

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

JULY 15, 2026

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The Regular Public Hearing of the District of Columbia Board of Zoning Adjustment convened via Video Teleconference, pursuant to notice at 11:04 a.m. EDT, Michelle Pourciau, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

MICHELLE POURCIAU, Chairperson
MELISSA LINDSJO, NCPC Designee

ZONING COMMISSION MEMBERS PRESENT:

GWEN WRIGHT, District Resident Appointee

OFFICE OF ZONING STAFF PRESENT:

KEARA MEHLERT, Secretary
TRACEY W. ROSE, Sr. Zoning Specialist
ESTHER BUSHMAN, General Counsel
ELLA ACKERMAN, Zoning Specialist
MARK HAMALA, Zoning Specialist
MICHAEL SAKINEJAD, Zoning Data Coordinator
PAUL YOUNG, A/V Production Specialist

OFFICE OF PLANNING DEVELOPMENT REVIEW STAFF PRESENT:

SHEPARD BEAMON
MAXINE BROWN-ROBERTS

1 OFFICE OF ZONING ATTORNEY ADVISORS PRESENT:

2 SARAH BAJAJ, ESQ.
3 JORDANE WONG, ESQ.

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5 The transcript constitutes the minutes
6 from the Regular Public Hearing held on July 15,
7 2026.
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P-R-O-C-E-E-D-I-N-G-S

(11:04 a.m.)

CHAIRPERSON POURCIAU: Excellent. Thank you so much. We will now transition to our virtual public hearing session. And our first case for our public hearing is 21419. Ms. Mehlert, would you please read it into the record?

MS. MEHLERT: Next is Application No. 21419 of PMG Mid Atlantic, LLC. This is a self-certified application pursuant to Subtitle X, § 901.2 for a special exception under Subtitle U, § 511.1(f) to allow enlargement of an existing gasoline service station use. Again, this is the expansion of an existing gas station with convenience store and repair shop on Lot 22 to incorporate new vehicle towing and associated vehicle storage on the abutting Lot 13. It's located in the MU-3A zone at 4101 Alabama Avenue, SE, Square 5369N, Lots 13 and 22. The public hearing began on June 10th, 2026, and the board requested additional submissions from the applicant. Participating are Chair Pourciau, Vice Chair Goldstein, Board Member Lindsjo, and Commissioner Wright. And as a preliminary matter, I'll note that ANC 7B has requested a postponement.

CHAIRPERSON POURCIAU: Thank you. I see

1 that a few things have been entered into the record.

2 I'd like to start by -- is there an updated
3 presentation by the applicant for today, Mr.
4 Sullivan?

5 MR. SULLIVAN: Yes. Thank you, Madam
6 Chair. Marty Sullivan with Sullivan Barrows here on
7 behalf of the applicant, and we do have an updated
8 PowerPoint to go over the items that we discussed in
9 the first hearing that we've revised. I didn't know
10 if the Board wanted to address the postponement
11 request first or not, but we're ready to present
12 when the Board is ready.

13 CHAIRPERSON POURCIAU: Okay. I think we
14 want to hear what you have and make a decision based
15 on the information before us about postponement or
16 not.

17 MR. SULLIVAN: Okay, thank you. I've
18 included a response to the postponement request
19 effectively inside that presentation as well, so
20 that would work. If we -- oh, there it is. So,
21 this is Case 21419, a refresher. The zone is MU-3A.

22 There's two lots on the property. One consists of
23 the existing gas station, and the adjacent lot, Lot
24 13, is the subject of this application. The
25 existing buildings are a BP gas station, convenience

1 market, and service garage. The request is to
2 expand the gas station use to include this towing
3 and vehicle storage on Lot 13.

4 The tenant of the property who operates the
5 towing in conjunction with the gas station is Chris
6 Ford. He may be on with us here or not. I know he
7 was intending to join. I don't know if he had
8 trouble getting on or not. And next slide, please.

9 So, after the last hearing, the first
10 hearing that we had on this, the Board asked for a
11 revised site plan to include the buffer and light
12 plans, and there were a couple things that needed
13 changed on the plat and plans. One was the access.

14 The existing application at the time showed access
15 going across public space straight to Lot 13, and
16 DDOT was requesting that access be done internally
17 through the existing curb cut from the existing lot
18 onto Lot 13. And so we've submitted plans showing
19 that and also showing the reconstruction of the
20 grass area in the public parking area along Alabama
21 Avenue in front of Lot 13 as well.

22 Also, regarding the buffer -- well, I'll
23 get into that when I move to the next slide. The
24 other thing requested was clarification on
25 automobiles to be stored on the property, and we'll

1 address that in the presentation, and a response on
2 a potential time limit. Those were the three items.

3 So, we revised the site plan and plat to include
4 that internal access. And we significantly
5 increased the buffer zone between the parking lot on
6 Lot 13 and the nearest residential building. It was
7 only about 15 feet away on the initial site plan
8 from that residential building, although it was the
9 required 25 feet away from the zone, the residential
10 zone. But we moved it so we have about 30 feet now
11 of buffer between the house and the closest parking
12 space or the edge of the lot that's going to be
13 used.

14 We've removed the prior access path and
15 show a proposed restoration of the grass in the
16 public parking area, and of course, that would be
17 required before any C of O or permit was issued.
18 With respect to the lighting, there's some existing
19 level of lighting already on the property, and the
20 applicant believes that additional lighting wouldn't
21 be desirable for the neighboring properties or
22 necessary for the use or safety or security of the
23 parking lot. And I don't think that that was in
24 discussions at the last hearing. I don't think that
25 was an issue. I think lighting was more of an issue

1 having too much lighting, not not enough.

2 With respects to the types of cars, the
3 applicant confirms that the only vehicles to be
4 stored on the property will be standard two-axle
5 vehicles, either cars or SUVs or pickup trucks, but
6 no commercial vehicles.

7 With respect to ANC outreach, so Mr. Ford
8 attended an ANC meeting in February, and I would
9 like to address Chairman Swanson's letter requesting
10 postponement at this point as well. Actually, I'm
11 going to save this bullet point till the next slide.

12 And let me get to the time limit. The applicant's
13 amenable to a time limit, and we defer to the Board
14 on what it feels like would be a reasonable time.
15 We would request seven, but we understand if the
16 Board would do less, we are okay with a time limit.

17 Next slide, please.

18 In his postponement request, Chair Swanson
19 stated that the application was filed on February
20 3rd, 2025, but not transmitted to ANC 7B until
21 December 4th, 2025. I'm not sure if he has us mixed
22 up with another application or not. We filed this
23 on November 3rd, 2025. As you can see from this
24 email and certificate of service, we sent, as we
25 always do, we sent the full application to the ANC

1 immediately upon filing on November 3rd. Then, as
2 we also do, we send repeated emails to the ANC to
3 attempt to get on their meeting agenda. Mr. Ford
4 attended the meeting on February 19th, and then the
5 hearing was delayed, of course, for the three months
6 without a quorum. Then, on May 21st, I attended the
7 ANC meeting. We were on the agenda, and at the end
8 of the meeting, without notice, the meeting was just
9 ended, ignoring the agenda item, and so we didn't
10 get on.

11 Then, we went to our hearing. We had the
12 BZA hearing, and at the BZA hearing, one of the
13 reasons the Board continued the hearing was to give
14 the ANC another opportunity to weigh in. And so, we
15 were again on the agenda on June 18th. And when
16 that agenda item came up, Chairman Swanson stated
17 that the SMD had left the meeting, and therefore,
18 that item was going to be tabled. So, I sat through
19 two meetings hoping to present, and we were bumped
20 both times. I don't think he's been accurate in his
21 request on the postponement on those items. That's
22 why I wonder if he's gotten confused with a
23 different application.

24 Because he also mentions that several
25 residents have asserted that some individuals

1 identified as supporters are deceased, claiming that
2 there's some issue with the validity of information
3 we've submitted. But as far as I know, we don't
4 have any supporters in the record, and so, I'm not
5 sure what he's referring to by saying that there's
6 supporters in the record that are deceased. And so,
7 that's all I have on that. Next slide, please.

8 Next slide, please.

9 This is a flyer that went out in the winter
10 months to neighboring properties alerting them about
11 this application. Next slide, please.

12 So, you can see from this site plan the
13 closest space, that area at the bottom, there's an
14 existing iron fence there just outside the property
15 line, and then, there's trees there on the other
16 side of the fence providing some buffer. And then,
17 we've moved these parking spaces back way off the
18 property so that that's a 25-foot line that you see
19 there, the dotted line that's on the property. So,
20 the closest parking space is about 30 or 35 feet
21 from the nearest residential building, the side of
22 that building there. And then here, this also shows
23 that access will go in through that curb cut on the
24 right from Alabama Avenue and then access Lot 13
25 internally. Next slide, please.

1 And this also shows the restoration of the
2 public parking grass area there along Alabama Avenue
3 at the front in front of Lot 13 as requested by
4 DDOT. Next slide, please.

5 COMMISSIONER WRIGHT: Can I ask a
6 clarification?

7 MR. SULLIVAN: Sure.

8 COMMISSIONER WRIGHT: Why are you calling
9 that the public parking grass area? There's no curb
10 cut to access it. Why are you saying it's a parking
11 area?

12 MR. SULLIVAN: I'm sorry. Yeah. That's a
13 term DDOT uses. That doesn't have anything to do
14 with cars regarding public space in front of a
15 property. So, I don't mean to confuse it with any
16 parking area. It's not a public parking for
17 vehicles. It's essentially a park. It's an old
18 term, I think, that was created in law before there
19 were cars, actually --

20 CHAIRPERSON POURCIAU: I can --

21 COMMISSIONER WRIGHT: Okay.

22 MR. SULLIVAN: -- in the District of
23 Columbia.

24 CHAIRPERSON POURCIAU: I can confirm that.
25 Commissioner Wright, he's correct. It is

1 confusing.

2 COMMISSIONER WRIGHT: Thank you for that
3 clarification.

4 MR. SULLIVAN: Yeah. No. I remember the
5 first time I heard it; I had the same question, of
6 course. And that's it. The rest of the
7 presentation is a repeat of what we presented
8 before, so I don't know if the Board wanted me to go
9 through that or not. Because this is a continued
10 hearing, and I wanted to make sure that I addressed
11 the comments and questions from the Board and
12 requested revisions. So, if there's any questions
13 on or if you'd like me to go through the full
14 presentation again, happy to do that.

15 CHAIRPERSON POURCIAU: I don't think
16 that'll be necessary. I would like for you to walk
17 us through your site plan to show us what changes
18 you've made and where on that site plan it addresses
19 the things that we requested be changed.

20 MR. SULLIVAN: So, if we could go back one
21 slide then. On the bottom right of this site plan,
22 you'll see the side wall of the closest residential
23 building off the property below the area where it
24 says iron fence. And that's the fence between the
25 two properties, the residential properties to the

1 south and Lot 13. The special exception
2 requirements provide that we be at least 25 feet
3 away from the nearest residential zone. The
4 residential zone line actually is further away than
5 the line of the residential building here. The
6 Board requested that we provide that 25 feet from
7 the residential building, not just from the zone.
8 So, we're showing there -- the dotted line shows the
9 25 foot dimension from that residential building,
10 and then we're providing the parking spaces will be
11 another 5 to 10 feet away from that. So that's the
12 biggest change.

13 If I go back to the original -- it was
14 Exhibit 6, I believe. If you look at Exhibit 6, we
15 had parking spaces going up to just about less than
16 10 feet from this rear property line. So, we've
17 moved that about 20, 25 feet further away from the
18 residential building. And the other changes made is
19 the restoring the grass area along Alabama Avenue
20 where at the end of the word Alabama there is where
21 the area in front of Lot 13 begins. That's public
22 space. DDOT has requested we restore that grass
23 area.

24 And there was a curb cut and access showing
25 on the first plan that was going straight across

1 that public space into Lot 13 at an angle, and
2 that's gone now. So, now we're just using that
3 existing curb cut for the gas station. Then showing
4 the access in that black area outlined in purple,
5 that's showing the access driveway from the existing
6 gas station property to Lot 13. And the other
7 change you requested is confirmation of what kind of
8 vehicles this would be limited to. And it'll be
9 cars and SUVs and pickups, no commercial vehicles.

10 And then, you also asked about the time
11 limit, to which we obviously didn't make any
12 revisions there other than in our narrative saying
13 that we were amenable to a time limit. We
14 understand the concern there, and that would give
15 the opportunity for the applicant to show that the
16 use would not adversely affect the use of
17 neighboring property and then they would have to
18 come back in that time period, whether it's five
19 years or seven years, and essentially prove that it
20 is working, as we believe it will, without adversely
21 affecting neighboring properties.

22 CHAIRPERSON POURCIAU: And are you showing
23 tandem parking spaces?

24 MR. SULLIVAN: These are because it's just
25 for storage of cars. These cars will be placed

1 there by the operator. They won't be driven in and
2 out; they'll be towed in and out and then placed
3 accordingly.

4 CHAIRPERSON POURCIAU: The size on my
5 screen. I can't read what you have written in those
6 spaces. What does it say?

7 MR. SULLIVAN: It just says three standard
8 9 by 15 parking spaces for the ones that are three,
9 and the others say two standard 9 by 18 parking
10 spaces -- I'm sorry, five 9 by 18, not 9 by 15. So,
11 there's nine standard parking spaces in the top
12 block, and that says, each line says three
13 standards, and the rest of the boxes say two
14 standards.

15 CHAIRPERSON POURCIAU: And we did ask for
16 some landscaping to be shown, a buffer. I thought I
17 saw on one of your submissions some landscaping
18 detail. Do you have that?

19 MR. SULLIVAN: Yeah. If we can go to the
20 previous slide. So yeah, there's existing trees,
21 significant trees here between the residential
22 building and the use. Fully mature trees on that
23 side there.

24 CHAIRPERSON POURCIAU: As well as, I
25 thought we wanted to see something in this front,

1 you know, the public parking, the public space area.
2 Can you talk about what you've done there, if
3 anything? Or maybe if you haven't, why not?

4 MR. SULLIVAN: That's on the next slide,
5 please. And that's this area here, the space in
6 front just under Avenue, the word Avenue. That area
7 there is area that's going to be grass, and it'll
8 need to be taken back to what DDOT requires. So,
9 that's just grass, it's not landscaping beyond that.
10 It's just being restored to the grass surface.

11 CHAIRPERSON POURCIAU: Because you haven't
12 done anything in that, I think there's a vault
13 there, you haven't done anything in that area. We
14 were kind of concerned about how that area would be
15 treated going forward.

16 MR. SULLIVAN: Right. And that was DDOT's
17 concern as well, and that makes sense that it should
18 go in through the existing curb cut. But we didn't
19 have those plans updated yet when we attended the
20 first hearing, so nothing about the use will touch
21 that area, that public area there. It's just coming
22 in through that curb cut. In addition to that, DDOT
23 has required that it be restored, even though it was
24 already -- had nothing to do with this particular
25 application -- that the owner, restore that space

1 back to its original grass surface.

2 COMMISSIONER WRIGHT: Because there's a,
3 like, a gravel path that goes across the existing
4 grass area, and one of the things that I just want
5 to make sure is very clear is that gravel drive or
6 whatever will be removed and will become grass. And
7 does your applicant today park any cars on that
8 grassy area? And is it their intent to stop doing
9 that if they do?

10 MR. SULLIVAN: I don't believe that they
11 do. It's definitely their intent not to, and
12 they're required not to. The property line is
13 further forward than that. So after this goes to --
14 when they apply for a building permit application,
15 they're going to have to work closely with DDOT to
16 do exactly what DDOT wants for that space.

17 COMMISSIONER WRIGHT: And today, there's
18 sort of a gravel path that would allow a vehicle to
19 get onto that grassy area. Is that correct?

20 MR. SULLIVAN: Right. And that'll have to
21 go away.

22 COMMISSIONER WRIGHT: And that will go
23 away, so there won't be any vehicular clear access -
24 -

25 MR. SULLIVAN: Correct.

1 COMMISSIONER WRIGHT: -- to get onto that
2 grassy area.

3 CHAIRPERSON POURCIAU: Correct. Yeah.

4 MR. SULLIVAN: And that's one of the
5 aspects of this application that I think addresses
6 some of the neighbor concerns. The neighbor
7 concerns as I've heard them, a lot of them relate to
8 the existing use. And this use, they'll have to get
9 a building permit application. DDOT's going to make
10 them revise this, and then, they're going to have a
11 C of O that's going to have specific requirements as
12 to where they can park and how they can use the
13 property. And I think it's going to be a more
14 organized, formal use. And DDOT's also requiring
15 some improvements to the property as it existed,
16 which presumably they could have asked for anyway,
17 but in order to get this C of O, the applicant's
18 going to have to make those revisions with per DDOT
19 before they do anything else. So, it ensures that
20 that gets done.

21 CHAIRPERSON POURCIAU: Are there any other
22 questions for the applicant from the board? I think
23 I would like to continue this hearing at this point
24 and call on others who are here ready to testify.
25 Then, as a board, we'll make a decision on how we

1 proceed.

2 With that, is the Office of Planning here?
3 Maxine Brown-Roberts or Karen Thomas? I'm seeing
4 Ms. Roberts is here. Ms. Roberts, do you have
5 anything you'd like to update from your report based
6 on the additional information submitted by the
7 applicant?

8 MS. BROWN-ROBERTS: Good afternoon, Madam
9 Chair. This is Maxine Brown-Roberts from the Office
10 of Planning. We just want to continue to be on the
11 record in support, and we're supportive of what the
12 improvements that the applicant has presented today.
13 We did talk to DDOT about regarding the area within
14 the building setback line, and they had said that
15 that would be something that they will address at
16 building permit time. So, that's it.

17 CHAIRPERSON POURCIAU: Thank you. And I
18 guess DDOT's not here or any other agencies. Please
19 correct me if I'm wrong, Ms. Layard, Leonard, or
20 trying to look for Mr. Sakinejad. Correct me if I'm
21 overlooking anyone that is here. But hearing no
22 government agencies speak up, I know we don't have
23 an ANC report, but we have several ANC members here.
24 And I don't believe we have any parties in support
25 or parties in opposition. So, I'd like to go to the

1 parties in opposition. I believe all of the ANC
2 members that are here are in opposition. If we can
3 first hear from Mr. Williams, is he here? Mr.
4 Williams had signed up today, but I guess is not
5 here. Is Mr. --

6 MR. SAKINEJAD: He is on the call. I don't
7 know if maybe he didn't get elevated to panelist,
8 but he had --

9 CHAIRPERSON POURCIAU: Okay.

10 MR. SAKINEJAD: -- stated he was on the
11 call.

12 CHAIRPERSON POURCIAU: Yeah. Okay. He is
13 here. Here he comes now. Thank you. I didn't wait
14 long enough. Thank you. Mr. Williams, can you hear
15 me yet?

16 MR. WILLIAMS: Yes. I can hear you.

17 CHAIRPERSON POURCIAU: Great. Thank you.

18 MR. WILLIAMS: Oh.

19 CHAIRPERSON POURCIAU: I would like to --

20 MR. WILLIAMS: You can hear me then. Yeah.

21 CHAIRPERSON POURCIAU: -- remind.

22 MR. WILLIAMS: I've been on the call. Yes.

23 CHAIRPERSON POURCIAU: Okay, great. I
24 would like to remind you and others to give your
25 name and address for the record, and then, you have

1 three minutes to share your comments.

2 MR. WILLIAMS: Okay. My name is Jimmie
3 Williams. You're speaking of my home address, is
4 that correct?

5 CHAIRPERSON POURCIAU: I believe so, yes.
6 Mm-hmm.

7 MR. WILLIAMS: Okay. My home address is
8 3605 Highwood Drive Southeast, Washington, DC 20020.

9 CHAIRPERSON POURCIAU: Thank you.

10 MR. WILLIAMS: And I'm also the
11 Commissioner for ANC 7B07, which directly abuts the
12 property. We have submitted several letters, so I
13 want to call your attention to that. But basically,
14 I'm right because although the proposed tool and
15 facility is located, as I mentioned, in 7B08, a lot
16 of it immediately abuts my ANC, so it's impacted by
17 this proposed BZA.

18 Throughout our review, we've received a lot
19 of comments from our residents. They were concerned
20 about noise, commercial vehicle activity, vehicles
21 parked on the grass and other properties, rodents on
22 the property, property maintenance, visual impacts,
23 concerns about traffic, unresponsiveness to the
24 community, and just overall compatibility with the
25 overall area.

1 We have, in fact, submitted concerns: a
2 petition of 77 residents who opposed it, 77
3 residents from ANC 7B-07 and 7B-08, nearly all of
4 whom live in the immediate vicinity of the property.

5 We reviewed, also submitted, legal analysis
6 provided by one of my constituents, Attorney Laura
7 Richards, regarding the zoning issues presented by
8 the application. She raised significant questions
9 whether the requested relief is authorized under the
10 applicable zoning regulations; that part I'll leave
11 up to you all.

12 But those issues together, and not to
13 mention the concerns by several of my constituents,
14 including Paula Tillman, who I do believe is also on
15 the call, who may speak later, the matter has
16 generated more than what I think is average
17 neighborhood participation over an extended period.

18 Our residents have attended all the ANC meetings.
19 As far as we're knowing, there was no skipped agenda
20 items that we have recognized. And whenever they
21 were there and there was an opportunity to speak of
22 which there's only been one. And it's for these
23 reasons, and I'll be brief, that we object, and, and
24 it's not just ANC 7B-07 but we were prepared to have
25 a letter coming from the ANC, the complete ANC were

1 there an opportunity to postpone, but that didn't
2 happen. So, but for the reasons and for the
3 documents, which includes photos, includes the
4 petition with 77 residents, as well as other
5 concerns specifically outlined in the letters from
6 the Chair, Travis Swanson, as well as in ANC 7B-08,
7 Angela Sydnor, who's also on this call, and also
8 direct resident Doretha Billings, who is also on
9 this call. So, I just wanted to call it to your
10 attention to let you know it has been above average.

11 I have looked at the property several times myself
12 and saw that everything that they submitted and all
13 the concerns are valid and still remain a concern.

14 And I think there's a significant belief
15 among the neighbors that despite the promises and
16 even the approval by Office of Planning that this is
17 not likely to result in improvements or long-term
18 benefit to the community or direct response to the
19 concerns expressed by the constituents. With that,
20 I will stop my testimony, unless you have questions.

21 I'm glad to answer.

22 CHAIRPERSON POURCIAU: Thank you, ANC
23 Commissioner Williams. I understand that
24 Commissioner Swanson, the Chair of your ANC, is here
25 to speak on behalf of the ANC. I will call on him

1 third since he wasn't signed up. I'll take
2 Commissioner Sydnor next, please. And please --

3 COMMISSIONER WRIGHT: Could I ask a quick
4 question?

5 CHAIRPERSON POURCIAU: Mm-hmm. Yes.

6 COMMISSIONER WRIGHT: I looked at the
7 photographs that were submitted to the record, which
8 I believe you had submitted those photographs. And
9 in those photographs it showed vehicles that are
10 larger than just traditional cars parked in the area
11 behind the fence. It also showed, I think it was
12 like a Volkswagen or something, that appeared to be
13 parked on the grassy area between the sidewalk and
14 the fence, what we're calling the parking area or
15 I'm calling it the grassy area. Were those recent
16 photographs? Like, how recently were they taken?

17 MR. WILLIAMS: They are, well, there's two
18 sets. They were very recent photos. One of them
19 was a set taken by resident Doretha Billings the
20 same date that I submitted the letter and also by
21 Commissioner Angela Sydnor, separate photos taken
22 the same day. And I also have photos that I didn't
23 submit that were redundant where I visited the same
24 day myself. And so, those larger vehicles, the
25 vehicles that you didn't name, Volkswagen, MINIs, a

1 truck, all those things, all those vehicles were
2 there most recent within less than two weeks.

3 COMMISSIONER WRIGHT: Thank you.

4 MR. WILLIAMS: And they do, and might I
5 note, it does appear that they change from day to
6 day because I don't live that far, and I've walked
7 over there and noticed a switching out of new
8 vehicles there. So, this is something frequently,
9 so it's very much, to answer your question,
10 Commissioner, very recent.

11 CHAIRPERSON POURCIAU: Thank you. Thank
12 you for that clarification, Ms. Sydnor --

13 MR. WILLIAMS: So one other note.

14 CHAIRPERSON POURCIAU: Mm-hmm.

15 MR. WILLIAMS: I don't know if Commissioner
16 Swanson will speak or not, but he also submitted a
17 letter in the event that he is not on. But I do
18 think he is on, given either myself or Commissioner
19 Sydnor to --

20 CHAIRPERSON POURCIAU: He is on.

21 MR. WILLIAMS: -- speak on his behalf.

22 CHAIRPERSON POURCIAU: He is on.

23 MR. WILLIAMS: All right. Thank you.

24 CHAIRPERSON POURCIAU: Mm-hmm. Thank you.
25 Commissioner Sydnor, did you want to make any

1 remarks?

2 MS. SYDNOR: Yes. Thank you. Good
3 morning, everyone. Thank you, Commissioner
4 Williams. My name is Angela Sydnor. I live at 1543
5 42nd Street Southeast around the corner from the
6 said tow yard, and I really agree with everything
7 Commissioner Williams said. We've been working on
8 this issue, and the pictures that were sent, my set
9 of pictures was July 8th, that afternoon, so they
10 are very recent, because we were working very hard
11 to get everything together to send in before the
12 deadline of July 8th, I believe. Yeah, so it was
13 that day that those pictures were sent. There's
14 cars on the grass, big trucks, everything inside. I
15 wasn't able to get inside the gate, but I was able
16 to get pictures of the things that's inside the
17 gate. The cars outside on the said public parking
18 space, which is grass, but the ticket lady came
19 around, I think last month, and placed tickets on
20 all the cars that's on the said public space because
21 she said it's not public. Well, she said it's
22 public, but there's tickets on all the cars that's
23 outside on the grass, and there's tickets still on
24 those cars that's outside.

25 And so, yeah. But I'm in opposition. I

1 oppose the tow yard. I agree with everything that
2 Commissioner Williams said, and thank you so much
3 for your time.

4 CHAIRPERSON POURCIAU: Thank you. And if
5 we could hear from Commissioner Williams now, and
6 then we'll see if there's any additional questions.

7 Commissioner Williams, please give your name and
8 address and your testimony for the record.

9 MR. WILLIAMS: Do you mean Commissioner
10 Williams or Commissioner Swanson?

11 CHAIRPERSON POURCIAU: I'm sorry,
12 Commissioner Swanson. Thank you so much,
13 Commissioner Swanson.

14 MR. SWANSON: Yes. Hi. Thank you so much.
15 Good afternoon. We are just past the noon mark, so
16 we are in the afternoon, Madam Chair. My name is
17 Travis Swanson. I serve as the chair of ANC 7B, and
18 I live at 1622 26th Place Southeast, Washington, DC
19 20020, in the Randall Highlands community. So, ANC
20 7B does encompass all of the southernmost portion of
21 Ward 7, including the Fort Davis community, which is
22 where this site is proposed.

23 So, I'm here today to again ask the Board
24 to grant the short continuance request. I know
25 you're still considering that. As the Board is

1 aware, as we stated in our letter, ANC 7B is
2 currently in summer recess, and you know, we believe
3 that it would be beneficial to us to have just a
4 short continuance to hold a special meeting focused
5 solely on this topic. You know, we know that that
6 responsibility falls on us, and we believe that
7 there is a straightforward fix here. We can have a
8 short continuance, have a properly noticed special
9 meeting.

10 So, I want to be direct about where things
11 stand so the Board just knows. So, we reached out
12 to the applicant's counsel last week to ask whether
13 the applicant would agree consent to a short
14 continuance. The counsel responded that the
15 applicant would not agree, citing the history of
16 this case. We have a little bit of a varying view
17 of what has happened. The applicant did attend our
18 meeting in person at the Joy Evans Rec Center back
19 in February. We had them on our meeting schedule
20 again in May, but when we called the agenda item
21 forward, nobody was present. It was toward the end
22 of our agenda, so completely understand if people
23 had left or walked away from their computers by that
24 time, but they were called up. And, you know, we
25 just want to make sure that the ANC does have an

1 opportunity to weigh in. I do want to ask that the
2 Board look more closely at what happened. You know,
3 the ANC's ability to take formal action was affected
4 by scheduling, you know, outside of any single
5 party's control, including the summer recess, which
6 we are currently in. And conflicts led to the
7 matter being tabled rather than actioned on. So,
8 this was a process problem. It's not a reflection
9 on the commission's engagement in the community.

10 In the spirit of moving this forward
11 constructively rather than simply rearguing timing,
12 I did talk with counsel last week, Mr. Sullivan,
13 that we did actually want to try and hold a special
14 meeting this past Monday and to try and get in ahead
15 of this hearing today. As I mentioned, and Mr.
16 Sullivan, we are very appreciative that he was open
17 to that. However, like I said, we are in summer
18 recess, and we were unable to get a quorum together
19 on such short notice to pull together that meeting.

20 We do believe that conversation would have been
21 useful, but we can't meet without a quorum. So,
22 definitely wanted to acknowledge the applicant's
23 willingness to engage. But you know, I sorry, I'm a
24 little -- I just got inside from the heat, so but we
25 also want to ask the Board to weigh that the record

1 already shows how residents feel about this.

2 More than 77 residents in the immediate
3 area have signed a petition opposing this
4 application. As Commissioner Williams, who
5 represents the commission area directly across the
6 street from this, mentioned, and has pointed out,
7 this level of participation is well above what the
8 board typically sees from impacted residents in a
9 case. You know, typically, I've attended several
10 hearings before and I testified at many of these.
11 Typically, you're lucky to get a couple of people
12 who are, you know, on one side or the other. But
13 there are 77 residents currently who are all opposed
14 to this. This is a residential neighborhood, and,
15 you know, that level of opposition from the people
16 who live closest to the site is exactly the kind of
17 input a formal ANC resolution is meant to capture
18 and convey to the Board with the great weight that
19 it deserves. So, this is the reason we're asking
20 for a short continuance today measured in weeks, not
21 months. It would allow us to hold a properly
22 noticed special meeting, make sure that a quorum is
23 present, and give the applicant an opportunity to
24 come speak to the community in a meeting that is
25 dedicated solely to the applicant and no other

1 matters on the board. The law actually prohibits us
2 from doing more than one thing at a special meeting.

3 So, I recognize that the applicant has concerns
4 about further delay, and I don't take that lightly.

5 But, you know, I'd ask the board to weigh a brief
6 continuance against the alternative, which is a
7 decision made without a formal ANC position on a
8 matter that carries real weight for the neighbors
9 who live closest to the site. So, we're asking for
10 a short delay, not an open-ended one, and, you know,
11 we're prepared to move quickly to get a special
12 meeting on the books when we can secure a quorum and
13 a time that works for Mr. Sullivan and his client.
14 You know, we believe that it serves everyone's
15 interest to get this right, including the
16 applicant's, since a complete record protects any
17 decision the board makes from any later challenges.

18 We want to thank you again for your
19 consideration and for holding this meeting, and
20 we're happy to answer any questions the board might
21 have.

22 CHAIRPERSON POURCIAU: Thank you. Do any
23 of the board members have questions for Commissioner
24 Swanson or others from the ANC? Yes. Thank you,
25 Ms. Wright.

1 COMMISSIONER WRIGHT: Commissioner Swanson,
2 you described a couple of different meetings that
3 were supposed to take up this issue, but for one
4 reason or another, it didn't get taken up. You
5 mentioned a meeting in May. What happened at the
6 meeting on June 18th, which is the meeting mentioned
7 by Mr. Sullivan, where they said they were in
8 attendance?

9 MR. SWANSON: Sure. It was the same
10 situation where we had the meeting. It was a fully
11 virtual meeting that month, which we typically meet
12 hybrid. It was a fully virtual meeting which did
13 actually allow us more flexibility to run over time,
14 and we did. We have a pretty hard stop at our in-
15 person components. This was a fully virtual
16 meeting. But when we called it up, I did not see
17 Mr. Sullivan in the meeting. I'm not saying he
18 wasn't there. Definitely not making any accusations
19 there, but did not see him in the meeting. We did a
20 call. I know our Commissioner Sydnor had also left
21 by that point, so we did make a call. No hands went
22 up, so we moved on with the agenda.

23 COMMISSIONER WRIGHT: Okay and Mr. Sullivan
24 says that he was there and had been waiting for this
25 item to be called. So there's a direct

1 contradiction in terms of what we're hearing about
2 what happened on June 18th. You know, the thing it,
3 honestly, this case is concerning to me because no
4 one is covered in glory.

5 I think that some of the information that
6 was submitted in the photographs is very concerning
7 to me because, you know, it does sort of demonstrate
8 that there are things going on that are not good for
9 the neighborhood right now, including parking on the
10 green space and parking of vehicles larger than
11 traditional cars within the fenced area. And, you
12 know, again, we're understanding that is not the
13 intent, I guess, in the future. But sort of doing
14 it right now certainly makes the neighborhood
15 suspicious and concerned that it's not going to
16 change even if they get the relief they're looking
17 for now. On the other hand, I also feel like the
18 ANC has been perhaps not getting this hashed out at
19 a public meeting and you know, we delayed this last
20 time with the idea that there would be an
21 opportunity for the applicant and the ANC to meet.
22 You know, we have a lot of letters from residents.
23 Also I think at least three letters from ANC
24 commissioners opposing this application. I guess
25 I'm sort of wondering, you know, it seems pretty

1 clear to me where the ANC is coming down on this
2 application. I mean, it seems pretty clear that
3 there's a lot of opposition from the community and
4 from ANC commissioners on this application. So I
5 guess my question to you, Commissioner Swanson, is
6 do you actually believe if we did another brief
7 delay and there was an actual meeting between the
8 applicant and the ANC that there is any opportunity
9 for a positive resolution, or is it simply checking
10 the box so you can write a formal letter saying we
11 oppose?

12 MR. SWANSON: Sure. So I do think, you
13 know, I don't want to speak for -- I'll let
14 Commissioner Williams weigh in on this as well,
15 because he and Commissioner Sydnor because they're
16 both closer to the residents. But we envision this
17 as an opportunity to have the whole meeting
18 dedicated to both the commissioners and the
19 residents to be able to hear directly from the
20 applicant and to try to work through issues to see
21 if there maybe is some common ground that hasn't
22 been found yet. So this to me, and like I said, I
23 don't want to put words in Commissioner Williams or
24 Commissioner Sydnor's mouths, but is more than just
25 us checking a box. It's us doing due diligence with

1 the applicant and the community to see if that
2 middle ground does indeed exist.

3 COMMISSIONER WRIGHT: Did you want to add
4 anything, Commissioner Williams, or is it basically
5 you just agree with what was just stated?

6 MR. WILLIAMS: Well, I do want to say I do
7 agree. I mean, I want to clarify. You know, the
8 residents that have lived in that area, they do want
9 to make sure that if there's points of agreement, I
10 don't think they are opposed to that. We do want to
11 take a closer look and provide the opportunity for
12 discourse that may not have occurred. So, it's more
13 than just checking a box. It is really a direct
14 response and an earnest effort to resolve this one
15 way or another. And if it's in the negative, but to
16 make sure that their voices are continuing to be
17 heard, but that we also hear, you know, their voices
18 and their concerns, especially in lieu of the
19 discussions and letters that were submitted for this
20 hearing.

21 COMMISSIONER WRIGHT: Yeah, I mean, it
22 strikes me that it's not a very good situation as it
23 exists today on the ground and that this application
24 is a potential way to get enforceable improvements,
25 meaning no parking, no driveway, just grass in that

1 front area, and there would be no way to vehicularly
2 access that grassy area. It would have to be, you
3 know, really just set as open space.

4 An agreement about the types of vehicles
5 that are parked there and that trucks and school
6 buses and other things would not be parked there,
7 maybe additional planting and landscaping at the
8 rear adjacent to the nearest neighbor, maybe even a
9 few bushes or things planted if the Department of
10 Transportation would agree along the front fence
11 line to provide additional buffering. I mean, there
12 are good things that could come out of this that
13 would improve the current situation for the
14 community. If those things could be negotiated
15 between the property owner and the ANC, and they
16 could come forward with a set of agreed upon
17 conditions that would again could be memorialized in
18 our action but also memorialized in an agreement
19 with the ANC, so there would be, you know, some
20 enforceable improvements that could happen to what's
21 currently clearly not a very good situation.

22 I don't know how the other members of the
23 BZA feel. I mean I'm open to a very short
24 continuance, but not if it's just to sort of spin
25 the wheels and basically give the ANC a chance to

1 formally write up their disapproval because it's
2 clear that you disapprove. We get it, but if there
3 was really an opportunity to say, let's come up with
4 what works for the community. Let's come up with a
5 set of agreements or conditions that can again be
6 between the owner and the ANC or and/or incorporated
7 into whatever action this body takes. So, I'm open
8 to a short continuance if that is the goal. And I
9 know Mr. Sullivan may have thoughts on that as well.

10 I saw his hand.

11 MR. SULLIVAN: Thank you, Commissioner.
12 And if it's appropriate for me to speak now, I just
13 wanted to make sure I had a chance to weigh in in
14 response to what was stated by the ANC.

15 CHAIRPERSON POURCIAU: Mr. Sullivan?

16 MR. SULLIVAN: Yes.

17 CHAIRPERSON POURCIAU: Mr. Sullivan, I'd
18 like to kind of wrap up the ANC, even though, you
19 know, we're having a dialogue. I just wanted to see
20 if Ms. Lindsjo had any questions for the ANC, and
21 then we'll come back to you. Okay? Ms. Lindsjo,
22 anything else you want to ask of the ANC members?

23 MEMBER LINDSJO: No, not at this time. I
24 appreciate what they've shared and appreciate
25 Commissioner Wright's questions and follow-ups about

1 what is happening right now

2 CHAIRPERSON POURCIAU: That's great. Thank
3 you for that. All right, good. Mr. Sullivan, if
4 you have any questions or items you'd like to share
5 with us based on what we've heard and especially
6 regarding Commissioner Wright's follow-up questions.

7 MR. SULLIVAN: Yes. So at the heart of
8 this, and maybe I didn't make this clear, there's
9 the gas station owner who's been operating the
10 property for years, and there's a tenant that I'm
11 representing, although the property owner is
12 officially the applicant, who's going to be leasing
13 Lot 13 and working in conjunction with the gas
14 station owner for that lot. So it's not the same
15 actor, and the intention and the understanding and
16 what should be the reality since this will be
17 approved with a building permit and a C of O. The
18 establishment of the proposed use here should, as a
19 matter of course, clear up the issues on the
20 existing properties and in front of the property of
21 having commercial vehicles parked, having them
22 parked in the wrong area, having them parked in
23 public space, and other issues that they've
24 discussed.

25 So, I don't think that the actions of the

1 gas station owner and disappointing these neighbors
2 in some of the actions he's taken apparently should
3 have anything to do with the application, not just
4 because we're asking for a proposed use in the
5 future unrelated to the existing use, but also
6 because it's a different person or entity that will
7 be operating that.

8 The other thing is I'm kind of astonished
9 by the ANC interaction on this because I'm not in
10 the habit of sitting through two-hour meetings and
11 then going silent when it's my turn to speak. And
12 at neither of those meetings was the matter called.

13 They're both on the agenda, and in neither of those
14 meetings were we given the opportunity to weigh in.

15 It was flatly: one, the meeting just ended the May
16 meeting, and in the June meeting, it was stated that
17 the SMD's not there, so it's going to be tabled and
18 that was it. If I had the opportunity to speak, I
19 certainly would've presented. I didn't attend for
20 no reason. So I don't know, I'm just saying I'm
21 not lying about that. Regarding 77 residents, look,
22 I understand there's people opposed to this, and the
23 number 77 keeps coming up. I'm reading a petition
24 that has 23 properties on it; 35 people representing
25 23 properties, not 77. I'm not sure where the

1 discrepancy comes from. Not that 23 is good, I
2 understand that. So if it was going to be a really
3 short postponement, normally I would agree to that,
4 but we've been to three meetings, and we filed this
5 in November. We sat through, of course, three
6 months without any BZA, and every bit of delay goes
7 further towards getting this use established and
8 helping to resolve the issues that are actually
9 being discussed from the neighbors too. Now we're
10 just giving the ANC the opportunity after having two
11 full opportunities in May and June to put their
12 opposition on the record and then require us to get
13 a full order and delay it for another who knows how
14 many more months. So we strongly object to that.
15 That's all I have. Thank you.

16 CHAIRPERSON POURCIAU: Thank you. I think
17 next, if Ms. Tillman is on, is she here today or was
18 that from the previous? I don't see her name.

19 MS. MEHLERT: Excuse me, Chair. She is a
20 call-in. I will add her right now.

21 CHAIRPERSON POURCIAU: Very good. Thank
22 you.

23 MS. TILLMAN: Hello?

24 CHAIRPERSON POURCIAU: Hello, Ms. Tillman.

25 MS. TILLMAN: Hello.

1 CHAIRPERSON POURCIAU: Ms. Tillman, can you
2 hear me?

3 MS. TILLMAN: Yes, ma'am.

4 CHAIRPERSON POURCIAU: This is Michelle.

5 MS. TILLMAN: Yes, ma'am. Can you hear me?

6 CHAIRPERSON POURCIAU: Yes, I can hear you
7 well. Thank you for joining us. If you can give
8 your name and address for the record, and you have
9 three minutes. I would like to say I hope you've
10 been listening in and --

11 MS. TILLMAN: I have.

12 CHAIRPERSON POURCIAU: -- I remember your
13 testimony from before, which was very good and
14 revealing. If you have anything to add, especially
15 with regards to any updates that the applicant has
16 provided, that would be great. But with that,
17 please proceed.

18 MS. TILLMAN: Thank you. My name is
19 Paulette Tillman. For the past 50 years, I have
20 lived at 4000 Alabama Avenue, Southeast. I also
21 wanted to comment on the BZA's information to the
22 ANC. Their Exhibit No. 10 has that February date on
23 it, and the Exhibit No. 19 has the December 4th date
24 on it. As I stated before, the place is an eyesore.
25 We were told that the vehicles would not be seen

1 from the street. They are. Residents behind the
2 establishment must either keep their windows covered
3 or view a junky yard atmosphere daily. TFO promised
4 to get input from us. They did not.

5 The zoning and regulations allow a special
6 exemption to establish or enlarge a gasoline service
7 station near a residential neighborhood. There's no
8 exemption for a towing and recovering facility to be
9 placed beside a gasoline station. Therefore, TRO
10 Towing and Recovery does not qualify for an
11 exemption. I realize at our February meeting, TMG
12 Mid Atlantic stated that the company had canvassed
13 the neighborhood and did not encounter any
14 opposition. Yet the residents that I spoke to
15 didn't know anything about it. The list presented
16 at the BZA meeting included dead people and people
17 who knew nothing about the tow and storage
18 application, because I went to them and asked them
19 why they would sign something without talking to me.

20 Mr. Ford, for Mid Atlantic LLC, promised to better
21 canvass the neighborhood and present at the next ANC
22 meeting. We had not been canvassed.

23 ANC 7B promised to ask the BZA to
24 reschedule the March hearing because there was no
25 time for the community discussion before the

1 meeting. Thankfully, you did reschedule. There was
2 no ANC meeting in April because of Emancipation Day.

3 PMG Mid-Atlantic LLC would report to the ANC at the
4 May meeting. They were on the agenda. They did not
5 show. I have brought this up at every ANC meeting,
6 I have not missed any.

7 In closing, I oppose it. We do not need a
8 commercial storage lot in our residential
9 neighborhood. I understand you have pictures that
10 were shown earlier were outdated. There's a lot of
11 blights there. No one in a residential area should
12 have to keep curtains and blinds closed to avoid
13 looking at a junkyard. The application is seeking
14 permission to expand an independently opened gas
15 station. Mr. Ford has already established his tow
16 and storage lot adjacent to the gasoline station.
17 He told us it was his business. TFO is not an
18 expansion. It is totally independent of the BP
19 station. Mid-Atlantic LLC is leasing property to
20 both entities. TFO should place its commercial
21 business in a commercial area. Mr. Ford said that
22 it was owned by a Ward 7 resident. It is not. It
23 is owned by somebody who lives in Virginia. And do
24 you have any questions for me?

25 CHAIRPERSON POURCIAU: Thank you, Ms.

1 Tillman. Do any other board members have questions
2 for Ms. Tillman? No questions. Mr. Sullivan, do
3 you have any comments or questions from Ms.
4 Tillman's presentation?

5 MR. SULLIVAN: No, other than just to
6 reiterate that I was at ANC meetings in May and
7 June. I know in June some people made comments
8 about the application but off the agenda item when
9 there were community comments and the ANC actually
10 said, we'll get to that when we get to the agenda
11 item. So I didn't respond at that point, but I was
12 there for both of those meetings.

13 MS. TILLMAN: Then you must have seen me on
14 the far right looking toward the front. I'm always
15 on the far right against the wall.

16 MR. SULLIVAN: It was -

17 MS. TILLMAN: And I always speak.

18 MR. SULLIVAN: -- a virtual meeting. I was
19 on the --

20 MS. TILLMAN: Oh, I'm sorry.

21 MR. SULLIVAN: Yeah.

22 MS. TILLMAN: Mm-hmm. I always speak. I
23 always ask about it.

24 MR. SULLIVAN: No, I do remember it. Yeah,
25 I remember a couple people spoke up at the June

1 meeting that I was at --

2 MS. TILLMAN: In the meeting --

3 MR. SULLIVAN: -- during the community
4 session. And yeah, but the agenda item wasn't
5 called.

6 CHAIRPERSON POURCIAU: All right, thank
7 you, Ms. Tillman. At this point, I'd like to ask
8 Mr. Sullivan if he has any closing remarks.

9 MR. SULLIVAN: Thank you, Madam Chair. I
10 would just like to note that as originally stated in
11 the first hearing that we've met the special
12 exception criteria. The property is located more
13 than 25 feet from the nearest residential zone, and
14 we made that a little further so that it's more than
15 30 feet from the nearest residential use. We also
16 believe the operation of the use shall not create
17 dangerous or other objectionable traffic conditions,
18 which is item number two. As a result, we think it
19 will improve the things that are being complained
20 about. It'll take that lot 13 essentially out of
21 its, what's been apparently an abused use sense by
22 the main operator of the gas station, and it'll put
23 it in Mr. Ford's hands to be used in accordance with
24 this board's conditions and the C of O and building
25 permit that it'll have to get to do that. So we

1 think that'll be an improvement.

2 The third condition is just that required
3 parking spaces may be arranged so that all spaces
4 are not accessible at all times. And that's
5 obviously -- that's at the heart of this because
6 these will be tandem parked storage spaces. To be
7 clear, it won't be commercial cars again. And so
8 for those reasons, we think that the application
9 meets the special exception criteria here in this
10 MU-3 zone, and we respectfully request that the
11 board approve the application. Thank you.

12 CHAIRPERSON POURCIAU: Thank you, Mr.
13 Sullivan. I remain a little concerned about the
14 information we asked to be submitted. I clearly
15 remember a lot of discussion about landscaping and
16 buffer that has not been addressed, concerns about
17 the type of automobiles and documentation that shows
18 what's going on there now. The residents have
19 provided theirs; the applicant did not.

20 You addressed the time limit, but seven
21 years definitely seems too long. I'd like to hear
22 from other board members. I hear the significant
23 concern from the ANC. I feel there may be some
24 willingness to work through that concern with some
25 detailed documentation. But your response when

1 asked about that by Commissioner Wright was not
2 positive, so I don't know, maybe I'm mistaken about
3 that. But right now I'm very concerned about what I
4 see going on there today, that nothing in the plans
5 show, you know, definitively that those, those
6 actions are going to change.

7 I know you have other permit processes to
8 go through to work through many of the details, but
9 we've devoted a lot of time to this. I feel like
10 maybe we can work some of those out now. Do other
11 board members have any questions or statements
12 they'd like to make? No. So hearing none, I'm
13 feeling like I might want to move this to a decision
14 meeting, which of course would mean another delay
15 but it would allow time for the ANC, it would allow
16 time for the applicant to go back and respond to the
17 landscaping buffer issue, and it would also allow
18 them to rethink the time limit, you know, rather
19 than have us impose that.

20 COMMISSIONER WRIGHT: So you're suggesting
21 keeping the record open?

22 CHAIRPERSON POURCIAU: Yes.

23 COMMISSIONER WRIGHT: But not making a
24 decision today.

25 CHAIRPERSON POURCIAU: Correct.

1 COMMISSIONER WRIGHT: And having an
2 opportunity for the applicant and the ANC to meet to
3 hash through some of the issues, is that correct?

4 CHAIRPERSON POURCIAU: Yeah. I think given
5 our agenda for the next two meetings, especially
6 because of our own, you know, quorum issues, those
7 agendas are going to be very full. And so I would
8 think we would take this up at the first September
9 meeting and whatever else has been submitted for the
10 record would be there or not, and then we would vote
11 on it at that meeting.

12 COMMISSIONER WRIGHT: So, I'm not opposed
13 to that. I think that I would -- I want to be very
14 specific about the applicant should meet preferably
15 in person, but virtually if necessary, but
16 preferably in person with the ANC, and they should
17 agree to discuss a set of conditions between the
18 applicant who is a new party, and I think that's
19 important for the people in the community to
20 understand, that this is not the same person who has
21 been operating the lot. It is a different person,
22 and that they should discuss an agreement that would
23 assure that the green grass area in front is
24 restored, that the only cars parked would be non-
25 commercial vehicles, that there might need to be,

1 you know, some planting of vegetation that would
2 hide the lot at the back and at the front. You
3 know, if Department of Transportation would agree to
4 a line of trees being planted along the fence line.

5 If they don't want it on the public property, it
6 could be on the private property inside the fence
7 line. But that there would be a line of vegetation
8 at the front, a line of vegetation at the back that
9 would be installed that would be purely for
10 screening and hiding the activities going on, and
11 that there would be a strict adherence to these
12 rules. Then we would come back and maybe check in,
13 let's say, you know, four to five years to see if
14 the rules are being adhered to. Have that discussion
15 with the community, which I think are very
16 reasonable. I think there's the potential for a
17 very reasonable agreement here. The problem really
18 is is that the parties have not, for whatever
19 reason, been able to get together and have a
20 discussion about a reasonable agreement. I think
21 before we take action, it would be really important
22 for that to happen. I hear Mr. Sullivan's concerns.
23 I think the ANC needs to frankly get their act
24 together and hold a meeting with an agenda on topics
25 that are going to be heard, especially if parties

1 are there. I mean the applicant is paying Mr.
2 Sullivan to sit there for two hours and then not be
3 allowed to speak or participate in the ANC meeting.

4 That's just not good. That's just not right. So
5 you know, I agree with the chair, which would be to
6 keep this record open, have it come back for a
7 decision at the first meeting in September.

8 CHAIRPERSON POURCIAU: Ms. Lindsjo, I think
9 I see you nodding.

10 MEMBER LINDSJO: Yeah, I would agree with
11 that approach, but to make sure that the meeting
12 could still happen by that time, I don't -- is that
13 feasible?

14 CHAIRPERSON POURCIAU: Well, I think we're
15 just -- I mean, it's a long enough time. I don't
16 know. I think they've got to try to -- they got to
17 figure that out, you know? It's going to be six
18 weeks or something. So you know, realizing it's
19 August, you know, some of it. But we've got lots of
20 technology and things, you know. It'd be nice if it
21 was in person. I guess we have to ask the secretary
22 to make sure that's a good date for us too. But
23 yeah, the earliest possible in September. With
24 that, I don't know if there's any final remarks
25 you'd like to make, Mr. Sullivan?

1 MR. SULLIVAN: Just a question, if I may,
2 regarding vegetation in the front and back. My
3 client, the operator on Lot 13, is a local
4 businessman. He doesn't have unlimited funds. We
5 weren't talking about full-grown trees. We're
6 talking about just some sort of aesthetic, I don't
7 know if like, I want to make sure I provide the
8 right thing and -- and --

9 MEMBER LINDSJO: Yeah.

10 MR. SULLIVAN: -- understand correctly.

11 CHAIRPERSON POURCIAU: I mean, go to Home
12 Depot and buy what are those bushes that sort of
13 grow up like columns? I forget what they're called.
14 You know, buy a bunch of those and plant them in
15 the front and in the back.

16 MR. SULLIVAN: Okay. Understood. Thank
17 you. That's the only thing.

18 CHAIRPERSON POURCIAU: I did notice from
19 one of the pictures fencing that didn't look
20 horrible to me, I don't know, but it didn't cover
21 what's there now. Now, that's not supposed to be
22 there in the future, but you might just think about
23 kind of line of sight as well and how, if possible,
24 that might be addressed as well from adjacent
25 properties. So think about that. I know mature

1 trees are very expensive. All right?

2 MR. SULLIVAN: Okay. Thank you.

3 CHAIRPERSON POURCIAU: And so with that, we
4 will continue this hearing. We will move this to a
5 decision meeting. Madam Secretary, could you let us
6 know what is available, please?

7 MS. MEHLERT: You can schedule this for a
8 decision on September 2nd if that's what the board
9 would like to do. So the record would be closed
10 except for the specific submissions requested from
11 the applicant regarding, I believe, the screening
12 and the time limit condition and then an ANC report.

13 CHAIRPERSON POURCIAU: That's correct. All
14 right. Thank you for that. I believe we will close
15 this case now and move to the next case. It is
16 12:48. I know I'd like to take a little break. Did
17 you all want to take a lunch break and break till
18 1:30, or -- we've got four more cases to hear today?

19 MEMBER LINDSJ0: I'm happy to break. I
20 could do till, like, 1:15 or 1:20.

21 CHAIRPERSON POURCIAU: Mm-hmm.

22 MEMBER LINDSJ0: As long as we get, like,
23 30 minutes in.

24 CHAIRPERSON POURCIAU: Yeah. Okay, let's
25 do till 1:20. All right, we will reconvene at 1:20.

1 Thank you so much.

2 (Whereupon, the above-entitled matter went
3 off the record at 12:48 p.m. and resumed at 1:20
4 p.m.)

5 CHAIRPERSON POURCIAU: Our next case, which
6 is 21396, Madam Secretary, would you introduce the
7 case for us, please?

8 MS. MEHLERT: Yes. The board is back from
9 its lunch break and returning to its hearing
10 session. The next case is Application No. 21396 of
11 1124 Morse, LLC. This is a self-certified
12 application pursuant to Subtitle X, § 901.2 for
13 special exceptions under Subtitle E, § 207.5 to
14 allow the rear wall of a row building to extend
15 farther than 10 feet beyond the furthest rear wall
16 of any adjoining principal residential building on
17 any adjacent property. Under Subtitle U, § 320.2,
18 to allow the conversion of an existing residential
19 building, existing on the lot prior to May 12th,
20 1958, to a three-unit apartment house.

21 This project is for a third story and
22 three-story rear additions to an existing two-story
23 attached principal dwelling and conversion to a
24 three-unit apartment house use, with living space
25 also provided in a new two-story accessory structure

1 in the rear yard. It's located in the RF-1 zone at
2 932 Shepherd Street, Northwest, Square 2906, Lot
3 839.

4 As a preliminary matter, there are requests
5 for party status in opposition to the application
6 from Rebecca Sturtevant and Anthony Smith. And
7 there is also a recent request from the applicant to
8 waive the filing deadline to submit updated plans,
9 which are now on the record in exhibits 40A and 40B.

10 CHAIRPERSON POURCIAU: Thank you. Do we
11 need to take up the party status first?

12 MS. MEHLERT: Yes, you can address the
13 party status request first.

14 CHAIRPERSON POURCIAU: Okay. Okay. So
15 could someone brief us on the party status request?

16 I think that --

17 COMMISSIONER WRIGHT: I think there are two
18 parties, Rebecca Sturtevant and Anthony Smith, and
19 they are requesting party status in opposition. I
20 don't think there was any objection by the applicant
21 or the affected ANC that has been received to their
22 party status.

23 CHAIRPERSON POURCIAU: Very good.

24 COMMISSIONER WRIGHT: For those reasons, I
25 would support party status.

1 CHAIRPERSON POURCIAU: Very good. I do as
2 well. Do we need to vote on that, Madam Secretary?

3 MS. MEHLERT: Yes, you can do a roll call
4 vote.

5 CHAIRPERSON POURCIAU: Okay. Would you do
6 the roll call, please? I move that we approve party
7 status on Application 21396. Is there a second?

8 MEMBER LINDSJO: I second that.

9 CHAIRPERSON POURCIAU: Thank you. Would
10 you please call the roll, please, Madam Secretary?

11 MS. MEHLERT: Please respond to the Chair's
12 motion to grant party status in opposition. Chair
13 Pourciau?

14 CHAIRPERSON POURCIAU: Yes.

15 MS. MEHLERT: Board Member Lindsjo?

16 MEMBER LINDSJO: Yes.

17 MS. MEHLERT: Commissioner Wright?

18 COMMISSIONER WRIGHT: Yes.

19 MS. MEHLERT: Staff will record the vote as
20 three to zero to two to grant party status in
21 opposition in Application No. 21396 to Rebecca
22 Sturtevant and Anthony Smith on the motion made by
23 Chair Pourciau and seconded by Board Member Lindsjo.

24 CHAIRPERSON POURCIAU: Thank you. I see a
25 Mr. DeMare has signed up or Mr. and Ms. DeMare has

1 signed up as a witness and -- I see also names of
2 applicants and agents. Who would like to speak on
3 behalf of the party? Ms. Wilson, did you want to
4 speak on behalf of the party?

5 MS. WILSON: Are you talking about the
6 party in opposition or the applicant?

7 CHAIRPERSON POURCIAU: No, the applicant.

8 MS. WILSON: Oh, yes. That's me. I'm here
9 --

10 CHAIRPERSON POURCIAU: I'm sorry.

11 MS. WILSON: -- to represent the applicant,
12 yes.

13 CHAIRPERSON POURCIAU: Okay. So welcome.

14 MS. WILSON: And I think I'm having a
15 little, yeah, video lag, so I might turn my video
16 off while I'm presenting.

17 CHAIRPERSON POURCIAU: Okay, that's fine.
18 Thank you.

19 MS. WILSON: Thank you. All right. We did
20 some --

21 CHAIRPERSON POURCIAU: Can you introduce
22 who is present on behalf of the applicant too,
23 please?

24 MS. WILSON: Yes, absolutely. My name is
25 Alex Wilson. I'm from Sullivan and Barros on behalf

1 of the applicant in this case. I'm also here with
2 Mr. Ritesh Matta from the applicant's team and
3 ownership team as well as our architect, Mr. Dagmawi
4 Abebe. We submitted a presentation to the record if
5 that can get pulled up. Thank you so much, Mr.
6 Sakinejad. Thank you. All right. Could you please
7 go to the next slide?

8 I am going to try to keep this as short as
9 possible. I think the actual zoning requests are
10 straightforward, but we do have opposition, so I
11 want to be as thorough as necessary. The property
12 has a land area of about 2,900 square feet.

13 Accordingly, the land area, combined with the age of
14 the house, over 100 years, makes it eligible for a
15 conversion from single-family to three units. The
16 project has changed from its original iteration. We
17 filed the application about 10 months ago, and
18 originally we were requesting to go about 20 feet
19 past the eastern neighbor's rear wall with 12.5-foot
20 decks that included deck walls along the sides and a
21 full third story addition. Since then, we have
22 significantly reduced the proposal.

23 We are now going 15 feet past with 9.5-foot
24 decks, so an 8-foot reduction overall in the depth,
25 pulling the entire bulk of the proposal back to

1 approximately where the building to the west ends
2 with their porch addition. We are also proposing
3 transparent tempered glass for the balcony railings
4 and then in lieu of a solid wall along the
5 balconies, a retractable tempered glass window. In
6 terms of the height and bulk, the rear addition is
7 now limited to two stories, not three, so that also
8 matches the character of the adjacent buildings at
9 the rear. And there is also a substantially reduced
10 third story addition that's proposed. And so that
11 bulk that was reduced and removed from the rear and
12 third story was relocated to a by-right accessory
13 building at the rear.

14 Two parking spaces are being proposed, and
15 the project meets all development standard criteria,
16 including yards, lot occupancy, and height. The
17 only physical development standard we seek relief
18 from is the 10-foot rule, and it's to go 15 feet
19 past the neighbor to the east. So a total deviation
20 of only five feet. The neighbor to the west is not
21 attached, so the 10-foot rule is not applicable to
22 that side. And even if it were attached, that
23 building already has a 23-foot extension beyond the
24 subject building. So even with our addition, we
25 will not go more than 10 feet past the building wall

1 to the west. And you can see in this map, there's
2 also an original accessory building on the subject
3 property, and that was demolished as part of the
4 original building cleanup, as it was deemed unsafe.

5 Next slide, please. Thank you.

6 There's a lot of information on here, but
7 to summarize, we filed 10 months ago. We've made
8 major revisions based on community and OP comments.

9 We reduced the depths of the addition; we added
10 party panel; and this week, based on the board's
11 comments in other cases and OP comments, we removed
12 the remaining partial balcony walls and are now
13 proposing those glass railings and sliding glass
14 windows on the decks, and that is in exhibit 40B.
15 Next slide, please.

16 These are the two areas of relief, the
17 three-unit conversion and the 10-foot rule. Next
18 slide, please. So these next slides just provide
19 more context. This is the existing building
20 compared to nearby properties. Some on this block
21 have been extended too. There are a number of
22 accessory buildings on the block and alley, and the
23 properties are located near the NMU-7B zone, a
24 commercial zone, and relatively close to the Georgia
25 Avenue-Petworth Metro. So this area is not fully

1 residential in nature, and the proposed project,
2 including the conversion to three units and the two-
3 story rear addition, is consistent with the area and
4 the zone and will not adversely affect the use of
5 neighboring properties. Next slide, please.

6 This is the subject property, and I just
7 wanted to note that we are cleaning up and
8 maintaining that existing facade. I think it was
9 noted in the ANC's filing that we would be
10 modernizing this facade, but that is not the case.
11 Next slide, please.

12 This shows the purchase condition. This is
13 mid-cleanup. If you look closely, you can see there
14 are what appear to be bullet holes in the back of
15 the house and significant overgrowth. So regardless
16 of any disagreements between neighbors, a high
17 quality addition and new housing should be an
18 improvement from the previous state of the house.
19 This also shows a little more of the rears of the
20 adjacent properties and the enclosed porch. Also,
21 these trees were removed with permits as they were
22 deemed hazardous. Next slide, please.

23 This shows the accessory building facing
24 the alley and that beyond that there are other alley
25 buildings on alley lots. Next slide, please.

1 This shows the tree permits. I think there
2 were some claims the trees were removed without
3 permits. I know there is a dispute with respect to
4 the trees in terms of whose property they were on.
5 So D.C. did issue this permit. It had all of the
6 relevant information to do so. And if there is a
7 civil dispute between the location of the trees,
8 there is, of course, a forum for that. But we did
9 remove the trees per the permit, which D.C. issued.

10 As noted on the permit, they were hazardous trees,
11 which is why they were permitted to be removed.

12 Next slide, please.

13 So this is mid demolition of the accessory
14 building, again, just to show the conditions on the
15 block at the rear where the addition is proposed.
16 We are demolishing the rear of the subject building,
17 so the addition starts slightly further to the front
18 of the property than the current building footprint.

19 Even with the decks, it should only go a few feet
20 past the one-story porch, which is about 23 feet
21 from the partial addition of the subject property.

22 Next slide, please.

23 This is just some additional context
24 showing the entrance to the alley around the time of
25 purchase. Next slide, please. This is another view

1 looking down the row from the side, so you can see
2 that visually from the side there is a roll-up door
3 blocking the view down the street. Next slide,
4 please.

5 This is from almost nine years ago, but
6 this is the accessory building that was demolished
7 showing signs of issues nine years ago. Next slide,
8 please. This is another view showing the apartment
9 buildings nearby. Next slide. Next slide. Next
10 slide, please. This is a view of the block from
11 Georgia Avenue. Next slide, please.

12 This is another view of the entrance of the
13 block from Georgia Avenue. This is about a year ago
14 from Google Maps. Just noting again, this is not a
15 uniformly residential area. There are some
16 significant commercial uses, including a gas station
17 and commercial spaces on the floors of the nearby
18 apartment buildings. Next slide, please.

19 OP is recommending approval, and DDOT has
20 no objection. OP had conditions that we've been
21 working through with respect to the originally
22 proposed side walls along the balconies. And so we
23 removed the balcony walls. We've reduced the
24 balconies to 9.5 feet and have the transparent
25 railings. We added a Hardie panel as requested to

1 break up the façade. And then I believe this
2 resolves the wall issues, and the glass transparent
3 railings and retractable glass walls exceed what you
4 would expect from a typical balcony railing in terms
5 of light being let through. We also updated the
6 third story slope and height per OP's comments.
7 Next slide, please. Next slide, please.

8 Originally the request was for three full
9 stories, 20 feet past the neighbor. That has been
10 significantly reduced. Ultimately, the project in
11 front of you is requesting a relatively small amount
12 of relief, five feet on only two stories. This is
13 about what's typically done or less than what's
14 typically asked for in a tenth or rule case. Based
15 on the filings, it seems as if the only acceptable
16 outcome is a by-right project. That's one concern
17 we heard at the ANC as well. We also heard that we
18 have no extenuating circumstances, and in this case,
19 that's true. This is not a variance. It's a
20 special exception. A special exception doesn't
21 require special extenuating circumstances despite
22 what the name might imply. And so special
23 exceptions are anticipated and deemed appropriate,
24 subject to this discretionary approval from the
25 board and subject to the criteria listed in E 5201,

1 which reviews whether the additional five feet of
2 building length impacts light, air, privacy and
3 character. Next slide, please.

4 We have both solar panel studies and shadow
5 studies demonstrating such limited impacts on light
6 and air to the affected neighbor to the east. No
7 windows are being added to the addition, and the
8 views from the rear of the subject property will be
9 into the subject property's rear yard. The proposal
10 maintains the existing facade and mansard elements
11 and is limited to two stories, and photos of the
12 rear were included in earlier slides demonstrating
13 that this is a visually busy alley, and the
14 additional five feet of relief will not create any
15 visual intrusion. Therefore, the proposal will not
16 have an undue impact on light, air or privacy to
17 neighboring properties nor substantially visually
18 intrude upon the character, scale or pattern of the
19 alley or front. This shows the site plan in the
20 rear view. The stories are aligned with the
21 adjacent properties, and the third story is partial
22 and by-right. The decks were reduced from earlier
23 iterations. The walls are now transparent and
24 movable, a compromise that incorporates OP's
25 comments about the walls versus deck length and the

1 comments we heard at the ANC and previous board
2 meetings. Those plans were submitted yesterday.
3 Next slide, please.

4 These are the shadow studies showing shade
5 of a by-right addition with 10 feet past compared to
6 the proposed addition of 15 feet past during four
7 times a year, three times a day. There is a
8 negligible increase in shade on the property to the
9 east, limited to the afternoon due to the additional
10 five feet of building length requested. Next slide,
11 please. This shows the impact during the summer.
12 Next slide, please. This is the equinox. Next
13 slide, please. And winter solstice.

14 I would certainly not, based on these
15 shadow studies, say that the shade rises to the
16 level of undue. This was called in the opponent's
17 filing an extreme violation of the ten-foot rule,
18 and I would certainly not, based on the dozens of
19 other ten-foot rule cases brought in front of this
20 board, characterize it that way. While every case
21 is reviewed on its own merits, there are standards
22 the board uses to review this. Further, the photos
23 submitted with the neighbor's submissions show some
24 existing shade in the approximate location of the
25 additional shade. The shade study also shows shade

1 cast to the west but does not highlight it as the
2 ten-foot rule does not apply since we are not
3 attached and we are not going ten feet past that
4 rear wall with our rear wall. Next slide, please.

5 We also did solar panel studies to respond
6 to the neighbors' concerns about the new solar
7 panels. And so the zoning regulations allow for
8 some impact, a negligible amount of impact, on
9 neighboring solar panels, and that amount is in the
10 zoning regulations. It's five percent annually.

11 And that gets reviewed by DOB and the zoning team at
12 the zoning administrator's office during permitting.

13 But of course, we wanted to make sure we were in
14 compliance, so we wouldn't have to come back to the
15 board. We included these to demonstrate good faith
16 and that the reduced third story is below that five
17 percent threshold, and we obtained the solar panel
18 information from the solar panel permit. Next
19 slide, please. Next slide, please. Thank you.

20 So for the solar panel studies, much like
21 the shadow studies, the impact is in the afternoon,
22 primarily around 3:00 p.m., and the total impact is
23 less than five percent annually. And as I noted,
24 that will be thoroughly reviewed by DOB during
25 permitting, but we wanted to submit it here as a

1 show of good faith. The final area of relief is for
2 the conversion from a single-family home to three
3 individual housing units. Next slide, please.

4 Thank you.

5 The requirements are primarily that we have
6 900 square feet of land area per unit, which is
7 objectively met, and also that it is constructed
8 before 1958. And in this case, the building was
9 constructed circa 1913, and we have over 2,700
10 square feet of land area. Accordingly, these
11 criteria are objectively met. Next slide, please.
12 Thank you. This shows the unit layouts. Next
13 slide, please. Thank you.

14 So, in conclusion, the project has been
15 significantly reduced in bulk and revised to fit the
16 pattern of the block, with the additional density
17 being taken from the third story and rear additions
18 and relocated to a by-right accessory building which
19 is a pattern along the block and fits with other
20 alley dwellings in the area. The addition should
21 line up with the building to the west in general
22 bulk and height. The third story has been pulled
23 back from the east and rear to protect the adjacent
24 solar panels. We've removed the balcony wall, so
25 the degree of impact is limited to an additional

1 five feet of building length. That is what's being
2 discussed, and the updated transparent glass railing
3 and movable window wall are a creative solution to
4 replace the balcony walls that were originally
5 proposed for privacy purposes.

6 The additional five feet of building
7 length, a request consistent with other cases that
8 have been approved by the board, is only on two
9 stories. It does not create a substantial impact on
10 light, air or privacy, and it does not create a
11 substantial visual intrusion on the character and
12 scale and pattern of houses along the block or
13 alley. We respectfully request the board grant the
14 requested relief. And if there are any specific
15 questions about the plans, they are located in
16 Exhibit 40B for reference, and we are happy to
17 answer those. Thank you so much for your time.

18 CHAIRPERSON POURCIAU: Thank you. That was
19 a very significant change at a very last minute, and
20 I am very concerned about --

21 MS. WILSON: Well, the changes --

22 CHAIRPERSON POURCIAU: Excuse me. Excuse
23 me.

24 MS. WILSON: I'm sorry. I apologize.

25 CHAIRPERSON POURCIAU: And I am very

1 concerned about the lateness of how a significant
2 number of documents was provided to this board and,
3 you know, anybody else who needed to see them.

4 Having said that, I'd like to call on other board
5 members to see if they have questions about your
6 presentation. Ms. Lindsjo?

7 MEMBER LINDSJO: I'm still thinking about
8 it, so come back to me. Thank you.

9 CHAIRPERSON POURCIAU: All right. Ms.
10 Wright -- Commissioner Wright?

11 COMMISSIONER WRIGHT: Yeah. I need to be
12 walked through the architectural drawings in detail.

13 I wonder if you could pull the PowerPoint back up
14 and the slide that was the next to last. Yeah. So
15 could you walk us through this presentation so that
16 we can understand? You know, I assume that the
17 yellow is the existing house with the 15-foot
18 addition, plus the deck, and that that's replicated
19 -- well, I'm not -- could you walk us through?

20 MS. WILSON: Absolutely. Absolutely. I
21 think Exhibit 40B with the architectural plans would
22 be the most helpful. And I sincerely apologize for
23 interrupting. I just wanted to make a clarifying
24 point that the only update we made to the plans that
25 was untimely was a change to the balcony railings.

1 And so the changes that we've made throughout the
2 process were in the record, I believe, since May or
3 June -- the major changes we've done. So the
4 changes I discussed in the presentation were not
5 last minute except for the material on the balcony
6 railings. If we could have Exhibit 40B pulled up, I
7 could walk through those plans, and we have the
8 architect here as well, but I'm happy to walk
9 through.

10 COMMISSIONER WRIGHT: And just so you all
11 know, 40B, the updated architectural plans and
12 elevations in our record are dated July 14th.

13 MS. WILSON: Correct.

14 COMMISSIONER WRIGHT: And that's when they
15 were added to what we're able to see. So --

16 MS. WILSON: There was only one --

17 COMMISSIONER WRIGHT: -- today is July 15th
18 and it's again hard to keep up. But anyway, thank
19 you. Could you walk us through?

20 MS. WILSON: Absolutely. And again, there
21 is only one minor change on these plans, so the
22 majority of the proposal remains the same. Could we
23 go to the next slide, please? Thank you. Mr.
24 Abebe, do you want to generally walk through what's
25 being proposed here?

1 MR. ABEBE: Sure. Thank you very much for
2 this opportunity. So as Ms. Alex has presented,
3 it's only has the 15 feet addition in the rear
4 relative to the neighbor on the east. Next slide,
5 please.

6 This is the existing layout of the
7 building. It has existing basement, existing first
8 floor and second floor. Next slide, please. What
9 we did is we underpinned the basement to give it
10 more room height, and then unit one will be in the
11 basement, and then it will have additional flex
12 space in the rear yard in the accessory building.
13 So the basement and the first level of accessory
14 building will be one unit. And then the first level
15 and the second level of the accessory building is
16 going to be the second unit. We then have the third
17 level and the second level and the third level will
18 be the third unit. Next slide, please.

19 This shows the third level. The master
20 bedroom would be on the third level, and it will
21 have an open deck to the rear yard, facing the rear
22 yard. Next slide, please. This shows the elevation
23 on the existing and the proposed elevation. If you
24 take a look at this front elevation, there would be
25 no change whatsoever from the existing. And the

1 third floor addition would have a setback of a
2 minimum three feet from the existing mansard roof,
3 so it would not be very much visible from the front.

4 Next slide, please. Next slide, sheet 7, please.
5 Yes.

6 This shows the proposed elevations, and
7 this is what Ms. Alex has mentioned. This is the
8 only change we have done on the latest submission.
9 The deck in the rail, the proposed deck in the rail
10 now instead of having a partial wall and partial
11 railing, we converted it into a glass cover so that
12 light can go through and there will also be privacy
13 at the same time. Next slide, please. This shows
14 the section of existing and proposed. Next slide,
15 please. Yeah, this is what I have discussed
16 earlier. The unit one is going to be in the
17 basement and in the accessory unit and unit number
18 two would be on the first level and second floor of
19 accessory unit. Unit number three is the pink which
20 is going to be second floor and third floor. And
21 this is the landscape plan. We're going to have new
22 paver parking pad and how the yard is going to be
23 treated in the back and that would be all that.

24 After this, is the solar study, and the
25 solar panel impact calculations are done prior to

1 the DOB submission just to as a good faith to show
2 that we will not have impact on the neighbor's solar
3 panels. If you have any questions, please. Thank
4 you.

5 CHAIRPERSON POURCIAU: Could you go back to
6 sheet 9 and talk us through the comparison of the
7 existing and current, please?

8 MR. ABEBE: So this does not show the
9 comparison of the existing and the proposed. This
10 sheet shows the units and their respective square
11 feet within the proposed building. So if you would
12 like to see the comparison between the existing and
13 the proposed, you can go to sheet 2. You can see
14 the site plan clearly depicting the existing and the
15 proposed. The left side is the existing site plan,
16 and the right side is the proposed site plan. It
17 shows where our east neighbor wall is now currently,
18 and then it shows our addition, plus it shows the
19 our proposed deck in the rear yard and also, of
20 course, the accessory building in the backyard.

21 PARTICIPANT: Ma'am, I think you're on
22 mute.

23 CHAIRPERSON POURCIAU: Thank you so much.
24 On the diagram, the second drawing on the diagram,
25 it's hard to see. I've zoomed it, but the writing

1 is hard to see. So to the left, projected toward
2 the left is the existing wall of the house to the
3 left facing this direction. Is that correct?

4 MR. ABEBE: Correct. The diagram then on
5 the left side is the existing situation, the
6 existing building. It also shows the neighbor's
7 existing rear wall, the current position of the
8 neighbor's existing rear wall on the east side.

9 CHAIRPERSON POURCIAU: Okay. And then the
10 neighbor's existing wall on the opposite side, is
11 that shown?

12 MR. ABEBE: Yes, we have a setback. The
13 rear wall is shown, but they have addition on their
14 existing original rear wall and then also they have
15 additional covered porch, which is not indicated on
16 this layout.

17 CHAIRPERSON POURCIAU: Okay. So what is
18 that you are showing, the hashed line to the right?

19 MR. ABEBE: The right side of our neighbor,
20 which is our west neighbor, is --

21 CHAIRPERSON POURCIAU: Yes.

22 MR. ABEBE: -- that is the existing
23 original brick wall location, their original house
24 location.

25 CHAIRPERSON POURCIAU: I see.

1 MR. ABEBE: Since they are not attached,
2 yeah, they're not attached, we have not shown what
3 they have in the backyard.

4 CHAIRPERSON POURCIAU: Okay. Could I ask
5 why that wasn't shown?

6 MR. ABEBE: Because we have a setback of
7 about five feet, if I'm not mistaken, between our
8 building and their building.

9 CHAIRPERSON POURCIAU: Okay. Commissioner
10 Wright, did you have other questions?

11 COMMISSIONER WRIGHT: Well, just a quick
12 question. For the deck, I understand why the first
13 floor deck is covered to provide a floor for the
14 second floor deck, but why is the second floor deck
15 covered, which sort of increases the depth and bulk
16 of the addition? I understand that you want access
17 from the small third floor out to an outdoor area
18 that would be for that unit. But you would have
19 that very large deck over the roof of the new
20 addition. Why do you extend it all the way over and
21 cover the second floor deck? I think in the drawing
22 we're looking at, it's the area where there's sort
23 of a black boundary near the circular staircase.

24 MR. ABEBE: Yes, so while working on the
25 design, the primary reason for doing that is unit

1 one and unit two, which are located in the basement
2 and on the first. They have outdoor access, easily
3 can be accessible. However, unit three, which is
4 located on second and third floor, has less access
5 to the yard, so we wanted to give as much outdoor
6 area as possible. That's why we have provided a
7 wider area.

8 COMMISSIONER WRIGHT: Yeah. Well, if I'm
9 not mistaken, they have a deck out the third floor
10 that would be the entire width of the building and
11 would extend, again, I can't read it too carefully,
12 would extend more than 20 feet, which is the
13 proposed addition. That's a very large outdoor
14 deck. For you -

15 MR. MATTA: Ms. Wright, if I can intervene,
16 this is Ritesh. We did have a rooftop deck
17 initially on the top of the third floor, and due to
18 the solar panel situation, we completely took that
19 rooftop deck completely out of our plans, which was
20 a significant compromise we made. And in turn of
21 that, we wanted to provide the outside space to the
22 upper level at least as a back deck, which is
23 sizable. So that's the reason we wanted to have at
24 least some outdoor space over there.

25 COMMISSIONER WRIGHT: Okay. Well, maybe

1 I'm confused. On the drawing that we're looking at
2 right now, it says, proposed deck on third level and
3 there's an arrow.

4 MR. MATTA: Yes.

5 COMMISSIONER WRIGHT: Is there a proposed
6 deck on the third level?

7 MR. MATTA: The third level a percentage of
8 the space is covered, and we only covered so much so
9 that we are not intervening with the solar panels
10 for the neighbor. Then for the remaining, that is
11 actually not a proposed, that is the planned rooftop
12 deck on the rear. But what I'm trying to tell you
13 as a part of the history, like initially when these
14 plans were conceived, this third floor was actually
15 spanning from front to back, and there was a rooftop
16 deck on the top of the third floor, which was taken
17 away.

18 COMMISSIONER WRIGHT: Yeah. I -

19 MR. MATTA: Yeah.

20 COMMISSIONER WRIGHT: I remember those
21 drawings. I guess my question is for the outdoor
22 space that you access on the third floor, why is
23 that essentially the three decks, or it's actually,
24 I guess, two? The rear elevation looks like a --
25 they don't look like decks. They look like covered

1 spaces, and with the glass doors, they feel like
2 enclosed spaces so that the decks on the rear don't
3 feel as much like decks, especially because the deck
4 that you access from the second level has a roof
5 over it, which is, in this drawing, just near the
6 arrow that says, Proposed deck on third level. So I
7 guess what I'm asking is -- one of the things about
8 the bulk and mass of the building that I think does
9 effect sort of the privacy and light and air and
10 enjoyment of the nearby neighbors is that the decks
11 that you are proposing don't feel like traditional
12 decks. They feel like rooms with covered ceilings
13 and glassed-in side walls so that they don't feel
14 like open decks. Is there a reason for that?

15 MS. WILSON: I can jump in and address
16 that, too, just as how we approach, you know, these
17 10-foot rule projects. So the 10-foot rule goes up
18 to and is measured from the rear wall. As part of
19 the process, we reduced the space on the third
20 floor, we reduced the building bulk, and we did want
21 to maintain some of that usable outdoor space that
22 could feel like indoor-outdoor living. Those decks
23 have never been counted as part of the 10-foot rule.

24 Now, at a hearing I was doing a few weeks
25 ago, the board looked at this issue, and one of the

1 items it looked at was, okay, if you're putting
2 these walls, solid walls, of course it's going to
3 feel more bulky and it doesn't let the light and air
4 through. However, the flip side of that, of course,
5 is it protects privacy if you have solid walls. So
6 we went through that, and one of the reasons we made
7 the railing changes and submitted those to the
8 record rather than the partial wall was to sort of
9 compromise on that. So you can have some privacy
10 from the adjacent neighbors with those walls.
11 However, even when they're up, they still let light
12 through and so that was the idea.

13 Then having the deck extend was a choice to
14 cover and keep covered the second porch so that the
15 people who are there can use it during inclement
16 weather as well, and so that was a choice and a
17 compromise. And I guess I'll note that when we're
18 looking at these cases, and I'm advising, you know,
19 as an attorney, if they pulled the building bulk
20 back, like the rear wall back five feet, this
21 wouldn't be in front of the board. So the
22 balconies, while we absolutely updated and changed
23 them to respond to OP and community concerns, are
24 not part of the 10-foot rule. They're a by-right
25 element. And so that's sort of where we've

1 developed this balcony system.

2 COMMISSIONER WRIGHT: Yeah. I understand
3 that from a legalistic perspective that a, you know,
4 we can call it whatever we want, a screened-in porch
5 --

6 MS. WILSON: Mm-hmm.

7 COMMISSIONER WRIGHT: -- you know, an
8 enclosed porch of some sort is not included in the
9 10-foot rule. I completely get that. But when you
10 enclose a space like that rather than it being an
11 open deck, it feels -- you know, again, from a
12 legalistic standpoint, it may not be part of the 10-
13 foot rule, but it feels like another whatever the
14 depth of that porch is, you know, seven feet, eight
15 feet, whatever, you know, whatever the depth of the
16 porch is. I would be more -- I mean, I -- I
17 understand it's great for the light and air for the
18 people who are using the enclosed deck to have glass
19 walls. But the fact that it feels so much like a
20 covered, roofed structure doesn't do much for the
21 light, air, privacy of the people on either side.
22 So, you know, I just you -- when something is a
23 deck, it sort of disappears. When something is a
24 roofed structure, even with glass walls, it feels
25 like a part of the building. But anyway, that does

1 help explain what I'm seeing here, so thank you for
2 answering that question.

3 MS. WILSON: No problem. And just to
4 respond, and maybe we can show this in the record
5 more clearly, even if it does appear as an extension
6 of the building, that would still be comparable to
7 what is adjacent. It is only two stories. It
8 doesn't go up an additional story to create bulk up
9 top, if that makes sense too.

10 COMMISSIONER WRIGHT: I mean I do want to
11 acknowledge you've made some significant
12 improvements, and I think you had a large third
13 floor that covered basically the entire lot, and I'm
14 thrilled and delighted that that has been reduced.
15 That's a significant improvement. But it's again, I
16 think I'm trying to look at how do you minimize the
17 impact on light and air for the adjacent properties,
18 and how do you make it most compatible with those
19 adjacent properties? So thank you.

20 CHAIRPERSON POURCIAU: Thank you,
21 Commissioner Wright. Ms. Lindsjo, do you have any
22 questions?

23 MEMBER LINDSJO: No, that was helpful to
24 walk me through it, because that's kind of what I
25 was wondering too, how they all kind of work

1 together and how I was reading it too. So unit one
2 is also going to have the accessory unit on the
3 bottom. That's going to be together as one unit,
4 and then unit two is going to have the upstairs of
5 the accessory unit?

6 MS. WILSON: Correct. As you know, flex
7 space for them, just as a reallocation.

8 MEMBER LINDSJ0: Thank you.

9 CHAIRPERSON POURCIAU: Okay. I think we'll
10 go on to the next presenter who would be the Office
11 of Planning. I think we have with us Mr. Beamon.
12 Are you ready to present your report, please?

13 MR. BEAMON: Yes, I am. I'm trying to get
14 my camera to work here. It may not work, but I will
15 go ahead and present. Good afternoon, board
16 members. For the record, I'm Shepherd Beamon with
17 the Office of Planning, and we've reviewed the
18 application for the request of the special exception
19 relief to convert the single-family dwelling into a
20 three-unit apartment building in the RF-1 zone and
21 for the relief to allow a 15-foot rear addition, and
22 we find that the request has met the criteria for
23 subtitles E, U, and X.

24 The proposed building should not result in
25 overdevelopment of the property, and the proposal

1 would comply with building height, rear yard
2 parking, and lot occupancy requirements. OP has
3 reviewed the most recent architectural plans, and
4 we're in support of the proposed revisions to the
5 sliding glass panels on the sides of the rear decks
6 which should not restrict light and air for the
7 neighbors. For the record, I should make a
8 correction to the recommended conditions in our
9 report. So for condition number two, OP had
10 conversations with the applicant recommending that
11 the rear deck depth be reduced to no more than five
12 feet, in an effort to shorten the total length of
13 the deck side walls and reduce shadowing and
14 enclosing of the decks. And as an alternative, we
15 said that they could -- that there should be non-
16 opaque material used for the sidewalls to allow
17 light and air to pass through and to minimize
18 impacts on neighbors, which the applicant has done
19 in these new revised plans. And then lastly,
20 condition number four was included in error and can
21 be omitted. And with that --

22 CHAIRPERSON POURCIAU: What was that? What
23 was number four?

24 MR. BEAMON: Condition number four was
25 basically saying the same thing as what was in

1 number two, which was, again, having non-opaque
2 material.

3 (Audio interference.)

4 MS. WILSON: No, thank you.

5 CHAIRPERSON POURCIAU: Okay. I was remiss
6 in calling on Mr. Gallagher, who I believe is
7 speaking for the party. Mr. Gallagher, did you have
8 any questions for the applicant or the Office of
9 Planning at this time?

10 MR. GALLAGHER: Just one quick question.
11 Who conducted the -- well, I have one quick
12 question, and then aside from that, I do want to
13 make a statement. Just a question of who conducted
14 the solar studies?

15 MS. WILSON: The architect, Mr. Abebe, did.

16 MR. GALLAGHER: Okay. So the architect
17 that's been on this job is the one who conducted the
18 solar studies?

19 MS. WILSON: Mr. Abebe, can you confirm?

20 MR. ABEBE: Yes. So we hired another
21 engineer to work on the solar studies -- oh, sorry.
22 The solar, the impact analysis or the solar
23 studies?

24 MR. GALLAGHER: The solar studies.

25 MR. ABEBE: Oh, I did the --

1 MS. WILSON: Oh, apologies. Yeah. Okay.
2 The solar studies.

3 MR. GALLAGHER: Who did the impact analysis
4 and who did the solar studies?

5 MR. ABEBE: So our team did the solar
6 studies, and we hired another contractor to work on
7 the impact analysis.

8 MR. GALLAGHER: Okay. What qualifications
9 do you have to conduct solar studies? Do you have
10 any certifications or anything like that?

11 MR. ABEBE: So, yes, I am a design
12 architect. I have two degrees in architecture. I
13 used the D.C. Zoning database and the solar study
14 analysis tool to do the solar studies.

15 MR. GALLAGHER: I didn't understand that.
16 Can you say it again?

17 MR. ABEBE: So the D.C. Zoning database map
18 and then you can do a solar study on that database.
19 So I basically used the zoning map.

20 MR. GALLAGHER: Okay. Well, my question
21 was, do you have any certifications? Have you done
22 any continuing education regarding solar studies?

23 MR. ABEBE: No, sir.

24 CHAIRPERSON POURCIAU: Okay.

25 MR. GALLAGHER: Madame Chairperson?

1 CHAIRPERSON POURCIAU: Yes.

2 MR. GALLAGHER: I don't know if you want me
3 to make my statement now or hold off for a bit.

4 CHAIRPERSON POURCIAU: Hold on for a
5 minute. Thank you for that. I think we don't have
6 anything else for Office of Planning right now, so
7 we'll go on to the next on the list, which would be
8 DDOT or other government agencies. I don't see them
9 present. The ANC, is Mr. Kirby here, and does the
10 ANC want to present now?

11 DR. KIRBY: Hello. Hi.

12 CHAIRPERSON POURCIAU: Hi. Hello. Mr.
13 Kirby?

14 DR. KIRBY: Yes.

15 CHAIRPERSON POURCIAU: Are you presenting
16 on behalf of the ANC?

17 DR. KIRBY: Yes, I am. I'm taking this
18 call --

19 CHAIRPERSON POURCIAU: Or as an individual?

20 DR. KIRBY: A well, I have the report from
21 ANC 4C.

22 CHAIRPERSON POURCIAU: Yes.

23 DR. KIRBY: I was authorized to be the
24 speaker.

25 CHAIRPERSON POURCIAU: Okay.

1 DR. KIRBY: Individually, I live at 936
2 Shepherd Street, so my property is directly to the
3 west of 934. I grew up at 936 Shepherd Street, but
4 I'm currently in Silver Spring in a hotel.

5 CHAIRPERSON POURCIAU: Okay. All right.
6 So if you're ready to make your presentation --

7 DR. KIRBY: Sure.

8 CHAIRPERSON POURCIAU: -- please proceed.

9 DR. KIRBY: Okay. So a few sticking
10 points. Give me one second here. Sorry about that.

11 So what ANC 4C said was that we had a vote of 7 to
12 0 and the few sticking points -- I'm sorry, one
13 second here. All righty. The two relief requests
14 for the rear addition and the three units we have
15 had months-long effort to facilitate agreement. I
16 think that from the ANC's perspective, the denial
17 vote of 7-0-0 on April 26th was based on a few
18 factors.

19 The day that the heritage trees were
20 removed, the arborist actually showed up. So the
21 team was in the backyard preparing to cut the trees
22 down. The arborist was standing in front of my
23 house at 936 Shepherd Street. And so the arborist
24 and I walked up the street and into the alley in
25 order to remove both trees, which set one tree on

1 the east side. The fence was built around the tree,
2 so in order to cut the tree down, the fence had to
3 be removed. Now, I was present when the applicant
4 verbally stated to both parties that they would ask
5 for permission prior to entering anyone's property.

6 That was the day before the trees were cut down.

7 While the trees were being cut down, I
8 called the applicant, and the applicant said that it
9 would only take about five minutes on the other side
10 of the property and that they would put the gate
11 back up after the trees were removed. The alley
12 unit, the garage that wanted to be three stories,
13 but are now two, there was a question about when the
14 garage permit was issued for the removal of the
15 garage. No interior work permit had been issued.
16 So although I believe they had a permit to demolish
17 the garage, they did not have any interior permits.

18 The ANC voted April 22nd 7-0-0 to deny, and the
19 ANC, then being my SMD, gave me leeway to speak here
20 as a representative for the entire ANC. Your second
21 question, personally, I don't think so, but I'm here
22 for questions for all.

23 CHAIRPERSON POURCIAU: Thank you very much.

24 Do any board members have questions for --

25 DR. KIRBY: Dr. Kirby. My name is Dr.

1 Antoine Kirby. I grew up at 936 Shepherd Street.
2 It's my great-grandparents' home. Been there for a
3 while.

4 CHAIRPERSON POURCIAU: Okay. Thank you,
5 Dr. Kirby.

6 DR. KIRBY: Yes, ma'am.

7 CHAIRPERSON POURCIAU: Ms. Wright, do you
8 have questions for Dr. Kirby?

9 COMMISSIONER WRIGHT: Yes, thank you. I'm
10 just wondering. I understand that there was, it
11 sounds like, either some difficult communication or
12 miscommunication when the trees were coming down and
13 I understand how difficult that can be. In terms of
14 the proposed addition, and I guess you're one of the
15 immediate adjacent owners, is that correct?

16 DR. KIRBY: That's correct.

17 COMMISSIONER WRIGHT: So, could you tell us
18 your -- it sounds like you have concerns about the
19 impact of this addition on your property. So
20 speaking for a moment not as the ANC representative,
21 but as the adjacent property owner, can you tell us
22 what your concerns are about the proposed addition,
23 aside from any communications about the trees?

24 DR. KIRBY: Just about my specific house
25 936?

1 COMMISSIONER WRIGHT: Yes. I'm interested
2 in understanding what your concerns may be about --

3 DR. KIRBY: Yes.

4 COMMISSIONER WRIGHT: -- light and air and
5 so forth.

6 DR. KIRBY: Well, so it goes back for me
7 way beyond that. I have a fig tree in the backyard.

8 My fig tree, it's not there anymore. A few weeks
9 ago -- so we're at a water table. We have a water
10 table issue. There possibly could be a historic
11 stream that runs under all of our homes. I've been
12 inside of almost every house on the street. If you
13 notice the same crack in the same wall in six
14 houses. I'm still in 936 because I'm here
15 personally to support my neighbors. For my house,
16 the cracks, I don't know what's causing what, but I
17 might be relocating soon. Might be my last go as a
18 ANC. I have to stay until December for the ANC
19 thing. But a hole that big -- in order to go up,
20 you have to dig down, and the two heritage trees
21 absorbed a lot of water. As a matter of fact, we've
22 had water runoff absorption issues for a while. Our
23 neighbors know that. Seemingly, from my
24 perspective, the heritage trees that are removed are
25 no longer absorbing water at 936. And, I don't

1 know, Christie's, Berkshire Hathaway, somebody will
2 get rid of it. I'm going to Bethesda. I'm in a
3 hotel in Silver Spring. I don't want to stay in my
4 house right now. That's all.

5 COMMISSIONER WRIGHT: And you're not in
6 your house right now because of concerns you have
7 about -

8 DR. KIRBY: Well, so I went -- I-

9 COMMISSIONER WRIGHT: -- water runoff or?

10 DR. KIRBY: -- two weeks ago, I was taking
11 a flight to Florida to see my cousin earn her
12 doctorate degree, and I called D.C. Water. And I
13 know I shouldn't have, but I called D.C. Water for
14 them to turn the water off from outside. I couldn't
15 find a plumber at 3:00 in the morning. I had a
16 flight to catch. I'll find a plumber and figure out
17 what's happening inside my house after we get
18 through this ANC meeting, or I'm just going to sell
19 my house and not be on Shepherd Street anymore.
20 Makes me really no difference at this point. But it
21 does, because those are my neighbors, and I can't
22 walk away from my neighbors. All of our houses
23 would just fall together, personally.

24 COMMISSIONER WRIGHT: Okay.

25 DR. KIRBY: Should I step back into the ANC

1 role now?

2 COMMISSIONER WRIGHT: Thank you.

3 CHAIRPERSON POURCIAU: Sure.

4 DR. KIRBY: Okay. Back to ANC. Sorry
5 about that.

6 CHAIRPERSON POURCIAU: That's okay.
7 Commissioner Wright, are you done? Should I move on
8 to Ms. Lindsjo?

9 DR. KIRBY: And there is a gas station
10 across the street. Look, there's a gas station, and
11 a cutout, and deliveries, and trees. As y'all been
12 talking, I've just been watching and listening. I
13 went out and measured the parking lot space.

14 CHAIRPERSON POURCIAU: Excuse me one
15 second, Dr. Kirby. We got to kind of get through
16 this. Back to ANC.

17 DR. KIRBY: Okay. Got it.

18 CHAIRPERSON POURCIAU: So any other
19 questions for the ANC from the board? All right.
20 Does the applicant have any questions for the ANC?

21 MS. WILSON: No, thank you.

22 CHAIRPERSON POURCIAU: Okay. And how about
23 Mr. Gallagher? Any questions from the opposition
24 party? All right, so we will move on to the next
25 presentation. There are no parties in support that

1 I am aware of. There are no individuals in support
2 that I'm aware of, and so I believe we're onto the
3 parties in opposition, and I think that'll be the
4 last presentation. So, Mr. Gallagher, would you
5 like to proceed now, please?

6 MR. GALLAGHER: Sure. Thank you, ma'am.
7 Listening to the presentation of the applicant in
8 this, it really brought home a theme that we're
9 seeing here, and it's a devaluation of what
10 everybody on this block is trying to maintain, and
11 that is a neighborhood. There's a seemingly
12 apparent devaluation of this block and this
13 neighborhood. You see that they skipped through
14 mighty quickly through pictures of the actual block
15 and instead zoomed out hundreds of feet to Georgia
16 Avenue in an attempt to create the impression that
17 this isn't a neighborhood, that this isn't a place
18 where people are trying to establish a neighborhood
19 and trying to maintain roots and put down roots.
20 The bottom line is that this is, when you look at
21 the pictures of this block, this is very much a
22 residential neighborhood, and we're here today in
23 opposition because we're trying to maintain that.

24 What we have here -- and in further
25 devaluing the neighborhood atmosphere of this was

1 the comment, you know, when we go to the taking down
2 of the trees, which frankly, it was obnoxious
3 behavior the way that it went about. To take down a
4 fence without talking to your neighbor, to enter
5 upon their property without talking to a neighbor to
6 cut down trees that are on property lines without
7 talking to your neighbor is the antithesis of what
8 all the people in this neighborhood are trying to
9 create, and it just shows a complete lack of regard
10 for the neighbors. But the comment that if you
11 think it was on the party line, if you think it was
12 partially yours, there's a forum for that. They're
13 saying, so what? Sue me. That's not what people in
14 this neighborhood want to preserve. You have
15 virtually every single house on this block signing
16 the petition saying that we don't want this, and the
17 reason that they don't want this is that what one of
18 the board members stated, I think Ms. Wright stated,
19 the bulk and mass of this project. When we look at
20 these pictures, the bulk and mass of this project is
21 breathtaking when you compare it against the
22 neighborhood on either side or across the street.
23 And the fact of the matter is, this is a three-
24 bedroom in name only. If we can go to that second
25 exhibit that we looked at, sheet 8. Can we pull

1 that up? Let's look at sheet 8. Thank you.

2 When I say that this is -- a they're asking
3 for a three-unit conversion, and they are calling
4 this a three-unit conversion in name only. The
5 reality is that if approved, this is a five-unit
6 conversion, and the reason I say that is when we
7 look at the carriage house. There are two floors to
8 the carriage house. Each one has its own bathroom
9 and water supply. That is creating two extra
10 bedrooms. They call it flex space, but that is not
11 flex space. That is a separate unit with its own
12 private entrance, and what they're creating by
13 asking for this conversion to three units, when it's
14 actually five, is they're creating a hive of
15 activity. If we look at this below rendering,
16 they're creating a hive of activity in this backyard
17 where the main entrances for these units are in the
18 backyard. So you will have people coming in to the
19 both levels of the carriage house and all three
20 levels of the main floor. To say that that doesn't
21 affect the character and nature of the neighborhood
22 and the neighbors is just not realistic.

23 Now, one of the other things that we have
24 concern about, in addition to the fact that the
25 sheer bulk and size, and when we look at what

1 they're asking for, yes, they're only asking for two
2 things, but when we take those two things into
3 tandem, it is a heck of a lot of what they're asking
4 for. It is let's build up as much as we can
5 possibly build up and let's pack as many people as
6 we can possibly pack into this. That is what
7 they're asking for and that is what the neighborhood
8 is saying we don't want. We want to maintain what
9 we have. And what we have is when you look at the
10 pictures of the street, it's a bunch of two floor
11 row homes. And when you look at the petition, it's
12 everybody saying, no, we don't want this. We don't
13 want to create this hulking mass that is a hive of
14 activity because of the number of occupants that
15 they're trying to jam into it.

16 The other thing that we're extremely
17 concerned about is the developer himself. And I say
18 this because about two years ago, two and a half
19 years ago, when doing a different remodel of a row
20 home in Northwest, a worker died, and the reporting
21 is that there was a cave in and it was because it
22 was shoddy site safety. And what do we have when we
23 fast forward to this project is we have somebody
24 that's willing to enter other people's property and
25 cut down trees without any discussion. And I think

1 Dr. Kirby he was a little bit mistaken. I think the
2 carriage house was demolished with an interior
3 permit. It wasn't an exterior permit. Is that
4 accurate, Dr. Kirby?

5 DR. KIRBY: If that's what happened, I
6 stand corrected. I didn't know that carriage homes
7 had interior and exterior. I would need correction
8 on that one.

9 MR. GALLAGHER: So what we have is somebody
10 with a history of poor performance, and in this
11 case, a history of obnoxious performance. Now, the
12 other thing is I don't think that we can put one
13 iota of weight onto the solar panel studies. We
14 have an architect that is vested in the project. To
15 think that he is not vested in the project would be
16 fooling ourselves. We have an architect that is
17 being paid by the applicant, that will continue to
18 be paid by the applicant throughout the project, who
19 he himself admitted he has absolutely no
20 certifications, training or otherwise, in performing
21 solar analysis. There is nothing -- there is
22 absolutely no weight that we can provide in those.
23 What we can provide the weight in is the people that
24 are on either side that go out there and stand there
25 and look at the sun and look at the renderings of

1 what they're trying to build and can easily say,
2 yes, this is going to disturb the light and air.
3 Especially when they are putting decks on the rear
4 of the houses that are, for all intents and
5 purposes, part of the unit with the way they're
6 being constructed with roofs and sidewalls.

7 So when you add all that together, the
8 roofs, the sidewalls, the extension beyond 10 feet,
9 the carriage house, the third floor deck, all of
10 that is creating something that is in absolute
11 opposition to what we look at in this neighborhood.

12 Just looking at the hulk and mass of it from the
13 vertical view shows you that it's going to affect
14 the light, the air, and the enjoyment of everybody
15 around it. So what the opposition is asking is
16 simply to make this developer stick to the rules of
17 what is allowed in this space. What is allowed is
18 by law. He's asking us to extend what's allowed by
19 law.

20 Now, I understand that we're here because
21 there are provisions that allow us to petition for
22 it, but the totality of what he is asking for shows
23 complete disregard for the people around this
24 property. The fact that he has trimmed it down --
25 there's no good faith in that. To think that he's

1 trimmed it down because he cares about the people
2 around him is fool's gold. It's been trimmed down
3 in an effort to try to slide through what is in all
4 actuality a five-bedroom development. So unless
5 there the board has any further questions for me, we
6 stand on our written submissions. And I believe,
7 Mr. Smith, did you have anything that you wanted to
8 say?

9 MR. SMITH: Yes, we have a statement as
10 well.

11 CHAIRPERSON POURCIAU: All right. Mr.
12 Smith, why don't we -- Mr. Smith is a part of the
13 party. Why don't we hear from Mr. Smith, and then
14 we'll take questions from both of you? Mr. Smith,
15 please give your name and address for the record and
16 proceed with your testimony.

17 MR. SMITH: My wife, Kimberly Darter, will
18 be making the statement.

19 CHAIRPERSON POURCIAU: Okay.

20 MS. DARTER: And I guess I should also note
21 at the outset that our neighbor who was also granted
22 party status, our neighbor at 930 Shepherd, is on
23 this as well. She was granted party status at the
24 beginning, and I believe she has remarks as well.
25 Okay. So just at the outset -- good afternoon. My

1 name is Kimberly Darter, and I live with my husband,
2 Anthony Smith, at 934 Shepherd Street Northwest,
3 which is next door on the west side of 932 Shepherd.

4 We are here to ask you to deny the
5 requested special exception relief in this case.

6 Just at the outset quickly, I would like to address
7 two things that came up earlier when looking at some
8 of the architectural renderings. It was implied
9 that our home has had an addition added to it. That
10 is incorrect. It doglegs in a little bit as many
11 row houses do in D.C., and the kitchen is at the
12 back end of the property. That is original to the
13 property. We also have a bay window off of the east
14 side of our house. So basically it is about 18
15 inches from the 932 property. So while there is a
16 approximately 5-foot setback between our properties,
17 between 932 and ourselves, that original bay window
18 is only about 18 inches away from the 932 property.

19 So to be clear, we are not opposed to reasonable
20 improvement and lawful development at 932. For
21 example, a single-family renovation, perhaps with a
22 rentable basement, or a two-unit conversion. What
23 we object to are proposals such as this one, a
24 three-unit building conversion with an accessory
25 building that one, exceeds the matter of right

1 zoning limits and two, relies on incomplete or
2 inaccurate representations of existing conditions so
3 as to minimize the impact such a conversion will
4 have on neighboring properties and the character of
5 the block where my family has lived for almost 18
6 years.

7 On April 22nd, as you know, the ANC 4C
8 voted seven to zero to recommend that this board
9 deny the application. They did this after hearing
10 from neighbors, the applicant, and visiting the
11 neighboring properties in person. The ANC's
12 recommendation is supposed to carry great weight
13 with this board, and we hope that you will follow
14 their recommendation and the wishes of the
15 community. In that light, a petition in opposition
16 to this project, which was previously presented to
17 the ANC and signed by 25 neighbors on the 900 block
18 of Shepherd Street, has also been submitted as part
19 of the record. We do have lengthier talking points,
20 but in the interest of time, I'm going to try to
21 summarize them. So first, we are in a RF-1 zone,
22 and the rear addition and accessory building that
23 are proposed are not modest or consistent with the
24 neighborhood. They would add 27 additional feet of
25 wall. That is an additional 5 feet of a 3-story

1 wall on the main building beyond what is allowed by
2 matter of right and 22 feet of a 2-story accessory
3 building wall. That doesn't include the three
4 levels of decking that will extend, I think, nine
5 and a half feet off of the main building. Simply by
6 building within matter of right, the applicant would
7 already gain an additional 20 feet on the existing
8 main building. I should also reference, as Mr.
9 Gallagher did, the full bathrooms and wet kitchens
10 in the two units of the accessory building, which,
11 as we all know, are likely to be rented out. And as
12 Mr. Gallagher noted, that would turn this proposed
13 three-unit conversion into a five-unit conversion in
14 practice.

15 Second, privacy concerns are insufficiently
16 accounted for. The accessory dwelling will have
17 windows that look directly into the yards and
18 windows of the neighboring properties, including our
19 home, and the upper decks of the main building will
20 look into the windows of two of our bedrooms.

21 Third, the shadow study submitted mitigates
22 the real impacts on neighboring properties. We have
23 done an extensive amount of work on our yard,
24 investing a significant amount of both our money and
25 our labor. The design of the yard and the plantings

1 throughout it will inevitably be negatively impacted
2 by the proposed design. Third, there are
3 unaddressed issues such as site grading and how
4 water runoff will be handled given the downhill
5 slope towards our property and the significant
6 increase in impermeable surfacing at 932 Shepherd if
7 this work goes forward. According to the Office of
8 Planning's numbers, the ground left open to absorb
9 water would drop from 74 percent to 39 percent. And
10 as Dr. Kirby noted, we do have a high water table in
11 this area and clay soil.

12 Fourth, there are structural concerns with
13 the existing property and with how any work going
14 forward on that property will happen given the
15 troubling history of the primary applicant behind
16 the project, as Mr. Gallagher already mentioned.

17 What this all comes down to is that the
18 proposal for 932 Shepherd exceeds the zoning limits
19 that would otherwise apply, produces real adverse
20 impacts, not just to light, air, and privacy, but to
21 drainage, neighborhood character, and the
22 combination of trust and assurances this process
23 depends on, and additionally rests on
24 representations that are incomplete or inaccurate.
25 Again, we have lengthier remarks prepared, but in

1 the interest of time I will stop in just a minute.
2 We would refer you to the talking papers submitted
3 by our Attorney, Mr. Gallagher, who represents both
4 us and our neighbor, Rebecca Sturtevant, at 930
5 Shepherd. We are also happy to share our full
6 talking points along with photos. We respectfully
7 urge you to give great weight to the ANC 4C's
8 unanimous recommendation and to deny the requested
9 special exception relief. Thank you.

10 CHAIRPERSON POURCIAU: Thank you. And
11 we'll hear from one more from the party. Ms.
12 Sturtevant, are you available to speak now?

13 MS. STURTEVANT: I am and I will keep mine
14 short, even shorter than Kimberly, to just address
15 some of the other things that we're concerned about.

16 My name is Rebecca Sturtevant, and I live at 930
17 Shepherd Street, which shares a party wall with the
18 applicant's property, 932 Shepherd Street Northwest.

19 I think one of the things I wanted to bring to
20 attention in the PowerPoint presentation, and I'm
21 not sure if it was updated from what was initially
22 submitted, but it said that my permit for my solar
23 panels was not submitted until late August, but that
24 does not account for when I signed the initial
25 contract with Solar Solutions, which I did submit

1 for the record. That contract was signed and
2 executed on May 29th, 2025, which was prior to the
3 purchase of 932 Shepherd Street. So even though the
4 applicant said that he was not aware of it, it had
5 already been long in process before he had purchased
6 the property. That's the next slide.

7 Similarly to Anthony and Kimberly, I fully
8 support a reasonable redevelopment of 932, but I
9 would like it to stay in the limits of the RF-1
10 zoning and then within its matter of right of a 10-
11 foot setback from my property. Because of some of
12 the developments that are proposed to the property,
13 I do have concern about air, light, and privacy,
14 particularly how the solar study that has been
15 provided will truly affect my solar panels and also
16 having the side glass panels of the covered decks
17 will look into and down onto my property because of
18 how we are right next to each other.

19 The other concern I have has to do with
20 some of the foundational, structural and safety
21 concerns of 932 in its current state and what that
22 can mean throughout construction. As I mentioned
23 before, I do share a party wall with 932. And one
24 of the things that Dr. Kirby had also mentioned was
25 cracks that we see forming in our walls as part of

1 our row houses. And my house in particular has
2 cracks above door frames and walls that are only on
3 the 932 side of my house. I think it could be in
4 part because of the way that house is already
5 tilting towards 934 Shepherd Street. So I want to
6 make sure that there is some sort of mitigation in
7 terms of ensuring that the structure is secure in
8 terms of any ongoing construction that may be
9 happening as part of this redevelopment. I think
10 with everything that we've heard from Mr. Gallagher
11 and Kimberly and Dr. Kirby and the signed petition
12 from the majority of our neighbors on the block, I
13 would respectfully urge the board to give great
14 weight to the ANC's unanimous recommendation and
15 deny the requested special exemption relief.

16 CHAIRPERSON POURCIAU: Thank you, Ms.
17 Sturtevant, and to all of those who have testified
18 in opposition. I'd like to ask for questions from
19 board members now. Ms. Lindsjo, do you have any
20 questions for the ANC or Mr. Gallagher or for the
21 other two parties in opposition that have just
22 presented?

23 MEMBER LINDSJO: Not at this time. Thank
24 you for providing your statements.

25 CHAIRPERSON POURCIAU: Thank you.

1 Commissioner Wright, do you have any follow-up items
2 that you'd like to ask of any of those?

3 COMMISSIONER WRIGHT: No, I don't. Thank
4 you.

5 CHAIRPERSON POURCIAU: Okay. Thank you so
6 much. I'd now like to ask the applicant -- is it
7 Ms. Wilson -- do you have any questions for the ANC,
8 the opposition, or the party in opposition?

9 MS. WILSON: No questions, and I'll save
10 all my comments for closing. Thank you so much.

11 CHAIRPERSON POURCIAU: Thank you. I'm just
12 trying to make sure I didn't miss anybody. I don't
13 think I did. And so with that, I'd like to ask you,
14 Ms. Wilson, if you would like to proceed with your
15 closing remarks at this time.

16 MS. WILSON: Thank you. So first I wanted
17 to make a few clarifications. Just that the glass
18 walls noted around the balconies are retractable. I
19 guess we could call them retractable glass windows,
20 not solid glass walls, and I do think that is a
21 relevant point given the discussion.

22 In terms of education programs for shade
23 studies, there are no continuing education programs
24 for those that I could find. There is a D.C.
25 program that I believe D.C. developed for this exact

1 purpose. So those are scientific studies. With
2 respect to the trees, we showed the permits. The
3 trees were deemed hazardous, which is why they were
4 permitted to be removed.

5 I'll note that I haven't seen anything in
6 the record noting how people living in condos versus
7 a single family home would devalue the neighborhood.

8 This is on the border of the NMU-7 zone, which does
9 have apartment buildings, and we didn't

10 intentionally skip pictures of the block. We aren't
11 doing anything to the front, so that's why we didn't
12 linger. And then the bulk and mass is similar to
13 the adjacent property even with the decks. The
14 decks are only one to two feet past that porch
15 addition. And I know that's one foot, but there's
16 also a two-story structure there. So we are
17 matching that height and bulk, and it's a relatively
18 small amount of relief compared to other 10-foot
19 rule cases. It's only five feet of relief.

20 Then, in terms of the addition, the
21 additional space in the accessory building, DOB
22 requires covenants for those accessory flex spaces,
23 specifically saying that the applicant will not use
24 those as accessory apartments. That is common
25 practice in permitting in DOB, and that happens

1 whether it's a single family home, a conversion. If
2 there's any space that DOB thinks you could use as
3 an accessory apartment, you have to sign a covenant.

4 So that's covered. This is a true conversion to
5 three units, not in name only. DOB would shut that
6 down very quickly.

7 We are trying to create nice high quality
8 units to replace a derelict building with bullet
9 holes. One would think that new construction would
10 help fortify the foundation for 932, which is, as
11 the opposition stated, not structurally sound. So
12 this does seem like an improvement. And then part
13 of the issue with trying to address neighbors'
14 concerns is that the opposition seems to primarily
15 oppose the existence of the special exception
16 itself, which is a quarrel with the regulations. If
17 the standard were that a special exception can only
18 be approved when no neighbor objects, the special
19 exception process would serve no purpose.

20 The zoning regulations enumerate specific
21 criteria precisely so that owners can have a
22 predictable path to relief, and the Court of Appeals
23 has been clear. Where the criteria are objectively
24 met, the board ordinarily must grant the relief.
25 And so the criteria is that the light and air not

1 rise to the level of undue, that the privacy not
2 rise to the level of an undue impact, not just any
3 impact. And so OP agrees with the analysis that the
4 proposed additional five feet does not rise to the
5 level of undue. And, you know, if the neighbors
6 were to drop opposition, if we reduced the third-
7 floor deck, or if you wanted to talk more, we would
8 have been willing to compromise on some of these.
9 But there hasn't been any significant movement on
10 their side, even with all of the changes we've
11 enacted throughout this process.

12 The applicant has genuinely tried to
13 address concerns, and we've had lengthy discussions
14 with OP, who reviews the legal analysis in this case
15 and adjusted the building accordingly. Again, a by-
16 right project could have the same or even greater
17 alleged impacts. If we reduce that interior bulk by
18 five feet, that rear addition's no longer subject to
19 BZA review, and the applicant could do what was
20 originally proposed, which are immovable full-length
21 sidewalls along those decks and even larger decks.
22 And that would have more of an impact.

23 In this case, we're asking for a bit more
24 interior building length and through the process
25 have modified the design to get as close as we can

1 to a compromise. In that, the process worked
2 exactly like it was supposed to. But if the only
3 outcome that would satisfy the opposition is a by-
4 right project, then that is not a disagreement about
5 design; it's a disagreement with what the zoning
6 regulations allow, and that's a larger issue for the
7 zoning commission and not the board. Thank you so
8 much for your time here today, and we respectfully
9 request that you grant approval.

10 CHAIRPERSON POURCIAU: Thank you. Thank
11 you for that presentation, Ms. Wilson. Do any board
12 members have any follow-up questions for the
13 applicant? No. All right, thank you. Are we ready
14 to close the record and deliberate on our decision?

15 All right, seeing some heads saying yes, the board
16 is ready to deliberate. Please close the hearing
17 and the record. Witnesses can be excused, and we
18 will deliberate and discuss this case. Thank you.

19 MS. MEHLERT: -- to § 320.2 to allow the
20 conversion of an existing residential building and
21 to deny the special exception relief under Subtitle
22 E, § 207.5 to allow the rear wall of a row building
23 to extend farther than 10 feet beyond the farthest
24 rear wall of any adjoining principal residential
25 building on any adjacent property. Chair Pourciau?

1 CHAIRPERSON POURCIAU: Yes.

2 MS. MEHLERT: Board Member Lindsjo?

3 MEMBER LINDSJO: Yes.

4 MS. MEHLERT: And Commissioner Wright?

5 COMMISSIONER WRIGHT: Yes.

6 MS. MEHLERT: Staff would record the vote
7 as three to zero to two to both approve the special
8 exception under U3-20.2 and deny the special
9 exception under Subtitle E207.5 on the motion made
10 by Commissioner Wright and seconded by Board Member
11 Lindsjo.

12 CHAIRPERSON POURCIAU: Thank you. Thank
13 you all. We'll move on to our next application,
14 which is No. 21443. Secretary Mehlert, would you
15 please read it into the record?

16 MS. MEHLERT: Yes. Next is Application No.
17 21443 of Cecilia Penizia. This is a self-certified
18 application pursuant to Subtitle X, § 901.2 for a
19 special exception under Subtitle E, § 207.5 to allow
20 the rear wall of a row building to extend farther
21 than 10 feet beyond the farthest rear wall of any
22 adjoining principal residential building on any
23 adjacent property. This is for a new third floor
24 and three-story rear addition to an existing two-
25 story attached principal dwelling for use as a two-

1 unit flat. It's located in the RF-1 zone at 735
2 Irving Street Northwest, Square 2891, Lot 82.

3 As a preliminary matter, the applicant has
4 submitted a request to accept an untimely filing for
5 their affidavit of posting an additional color
6 photograph.

7 CHAIRPERSON POURCIAU: Thank you. Do we
8 have the Agent? Mr. Bello, are you the Agent for the
9 applicant?

10 MR. BELLO: Yes, Madam Chair.

11 CHAIRPERSON POURCIAU: Very good.

12 MR. BELLO: Good afternoon.

13 CHAIRPERSON POURCIAU: We'd love to hear
14 your presentation at this time.

15 MR. BELLO: Thank you. If the PowerPoint
16 presentation can be pulled up, I'd appreciate that.

17 This is an application for a special exception for
18 735 Irving Street Northwest. It's a special
19 exception, the provision of § 207.4 that'll be under
20 subtitle E to construct an addition that would
21 exceed 10 feet behind, beyond the rear wall of an
22 adjacent row dwelling. Next page, please.

23 This page basically just describes what
24 we'll be covering in this PowerPoint presentation.
25 Next page, please. The property is located in RF-1

1 zone. The dimension of the lot is 18 by 135 feet,
2 which results in approximately 2,430 square feet of
3 lot area, and it's located in Ward 1. Next page,
4 please.

5 Again, the neighborhood is a row dwelling
6 block in transition, and this request is to
7 construct a third floor addition and extend a three-
8 story rear addition. Next page, please. This page
9 speaks to the scope of work, outlines the existing
10 condition of the property and what is proposed. The
11 property meets every other development's standards
12 prescribed for its underlying zone, except for the
13 area of relief that is sought in this application.
14 Next page, please.

15 Again, this page essentially speaks to all
16 the other development standards that the project
17 adheres to and highlights simply the one that is
18 requesting relief for, which is under 207.4. Next
19 page, please. So that provision limits a rear
20 addition to 10 feet beyond the wall of an adjacent
21 row dwelling, and this application is asking for 20
22 feet beyond just one side of the property. Next
23 page, please.

24 This is a site plan that essentially shows
25 that the property -- there's only one of the two

1 adjacent properties that this relief applies to
2 because the property to the west, well, I believe
3 that's 737, has already undertaken an addition
4 similar to what this project is requesting. So
5 there'll be no impact on that adjacent property.
6 Next page, please.

7 This basically shows that there's a three-
8 story building. The first unit would be on the
9 first floor, and then the two upper floors will
10 contain the second unit. Next page, please. This
11 is the third floor of the property and the building
12 section. Next page, please.

13 These are the rear and front elevations.
14 As the elevations will show, 737 has already taken
15 an addition of a third story of equal height. We
16 will not be exceeding that height, but we will be
17 exceeding the height on 733 Irving Street. The
18 height of the building is 35 feet and 9 inches.
19 Next page, please.

20 This is a prospective drawing of what the
21 rear of the property looks like, including the
22 front. The front facade would remain untouched, and
23 the third floor addition will be recessed about
24 three feet from the front building line. Next
25 slide, please. This slide sets out a three-prong

1 test. This is a special exception, so the applicant
2 only need show that the proposed project will be in
3 harmony with the zoning regulations and the zoning
4 maps, no adverse impact on the neighboring
5 properties, and it will be compliant with special
6 conditions set forth under 5201. Next page, please.

7 These are the conditions for granting
8 relief under § 5201.4, the light and air. The
9 applicant argues that this project does not involve
10 a roof deck, and because the additions, the lot line
11 -- walls lot line 1 includes no fenestration or
12 windows. There is a proposed a small rear balcony
13 deck that'll be open, but then that would only be
14 overlooking the property to the east, which is 733
15 Irving.

16 Privacy of use. The property again does
17 not include a roof deck. The only exterior space
18 would be the outside deck that would be overlooking
19 that property. But then that's not something that
20 significantly or substantially intrudes upon privacy
21 of 733 Irving.

22 Visual impact. The addition is what any
23 other property in this zone would be able to
24 construct. Particularly property, adjacent property
25 that's more affected, which is 733 Irving, would in

1 fact be able to construct a similar addition because
2 this application does not seek relief from the
3 percentage lot occupancy. So that adjacent property
4 would at a future time be able to duplicate this
5 addition without need for any relief. Next page,
6 please.

7 The applicant has provided shadow studies
8 that basically confirm that the impact of the shadow
9 caused by this addition is very minimal from what
10 exists at this point. Next slide, please.

11 The Office of Planning recommends approval
12 in their report. The applicant has presented to the
13 Economic Development Committee of the affected ANC.

14 That committee unanimously approved the project and
15 would be referring it to the full ANC hearing for
16 approval. In the applicant's experience, once the
17 committee recommends approval, then it becomes a
18 consent matter before the ANC. That ANC meeting is
19 scheduled for July 22nd, so it's the hope of the
20 applicant that the board would leave the record open
21 to accept the formal ANC resolution. Next slide,
22 please.

23 The application satisfies every requirement
24 for a special exception as shown in this
25 presentation, and the applicant respectfully

1 requests that the board approve the special
2 exception. Thank you very much, and that'll be my
3 presentation.

4 CHAIRPERSON POURCIAU: Thank you so much,
5 Mr. Bello. That was pretty clear. Are there any
6 questions from the board? Ms. Lindsjo, did you have
7 any questions for the applicant?

8 MEMBER LINDSJO: I do not at this time.
9 Thank you.

10 CHAIRPERSON POURCIAU: Thank you. Ms.
11 Wright, any questions of the applicant?

12 COMMISSIONER WRIGHT: Just to be clear, the
13 rear wall of this proposed addition will actually be
14 shorter than the rear wall of the adjacent property.
15 Is that correct?

16 MR. BELLO: Just slightly, yes.

17 COMMISSIONER WRIGHT: Well, again, looking
18 at the plans, it looks -- again, not counting the
19 deck, it looks better than slightly. So maybe I
20 should get clarification. It looks like the rear
21 wall is, you know, at least looks like five feet or
22 more less than the rear wall of the adjacent
23 property.

24 MR. BELLO: Yes, ma'am. Thank you for the
25 clarification. I was just including the deck, but

1 since it's the wall, you're absolutely correct.

2 COMMISSIONER WRIGHT: Yeah. And the next
3 door property, I don't know whether it doesn't have
4 a deck, does it? At least on the upper levels.

5 MR. BELLO: No, it does not.

6 COMMISSIONER WRIGHT: Yeah, it's just a
7 wall.

8 MR. BELLO: That's correct.

9 COMMISSIONER WRIGHT: Also, the front wall
10 is set back from the mansard roof, which is also not
11 the case with the adjacent property. With the
12 adjacent property, the front wall extended straight
13 up from where there may have historically been a
14 mansard roof, but there's not one now, and you have
15 actually set your project back a couple feet from
16 the existing mansard roof. Is that correct?

17 MR. BELLO: Yes, ma'am. Your observation
18 is absolutely correct. Yes.

19 COMMISSIONER WRIGHT: And again, I just
20 want to make sure that I'm clear. For the property
21 on the other side where there is not the large
22 addition -- again, I'm directionally challenged, so
23 I can't tell you if that's east or west or north or
24 south -- but the property that is on the other side
25 from the property that has the large addition we

1 were just discussing, there are no windows looking
2 out over the backyard of that property. Is that
3 correct?

4 MR. BELLO: That is correct, ma'am, yes.

5 COMMISSIONER WRIGHT: So, you know, again,
6 we just had an interesting conversation about a
7 different case which was requesting to extend beyond
8 the 10-foot rule requirement. And I'm sort of
9 trying to point out some things that distinguish
10 this case and that are different. Again, I feel
11 like I can support this application because of some
12 of the things I just mentioned that it doesn't
13 extend beyond the wall of the property with the
14 large addition next door, that it is inset farther
15 in the front than that property, and that there are
16 no windows looking out on the adjacent backyard,
17 which would not affect the privacy in the backyard
18 of that house. So, thank you, I just wanted to make
19 sure I understood those points for clarification.
20 Thanks.

21 MR. BELLO: Thank you.

22 CHAIRPERSON POURCIAU: Thank you,
23 Commissioner Wright, that was comprehensive, and we
24 appreciate it. I think at this point we're ready to
25 move to the report by Office of Planning. I see we

1 have Ms. Brown-Roberts with us. Are you ready to
2 give your report, please?

3 MS. BROWN-ROBERTS: Yes. Good afternoon,
4 Madam Chairman and members of the BZA. Maxine
5 Brown-Roberts of the Office of Planning. I must
6 apologize. My camera isn't coming up, but I'm
7 hoping you can hear me. OP recommends approval of
8 the applicant's request for special exception relief
9 to permit a third story and three-story rear
10 addition extending 21.7 feet beyond the adjoining --
11 ooh, why is it not going? I'm sorry. I clicked the
12 wrong one that extends 20 feet beyond the adjoining
13 building at 735 Irving Street Northwest. The
14 property is a long RF-1 lot improved with a two-
15 story row house. The applicant proposes a third-
16 story addition and a three-story rear addition. The
17 project meets all the RF-1 development standards
18 except for the rear wall extension limit, for which
19 relief is being requested.

20 OP finds that the proposal would not unduly
21 impact light and air, and the applicant shadow
22 studies shows only minimal but brief incremental
23 shadows on the eastern neighbors, and existing
24 deeper additions on the block already influences
25 shadow conditions. Regarding privacy, no windows

1 are proposed on the east elevation, and the small
2 rear decks do not introduce new sight lines beyond
3 what already exists due to the neighbors elevated
4 decks. The project maintains a 49-foot rear yard,
5 does not increase lot occupancy beyond what is
6 permitted, and continues the permitted residential
7 use. OP finds that the application would be in
8 harmony with the intent of the RF-1 zone and that it
9 meets the criteria of Subtitle X 901. We therefore
10 recommend approval of the requested relief. Thank
11 you, Madam Chairman.

12 CHAIRPERSON POURCIAU: Thank you. Thank
13 you for summing that up nicely. I think it kind of
14 puts an exclamation point on the questions that
15 Commissioner Wright asked. Do board members have
16 any questions for Office of Planning? No? And does
17 the applicant have any questions of Office of
18 Planning?

19 MR. BELLO: No, Madam Chair.

20 CHAIRPERSON POURCIAU: Okay. Thank you so
21 much. Thank you, Ms. Brown-Roberts. I don't see
22 any witnesses for the government, and I don't see
23 that the ANC is here. I know we received a letter
24 that the ANC will not be able to take action until
25 the 22nd. However, their buildings committee, I

1 don't know the exact name, was in support of the
2 application. I see somebody has popped up on my
3 screen that I wasn't aware would be joining. Let me
4 just check my record here. Okay, and we did receive
5 a letter of concern from a neighbor, particularly
6 about a construction detail.

7 I see that I have a public witness, Josh
8 Jacobson, who is in support. Mr. Jacobson, are you
9 ready to present? If you can give your name and
10 address for the record, and you have three minutes
11 for your public testimony.

12 MR. JACOBSON: Yeah, good afternoon. My
13 name is Josh Jacobson. I'm the chair of ANC 1E.
14 This is Cole. I'm watching him right now, so he
15 gets to join, too. Just wanted to --

16 CHAIRPERSON POURCIAU: He's watching us. I
17 like it.

18 MR. JACOBSON: -- yeah, just wanted to let
19 the board know the Zoning and Economic Development
20 for ANC 1E met last week and discussed this case and
21 voted unanimously in favor of it. There were just
22 some logistical issues on our side, which is why the
23 full ANC has not considered it. So I don't want
24 that to reflect poorly on the applicant, but that's
25 all on us. And the Economic, Zoning and Economic

1 Development Committee unanimously approved the
2 requested relief, and it'll go to the full ANC next
3 week.

4 CHAIRPERSON POURCIAU: Thank you both for
5 taking the time out to come and provide that remark
6 in person. Anybody have any questions for Josh and
7 company? No? Nope. All right. Thanks so much,
8 Josh. So with that, if the applicant would like to
9 provide any concluding remarks, we'd love to hear
10 them now. And if not, we'll proceed on.

11 MR. BELLO: Well, we'll just stand on the
12 records, Madam Chair. Thank you.

13 CHAIRPERSON POURCIAU: Thank you so much.
14 Thank you. If there are no more questions for the
15 applicant, the board will begin our deliberation.
16 Please close the hearing and the record. Witnesses
17 can be excused. Thank you all again for coming
18 forward today on behalf of this application, and we
19 will begin our deliberation.

20 Okay, this case seems a little more
21 straightforward. It is only for the rear addition
22 requirements, and that addition is not significant,
23 especially in relationship to the addition that has
24 already taken place on one side of the building. Is
25 there any further discussion, or should I enter a

1 motion? I think I'll try a motion. All right, so I
2 move that the board approve the application for case
3 No. 21443 of Cecilia Penizia for a special exception
4 under the rear addition requirements as captioned
5 and read by the secretary. Do I have a second?

6 COMMISSIONER WRIGHT: I'll second.

7 CHAIRPERSON POURCIAU: Thank you so much.
8 And Secretary Mehlert, would you call the vote,
9 please?

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

12 CHAIRPERSON POURCIAU: Yes.

13 MS. MEHLERT: Board Member Lindsjo?

14 MEMBER LINDSJO: Yes.

15 MS. MEHLERT: Commissioner Wright?

16 COMMISSIONER WRIGHT: Yes.

17 MS. MEHLERT: Staff would record the vote
18 as three to zero to two to approve application No.
19 21443 on the motion made by Chair Pourciau and
20 seconded by Commissioner Wright.

21 CHAIRPERSON POURCIAU: I'd like to -

22 COMMISSIONER WRIGHT: And can I just note
23 that we did get a letter from one of the adjacent
24 owners with concerns about what would happen during
25 construction, and that isn't something that's really

1 our purview, especially in terms of the relief
2 that's being requested. But if the applicant is
3 still on the call, I hope that they will take those
4 concerns into account and work with the adjacent
5 owners during the construction process to minimize
6 impacts to the adjacent buildings. I just wanted to
7 acknowledge that letter that we received.

8 CHAIRPERSON POURCIAU: Thank you so much
9 for bringing that up. I had it in my notes, and I
10 appreciate that you put it on the record. Could we
11 take a five-minute break, and then we'll have two
12 more cases to go through when we come back? And so
13 maybe we could come back at 3:40, maybe four
14 minutes. Thank you so much.

15 (Whereupon, the above-entitled matter went
16 off the record at 3:36 p.m. and resumed at 3:40
17 p.m.)

18 CHAIRPERSON POURCIAU: The next case,
19 please, 21457.

20 MS. MEHLERT: Yes, the next case in the
21 hearing session is Application No. 21457 of S&R
22 Foundation, Inc., trading as S&R Evermay. This is a
23 self-certified application pursuant to Subtitle X, §
24 901.2 for a special exception under Subtitle U, §
25 203.10 to allow use of an existing residential

1 building by a nonprofit organization for the
2 purposes of the nonprofit organization. So, the
3 nonprofit use an existing detached building
4 previously approved for a different owner subject to
5 conditions including a 10-year term. It is located
6 in the R-1B/GT zone at 1623 28th Street Northwest,
7 Square 1285, Lot 6.

8 CHAIRPERSON POURCIAU: Thank you. Could I
9 ask a question, Madam Secretary? There was a resume
10 provided for Ms. Orr. Do we need to take any action
11 on that, or is she already approved for to be a
12 witness?

13 MS. MEHLERT: I will check if she's been
14 previously approved.

15 CHAIRPERSON POURCIAU: Or an expert. Okay.
16 If not, I mean, I've reviewed her credentials, and
17 I accept her as a witness. All right, I see we have
18 -- is Ms. Haase on as the agent for the applicant?
19 Yes. If you are ready, if you can, we would love to
20 hear your presentation and who you have with you
21 today.

22 MS. HAASE: I'm delighted. Today I have
23 with me Ashley Orr, by the way, who is subbing in or
24 maybe taking the place of Daniel Solomon. They're
25 both at Graves Slade. Ashley has qualified as a

1 witness before the BZA in prior cases. And I can
2 attest to the fact she's very well qualified. Kate
3 Goodall is the president and CEO of S&R Foundation,
4 and she's also English, and she is hosting a watch
5 party right now for England and Argentina, but she
6 is with us. So, I'm going to be concise and
7 comprehensive, and hopefully we will let her get
8 back to the game soon. Anton Kurnosov is the head
9 of property operations at Evermay. We asked him to
10 be present in the event that you had any questions
11 of him. And I think with the recommendations from
12 DDOT that Ms. Orr does not have a statement. But
13 again, we'll be here to answer any questions that
14 you may have. So with that, if I may start.

15 This is the third time I've been before the
16 BZA for a nonprofit operation at Evermay and each of
17 these third times: first one was in 2012, then
18 2016. And as you're getting this picture here, the
19 terms keep doubling. And this time for 2026, we're
20 actually stretching a bit and asking for a 25-year
21 term subject to a caveat. S&R Foundation has
22 actually operated out of the property since 2012.
23 And they've been a wonderful neighbor to the
24 community, and I think that has resulted in no
25 opposition, a very nice recommendation from the ANC.

1 In fact, we first met with ANC Commissioner
2 Daniel Chao a year ago, and we have worked with him
3 throughout this process. We've held neighbor
4 meetings and listened to their concerns in a couple
5 of places, have amended the application to address
6 those concerns, and I think it's successful. Since
7 we were last here in 2016, a big change occurred,
8 and that is that the property was actually conveyed
9 to S&R Foundation in 2024. And as a part of that
10 process, the foundation went from being a grant-
11 making foundation to an operating foundation.

12 It might not be a surprise because of this
13 change where you're operating and paying a lot of
14 expenses that the application has many similarities
15 with 2012 and 2016, but there is a change that the
16 applicant seeks to provide more frequent, but not
17 any larger events as well as remove the limitation
18 of the 10-year term. Of course, this is consistent
19 with Subtitle U, § 203, and we are in the R-1B
20 Georgetown district. And within this district, the
21 intent is to protect the historic Georgetown and to
22 protect the integrity of contributing buildings, and
23 this is certainly a contributing building. It is
24 listed on the D.C. Inventory of Historic Sites and
25 is in fact registered on the National Register of

1 Historic Places as an individual historic landmark.

2 The second criteria it must meet is be
3 10,000 square feet or more, which it does. The main
4 building is 10,110 square feet. There's a 5,182
5 square foot cellar in addition to that. The
6 gatehouse contains 2,285 square feet, and the staff
7 office contains 1,252 square feet. So there's
8 plenty of improvements there, and I just want to
9 reassure you, we do not want a rear addition. No
10 deck, nothing like that. We are very happy with the
11 improvements on the site.

12 Third criteria is that the use shall not
13 adversely impact the use of neighboring properties.

14 As you know, this is an unusually large property.
15 It's 3.57 acres, and it is placed so that the west
16 side abuts 28th Street, the north and east sides
17 abut Oak Hill Cemetery, and going down the hill to
18 Rock Creek Park. So it's uniquely positioned for
19 this non-profit use as well. Now, the south
20 boundary abuts Dumbarton House for about half of
21 that boundary, and then two residents along Q
22 Street, and then one that actually fronts on 28th
23 Street. I'll just say that all three of those
24 owners are very supportive of this application and
25 wrote letters of support to the ANC 2E.

1 Of course, the most unusual part of this
2 property, which definitely helps the fourth criteria
3 to mitigate traffic impacts, is that it has 107
4 parking spots on site. Some of those are reserved
5 for the staff, but there's not a lot of staff, and
6 they don't all drive, and they're not all there. So
7 it generally leaves at least 100 spots for any
8 guests to park in, and that's a lot of spots. I
9 know commercial office buildings that don't have 100
10 spaces.

11 I talked about the two prior BZA orders in
12 2012 and 2016. We have commonalities with that.
13 First, we have a restricted maximum number of annual
14 events and restricted number of guests. Since 2012,
15 the maximum number of guests has been 200, and that
16 has not changed since, and we don't propose a change
17 for that now. We have nonprofit events, and there's
18 always been a residential component to the programs,
19 to the nonprofit programs. We require on-street
20 parking by staff, and we strongly and in fact direct
21 any guests on invitations to park on-site and
22 refrain from parking on the street. And quite
23 honestly, when you can get free valet, they seem to
24 really enjoy that and free valet is available
25 anytime there is an event of 51 or more guests. And

1 if there's not, if there's under 50, then Mr.
2 Kurnosov and his team directs the parking. We
3 restrict deliveries and loading times. They're
4 really prohibited from using the streets to stall,
5 loiter or wait or anything like that. They have to
6 do that on-site and specific hours. We prohibit
7 amplified music outside. And then finally, which I
8 think the neighbors may appreciate the most, is that
9 there is a prohibition, which I know Kate has
10 strongly endorsed for as long as she's been with the
11 foundation -- use by the public as a social venue.
12 So like, there are no weddings. It's not a wedding
13 venue. Now, I'm going to take a quick sip of water
14 here.

15 The difference between the initial renewal
16 orders and this application are the term. We're
17 asking for a 25-year term this time, subject to
18 conveyance to an unrelated entity. Pretty specific
19 and clear on its face, but this is really for S&R
20 Foundation. It has no subsidiary; it has no
21 related entity, but someday it might. But this term
22 would not carry through to a completely unrelated
23 mission or other nonprofit group.

24 We've asked for a minor increase in the
25 number of employees from 9 to 10, so I don't think

1 that's a lot of impact. And then the maximum number
2 of nonprofit events on an annual basis, we've asked
3 for 72. This is in between the 93 that was granted
4 in 2012 and more than the 40 that was granted in
5 2016. And I will say at that time there was a
6 spinoff to the Halcyon Incubator, and they've moved
7 on, and Kate can certainly tell you all about that
8 because she was the founder and brilliantly
9 successful at that. Then the arts program moved to
10 the Fillmore. But now it's different, and Evermay
11 is going to be more the hub of activity.

12 We're asking for an extension of time for
13 the residential stays, which I'll talk about just a
14 bit more. And for the first time are including
15 garden installations and exhibits. I can't really
16 say they're tours because they're not. It's not
17 similar to Dumbarton Oaks or Tudor House. It's a
18 different program, and I'm going to go into that in
19 just a moment.

20 I'm going to start with the residency
21 program. And if you've read anything about this
22 Evermay and sort of a rebranding, retooling of
23 Evermay, they are very lofty goals again but
24 harnessing the wisdom of the past to move forward
25 with the future. Looking to the past, solving

1 future problems, but not just today's problems --
2 problems that they foresee coming 10 years from now.

3 So it's a very thoughtful, purposeful mission.

4 Sometimes it helps to convene people together to be
5 able to really collaborate. Maybe they disagree on
6 the topic they're going to talk about, maybe they
7 agree, but either way that they can come to a
8 consensus and to some solutions to meet these
9 problems. So that's why it's called Solutions
10 Residency. So there would be 12 cohorts, 1 to 12 --
11 I'm sorry, guest fellows in a cohort. And it could
12 be split up in two cohorts of six each or however
13 they want to do it. It's just that it's a maximum
14 of 12 persons a year, and they can stay from 30 to
15 60 days.

16 What we have learned is that obviously that
17 benefits the project, but it also benefits Evermay
18 to have that 24/7 presence. The neighbors like it.

19 And hopefully going to be approved and proposed in
20 the order.

21 Now, the nonprofit events, these will
22 continue to include the concerts, seminars,
23 meetings, civic events and Kate can describe those
24 for you a little bit more, but it's nothing that
25 hasn't been occurring for the past 15 years on site.

1 We do note that the events for 1 to 100, we've
2 asked for 40, and then events for up to 200 people,
3 we have asked for 8 and that's 8 a year. That
4 doesn't mean we have to have 8. It means they can
5 have 8. I will say that in their transportation
6 study that grossly determined that the existing
7 transportation infrastructure and operations on the
8 property can adequately handle a 200-person event,
9 so that the change in the events from two to eight
10 are not going to detrimentally impact the
11 neighborhood, event management or the operations.

12 Now, the new component, which I'm really
13 excited to tell you about, is the exhibitions,
14 installations in the garden and/or the house.
15 There's always been a desire to share Evermay with a
16 broader swath of the public. And if we could look
17 at Exhibit 4, which I didn't warn anyone about so it
18 may take a minute to pull up, but if you may have it
19 and if you can't pull it up. But if you've never
20 been to Evermay, it is an exquisitely beautiful
21 property. Driving up is beautiful, but the back is
22 even more beautiful. As you come out of the back of
23 the house, you will see a series of terraced
24 gardens. And it's terraces, one terrace goes down
25 to another and then to another, and there are ponds

1 and a gazebo or two, and it's just really, really
2 gorgeous. So the owners, every owner of Evermay,
3 has wanted to share this. I know certainly
4 Commissioner Chao is hoping that we could share it
5 more.

6 I think they have developed a program that
7 will not adversely impact that neighborhood and a
8 program that will not place the demands on the
9 foundation that it cannot fulfill. So this would be
10 garden exhibitions and installations. The program
11 could not run for over four months a year. It might
12 run a month at a time. It might run two months at a
13 time. Or it might not run for four months. It
14 might be one month or no time because the
15 installation and the exhibition has to make sense.
16 It has to comport with the mission in some way, and
17 it has to be just very special, or I know, Kate,
18 it's not going to be there. So, to manage this
19 event also, there will be a prohibition that no more
20 than 50 people can be on the grounds at any time.
21 This is because, well, first of all, Mr. Kurnosov
22 has to provide security throughout that area, and we
23 cannot clog the streets or impact the neighbors in
24 any way.

25 There will be a reservation system that

1 will be online, and guests will get a QR code. If
2 they show up at the gate without that QR code, they
3 will not be permitted into the gate. So it is a
4 reservation advanced system, and Kate feels very
5 strongly about staying with those requirements. And
6 I would say the installations might be located
7 throughout the property, but always, always with a
8 sensitivity to the residences back there. Now, we
9 have gone over this program thoroughly with them,
10 and they have not expressed any opposition.

11 I don't see her on here, but we have a
12 report that Crystal Myers wrote from the Office of
13 Planning which notes the compliance with the zoning
14 ordinance. We have DDOT approval, and of course, we
15 have an recommendation from the ANC 2E, and it
16 approved the program at its May meeting, which I've
17 been surprised to see that not everyone's come with
18 an ANC recommendation, but we have one, and it's
19 very good, by the way. So we have proposed
20 conditions. OP reviewed them and just made minor
21 edits.

22 I think that's going to wrap up what I have
23 to say unless you have any questions, and I will
24 turn it over to Kate, noting that the score is now
25 one to one.

1 CHAIRPERSON POURCIAU: Thank you. Kate,
2 did you have anything? Ms. Goodall, do you have
3 anything to add?

4 MS. GOODALL: If it's helpful, because I
5 know you've all had an extremely long day, but I'll
6 just underscore a couple of points. I think, most
7 importantly, I just want to make sure everyone's
8 aware that this amazing property has been donated by
9 Sachiko Kuno, who was an owner prior, and she
10 donated it to her foundation out of a very holistic
11 desire to, you know, really think of her
12 philanthropic assets very broadly and share them
13 with the public in the biggest way that she could
14 imagine. And there's a lot of excitement in all of
15 Georgetown, and hopefully all of D.C. and beyond, to
16 be able to access a property that had originally,
17 and for so long, been very much the private domain.

18 And our job at the moment is to think about how to
19 really optimize that opportunity for as many people
20 to benefit from as possible while being respectful
21 and thoughtful about how we're doing that in keeping
22 with the neighborhood.

23 I'm happy to go back over, you know, our
24 mission and some of our programs and how we think
25 about them, but I don't necessarily think that's

1 necessary, and I can just be here to answer
2 questions if that's helpful.

3 CHAIRPERSON POURCIAU: Thank you so much.
4 Thank you for adding that. That's very
5 comprehensive. Appreciate both of your reports.
6 Are there any questions from the board for anyone
7 from the application? All right. Okay. With that,
8 we do have Ms. Brown-Roberts on from Office of
9 Planning, who will be sharing the OP report.

10 MS. BROWN-ROBERTS: Good afternoon again,
11 Madam Chairman and members of the BZA, and for the
12 record, Maxine Brown-Roberts from the Office of
13 Planning. OP recommends approval of the requested
14 special exception to allow the continued use of this
15 historic residence by a nonprofit. As the applicant
16 says, you know, they have been operating for quite a
17 long time, and OP has worked with them to continue
18 to operate within the residential community, and it
19 has been really good over the years.

20 OP is supportive of the proposed amendment
21 requested to the conditions regarding the uses, the
22 hours of operations. However, as noted in our
23 report, there's one condition regarding the
24 nonprofit events the hours, where the applicant is
25 asking that something be added that staff will use

1 their best efforts to ensure all guests depart the
2 subject property by the daily closing time. That is
3 sort of a statement that is not sort of enforceable.

4 We do recommend that the applicant, you know, do
5 adjust their times to make sure that all the guests
6 depart the subject property on time. I think this,
7 the request that they're making, is very general and
8 no limits to it. You know, if it was maybe, say, 15
9 minutes after the closing time or something like
10 that, but I think it is very open, and it could be
11 misused, you know, and the time could go to 10:00 or
12 something like that. So I think that is not
13 something that we're recommending that the BZA
14 approves, but otherwise we are supportive of the
15 requested special exception and request its
16 approval. Thank you, Madam Chairman.

17 CHAIRPERSON POURCIAU: Thank you. Does the
18 board have any questions for OP? No. Applicant,
19 have any questions for Office of Planning? No.
20 Okay. We'll move on.

21 Next on our agenda would be DDOT or
22 district agency, and we have no one present and no
23 one opposed. The ANC has provided their approval,
24 and I do not believe anyone is present from the ANC.

25 There are no parties that have been established in

1 association with this application, and I believe
2 there's no one signed up in opposition or support.
3 So, having gone through that, I'll just ask the
4 applicant if they have any closing remarks to
5 provide before we deliberate on this case.

6 MS. HAASE: No, Madam Chair, I do not. I
7 think we'll stand on the record. I will say that we
8 concur with the Office of Planning's edits to the
9 proposed conditions.

10 CHAIRPERSON POURCIAU: Very good. I
11 appreciate that. Okay. So at this point, the board
12 is ready to deliberate. We will close this hearing
13 session. Thank you to the witnesses for appearing
14 today and for your comprehensive presentation and
15 the witnesses can be excused. All right. Do we
16 need to talk anymore, or does anyone want to offer a
17 -

18 COMMISSIONER WRIGHT: I would be glad to
19 offer a motion, if you'd like.

20 CHAIRPERSON POURCIAU: Thank you,
21 Commissioner. Thank you.

22 COMMISSIONER WRIGHT: This is a wonderful
23 application to review, and it's very comprehensive,
24 and they've definitely thought through all the
25 operational issues, which I think is the reason why

1 there is broad community support, including the ANC,
2 for this application. I would move that we approve
3 Application No. 21457 of the S&R Foundation Inc. At
4 1623 28th Street Northwest for a special exception
5 to allow continued use of an existing residential
6 building by a nonprofit organization for the
7 purposes of the nonprofit organization and ask for a
8 second. Oh, that is with the edited conditions as
9 edited by the Office of Planning.

10 MEMBER LINDSJO: I second that motion.

11 CHAIRPERSON POURCIAU: Thank you both.
12 Madam Secretary, would you please call a vote?

13 MS. MEHLERT: Please respond to
14 Commissioner Wright's motion to approve the
15 application with conditions. Chair Pourciau?

16 CHAIRPERSON POURCIAU: Yes.

17 MS. MEHLERT: Board member Lindsjo?

18 MEMBER LINDSJO: Yes.

19 MS. MEHLERT: Commissioner Wright?

20 COMMISSIONER WRIGHT: Yes.

21 MS. MEHLERT: Staff would record the vote
22 as three-to-zero-to-two to approve Application No.
23 21457 with conditions on a motion made by
24 Commissioner Wright and seconded by Board Member
25 Lindsjo.

1 CHAIRPERSON POURCIAU: And we'll proceed to
2 our last case now, No. 21458. Secretary Mehlert,
3 would you please introduce the case?

4 MS. MEHLERT: Last case is Application No.
5 21458 of Adisa, LLC. This is a self-certified
6 application pursuant to Subtitle X, § 901.2 for a
7 special exception under Subtitle E, § 207.5 to allow
8 the rear wall of a row building to extend farther
9 than 10 feet beyond the farthest rear wall of any
10 adjoining principal residential building on any
11 adjacent property. This is for a new third floor
12 and three-story rear addition to an existing two-
13 story attached principal dwelling. It is located in
14 RF-1 zone at 754 Irving Street Northwest, Square
15 2890, lot 55.

16 CHAIRPERSON POURCIAU: Thank you so much.
17 I see Sarah Alli is the agent. I see her in the
18 panelists, but I haven't seen -- oh, here she is.

19 MS. ALLI: I am here.

20 CHAIRPERSON POURCIAU: Very good. Ms. Alli

21 -

22 MS. ALLI: Hello.

23 CHAIRPERSON POURCIAU: -- how are you
24 today?

25 MS. ALLI: I'm doing very well. Thank you

1 for calling us today.

2 CHAIRPERSON POURCIAU: You're welcome.

3 MS. ALLI: I'm glad to be able to move
4 forward with this rather short application, so I'll
5 get to it.

6 CHAIRPERSON POURCIAU: You might not be as
7 happy as we are. We didn't know what was going to
8 happen today. So thank you. Yes, would you please
9 proceed with your presentation?

10 MS. ALLI: Sure. Let's see. Do I share my
11 screen or is -- oh, somebody's sharing for me.
12 Okay.

13 CHAIRPERSON POURCIAU: Yes.

14 MS. ALLI: Wonderful. Okay. I'm
15 presenting the case for the exception for the rear
16 addition to this town home. The home is located on
17 Irving Street Northwest, a residential zone. We can
18 move forward to the next slide, please. This is the
19 RF-1 zone. These are very small lots. The lot
20 width is only 12.5 feet. And then it stretches back
21 for a whole 140 feet, so long and narrow leaving
22 these houses as they were built with maximum two
23 bedrooms and one bath and no basement. A family of
24 five would want to move into the property, and we
25 can move to the next slide, please.

1 This photo that you saw on this previous
2 page was from further down the block where there
3 were no trees blocking all of the houses. It's a
4 lovely tree-lined street, as many of our D.C.
5 streets are. This is the current condition
6 photograph taken in the wintertime. The cream-color
7 building is the subject property and has been vacant
8 for a number of years. The neighbors are anxious to
9 have it occupied, so this would definitely forward
10 that process. You can see the back has also not
11 been improved in any way. However, the neighbor on
12 the opposite side, so 752 Irving Street, completed
13 an addition in 2015 before some of the current
14 zoning rules were in effect, and they have a very
15 long extension past the rear wall of this property,
16 the 754 property. This exception that we're seeking
17 concerns the rear wall to the opposite neighbor with
18 the white brick you can see in this building. We
19 are seeking an exception to build the rear wall 21
20 feet beyond the short wall neighbor, beyond the
21 white brick neighbor, but still less than the
22 current neighbor. We can advance, please, to the
23 next.

24 This is just spelling out what you just
25 read out, so this is just the subtitle that we're

1 seeking relief from, and please, we can go to the
2 next slide. You can see in this diagram I'm showing
3 where the rear wall of the subject property should
4 reach in relation to the 752 property and where the
5 756 property will remain. I do want to note that
6 this is still less than the 40 percent lot coverage
7 currently allowed by code in this zone. We can
8 advance to the next slide, please.

9 This is an image from the rear alleyway
10 behind this row of houses. This is the best view
11 that I could have without as many trees blocking
12 many of the houses that are sitting further to the
13 west of the subject property. These are to the
14 east, and you can see that, in fact, on the corner
15 property, there has been a quite large -- probably
16 because it's a corner lot -- there has been a condo
17 building built there and utilizing the three
18 stories, and many of the other properties in the
19 same row having extensions at the rear, again, of
20 these long, narrow lots. So this would be in, you
21 know, in keeping in theme with the rear of these
22 houses. And we can move to the next slide, please.

23 This is just showing the existing and the
24 proposed site plan and the difference between the
25 two. We will have all permeable surfaces built on

1 the back, including a parking court that will have a
2 roll-down gate for security. We'll also be
3 constructing a privacy fence along this page south
4 border between 754 and 756, so there would be no
5 privacy concerns there. As noted in a letter of
6 application, there will be no windows built on the
7 extension on the party wall side. So, we will have
8 no privacy concerns between the 754 and 756
9 property. We will also be including a deck on the
10 on the second level, so just a one-story deck that
11 is also keeping in, I wouldn't say compliance, but
12 in the theme of many of the houses within this row.
13 And we can move to the next slide.

14 This is simply showing the architectural
15 drawings, the elevations both front and rear of the
16 subject property, and also a side elevation shown
17 from the west showing the gray siding, the
18 materiality of the Irving Street proposed property.

19 It will be the gray lap siding on the back, fiber
20 cement, and the brick. We will remove all of the
21 cream color vinyl siding from the front and restore
22 the brick with a painted gray surface there.

23 We can move to the last, which is just a
24 concluding slide reminding that we will remain
25 within the 40 percent of lot coverage which is the

1 current limitation with the permeable surfaces.
2 Many of the houses have the same rear extensions.
3 We do not propose a solar energy system on the roof.

4 We are adding a third story addition. This is
5 keeping it within the zoning rules of the 35-foot
6 height limit. And we have done a shadow study to
7 show that there's minimal effect of direct sunlight
8 to the 756 property.

9 We're requesting this relief because of
10 current living conditions and building codes, and
11 property values will only help this property to
12 become occupied for now and going on into the
13 future. This exception will help move us forward on
14 our building permit application. So we would really
15 thank you for your consideration.

16 CHAIRPERSON POURCIAU: Thank you for your
17 presentation. It was good clarifications. We were
18 a little, I know I was, a little confused by the
19 blue and the gray and the clear before, and I had to
20 study it a little more. And so your presentation
21 confirmed what I realized after looking at it a
22 little more closely that, you know, you were showing
23 the two houses on each side and how the new work
24 would be juxtaposed against those. So thank you for
25 that. Do we have questions or comments from board

1 members?

2 MEMBER LINDSJ0: Oh, I do. I have a
3 question. You're setting back three feet in the
4 front. And how much is it set back in the neighbor
5 for 752? Because that looks like it's set back more
6 than the three feet. Right?

7 MS. ALLI: I don't know exactly how far. I
8 would say from the drawings that I have, they are
9 probably set back at least 10 feet where the
10 building wall, the third-story building wall,
11 begins. However, they have placed a rather large
12 rooftop unit in that setback zone, and it's visible
13 from the street. They also did not comply with
14 keeping the requirement of keeping the cornice board
15 consistent across the top --

16 MEMBER LINDSJ0: Okay.

17 MS. ALLI: -- which we propose to keep
18 consistent and aligned with the rest of the homes
19 there.

20 MEMBER LINDSJ0: Okay, great.

21 MS. ALLI: But our third floor will be set
22 back from the existing front wall. We will set back
23 three feet from that existing wall.

24 MEMBER LINDSJ0: Thank you.

25 MS. ALLI: Sure.

1 CHAIRPERSON POURCIAU: Thank you. I think
2 now we'll ask again Ms. Maxine Brown-Roberts from
3 the Office of Planning to provide the OP report.
4 You've had a full day with us.

5 MS. BROWN-ROBERTS: Yes. Again, good
6 afternoon, Madam Chairman and members of the BZA.
7 Maxine Brown-Roberts from the Office of Planning.
8 OP recommends approval of the applicant's request
9 for special exception relief to permit a third story
10 and a three-story rear addition extending 21.7 feet
11 beyond the adjoining building at 754 Irving Street,
12 Northwest.

13 The subject property is narrow. It's a
14 narrow non-conforming RF-1 lot improved with a two-
15 story row house, and the proposed addition meets the
16 RF-1 development standards except for the rear wall
17 extension.

18 Regarding light and air, the applicant
19 submitted a shadow study showing an average of 12.4
20 yearly increase in shadow on the western neighbor.
21 OP reviewed the seasonal impacts and finds that the
22 additional shadows are moderate, limited primarily
23 to afternoon hours and are at a low angle sun during
24 the wintertime. Importantly, exterior deeper
25 additions on the block already influence shadow

1 conditions. OP concludes that the incremental
2 impact from the proposal would not appreciably
3 diminish the light and air for the most affected
4 properties.

5 On privacy, no windows are proposed on the
6 east elevation, avoiding any new sight lines towards
7 the neighboring property. Only one rear deck is
8 proposed at the first floor, which is typical in the
9 RF-1 zone row houses. The massing does not
10 introduce any new vantage points that would
11 compromise privacy.

12 The project maintains the 72.3 foot rear
13 yard. It does not increase lot occupancy beyond
14 what is permitted and continues as a permitted
15 residential use. We therefore find that the
16 application meets the RF-1 zone requirements and
17 satisfies the criteria of Subtitle X901. We
18 therefore recommend approval of the requested
19 relief. Thank you, Madam Chairman.

20 CHAIRPERSON POURCIAU: Thank you. Thank
21 you for being with us today. Are there any
22 questions of OP from the board or the applicant?
23 So, hearing no questions, DDOT had no objections,
24 they aren't here today, and there's no other
25 district agencies here to present, there's no ANC

1 report, I believe, and the ANC is not here. There
2 were no parties or individuals in opposition or
3 support. So with that, I'd like to go back to you,
4 Ms. Alli. Is that how you say your last name?

5 MS. ALLI: Yes, ma'am.

6 CHAIRPERSON POURCIAU: Very good. Are
7 there any closing remarks you'd like to leave with
8 us?

9 MS. ALLI: No. I thank you for your time.
10 I know. I hear it's been a long day for all of
11 you, so short and sweet is how I like to keep it.

12 CHAIRPERSON POURCIAU: Thank you so much.
13 Ms. Wright?

14 COMMISSIONER WRIGHT: Just a quick
15 question. Did you actually have any interaction
16 with the ANC?

17 MS. ALLI: Yes, I did reach out to the ANC,
18 and they asked me to submit to the zoning board that
19 they would take a -- you know, they would be
20 watching it, but there was no objection to what we
21 are proposing.

22 CHAIRPERSON POURCIAU: And any
23 communication with adjacent property owners?

24 MS. ALLI: Yes. We do have communication
25 with the affected property with the white building,

1 the 756. They are in favor of having it. They
2 don't mind any improvement there. They feel like it
3 will actually -- they would be happy to have a
4 larger wall next to their backyard, to be honest
5 with you. And again, the property at 752 has
6 already been, I think, in communication with the
7 city about it being vacant, and they would like it
8 to be occupied. So they are in favor of anything to
9 be occupied there.

10 CHAIRPERSON POURCIAU: Excellent. Thank
11 you for that. Okay. So at this point, we will move
12 to deliberate. Would you please close the hearing
13 record? Excuse the witnesses. We'd like to thank
14 her for coming in today.

15 I'd like to ask board members do you have
16 any more to discuss, or would anyone like to make a
17 motion? So, I'll make a motion. I would like to
18 move that we approve application No. 21458 of Adisa,
19 LLC. It's a special exception for a rear addition,
20 under Subtitle E, § 207.5, as captioned and read by
21 the secretary. Is there a second?

22 MEMBER LINDSJØ: I'll second that motion.

23 CHAIRPERSON POURCIAU: Thank you. Ms.
24 Mehlert, would you please call the vote?

25 MS. MEHLERT: Please respond to the Chair's

1 motion to approve the application. Chair Pourciau?

2 CHAIRPERSON POURCIAU: Yes.

3 MS. MEHLERT: Board Member Lindsjo?

4 MEMBER LINDSJO: Yes.

5 MS. MEHLERT: Commissioner Wright?

6 COMMISSIONER WRIGHT: Yes.

7 MS. MEHLERT: Staff would record the vote
8 as 3 to 0 to 2 to approve Application No. 21458 on
9 the motion made by Chair Pourciau and seconded by
10 Board Member Lindsjo.

11 CHAIRPERSON POURCIAU: Thank you all. It
12 has been a good day of meeting. I think we were
13 very successful today, wishing well for all those
14 who couldn't be with us today. And see some of you
15 next week, and others in a few weeks. Take care.

16 (Whereupon, the above-entitled matter went
17 off the record at 1:08 p.m.)
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1 C E R T I F I C A T E

2 This is to certify that the foregoing transcript was
3 duly recorded and accurately transcribed under my
4 direction; further, that said transcript is a true
5 and accurate record of the proceedings; and that I
6 am neither counsel for, related to, nor employed by
7 any of the parties to this action in which this
8 matter was taken; and further that I am not a
9 relative nor an employee of any of the parties nor
10 counsel employed by the parties, and I am not
11 financially or otherwise interested in the outcome
12 of the action.

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19 Evan Weatherby

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