

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

OCTOBER 7, 2026

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The Regular Public Hearing of the District of Columbia Board of Zoning Adjustment convened via Videoconference, pursuant to notice at 10:26 a.m. EDT, Michelle Pourciau, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

MICHELLE POURCIAU, Chairperson
PAUL GOLDSTEIN, Vice-Chairperson
MELISSA LINDSJO, NCPC Designee
ROBYN JACKSON WELLS, District Resident Appointee

ZONING COMMISSION MEMBERS PRESENT:

ANTHONY J. HOOD, Chairperson
JOSEPH S. IMAMURA, PhD, AOC Designee

OFFICE OF ZONING STAFF PRESENT:

KEARA MEHLERT, Secretary
PAUL YOUNG, A/V Production Specialist

OFFICE OF PLANNING DEVELOPMENT REVIEW STAFF PRESENT:

MATTHEW JESICK
MICHAEL JURKOVIC
JOSHUA MITCHUM
CRYSTAL MYERS
KAREN THOMAS

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 from
6 the Regular Public Hearing held on October 7, 2026.
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1 P-R-O-C-E-E-D-I-N-G-S

2 (10:26 a.m.)

3 BZA CHAIR POURCIAU: We'll now enter into our
4 public hearing agenda. Madam Secretary, I wanted to
5 ask you one procedural question before we begin. I know
6 we are scheduled to take Application 21515 at 11:00.

7 I think we should start the first case on the agenda.

8 Our timing might be close. Will there be any issue
9 if we're not ready exactly at 11:00?

10 MS. MELHART: I can reach out to Commissioner
11 Stidham and Ms. Sullivan, and perhaps if the board wants
12 to take a break and see if they're available to start
13 earlier, maybe at, like, 10:40 if you want to do that
14 instead. Or you could start the next case and
15 potentially go past 11:00, but it's up to you.

16 BZA CHAIR POURCIAU: I think I would prefer
17 to start the next case.

18 MS. MELHART: Okay.

19 BZA CHAIR POURCIAU: Okay. Great. So could
20 you please read the next case into the record, Case
21 Number 21209?

22 MS. MELHART: Yes. Next is in the board's
23 hearing session the Application Number 21209 of
24 304-306-308 K Street, LLC. As amended, this is a
25 self-certified application pursuant to Subtitle X, §

1 901 for special exceptions under Subtitle C, § 306.5,
2 under Subtitle C, § 306.1(a) and (b) to allow three new
3 alley record lots not having a front dimension along
4 a public alley that is 24 feet wide or access to a public
5 street through a public alley at least 24 feet wide.

6 Under Subtitle U, § 601.1(f) to allow residential use
7 on three alley lots not meeting the requirements of
8 Subtitle U, § 600.1(f)(6)(a) and (b); under Subtitle
9 E, § 520.3 from the alley center line setback
10 requirements of Subtitle E, § 5100.2(e); and under
11 Subtitle E, § 520.3 from the that's rear yard
12 requirements of Subtitle E, § 5100.2©. As for the
13 subdivision of an existing alley record lot to create
14 three new alley record lots with a new two-story attached
15 residential dwelling on each of the record lot, it's
16 located in the RF-1 zone at 304-306-308 K Street East,
17 Square 774, Lot 65. The public hearing for this case
18 has been postponed several times, but there has been
19 no hearing.

20 BZA CHAIR POURCIAU: Thank you so much, Madam
21 Secretary. Thank you for joining us. Good to see you,
22 Chairman Hood.

23 ZC CHAIR HOOD: Good morning to everyone.

24 BZA CHAIR POURCIAU: Good morning. I see Mr.
25 Bello is here on behalf of the applicant. And if you're

1 ready, Mr. Applicant, we'd love to hear the presentation
2 of your application.

3 MR. BELLO: Good morning, Madam Chair and
4 board members. My name is Toye Bello. I'm
5 representing the applicant in this case. I believe the
6 architect should be signed on also. I'd like to
7 perhaps, if the board pleases, to have the architect
8 walk through the project plans prior to presenting the
9 case for special exception.

10 BZA CHAIR POURCIAU: That would be fine.
11 Thank you so much. And we would really appreciate it
12 if your joint comments are within 15 minutes. Thank
13 you for your consideration.

14 MR. BELLO: Thank you.

15 MR. ALI: Good morning, members of the board.
16 My name is Ramy Ali with RAM Design, the project
17 architect for 304-308 K Street Northeast. I think the
18 architectural concept design is located towards slide
19 number 18 forward, if you don't mind scrolling down to
20 18. So this way we can have these slides along with
21 the presentation.

22 MR. BELLO: Mr. Ramy, if you don't mind, can
23 we just do 28 through 38 because of time constraints?

24 MR. ALI: Okay.

25 MR. BELLO: Please.

1 MR. ALI: That's fine with me. Yeah.

2 MR. BELLO: Thank you.

3 MR. ALI: There we go.

4 MR. BELLO: Yeah.

5 MR. ALI: Yeah, can we please go to the next
6 slide just showing the existing conditions? This slide
7 is basically trying to locate the actual site. It's
8 an existing vacant alley lot located between two
9 abutting alleys. One to the east that is improved and
10 one to the north that is unimproved in the meantime that
11 we plan to improve it at -- with the project as well.

12 And the vacant lot actually has four locations of entry
13 and exits to K Street and the other intersection north
14 of K Street.

15 Right now the topography is basically flat.

16 No significant change of an elevation. No existing
17 trees or any specific plant areas within that vacant
18 lot. We are proposing to subdivide that vacant lot into
19 three abutting lots where we have a minimum of 1,800
20 square feet per lot. If we move to the next slide, we
21 have the slide. Moving to the next one, please.

22 This shows the existing condition, and the
23 next slide will present the subdivision. There you go.

24 So the first graphic on the left shows the existing
25 conditions where we have lot 65 in all gray shaded area.

1 And the proposed subdivision is the graphic in the
2 middle where we show we are breaking into three lots:
3 A, B, and C; B and C being approximately 1,800 square
4 feet and lot A would be around 2,400 square feet. On
5 the right, the graphic on the right-hand side shows the
6 actual footprint of the structures of each single family
7 dwelling being approximately less than 50 percent of
8 the lot occupancy, so we can achieve -- I think it was
9 slightly below the 2,000 square foot total on two
10 stories. Around 900 square feet, 940 square feet per
11 floor, total of 2,000 square feet per dwelling unit and
12 less than 50 percent lot occupancy on each lot.

13 Building heights: They are within the 20 foot
14 maximum requirement. Lot occupancy is within the 60
15 percent, and basically they are switching from property
16 line to property line as presented on the graphic on
17 the right-hand side. Moving to the next slide.

18 The next slide basically presents the parking
19 configuration that we are providing parking at least
20 one space for each of the lots. They are now shaded
21 in green, blue, and red. And these three parking lots
22 will be actually located on lot A of the subdivision
23 and creating an easement through 304, 306 K Street owned
24 by the same property owner of the alley lot, where they
25 can access those three parking spaces that would serve

1 as the parking requirement for the three abutting lots
2 that we're proposing on the alley. Next slide, please.

3 This blow-up of the site plan just basically
4 presenting the landscape and the paved area that we are
5 proposing for the project. This particular blow-up
6 also includes the existing parking that serves the 304
7 and 306 K Street properties facing K Street, along with
8 the three parking spaces for the three row dwellings
9 on the alley. On the right-hand side, we're showing
10 samples of the landscape elements we're proposing: the
11 pavers, the shrubs, the fencing, and the trash
12 enclosures as well. Next slide, please.

13 Getting into the floor plans just to keep it
14 short. Each structure is basically two levels, and the
15 main floor, the first floor, is basically an open space
16 with one guest bedroom and a guest bathroom, basically
17 pulling the living area, dining area, open kitchen, and
18 the guest bedroom on that floor. Next slide presents
19 the second floor where all the bedrooms of each of the
20 units are located -- next slide. I think we skipped
21 one slide. There you go. The second floor is basically
22 the bedroom level of every individual row dwelling.

23 And the last two slides are just a presentation
24 of the building heights through building sections and
25 the building elevation reflecting the maximum height

1 of 20 feet. And that's basically it. If you have any
2 questions at all on the architect side, I'll be happy
3 to answer. Thank you.

4 MR. BELLO: Thank you. I'd like to start by
5 showing the relief matrix, which is on slide number 7,
6 please. Prior to the amendment to the alley text, this
7 project required at least one area variance. That
8 relief has since been converted into a special
9 exception.

10 This matrix basically sets out the areas of
11 relief that the applicant seeks. One is from the
12 subdivision sections. Basically, the unimproved alley
13 is less than 24 feet, so we need relief from that, and
14 that's under § 306.1 plus 1 to 306.5. We need special
15 exception relief from the use provisions to construct
16 these alley structures that would be within 300 feet
17 of an intersection but about a 10-foot alley rather than
18 the 15-foot alley that's required.

19 Lot A would require relief from the center
20 line setback provisions, which is 7.5, but we'd only
21 have 5 feet because that alley is 10 feet wide. And
22 then we'll need a special exception from the side yard
23 setback for lot C, which abuts a non-alley property
24 that'll be under 5100.2© and the area variance will be
25 drawn in entirety.

1 If we can go back to the first slide or the
2 second slide, if you will, please. This slide basically
3 sets forth what the applicant is asking for before the
4 board to approve a subdivision into 3 lots, 3 separate
5 dwelling units, a height of 20 feet, no variances. The
6 case in three sentences: The lot cannot meet the
7 24-foot alley standard and never could, the relief is
8 modest and the build is restrained, neighbors are
9 protected by the site's own geometry, and several
10 neighbors have actually written in support, and there
11 is no objection to this application whatsoever. Next
12 slide, please.

13 As aforementioned, this is an existing
14 unimproved alley lot, and it's the largest alley lot
15 in the square. The only one undeveloped. Next slide,
16 please. Basically, the next slides just set forth the
17 differences between what existed in the alley provisions
18 prior to the amendment under the zoning order number
19 25-06. So we can skip through that. I think
20 everybody's familiar with that at this point. Variance
21 is withdrawn. Again, a layout of the import of zoning
22 order number 25-06. Alley lots were fixed before May
23 12, 1958. These alleys have been in existence and
24 cannot be expanded.

25 There's an uncommonly large lot in the RF 1

1 zone. The lot is irregularly shaped with a panhandle.

2 Again, the only unimproved lot in the square. We've
3 seen this; this is a special exception matrix. This
4 slide sets forth the lot dimensions for lot A or the
5 respective lots each. Important point is that these
6 lots all meet the minimum lot area requirements. And
7 except for the special exception relief sought, meets
8 all other development standards for property in the RF
9 zone and an alley lot. Lot B sets forth 1,800 square
10 feet. Lot C sets forth the standards and how it complies
11 with it.

12 BZA CHAIR POURCIAU: Mr. Bello?

13 MR. BELLO: Yes, ma'am.

14 BZA CHAIR POURCIAU: I'm not sure if we're
15 seeing the right slide. Are we on the right slide?

16 MR. ALI: No, we're not.

17 MR. BELLO: Slide 11 is where we're at now.

18 BZA CHAIR POURCIAU: Okay.

19 MR. BELLO: Or did you want me to go back on
20 the other ones so I scroll back?

21 BZA CHAIR POURCIAU: No, I think we can
22 proceed. Just wanted to make sure. Okay.

23 MR. BELLO: All right. This slide basically
24 just lays out the three conforming record lots that is
25 proposed. And the table essentially just sets forth

1 those standards. Next slide, please. The building is
2 well below what the regulations now permit: 20 feet
3 versus 25 feet. And basically, this slide goes to
4 explain how the project is actually restrained with
5 respect to the new development standards that have been
6 amended for alley lots. Just the elevation rendering
7 of the proposed structure.

8 BZA CHAIR POURCIAU: We're not seeing the next
9 slide. Thank you.

10 MR. BELLO: I'm sorry. 13. Next slide,
11 please. The burden of proof that the project is in
12 harmony, that it does not adversely affect neighboring
13 properties, and then the special conditions. Next
14 slide, please.

15 Harmony with the general purpose and intent.
16 The use is permitted. A one-family dwelling, which
17 is proposed here as a permitted use in a rural structure.
18 The relief tracks the commission's own judgment. The
19 zoning commission adopted the subdivision special
20 exception in the reference order for alley lots that
21 cannot meet the 24-foot standard. Grants of relief here
22 does not strain the regulations. It applies a mechanism
23 the commission created three weeks before the statement
24 was filed.

25 The project under builds every standard and

1 activates a lot the regulation intended to be used.

2 Next slide, please. These are the special conditions.

3 Light and air are not unduly affected. There's a huge
4 commercial property in the commercial zone west of the
5 property, which is five to six stories high -- north
6 of it, yeah. A seven-story building west of the
7 property, and east is the rear of 316 K Street that faces
8 K Street. So this is not an alley lot. Next slide,
9 please.

10 Privacy and visual intrusion. Existing lot
11 65 is one of seven lots in the portion of the square
12 bounded by K Street to the south and public alleys east
13 and west. The subdivision raises the number of lots
14 to nine. The three proposed alley lots will be the only
15 alley lots in the cluster. Every other lot fronts on
16 K Street. The rear yards of the applicant's lot and
17 their opposite neighbors form a common courtyard-type
18 area, part of which already serves as parking for the
19 aggregate project.

20 Visual intrusion, not visible from any street.
21 The buildings are visible only from the abutting north
22 and east-west alleys. Neither K nor L Street and the
23 streets bounding the square affords a view of the
24 project. Next slide, please.

25 Conditions for compliance. The alley lot is

1 only partially within the R-1 or R-2 zone. This
2 property is in the RF-1 zone and not in either of those
3 properties. The lots are larger than 450 square feet.

4 The use used to be limited to a single-family dwelling,
5 but under the new amendment, it could be two units, but
6 we don't propose two units here. Our project is only
7 a single-family dwelling. DDOT is in support of the
8 application. OP recommends approval of the
9 application. We have several neighbors that are in
10 support. There's no opposition to this application at
11 all.

12 With respect to the fire FEMS, we've been
13 communicating with the fire department for over a year,
14 and the project has not changed its profile since. In
15 fact, I walked the property with the fire marshal
16 yesterday, and he was supposed to have given me a report.

17 But as we speak, I'm yet to receive that report. So
18 that's the only outstanding agency report that we're
19 sort of hoping to receive.

20 BZA CHAIR POURCIAU: Mr. Bello, do you have
21 many more slides?

22 MR. BELLO: Well, I can actually just wrap
23 it up here because the fire apparatus access project,
24 which is slide 19, actually explains how this project
25 complies with the relevant IFC, which is an

1 International Fire Code regulation which speaks to the
2 location and the distance of fire apparatus equipment.

3 And we've shown that we can be within --

4 BZA CHAIR POURCIAU: Mr. Young, would you go
5 to slide 19, please?

6 MR. BELLO: Yes, please. So this slide
7 basically locates three points and the relative distance
8 from those three points of a fire apparatus to this
9 project. All three buildings would be fully
10 sprinklered according to the requirement of the code
11 and would be within the 150 feet that the fire code
12 recommends for the distance for the location of fire
13 apparatus equipment. I think I would rest at this point
14 on the presentations that we have. And slide 20
15 basically just shows the relative distances for these
16 three locations, the shortest being 130 feet.

17 BZA CHAIR POURCIAU: Can we see --

18 MR. BELLO: Yes, please.

19 BZA CHAIR POURCIAU: -- slide 20, please?

20 MR. BELLO: Yes.

21 BZA CHAIR POURCIAU: Okay. All right.

22 While we still have these slides up, I didn't feel like
23 I got a good sense of these developments in relationship
24 to what is existing. I know there's a vacant lot there.

25 Do you have any slide that maybe I didn't focus on enough

1 that shows more of the relationship of the new
2 development to existing development?

3 MR. ALI: Yes, slide 30, I think, where it
4 had the site plans for the vacant lot versus the
5 developed lot. Next one. So this shows the vacant lot
6 condition on the left-hand side. In the middle is the
7 subdivision, and on the right-hand side is the proposed
8 three structures.

9 BZA CHAIR POURCIAU: And what is in the green
10 and yellow?

11 MR. ALI: Green and yellow are the two lots
12 facing K Street, 304 and 306 K Street. Not part of this
13 application.

14 BZA CHAIR POURCIAU: Okay. And you don't
15 have anything showing the development around any of the
16 other adjacent sites? Were there any photographs in
17 the file that show that?

18 MR. ALI: Not in this current PowerPoint
19 presentation.

20 BZA CHAIR POURCIAU: Okay. Thank you.

21 MR. BELLO: But in the exhibits I think we
22 do have photographs.

23 BZA CHAIR POURCIAU: That show the adjacent
24 properties?

25 MR. BELLO: Yes. One is Exhibit 43. So

1 Exhibit 43 would be west of the alley lot and also the
2 rear of the two structures that face K Street, 304, 306,
3 in this development phase, but those two structures have
4 now been completed. Could Mr. Paul pull up the
5 photographs, please? Exhibit 43, if he has it.

6 MR. ALI: Okay.

7 BZA CHAIR POURCIAU: Can you explain again
8 what this is showing?

9 MR. BELLO: So this is showing --

10 MR. ALI: Mr. Paul.

11 MR. BELLO: -- the six-, seven-story build
12 -- go ahead, Mr. Ali. You go ahead.

13 MR. ALI: This is showing the red brick
14 seven-story apartment building on the east side of the
15 vacant lot, and it also shows the back of the two
16 properties facing K Street, south of the vacant lot,
17 304 and 306 K Street that are completed now. This
18 photograph was taken while 304 and 306 were still under
19 construction.

20 BZA CHAIR POURCIAU: Thank you very much.
21 Does that complete your presentation, Mr. Bello and Mr.
22 Ramy?

23 MR. BELLO: Yes, Madam Chair. We'll just
24 rest on the rest of the records.

25 BZA CHAIR POURCIAU: Okay.

1 MR. BELLO: Yes.

2 BZA CHAIR POURCIAU: Thank you so much for
3 that. I'd like to see if there's other questions from
4 board members at this time, and I'd like to start with
5 Vice Chair Goldstein. Do you have questions, please?

6 VICE CHAIRPERSON GOLDSTEIN: Thank you very
7 much, and thank you for the presentation. I think, like
8 the Chair, it could've been helpful to have a little
9 bit more context for the properties around it. The
10 photo, it's a little difficult to see from that photo.

11 Can you just explain? So, some of the K Street
12 properties, and I don't know if you have a good layout,
13 are owned by the applicant as well. And what is not
14 is there a way you can identify what is owned by the
15 applicant and what is not owned by the applicant
16 surrounding it?

17 MR. ALI: Yes.

18 MR. BELLO: Yes.

19 MR. ALI: If you can pull up one of the site
20 plans, I think it was Exhibit Number 32, the site plans.

21 I can identify each structure around the vacant lot,
22 and I can explain what is the use and how high is that
23 structure. If you don't mind pulling back this page,
24 I think it was 30 that had the two site plans, if you
25 don't mind.

1 MR. YOUNG: I don't see. What exhibit
2 number?

3 MR. ALI: I believe this was number 30 that
4 shows.

5 BZA CHAIR POURCIAU: He said in the
6 presentation, I think.

7 MR. ALI: The site plans. It's in the
8 PowerPoint.

9 BZA CHAIR POURCIAU: Did you say in the
10 presentation?

11 MR. ALI: Yes. Yes, in the --

12 BZA CHAIR POURCIAU: Yeah.

13 MR. ALI: -- PowerPoint presentation. I
14 think -- can we go in one more? I just want to see,
15 like, an aerial photograph. So this would actually help
16 more. Okay. So that would be helpful.

17 Okay, so where the arrow is pointing at the
18 center of that graphic on the left-hand side is the
19 actual vacant lot. To the east, there's the alley, and
20 then to the east of that alley is the big apartment,
21 the seven-story apartment building that we just saw in
22 the photograph a minute ago. And then the two lots to
23 the south of the vacant lot, 304 and 306 K Street, that's
24 also was part of the photograph showing the backside
25 of the two properties that were under construction at

1 that time.

2 To the north of the vacant lot there's also
3 an unimproved alley, and north of that unimproved alley,
4 there is an existing storage facility/commercial
5 plumbing company. It's a two-story high building,
6 almost 20 feet. However, it's only one floor slab and
7 grade, but it does have high ceilings in there. It's
8 been used as a plumbing storage facility for a company
9 called Fry Plumbing, and the rest of that lot of that
10 parcel is used as parking for their company cars.

11 To the east of the vacant lot, there's a
12 16-foot-high masonry storage structure that is part of
13 the K Street property facing -- I think it was 316 K
14 Street. You see it like shaded in blue. This is a
15 garage structure in the backyard of the K Street lot
16 facing K. So in contrast, the structure to the east
17 is a 15-foot high storage facility for that alley lot,
18 for the K Street lot. To the north, it's a
19 industrial/commercial use that is also around 20-foot
20 high, plus parking. To the east is a seven-story
21 apartment building, all red brick. And to the south
22 of the vacant lot are the recently completed two-unit
23 flats at 304 and 306 K Street by the same property owner
24 of the vacant lot that we're proposing.

25 VICE CHAIRPERSON GOLDSTEIN: Okay. So the

1 two properties to the east facing K Street to the east
2 of 304 and 306 that are shallower on the south side,
3 those are not owned by you all, correct? And what are
4 those?

5 MR. ALI: Correct. These are not owned by
6 the same property owner. The very first one on the left
7 is a three-unit apartment building, and the one to the
8 right is -- I believe it's still a single-family row
9 dwelling.

10 VICE CHAIRPERSON GOLDSTEIN: Okay: And to
11 the east, you've mentioned the storage shed: So one
12 of your homes would actually abut it?

13 MR. ALI: That is correct.

14 VICE CHAIRPERSON GOLDSTEIN: Would they share
15 sort of -- okay. And just out of curiosity, what have
16 discussions with that property owner in particular
17 yielded, or have you had any success in talking to that
18 property owner about your project?

19 MR. BELLO: The property owner actually
20 supported, submitted a letter of support.

21 VICE CHAIRPERSON GOLDSTEIN: Oh, okay.

22 MR. BELLO: Yeah.

23 VICE CHAIRPERSON GOLDSTEIN: Which one --
24 where in -- could -- just to know, where in the --

25 MR. BELLO: That would be around the Exhibit

1 74.

2 VICE CHAIRPERSON GOLDSTEIN: Okay.
3 Excellent.

4 MR. ALI: Yeah. And actually, he's an
5 architect. He's an architect as well, and I met with
6 him a couple times on the -- well, we didn't actually
7 schedule a meeting, but I happened to bump into him when
8 I was doing surveys. So.

9 VICE CHAIRPERSON GOLDSTEIN: Very good.

10 MR. ALI: And he's in support of the
11 development.

12 VICE CHAIRPERSON GOLDSTEIN: Okay. I was
13 hoping to ask you, Mr. Bello, on just a relief question.
14 306.5, which is the special exception from, I believe
15 -- from 306.1 under subsection B, has the criteria that
16 the lot or lots connect to an improved public street
17 through an improved alley or system of alleys that
18 provides adequate public safety and infrastructure
19 availability. It's one of a few criteria of the special
20 exception of 306.5. And I'm just hoping, just because
21 I don't know the answer. Your east-west alley is not
22 currently improved, there's a desire to improve it, and
23 I think I saw in your submissions that either it's going
24 to be DDOT improving it or you all improving it, but
25 it's not currently improved, correct?

1 MR. BELLO: That's correct. And --

2 VICE CHAIRPERSON GOLDSTEIN: That's --

3 MR. BELLO: That alley is slightly over 18
4 feet wide.

5 VICE CHAIRPERSON GOLDSTEIN: Now, is it your
6 belief then that subsection B, which references improved
7 alley network, is satisfied or will be satisfied because
8 you intend to improve the alley?

9 MR. BELLO: That's correct, sir.

10 VICE CHAIRPERSON GOLDSTEIN: Okay and I'm
11 just curious about your basis for that. It's because
12 we're here, we're at the BZA, so I just want to -- you
13 know, you're here for relief. I just want to make sure
14 the fact that you're not currently complying with it
15 but will in the future, in your view, is sufficient at
16 this point.

17 MR. BELLO: Yes. I think it demonstrates
18 intent. I think the only argument that I believe can
19 undermine that is if this paper alley were subject to
20 elimination, which we don't have any evidence of at this
21 point. And I believe that if that were the case, DDOT
22 wouldn't provide the support for this application. So
23 the applicant is committed to improving the alley at
24 their own cost. So they're not really waiting or hoping
25 that DDOT has to do it, and of course, they'll be doing

1 it to the standard that DDOT requires.

2 VICE CHAIRPERSON GOLDSTEIN: And would that
3 be for the full width of that east-west alley to connect
4 both sides, bookends of the north-south alley -- I think
5 there's two bookend sides to that unimproved alley.

6 MR. BELLO: That.

7 VICE CHAIRPERSON GOLDSTEIN: Is that right?

8 MR. BELLO: That's correct. It would be for
9 the whole width. Yeah.

10 VICE CHAIRPERSON GOLDSTEIN: Okay. I think
11 I've got two more questions. Thank you. ANC 6C, I
12 believe, voted to support your project, but it's been
13 a little while since then. It was from November 2025.
14 And I think they supported it with more -- with the
15 old relief. So you've got an easier burden of relief
16 now than I think presented to them before. Has the
17 project changed at all substantively since the ANC has
18 seen it?

19 MR. BELLO: No, nothing about the project
20 changed. The only delay was essentially to be able to
21 deal with the lesser burden of a special exception.
22 So as you rightly point out, the ANC did support even
23 under a variance posture. And we communicated also with
24 the ANC about getting back on their calendar if
25 necessary. But there was no response, which would take

1 for no need to see the application again.

2 VICE CHAIRPERSON GOLDSTEIN: Yeah. Got it.

3 My last question relates to, in your presentation,
4 there was one slide that talked about conditions of
5 approval. Are you still proposing those conditions?

6 And I'm curious about them and what the origin of them.

7 Were they based on discussions with neighbors or the
8 ANC, or is there something that they're reacting to?

9 Can you discuss the conditions? I'm trying to think
10 of which slide that is.

11 MR. BELLO: No, I think you're probably
12 referring to the conditions that the board has to
13 consider for these special exceptions. I think the only
14 thing that we have that can be described as a condition
15 would be perhaps a condition that the owner shall improve
16 that alley as they've committed to. But I don't think
17 that we suggested any other conditions of approval.

18 VICE CHAIRPERSON GOLDSTEIN: I don't recall
19 that being correct, but let me go back and check. I'm
20 looking at slide page 24, and maybe, Mr. Young, could
21 you put that up? It was this slide, Mr. Bello, that
22 I was curious about.

23 MR. BELLO: Okay. I see what you're saying,
24 but I think this slide basically just reiterates what
25 the elements that are already incorporated into the

1 design project in itself. Right. The owner commits
2 to improving the east-west alley and, in fact, would
3 improve it in such a way that it would look like a
4 24-foot-wide alley, even though it's 18-plus feet wide.

5 The buildings are designed to be sprinklered
6 and, in fact, are required to be sprinklered under the
7 construction codes. The blank walls would be the walls
8 on the lots A and C, which are right on the property
9 lot line and can't have any openings anyway under the
10 construction codes. The height is 20 feet, 2 stories.

11 And since the design project will be conditions of
12 approval to the BZA approval, should the BZA approve,
13 these elements are already all incorporated into the
14 design project. But if the board felt the need to set
15 them as conditions, I don't think the applicant is
16 adverse to that.

17 VICE CHAIRPERSON GOLDSTEIN: Okay. I think
18 it's a little bit of a confusing slide. I think that
19 if you're just trying to show how you fulfill the
20 standards, it probably is labeled in a way that's a
21 little bit tricky when you look at it. Are any of these
22 ones that you are proposing as a condition of approval,
23 or are you saying if we are inclined that this is the
24 type of conditions you would accept us to adopt as part
25 of any approval?

1 MR. BELLO: Oh, I think the latter will be
2 closer to --

3 VICE CHAIRPERSON GOLDSTEIN: Okay.

4 MR. BELLO: -- the intent.

5 VICE CHAIRPERSON GOLDSTEIN: Okay. All
6 right. Hmm, well, thank you. And let me just see if
7 I have any last questions. I think that's it for now,
8 Madam Chair. Thank you. Thank you, applicants.

9 MR. BELLO: Thank you.

10 BZA CHAIR POURCIAU: Thank you. Board member
11 Wells, do you have questions for the applicant?

12 MEMBER WELLS: I do have a few questions.

13 As part of, like, the consideration, there are a number
14 of agencies that are referenced to sort of weigh in.

15 You mentioned that you've had discussions with the fire
16 marshal and are waiting for -- are you waiting for their
17 determination? Or they have given you verbal approval
18 of this? Or what were the conversations?

19 MR. BELLO: Well, we're out there this -- I'm
20 sorry. Go ahead.

21 MEMBER WELLS: Go ahead.

22 MR. BELLO: Okay, so I was out there with the
23 fire marshal to walk the project yesterday again, and
24 the fire marshal had promised to provide a report to
25 the records or to me yesterday, but even up to this

1 morning, I still tried to contact him, and we still don't
2 have that report.

3 MEMBER WELLS: Okay. What about
4 correspondence with other agencies like DPW, DC Water?
5 I think DOE is a new reviewing agency. Have you heard
6 anything from them?

7 MR. BELLO: So the DC Water exhibit, which
8 is an email correspondence --

9 MEMBER WELLS: Yeah.

10 MR. BELLO: -- is in Exhibit 59, I believe.
11 And --

12 MEMBER WELLS: And were they supposed to
13 follow up with something more official than that? I
14 saw it was kind of, you know, they're okay with it, but
15 they're wanting to go through the correct procedures
16 for DC Water. Was that followed up?

17 MR. BELLO: No. I think they would have
18 received their notice from the Office of Zoning -

19 MEMBER WELLS: Yeah.

20 MR. BELLO: -- which we apprise them of.

21 MEMBER WELLS: Okay.

22 MR. BELLO: But the substance of that email
23 is essentially that there's no technical issue with the
24 design of servicing those lots other than what can be
25 addressed in the course of a building permit process.

1 But as a whole, they don't have a problem with what's
2 designed.

3 MEMBER WELLS: Okay. And so what about DPW,
4 DOEE? Did they say anything?

5 MR. BELLO: No.

6 MEMBER WELLS: No? Okay. And going back to
7 the letters of support, I did see the one for the one
8 with the storage facility. And thank you for pointing
9 that out to us. The other letters of support for this
10 development appear to all be from the same or from the
11 managing partners, right? Which are the same owners
12 of this property here. Is that correct?

13 MR. BELLO: No, no. Those are adjacent
14 properties. The property developed by the applicant
15 will be 304 and 306 K.

16 MEMBER WELLS: Okay.

17 MR. BELLO: So these will be the adjoining
18 neighbors to the east, I believe.

19 MEMBER WELLS: Okay. All right. Okay.
20 That brick building that in one of the photographs that
21 seems to abut the property, can you point out, I guess,
22 how far away is the applicant's development from that
23 brick building? That may be in.

24 MR. ALI: There's an alley separating the
25 brick building from the vacant lot.

1 MEMBER WELLS: Okay. And can you go over for
2 me because there was, I think, there was reference to
3 which sides of the buildings would not have windows for
4 privacy concerns. Can you go over that again? Which
5 sides of the buildings will not have that? Or is it
6 really only the abutting row homes that won't have the
7 windows?

8 MR. BELLO: So the buildings, none of the lots
9 would have side lot buildings. Not lot A or C.

10 MEMBER WELLS: Mm-hmm.

11 MR. BELLO: So, the openings will be basically
12 to the north and the south, which will be the front and
13 the rear of the proposed buildings.

14 MEMBER WELLS: Okay.

15 MR. ALI: If you refer to A 09, the elevations,
16 the very last slide, you'll see the side elevations that
17 don't have any windows on the side.

18 MEMBER WELLS: Okay.

19 MR. ALI: It's basically facing the front or
20 the back.

21 MEMBER WELLS: The front or the back. Yeah.

22 One other thing noted as far as, like, the commitments
23 to improve the alley, providing that DDOT doesn't say,
24 you know, to remove the alley, are there any other
25 restrictions? I would imagine that what DDOT requires

1 for alley improvements or when you go to put in a permit
2 to build this alley, you'll also need to seek -- you
3 won't be able to probably build it to DDOT standards,
4 right? Because it's an older alley and the widths and
5 everything won't comply. Did you guys foresee any
6 concerns with actually building this alley to DDOT
7 standards, or did you have a conversation already with
8 DDOT about providing this alley or doing this alley here?
9 Will it be a public or a private alley?

10 MR. BELLO: Oh, no, it is a public alley.

11 MEMBER WELLS: Okay.

12 MR. BELLO: It's not a private alley.

13 MEMBER WELLS: Okay.

14 MR. BELLO: So, it has to be improved to the
15 DDOT standards for alleys, period.

16 MEMBER WELLS: Have you had a discussion with
17 DDOT about being able to meet those standards?

18 MR. BELLO: Yes. In our presentation to
19 DDOT, DDOT is aware that, well, this is an unimproved
20 alley and that an integral part of this project is for
21 the owner to improve the alley.

22 MEMBER WELLS: Okay.

23 MR. ALI: And in our DDOT permit sets, we
24 actually, we have to reference, you know, standard DDOT
25 details for the construction of the alley and the

1 driveway. So we

2 MEMBER WELLS: Okay.

3 MR. ALI: So, the DDOT permit will not be
4 approved if we're not utilizing their own standard
5 details.

6 MEMBER WELLS: Right. And then so in your
7 initial assessment, you find that you'll be able to meet
8 DDOT standards because you're committing to providing
9 an alley, but if it becomes a burden or more of a cost
10 for you guys and then unable to meet DDOT standards,
11 I guess what happens then? I'm wondering if you already
12 had initial conversations or looked at it and made to
13 ensure that you'll be able to meet DDOT standards in
14 terms of improving the alley. Or have you just not
15 gotten that far?

16 MR. BELLO: We haven't gotten that far.

17 MEMBER WELLS: Okay.

18 MR. BELLO: But it would be part of the
19 building permit process. But to my experience, there's
20 no variance from improving an alley to --

21 MEMBER WELLS: Right.

22 MR. BELLO: -- the standards of DDOT, which
23 are fixed.

24 MEMBER WELLS: Right. Okay. I think that's
25 all the questions I have right now. Thank you.

1 BZA CHAIR POURCIAU: Board Member Lindsjo,
2 do you have questions for the applicant?

3 MEMBER LINDSJO: No, not at this time. Thank
4 you.

5 BZA CHAIR POURCIAU: Thank you. I have a
6 follow-up. I was a little disappointed that DDOT didn't
7 refer to the alley in a substantive way in their
8 response. I thought their response had more detail than
9 we often see. Once you saw that response, did you talk
10 to DDOT at all?

11 MR. BELLO: Well, we didn't raise that
12 question separately as a matter of concern because the
13 applicant assumes that DDOT's review is comprehensive.
14 They certainly were aware that this project included
15 the need to improve a public alley, which is done. It's
16 pretty common. It's really not an uncommon thing. As
17 long as an alley has not been abandoned or in the pipeline
18 for abandonment, then it's really perfunctory for DDOT
19 to grant the permit, particularly if it's been improved
20 at an applicant's cost. So DDOT's charge is just to
21 make sure that that alley is improved to DDOT's
22 standards.

23 BZA CHAIR POURCIAU: Thank you for that.
24 Chairman Hood, do you have questions for the applicant?

25 ZC CHAIR HOOD: I do, and I want to tailor

1 my questions towards some of the comments I've heard.

2 First Mr. Bello and to Mr. Ali, I believe -- Mr. Ramy
3 Ali, I want to thank you all. I think you've made your
4 case. I think for these alley lots and what's required
5 and what we ask for. I'm not a fan of alley lots, never
6 been because of the difficulties. But I think having
7 sat on the case where we negotiated, and it was a
8 compromise because Office of Planning wanted us to go
9 to 15 feet off alley lots, and that's how we got to the
10 special exception anyway. Obviously, that's what you
11 all are waiting for. And the thing about that is that
12 we came with a special exception process so you can
13 examine, and I think you all have definitely done this.
14 I was going to ask you about the variance, but I don't
15 want to go there since that's not in front of you.

16 But in your role, Mr. Bello, as being the
17 former zoning administrator for the city, I would expect
18 you to come, which what you have done, prepared. So
19 I will tell you that in this particular case, what the
20 commission had done, this text amendment works specific
21 for cases like this where we can examine what we have
22 here and come up with discovery. Now, some of the
23 questions that were asked, I do know will be discovered
24 and dealt with at building permit time; I do know that.

25 But I will tell you that from my colleagues who've asked

1 some of these questions about the fire department,
2 that's why we didn't go to 15 because the apparatus would
3 not get through the alley. That was the biggest issue.

4 The biggest issue was safety. And I think this
5 applicant, from my standpoint, and I'm only speaking
6 from my standpoint, has examined exactly what they have
7 before. These three lots, I think they have done what
8 they need to do with these alley lots.

9 Again, I have not been a fan of alley lots,
10 but let me just ask you, Mr. Bello. The DDOT, DPW, and
11 those agencies who have not responded in this BZA case,
12 because basically all we're looking at is a request for
13 the special exception for the relief requested, they
14 will basically -- I don't like to say take another bite
15 at the apple, but potentially they will have another
16 bite at the apple whether they approve something or not.

17 Is that a correct statement?

18 MR. BELLO: That's absolutely correct.

19 ZC CHAIR HOOD: Okay. So there are other
20 iterations that you're going to have to see and go
21 through besides the BZA process. Again, I think that
22 this, that text amendment for the alley lots -- even
23 the Office of Planning wants to go to 15 -- I still have
24 concerns, but it's doing exactly what it needs to do,
25 and that's to examine this process.

1 I think you all have -- I'm glad to see it
2 because I don't see a lot of the end results of what
3 the zoning commission does. Sometimes another member
4 may be here, but I think from my standpoint, I think
5 you've met the test. I think what the zoning commission
6 -- I'm not tooting their horn -- I think what the zoning
7 commission has done in this case actually is true to
8 form, and I think it's going to be better for the city.

9 And I'm sure my colleagues who are on now will, at some
10 point, have other alleys they will have to examine and
11 have other issues as well. So that's all I have, Madam
12 Chair, and I'll just wait to hear from others. Thank
13 you.

14 BZA CHAIR POURCIAU: Thank you for that,
15 Chairman. At this point, I think we're ready to hear
16 from the Office of Planning. I see we have Mr. Jurkovic
17 available to present his report.

18 MR. JURKOVIC: Thank you, and good morning,
19 Chair Pourciau, Chair Hood, and members of the board.

20 For the record, this is Michael Jurkovic, development
21 review specialist with the Office of Planning.

22 Although OP originally recommended denial of the
23 subdivision relief requested in this application, we
24 are now able to recommend approval of this alley lot
25 subdivision. Since the application was first

1 submitted, ZR-2506, a text amendment governing alley
2 lots, now allows this subdivision to be a special
3 exception, and that the owner is committed to improving
4 the full east-west unimproved alley where the proposed
5 lots B and C gain the required alley frontage.

6 In summary, OP has determined that the
7 applicant has met the burden of proof for the requested
8 special exceptions and otherwise rests on the record
9 of our report. Thank you, and I'm here to answer any
10 questions.

11 BZA CHAIR POURCIAU: Thank you. Vice Chair
12 Goldstein, do you have questions for the Office of
13 Planning?

14 VICE CHAIRPERSON GOLDSTEIN: Thank you, and
15 thank you for your report. I do have just one or two
16 questions. One is, and I think it's been referenced
17 now by a few different a few of my colleagues here, is,
18 you know, there's all these agencies that get the
19 referral. Ideally, I think the alley lots were intended
20 to get feedback from them at this point fully
21 acknowledging, as Commissioner Hood said, that there's
22 other opportunities in the future as part of permitting,
23 but they were specifically kind of written into the
24 zoning regulations to get an early look.

25 I think a concern that I have is that we're

1 interpreting silence as positive. I'm just wondering
2 what is the Office of Planning's view of how we evaluate
3 it in the absence of all these agencies? And, you know,
4 what can be done to improve the outreach to them to have
5 the participation in these alley lot cases in the future?
6 If you have any thoughts on that as well.

7 MR. JURKOVIC: I'll just say that, you know,
8 as shown in Exhibit 27 with the list of OZ referrals,
9 that I believe this case was referred to all but DOEE
10 since that was added post ZR-2506. In regards to better
11 coordination with other agencies, you know, OP can only
12 speak for, you know, our review for the special
13 exceptions that have been requested. I know in my
14 communications with the applicant that in the extended
15 amount of time this application has been alive and before
16 you all, that I have several email chains that I'm copied
17 on, so I understand the applicant has been, you know,
18 actively reaching out to these agencies. I cannot speak
19 to how well they respond to you all -- and by you all,
20 I mean the board.

21 VICE CHAIRPERSON GOLDSTEIN: Okay. Thank
22 you. And my second question is about the unimproved
23 alley, and I'm just curious if you've had any direct
24 discussions with DDOT about the unimproved alley that
25 you can share with us.

1 MR. JURKOVIC: Just that, as the applicant
2 has said, and in my communications with the DDOT assigned
3 case manager on this: that the unimproved alley will
4 be improved. I did not have further discussions past
5 that with the DDOT case manager.

6 VICE CHAIRPERSON GOLDSTEIN: But there was
7 an acknowledgment of the need to improve that alley as
8 part of this proposal. Is that right?

9 MR. JURKOVIC: Yes. Improvement would be
10 required as I mentioned, in order for the proposed lots
11 B and C to have alley, required alley lot frontage.

12 VICE CHAIRPERSON GOLDSTEIN: Okay. Thank
13 you very much.

14 BZA CHAIR POURCIAU: Thank you, Vice Chair.
15 Board Member Wells, do you have questions for Office
16 of Planning?

17 MEMBER WELLS: Not at this time. Thank you.

18 BZA CHAIR POURCIAU: Thank you. Board Member
19 Lindsjo?

20 MEMBER LINDSJO: Not at this time. Thank
21 you.

22 BZA CHAIR POURCIAU: Thank you. Chairman
23 Hood, any questions for OP?

24 ZC CHAIR HOOD: No questions. Thank you, Mr.
25 Jurkovic.

1 BZA CHAIR POURCIAU: Thank you, Mr. Jurkovic.

2 ZC CHAIR HOOD: Thank you.

3 BZA CHAIR POURCIAU: Unfortunately, there are
4 no other government agencies that I see present, and
5 the ANC is not here, but they did provide a letter of
6 support, I believe. No parties; no one signed up in
7 support or opposition. Mr. Bello, would you like to
8 provide any closing remarks at this time?

9 MR. BELLO: Just that the given the length
10 of time that the application was in process, as the
11 Office of Planning indicated, I tried to copy the Office
12 of Planning in all our communications with these
13 agencies, the ANC, and even the fire marshal.

14 With respect to DPW, I think DPW's opinion
15 would be limited to whether they can pick up trash and
16 whether their trash trucks can fit through the alleys.

17 I would submit that the minimum width for providing
18 parking and also trash pickup in alleys are 10 feet and
19 still are in the zoning regulations. So as a matter
20 of practice and history, the DPW's trucks have always
21 been able to traverse 10-foot alleys. Other than that,
22 I'll just like to rest on the case and thank the board
23 for giving us a listen.

24 BZA CHAIR POURCIAU: Thank you. I have a lot
25 of concerns about DDOT's lack of documentation about

1 the alley. Are you in open discussions with them now,
2 and do you believe that would be something that would
3 be easy to obtain to include something on the record
4 from DDOT that speaks to the alley? --

5 MR. BELLO: Okay, so when --

6 BZA CHAIR POURCIAU: -- about improving the
7 alley.

8 MR. BELLO: -- right. So when DDOT submits
9 these reports to these kind of cases, it is not a
10 guarantee of the approval of a building permit. So as
11 Chairman Hood mentioned, they're still going to get
12 another bite at this application. So if for whatever
13 reason that alley cannot be re improved, then the
14 application is dead in the water because without DDOT
15 approval, a permit issuance is impossible. But I'll
16 leave it to the board's discretion. If the board feels
17 there's a need to try to dig a little deeper with the
18 DDOT office, we're glad to do so. But our position is
19 that DDOT gets another bite at this apple. And they
20 were well aware, so if there was a concern, I think they
21 would have expressed that.

22 BZA CHAIR POURCIAU: Thank you for that. Do
23 board members have any other items they'd like to discuss
24 with the applicant? Or the architect? Is the board
25 prepared to vote at this time? Or is there anything

1 additional that you'd like to -- change my view to grid
2 because I'm trying to look at your faces a little more
3 to see what you're thinking.

4 VICE CHAIRPERSON GOLDSTEIN: I think I am
5 prepared to go ahead and vote, but I understand your
6 -- I wish there was a little bit more information about
7 the improvement of the alley, but I think I've heard
8 enough to be able to advance forward.

9 MEMBER WELLS: Yeah, I can advance forward.
10 I agree. I would have liked for DDOT to mention that
11 because that was my concern: that if it's not approved
12 in the second bite of the apple, it, you know, you can't
13 move forward with this development anyway. And also,
14 you know, because fire safety is so important, thank
15 you, Commissioner Hood, for explaining that the width
16 of the alley and where that came from and how it relates
17 to the fire apparatuses. That was very helpful because
18 my concern was, you know, the fire marshal needs to take
19 a look at that and the public safety for people in that
20 building. And I think that additional information,
21 that insight, I'm prepared to move forward.

22 ZC CHAIR HOOD: And I too would agree with
23 what I'm hearing. That's the luxury of being around
24 a while, and I'm sure Vice Chair Goldstein knows as well.
25 When you all, you know, I'm going back to -- what is

1 it? Back to the Future? When you all were talking
2 about agencies responding, that's been a conversation
3 for a while, and I've come to grips that when it's a
4 problem, believe me, they're going to respond. But they
5 do have that bite at the apple. If I was to wait on
6 the zoning commission for when agencies, and I hope
7 agencies don't get mad, to respond, because I know they
8 have a lot of other things to do taking care of our city
9 services. So I applaud them. And I know all the time
10 they don't have time to acquiesce to what we do because
11 they know that they will see it again another time.
12 And yes, I would love to have all these agencies respond
13 to all these cases, but it just doesn't happen.

14 But you can keep pressing it, and when you
15 get to it and get it, let me know, because I like to
16 see how that works too. So but I think if it was a
17 problem, I think that we would have heard something.

18 And again, Vice Chair Goldstein, I don't believe
19 silence is that they're all right with it. I just think
20 they just might not have time. But they wanted to make
21 sure they pick up your trash today.

22 VICE CHAIRPERSON GOLDSTEIN: Yeah.

23 ZC CHAIR HOOD: So I'll leave it at that.

24 Thank you.

25 VICE CHAIRPERSON GOLDSTEIN: Yeah. I agree

1 with you. It's at least not a negative. Maybe a
2 positive is too strong.

3 BZA CHAIR POURCIAU: I just want to say, I
4 think in the cases like this where they even took the
5 time, you know, to address some of the specific items,
6 we need to see that on the record. And I want to do
7 a little follow-up on that because I think it puts a
8 burden on the applicant and on us and, you know, some
9 uncertainty. And you know, they could have just said
10 something in their response about, you know, we look
11 forward to reviewing the APLI allocation. You know,
12 just something. So I will be following up on that to
13 see what we can do to try to ensure in cases like this
14 that we get a little more information. Did you have
15 anything you want to add, Board Member Lindsjo?

16 MEMBER LINDSJ0: No, not at this time.

17 BZA CHAIR POURCIAU: Okay, great. I want to
18 thank the applicant. I think we have discussed all the
19 items. I'm feeling a level of comfort from my board
20 members, which is helping me feel more comfortable even
21 though I still have some concern, but it's helping me
22 feel more comfortable. Thank you all for a complete
23 presentation.

24 In the future, maybe a little more with the
25 adjacent properties, but thank you for walking us

1 through the slides and showing us more. And with that,
2 I believe that we are ready to close the hearing and
3 the record. The witnesses can be excused, and we'll
4 deliberate the case and vote.

5 All right. That case took longer than I
6 thought it would, but I think it was a lot of good detail
7 that we got out of there. I remain concerned about the
8 alley, and I think it adds an extra burden. I guess
9 while they were on, I would like to have a condition
10 about the alley so that it's obvious that we show that
11 as a concern but we yield it to the applicant's expertise
12 and hopefully the silence of DDOT as positive instead
13 of negative. The applicant did say they were okay with
14 conditions that were listed on slide 24 if the board
15 chose to make those conditions, but they didn't want
16 to put those conditions on themselves. Is there other
17 discussion prior to moving toward a vote? Should I call
18 an order or is there any particular -- Vice Chair
19 Goldstein?

20 VICE CHAIRPERSON GOLDSTEIN: First, I'd like
21 to say that -- well, thank you, Madam Chair. First,
22 I'd like to say that I believe they've met the standards
23 for the special exception relief. I think as Chairman
24 Hood mentioned, this is a type of alley lot case that
25 the rules are really modified to assist. It's one where

1 the lot's been created to meet the minimum lot area.

2 It's in an area that it makes sense, and I'm really
3 glad to see the rules working in a way that's intended.

4 For conditioning it on the improvement of the east-west
5 alley, I don't mind it in concept. I'm just a little
6 afraid of how it's written and that we create problems
7 either by timing or the way it's crafted that'll come
8 back and be problematic for the applicant in the future.

9 I'd love to have a little bit more discussion on it.

10 I'm not a no, but what exactly does that condition look
11 like that is useful and not a hindrance in the future
12 is on my mind.

13 BZA CHAIR POURCIAU: I'm looking back at slide
14 24 to see what wording they used to see if the board
15 may think that's appropriate. No, it's not exhibit.

16 I thought it was -- oh, it's slide -- it's Exhibit 43.

17 No, it was slide 24. Okay. Sorry. Let me go back
18 to the presentation.

19 MEMBER WELLS: Well, while you're looking for
20 that, I think I share the same concerns about the
21 wording. Thinking back, you know, if these agencies
22 will get another bite at the apple but we don't want
23 to give our approval away. It's a public space. That's
24 concern about public space and public space requirements
25 where we don't necessarily have jurisdiction over, and

1 we don't want to condition approval or give that to
2 another agency if they have met the burden of proof for
3 the special exceptions that are requested. I don't know
4 if it's necessary to include a condition, but, important
5 for us to deliberate on the record about the concerns
6 around the alley or, or lack of weigh in or comment about
7 the alley from DDOT.

8 BZA CHAIR POURCIAU: So the in their list,
9 they say improve the east-west public alley at the
10 applicant's sole cost in the event DDOT is unable to
11 do so to the standard DDOT approves.

12 VICE CHAIRPERSON GOLDSTEIN: Yeah, I do think
13 Board Member Wells -- I'm sorry, I don't mean to
14 interrupt.

15 MEMBER WELLS: Go ahead.

16 VICE CHAIRPERSON GOLDSTEIN: I think she does
17 raise an important question about the public space
18 aspect of this and something that's subject to DDOT
19 approval if we are straying a little bit from zoning
20 in this context.

21 BZA CHAIR POURCIAU: I think I want to ask
22 Chairman Hood, so we don't make a condition and then
23 DDOT decides for whatever reason the alley can't or won't
24 be done. They no longer then meet a zoning provision
25 and so even though we've approved it, the case is thrown

1 out. I want to --

2 ZC CHAIR HOOD: So what'll happen, Madam
3 Chair. First of all, let me say this. I agree with
4 everything I'm hearing. You guys have really analyzed
5 -- we, I'm saying not you guys, we have really analyzed
6 this case. I like what I'm hearing. I just know, Vice
7 Chair, that I know all the agencies. And Board Member
8 Wells, I know all the agencies at times don't respond.

9 They haven't responded for years, but they are in tune
10 for the most part. And back to your question, Madam
11 Chair, the way I've experienced it, and I will tell you,
12 over time, things have changed. But the way I've
13 experienced it is that if something is done, pretty much
14 they usually work it out because they hardly ever have
15 to come back.

16 If it's pertaining to zoning relief, as the
17 vice chair has mentioned, then yes, they may have to
18 come back. But very slim does that ever happen to do
19 an amendment or something. I don't see that happen
20 often. So I think they will probably work it out or
21 the applicant will do what DDOT -- usually the applicant
22 will conform. If they want to get their project going,
23 they will conform. So that's kind of how it works.
24 Those nuances and I know maybe the vice chair might be
25 the better person to ask that question to because he's

1 been on that end and I haven't.

2 VICE CHAIRPERSON GOLDSTEIN: Oh, boy. I'm
3 being put on the spot on this one. But yeah, I'd like
4 to think that from what I'm hearing is that this is
5 essentially a condition of the project proceeding just
6 generally: that the alley needs to be improved and it
7 will need to be. That's at least what I've heard from
8 the applicant. They've been in touch with DDOT.
9 There's the DDOT permitting system that it will need
10 to be improved. OP testified that DDOT's aware of the
11 need to improve it. I'd like to believe that this is
12 embedded as part of our approval, and if it doesn't get
13 approved -- I mean, if it doesn't get improved, they'd
14 have to come back to us. That's my instinct.

15 ZC CHAIR HOOD: Madam Chair, I do have a
16 question for the Vice Chair. When I heard you talking
17 about the conditions and how they were worded on this
18 slide, I was under the impression -- and I may be wrong,
19 please correct me -- I was under the impression that
20 you did not want to put any conditions. Am I right or
21 am I wrong? Or at least word it the way it is, especially
22 here on the slide.

23 VICE CHAIRPERSON GOLDSTEIN: Yeah. Well,
24 thank you for the question. I think a number of these
25 I didn't really see the need to place such limitations

1 on the project. You know, that it can only go 20 feet
2 instead of 25 feet, or it's only permitted one unit where
3 two are permitted. It didn't really strike me that
4 there was a need to artificially limit the project,
5 particularly since there's no feedback we're receiving
6 advocating for that.

7 Things like sprinklers, you know, if they're
8 required to put in sprinklers, they'll put in
9 sprinklers. So I don't know that that is needed.

10 Concerning the east-west public alley, I think
11 there's a few thoughts that I have. That one, it's,
12 you know, talking about a public space improvement and
13 another agency's approval. But things such as at the
14 applicant's sole cost? What is the timing? When does
15 it need to be completed by? Subject to what standards?

16 I'm just a little afraid of trying to write that without
17 really having a strong idea of what would be successful
18 for the applicant. Let's say we adopt it at the
19 applicant's sole cost in the event DDOT isn't able to
20 do so to the standard DDOT approves, is that with enough
21 specificity to be helpful, or will it create through
22 some type of vagueness problems?

23 ZC CHAIR HOOD: Okay, thank you. Since y'all
24 did that in the last case, I'm going to do it here.
25 I'm going to align myself with your comments and leave

1 it at that. Thank you, Madam Chair.

2 BZA CHAIR POURCIAU: Right. I think we've
3 discussed all the items on this case. It's really for
4 a subdivision. I think I'm ready to proceed in a
5 positive way. Is there someone who would like to
6 present a motion?

7 VICE CHAIRPERSON GOLDSTEIN: I'll make a
8 motion to approve Case Number 21209 of 304, 306, 308
9 K Street LLC for the relief as captioned and read by
10 the secretary.

11 MEMBER LINDSJO: I second that motion.

12 BZA CHAIR POURCIAU: Thank you. Ms. Mehlert,
13 would you please call the vote?

14 MS. MELHART: Please respond to the Vice
15 Chair's motion to approve the application. Chair
16 Pourciau?

17 BZA CHAIR POURCIAU: Yes.

18 MS. MELHART: Vice Chair Goldstein?

19 VICE CHAIRPERSON GOLDSTEIN: Yes.

20 MS. MELHART: Board Member Wells?

21 MEMBER WELLS: Yes.

22 MS. MELHART: Member Lindsjo?

23 MEMBER LINDSJO: Yes.

24 MS. MELHART: And, Chairman Hood?

25 ZC CHAIR HOOD: Yes.

1 MS. MELHART: Staff would record the vote as
2 five to zero to zero to approve Application Number 21209
3 on the motion made by Vice Chair Goldstein and seconded
4 by Board Member Lindsjo.

5 BZA CHAIR POURCIAU: Excellent. Why don't
6 we take a five-minute break, and that'll give us time
7 to ensure that everyone is on from Case Number 21515.
8 And so we'll reconvene -

9 (Whereupon, the above-entitled matter went
10 off the record at 11:49 a.m. and resumed at 12:28 p.m.)

11 BZA CHAIR POURCIAU: And we will continue with
12 Case Number 21493. I see that Ms. Lindsjo and Mr. Hood
13 are here, and I believe we're ready, Madam Secretary,
14 for you to read it into the record.,

15 MS. MELHART: Yes. Back to the board's
16 regular hearing agenda. Next is Application Number
17 21493 of 3621 T Street LLC. This is a self-certified
18 application pursuant to Subtitle X, § 901.2, for a
19 special exception under Subtitle D, § 207.5, to allow
20 the rear wall of a row building to extend farther than
21 10 feet beyond the farthest rear wall of any adjoining
22 principal residential building on any adjacent
23 property. This is for a new third story and three-story
24 rear addition with roof deck to an existing two-story
25 attachment single-family dwelling with a new one-story

1 accessory structure in the rear yard. It's located in
2 R-3/GT zone at 3621 T Street, NW, Square 1296, Lot 340.

3 BZA CHAIR POURCIAU: Thank you so much. I
4 see we're joined by Mr. Kay, am I correct?

5 MR. AKINSINDE: Good morning. I am him.

6 BZA CHAIR POURCIAU: Good. Good. Good.
7 And are you ready to present on behalf of this case?

8 MR. AKINSINDE: I am.

9 BZA CHAIR POURCIAU: Very good. Thank you
10 so much. Welcome.

11 MR. AKINSINDE: Good morning, Madam Chair.
12 Good morning, Vice Chair and board members. My name
13 is Kayode Akinsinde, representing the owner of 3621 T
14 Street, NW, Case Number 21493. I am the project architect
15 for this project, and we are humbly seeking BZA relief
16 from subtitle 11 D 207.5 to construct an 18-foot rear
17 addition to an existing two-story rear house in the
18 R-3/GT zone. And we do not have a separate
19 presentation, but the architectural plans and exhibit
20 in Exhibit 20 should suffice to represent our project.

21 As I mentioned, we are seeking to construct
22 an 18-foot addition to the rear of the existing property.

23 The project also includes the addition of a new
24 third-floor level with roof terrace access above, and
25 we are also proposing a detached one-story, one-car

1 garage at the rear of the property.

2 We believe that we are meeting all the criteria
3 for special exception because the use is in compliance.

4 It's an single-family dwelling. And we also believe
5 that the scale of the project as it pertains to the height
6 and the overall development is in harmony with the
7 surrounding context. And we are not unduly affecting
8 the availability of light and air to the surrounding
9 properties.

10 We also presented before the ANC on September
11 28th, and the ANC did not have any objections to our
12 project; neither did any of the community members in
13 attendance. We also have signed letters of support from
14 the two adjacent properties that would be directly
15 impacted by this relief. And with that, I can turn it
16 over to the board for any questions that you might have.

17 Thank you.

18 BZA CHAIR POURCIAU: Thank you so much. I'm
19 going to try to say it, Mr. Akinsinde.

20 MR. AKINSINDE: You got it. Thank you.

21 BZA CHAIR POURCIAU: Got it. Okay, great.
22 Thanks. I do think we have a few questions. I was
23 opening your slides. I don't know if anybody will want
24 any of those slides shared, but I would like to proceed
25 to ask if the board has any questions. Mr. Goldstein,

1 I'd like to start with you. Do you have any questions
2 for the applicant?

3 VICE CHAIRPERSON GOLDSTEIN: Thank you so
4 much. Just to confirm and I don't recall from the
5 record, you stated that both adjacent neighbors
6 submitted letters of support. Is that correct?

7 MR. AKINSINDE: That's correct, sir. I'm not
8 sure if those made it onto the record or into the case,
9 the case file, but we do have those that we can share
10 with the board if needed.

11 VICE CHAIRPERSON GOLDSTEIN: Well, I think
12 it's helpful to submit if you are able to. Yeah, I don't
13 believe I saw them in the record, and I think that's
14 terrific that you got the support of both neighbors and
15 helpful. So if it's easy enough and, you know, maybe
16 you can ask and maybe they can be submitted forthwith.
17 Did the ANC actually submit to the record as well?

18 MR. AKINSINDE: They did not. When we
19 presented this project before the ANC on the 28th of
20 September, there was another project that's coming
21 before the BZA which is similar to ours but does not
22 have access to a public alley. So there was a lot of
23 contention with that project that went before us. And
24 so when our turn came and we presented our case, the
25 ANC did not have any objections to our project. But

1 to have then -- and this is my interpretation of what
2 happened -- but to then review our case and then provide
3 a letter of support, I think, would have been a little
4 bit contentious with the ANC meeting and the community
5 reaction to that project that went before us. So they
6 decided to just abstain from providing any letter of
7 support or letter of objection or otherwise for the
8 record.

9 VICE CHAIRPERSON GOLDSTEIN: Okay.

10 MR. AKINSINDE: But they did not --

11 VICE CHAIRPERSON GOLDSTEIN: Okay.

12 MR. AKINSINDE: -- I'm sorry. I would just
13 add -- sorry to -- to cut you off, Vice Chair. But I
14 would add that they also did not have any suggestions
15 or recommendations for revisions or concerns with the
16 18-foot rear addition that we represented at the time.

17 VICE CHAIRPERSON GOLDSTEIN: Okay. Thank
18 you for that information. Yeah, looking at your
19 proposal, one thing that struck me that I was encouraged
20 to see is you've got that sort of notch on the third-floor
21 deck, and that's also along the side of the property
22 that you're extending furthest from their rear wall.

23 I thought that was a nice sort of sensitive feature
24 to break up the massing for that neighbor. Was that
25 part of your intention?

1 MR. AKINSINDE: That was our intention, and
2 that's a very perceptive eye that you used to review
3 this. As you mentioned, 3619, I believe, is the
4 adjacent property on the right side when you're facing
5 the property from the street. And that property has
6 not been significantly improved since it was built
7 sometime in the early 1900s or late 1800s, right? So
8 we wanted to be sensitive to that smaller property by
9 scaling back the third floor, but also, it presents an
10 opportunity for us to have additional outdoor space for
11 our property as well. So I think it's mutually
12 beneficial in that regard. And also, if you notice on
13 the front, the third floor, we kind of sloped back the
14 roof and provided dormers so that way we're not imposing.

15 Even though the building is set back significantly from
16 the street, we wanted to be sensitive to the fact that
17 the buildings on either side will be shorter, so we
18 wanted to scale back our third floor addition as well.

19 As far as the availability of light and air
20 to the surrounding properties, you will notice we also
21 provided shadow studies. And I believe that the
22 orientation of the property being that the front facade
23 for all the houses on this block face south, so you get
24 most of the afternoon sun on your front facade, and we're
25 not unduly impacting that availability of light. Then

1 the back of the house faces north, which, you know,
2 doesn't really get that much as -- as quality of light
3 as the south facade.

4 All that was taken into context when we came
5 up with this design. And as I mentioned, the owner
6 reached out to the two properties adjacent to us, and
7 they provided letters of support. I was not the -- not
8 to make any excuses, but I was not the person directly
9 involved in uploading all the documents to our records.

10 So I do apologize that those two letters did not make
11 it to the project online, but we can definitely amend
12 the record to provide those two letters of support.

13 I should also add that in addition to reaching
14 out to those neighbors, I believe we also have to get
15 a chimney extension for one of the neighbors to bring
16 up their chimney so that it's in compliance with the
17 building code as well.

18 VICE CHAIRPERSON GOLDSTEIN: Has that
19 agreement been reached at this time?

20 MR. AKINSINDE: Yes. We do have a chimney
21 extension.

22 VICE CHAIRPERSON GOLDSTEIN: Or discussed?

23 MR. AKINSINDE: Sorry.

24 VICE CHAIRPERSON GOLDSTEIN: Okay.

25 MR. AKINSINDE: Yes, we do have a chimney

1 extension agreement in place with the property that
2 requires the chimney extension. Yes.

3 VICE CHAIRPERSON GOLDSTEIN: I have two more
4 questions, and thank you, fellow board members, for
5 indulging me. One is, could you just talk a little bit
6 about the context on this block? It now looks like
7 there's two shallower homes on either side of your
8 property, and then on the other side of those shallower
9 homes, there have been substantial extensions. Is that
10 right? Is that sort of the pattern that this block is
11 going?

12 MR. AKINSINDE: That's correct. And I
13 believe that we would be -- I guess -- the sixth house
14 that would be popping up to a third floor and bumping
15 back with an addition on this block. But you're right,
16 Vice Chair, the block has a mixed variety of properties
17 that either have some level of additions to them, or
18 they've been untouched since they were constructed.

19 I believe in slide A 01 of our architectural
20 exhibits, we're providing photographs and aerial photos
21 of the surrounding context just to give you folks an
22 idea of the variety and the mix of properties and the
23 surrounding context in which our project is located.

24 VICE CHAIRPERSON GOLDSTEIN: Okay. Thank
25 you. And my last question is, I think there was a recent

1 revision to your plan that involved the accessory
2 building. Can you just discuss that really briefly?

3 MR. AKINSINDE: I'd be happy to. So we
4 revised the architectural exhibits to scale back the
5 size of the accessory detached garage. We missed a
6 small setback that Ms. Myers pointed out to us. So we
7 were supposed to provide a three-foot setback to both
8 sides of the property line, and I believe this ruling
9 went into effect sometime in July, but we sort of missed
10 that. So in essence, we just revised our drawings to
11 provide the three-foot setback to both sides of the
12 garage. So we went down from a two-car off-street
13 parking to a one-car garage. And there it's just a one
14 story, so there's no accessory dwelling apartment or
15 anything above it.

16 VICE CHAIRPERSON GOLDSTEIN: Okay. Thank
17 you. And so there's no need for any additional relief
18 based on providing the setback. Is that correct?

19 MR. AKINSINDE: That is correct. So we're
20 only seeking the relief from the maximum 10-foot
21 addition per D 207.5.

22 VICE CHAIRPERSON GOLDSTEIN: Oh, thank you.
23 And I'm going to ask Ms. Myers about that setback rule
24 in a bit. Thank you very much for the description of
25 your project and responses.

1 MR. AKINSINDE: Thank you for allowing me to
2 present, and I'm happy to take any more questions from
3 the board.

4 BZA CHAIR POURCIAU: Thank you both. Board
5 Member Wells, do you have questions for the applicant?

6 MEMBER WELLS: I don't have any additional
7 questions, but Vice Chair Goldstein got to a lot of the
8 ones that I had in mind, especially in regards to the
9 letter of support from your adjacent neighbors. Since
10 one property looks like it hasn't been improved at all
11 and, like, you know, make sure that they were aware what
12 was happening.

13 Also just making just a general comment since
14 the ANC did not provide a letter. Thank you for that
15 testimony as far as like what the discussion was during
16 that meeting, that there weren't any additional comments
17 or any requests from what you have presented. Yeah,
18 but they have not provided anything for us to give as
19 consideration to outside of that. Just making that
20 general comment. Thank you.

21 BZA CHAIR POURCIAU: Thank you. Board Member
22 Lindsjo, do you have questions for the applicant?

23 MEMBER LINDSJO: No, not at this time. Thank
24 you.

25 BZA CHAIR POURCIAU: Thank you. Chairman

1 Hood, do you have any questions for the applicant?

2 ZC CHAIR HOOD: No questions, but I want to
3 thank the applicant for his presentation. Thank you.

4 BZA CHAIR POURCIAU: Very good. Thank you.

5 It was a thorough presentation. We will now hear from
6 the Office of Planning. I see Ms. Myers is with us.

7 Ms. Myers, thank you.

8 MS. MYERS: Hello. Crystal Myers for the
9 Office of Planning. The Office of Planning recommends
10 approval in this case. What has been discussed earlier
11 in our original report, we noted that the case required
12 -- well, we recommended that the case add additional
13 relief for the accessory building side lot line. At
14 the time, the plan showed that there would not be a
15 setback from the side lot line, and so we recommended
16 that relief. That was in relationship to the what we
17 know as the omnibus changes that happened this summer.

18 There is a new requirement that there be a three-foot
19 setback on each side of an accessory building. So we
20 communicated that to the applicant, but due to deadlines
21 and time, we reviewed it in our report and as if the
22 relief had been asked for and had supported it.

23 However, the applicant had decided to actually revise
24 their plans, and so that relief is actually no longer
25 needed.

1 OP submitted a supplemental report
2 acknowledging that the plans have been revised, and only
3 the rear addition relief is needed now, and the setback
4 from the side lot line for the accessory building is
5 no longer needed. So with that, I will stand on the
6 record the staff report and, of course, available for
7 any other questions. Thank you.

8 BZA CHAIR POURCIAU: Thank you, Ms. Myers.
9 Do any board members have any questions for the Office
10 of Planning? No, it doesn't look like -- yes, Vice
11 Chair. Please proceed.

12 VICE CHAIRPERSON GOLDSTEIN: Oh, yeah.
13 Thank you. And thank you, Ms. Myers, for your helpful
14 report and the explanation of the three-foot setback.
15 I would really encourage the Office of Planning to go
16 back and look at the adoption of the accessory building
17 side setback rule. I think that the rule states what
18 it states now, and I certainly understand the way it's
19 being applied. Just from my understanding of 2512, it
20 was intended to take the R-3 zone out of that
21 requirement, but I think it may not have translated
22 properly into the GT zone. So I would really encourage,
23 if possible, for OP to go back and take a look at that
24 and make sure that the text as adopted is matching what
25 the intent was with the rule. Thank you very much.

1 BZA CHAIR POURCIAU: Thank you. Thank you.
2 Ms. Wells, Ms. Lindsjo, anything? Mr. Hood? No?
3 Okay. Thank you so much, Ms. Myers. I don't think we
4 have anyone present to present from any other district
5 agencies. The ANC is not here. We heard the comments
6 from the applicant regarding the ANC, but there is no
7 report on the record. There are no parties, and there
8 are no individuals who have signed up to present at this
9 hearing. And so with that, Mr. Akinsinde, would you
10 like to present any closing remarks?

11 MR. AKINSINDE: I would just like to thank
12 the board, Madam Chairwoman, Vice Chair, and board
13 members, and especially Ms. Crystal Myers for her
14 assistance with the accessory building side setback
15 issue. We look forward to your deliberation and your
16 support. Thank you.

17 BZA CHAIR POURCIAU: I want to thank you.
18 I've looked over your documents again during your
19 presentation and appreciate your graphics. Very easy
20 to follow, and then your responsiveness to the concerns
21 from Office of Planning and others. I will be
22 supporting this case as we move to vote.

23 Does anyone have any other comments or
24 questions for the applicant before we close the record?

25 No? All right. Thank you again for coming today and

1 for your work. And we will now close the hearing record
2 and proceed to deliberate on this case.

3 MR. AKINSINDE: Thank you very much. Have
4 a good afternoon.

5 BZA CHAIR POURCIAU: You're welcome. Okay,
6 everybody. It looks like the burden of proof has been
7 met as adjustments have been made. The record is --
8 I wouldn't say the record is full, but I think the
9 applicant has addressed any items that are not on the
10 record, speaking of the ANC in particular. Are there
11 any other thoughts or concerns about the request that
12 the applicant has made?

13 VICE CHAIRPERSON GOLDSTEIN: Ideally, you
14 know, it would've been helpful to have those letters
15 from neighbors into the record. I will trust that the
16 applicant testified that they were supportive of it.
17 They didn't come to oppose it or submit anything
18 otherwise. So it was helpful at least to hear that
19 testimony. I agree with you, I think the special
20 exception criteria have been met in this case. It looks
21 like a good project, and I think meets the standards
22 as laid out in the Office of Planning report in
23 particular which is supportive of the project. Thank
24 you.

25 BZA CHAIR POURCIAU: Thank you. Any other

1 comments, concerns from board members? Any other items
2 we should ensure are on the record at this time? No,
3 I'm not hearing any. Okay. So I will make a motion
4 to approve Application Number 21493 at 3621 T Street,
5 as read in the record by the secretary.

6 ZC CHAIR HOOD: I'll second the motion.

7 BZA CHAIR POURCIAU: Thank you. Madam
8 Secretary, we are ready for the vote.

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

11 BZA CHAIR POURCIAU: Yes.

12 MS. MEHLERT: Vice Chair Goldstein?

13 VICE CHAIRPERSON GOLDSTEIN: Yes.

14 MS. MEHLERT: Board Member Wells?

15 MEMBER WELLS: Yes.

16 MS. MEHLERT: Member Lindsjo?

17 MEMBER LINDSJO: Yes.

18 MS. MEHLERT: Chairman Hood?

19 ZC CHAIR HOOD: Yes.

20 MS. MEHLERT: Staff would record the vote as
21 five zero to zero to approve Application Number 21493
22 on the motion made by Chair Pourciau and seconded by
23 Chairman Hood.

24 BZA CHAIR POURCIAU: Thank you. It's almost
25 1:00. We have three more cases. I'd like to know the

1 sense of the board if we want to take a break at some
2 point, a little lunch break, or if we want to keep
3 charging through. What are your thoughts? I'm a
4 little hungry, but I'll keep charging if you all want
5 to keep charging. Ms. Lindsjo seems like she wants --

6 MEMBER LINDSJO: Let's keep going.

7 BZA CHAIR POURCIAU: Let's keep going. Okay.
8 All right. Mr. Hood, you okay with that?

9 ZC CHAIR HOOD: I've basically been off all
10 morning, so I'm fine. It's up to y'all.

11 BZA CHAIR POURCIAU: All right, we'll keep
12 going. All right. Madam Secretary, would you please
13 read Case Number 21498 into the record?

14 MS. MEHLERT: Next is Application Number
15 21498 of Ronald Briscoe. This is an application
16 pursuant to Subtitle X, § 1002 for an area variance from
17 Subtitle F, § 203.2 to allow a fourth story addition
18 to an existing two-story plus basement semi-detached
19 building used as a two-unit flat. It's located in the
20 RA-1 zone at 1608 27th Street SE, Square 5585, lot 0006.

21 BZA CHAIR POURCIAU: Thank you. I see we've
22 been joined by the applicant, Mr. Briscoe. And I don't
23 see the architect, but they don't have to be here. Mr.
24 Briscoe, are you ready to present your case?

25 MR. BRISCOE: I am.

1 BZA CHAIR POURCIAU: Thank you so much. We
2 would like it if you could complete within 15 minutes.
3 We'll have a clock that shows the remaining time.
4 Please proceed.

5 MR. BRISCOE: There's a presentation that I
6 forwarded along. Do you need to have that on screen
7 as I talk, or is it available?

8 BZA CHAIR POURCIAU: Is it in the file? Do
9 you have it in the file?

10 MR. BRISCOE: It is.

11 BZA CHAIR POURCIAU: Yes. Mr. Young, can you
12 open the presentation, please? I see that the clock
13 was started, but I'll make sure you have a little
14 additional time.

15 MR. BRISCOE: That's fine. I don't think
16 I'll need that long. Thank you.

17 BZA CHAIR POURCIAU: Thank you so much, Mr.
18 Briscoe.

19 MR. BRISCOE: Yeah, no worries. Initially,
20 I was going to say good morning, but at this point we're
21 at the afternoon, so good afternoon, Chairperson and
22 members of the board. My name is Ronald Briscoe, the
23 owner and applicant for 1608 27th Street SE, BZA Case
24 Number 21498. This application requests a single area
25 variance related to the story count limitation under

1 subtitle F, § 203, pursuant to subtitle X, § 1002. The
2 project remains within the permitted 40-foot height and
3 otherwise complies with the development standards
4 addressed in the record.

5 My presentation will briefly address the
6 exceptional property conditions, the resulting
7 practical difficulty, and why the requested relief would
8 not create substantial detriment or impair the intent
9 of the zoning regulations.

10 The Office of Planning recommends approval.

11 DDOT has no objection, and the affected SMD
12 representative has submitted a letter of support. Next
13 slide, please.

14 The first point for the board is that this
15 is a narrow case. The proposed height in feet is
16 compliant. FAR, lot occupancy, rear yard, and dwelling
17 units are compliant. The variance is required only
18 because the basement counts as a story, and the addition
19 results in a technical fourth story. Next slide,
20 please.

21 The Office of Planning identified exceptional
22 conditions that are specific to this property. First,
23 the party wall is not on the lot line but is located
24 approximately 3.8 feet into the subject lot, with the
25 neighboring building occupying part of the subject

1 property's lot. Second, the existing grade slopes in
2 a way that causes the lowest level to count as a
3 story/basement at the front, while being below grade
4 at the rear. Next slide, please.

5 Practical difficulty follows from these
6 conditions. The Office of Planning notes that the
7 neighboring building limits use of the full property
8 width. Office of Planning also notes why rear expansion
9 alternatives could be impractical, awkward, hard to
10 maintain, or potentially more impactful. Given these
11 constraints, the proposed upper level addition provides
12 a reasonable means of accommodating the project, while
13 not expanding farther into the rear or attempting to
14 build within the constrained width created by the
15 existing encroachment. Next slide, please.

16 The Office of Planning has found that granting
17 relief would not result in a substantial detriment to
18 the public good. The building remains within the matter
19 of right height and feet. Additionally, the fourth
20 floor footprint is smaller than the lower levels, which
21 reduces light, air, and shadow impacts. The Office of
22 Planning also noted that any additional impacts should
23 not rise to an undue level and would be no greater than
24 a matter of right 40-foot building. Next slide, please.

25 The third variance prong is supported because

1 the relief does not impair the zoning regulations. The
2 Office of Planning concluded that although the building
3 technically becomes four stories, it remains compliant
4 in height and reads like a three-story building with
5 a cellar due to the grade conditions. The use remains
6 a two-unit flat, and other zoning metrics comply. Next
7 slide please.

8 The record appears complete. The Office of
9 Planning recommends approval. The affected SMD
10 supports the application. DDOT has no objection, and
11 there is no opposition in the record. If the board
12 believes the record is sufficient, I respectfully
13 request that the board close the record and approve the
14 application today. Thank you for your time and
15 consideration, and I'm happy to answer any questions.

16 BZA CHAIR POURCIAU: Thank you, Mr. Briscoe.
17 You were short and sweet. I appreciate that.

18 MR. BRISCOE: Absolutely.

19 BZA CHAIR POURCIAU: I didn't note -- the ANC
20 approved it, is that correct?

21 MR. BRISCOE: Yes. They provided a letter,
22 and it's in part of the record.

23 BZA CHAIR POURCIAU: And that's in the record.
24 Yeah, I see. Okay. Very good. Thank you for that
25 clarification. Vice Chair Goldstein, do you have

1 questions for the applicant?

2 VICE CHAIRPERSON GOLDSTEIN: I do have a few.
3 I would like to say first, I thought that was a really
4 helpful presentation. I'm really confused by this lot
5 line issue. I'm looking at your plat that was submitted
6 to the record. I'm just having trouble interpreting
7 this three-foot intrusion. Could you explain that a
8 little bit more?

9 MR. BRISCOE: Yeah. The building was
10 constructed, I believe, in 1941 or 1942. So when they
11 situated the structure, which is actually two separate
12 legal entities, along the plot lines, they shifted over
13 what I'm going to call 1610, that's the adjoining
14 property, over by 3.8 feet. So 3.8 feet of that property
15 sits on the property line for 1608, thereby creating
16 an encroachment. The encroachment's existed for a
17 number of years, but it only came to light recently when
18 the 1610 property was sold and they wanted to do work.

19 And that's when the revelation came that there was an
20 encroachment, and it impeded our ability to do what we
21 needed to do for building expansion. So we have to go
22 vertical instead of horizontal. Does that help you to
23 understand better?

24 VICE CHAIRPERSON GOLDSTEIN: Yeah. I'm just
25 trying to think what's going to help you improve this

1 situation in the future. I understand this project,
2 but that doesn't sound like a good long-term solution.

3 MR. BRISCOE: I don't think I understand your
4 question. What do you mean long-term solution?

5 VICE CHAIRPERSON GOLDSTEIN: Oh. Is there
6 a move to try to redo the lot line? I mean, something
7 that would be helpful in establishing ownership in its
8 proper way for you and your neighbor.

9 MR. BRISCOE: Oh, I -- I understand what
10 you're saying. So that issue is being handled
11 separately through the Office of Surveyors and through
12 legal mechanisms to establish what has to happen with
13 the property lines. I want to make sure I understand
14 how that is relevant to the relief we're requesting.

15 VICE CHAIRPERSON GOLDSTEIN: Well, I think
16 in part you're saying the extraordinary situation of
17 that lot line -- the intrusion of your lot line -- is
18 creating your challenge, and I'm trying to understand
19 why can't that be resolved separately. So I'm just a
20 little confused by the circumstance here.

21 MR. BRISCOE: Yeah. It is being resolved
22 separately.

23 VICE CHAIRPERSON GOLDSTEIN: Okay. Let me
24 ask about the other alternatives. You could have popped
25 back, right, along your house line without any issue

1 with the encroachment. Is that right?

2 MR. BRISCOE: That is not correct. The area
3 behind the property is extremely dense with regard to
4 wooded area and trees, and some of the trees happen to
5 be, I believe, legacy trees, historic trees that the
6 urban forestry would not allow us to cut without
7 significant cost to the project. So it would not have
8 been feasible.

9 VICE CHAIRPERSON GOLDSTEIN: And that's
10 directly behind the house? So, like, how much space
11 between the rear wall and the first tree that you're
12 referencing?

13 MR. BRISCOE: Six feet.

14 VICE CHAIRPERSON GOLDSTEIN: Six feet. Is
15 there anything in the record about these trees? I'm
16 just asking. The record of this case.

17 MR. BRISCOE: There is not because the trees
18 were not part of the relief we're requesting.

19 VICE CHAIRPERSON GOLDSTEIN: Okay. Did you
20 explore just doing a penthouse of some sort rather than
21 a story?

22 MR. BRISCOE: A penthouse? I don't
23 understand what you mean by that.

24 VICE CHAIRPERSON GOLDSTEIN: Okay. It's a
25 zoning term that you're allowed to build a little bit

1 more in excess of the height. It would not be a full
2 floor. It could be sort of something less, and it
3 doesn't count as a story. So I suspect the answer then
4 is that penthouse was not something you explored as
5 satisfying your needs.

6 MR. BRISCOE: It would not. We're trying to
7 craft this property as a pilot for other similarly sized
8 properties where we can expand the footprint and allow
9 for additional spacing for low-income housing in the
10 southeast area. The current plan achieves that goal.

11 It allows us to do that. We're going to increase the
12 square footage of the second unit, thereby allowing more
13 bedroom space. So I don't think -- or I don't know what
14 a penthouse is, the technical definition of what you're
15 describing, but I don't know that that would help us
16 to meet our goal. And within the existing framework
17 of the plans, we are staying within the 40-foot height
18 limit for this particular zone.

19 VICE CHAIRPERSON GOLDSTEIN: Okay. I have
20 one more question at the moment: Is the adjacent home
21 that you're attached to, does it have similar grade
22 issues as your home?

23 MR. BRISCOE: It does not.

24 VICE CHAIRPERSON GOLDSTEIN: It does not.
25 What's the difference?

1 MR. BRISCOE: On the side of their home, they
2 have a good six to eight feet of flat terrain that they're
3 able to traverse. On the other side of 1608, it's more
4 of an incline grade, which encapsulates the basement
5 primarily.

6 VICE CHAIRPERSON GOLDSTEIN: Okay. Do you
7 have any sense of whether your neighbor's home would
8 count as a basement as opposed to a cellar?

9 MR. BRISCOE: I do not.

10 VICE CHAIRPERSON GOLDSTEIN: Okay. Okay,
11 thank you.

12 MR. BRISCOE: You're very welcome. Thank
13 you.

14 BZA CHAIR POURCIAU: Thank you. Board member
15 Wells, do you have questions for the applicant?

16 MEMBER WELLS: Not entirely. I think with
17 Vice Chair Goldstein's question trying to understand
18 the extraordinary circumstances for the relief that's
19 requested. And in regards to the trees, you had urban
20 forestry come out and assess the trees behind the
21 property, and they gave you a statement. Because there
22 are some trees that you can't remove that are heritage
23 trees, and there's also special trees that are a fee
24 to remove. Is it more of this just a fee to remove those
25 trees that would contribute to these extraordinary

1 circumstances of why you can't go back as far as -- why
2 you can't push back onto the property?

3 MR. BRISCOE: The answer to the question is
4 yes.

5 MEMBER WELLS: Mm-hmm.

6 MR. BRISCOE: They did come out and do the
7 assessment for the front of the property and the rear
8 of the property and provided us with the requirement
9 for a heritage tree versus a special tree.

10 MEMBER WELLS: Mm-hmm.

11 MR. BRISCOE: Two of the trees in the back
12 meet the definition of special tree.

13 MEMBER WELLS: Mm-hmm. Mm-hmm.

14 MR. BRISCOE: Meaning that the remaining
15 space in the back is just dense and --

16 MEMBER WELLS: Just dense, okay.

17 MR. BRISCOE: -- not able to make clearance
18 without considerable cost for the additional space that
19 we're considering. I think you had a two-part question.
20 So the second part of your question had to do with
21 whether or not it would serve if we were able to remove
22 those trees to provide the additional space that we're
23 seeking for the plan that we're working under. Is that
24 your question, correct?

25 MEMBER WELLS: Yes.

1 MR. BRISCOE: Okay. Yeah. So let me ask you
2 a question in turn. It sounds as if, because I think
3 I'm hearing this, that there may be opposition to the
4 vertical extension.

5 MEMBER WELLS: Well, I don't want to say that
6 there's opposition to the vertical extension. It is
7 more of just trying to understand what options you've
8 considered and then what are the, I guess, the impacts
9 to some of those options that leads it to an
10 extraordinary condition for this relief.

11 MR. BRISCOE: Yeah, I understand. Thank you
12 for clarifying that for me. So the vertical addition
13 is more -- there are two reasons for it. One, again,
14 I spoke earlier to the fact that it is a way to expand
15 the footprint of the second unit, thereby providing more
16 bedroom space for individuals who live in that area --
17 that specific area.

18 MEMBER WELLS: Mm-hmm.

19 MR. BRISCOE: Number 2, it is also consistent
20 with what the ANC has designated as a town home type
21 of feel for a third level in that area where recent
22 development has created structures that are similarly
23 designed. So we were looking for neighborhood
24 consistency. We were looking for a way to expand the
25 footprint -- not the footprint, that's not the right

1 word. The space needed for additional rooms, and we
2 need to make sure we operate within a certain budget.

3 The removal of the trees in the back create an
4 impediment to that.

5 MEMBER WELLS: Okay. Thank you for that
6 further clarification. Thank you.

7 MR. BRISCOE: Yeah, no worries. Thank you.

8 BZA CHAIR POURCIAU: Thank you, Board Member
9 Wells. Board Member Lindsjo, do you have questions or
10 comments for the applicant?

11 MEMBER LINDSJO: Not at this time. Thank
12 you.

13 BZA CHAIR POURCIAU: Thank you.
14 Commissioner Hood, do you have questions for the
15 applicant?

16 ZC CHAIR HOOD: Yeah, I just have one, but
17 let me just first comment. Mr. Briscoe, thank you for
18 your rapid response to all those questions that you were
19 asked and firing back and also your engagement that you
20 did. But I do have a question. With the way you have
21 articulated today, and especially knowing zoning
22 matters, I appreciate the ANC letter which said not only
23 are you going to do a development, but you live there.

24 So great. But all of what I've heard in your case,
25 I think your case is pretty straight. I think you've

1 made your case from my perspective. I'm just curious,
2 do you know why the ANC did not supply a letter that
3 would give you great weight -- unless I'm missing it.

4 MR. BRISCOE: Missing what?

5 ZC CHAIR HOOD: Your great weight letter,
6 which is the full commission. You have a single member
7 district.

8 MR. BRISCOE: Yeah.

9 ZC CHAIR HOOD: Unless you have a -- yeah,
10 which does not give you great weight. I wonder why.
11 And that's not a showstopper. It's just me
12 questioning. Let me just say this. It's just me
13 questioning, with all that I see here, the way this
14 record is full and complete, to me, the caveat, the top
15 of the icing on the cake would've been a letter of great
16 weight from the full ANC, and I was just wondering why
17 that didn't happen.

18 MR. BRISCOE: It's tough for me to speak.
19 I did go to the ANC meeting. It was a very long meeting,
20 by the way. It lasted three hours because the chairman
21 -- what's his name -- Council Member Wendell Felder was
22 there, and they had lots of questions about RK
23 Development, Pennsylvania Avenue as a --

24 ZC CHAIR HOOD: Okay, I got it -- I got it.

25 MR. BRISCOE: So it lasted long. So they gave

1 me probably less than 10 minutes to do what I needed
2 to do. But Chairman Swanson, he's the chairman of the
3 ANC, so I think perhaps him being at my SMD would probably
4 carry weight. I'm not sure.

5 ZC CHAIR HOOD: No, actually, it has to --
6 let me just say. I mean, that's fine, but you explained
7 to me when you told me what the meeting was about with
8 Council Member Felder and they talking about RFK.
9 You're right. If you got 10 minutes, you're doing good.

10 MR. BRISCOE: Okay.

11 ZC CHAIR HOOD: So I think as far as what I
12 see here is great. I was just wondering why they didn't
13 vote on it as a full ANC, which, by law, they get great
14 weight with us. So I'll leave it alone. Not an issue,
15 I'm just curious to why that didn't happen. But when
16 you said RFK, that was the answer for me.

17 MR. BRISCOE: All right.

18 ZC CHAIR HOOD: Okay. Well, thank you, Mr.
19 Briscoe.

20 MR. BRISCOE: No worries. Yeah. Thank you.

21 ZC CHAIR HOOD: Appreciate it. Thank you,
22 Madam Chair.

23 BZA CHAIR POURCIAU: Thank you. Thank you,
24 Mr. Briscoe. It does seem like you have some
25 complications on your site. And looking at the other

1 properties in the area, there are several, I guess,
2 apartment buildings and, you know, taller and more dense
3 uses, so that I think that's important for the record
4 as well. At this point, we'll go -- Ms. Lindsjo, did
5 I call on you? I'm okay. Good. Thank you. I think
6 at this point we'll go to the Office of Planning. We
7 have Mr. Jesick here ready to give the OP report. Thank
8 you, Mr. Jesick.

9 MR. JESICK: Thank you, Madam Chair, and
10 members of the board. For the record, my name is Matt
11 Jesick, presenting OP's testimony in this case, and the
12 Office of Planning can recommend approval of the
13 application.

14 We reviewed the application against its
15 three-part variance test and found that the property
16 was encumbered by exceptional conditions leading to a
17 practical difficulty for the applicant. We also found
18 that granting the relief would not result in any undue
19 detriment to nearby properties or go against the intent
20 of the regulations. That concludes my verbal
21 testimony, but I'm happy to take any questions. Thank
22 you.

23 BZA CHAIR POURCIAU: Thank you, Mr. Jesick.
24 Are there any questions from the board for the Office
25 of Planning? Vice Chair Goldstein.

1 VICE CHAIRPERSON GOLDSTEIN: Thank you. I'd
2 like to ask a few. Mr. Jesick, thank you as always for
3 your testimony and your report. Always very strongly
4 done. But I'm really struggling a bit on the uniqueness
5 here, and I'm really hoping you can walk me through it.

6 One thing that concerns me a bit is this
7 basement cellar rule being used as an element of the
8 argument. It's kind of, you know, saying we can't
9 comply with the rule, so therefore we need relief from
10 the rule. It was intentional that that was the height,
11 you know, made for a basement versus a cellar and that
12 a story would count. Just curious for your thoughts
13 on that as an element of the argument.

14 MR. JESICK: Yes. The intention of my report
15 was not to rely so much on the rule as the exceptional
16 condition, but rather the grade and given the extreme
17 slope of the property. You know, if, say, for example,
18 the original builder had constructed in such a way that
19 the lowest floor was a cellar in the front, then by the
20 time you get to the back, even the first floor would
21 be partially below grade. So that's the way the
22 exceptional condition of the grade really impacted the
23 built form of the building and then, moving forward to
24 today, impacts what the present owner can do with the
25 building. So yeah, we were not trying to rely on, you

1 know, or we're not placing blame on the regulation, so
2 to speak, but rather trying to focus on the exceptional
3 condition of the property itself.

4 VICE CHAIRPERSON GOLDSTEIN: I asked the
5 applicant this: Does the neighboring property have the
6 same grade issue?

7 MR. JESICK: I can't answer that question.
8 I do not know.

9 VICE CHAIRPERSON GOLDSTEIN: Okay. What do
10 you know about this encroachment over the lot line?
11 It's an unusual circumstance. It sounds like there are
12 probably other avenues that could be taken to resolve
13 it or that are being taken to resolve it, but that is
14 now being used as an element of the exceptional
15 condition. Just curious how you thought about the
16 encroachment and the applicant's solution to the
17 encroachment issue being that upper floor.

18 MR. JESICK: Yes. As you noted earlier on
19 the plat, which is, I believe, Exhibit 2, you can see
20 where there's a 3.8-foot encroachment of the building
21 across the property line onto the subject property.
22 And what that does, in effect, is reduce the available
23 width that this property owner can use, you know, on
24 their lot. So you know, they could, I guess,
25 theoretically build an addition to the rear wider than

1 their current building to take advantage of the full
2 width of their legal lot, but that would obviously result
3 in a building footprint behind the neighbor's building,
4 which I don't think would serve anyone.

5 Even if they built straight back, you know,
6 I could envision a scenario where that creates an
7 unmanageable narrow gap between the building and this,
8 you know, lot line that is kind of a no man's land, where
9 maybe the property to the south doesn't really control
10 it, but the owner to the north can't really maintain
11 it. So I think there are definitely some practical
12 difficulties given the unusual building placement
13 across the property line. And you're right, it is very
14 unusual. I think I've seen this maybe once or twice
15 over the years, but this is definitely rare.

16 VICE CHAIRPERSON GOLDSTEIN: Yeah. I think
17 what strikes me is that I wonder if that situation can
18 get resolved, you know, separately from this BZA
19 application. But since the timing is what it is, we're
20 sort of factoring it into our analysis. I guess I don't
21 know if you have any more thoughts on that issue.

22 MR. JESICK: I guess what you're suggesting
23 is that the property line move 3.8 feet to the north.

24 I think then you're still denying this property owner,
25 you know, what they believed was their full property

1 width, which is, you know, 25 feet. And then, you know,
2 their lot would be more narrow than what they had
3 anticipated.

4 VICE CHAIRPERSON GOLDSTEIN: Okay. Maybe
5 I'm missing it, but just kind of right sizing the lots,
6 getting in the right place. And then -- I mean, it
7 should just be at the common wall, right? I mean, that's
8 where the lot line should run.

9 MR. JESICK: Typically, that's where it is.
10 Yes.

11 VICE CHAIRPERSON GOLDSTEIN: Yeah. It kind
12 of seems like that should probably in an ideal world,
13 that would have been resolved first and then come to
14 the BZA second. And I guess we're where we're at.

15 The last question I want to ask you, you've
16 heard some testimony about trees and the heritage trees
17 or special trees. Do you have any, any additional
18 feedback on the trees?

19 MR. JESICK: I do not. I think maybe as the
20 board noted, I did not see that in the record, so I did
21 not factor that into our analysis.

22 VICE CHAIRPERSON GOLDSTEIN: Okay. Thank
23 you, Mr. Jesick.

24 MR. JESICK: Thank you.

25 BZA CHAIR POURCIAU: Thank you, Vice Chair.

1 Board Member Wells, do you have questions for the
2 applicant?

3 MEMBER WELLS: For Office of Planning, I do
4 not.

5 BZA CHAIR POURCIAU: I'm sorry. Yes. Thank
6 you. You don't. Okay. Thank you. Board Member
7 Lindsjo? No.

8 MEMBER LINDSJO: No, that's it. Thank you.

9 BZA CHAIR POURCIAU: Thank you. Chairman
10 Hood, any questions for OP?

11 ZC CHAIR HOOD: Yes, Mr. Jesick. I always
12 believe in seizing the moment. While I have you here
13 in another case, we were talking about getting
14 government reports. And over the years, I've always
15 given you big kudos because you always got government
16 reports. I'm not going to put you on the spot. If you
17 don't want to answer this, you don't have to. I was
18 just going to -- can you give us just a quick history
19 for the new members about getting government reports?
20 And I hate to stay on it, but I know that you are --
21 I want to call you one of the gurus at Office of Planning
22 on that.

23 MR. JESICK: Well, thank you, Chairman Hood,
24 I was thinking of you during that discussion. Yeah,
25 I've been around for a long time, not quite as long as

1 Chairman Hood. But his characterization was correct
2 when he said that, you know, the agencies don't really
3 respond unless they really, you know, find something
4 to respond about. I can just say also that, you know,
5 normally for BZA cases, the referrals are sent out by
6 Office of Zoning. For Zoning Commission cases, it's
7 usually the Office of Planning's responsibility. And
8 when we send those referral requests, we always send
9 in our note that even if you just want to send us a
10 no-comment email, that's perfectly fine, and even that
11 we do not get. So we appreciate the agencies that work
12 with us on a regular basis that we often get comments
13 from, but I'd say the majority of the time we do not
14 get comments.

15 ZC CHAIR HOOD: Okay. And thank you for
16 indulging me. I just wanted to throw that out there
17 because I know you're the guru. So what timing -- the
18 way the timing works. So thank you --

19 MR. JESICK: Thank you.

20 ZC CHAIR HOOD: Mr. Jesick. Thank you, Madam
21 Chair.

22 BZA CHAIR POURCIAU: Thank you. Mr. Jesick,
23 I did see in the DDOT report that it does say there are
24 two special trees on the site. It doesn't say where.

25 So I just wanted to add that for the record and

1 information and thank you for your comments on that.

2 All right, we've heard from Office of
3 Planning, and I don't believe we have any other district
4 agencies here. We have heard about what happened with
5 the ANC, and the ANC is not here. There are no parties
6 that have signed up for this case. And we do not have
7 any individuals who have signed up to testify unless
8 someone has been added in that I'm not aware of. And
9 hearing nothing from staff, I don't believe that's
10 happened. And so I'd like to ask Mr. Briscoe, do you
11 have any closing remarks you'd like to make?

12 MR. BRISCOE: Yeah. I'd like to thank the
13 board for allowing me the space to have this conversation
14 about what we're trying to do. I think it's a great
15 project that ultimately will gain the District the sort
16 of reputation that it wants to have. And I also thank
17 you for your tough questions. I had not considered some
18 of the things that the co-chairman brought to the board.

19 We will go back and give more consideration to those
20 items just to make sure all the bases are covered. But
21 thank you for your time today.

22 BZA CHAIR POURCIAU: Thank you. I am
23 prepared to support this application. I don't have any
24 other questions or comments for you. I would like to
25 ask the board before we close the record if they have

1 any last comments or concerns or anything that need to
2 be discussed with you prior to closing the record. Does
3 anyone have anything like that? No, not seeing any.

4 Okay. Yes, Ms. Wells.

5 MEMBER WELLS: I do have one question for the
6 applicant based on OP's comment about extending the
7 property to the rear, would -- I guess, creating a space
8 that will be unmanageable, and they're not, you know,
9 they're in agreement with that -- I guess there's no
10 access to that rear space to manage that property.

11 MR. BRISCOE: I'm sorry. Ask your question
12 one more time, please.

13 MEMBER WELLS: Office of Planning made a
14 comment that if you were to extend your property towards
15 the rear of the lot, that they'll potentially create
16 a space that's unable to be managed.

17 MR. BRISCOE: Yeah. Let me speak to that.

18 MEMBER WELLS: Yeah, if you could speak to
19 that.

20 MR. BRISCOE: Yeah. So there's a very steep
21 elevation behind the property. If you can imagine the
22 property is sitting at a plane like this and the
23 elevation starts to get steeper and steeper as you go
24 along the rear, toward the rear of the property, then
25 it jumps. And right at the top of the property is

1 another house. So in order to do any sort of creative
2 extensions in the back, it would require the excavation
3 and shoring of that entire area with consideration to
4 the property behind it. That's what makes it difficult.

5 MEMBER WELLS: Okay. Thank you for that
6 visual for the property in the rear. I had one more
7 question that kind of slipped my mind, but that's okay.
8 I think that you have answered all of our questions,
9 you know, fully. So thank you for that.

10 MR. BRISCOE: You're welcome. Thank you.

11 BZA CHAIR POURCIAU: Thank you. So with
12 that, I'll ask that we close the record. Thank you
13 again, Mr. Briscoe, for your work and your presentation
14 today. And we will close the record and begin
15 deliberation on this case. Okay, the record is closed.

16 I am prepared to approve this case. I believe
17 that the burden has been presented, explained, and
18 corroborated by the Office of Planning. And based on
19 that, the request seems to be in keeping with the
20 neighborhood and with the desires for development by
21 District government. And I'm prepared to approve the
22 application. Are there others who would like to provide
23 their thoughts on this application? Vice Chair
24 Goldstein, I know you had some concerns. What are you
25 thinking at this point?

1 VICE CHAIRPERSON GOLDSTEIN: Sure. I'm
2 still struggling a little with this one. It's a
3 variance, which isn't an easy standard. It's a fourth
4 story, and so, you know, it's doesn't feel like something
5 that should be too easy to get. You've got to meet that
6 three-part test. I wish there was a little bit more
7 in the record about the trees. I feel like there's a
8 little bit of a gap in explaining why this property and
9 that grade is particularly unique. I'm heartened by
10 the fact that the addition would still be within the
11 height. There really isn't any other development
12 relief needed.

13 I think there's some good aspects to this,
14 but I'm just a little unsure about them meeting the
15 burden at this point and still thinking through it.
16 Would love to hear more from my colleagues. And the
17 last thing I'll say on that is, again, sort of this lot
18 line issue that I think I'm kind of struggling a little
19 with in how that's being factored into this case. So
20 yeah, I'm a little on the fence on this one but would
21 love to hear some more thoughts from my colleagues.

22 BZA CHAIR POURCIAU: Thank you, Mr.
23 Goldstein. Ms. Wells, I feel like you had some concerns
24 as well.

25 MEMBER WELLS: I do have some concerns. I

1 am on the fence, maybe a little bit over on one side
2 than Vice Chair Goldstein, but I am on the fence, and
3 it kind of comes down to this, you know, I guess this
4 exceptional or an undue hardship due to the property
5 narrowness, shallowness, or shape. And, when the
6 discussion about the trees and building back, I heard
7 mostly the financial. It was a financial hardship to
8 do so, not that it couldn't be done, but they could expand
9 to the rear. And then also the conversation regarding
10 the lot lines. If the lot lines are resolved, and it
11 sounds like they're on a parallel track as this BZA
12 approval here, does that resolve the issue? Would a
13 variance still need to be requested if the lot lines
14 were resolved? And I think that's what keeps me on the
15 fence for this one, for this case. And again, welcome
16 additional conversation.

17 VICE CHAIRPERSON GOLDSTEIN: I think for the
18 last piece, and I'm sorry to jump in, I feel like even
19 if they resolve the lot lines, they'd probably still
20 need variance relief for that fourth story, but it
21 wouldn't be used unless I'm missing it, it wouldn't be
22 used as a justification for the fourth story. But thank
23 you for your analysis.

24 BZA CHAIR POURCIAU: Ms. Lindsjo, can we hear
25 from you, please?

1 MEMBER LINDSJ0: Yep. I would have to agree
2 with Chair Pourciau's comments and align them with hers
3 that I'm leaning towards approving this project. I feel
4 like it has met the burden. I think the applicant has
5 very much answered a lot of our questions, and it's not
6 turning any flags on for me at this moment. So thank
7 you.

8 BZA CHAIR POURCIAU: Thank you. Chairman
9 Hood, can we hear your comments on this, please?

10 ZC CHAIR HOOD: Sure. I know as the Vice
11 Chair has mentioned, a variance at times, especially
12 area variance is a very high bar -- a big hill to climb.
13 But when I listened to the comments, I listened to how
14 the applicant was answering, firing back with questions,
15 and also looked at what got it over for me and this goes
16 to Board Member Wells. What got it over for me was what,
17 especially when he talks about substantial detriment
18 to the public good, but even more than that, it was the
19 difficulty because I looked at what they mentioned about
20 being able to use his complete yard. I believe he made
21 the extraordinary and exceptional situation. I'm not
22 where the vice chair is, but I think he's made his case.
23 And I think I would align myself since we're aligning
24 today. That's the word y'all used in the first case.
25 Now I'm into aligning. I would align myself with the

1 Office of Planning's findings. and I will tell you,
2 and Mr. Jesick will tell you, a lot of times I don't.

3 But this time, I think Mr. Jesick is dead on, and I
4 would associate my comments with you, Madam Chair and
5 Board Member Lindsjo as well. And I do understand the
6 hesitation, and sometime I understand it's a heavy lift,
7 Vice Chair and Board Member Wells. I get it. So I would
8 align myself with you, Madam Chair, and Commissioner
9 Lindsjo -- I mean, Board Member Lindsjo. I put it on
10 her own commission. Okay, thanks.

11 BZA CHAIR POURCIAU: Okay. Mr. Goldstein and
12 Ms. Wells, do you all want to talk about it more, or
13 should we proceed?

14 MEMBER WELLS: We can proceed. For me, I'm
15 okay proceeding, and I'll let Vice Chair answer for
16 himself.

17 VICE CHAIRPERSON GOLDSTEIN: Yeah. I think
18 I can get there. I'm not a strong yes on this one, but
19 I can see some merit for what my colleagues have
20 expressed. I think the case could have been a bit
21 stronger, but maybe it just got over the line. So I'm
22 ready to proceed forward.

23 BZA CHAIR POURCIAU: All right. With that,
24 I'll make a motion that we approve Case Number 21498
25 as entered into the record by the secretary. Is there

1 a second?

2 MEMBER LINDSJO: I second the motion.

3 BZA CHAIR POURCIAU: Is there any discussion
4 on the motion before we proceed to the vote? Seeing
5 no response, Ms. Mehlert, would you please call the vote?

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

8 BZA CHAIR POURCIAU: Yes.

9 MS. MEHLERT: Vice Chair Goldstein?

10 VICE CHAIRPERSON GOLDSTEIN: Yes.

11 MS. MEHLERT: Board Member Wells?

12 MEMBER WELLS: Yes.

13 MS. MEHLERT: Board Member Lindsjo?

14 MEMBER LINDSJO: Yes.

15 MS. MEHLERT: Chairman Hood?

16 ZC CHAIR HOOD: Yes.

17 MS. MEHLERT: Staff would record the vote as
18 five to zero to zero to approve Application Number 21498
19 on the motion made by Chair Pourciau and seconded by
20 Board Member Lindsjo.

21 BZA CHAIR POURCIAU: Thank you all. You
22 know, we do have the benefit of having a full board now,
23 so unanimity is not as critical as it has been in the
24 past, but thank you for that. We have two more cases.

25 The next case is 21499. Madam Secretary, please read

1 into --

2 MEMBER WELLS: Madam Chair, sorry.

3 BZA CHAIR POURCIAU: Yes.

4 MEMBER WELLS: I can use a break, a
5 five-minute or so before the next case, just a quick
6 little break, yeah.

7 BZA CHAIR POURCIAU: Okay. So let's see.
8 It's 1:37. You want to come back at 1:45?

9 (Whereupon, the above-entitled matter went
10 off the record at 1:37 p.m. and resumed at 1:47 p.m.)

11 BZA CHAIR POURCIAU: Thank you all. We're
12 ready to resume the hearing. Madam Secretary, would
13 you please read in Case Number 21499?

14 MS. MEHLERT: Next is Application Number
15 21499 of Mark Sherman and Edith Shine. This is a
16 self-certified application pursuant to Subtitle X, §
17 901.2, for a special exception under Subtitle E, § 5201,
18 from the lot occupancy requirements of Subtitle E, §
19 210.1. This is for a one-story rear addition on the
20 first level of an existing two-story attachment
21 dwelling. It's located in the RF-1/CAP zone at 408
22 Constitution Avenue NE, Square 814, Lot 0015.

23 BZA CHAIR POURCIAU: Thank you. I see we have
24 Ms. Fowler representing the case. Are you ready to
25 present your case?

1 MS. FOWLER: I am. Yes, good afternoon.
2 Thank you.

3 BZA CHAIR POURCIAU: Thank you.

4 MS. FOWLER: My name is Jennifer Fowler. I'm
5 representing the homeowners, Mark Sherman and Edith
6 Shine. This is a very modest rear one-story screen
7 porch addition. We're asking for only lot occupancy
8 relief. There's an existing deck that is counting
9 against the coverage currently that will be removed and
10 replaced with this one-story screen porch. We're
11 currently at 64.7 percent occupancy, and with this
12 request, we're going up to 66.2 percent. So it's a very
13 modest increase in percentage. The current deck is 6
14 feet about deep from the rear wall of the house, and
15 the new porch will be 7 feet 5 inches beyond the rear
16 wall. So again, it's a very, very modest request. We
17 have letters of support from Office of Planning. The
18 ANC has submitted a letter as well, and the Capitol Hill
19 Restoration Society is also in support. We also have
20 letters in the record from adjacent neighbors, impacted
21 neighbors. Overall, we have had no concerns or pushback
22 on the project. The only thing to note is that one of
23 the letters on the record is for an incorrect project.
24 I noticed Exhibit 25 was for a different case. So I
25 just didn't want to misrepresent an extra letter that

1 we don't actually have, but otherwise adjacent neighbors
2 have submitted support letters. So with that, I'll just
3 rest on the record and feel free to ask me any questions.

4 Thank you.

5 BZA CHAIR POURCIAU: Thank you for that. I
6 don't have any questions. I agree, it appears to be
7 modest. I'd like to ask board members if they have any
8 questions. Vice Chair Goldstein, any questions for the
9 applicant?

10 VICE CHAIRPERSON GOLDSTEIN: Not really. I
11 think it looks like a pretty straightforward, easy --
12 if all our cases were this easy, I mean, I think we'd
13 be done quite a bit sooner. I saw the ANC put a letter
14 in just yesterday. Is that right? In support.

15 MS. FOWLER: Yes, that is correct. They
16 submitted it yesterday, I believe.

17 VICE CHAIRPERSON GOLDSTEIN: Terrific. And
18 I think the Architect of the Capitol, if I'm not wrong,
19 also put in a letter of no objection. Is that correct,
20 Ms. Fowler?

21 MS. FOWLER: Yes, that's correct. Thanks for
22 bringing that up. I noticed that as well. Thank you.

23 VICE CHAIRPERSON GOLDSTEIN: Okay. Thank
24 you very much. It looks like a great little project.

25 Thank you.

1 BZA CHAIR POURCIAU: Is there a letter from
2 the Capitol Hill Restoration Society, also a relevant
3 support letter?

4 MS. FOWLER: Yes, ma'am. There is a letter
5 from the Capitol Hill Restoration Society in the record.

6 BZA CHAIR POURCIAU: Good, good, good. Okay.
7 Board Member Wells, do you have any questions for the
8 applicant?

9 MEMBER WELLS: I do not. This is very
10 straightforward. Thank you.

11 BZA CHAIR POURCIAU: Okay, thank you. I
12 didn't cut you off, Mr. Goldstein, did I? Okay, great.
13 Ms. Lindsjo, any questions?

14 MEMBER LINDSJO: None at this time. Thank
15 you.

16 BZA CHAIR POURCIAU: Thank you. And Chairman
17 Hood, any questions?

18 ZC CHAIR HOOD: No, I want to thank Ms. Fowler.
19 She always brings cases and gets her cases right, so
20 no, I don't have any questions. Thank you.

21 BZA CHAIR POURCIAU: Great. Thank you for
22 that. I think we'll move on to hear the report from
23 the Office of Planning. Ms. Thomas, would you like to
24 present now, please?

25 MS. THOMAS: Yes. Good afternoon, Madam

1 Chair, members of the board. Karen Thomas with the
2 Office of Planning, and we will rest on the record in
3 support of this application.

4 We believe that the applicant has met the
5 burden of proof, and it is indeed a modest addition.

6 The lot occupancy did not extend more by even more than
7 two percent, I believe. But that said, we perceive no
8 impacts on the adjacent neighbors, albeit being a screen
9 porch. So we are in support of this application. Thank
10 you.

11 BZA CHAIR POURCIAU: Thank you. Anyone have
12 any questions for our Office of Planning? No. Nope.
13 Okay. Thank you so much, Ms. Thomas.

14 MS. THOMAS: Thank you.

15 BZA CHAIR POURCIAU: We don't have any other
16 district agencies present. The ANC is not here, but
17 we do have their vote on the record. There are no
18 parties, and there are no individuals who've signed up
19 to testify. Given all that, I'd just like to ask Ms.
20 Fowler if she has any closing remarks for the board.

21 MS. FOWLER: I just wanted to thank you all
22 for your time and especially Ms. Thomas for her report.
23 Thank you.

24 BZA CHAIR POURCIAU: Thank you. And so we
25 will close the hearing record. Witnesses will be

1 excused, and we will deliberate on this case. Okay.

2 Thank you all. That's good. I'll go to you first,
3 Vice Chair Goldstein. Do you have any comments for this
4 deliberation? I am in support, just for the record.

5 What are your thoughts?

6 VICE CHAIRPERSON GOLDSTEIN: I think they've
7 met their burden for the lot occupancy relief, which
8 is a special exception under 5201 and 901, 901.2. I'm
9 looking at the OP report, there's the analysis of the
10 capital interest overlay and how it satisfies those
11 standards. So I think the record's quite full, and
12 they've met the criteria for the special exception.

13 BZA CHAIR POURCIAU: Thank you so much for
14 that. Ms. Wells, any additional comments? Are you
15 aligning today -- are you aligning on this case?

16 MEMBER WELLS: I'm aligning my comments with
17 Vice Chair Goldstein's, yes.

18 BZA CHAIR POURCIAU: I haven't gotten to align
19 yet, I don't think, so I got to work on that. Ms.
20 Lindsjo?

21 MEMBER LINDSJO: I align as well. Thank you.

22 BZA CHAIR POURCIAU: And Chairman Hood.

23 ZC CHAIR HOOD: I'm in agreement with
24 alignment, so thank you.

25 BZA CHAIR POURCIAU: All right. Would

1 someone like to make a motion on this application?

2 VICE CHAIRPERSON GOLDSTEIN: I'll make a
3 motion --

4 MEMBER LINDSJO: I --

5 VICE CHAIRPERSON GOLDSTEIN: -- to approve
6 -- oh, I'm sorry. Go ahead.

7 MEMBER LINDSJO: No, I motion to approve
8 Application Number 21499 as captured and read by the
9 Secretary.

10 BZA CHAIR POURCIAU: I second. Madam
11 Secretary, could you please call the vote?

12 MS. MEHLERT: Please respond to Board Member
13 Lindsjo's motion to approve the application. Chair
14 Pourciau?

15 BZA CHAIR POURCIAU: Yes.

16 MS. MEHLERT: Vice Chair Goldstein?

17 VICE CHAIRPERSON GOLDSTEIN: Yes.

18 MS. MEHLERT: Board Member Wells?

19 MEMBER WELLS: Yes.

20 MS. MEHLERT: Member Lindsjo?

21 MEMBER LINDSJO: Yes.

22 MS. MEHLERT: And, Chairman Hood.

23 ZC CHAIR HOOD: Yes.

24 MS. MEHLERT: Staff would report the vote as
25 five to zero to zero to approve Application Number 21499

1 on the motion made by Board Member Lindsjo and seconded
2 by Chair Pourciau.

3 BZA CHAIR POURCIAU: Thank you. And our
4 final case is 21502. Secretary Mehlert, would you
5 please read into the record?

6 MS. MEHLERT: The last case in the hearing
7 agenda is Application Number 21502 of SSDS1, LLC. It's
8 a self-certified application pursuant to Subtitle X,
9 § 901.2 for special exceptions under Subtitle E, § 204.4
10 from the rooftop architectural element requirements of
11 Subtitle E, § 204.1 to allow removal or significant
12 alteration of a rooftop architectural element or
13 original to a principal building, under Subtitle E, §
14 5201 from the lot Z requirements of Subtitle E, § 210.1,
15 under Subtitle C, § 1506.1 from the penthouse setback
16 requirements of Subtitle C, § 1504.1 C, and under
17 Subtitle C, § 1501.1 C to allow a penthouse above the
18 matter of right permitted height for the building.

19 This project is for a new third story and
20 three-story rear addition with penthouse to an existing
21 two-story attached transfer dwelling for use as a
22 two-unit flat located in the RF-1 zone at 800 10th Street
23 NE, Square 933, Lot 54. And there is a preliminary
24 matter; the applicant requested to waive the filing
25 deadline and Exhibits 24 through 24 B.

1 BZA CHAIR POURCIAU: Okay. The filing
2 deadline, 24. I haven't looked at those exhibits.
3 Let's take a look at those exhibits quickly, which is
4 why it's difficult when things are entered into the
5 record beyond the deadline. 24 A and B, updated plans,
6 yes. Okay. And I assume more will be in the -- will
7 there be more in the presentation, Mr. Debear or --
8 Debear?

9 MR. DEBEAR: Yes. Yes, Chair. The late
10 filing on September 29th was just to update the penthouse
11 plan and to make it more compliant. We noticed that
12 there was a small overhang extending into the required
13 rear setback, which we're not asking for relief from
14 anyway. So it was just amended to meet that required
15 setback and then to come in line with the distance of
16 side setback relief we're asking. So it really only
17 makes things more compliant rather than less.

18 BZA CHAIR POURCIAU: Okay. Thank you for
19 that. And so with that, would you like to proceed to
20 your presentation?

21 MR. DEBEAR: Yes.

22 BZA CHAIR POURCIAU: Thank you.

23 MR. DEBEAR: If Mr. Young can bring up the
24 presentation, that would be great. Thank you. Again,
25 my name's Eric Debear, land use attorney from the law

1 firm of Cozen O'Connor, representing the applicant, Mr.
2 Satouri. He's the managing member and the applicant
3 and is here to answer any questions should the board
4 have questions. Next slide, please.

5 This is the property. It is in the RF-1 just
6 directly to the north of the H Street corridor, which
7 is an NMU zone. Next slide, please. Again, the
8 property is on the block of 10th Street by the corner
9 of 10th Street and H Street. There's only one abutting
10 neighbor to the north. You can see it in the picture
11 on the bottom there to the right. There is an alley
12 along the property's southern and western lot line.
13 And then there is the rear of commercial buildings
14 fronting on H Street beyond the alley to the south.
15 Next slide, please.

16 To give the board a little bit of background
17 on this project, the applicant obtained a building
18 permit in 2023 to renovate what was an existing
19 single-family home to a two-family flat. That
20 renovation was intended to have his adult children live
21 there. So this is not really a market development
22 project, but rather something that's in the family.
23 The renovation included both a rear addition with
24 exterior balconies and an access stair, as well as a
25 third story addition with a small penthouse structure

1 that provided access to the roof. At the time of
2 construction, the contractor found that the existing
3 cornice and porch on the single-family home that was
4 being renovated were not salvageable and were discarded.

5 Only after the fact did they realize that that was not
6 permitted in the RF-1 zone.

7 This project is matter of right outside of
8 the relief being requested. It is a matter of right
9 use. Certainly, it is a two-family flat. The building
10 height, the total building height not including the
11 penthouse, is compliant, 35 feet. The rear yard is 31
12 feet, so larger than required. And there is one parking
13 space at the property.

14 As I mentioned, this is a post-hoc relief.
15 Construction is completed, and during C of O inspection
16 a few areas of zoning non-compliance were discovered.

17 With that being said, these are special exception
18 requests, so it should not change the board's view of
19 them based on what the special exception standard is.

20 Next slide, please.

21 We went to the ANC, both the committee and
22 the full ANC, and they decided to refrain from comment
23 because it was post-construction relief. OP is
24 supportive of all four areas of relief, and we do have
25 letters of support from three nearby neighbors,

1 including that one property you saw in the earlier
2 picture, the neighbor to the north, an abutting business
3 owner right to the south, and then a neighbor directly
4 across 10th Street. And those are all in the case
5 record. Next slide, please.

6 This is the site plan. You can see the main
7 home is hatched with the rear balconies there and the
8 spiral stair that provides access. I'd also note there
9 is that front porch on the right-hand side facing 10th
10 Street. Next slide, please.

11 These are floor plans. You can move through
12 these. Next slide, please. Next slide. The
13 penthouse. We are seeking relief on two aspects of the
14 penthouse. The first is the side setback along the
15 southern side of the roof. You can see this is a small
16 penthouse. It's just a stair, a bathroom, and a
17 mechanical space. The setback is 6 feet 4 inches on
18 the southern side, and it has to be 8 feet 2 inches,
19 and that's because we need to fit both the mechanical
20 space and the bathroom there all in one enclosure with
21 the stair. Next slide, please.

22 Here is in a south elevation. This is from
23 the alley. You can see the other aspect of the penthouse
24 relief here. A penthouse is permitted in the RF-1 zone,
25 but it has to be within the matter of right 35-foot

1 building height. This penthouse extends above that
2 height. It is otherwise compliant with all of the
3 conditions for a penthouse in an RF zone on a flat.
4 And also, again, you can see that front porch on the
5 right side there. Next slide, please.

6 Here are the front and rear elevations. We
7 are proposing to add in the cornice to reflect what was
8 there historically, and then you can see the rear with
9 the balconies and the stair. Next slide, please. To
10 compare what was existing when this project was first
11 started and now, you can see the pre-2023 condition on
12 the left. That is a 2-story row house. You can see
13 the front porch as well as that cornice that I've talked
14 about. And I would just note that northern neighbor,
15 the lot was vacant and a hole in the ground when my client
16 embarked on this construction. Next slide, please.

17 To summarize the zoning relief, which I've
18 touched on a little bit, there are four areas of relief,
19 all of which are special exception. The first is the
20 alteration of those existing rooftop architectural
21 elements. That is related to modernizing that front
22 porch, adding a privacy siding on the alley, and adding
23 a guardrail over the balcony above that first level
24 porch. And then there's also replacing the cornice
25 which you could do by right, but it had to be documented

1 at the time of construction, and unfortunately, it was
2 not.

3 For lot occupancy, we are within the special
4 exception threshold of 70 percent. The maximum is 60,
5 and this project, it goes up to 68.2 percent. Again,
6 I mentioned the penthouse and RF zone. It's permitted,
7 but it has to be within the maximum building height,
8 and this penthouse extends 8 foot 2 inches above the
9 maximum building height of 35 feet. And then finally,
10 that southern side setback that I mentioned, that is
11 1 foot and 10 inches of relief on the southern side.

12 Next slide, please.

13 To go through the general special exception
14 standard for all four areas of relief. This project
15 modernized and renovated a building that at the time
16 was in disrepair, including, as I mentioned, the rotted
17 cornice and porch. It does exceed the lot occupancy,
18 but it's only due to the exterior balconies and the stair
19 and only on the first level. So while we do have to
20 request lot occupancy relief for the whole property,
21 only because of that front porch does it go 8 percent
22 over the 60 percent. The other 2 stories are compliant.

23 And again, as I mentioned, the penthouse is certainly
24 permitted. It just has to be within the matter of right
25 height, and the amount of penthouse side setback relief

1 is relatively modest. The relief will not adversely
2 affect neighboring property. We only abut private
3 property on one side. On the other side, it's the
4 10-foot wide alley on the south and the 20-foot wide
5 alley on the west. The rear balcony and stairs on back
6 of the property are open at both the sides and above.

7 So while they do contribute to lot occupancy, the
8 massing is significantly less than an interior
9 extension.

10 The small amount of penthouse setback relief
11 is buffered from 10th Street. The penthouse is toward
12 the rear of the property, and it is a fairly long
13 property, so it's actually 37 feet from 10th Street right
14 of way. And then the only abutting neighbor also has
15 a 3-story building like this project and a penthouse.

16 Next slide, please.

17 The alteration of rooftop architectural
18 elements carries special conditions, and I just wanted
19 to highlight one of them which is the most critical one:
20 that the proposed construction shall not substantially
21 visually intrude upon the character, scale, and pattern
22 of houses along 10th Street. Again, this is a bookend
23 building next to an alley into the rear of commercial
24 buildings. It's not in the middle of a row of
25 architecturally consistent row buildings like even

1 further up 10th Street.

2 As I mentioned, the property directly to our
3 north is certainly similarly modern and has similar
4 architectural elements to what has been built here.
5 And the proposed aesthetic is again, generally
6 consistent, as OP noted, with the surrounding H Street
7 neighborhood, particularly those buildings along H
8 Street nearby.

9 As I mentioned, we'll be replacing that
10 cornice even though you don't see it here. What is being
11 proposed is to replace the historic cornice at the second
12 level. So it would be matching in terms of location,
13 style, and dimension as proposed by the zoning
14 regulations. Next slide, please.

15 In terms of lot occupancy, the critical
16 elements of the special conditions are that it doesn't
17 impact light and air available to neighboring properties
18 nor privacy and use and enjoyment. Again, the main
19 home, the actual interior building, only extends 4 feet
20 beyond the one neighbor to the north. The balconies
21 extend further and contribute to lot occupancy but are
22 open at the sides and to the sky. And then there is
23 the large rear yard of 31 feet that exceeds the minimum
24 requirement of 11 feet, providing more space for light
25 and air at the rear of the property.

1 In terms of privacy of use and enjoyment, we
2 do have a letter of support from that northern neighbor.

3 So they are supportive of this proposal. Again, we
4 only have one neighbor, so we abut an alley to the south
5 and west that provides plenty of buffering from the
6 neighboring properties to the west across the alley.

7 Next slide, please.

8 Going through the penthouse setback relief,
9 which also has special conditions, the first of which
10 is that reasonable effort has been made to house
11 mechanical equipment, stairway and elevator penthouse
12 in compliance with the required setback. The penthouse
13 certainly the side setback relief is really driven by
14 the location of stairs below, which leads us to provide
15 the stairs along that northern side. With that being
16 said, the penthouse has to be in one enclosure, so you
17 have to really work around that location. The area
18 related to the relief is a little housing for mechanical
19 equipment, including a water heater and an HVAC pump.

20 And that location in the center of the roof provides
21 the most straightforward access and connection to the
22 areas where those utilities serve below. Namely, the
23 kitchens and the bathrooms are all in the middle of the
24 3 floors below.

25 Strict application of the setback

1 requirements results in construction that is unduly
2 restricted, prohibitively costly or inconsistent with
3 building codes. This is a pretty modest amount of
4 setback relief, only 1 foot 8 inches. And of course,
5 while this is post-hoc and we're respectful of that,
6 this would require a fairly costly and unreasonable
7 reconfiguration of that mechanical space that I don't
8 think really impacts any sort of exterior effects, which
9 are already very limited for this relief. Next slide,
10 please. With that, I will close my presentation in
11 chief and open it up to any questions the board might
12 have.

13 BZA CHAIR POURCIAU: Thank you so much.
14 Would you like to speak to the opposition letter from
15 the Capitol Hill Restoration Society?

16 MR. DEBEAR: Yeah, I mean, there's not really
17 much to it, with all due respect. We went to present
18 to them. They didn't really say much about why they
19 don't support it. They just kind of list off the relief
20 and say they conclude they don't support it. So I would
21 also say, I mean this is a property on H Street, so
22 extending Capitol Hill to H Street is somewhat of a
23 stretch, but nonetheless, there's really not anything
24 to address in it other than the fact that they don't
25 support the relief. I'm not sure what else there is

1 to add there, Chair.

2 BZA CHAIR POURCIAU: Could it be related to
3 the ANC's position?

4 MR. DEBEAR: I don't think there's any
5 relation. We were actually at the ANC, I believe, the
6 same night as Capitol Hill Restoration Society met.
7 So the ANC was, I think, again, their resolution reflects
8 that they just simply didn't want to say one way or the
9 other how they felt about this because they didn't want
10 to, I guess, tacitly approve of post-hoc construction.

11 Although, like I said, special exceptions you view as
12 they are, a variance might be different. I certainly
13 encourage them to opine on the actual substance of the
14 special exceptions, but they did not. So you know, I
15 can't say why Capitol Hill Restoration Society took the
16 position they did, but I don't think it was related to
17 what the ANC was doing on this.

18 BZA CHAIR POURCIAU: Thank you, Mr. Debear.

19 Mr. Goldstein, do you have questions for the applicant?

20 VICE CHAIRPERSON GOLDSTEIN: Sure. I'm
21 happy to ask a few, and thank you for the presentation.

22 That was extremely helpful. Can you just explain to
23 me what has been fully constructed at this point and
24 what remains to be constructed?

25 MR. DEBEAR: Good question. So everything

1 you saw in the image of the property has been fully
2 constructed. So the balconies that contribute to the
3 lot occupancy have been constructed, and that was
4 identified at C of O inspection as exceeding lot
5 occupancy. The penthouse is being amended. It has
6 been constructed, but it is being amended to comply with
7 setbacks to the greatest extent possible. Some
8 interior space is being removed, but what is in the plans
9 is what is proposed. So that is the work that would
10 be done in accordance with any approval by the BZA.
11 It would go from what it is currently on the penthouse
12 to what you're seeing, which is just the mechanical,
13 the bathroom, and the stair access. I think there's
14 one other room currently.

15 Everything in terms of the front rooftop
16 architectural elements is as it is, except we are
17 proposing to replace that cornice if approved. So
18 there's no cornice there currently, and we would be
19 replacing the cornice in the same location, size and
20 width as it was on the original house that was renovated.

21 VICE CHAIRPERSON GOLDSTEIN: And what about
22 the rear?

23 MR. DEBEAR: The rear -- the balconies and
24 the stair, the rear access stair, are built.

25 VICE CHAIRPERSON GOLDSTEIN: Okay. I'm just

1 trying to understand the lot occupancy request. What's
2 driving it compared to what the original house was and
3 the plan? What's driving the lot occupancy increase?

4 MR. DEBEAR: Well, the addition of those rear
5 balconies and the stair put it over the 60 percent.

6 VICE CHAIRPERSON GOLDSTEIN: Okay.

7 MR. DEBEAR: And those were unfortunately
8 done in the field, and it was identified by DOB that
9 that went over lot occupancy. So it's really, if you
10 look at just the interior habitable space, it's at 60
11 percent. It's the balconies on the rear and the stair.

12 VICE CHAIRPERSON GOLDSTEIN: Okay. That's
13 a lot that got constructed, boy. So the penthouse is
14 larger, but following a potential approval, it'll get
15 reduced in size.

16 MR. DEBEAR: Correct.

17 VICE CHAIRPERSON GOLDSTEIN: Is that what
18 you're saying?

19 MR. DEBEAR: In accordance with the plans that
20 have been submitted.

21 VICE CHAIRPERSON GOLDSTEIN: Okay. Can I ask
22 you about the front cornice? I kind of see there's the
23 cornice between the second and third floor. And then
24 is there also an additional cornice of some sort at the
25 top front facade that's being replaced?

1 MR. DEBEAR: No. Just the cornice -

2 VICE CHAIRPERSON GOLDSTEIN: Okay.

3 MR. DEBEAR: At the second --

4 VICE CHAIRPERSON GOLDSTEIN: I shouldn't say
5 replaced, but yeah.

6 MR. DEBEAR: -- above the second level, which
7 is where it was in the original home.

8 VICE CHAIRPERSON GOLDSTEIN: Oh, okay.

9 MR. DEBEAR: If Mr. --

10 VICE CHAIRPERSON GOLDSTEIN: It looks from
11 your drawings --

12 MR. DEBEAR: If it would be helpful, if Mr.
13 Young could pull up page 12 of the presentation. I think
14 that's a good comparison -- thank you. You can see the
15 cornice there on the left. That's pre-2023. That's
16 what existed. It's above the second level of the home,
17 and that's exactly where it will be as proposed here.

18 So it's at the third, you know, the base of the third
19 floor but above the second floor.

20 VICE CHAIRPERSON GOLDSTEIN: Yeah. The line
21 at the top roof, the horizontal line, just looks more
22 promising, I think, and it looks more robust than it
23 does in the photographs. Maybe just my interpretation
24 of your drawings. I understand that there couldn't have
25 been anything original in that but --

1 MR. DEBEAR: No.

2 VICE CHAIRPERSON GOLDSTEIN: -- I think it
3 would -- because it's all new, but I think some --

4 MR. DEBEAR: If --

5 VICE CHAIRPERSON GOLDSTEIN: Yeah.

6 MR. DEBEAR: If Mr. Young could go to page
7 3, where we have an image of what exists, again --

8 VICE CHAIRPERSON GOLDSTEIN: Yeah.

9 MR. DEBEAR: -- to be amended if this
10 application is approved. It's fairly flush, the third
11 level, and my client can chime in. It's fairly flush
12 with the siding there on the front. I mean, I don't
13 know that it comes off as prominent.

14 VICE CHAIRPERSON GOLDSTEIN: I think I was
15 hoping for maybe something a little more prominent on
16 that.

17 MR. DEBEAR: Oh, you were. Oh, got it.

18 VICE CHAIRPERSON GOLDSTEIN: And pardon me,
19 I didn't mean to --

20 MR. DEBEAR: No.

21 VICE CHAIRPERSON GOLDSTEIN: -- suggest
22 otherwise. I think in the renderings it almost looked
23 a little more robust than this photo does. I just wonder
24 --

25 MR. DEBEAR: Okay. That's fair.

1 VICE CHAIRPERSON GOLDSTEIN: -- I just wonder
2 if that actually might be a more attractive sort of cap
3 on the front. I'm not an architect or and I don't want
4 to try to be. But I'm kind of curious whether that could
5 be kind of a nice element at the, at the top as well.

6 MR. DEBEAR: I think that they -- and, Sami,
7 you can chime in.

8 VICE CHAIRPERSON GOLDSTEIN: Yes.

9 MR. DEBEAR: I think that's absolutely on the
10 table if that's what the board --

11 MR. SATOURI: Absolutely.

12 MR. DEBEAR: -- you know, would get behind,
13 yeah.

14 MR. SATOURI: Greeting to all of you and --
15 greeting to Chairman Hood and Vice Chair Goldstein and
16 Chairwoman Pourciau. So to the extent that the cornice
17 can be placed on the top to make it more appealing, that
18 would be no problem at all. We would love to accommodate
19 that. We tried to see both in terms of duplicating the
20 old cornice that was in there before. So we managed
21 to find a vendor in Baltimore so that we can accommodate.

22 The other challenge is, you know, where to
23 be placed. So with the recommendation to follow what
24 was there before, we put it there. But to the extent
25 on the top of the building there on the top layer that

1 would be perfectly fine.

2 VICE CHAIRPERSON GOLDSTEIN: Yeah. I mean,
3 I certainly don't want to design your project for you.

4 MR. SATOURI: Nope.

5 VICE CHAIRPERSON GOLDSTEIN: I think I was
6 kind of hoping to see something a little more prominent
7 there. I certainly think the return of that cornice
8 between the second and third level will be a nice,
9 attractive addition to the front facade. But can I ask
10 you about that front porch? In one of the side
11 elevations from the alley, it kind of gave the impression
12 of a window on the side of that front porch. Is that
13 accurate?

14 MR. DEBEAR: Yes. There is privacy siding
15 there. If Mr. Young could go to slide 10, there was
16 installed privacy siding there because it's along the
17 alley with a little window just for light. You can see
18 it there on the right-hand side.

19 VICE CHAIRPERSON GOLDSTEIN: Okay. Yeah,
20 you know, you know, I can understand why someone may
21 want that. I could also see sort of the argument for
22 sort of the openness of the porch and so the
23 attractiveness of that, but I can understand along the
24 alley there may be some competing interests with that
25 space. Trying to think if I have anything else that

1 I want to ask. I think those are all my questions for
2 now. I just it's a little bit unfortunate to see these
3 projects sort of after the fact, and I kind of understand
4 -

5 MR. SATOURI: Tell me about it.

6 VICE CHAIRPERSON GOLDSTEIN: -- yeah. Oh,
7 I'm sure we're only --

8 MR. SATOURI: Yeah.

9 VICE CHAIRPERSON GOLDSTEIN: -- seeing the
10 tip of the iceberg on this.

11 MR. SATOURI: Yeah.

12 VICE CHAIRPERSON GOLDSTEIN: I can't imagine
13 --

14 MR. SATOURI: Sleepless nights.

15 VICE CHAIRPERSON GOLDSTEIN: -- it's been
16 easy on you.

17 MR. SATOURI: Yeah.

18 VICE CHAIRPERSON GOLDSTEIN: But nobody wants
19 to go through the process this way, so I really hope
20 if you are in the business of doing this in multiple
21 places, that we don't encounter it sort of in this order
22 in the future. But --

23 MR. SATOURI: Good question.

24 VICE CHAIRPERSON GOLDSTEIN: -- things happen
25 so.

1 MR. SATOURI: Learn.

2 VICE CHAIRPERSON GOLDSTEIN: Thank you very
3 much.

4 MR. SATOURI: Learn and listen.

5 MR. DEBEAR: We absolutely respect that. And
6 Mr. Satouri understands it. We are just trying to make
7 this right by going through the proper channel here.

8 And I understand that that doesn't mean the board has
9 to act one way or the other, but we've outlined the
10 standard and, again, it's not variance relief; it's
11 special exception. I think that is a critical
12 distinguishing factor here. And we have support from
13 neighbors, no position from the ANC, but you know, I
14 think it's all been generally positive for this project.

15 VICE CHAIRPERSON GOLDSTEIN: Okay. Thank
16 you very much.

17 MR. SATOURI: Thanks, Vice Chair Goldstein.

18 BZA CHAIR POURCIAU: Thank you. Board Member
19 Wells, do you have questions for the applicant?

20 MEMBER WELLS: I do. My questions are
21 surrounding the height of the penthouse. What's
22 driving that height -- is it the mechanical room there
23 or what's driving that?

24 MR. DEBEAR: Well, it's the penthouse itself.
25 So it's in one enclosure. If again -- sorry, apologies

1 to Mr. Young. If you could bring back up that actually,
2 that same southern elevation there, or even the next
3 slide, 11. It's just one enclosure, so it encapsulates
4 the mechanical room, a small bathroom, and the stair.

5 And you can see, yeah, it's all within that. And it's
6 all at the, you know, eight foot two inches is height
7 of that penthouse. And while that's permitted, it has
8 to be within the building height maximum itself in this
9 zone. So it would've had to been below that 35 feet
10 or within it, I should say, but it's all in one enclosure:
11 the mechanical space, the bathroom, and the stair.

12 MEMBER WELLS: And so is this just to allow
13 access to the rooftop for recreational activities?

14 MR. DEBEAR: Correct.

15 MEMBER WELLS: Okay.

16 MR. DEBEAR: Plus the mechanical space.

17 MR. SATOURI: The mechanical room, also you
18 have the heat exchanger, you have the water heater and
19 so on and so forth. And mostly those are with that
20 height that's required for making sure that those units
21 as being installed there are compliant.

22 MEMBER WELLS: Okay. You know, one of the
23 things that this board is allowed to do is kind of look
24 at this as if it wasn't constructed already. And so
25 for the heat exchanger and everything that's required

1 for -- and that's in the mechanical room. Were there
2 other areas in the property that could be considered?

3 You know, if this wasn't already constructed, you know,
4 does it have to be at the, in this penthouse?

5 MR. DEBEAR: Mr. Satouri, if you want to
6 address that.

7 MR. SATOURI: Yeah. So unfortunately for the
8 space that we had, there were both restrictions in terms
9 of where the unit can go and also on the top of the
10 penthouse we put the evaporators and whatnot. So for
11 the proximity and that to allow for the unit to work,
12 there was no space inside of the other floors for that
13 to be housed. And so that's why we're forced, so to
14 speak, to put those in there. And to be candid, it was
15 not my choice. I mean, I would have done anything in
16 the world to avoid this predicament. But I think as
17 they were building this stuff and I was away for a while,
18 by the time I came back, decisions had been made to pipe
19 it up and everything else, and so that's what I was told.

20 MEMBER WELLS: Okay. Do you know, along the
21 block, are there other building heights that are in the
22 same elevation, or is this the highest point on that
23 block? Any other --

24 MR. SATOURI: Many homes around there.

25 MR. DEBEAR: Right next to us, that neighbor

1 is more or less built to the same height.

2 MEMBER WELLS: Okay.

3 MR. DEBEAR: And I don't know if that was
4 built. They have a penthouse. I don't know if -- I
5 don't think they got relief. I don't -- that's not to
6 say they built it illegally. It might have been built
7 prior to the enactment of this more specific restriction
8 on a penthouse in the RF zone. I would say also the
9 properties on H Street, which is right across the alley
10 to the south of us, are all at least permitted to be
11 taller than the RF zone.

12 We're not sticking out per se. And I do think
13 being at the end of the row of this kind of residential
14 street right next to a commercial street is a critical
15 factor there too.

16 MEMBER WELLS: Okay. All right. Most of my
17 questions were centered around the height, so thank you.

18 MR. SATOURI: Thank you so much.

19 BZA CHAIR POURCIAU: Thank you. Ms. Lindsjo,
20 do you have questions of the applicant?

21 MEMBER LINDSJO: Not at this time. Thank
22 you.

23 BZA CHAIR POURCIAU: Thank you. And Chairman
24 Hood, do you have questions now for the applicant?

25 ZC CHAIR HOOD: No, I don't. I will say that

1 early on in my endeavor here, I used to have problems
2 after the fact relief. But as the Vice Chair mentioned,
3 and I've heard over the years, sometimes we are where
4 we are, as a former mayor said, and in this case, we
5 are where we are. It's unfortunate that I understand
6 what Capitol Hill Restoration Society is saying, and
7 it's hard. But again, as Mr. Debear said, which helped
8 me get over some of the questions I was going to ask,
9 especially as after the fact, was that we're here trying
10 to make it right and trying to do it right. So I get
11 that. So thank you, Madam Chair. I don't have any
12 questions. I don't have any issues either. Thank you.

13 MR. SATOURI: Thank you.

14 BZA CHAIR POURCIAU: Thank you for that.
15 We'll go on to hear the Office of Planning report. We
16 have Mr. Mitchum with us today.

17 MR. MITCHUM: Yes. Good afternoon, Madam
18 Chair, members of the board. I'm Joshua Mitchum with
19 the Office of Planning. We continue to recommend
20 approval of the submitted application. However, I do
21 want to correct an error on the record regarding the
22 staff report. We are recommending approval just for
23 the rooftop number four elements, the lot occupancy,
24 the penthouse setbacks, and the penthouse height. Our
25 report does mention a relief from E-5201, and that's

1 just a superfluous addition that wasn't supposed to be
2 there. So we're just reconfirming it's just those four
3 areas of relief, but other than that we are willing to
4 rest on the record in the report, and I'm happy to answer
5 any questions. Thank you.

6 BZA CHAIR POURCIAU: Thank you for that, Mr.
7 Mitchum, and for the clarification. Are there
8 questions for Office of Planning? Mr. Goldstein?

9 VICE CHAIRPERSON GOLDSTEIN: Thank you, Mr.
10 Mitchum, and I appreciate the report. I just want to
11 make sure I understand what you were excluding. There
12 is 5201 relief, but it shouldn't be sort of listed as
13 an independent basis of relief. Is that what you're
14 saying?

15 MR. MITCHUM: Correct. Correct. That's
16 correct.

17 VICE CHAIRPERSON GOLDSTEIN: Okay. Okay.
18 No, I think those are all the questions I have. Thank
19 you so much.

20 BZA CHAIR POURCIAU: Thank you. Ms. Wells,
21 do you have questions for OP?

22 MEMBER WELLS: Not at this time. Thank you.

23 BZA CHAIR POURCIAU: Thank you. Ms. Lindsjo?

24 MEMBER LINDSJO: Not at this time. Thank
25 you.

1 BZA CHAIR POURCIAU: Okay. And Chairman
2 Hood, questions for OP?

3 ZC CHAIR HOOD: No. Thank you, Mr. Mitchum.

4 BZA CHAIR POURCIAU: Thank you, Mr. Mitchum,
5 for your report and your participation. There is no
6 ANC present. We received their no comment document.

7 There are no other District agencies as well. And we
8 don't have any parties on this case, and no one signed
9 up in support or opposition. So having said all that,
10 Mr. Debear, would you like to make some closing remarks?

11 MR. DEBEAR: Yes. Thank you, Chair. Again,
12 thank you to the board for your time today. We do
13 appreciate your consideration of this project and
14 recognize that it is not your preference to see post
15 hoc relief. With that being said, we do believe we've
16 met all special exception standards for the four areas
17 of relief.

18 This property has obviously been here for a
19 few years now, and I think that would give ample
20 opportunity in the event that any neighbors felt they
21 were adversely impacted, but we don't have that here.

22 And again, we believe that all of these relief requests
23 are certainly within keeping in the intent of the zoning
24 regulations. So we would respectfully request that the
25 board grant this application. Thank you.

1 BZA CHAIR POURCIAU: Thank you. Are there
2 any additional questions, concerns, or comments that
3 the board would like to discuss while the applicant is
4 still on? No. Okay. Very good. Thank you both for
5 being here today.

6 MR. SATOURI: We appreciate you so much.

7 BZA CHAIR POURCIAU: Thank you. We will now
8 close the record and dismiss the attendees, the
9 applicant, and begin our deliberation on this case.
10 Quite unfortunate when things are built like this, but
11 I think this one isn't too extreme, and they do seem
12 to be trying to make it better in this application.
13 Are there comments from the board prior to going to vote
14 that we should cover on the record, Mr. Goldstein?

15 VICE CHAIRPERSON GOLDSTEIN: I think that,
16 you know, it's fortunate that their relief only turned
17 out to be special exception in all these cases. It's
18 an easier lift for the review. I don't think I have
19 any concern about adverse impact based on what they've
20 proposed, and I think they've met their burden for these
21 multiple special exceptions as further supported by the
22 Office of Planning report. So I'd be prepared to vote
23 in support of it.

24 BZA CHAIR POURCIAU: Thank you so much. Ms.
25 Wells?

1 MEMBER WELLS: I would agree. I was on the
2 fence regarding the height, the special exception on
3 the height, but after, you know, the explanation or
4 within the context of the entire block, you know, it
5 wouldn't be an impact or have an adverse impact. Then
6 I'm okay moving forward with all the other special
7 exceptions, including that one that were requested.

8 BZA CHAIR POURCIAU: Thank you. Ms. Lindsjo?

9 MEMBER LINDSJO: Yep, I would align my
10 comments with the rest of the board. Thank you.

11 BZA CHAIR POURCIAU: Thank you. Chairman
12 Hood?

13 ZC CHAIR HOOD: I too would align with what
14 I've heard and also yield to a look at the Office of
15 Planning report, which Mr. Mitchum has done -- and I
16 think was well done, which helped me to get through this
17 after the fact relief request. So I'll be voting in
18 favor. Thank you.

19 BZA CHAIR POURCIAU: Thank you. I too will
20 be voting in favor, and I appreciate the questions and
21 the remarks from Chairman Hood on kind of how to process
22 that after, you know, in arrears kind of approval.
23 Thank you for that. Is there someone who would like
24 to make a motion on this case?

25 VICE CHAIRPERSON GOLDSTEIN: I'll make a

1 motion to approve Case Number 21502 from SSDS1, LLC for
2 the relief as captioned and read by the secretary.

3 BZA CHAIR POURCIAU: I'll second.

4 ZC CHAIR HOOD: I'll second.

5 BZA CHAIR POURCIAU: Thank you.

6 ZC CHAIR HOOD: I'll yield.

7 BZA CHAIR POURCIAU: Me too. Madam
8 Secretary, would you please call the vote?

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

12 BZA CHAIR POURCIAU: Yes.

13 MS. MEHLERT: Vice Chair Goldstein?

14 VICE CHAIRPERSON GOLDSTEIN: Yes.

15 MS. MEHLERT: Board Member Wells?

16 MEMBER WELLS: Yes.

17 MS. MEHLERT: Board Member Lindsjo?

18 MEMBER LINDSJO: Yes.

19 MS. MEHLERT: Chairman Hood?

20 ZC CHAIR HOOD: Yes.

21 MS. MEHLERT: Staff will record the vote as
22 five to zero to zero to approve Application Number 21502
23 on the motion made by Vice Chair Goldstein and seconded
24 by Board Member Wells.

25 BZA CHAIR POURCIAU: Thank you. Thank you,

1 board members, for another successful meeting, and thank
2 you again, especially to Vice Chair Goldstein for
3 filling in for me in my absence. And with that, I'll
4 see you all in two weeks or so.

5 VICE CHAIRPERSON GOLDSTEIN: Can I just ask?
6 I'm so sorry. It's just been a long time since we
7 started. Did we vote in favor of the closed session
8 two weeks from now?

9 BZA CHAIR POURCIAU: Yes, we did.

10 VICE CHAIRPERSON GOLDSTEIN: We did? Okay.
11 Sorry. It's been too long a day.

12 BZA CHAIR POURCIAU: It was many hours ago.

13 VICE CHAIRPERSON GOLDSTEIN: Thank you so
14 much.

15 ZC CHAIR HOOD: Did you all vote for the
16 training as well?

17 BZA CHAIR POURCIAU: No. Do we need to vote
18 for that?

19 ZC CHAIR HOOD: Yeah, they need to vote for
20 the training, so I have to do it tomorrow night. Ms.
21 Mehlert, they have to vote for the training session as
22 well.

23 VICE CHAIRPERSON GOLDSTEIN: Okay.

24 BZA CHAIR POURCIAU: Let's do it now then.

25 VICE CHAIRPERSON GOLDSTEIN: Okay.

1 BZA CHAIR POURCIAU: Yeah.

2 ZC CHAIR HOOD: Well, it's good. It's good
3 I finally remembered something.

4 BZA CHAIR POURCIAU: No, you remember a lot
5 of things. I don't know what you're talking about.

6 VICE CHAIRPERSON GOLDSTEIN: I'll take some
7 credit for it.

8 BZA CHAIR POURCIAU: Okay. Yes. I would
9 like to make a motion. Does it have to be like a closed
10 meeting motion, or can it be something brief?

11 ZC CHAIR HOOD: It can be a closed, but I'm
12 getting ready to pull up what was sent to me so we have
13 to give the topics.

14 BZA CHAIR POURCIAU: Okay. So could you
15 please offer that motion, Mr. Hood?

16 ZC CHAIR HOOD: Okay. I think you have to
17 do it, and I can just --

18 BZA CHAIR POURCIAU: Okay.

19 ZC CHAIR HOOD: First of all, let me find the
20 topics. I might not -- okay, here they are. You do
21 motions --

22 BZA CHAIR POURCIAU: Well, I should be able
23 to cede the chairmanship to.

24 ZC CHAIR HOOD: Oh, no. Oh, no.

25 BZA CHAIR POURCIAU: Chairman Hood.

1 ZC CHAIR HOOD: Oh, no. Think so. I believe
2 I'm right, Ms. Mehlert. At least that's what I was told
3 to do tomorrow night, and I just want to make sure for
4 the 14th we have training. Yeah. So I have the topics.

5 Madam Chair, if you want to go ahead and start what
6 you do, and then I'll give the topics if -- unless Ms.
7 --

8 BZA CHAIR POURCIAU: Okay.

9 ZC CHAIR HOOD: -- unless you have them.

10 MS. MEHLERT: No, I'll let you go ahead.

11 ZC CHAIR HOOD: Okay, but if you got them,
12 I don't need to do them. But anyway, go ahead, Ms.
13 Mehlert.

14 MS. MEHLERT: I think they're the same ones
15 that you have.

16 ZC CHAIR HOOD: Oh, well, you got them. Okay,
17 let me be quiet. Let me stay. I'll do mine tomorrow
18 night.

19 MS. MEHLERT: Okay, so Chair, you want to make
20 a motion, and then I can read the topics. Sorry, I
21 didn't know we had to do the -- I forgot that we had
22 to make a motion for the training.

23 BZA CHAIR POURCIAU: I would like to make a
24 motion that the board meet in a closed session to receive
25 training on Wednesday, October 14th, and at 9:30 a.m.,

1 I believe it is, to discuss and review the following
2 items as defined by Secretary Mehlert.

3 MS. MEHLERT: Yes. The topic is getting to
4 legally sufficient of the BZA, and this includes board's
5 authority and purpose, quasi-judicial process,
6 evidence, general special exception criteria, general
7 variance criteria, conditions of approval, application
8 filing requirements, party status requirements, role
9 of BZA staff and OCLD, purpose of full and fair hearing,
10 deliberations on the record, and written decisions.

11 BZA CHAIR POURCIAU: And the purpose of this
12 training will be to receive legal guidance but not vote
13 on any cases. Is there a second on the motion?

14 MEMBER WELLS: I second this motion.

15 BZA CHAIR POURCIAU: Thank you. Would you
16 please call the vote, Ms. Mehlert?

17 MS. MEHLERT: Please respond to the Chair's
18 motion to hold a training with legal counsel next
19 Wednesday, October 14th, at 9:30 a.m. Chair Pourciau?

20 BZA CHAIR POURCIAU: Yes.

21 MS. MEHLERT: Vice Chair Goldstein?

22 VICE CHAIRPERSON GOLDSTEIN: Yes.

23 MS. MEHLERT: Board Member Wells?

24 MEMBER WELLS: Yes.

25 MS. MEHLERT: Board Member Lindsjo?

1 MEMBER LINDSJO: Yes.

2 MS. MEHLERT: Chairman Hood?

3 ZC CHAIR HOOD: Yes.

4 MS. MEHLERT: Motion passes five zero.

5 (Whereupon, the above-entitled matter went
6 off the record at 2:41 p.m.)

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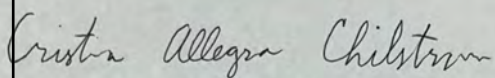
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1 C E R T I F I C A T E

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 and
5 accurate record of the proceedings; and that I am neither
6 counsel for, related to, nor employed by any of the
7 parties to this action in which this matter was taken;
8 and further that I am not a relative nor an employee
9 of any of the parties nor counsel employed by the
10 parties, and I am not financially or otherwise
11 interested in the outcome of the action.

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18 Allegra Chilstrom
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