a continuance?

13 MEMBER IMAMURA: I'd be open to a decision
14 rather than a continued hearing. I'm comfortable
15 with that preferably, you know, within the next 30
16 days, 30 to 45 days, so.

17 And I guess I would also encourage the as
18 to please remain open. I think to suggest that it
19 wouldn't be constructive at this point already shuts
20 down the conversation. And so, that tells me that
21 there's no open communication there. And --

22 MR. AKAN: No, no, no. Maybe I was, I was
23 misunderstood. We're open to have the discussions.

24 We're not saying we're not going to have the
25 discussions. We're open to it.

1 But when we, you know, we, we tried. It's
2 just it's not that we -- I have --

3 MEMBER IMAMURA: I will, I think you should
4 probably just defer to counsel. All right?

5 MR. AKAN: Yeah. We'll do that.

6 VICE CHAIR GOLDSTEIN: Madam Chair, I guess
7 I, you know, if it's just set for decision, I don't
8 know if that makes it difficult. If any changes are
9 made to the plans I guess we have to reopen the
10 record potentially?

11 Maybe I'll ask Ms. Mehlert about that. But
12 I hear that maybe that is the best approach at this
13 point.

14 CHAIRPERSON POURCIAU: Madam Secretary, can
15 you answer that question, please?

16 MS. MEHLERT: Sure. I mean, it's up to the
17 Board, you know, if you close the record except
18 further requested documents. And then you get to
19 the decision meeting and there are questions, you
20 know, you'd have to reopen the record and then
21 schedule it, you know, for a hearing.

22 But if you think it's pretty
23 straightforward, then that's, that's your call.

24 MEMBER IMAMURA: So, if I may, Madam Chair.

25 Thank you, Secretary Mehlert.

1 I'm still comfortable with setting it for
2 decision. As Ms. Mehlert pointed out, that we can
3 still reopen the record, which actually places the
4 applicant in a position where they really do need to
5 work with the neighbor. And that, you know, if they
6 can actually document satisfactorily that they've,
7 you know, reached some sort of compromise or
8 agreement with the additional shadow study, then
9 certainly it would be ripe for action and the motion
10 for approval.

11 So, I think that would be the approach that
12 I would recommend the Board move forward with.

13 VICE CHAIR GOLDSTEIN: Yeah. Or explanation
14 of what does or doesn't change. I mean, I can't, I
15 don't want to, you know, presuppose what the outcome
16 is. But I agree with you, I think, I think that
17 that sounds like a good approach, given the amount
18 of, you know, the timing that we're trying to get
19 you all in before August. Try to get a decision.

20 We'd love to hear documented what the
21 conversations are.

22 Madam Secretary, I guess we can leave the
23 record open for the neighbors as well to put in
24 submissions? Is that? Or the ANC?

25 I'm not sure what we've done in other

1 cases.

2 MS. MEHLERT: So, you can, I think if the
3 ANC, you know, depending on the date or, you know,
4 or whatever the Board wants to do, but the ANC would
5 have a chance to respond regardless, supplemental
6 submissions or to enter a report.

7 If you wanted to also leave the record open
8 for submissions specifically from, from the
9 neighbors, you could do that as well. It would just
10 have to be specified what you're looking for.

11 VICE CHAIR GOLDSTEIN: I think it would make
12 sense to allow the neighbors to comment, if they so
13 desire. And we can come up with some dates for, I
14 guess, submissions. And the Office of Planning if,
15 if they feel it necessary based on what's submitted.

16 CHAIRPERSON POURCIAU: Okay. So, what I
17 would like to do at this time is to close this
18 discussion, move this to a decision meeting, have
19 the file remain open for revisions and additional
20 information -- revisions and/or additional
21 information from the applicant, from the neighbors,
22 especially those who have filed an opposition, and
23 to, hopefully, receive a report from the ANC.

24 And, Madam Secretary, can you tell us when
25 you would suggest that that decision meeting would

1 occur?

2 MS. MEHLERT: Sure. So, I would suggest
3 July 15th for a decision. So, and that's so you
4 could give the applicant two weeks to, until July
5 1st, to, if that works for them, to submit the
6 requested information regarding the shadow study,
7 plans, neighbor outreach.

8 And then on July 8th could be any
9 submissions from the neighbors, ANC, and OP.

10 And then come back on the 15th for a
11 decision.

12 CHAIRPERSON POURCIAU: Thank you.

13 Is the applicant and the board okay with
14 that schedule?

15 VICE CHAIR GOLDSTEIN: I'm good.

16 CHAIRPERSON POURCIAU: Thank you so much.

17 MR. AKAN: Yes, I'm okay with that.

18 CHAIRPERSON POURCIAU: Thank you.

19 MEMBER IMAMURA: Who says BZA isn't
20 exciting?

21 CHAIRPERSON POURCIAU: I think it's past
22 time for lunch now. What do you all think?

23 MEMBER IMAMURA: Happy to take a short
24 break.

25 CHAIRPERSON POURCIAU: You want a short

1 break? Okay.

2 So, let's do till, it's going to be a
3 little longer than short, but maybe till 2:15?

4 MEMBER IMAMURA: Sure.

5 CHAIRPERSON POURCIAU: All right. See you
6 back here then.

7 Thank you.

8 (Whereupon, the above-entitled matter went
9 off the record at 1:36 p.m. and resumed at 2:15
10 p.m.)

11 CHAIR POURCIAU: Welcome back. We will
12 resume the hearing and our next case number 21441.
13 Madam Secretary, would you please call the case?

14 MS. MEHLERT: The board is returning to its
15 hearing session. The next application is number
16 21441 of District Line Development, LLC. This is a
17 self-certified application pursuant to Subtitle X §
18 901.2 for a Special Exception under Subtitle U § 421
19 to allow a new residential development. This
20 project is for the creation of two additional
21 dwelling units in an existing four-unit apartment
22 house with a two-story rear addition to an existing
23 two-story semi-detached building.

24 It's location in the RA-1 zone at 318
25 Delafield Place NW (Square 3304, Lot 0058).

1 CHAIR POURCIAU: Thank you so much. I see
2 we have Mr. Williams. Would you like to present
3 the case, please. Your presentation, Mr. Williams.

4 MR. WILLIAMS: Yes, Madam Chair. I believe
5 I have two witnesses as well who need to come in as
6 panelists, Ryan Petyak and Matt Medvene. There they
7 are. Mr. Young, could you pull open our
8 presentation. Thank you, Mr. Young.

9 My name is Zack Williams. I'm a land lease
10 attorney with Venable representing the applicant in
11 this case for a new project at 318 Delafield Place,
12 NW. Next slide, please.

13 This is an application to expand an
14 existing apartment house in the RA-1 zone at 318
15 Delafield. Notably, the board heard an earlier
16 application of a very similar project just across
17 the street at 314 Delafield earlier this morning.
18 So, the same block, same area, essentially the same
19 project but less zoning relief that's being
20 requested in this case versus that one. Next slide,
21 please.

22 Here's an aerial map again just showing the
23 block, showing the area. As you can see, this block
24 is sort of uniformly improved with apartment houses
25 of similar size, type and age. This project fits

1 right in with all of the surrounding properties as
2 well. This is an apartment house block. Next
3 slide, please.

4 Here's the current conditions. As you can
5 see, for 318 Delafield Place, NW, from the front on
6 the left there and the rear on the right. Again,
7 just an existing two-story apartment house with four
8 units. The project proposal is that two additional
9 units and a very minor rear addition to the
10 building. Next slide, please.

11 Here's a survey, just again showing the lot
12 and how the existing footprint currently exists on
13 the lot. It is a single lot about 3,760 square feet
14 of land area. As I mentioned, it's zoned in the RA-
15 1 zone. It's a semi-detached apartment house with
16 four units. It does have access from the rear.
17 There's no parking currently approved on the site;
18 however, the applicant will be adding two parking
19 spots as part of this project. Next slide, please.

20 Here's a proposed site plan. As you can
21 see here, very minor change to the footprint of the
22 building. For the most part, everything is going to
23 stay as is. There is a very minor rear addition,
24 596 square feet total. We'll be adding two units
25 for a total of six and adding two parking spaces as

1 well at the rear. Next slide, please.

2 The relief requested is to add two
3 additional units pursuant to Subtitle U, § 421 to an
4 existing four-unit apartment house in the RA-1 zone.

5 Everything else about this project is permitted and
6 does not need further BZA relief. Next slide,
7 please.

8 Walking through the standards for special
9 exception that's applicable to this relief that's
10 request. First, the relief must be in harmony with
11 general purpose and intent of the zoning
12 regulations. Here in the RA-1 zone, this project is
13 in harmony with the RA-1 zone in that the RA-1 zone
14 provides for low to moderate density development
15 including detached dwellings, houses and low-rise
16 apartments just like the one that we are speaking
17 about today.

18 The proposed project as I mentioned will
19 meet all development standards as recalled in the
20 RA-1 zone. No further zoning relief is requested or
21 required. Next slide, please.

22 Finally, the Special Exceptions standard,
23 the second Special Exception general standard is
24 that the relief should not adversely affect
25 neighboring property in terms of light, air,

1 privacy. Here, other than a very minor rear
2 addition that I mentioned, the footprint remains
3 essentially the same, only two units will be added.

4 There will be very low impact to neighboring
5 properties. What we will be doing, however, is
6 adding two parking spaces; whereas none exist today.

7 Only one is required, we'll be adding two and that
8 should help to mitigate any potential impacts of the
9 additional units.

10 As already mentioned, apartment and multi-
11 family residential buildings are quite common in
12 this area and on this block in particular. Next
13 slide, please.

14 With respect to -- let's start with OP.
15 Office of Planning is in support of the application.

16 With respect to the ANC, we reached out -- I
17 reached out specifically on four occasions to the
18 ANC. This is ANC 4D. We never got a response. In
19 addition to my specific outreach asking to be placed
20 on the agenda or discuss the matter with the ANC, I
21 also contacted the ANC on multiple occasions; when
22 we filed the application and when we filed
23 supplemental documents as well as this week, when we
24 filed our presentation. We also sent in this week
25 some information about an existing tenant that is in

1 the building. There's one tenant in the building,
2 who will be moving to another building owned by this
3 same owner when this project is undertaken and has
4 already agreed to that. I provided that to the ANC
5 as well. I never heard back from the ANC which is
6 rare. This doesn't happen very often, but we did
7 make many attempts to reach out and asked if there
8 was any objection or any interest in discussing with
9 us. We made ourselves available and we never heard
10 back. I reached out to the full ANC, our specific
11 SMD commissioner as well as the chair.
12 Unfortunately, none of those attempted outreached
13 yielded any responses.

14 What we did do is we did door knock on our
15 neighboring neighbors' properties. The applicant
16 will talk little bit more about that. We didn't get
17 any objection, no objections were received. No
18 issues arose. As I already mentioned, these are all
19 apartment houses surrounding the project, so there
20 really doesn't seem to be much concern or interest
21 with this very minor addition. I can only assume
22 that's the case for the ANC too, although I can't
23 say either way because they just didn't respond.

24 We did have the benefit of a couple of
25 months of delay here given just the lack of a quorum

1 and this project was delayed, I believe twice. So,
2 we had even a little extra time and even with the
3 extra time, we didn't hear from the ANC
4 unfortunately.

5 We're here today without any objection in
6 the record and with support from OP and so we're
7 hoping for your support and approving this relief.
8 We're available for any questions that the board may
9 have. Thank you.

10 CHAIR POURCIAU: Thank you. Any questions
11 from the board? Mr. Goldstein?

12 MR. GOLDSTEIN: Just one question because
13 it came up in the earlier case. I think I saw a
14 reference in the Office of Planning report but what
15 is your intent with trash from the building and
16 screening?

17 MR. WILLIAMS: Mr. Petyak, do you want to
18 take that one?

19 MR. PETYAK: Yeah, thanks. The drawings
20 currently call out for trash enclosures adjacent to
21 the parking spaces at the rear if you can find that
22 on the site plan. We're proposing a six foot tall
23 slider wood fence both along the property line and
24 perpendicular along the alley lot line, so that we
25 also conform with the openness requirement

1 associated with zoning for parking.

2 MR. GOLDSTEIN: Okay, I didn't see it on
3 the site plan but I don't know that I've thoroughly
4 looked.

5 MR. PETYAK: If you can pull that slide
6 back up, I can point you in that direction
7 certainly.

8 MR. GOLDSTEIN: That's great.

9 MR. PETYAK: Top right corner of the site
10 plan proposed. Do you see the bins there on the
11 right? The two parking spaces --

12 MR. GOLDSTEIN: Oh, got it.

13 MR. PETYAK: Adjacent to the left.

14 MR. GOLDSTEIN: Okay. Thank you very much.

15 I don't think I have any other questions at this
16 time.

17 CHAIR POURCIAU: I forgot to mention that
18 the tenant relocation letter was a late addition to
19 the file and we should enter that into the case
20 record, please. Mr. Imamura, do you have any
21 comments, questions?

22 MR. IMAMURA: No comments or questions.
23 Thank you, Chair Pourciau. I think this is pretty
24 straightforward.

25 CHAIR POURCIAU: Very good. I think we

1 have Office of Planning. Mr. Mitchum, yes.

2 MR. MITCHUM: Yes, good afternoon, Madam
3 Chair and members of the board. Again, my name is
4 Josh Mitchum with the Office of Planning. I'm
5 filling in for my colleague, Phil Bradford, for this
6 application. Office of Planning recommends approval
7 of the application and we are resting on our report
8 in the record. I'm available for any questions.
9 Thank you.

10 CHAIR POURCIAU: Thank you. Any questions
11 for Mr. Mitchum from the board, please? No? Does
12 the applicant have any questions for the Office of
13 Planning?

14 MR. WILLIAMS: No questions, thank you.

15 CHAIR POURCIAU: Thank you. At this point,
16 I believe we do not have any others that are signed
17 up to testify. I'll just go down the list. No
18 other agencies, no DDOT or other agencies? The ANC
19 has not submitted or come forward to testify on this
20 case. There are no parties that have signed up in
21 support or opposition and no individuals are signed
22 up to testify. Does the applicant want to provide
23 any closing remarks at this point?

24 MR. WILLIAMS: Nothing further, Madam
25 Chair.

1 CHAIR POURCIAU: Okay, hearing nothing
2 further, I believe the board -- I think we can close
3 this hearing for the record, so that the board can
4 deliberate and discuss the case. Thank you very
5 much for your application.

6 MR. WILLIAMS: Thank you.

7 CHAIR POURCIAU: Anything else you want to
8 talk about or would someone like to make a motion?

9 MR. GOLDSTEIN: I can make the motion
10 unless -- hearing no one wanting to jump in, I would
11 make a motion to approve Application Number 21441
12 District Line Development, LLC. at 318 Delafield
13 Place, NW for the relief as captioned and read by
14 the Secretary.

15 MR. IMAMURA: Second.

16 CHAIR POURCIAU: Madam Secretary, we're
17 ready to vote.

18 MS. MEHLERT: Please respond to the vice
19 chair's motion to approve the application. Chair
20 Pourciau?

21 CHAIR POURCIAU: Yes.

22 MS. MEHLERT: Vice Chair Goldstein?

23 MR. GOLDSTEIN: Yes.

24 MS. MEHLERT: Dr. Imamura?

25 MR. IMAMURA: Yes.

1 MS. MEHLERT: Staff would record the vote
2 as 3-0-2 to approve Application Number 21441 on the
3 motion made by Vice Chair Goldstein and seconded by
4 Dr. Imamura.

5 CHAIR POURCIAU: Thank you. See, we just
6 needed a little lunch break. We're ready to move to
7 the next case, number 21447, Madam Secretary.

8 MS. MEHLERT: Next is Application Number
9 21447 of Christopher Boehmler. This is a self-
10 certified application pursuant to Subtitle X, §
11 901.2 for a Special Exception under Subtitle E, §
12 5201 from the Lot Occupancy Requirements of Subtitle
13 E, § 210.1. This is for a two-story rear addition
14 with one story portion eliminating existing court to
15 an existing two-story attached principal dwelling
16 with an existing one-story accessory building in the
17 rear yard.

18 This project is located in the RF-1 zone at
19 1350 East Capitol Street NE (Square 1035, Lot 87).

20 CHAIR POURCIAU: Thank you. I think I see
21 we have the applicant before us. Mr. Boyette, do
22 you have a presentation or would you like to give us
23 some remark about your application? He was there
24 and now he's gone.

25 MR. GOLDSTEIN: I hope he's not driving

1 currently. I hope he can confirm that for us.

2 CHAIR POURCIAU: Yes. Mr. Boyette, are you
3 there? I don't think there is anyone else for the
4 applicant. No, the agent is Mr. Boyette. We have
5 Mr. Mitchum again from OP. Mr. Young, do you know
6 if there's any technical difficulty with Mr.
7 Boyette?

8 MR. YOUNG: It seems like he probably is
9 having some, but it looks like he might have tried
10 to log back on. I would give him a minute.

11 CHAIR POURCIAU: Okay, very good. Thank
12 you.

13 MR. BOYETTE: I'm here.

14 CHAIR POURCIAU: Thank you.

15 MR. BOYETTE: My apologies. This was not
16 my original hearing date, but this is a travel day
17 for me so I'm doing this from my cell phone and I've
18 been on all morning and, of course, it kicked me off
19 just as I hit unmute.

20 CHAIR POURCIAU: That's okay. We
21 understand.

22 MR. BOYETTE: Happy to be here.

23 MR. GOLDSTEIN: You have pulled over,
24 haven't you? Just to check.

25 (Simultaneous speaking.)

1 MR. BOYETTE: Yes.

2 MR. GOLDSTEIN: Okay, thank you.

3 MR. BOYETTE: I wasn't even driving, but
4 the cell service is so tough that I'm stationary now
5 and if anything happens, I rest on the record.

6 CHAIR POURCIAU: Okay. Did you want to
7 present your case at this point?

8 MR. BOYETTE: Yes, thank you. I sent in a
9 slide deck. My name is Joe Boyette. I'm an
10 architect at Old City Design Studio. This project,
11 1350 East Capitol Street, NE, is a single family
12 attached home built in 1919. The current owner
13 purchased the property and fully renovated it in
14 2008. This proposal is for a two-story plus area way
15 addition along the western (audio interference).

16 MR. IMAMURA: Madam Chair, you're on mute.

17 CHAIR POURCIAU: Thank you. I was talking
18 away, talking fast. I'd just like to say for the
19 record that I don't see that any others are signed
20 up to testify. There's no one from DDOT or other
21 District agencies. The ANC is not signed up. Were
22 there ANC comments in this package for this one?
23 But they're not here to testify? No parties are
24 signed up to be in support or opposition or
25 individuals. Are there any concluding remarks you

1 would like to make, Mr. Boyette?

2 MR. BOYETTE: Thank you, I just want to
3 make clear that the ANC did send a letter of
4 support. With that, I just thank everyone for your
5 time today. Appreciate it.

6 CHAIR POURCIAU: Thank you. Does anybody
7 have any concluding questions for the applicant?

8 MR. IMAMURA: It's going to be a lovely
9 kitchen.

10 CHAIR POURCIAU: Thank you.

11 MR. GOLDSTEIN: I think the record is full.
12 Thank you very much.

13 CHAIR POURCIAU: Very good. With that, I'd
14 like to close the hearing and the record. Witnesses
15 can be excused. We will deliberate on this case.
16 All right. Board members, is there any further
17 discussion or is there a motion on this application?

18 MR. GOLDSTEIN: Happy to make a motion if
19 you all are comfortable with that approach. I would
20 move to approve Application Number 21447 at 1350
21 East Capitol Street, NE, for the relief as captioned
22 and read by the Secretary.

23 CHAIR POURCIAU: I'll second. We're ready
24 to vote, I believe, Madam Secretary. Would you call
25 the vote?

1 MS. MEHLERT: Please respond to the vice
2 chair's motion to approve the application. Chair
3 Pourciau?

4 CHAIR POURCIAU: Yes.

5 MS. MEHLERT: Vice Chair Goldstein?

6 MR. GOLDSTEIN: Yes.

7 MS. MEHLERT: Dr. Imamura?

8 MR. IMAMURA: Yes.

9 MS. MEHLERT: Staff would record the vote
10 as 3-0-2 to approve Application Number 21447 on the
11 motion made by Vice Chair Goldstein and seconded by
12 Chair Pourciau.

13 CHAIR POURCIAU: Thank you. I believe
14 we're ready to move to our last case. Number 21438.
15 Madam Secretary, would you introduce the case for
16 the record?

17 MS. MEHLERT: Yes. Next is Application
18 Number 21438 of Emerald Wings, LLC. This is a self-
19 certified applicant pursuant to Subtitle X § 901.2
20 for Special Exceptions under Subtitle U, §
21 513.1(e) to allow a new fast food establishment and
22 from the refuse dumpster requirements of Subtitle E,
23 § 513.1(e)(2). This is for a new fast food
24 establishment on the first floor of an existing
25 three-story attached building. It's located in MU-

1 4/CHC zone at 406 8th Street, SE (Square 925, Lot
2 827).

3 As a preliminary matter, there is a request
4 for party status in support with conditions filed on
5 May 22nd by Linda Elliott and a group about nine
6 neighbors, which is in Exhibit 27. This request was
7 also accompanied by a request to waive the party
8 status filing deadline. That's preliminarily before
9 the board.

10 CHAIR POURCIAU: All right and should we
11 take up the party status matter first?

12 MS. MEHLERT: Yes and I'll also note
13 there's a letter in opposition that was filed late
14 that is not yet in the record if you would like to
15 add that.

16 CHAIR POURCIAU: Okay, yes, that as well.
17 We have to vote on party status, is that correct?

18 MS. MEHLERT: Yes.

19 CHAIR POURCIAU: Okay. So, there has a
20 request for party status. There are five people
21 that have signed up for party status. I hope that
22 there will be a lead person on that list as I'd like
23 to make a motion that we accept party status for
24 this application.

25 MR. GOLDSTEIN: Thank you, Madam Chair.

1 I'm just wondering who are the parties here and are
2 they collectively -- is one person collectively
3 representing the folks here? If you don't mind,
4 Madam Chair, if we just ask the individual raising
5 her hand at the moment for an explanation.

6 CHAIR POURCIAU: Yes. Ms. Elliott?

7 MS. ELLIOTT: Yes.

8 CHAIR POURCIAU: Would you like to speak to
9 that?

10 MS. ELLIOTT: Yes, thank you, Madam Chair.

11 We actually had a group of 10 property owners who
12 were applying for party status. They include both
13 commercial property owners and residential property
14 owners. We have -- because of various people's
15 travel and work schedules, we have five of us who
16 are on today representing the other five. I'm going
17 to speak for the most part and then I have two other
18 resident who, if you're interested in certain topic
19 areas on the substance, this is not the party
20 status, but the substance, then they are available
21 to speak to that as well. I can introduce those
22 individuals if you'd like or --

23 MR. GOLDSTEIN: I'm just trying to
24 understand would we be collectively looking at you
25 all as one party with you the lead and others maybe

1 being able to interject or is the group each wanting
2 to be a party onto themselves?

3 MS. ELLIOTT: No, we applied as a single
4 party, but the 10 people who are applying are
5 representative of the neighbors on Square 902 and
6 925, 902 is directly across from where the applicant
7 would like to come in. That larger group of
8 neighbors also submitted a petition that is Exhibit
9 38, but the party, that's the group that was seeking
10 party status, is actually 10 of us. We're applying
11 as a single group and we have -- I'm speaking for
12 the party and then substantively, I would speak
13 briefly and two other individuals would speak.

14 We're individuals who have been involved in
15 what has been a long project on Square 902 having to
16 do with the 400 Block of 8th Street, a very
17 collaborative project with the commercial neighbors,
18 who are also part of this proposed party status
19 group of 10.

20 CHAIR POURCIAU: Thank you. With that, I'd
21 like to move that we accept the party as a part of
22 the hearing today. Is there a second?

23 MR. GOLDSTEIN: Second.

24 CHAIR POURCIAU: Madam Secretary, do we
25 need to vote on that, Madam Secretary?

1 MS. MEHLERT: Yes, I'll take a roll call.
2 Please respond to the chair's motion to grant party
3 status in support. Chair Pourciau?

4 CHAIR POURCIAU: Yes.

5 MS. MEHLERT: Vice Chair Goldstein?

6 MR. GOLDSTEIN: Yes.

7 MS. MEHLERT: And, Dr. Imamura?

8 MR. IMAMURA: Yes.

9 MS. MEHLERT: The motion passes.

10 CHAIR POURCIAU: Thank you. With that, I
11 think we're ready to move to applicant to hear your
12 presentation. Is that Mr. Turner?

13 MS. BATTIES: That's me, Leila Batties.
14 Can you guys hear me?

15 CHAIR POURCIAU: Yes, Ms. Batties, thank
16 you very much.

17 MS. BATTIES: Good afternoon and I want to
18 say, Madam Chair and to Paul, congratulations on
19 your new role as members of the BZA. I would say
20 also as a District resident, thank you for your
21 service.

22 For the record, Leila Batties and I'm
23 joined by my colleague, Madeleine Williams with
24 Holland and Knight on behalf of the applicant,
25 Emerald Wings, LLC. Saad Uzman (phonetic) and

1 Jennifer Francis of Emerald Wings are present at
2 today's hearing as is Drew Turner with Douglas
3 Development which owns the subject property at 406
4 8th Street.

5 Mr. Young, if you can pull up the
6 presentation, please and you can go to slide two,
7 please. Thank you.

8 The property is located on the east side of
9 8th Street, SE, near the intersection with
10 Pennsylvania Avenue. What's not depicted on this
11 photo are the other uses on this section of the 8th
12 Street corridor. They're important for context
13 because directly across the street on the west side
14 of 8th Street, in particular, there are a number of
15 fast food establishments -- Chipotle, Popeyes, Taco
16 Bell and &Pizza. Next slide, please.

17 The applicant is seeking special exception
18 relief to permit a fast food restaurant in the MU-4
19 Capitol Hill commercial zone as well as relief from
20 the refuse dumpster requirements in order to permit
21 a Wingstop restaurant on the site. Next slide,
22 please.

23 I just want to note that all of the
24 relevant agencies have reviewed the application and
25 have no objection to the approval of the

1 application. I'm especially pleased that we were
2 able to coordinate a meeting where we brought the
3 fire department, DDOT and the Department of For Hire
4 Vehicles together directly to discuss how the
5 proposed traffic improvements proposed by DDOT will
6 address a lot of the fire department's primary
7 concerns about parking and traffic on 8th Street.
8 That meeting occurred after the fire department
9 raised some initial concerns about the application.

10 The applicant has agreed to continue engaging with
11 all of the agencies, particularly as it relates to
12 traffic safety throughout the operation of the
13 Wingstop. Next slide, please.

14 I'm sure as you've read through the record
15 and as Ms. Elliott mentioned in her remarks, there
16 was a significant amount of community engagement
17 between the applicant, the ANC and other
18 neighborhood stakeholders as part of this process.
19 On behalf of the applicant, I would say we really
20 appreciate the thoughtful impact statements by the
21 10 residents and neighbors at Exhibit 35 of the
22 record, as well as the petition filed by the
23 neighborhood stakeholders at Exhibit 38 of the
24 record.

25 The applicant acknowledges their concerns

1 about rodents and odors in particular that are
2 generated by fast food establishments and we
3 acknowledge that they've experienced improvements
4 with the mitigation measures imposed on the other
5 fast food establishments on this section of 8th
6 Street. Similarly, the applicant has agreed to
7 several conditions related to the operation of the
8 proposed Wingstop, which they would like included in
9 the BZA order approving the application. Next
10 slide, please.

11 This slide and the next slide just
12 summarize the conditions that are written out in
13 full text in the Memorandum of Agreement that's at
14 Exhibit 32A of the record. I don't want to read
15 everything on the screen, but we have limited the
16 time line for the approval. We've limited our hours
17 of operation, this was a major concern or point of
18 discussion with the community. We will operate
19 until midnight only during the week and then until
20 2:00 a.m. on Friday and Saturday, but limiting that
21 last hour to mobile and online orders only.

22 We've moved -- so we requested special
23 exception relief as it relates to trash receptacles
24 but in this case we have moved the storage of trash
25 and recycling on site in an enclosed refrigerated

1 areas to address concerns about rodents. You can go
2 to the next slide, please.

3 I just want to highlight some of the
4 important things. On this slide, the most important
5 thing is the installation of a pollution control
6 unit. That was also a major discussion point with
7 the neighbors. The applicant has agreed to install
8 a pollution control unit that will mitigate the
9 impact from the odor caused by the operation of the
10 Wingstop.

11 We want to reiterate that we ask since all
12 of these conditions directly relate to the operation
13 and use of the Wingstop and the fast food
14 establishment, we ask that they be placed in the BZA
15 order if the approves the application. Next slide,
16 please.

17 This is just the general special exception
18 criteria and we can actually move to the next slide,
19 slide nine. I want to focus on the third criteria
20 and that is there are certain special criteria
21 conditions that have to be satisfied in connection
22 with the fast food establishment under Subtitle U
23 513.1(e). I want to just walk through quickly how
24 we satisfy those special criteria. Next slide,
25 please.

1 The first is that these be a single tenant
2 or if the use is of a single tenant on a detached
3 building. This criteria is actually not applicable
4 because we are an attached three-story building.
5 So, we can move onto the next slide.

6 We are seeking for the second item at the
7 top of the slide is the requirement for the refuse
8 dumpster which we are seeking special exception
9 relief from. The third criteria is that the
10 restaurant does not include a drive through which we
11 do not. Next slide, please.

12 The next special criteria is that the use
13 not be objectionable because of noise, sound, odor,
14 lights, etc. and all of these potential adverse
15 impacts have been addressed in the Memorandum of
16 Agreement that has been entered into between the
17 applicant and the ANC. We feel they are
18 appropriately addressed. The next criteria relates
19 to parking, but that does not apply to us because
20 the restaurant will have below the 3,000 square foot
21 threshold for parking requirements. Next slide,
22 please.

23 The top criteria relates to objectionable
24 traffic conditions. This has been addressed
25 primarily through two factors. One, DDOT is already

1 in the process of installing a number of traffic
2 improvements along this section of the 8th Street
3 corridor, which will address a lot of the fire
4 department's concerns about access, ingress and
5 egress for the fire station and vehicles stopping or
6 blocking the entrance to the fire station.

7 Again, as I mentioned at the top of this
8 presentation, we did have a meeting with all of the
9 relevant agencies to address this specific issue and
10 from that meeting, the fire department removed its
11 objection to the application. The other thing the
12 applicant has agreed to do is to on their app
13 instruct the drivers to adhere to signage and
14 parking restrictions, particularly as it relates to
15 the fire station, parking in front of the fire
16 station.

17 Finally, the last criteria is that the
18 board can impose conditions to mitigate potential
19 impacts and consistent with that criteria we ask the
20 board again to include conditions one through 10 of
21 the Memorandum of Agreement. Next slide, please.

22 This last slide just relates to the special
23 exception relief for the refuse dumpster and again
24 we are providing the condition that's even more
25 favorable than what's required under the regulations

1 because the applicant has agreed to store trash and
2 recycling on site in refrigerated areas and that is
3 to address the concerns about rodents primarily. We
4 believe that all of the criteria as it relates to
5 the dumpster specifically have been met with the
6 arrangement under the Memorandum of Agreement and
7 then we believe, in general, the applicant has met
8 all of the relevant criteria by mitigating the
9 proposed impacts through the conditions under the
10 Memorandum of Agreement.

11 With that, we will conclude our
12 presentation. Of course, we're available to answer
13 any questions that you may have. Thank you.

14 CHAIR POURCIAU: Thank you, Ms. Batties.
15 That was pretty clear. I know that the board has
16 some questions. Mr. Goldstein, would you like to
17 ask your questions first?

18 MR. GOLDSTEIN: Sure, I'll lead off. Thank
19 you that was a very helpful presentation. You
20 covered a lot of ground there pretty quickly, so
21 that you very much for that. I do want to just
22 start by applauding the tremendous amount of
23 engagement that's gone on between the applicant,
24 stakeholders, the ANC. It sounds like it took a lot
25 of effort by a lot of parties here and really

1 applaud for that. I think that's tremendous going
2 forward.

3 I do have a question. I have all sorts of
4 questions about dumpsters and I kind of want to
5 start with my reading of the regulation is that
6 relief from that dumpster requirement would have to
7 be an area variance, not a special exception, but I
8 can't tell if it really even applies to your case
9 because you're not providing a dumpster. I don't
10 know if the -- I'd like to hear a little bit about
11 what you are providing. You kind of mentioned it a
12 bit, but it looks like maybe that relief isn't
13 needed. If it is needed, I'd be concerned that it
14 would be a variance rather than a special exception
15 to the E(2) subsection.

16 MS. BATTIES: We can look into whether it's
17 a special exception or area variance, but you're
18 right. We are not providing a dumpster. That is
19 housed with the criteria listed in 513.1(e)(2). Mr.
20 Young, if you can pull up slide, it would be what is
21 Exhibit 1 at the back of our slide deck. Right
22 there, if you can blow that up a little bit. Mr.
23 Goldstein, if you see on the top right corner, it's
24 marked refrigerated -- I can't even see on this
25 thing, refrigerated trash enclosure shown for

1 reference. That is right now, it's like a small
2 courtyard on the property, but direct access from
3 the inside of the building. That will be built out
4 as a refrigerated area, enclosed area, where all of
5 the trash will be stored.

6 We're not providing a dumpster as required
7 in Subtitle U, 513.1(e)(2), but we are providing a
8 trash storage area within the building.

9 MR. GOLDSTEIN: I'm sorry, when you say
10 within the building, it's an open courtyard. Is
11 that right?

12 MS. BATTIES: It's a courtyard. Yeah, it's
13 an open courtyard, open to the sky. I don't know,
14 Jen, if you can raise Jen Francis from Wingstop. I
15 just want to confirm if it's going to remain open to
16 the sky.

17 MS. FRANCIS: Yes, so it will remain open
18 to the sky, but it is enclosed all around, so
19 there's no public access. No way to get into it
20 except for through our space. We are building a
21 platform that will go above it, that will help to
22 house that pollution control unit, but it will
23 remain open.

24 MR. GOLDSTEIN: Okay and I think that
25 sounds great for pollution control, odor control,

1 rats. I can see a lot of benefit. When it's
2 garbage day, where does it go?

3 MS. FRANCIS: Sure, our trash company has
4 agreed to come in and take the trash out after
5 hours, so then they would be taking it out through
6 the front.

7 MR. GOLDSTEIN: Okay, so they would
8 actually go to this refrigerated unit, take the
9 trash out directly.

10 MS. FRANCIS: Correct.

11 MR. GOLDSTEIN: It's not a dumpster, but
12 it's something better than a dumpster. Is that kind
13 of --

14 MS. BATTIES: Yes, that's exactly the best
15 way to describe it. It's a trash storage area
16 within the -- so, it's not a dumpster, but it's a
17 private trash storage area, like Jen said, not
18 accessible to the public.

19 MR. GOLDSTEIN: Ms. Elliott, we'll get to
20 you and you'll have your chance. Thank you. Would
21 you argue then that under the criteria that this
22 would -- it kind of asks about any dumpster needs
23 to meet certain conditions. Your argument would be
24 then that this is not a dumpster, so that regulation
25 does not apply. Is that correct?

1 MS. BATTIES: Yes, that would be an
2 appropriate analysis.

3 MR. GOLDSTEIN: Just to ask, just because I
4 haven't -- maybe this set up is very common and I
5 just don't know, is this considered like a building
6 or a structure? Does that itself need some kind of
7 zoning compliance review? I just don't know and so
8 I was just curious.

9 MS. BATTIES: I'm sorry, Mr. Goldstein,
10 which part? Is it -- well, it's like a courtyard
11 within the building, so it's a port area within the
12 building.

13 MR. GOLDSTEIN: Does it count toward lot
14 occupancy?

15 MS. BATTIES: Does it count for lot
16 occupancy? I would have to do that calculation. I
17 don't even know if that's an issue on the site.

18 MR. IMAMURA: Leila, I think the question
19 as far as the structure itself, it is a cooler,
20 prefabricated cooler that is built on site that is
21 panelized no different than a walk in cooler. Is
22 that right, Jen?

23 MS. FRANCIS: Correct.

24 MR. IMAMURA: That's correct, right?

25 MS. FRANCIS: Yeah, it's a walk in cooler

1 built for exterior.

2 MR. GOLDSTEIN: Okay. I just haven't
3 evaluated something like that in the past and just
4 flagging it if at permitting they may have questions
5 for you about --

6 MS. BATTIES: I will say this, Mr.
7 Goldstein, and I'm so tempted to call you Paul
8 because I worked with you in another capacity, but
9 they were in permitting already and actually had
10 everything approved except zoning because it's a
11 fast food establishment. So, it's the use that
12 we're seeking approval for really at this point.
13 Everything else about the building design was
14 approved.

15 MR. GOLDSTEIN: Okay, but it is self-
16 certifiable?

17 (Simultaneous speaking.)

18 MR. GOLDSTEIN: Is that correct? It's not
19 a referral from DOB?

20 MS. BATTIES: Well not, it became a
21 referral from DOB because they weren't able to get
22 the zoning settled.

23 MR. GOLDSTEIN: Okay, but you are self-
24 certifying the needed relief, is that correct?

25 MS. BATTIES: Yes. Yes, that's correct.

1 MR. GOLDSTEIN: Yes? And thank you, Ms.
2 Batties, just to get on the record, we've certainly
3 worked together as a regulator and an applicant in
4 the past in my regulatory capacity, so terrific to
5 see you again.

6 MS. BATTIES: Yes it is.

7 MR. GOLDSTEIN: I think -- I'm trying to
8 think. I had maybe another question. I think I'd
9 like to go through the conditions a bit, but I want
10 to see first if any other board members have any
11 questions they'd like to ask.

12 MR. IMAMURA: If the chair allows, I'll
13 jump in. Good to see you, Ms. Batties. It's not a
14 dumpster, it's better than a dumpster. I think
15 that's the phrase today. That's going to be one for
16 the books. Thank you, Mr. Turner, for jumping in.
17 It appears pretty logical to me that this is a pre-
18 fab unit. Then I took a closer look at the plans
19 and it looks like it will be operable and cooling as
20 a matter of fact. So, it's not just going to be
21 this pre-fab unit that's collecting heat with trash
22 inside. I think it's a pretty effective solution,
23 but again it's not a dumpster, it's better than a
24 dumpster and I'm sticking with that.

25 Madam Chair, I yield back.

1 CHAIR POURCIAU: Vice Chair Goldstein,
2 would you like to continue?

3 MR. GOLDSTEIN: Yeah, that'd be great. I
4 see these 10 conditions which I'm really happy to
5 see the amount of effort and work that's gone into
6 it. I think they all, as you've kind of suggested,
7 relate to the impacts of the relief, except for
8 number nine. I wanted to ask you about number nine.

9 I can let you kind of move to it. It's really
10 about a design flexibility which I've seen that more
11 in the context of zoning commission case and not as
12 much in BZA cases.

13 I wanted to ask you about the inclusion of
14 that condition, which seems a little outside of just
15 mitigating impacts.

16 MS. BATTIES: Yes, so one of the -- like
17 two really important parts of our discussion with
18 the neighbors was the installation of the pollution
19 control unit and this enclosed not a dumpster,
20 trash enclosure, storage, whatever. As we went
21 through the process, it required a lot of study well
22 into the process, like leading up to the hearing
23 date and so the applicant's design team has been
24 working on plans and studies to make sure that the
25 pollution control unit and the storage enclosure can

1 be accommodated.

2 Those plans are not final. The conceptual
3 architectural plans, which have been attached to the
4 Memorandum of Agreement, but they're not permit
5 drawing plans. So, we recognize that they still
6 have to be fully -- they have to be finalized for
7 permitting. This building is a contributing
8 structure in the Capitol Hill Historic District so
9 they will be reviewed by Historic Preservation.
10 There may be tweaks in the permitting process that
11 are required, that will require some minor
12 alterations to the plans that we've attached to the
13 Memorandum of Agreement and the community wanted to
14 give the applicant that flexibility so long as the
15 ultimate plans are consistent with the intent of
16 the conditions.

17 MR. GOLDSTEIN: And nothing here is
18 intended to suggest that a change that triggered
19 additional zoning relief would somehow be allowed.
20 That everything is within the frame work of a solely
21 -- the plan is solely approved for the relief as
22 requested here. Is that right?

23 MS. BATTIES: That is correct, Mr.
24 Goldstein, and I'll note that quite frankly while
25 they relate to the impacts, but the PCU is not a

1 zoning issue per se, in that again, they could get
2 sign off with just the approval of the use, but we
3 understand that the PCU as well as the trash
4 enclosure are important for mitigating impacts.

5 The building footprint cannot be expanded
6 so there's nothing there that will trigger any other
7 zoning issues.

8 MR. GOLDSTEIN: Okay. Thank you.

9 CHAIR POURCIAU: Thank you. Are there any
10 cross examination questions from Office of Planning?

11 You'll be speaking next, Mr. Beamon. Or from the
12 party, Ms. Elliott, would you like to ask any
13 questions of the applicant at this time?

14 MS. ELLIOTT: I don't. There will be some
15 information we'd like to provide relevant to the
16 questions that were asked of the applicant, but they
17 are not inconsistent with what the applicant has
18 said. They're just a little bit of further
19 elaboration.

20 CHAIR POURCIAU: Very good. We'll move to
21 Mr. Beamon now. Can we hear the report from the
22 Office of Planning?

23 MR. BEAMON: Yes. Good afternoon, board
24 members. For the record, Shepard Beamon with the
25 Office of Planning. OP has reviewed the application

1 for special exception to allow a fast food
2 establishment with the relief from the dumpster
3 requirements as well as some design flexibility as
4 needed and finds that the request has met the
5 criteria for Subtitles U and X. There's no
6 objection from DDOT or the Office of the Fire
7 Marshal. Therefore, OP recommends approval with the
8 conditions proposed by the applicant for a term
9 limit of 10 years. With that, I will conclude OP's
10 testimony.

11 CHAIR POURCIAU: Thank you, Mr. Beamon.
12 Any questions, Mr. Goldstein or Mr. Imamura?

13 MR. IMAMURA: I do, but I'll defer to Vice
14 Chair Goldstein first.

15 MR. GOLDSTEIN: Actually, if you don't mind
16 going first, I'd appreciate it.

17 MR. IMAMURA: Sure, mine's very quick. Mr.
18 Beamon, would you agree that it's not a dumpster,
19 but better than a dumpster?

20 MR. BEAMON: I would agree it's not a
21 dumpster.

22 MR. IMAMURA: All right, thank you, sir.

23 MR. GOLDSTEIN: Actually, I don't think I
24 have any questions for the Office of Planning.

25 Thank you.

1 CHAIR POURCIAU: Ms. Elliott, does the
2 party have any questions for the Office of Planning?

3 MS. ELLIOTT: No. Thank you.

4 CHAIR POURCIAU: Okay. With that, I think
5 there's no one signed up to speak from any other
6 District agencies. The ANC, I believe, is not here
7 to speak, so we'll move to party status. The party
8 in support as represented by Ms. Elliott. Would you
9 like to present your testimony at this time?

10 MS. ELLIOTT: I would, thank you, Chair.
11 First of all, the party status group would like to
12 thank the applicant and ANC 6B for what has been a
13 very involved and long and very thoughtful
14 negotiation over appropriate conditions. I also
15 want to note that here to present, there are two
16 people in addition to me, who may present some
17 additional information.

18 One of them is Miles Hamilton, who is a
19 commercial property owner and a business owner. He
20 and his partner bought Hill's Kitchen, which is
21 something of a true landmark on Capitol Hill. He
22 will speak briefly to the necessity of the
23 conditions that the applicant has asked for and the
24 neighbors and ANC are making conditional their
25 support that those conditions be incorporated into

1 any order granting a fast food exception. He's
2 going to speak to the perspective of a newer
3 commercial business owner and property owner.

4 Then Ritu Upadhyay will speak briefly if it
5 would be helpful to the board to the impact of the
6 increased concentration of fast foods in the 400
7 block of 8th Street over two decades plus. That
8 impact -- and it's sort of a complicated eco system
9 on our mixed use blocks, 901 and 925. They abut
10 each other and Square 902 has fast foods and
11 restaurants in general that have increased on the
12 400 block of 8th Street. Residential properties
13 have increased, not so much the properties but the
14 density on the properties. We have, as a group of
15 neighbors, which now has picked up almost all of the
16 commercial property owners in Square 902, all of the
17 residential property owners and many of the
18 businesses. Over the last two decades, we've
19 experimented with how to resolve the inconsistencies
20 in those two uses and end up with a pleasant,
21 healthy mixed use block that is pleasant and healthy
22 not just for residential neighbors, but non-business
23 use commercial properties and businesses as well as
24 the food uses that have become more concentrated.

25 As a result of that --

1 (Simultaneous speaking.)

2 CHAIR POURCIAU: Ms. Elliott, I'm going to
3 interrupt you for just one quick second.

4 MS. ELLIOTT: Sure.

5 CHAIR POURCIAU: I see the clock hasn't
6 started, but we would like to allot you 15 minutes
7 for your overall presentation. Mr. Young, would you
8 make sure the clock is running? Thank you so much.
9 Thank you, Ms. Elliott. Sorry about that.

10 MS. ELLIOTT: Thank you. Okay. This is
11 what I'm providing you with, it's just an overview
12 of the history of the evolution of what is really a
13 collaborative process and model into which as
14 national chains or regional chains come to our
15 block, we've kind of introduced them to these goals
16 of our mixed use block. We have incorporated
17 educating them as to why they're important and
18 incorporated them into it. Wingstop has become
19 fully enmeshed in understanding the purposes of
20 these conditions and why so many property owners on
21 both Square 902 and Square 925 care deeply about
22 these.

23 One more overall comment and then I'll turn
24 it over to Miles. There are two things over the
25 course of really since 2010, we have experimented

1 and I mean the residential neighbors and the
2 businesses and property owners, have experimented
3 with different solutions to what was an extremely
4 high rodent population on our two squares and very
5 difficult odors that invaded our homes, were often
6 in our gardens. We couldn't open our windows. We
7 sometimes got the smell of various cooking odors
8 through our dryer vents, for example.

9 After more than two decades of
10 experimenting, we have found conditions that work
11 and those -- they are always when we negotiate them.

12 They are menu specific and site specific, so
13 they're not cookie cutter solutions. They are ones
14 that we work with applicants and property owners to
15 adapt to their specific site conditions and their
16 specific menus. We have found that they resulted
17 in a great dampening of the rat population, some
18 dampening, although we have one problem fast food
19 that's accepted or grand fathered out of the fast
20 food exception that is still an issue and have
21 eliminated mechanical noise issues pretty much, on
22 at least Square 902.

23 It's also very important to note that those
24 conditions have been incorporated by the board into
25 all of the fast food exceptions that have been

1 granted since 2011 and that's five. Incorporation
2 of the conditions and the plans that give meaning to
3 the conditions that define the conditions,
4 incorporation of those into the board orders is very
5 important because it makes it easy for everybody to
6 understand what the conditions are. It makes it
7 easy for property owners to enforce the conditions
8 with their tenants, for tenants to understand the
9 conditions that are part of their order granting the
10 fast food exception.

11 The bottom line here is that we have
12 reached an agreement with the applicant as to the
13 conditions that the neighbors think are a minimum to
14 blunt the negative impact of their business on the
15 very things that the board is supposed to consider -
16 - odor, noise, but here it's particularly odor of
17 exhaust, a grease-laden exhaust. The other
18 condition which is not named specifically, but I
19 doubt anyone will disagree that it's important here
20 is vermin or rats to be specific. We are hopeful
21 that the board will incorporate the agreed upon
22 conditions as they are written, not in the summary,
23 but as they are written in Exhibit 32A and the
24 exhibits which are those plans that we referenced
25 one of them that are attached to 32A.

1 I'm happy to allow if you would like to
2 hear from my two neighbors, who can speak to the
3 topics I referred to. It might be useful, it might
4 not, whatever the board would like to do.

5 CHAIR POURCIAU: Yes, I would like to hear
6 from the two neighbors, we have time. Thank you.

7 MS. ELLIOTT: Okay, so it would be Miles
8 Hamilton, one of the co-owners of the property where
9 Hill's Kitchen is located as well as the business.

10 MR. HAMILTON: Thank you, Linda, thank you,
11 Madam Chair, and thank you, Members of the Board.
12 My name is Miles Hamilton, and I, along with my
13 partner, Sarah Needle, co-own Hill's Kitchen, which
14 is located at 713 D Street on the 902 square in
15 Capitol Hill. We purchased Hill's Kitchen and the
16 building it sits in last June. We took on a pretty
17 substantial loan to do so.

18 Hill's Kitchen has been in the neighborhood
19 for 18 years. We felt it was very important that
20 the store stay in the neighborhood, that it go to
21 local hands, and we were committed to keeping it,
22 you know, kind of just the way it was, but we also,
23 we really needed the math to work out in order to
24 pay off the very, very substantial loan it took to
25 purchase the property.

1 So, as we built our business plan, we
2 decided to kind of diversify revenue streams, and we
3 wanted it to not just be a retail store, but kind of
4 a community space, a place where people could have
5 private events, and so as we were building our
6 business plan, we worked these private events that
7 kind of relied on the use of outdoor space to kind
8 of make up the money for managing our debt.

9 Like many other small businesses, we are
10 navigating a really tough economic climate between
11 federal workforce reductions, inflation, just kind
12 of broader pullback in discretionary spending.
13 That's weighed a huge amount on sales. We've seen a
14 25 percent decrease in just the number of bodies
15 through our door between 2024 and 2025.

16 So, this event revenue that we had kind of
17 planned on using was really, really important to us.

18 It's important to keeping Hill's Kitchen viable and
19 it's important to us meeting our loan obligations.

20 When we first bought the building and we
21 were making our business plans, the Popeye's that
22 exists right behind us on 8th Street had not opened.

23 They were still kind of going through some
24 construction and we didn't know really what we were
25 walking into.

1 But upon Popeye's reopening, it was pretty
2 clear that just because of the kind of constant
3 fryer smell that kind of permeates the air, our
4 yards truly, they abut each other, and so it's been
5 impossible for us to use any of our outdoor spaces
6 at all because of the kind of constant grease
7 exhaust, so that's revenue that we counted on that
8 we really can't currently access.

9 And I only raise this because it really
10 speaks to why the conditions Emerald Wings has
11 agreed to, most specifically the pollution control
12 unit, matters so much. I think that Hill's Kitchen
13 is a little bit of proof of what the impact looks
14 like just from when, kind of uncontrolled exhaust.
15 And I know as business owners, we don't really want
16 to see that burden doubled, but just kind of as
17 people who love the neighborhood, we don't
18 necessarily want to see that burden doubled.

19 I do want to take a moment to just thank
20 all of the neighbors who have worked really, really
21 hard, and collaboratively, and very successfully to
22 keep this place a really beautiful, safe, and fun
23 place to work and run a business, and I also want to
24 thank Emerald Wings for the good faith way that it's
25 approached all of these negotiations and their

1 willingness to agree on these conditions. I think
2 it speaks to how well they intend to operate in the
3 neighborhood.

4 To sum everything up, like all of the other
5 neighbors who have joined this statement, we're not
6 opposed to Wingstop opening. We are simply asking
7 that the Board hold Emerald Wings to the same
8 standard it applied to the rest of the fast food
9 establishments on Barracks Row, and specifically the
10 PCU, the indoor trash and recycling storage, and the
11 newly agreed upon operating hours. We're just
12 hoping that they are included in any order granting
13 a special exception. Thank you very much.

14 CHAIRPERSON POURCIAU: And we have about
15 six minutes if the other party would like to make
16 some brief remarks.

17 MS. ELLIOTT: Yeah, and this is Ritu
18 Upadhyay, who has been a resident of this block,
19 this square, and involved in all of these
20 negotiations since they started to happen.

21 MR. UPADHYAY: Thanks, Linda. Hi, Madam
22 Chair and Members of the Board. Thanks for giving
23 us this time. I know we're the last one after a
24 long day, but I very much appreciate your thoughtful
25 consideration as to why we have spent so many years

1 negotiating with fast food restaurants.

2 I can say firsthand, having lived here for
3 15 years -- my husband and I bought a home here,
4 saved up all our money, put down a down payment. We
5 loved the block so much, we bought a second home
6 here, so we own two residential properties on this
7 square that back up to the fast food.

8 We do love the neighborhood, but what we
9 don't love are the periods we've gone through of
10 real difficulty with the very invasive odors that
11 come from having had neighbors like Popeye's. When
12 we first moved here, Popeye's was at its peak of
13 trash issues and odor issues, and I'm sure many of
14 you saw the video that went viral from Barracks Row
15 of the rats running up and down the walls.

16 Then it finally got closed down, and I have
17 to say, when it got closed down, we saw a noticeable
18 difference without fast food grease coming into our
19 homes, through our dryer vents. We can't open our
20 windows. I mean, it's a very strong odor, and as
21 much as I might, you know, myself love to have fried
22 chicken sometimes, it's not an odor you want to live
23 with.

24 And so, we have really, in these 15 years,
25 seen the positive impact that allows us as residents

1 to live, and homeowners, to live on these blocks
2 that are very heavily mixed-use, and the worry for
3 us is if we do not have these conditions like PCUs
4 in, it really erodes the quality of our life and,
5 you know, we can't use our backyards anymore.

6 The whole block turns more into rental
7 properties than they are homeowner occupied because
8 we're seeing the values of our properties go down.
9 Rats have chewed through our car wires in the back
10 when the problem was really bad.

11 So, you know, I've seen in 15 years the
12 period of things being really bad to it getting
13 better, and in 2011, when we started working with
14 the ANC and started getting these conditions put
15 into the BZA orders, we really saw a marked
16 difference and things have gotten better.

17 Unfortunately, Popeye's reopened, and they
18 were grandfathered in and didn't have to put in a
19 PCU, and we are actually seeing some negative
20 impacts of that again since they reopened about six
21 months ago, and Wingstop coming back in without a
22 PCU would really be detrimental with the volume that
23 they're doing.

24 So, we appreciate that, after negotiating
25 with the neighbors and the ANC, that they have

1 agreed to do the PCU. It's going to be integral, I
2 think, to the overall health of the neighborhood and
3 for just making, you know, our homes livable, and
4 for my kids to be able to play outside and use the
5 backyard without, you know, the issues, and our hair
6 smelling like fried chicken, and other things that
7 happened.

8 So, thank you. We very much appreciate
9 your time and thoughtfulness on these issues, and
10 thanks to Wingstop for negotiating. It's been long
11 and drawn out, we know, but we are, you know, at a
12 place where we feel comfortable with, if they come
13 in and follow these conditions, that it can, you
14 know, be a livable situation.

15 MS. ELLIOTT: And Madam Chair, if I could
16 just, to wrap up a little bit, I do want to
17 emphasize that the petition, the conditional
18 petition that was submitted very recently as Exhibit
19 38, that does include, of the 21 commercial property
20 owners on Square 902, that includes 16 of them.

21 Several of them operate, are the properties
22 where there are fast foods operating, the ones Ms.
23 Batties referred to. That would be &pizza,
24 Chipotle. Ledo's is not a fast food, but it
25 functions somewhat like one and it's also on that

1 property.

2 So, I do think that the fact that those
3 individual property owners signed that petition, and
4 one of those property owners, Maurice Kreidler, who
5 owns more properties than anyone else on the block,
6 is a member of our party status group, those
7 property owners have come to understand that these
8 conditions actually make the situation better for
9 their tenants in terms of quality of life and their
10 property value, and better for their tenants' guests
11 and employees.

12 So, I think this is something that our
13 entire block, entire square, and many of the
14 residents on Square 925 who have signed that
15 petition, we all believe that this is something that
16 is -- these conditions, when incorporated with the
17 incorporated plans, into a BZA order, really go a
18 long way to showing that a mixed-use block can be
19 successful for everybody.

20 CHAIRPERSON POURCIAU: Thank you so much,
21 Ms. Elliott, and to the entire party. I think it's
22 very compelling. I love the way you are both
23 business and resident represented, and I know
24 building consensus around these issues can be really
25 difficult, so I applaud you on your efforts. Vice

1 Chair Goldstein, do you have questions for either
2 party?

3 VICE CHAIRPERSON GOLDSTEIN: Not at the
4 moment. Thank you for the very thorough and helpful
5 presentation you made.

6 CHAIRPERSON POURCIAU: Commissioner
7 Imamura, any questions?

8 MR. IMAMURA: Thank you, Madam Chair. No,
9 I'd just echo your comments and that of Vice Chair
10 Goldstein. This is a great example of the community
11 coming together. I mean, it speaks volumes that the
12 applicant had already asked the BZA to incorporate
13 these conditions in the order, so your testimony
14 just underscores that drive or interest to do that,
15 and so thank you very much for your time and for
16 participating in the public process.

17 MS. ELLIOTT: You're welcome.

18 CHAIRPERSON POURCIAU: Mr. Beamon from OP,
19 do you have any questions for either party?

20 MR. BEAMON: I do not.

21 CHAIRPERSON POURCIAU: Thank you. And
22 last, but not least, the applicant, Ms. Batties, do
23 you have any questions for either party?

24 MS. BATTIES: No, we don't have any. Thank
25 you.

1 CHAIRPERSON POURCIAU: Thank you very much.
2 Do you have a closing statement you would like to
3 make, Ms. Batties?

4 MS. BATTIES: I would just like --

5 MR. YOUNG: Sorry, we do have two public
6 witnesses that have signed up.

7 CHAIRPERSON POURCIAU: Yes, very good.
8 Thank you for reminding me of that. We should take
9 them now. I see we have, in opposition, we have
10 Jill Lawrence and Amber Jones. You have three
11 minutes to speak. Is Ms. Lawrence available now to
12 speak?

13 MS. LAWRENCE: Can you hear me? Hi.

14 CHAIRPERSON POURCIAU: Yes, I can. Thank
15 you very much. You have three minutes. Thank you.

16 MS. LAWRENCE: Okay, I will zip through
17 this. I'm Jill Lawrence. I'm a neighbor that's
18 lived here since 1981. So, I'd like to talk about
19 three issues only. I have 12, but I'm only going to
20 go for three.

21 The first one is about the traffic
22 congestion at that intersection, the second one is
23 about the fire hazards of this operation in the
24 middle of a block of rowhouses. We just had a five-
25 building fire on Barracks Row in the past week, so

1 it's not idle stuff. And the third part is about
2 air, toxic air.

3 So, the problem with the situation is that
4 it is on 8th Street at the corner of Pennsylvania
5 Avenue. This is Eastern Market Metro, a children's
6 park. It is a center for helping people who are
7 getting off drugs. It is Dunkin' Donuts next door
8 to them. It is the fire station.

9 This is only in, like, three buildings.
10 You've got the fire station, you've got Yes! Organic
11 Market, and then you have the little buildings.
12 These are the teeny buildings that this is a part
13 of. These are a 14 or 15-foot-wide building that
14 this is in.

15 What they speak of in the back is they are
16 completely butt up against the gigantic 801
17 Pennsylvania Avenue building, which has been there
18 forever. It's five stories tall and it wraps around
19 these three little, bitty buildings that are, like,
20 three stories tall, but very little and narrow, and
21 what it does is it stops any air from removing the
22 pollutants that are coming up out of their fryer
23 exhaust.

24 They can put on a PCU, and that is
25 dramatically helpful for the gray color, the greasy

1 feeling on your skin, the smell, but all of the
2 carcinogens, mutagens, the throat, the cancer.
3 These are all noted to happen with fried chicken,
4 and I can send data on it if you would like, but we
5 don't get the three minutes.

6 So, I'd like to talk about the vehicular
7 bottlenecks regarding the fire station, even though
8 they have supposedly figured something out. The
9 fire station has to get out across the intersection
10 at Pennsylvania and 8th, which is Barracks Row,
11 which is very popular.

12 And there are many, many things at that
13 intersection aside from the Metro, the children's
14 park, the bus bulb out taking away a lane of
15 traffic, taking away 50 parking spaces, and all of a
16 sudden, this -- you know, these, the Popeye's, the
17 fire station, the Yes! Market, the bank, they're all
18 a conglomeration in one place, and that one place
19 just happens to be the place that this place wants
20 to open.

21 And they want to have 70 orders an hour.
22 That's less than a minute per order. If we cannot
23 stop being run over by the delivery DoorDash people
24 now because of all of the fast food on the other
25 side, you can just imagine what it's going to be

1 like when this -- and it's until 2:00 a.m. they're
2 going to be doing this, so that's like 1,000 orders.

3 Now, they're going to be taking all of
4 their garbage and all of their mechanicals are
5 coming out the front. That is across public space,
6 which is a narrow brick sidewalk, a historic
7 sidewalk by the bus stop, right? By the --

8 CHAIRPERSON POURCIAU: Ms. Lawrence?

9 MS. LAWRENCE: By the fire engines. What?

10 CHAIRPERSON POURCIAU: Ms. Lawrence?

11 MS. LAWRENCE: Yes?

12 CHAIRPERSON POURCIAU: Your time has been
13 up for a little bit. Could you please summarize?

14 MS. LAWRENCE: Could I summarize?

15 CHAIRPERSON POURCIAU: Yes, please.

16 MS. LAWRENCE: No, but maybe I could ask
17 you to look at your documents that I sent in because
18 I spent a lot of time researching. There's
19 aldehydes, there's amines, there's PAHs, there's
20 carbon monoxide. All of these things are in the
21 exhaust, and the PCU, unfortunately, with all of the
22 work done, does not get rid of them.

23 They are in our air and they are being
24 sucked back into the tops of the buildings, because
25 the building that this is housed in is two stories

1 surrounded by a five-story, wraparound, U-shaped,
2 801 Pennsylvania Avenue, meaning that is stagnant
3 air. It goes nowhere.

4 Everything that comes out that is not
5 relieved by the PCU stays there because there is no
6 wind traveling through it. There is no through
7 wind. They're putting their PCU in this little spot
8 beside their neighbor. They are touching 801
9 Pennsylvania Avenue.

10 CHAIRPERSON POURCIAU: Thank you.

11 MS. LAWRENCE: They don't have any -- okay.

12 CHAIRPERSON POURCIAU: Thank you, Ms.
13 Lawrence. We appreciate your remarks.

14 MS. LAWRENCE: I would call you to read
15 what I sent because --

16 CHAIRPERSON POURCIAU: Thank you so much.

17 MS. LAWRENCE: -- there's a lot in it.

18 CHAIRPERSON POURCIAU: And now we'll hear
19 from Ms. Jones? You have three minutes, Ms. Jones.

20 MS. JONES: Yes, Madam Chair. Thank you.

21 CHAIRPERSON POURCIAU: Thank you.

22 MS. JONES: Amber Jones. I live at 816 E
23 Street, SE. My location is around the corner from
24 Wingstop. I personally agree with a lot of what
25 Jill said, but I do appreciate the fact that the

1 neighbors, the ANC, and the applicant have agreed on
2 a minimum set of conditions that could make fast
3 food potentially tolerable.

4 I represent about half of the houses on the
5 800 block of E Street and we are opposed to more
6 fast food establishments in the neighborhood, and
7 I'd like to just address some of the specifics. We
8 would like you to vote no on having another fast
9 food place on that block.

10 If you do consider approving the
11 application, we want you to do so only with the
12 conditions that have been agreed to and mentioned
13 here, but also that only if you are confident that
14 the city of D.C. will enforce those conditions and
15 make sure that the trash and the PCU are installed
16 and working properly.

17 And that if there are problems that we
18 experience because of another fast food
19 establishment moving in, that we have some recourse,
20 that there is some D.C. government agency that we
21 know we can contact. We would like to know who is
22 going to enforce these conditions? Who is going to
23 routinely inspect them and who can we complain to if
24 there are problems?

25 So, a new problem just came up just now

1 with Ms. Batties' testimony, and that was the after-
2 hours removal of trash, so let me just go over a
3 couple of specifics quickly. We have rats and we
4 don't want any more.

5 We have a lot of trash on our street from
6 the carryout places on 8th Street. We have a lot of
7 food remains, a lot of packaging, a lot of cups with
8 liquids in them. All of that contributes to rats.
9 So, that is beyond the control of the establishment
10 itself. It's just a factor of having fast food and
11 more of it in the neighborhood.

12 The odors, we already have the odors from
13 Popeye's and other places, and a minimum should be
14 the pollution control unit, and meeting the
15 challenge of putting a pollution control in that
16 building with a very, very tall building behind it
17 needs to be really closely examined by the city and
18 whether can city can say yes, that's going to work,
19 and yes, they are going to enforce that it's working
20 properly.

21 We have the noise problem. The delivery
22 drivers on motor scooters, they stage on our block
23 in front of our house. We have about ten of them in
24 front of our house every day and all night until the
25 last establishment closes on 8th Street.

1 And the people that go to 8th Street come
2 to our block to park because we have free parking in
3 front of our houses, and they eat, drink, and party
4 there, and leave their trash. The noise is
5 especially loud after midnight. I want to make sure
6 that you understand that point.

7 The parking problem is massive on 8th
8 Street, so people come on our block to park, and
9 they also, excuse me, they also double park on 8th
10 Street already because of the carryout restaurants,
11 and the Department of Transportation plan is going
12 to make that double parking problem much, much worse
13 in our opinion, so --

14 CHAIRPERSON POURCIAU: Ms. Jones, your time
15 is up.

16 MS. JONES: Okay.

17 CHAIRPERSON POURCIAU: Could you please
18 conclude?

19 MS. JONES: One last item. We want a
20 minimum of those requirements that are agreed to,
21 but we do not agree with the hours that are in the
22 ANC agreement. We do not want another place to stay
23 open after midnight. We want those lockup hours to
24 end at midnight on weekends and 11:00 p.m. on
25 weekdays. That's all. Thank you.

1 CHAIRPERSON POURCIAU: Thank you, Ms.
2 Jones. Does Vice Chair Goldstein, do you have any
3 questions for the parties in opposition?

4 VICE CHAIRPERSON GOLDSTEIN: I don't at the
5 moment. It's very helpful and I'm going to ask the
6 applicant to address some of the major themes that
7 were raised in these, so thank you very much.

8 CHAIRPERSON POURCIAU: Thank you. Mr.
9 Imamura, any questions?

10 MR. IMAMURA: Yes, ma'am, actually, I do.
11 I'm curious, Ms. Jones, did you attend any of the
12 ANC meetings where this was brought up?

13 MS. JONES: Yes, all of them.

14 MR. IMAMURA: All right, thank you. No
15 further questions.

16 CHAIRPERSON POURCIAU: Any questions from
17 the Office of Planning for the two opponents?

18 MR. BEAMON: No questions.

19 CHAIRPERSON POURCIAU: Thank you. Any
20 questions from the parties, the party, Ms. Elliott?
21 Any questions for the two opponents?

22 MS. ELLIOTT: I don't have any questions.
23 I do have some responses to the concerns that were
24 raised. Particularly, I can address the PCU issue
25 if the Board is interested.

1 CHAIRPERSON POURCIAU: Yes, please.

2 MS. ELLIOTT: I would just say that the PCU
3 issue was studied at length, and that the neighbors
4 used an engineer who is one of the most well-known
5 engineers for restaurant engineering in the city,
6 Alex Shojaei with Capitol Engineering. He reviewed
7 and assisted us with, as he has done in previous
8 spots on the street that have come in and needed
9 fast food exceptions.

10 He reviewed the original plans of what
11 Wingstop was going to do, which did not involve a
12 PCU. It just involved a release of all of the
13 exhaust into the community in a way that would flow
14 over the entire community as Popeye's does. He
15 provided all kinds of advice. He was involved in
16 negotiations with the engineers from Wingstop.

17 We all did an onsite visit to figure out
18 how this could be done and it is appropriate for
19 that spot. It is appropriate at least as far as an
20 engineer completely independent of Wingstop, who has
21 the interests of the neighbors in mind. It's
22 appropriate for that spot.

23 And so, you know, I'm not -- nothing is
24 perfect. Nothing eliminates all exhaust completely,
25 all odor and all exhaust, every bit of grease, but

1 this is one way to vastly reduce the particulate
2 that's released, the odor, and the grease.

3 And there are -- this is a PCU that does
4 address odor, not just grease and not just
5 particulate. And that particulate, as I've
6 understood it, is part of the health concern that
7 Ms. Lawrence has addressed, but we do feel, after
8 lots of study, that it's appropriate here.

9 CHAIRPERSON POURCIAU: Thank you, Ms.
10 Elliott. Is there any response there? And are
11 there any questions from the applicant, Ms. Batties?

12 MS. BATTIES: No questions for me.

13 VICE CHAIRPERSON GOLDSTEIN: I'd like to
14 ask Ms. Elliott a question if that's all right, as a
15 follow-up.

16 CHAIRPERSON POURCIAU: Yes, thank you, Vice
17 Chair. Please proceed.

18 VICE CHAIRPERSON GOLDSTEIN: Thank you. I
19 don't know if I'm out of order. Ms. Elliott, some
20 of the concerns expressed involve overall traffic
21 congestion that may not be, we can't pin solely to
22 one particular business. It may be a collective
23 issue.

24 I'm just curious, is your group engaged
25 with DDOT on finding ways to improve traffic

1 congestion more generally in this area? I'm sure
2 there have probably been many parties interested in
3 that and discussions have been had over time. I'm
4 just curious if you can enlighten me at all?

5 MS. ELLIOTT: So, I can say that the ANC
6 has engaged with DDOT because there is a new bus
7 plan for 8th Street, which includes the 400 block of
8 8th Street, and then I know the applicant has
9 engaged with DDOT over that bus plan and over its
10 impact with respect to the addition of another fast
11 food on the street.

12 The neighbors, although we are very
13 committed, we learned some time ago to focus our
14 available time to do this on mitigation of exhaust
15 and mechanical noise, and rats, and then we have
16 occasionally spread out in trying to ensure that we
17 don't have activity on the block that becomes a
18 nuisance or violent in any way, and that has to do
19 with hours primarily. That's the primary thing
20 that's been available to us.

21 We have not, as a group, dug into meeting
22 with DDOT, because there is simply a limit. We all
23 work and we all have family responsibilities, and
24 there's a limit to what we can do. However, that is
25 -- we were satisfied enough, this group, and I think

1 all but --

2 Now Amber has suggested she is pulling back
3 a little bit from her signature on the letter that
4 came in from all of us, which you saw, and her
5 impact statement, I think, makes this clear, but the
6 rest of us in the group felt like we were getting
7 enough mitigation for the issues we're most
8 concerned about to not get in and really grapple
9 with the details of the DDOT agreement that the
10 applicant and DDOT arrived at. It was a compromise,
11 I would say, but everyone has to figure out a
12 compromise for time.

13 VICE CHAIRPERSON GOLDSTEIN: Thank you very
14 much. I appreciate that.

15 MS. ELLIOTT: Thank you.

16 CHAIRPERSON POURCIAU: Thank you for that
17 clarification. Ms. Batties, would you like to offer
18 closing remarks from the applicant?

19 MS. BATTIES: Sure, thank you. So, first,
20 I would like to -- I have looked -- thank you, Mr.
21 Goldstein, for bringing it to my attention. I have
22 reviewed Subtitle U 513.14 and the language, the
23 most important language being any refuse dumpster
24 being used, and in this case, we are not going to be
25 using a refuse dumpster as we previously discussed

1 because the trash will be stored in an enclosure
2 onsite, and so we would like to withdraw that
3 request from the application.

4 Second, and just to hit on some of the
5 themes that were raised by the parties in
6 opposition, I remember the single member district
7 representative, Commissioner Gorman, when we were
8 talking about the hours of operation in particular.

9 He said everyone is not going to be happy
10 with everything in terms of all of the conditions
11 that have been reached, but I think we've done a
12 really good job of coming to a consensus with a
13 significant number of the community stakeholders and
14 come up with conditions that are not only
15 appropriate, but comparable to the other fast food
16 establishments in this section of 8th Street. So,
17 to the extent possible through the conditions, we
18 are mitigating the potential impacts of the
19 restaurant.

20 For -- and then I'll just throw out a
21 couple of specific things. The enforcement of the
22 conditions would be through the Department of
23 Buildings, as we have said in other community
24 meetings.

25 To the extent that the applicant is not in

1 compliance with the conditions of the BZA order, DOB
2 does have the enforcement authority, which is why
3 everybody wanted the conditions in the order, and
4 that can, enforcement can be through a number of
5 mechanisms, including revocation of the certificate
6 of occupancy, so that is one important means of
7 enforcing the conditions.

8 As it relates to the hours of operation, I
9 would say the applicant has worked -- actually, it
10 has agreed to reduce its hours, reduce the hours
11 below what some of the other fast food
12 establishments are in the area. So, Taco Bell
13 across the street is open until 3:00. There are
14 some bars that are open later.

15 But the applicant has agreed to just have
16 long hours on the weekend up until 2:00 a.m., and
17 then for that last hour, there will be no walk-up
18 orders permitted. It would just be mobile and
19 online orders only, primarily to address the concern
20 about public safety and people loitering in the
21 area, but that was one of the terms that was heavily
22 negotiated with the ANC and the community.

23 In terms of the traffic, so I want to say
24 we didn't reach an agreement with DDOT on the
25 traffic. What DDOT, and the Department of Vehicles

1 for Hire, and the fire department, what we did is we
2 met at p.m. peak hour on 8th Street on, like, a
3 Thursday night, a Thursday or Friday night, and so
4 that the fire department could show us the concerns.

5 And once we reviewed what DDOT has planned
6 in terms of the bus lane on both sides of the
7 street, also on the west side of the street where
8 really is a lot of the backup in terms of the fire
9 station getting in and out, the fire trucks getting
10 in and out of the station, that parking --

11 There will be a bus lane, and because of
12 the cameras, people will be discouraged from parking
13 and driving in the bus lanes, but also the parking
14 on the west side of 8th Street will be reduced to
15 ten-minute parking to keep that turnover, so
16 reducing the people double parking or staying for
17 prolonged periods of time.

18 The other thing that came out of that
19 meeting was that a big part of the traffic issues on
20 8th Street are really, in terms of the delivery
21 drivers and double parking, are really an
22 enforcement issue, which is why it was great that
23 the top person at the Department of Vehicles for
24 Hire as well as his staff were there to really talk
25 about how they can do better to enforce how Uber

1 drivers and bikes are stationed in the area and
2 parking enforcement, right?

3 So, it's not -- it was really more about
4 how they can work to improve the area through
5 enforcement mechanisms and how they can work with
6 the applicant, and I would also encourage the ANC
7 and some of the other community stakeholders on
8 improving traffic and enforcing rules in this area
9 to improve traffic conditions.

10 So, I think I've addressed the high-level
11 themes that were raised by the parties in
12 opposition. Again, we thank them, as well as Linda
13 and the other people in the neighborhood who have
14 participated today, because this has been a very
15 long collaborative process. That's what I'll say.

16 And so, with that, we would respectfully
17 request the BZA's approval of the application,
18 subject to all of the conditions one through ten
19 being included, one through ten of the memorandum of
20 agreement being included in the order approving the
21 application. Thank you.

22 CHAIRPERSON POURCIAU: Thank you. Any
23 final questions from Board Members? Mr. Goldstein?

24 VICE CHAIRPERSON GOLDSTEIN: No final
25 questions. Thank you for your summary there at the

1 end. I think that was really helpful.

2 CHAIRPERSON POURCIAU: Mr. Imamura, any
3 final questions?

4 MR. IMAMURA: No final questions.

5 CHAIRPERSON POURCIAU: Okay, all right,
6 yes, Ms. Elliott, any final questions?

7 MS. ELLIOTT: It's one final very small
8 clarification, which I think is implicit in
9 everything that Ms. Batties said, but the conditions
10 which are described in detail in Exhibit 32A, that's
11 the memorandum of agreement, those conditions
12 incorporate the plans.

13 The plans are attached to the memorandum of
14 agreement as exhibits, and those, it's important
15 that those be part of the BZA order as well because
16 those plans give the definition, because of their
17 incorporation, to the most important conditions to
18 the neighbors. So, that's a small clarification. I
19 think it was implicit in what Ms. Batties said, but
20 I wanted to clarify.

21 CHAIRPERSON POURCIAU: Thank you. Any
22 other final comments?

23 VICE CHAIRPERSON GOLDSTEIN: I'm sorry, I
24 just have a quick question about that. So, there's
25 a final MOA as Exhibit 40. You're saying that we

1 should not be incorporating from that, but from an
2 earlier exhibit? Is that what you're asking?

3 MS. ELLIOTT: No, what I'm being -- so,
4 first of all, let me be clear, 32A, which is the MOA
5 that was attached to Ms. Batties' letter of, I
6 believe, June 11, which is Exhibit 32, that MOA was
7 approved by the ANC, but not signed. They signed
8 the MOA and submitted it as the complete MOU
9 yesterday, but it is the same MOA as the one that's
10 attached to Exhibit 32.

11 So, it should be, I guess, Exhibit 40
12 that's attached from which you get the conditions we
13 put into the order, and then what we're asking is
14 those conditions incorporate exhibits, and the
15 exhibits are very important to the definition that's
16 given with respect to condition three for the walk-
17 in cooler, for storage of trash and recycling, and
18 to condition eight, which is the PCU, and to
19 condition nine, which it defines, you know, the
20 limited design flexibility or small design
21 flexibility permitted under the conditions.

22 Those exhibits, which are currently
23 attached to 32A, need to be part of the Board order.

24 That's been done in the past with the orders that
25 we cite in the papers we sent you. All of the

1 orders since, that the Board has issued for fast
2 food since 2011, the Board has figured out how to
3 actually incorporate those exhibits physically so
4 that they are there.

5 VICE CHAIRPERSON GOLDSTEIN: Thank you. I
6 think I may need -- I'm sorry, Chair. Please,
7 proceed.

8 CHAIRPERSON POURCIAU: I was just going to
9 follow up. I wanted to ask Ms. Batties if that
10 attached exhibit is the same plan, includes all of
11 the elements of the plan that is submitted in your
12 application?

13 MS. BATTIES: So, I did not -- yeah, so
14 really the exhibit that was filed at Exhibit 40 is
15 really the signature counterpart to the exhibit
16 filed in, to the agreement signed in Exhibit 32A,
17 and the plans that are attached to Exhibit 32A
18 should be incorporated into the BZA order.

19 CHAIRPERSON POURCIAU: Mr. Imamura is dying
20 to say something.

21 MR. IMAMURA: Thank you, Madam Chair. I
22 think we are all in agreement with the intent of
23 what Ms. Elliott is trying to get at. I would
24 suggest, Madam Chair, that we allow OZLD to work
25 with the applicant to incorporate those details as

1 explained by Ms. Elliott, that's on the record here,
2 so that way we can close out the case and call it a
3 day should the Board decide to approve the case, so,
4 not to overcomplicate things. Let's let OZLD work
5 with the applicant, with Ms. Batties, to finalize
6 that order.

7 MS. BATTIES: Yes, and if the Board is so
8 inclined to approve the application -- as you know,
9 we didn't have a BZA for many months, so this case
10 was delayed. If the Board would be willing to grant
11 a summary order, that would be appreciated as well.

12 I have to specifically make that request if the
13 Board is inclined to do so.

14 MR. IMAMURA: I would --

15 (Simultaneous speaking.)

16 MR. IMAMURA: Sorry, Madam Chair.

17 CHAIRPERSON POURCIAU: Do we need to do
18 that before we close the hearing? Go ahead, Mr.
19 Imamura.

20 MR. IMAMURA: So, I would surmise that the
21 Board would be willing to do that. However, because
22 there is opposition, I don't know if we're allowed
23 to do that, so I would defer to OZLD or Secretary
24 Mehlert, Carissa Demare, or --

25 MS. MEHLERT: I was just going to add that

1 full orders are typically issued when there is a
2 decision that's adverse to a party, so if there is a
3 party that's in opposition. That's typically how
4 the Board decides, but it is up to the Board whether
5 a full order is issued.

6 MS. BATTIES: We don't have a party in
7 opposition in this case. The only people that have
8 filed for party status filed in support.

9 MR. IMAMURA: On that technicality then, I
10 think that it seems reasonable to issue a summary
11 order, but that's up to the Chair's discretion.

12 CHAIRPERSON POURCIAU: Okay, I see you
13 raising your hand, Ms. Elliott. If it's not
14 something that's significant, I would like to close
15 the record, and thank you all for coming, and move
16 on to deliberation and a final decision on the case,
17 as well as the request for a summary order, all
18 right?

19 MS. ELLIOTT: All I wanted to do was say
20 the party status, the group that I represent does
21 not object to a summary order.

22 CHAIRPERSON POURCIAU: Okay, thank you so
23 much. All right, thank you. At this point, we will
24 close the hearing record. The witnesses will be
25 excused and we will deliberate, discuss the case,

1 and vote. Thank you all for coming. All right, Mr.
2 Imamura, do you want to make a motion?

3 VICE CHAIRPERSON GOLDSTEIN: I wouldn't
4 mind just a tiny bit of deliberation if that's okay.

5 CHAIRPERSON POURCIAU: Okay, all right.

6 VICE CHAIRPERSON GOLDSTEIN: Sorry, would
7 you -- I don't want to steal anyone else's thunder
8 though.

9 CHAIRPERSON POURCIAU: No, go ahead.

10 VICE CHAIRPERSON GOLDSTEIN: Okay,
11 generally, I'm supportive of it. I'm supportive of
12 incorporating the conditions that have been so
13 painstakingly decided on over lots of negotiation.
14 That makes a lot of sense to me.

15 One of the themes I hear is that there are
16 sort of general issues and then there's issues
17 related to this applicant, and I think we really
18 need to stay focused on just this application and
19 what their impacts are. I think the applicant has
20 made the case for it.

21 I do want to say two quick things. One is
22 the applicant decided to withdraw the relief for the
23 refuse dumpster, so I just want to note that for any
24 vote, and then second, I would also request that
25 OZLD not only have some flexibility to work on

1 citing the right plans, and I'm sure they'll be able
2 to sort that out, but also to wordsmith the
3 conditions just in case there's anything that they
4 notice that needs to be in more zoning-compliant
5 language, so I'd like to give them the flexibility
6 to do that, and I'm also supportive of the summary
7 order.

8 CHAIRPERSON POURCIAU: Very good. I agree
9 with all that you presented. Mr. Imamura?

10 MR. IMAMURA: I concur with Vice Chair
11 Goldstein and I have nothing further to add.

12 CHAIRPERSON POURCIAU: I think we're ready
13 for a motion. Vice Chair, that sounded like a
14 motion. Do you want to put that in the form of a
15 motion?

16 VICE CHAIRPERSON GOLDSTEIN: Sure, I'd like
17 to make a motion to approve Case Number 21438,
18 Emerald Wings, LLC, at 406 8th Street, SE, for
19 relief for a fast food use under Subtitle 513.1(e)
20 and 901.2, and then the other relief request under
21 513.1(e)(2) has been withdrawn by the applicant.
22 I'd like to further ask for flexibility as I just
23 described before the motion if that's sufficient for
24 your purposes, Madam Secretary.

25 CHAIRPERSON POURCIAU: And did you want to

1 add anything about the summary order?

2 VICE CHAIRPERSON GOLDSTEIN: Yeah, I would
3 be supportive of a summary order. I don't know if
4 that's just part of the motion or if that's, if I've
5 said the magic words, is that enough?

6 CHAIRPERSON POURCIAU: All right, sounds
7 good. I second the motion. Is there any
8 discussion? Probably not. Madam Secretary, would
9 you like to call the vote, please?

10 MS. MEHLERT: Yes, and just to clarify,
11 this is including the conditions in the MOA in
12 Exhibit 32A, I believe, right?

13 CHAIRPERSON POURCIAU: Yes.

14 MS. MEHLERT: Please respond to the Vice
15 Chair's motion to approve the application with
16 conditions. Chair Pourciau?

17 CHAIRPERSON POURCIAU: Yes.

18 MS. MEHLERT: Vice Chair Goldstein?

19 VICE CHAIRPERSON GOLDSTEIN: Yes.

20 MS. MEHLERT: Dr. Imamura?

21 MR. IMAMURA: Yes.

22 MS. MEHLERT: Staff would record the vote
23 as three to zero to two to approve application
24 number 21438 with conditions on the motion made by
25 Vice Chair Goldstein and seconded by Chair Pourciau.

1 CHAIRPERSON POURCIAU: I want to thank you
2 all for another Board of Zoning Adjustment meeting.

3 Commissioner Imamura, we couldn't have done it
4 without you. Your guidance and leadership from the
5 Zoning Commission is really appreciated, and, of
6 course, the staff, particularly Ms. Mehlert. Thank
7 you for your help today. See you Tuesday.

8 (Whereupon, the above-entitled matter went
9 off the record at 4:11 p.m.)

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