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GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of Zoning
Board of Zoning Adjustment

PUBLIC HEARING

9:48 a.m. to 5:27 p.m.
Wednesday, December 21, 2016

441 4th Street, N.W.
Jerrily R. Kress Memorial Room
Second Floor Hearing Room, Suite 220 South
Washington, D.C. 20001

1 Board Members:

2 FREDERICK L. HILL, Chairperson

3 ANITA BUTANI-D'SOUZA, Vice-Chairperson

4 CARLTON HART, Board Member

5 ANTHONY HOOD, Zoning Commission

6 CLIFFORD MOY, Board Secretary

7

8

9 Office of Planning:

10 ELISA VITALE

11 MAXINE BROWN-ROBERTS

12 MATT JESICK

13 BRYAN GOLDEN

14 ANNE FOTHERGILL

15 KAREN THOMAS

16 STEPHEN MORDFIN

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P R O C E E D I N G S

1
2 CHAIRMAN HILL: All right. Good morning,
3 everyone. The hearing will please come to order.
4 We're located in the Jerrily R. Kress Memorial
5 Hearing Room at 441 4th Street Northwest. This is
6 the December 21st, 2016 public hearing of the Board
7 of Zoning Adjustment of the District of Columbia.

8 My name is Fred Hill, Chairperson. Joining
9 me today is Anita Butani-D'Souza, Vice Chair, Carlton
10 Hart, Board Member, and representing the Zoning
11 Commission on the hearing case is Anthony Hood, and
12 then also Mr. Turnbull is going to be presenting some
13 absentee ballots.

14 Copies of today's hearing agenda are
15 available to you and are located on the wall bin near
16 the door. Please be advised that this proceeding is
17 being recorded by a court reporter and is also
18 webcast live.

19 Accordingly, we must ask you to refrain from
20 any disruptive noises or actions in the hearing room.
21 When presenting information to the Board, please turn
22 on and speak into the microphone stating your name
23 and home address. When you're finished speaking,
24 please turn off the microphone so that your
25 microphone is no longer picking up sound or

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1 background noise. All persons planning to testify
2 either in favor or in opposition, must have raised
3 his or hand and been sworn in by the secretary.
4 Also, each witness must fill out two witness cards.
5 These cards are located on the table near the door
6 and on the witness table. Upon coming forward to
7 speak to the Board please give both cards to the
8 reporter sitting at the table to my right.

9 If you wish to file written testimony or
10 additional supporting documents today, please submit
11 one original and 12 copies to the secretary for
12 distribution. If you do not have the requisite
13 number of copies, you can reproduce copies on and
14 off. There's a printer in the office of the Zoning
15 Locator across the hall.

16 The order of procedures for special exception
17 and variances, and if there are appeals, there's also
18 in the bin to the left or to the right (inaudible,
19 low audio) the room here. The record will be closed
20 at the conclusion of each case except for any
21 materials specifically requested by the Board. The
22 Board and the staff will testify at the end of the
23 hearing exactly (inaudible, low audio) and the date
24 when the person (inaudible, low audio) Office of
25 Zoning.

1 After the record is closed no other
2 information will be accepted by the Board. The
3 District of Columbia Administrative Procedures Act
4 requires that the public hearing on each case be held
5 in the open before the public, pursuant to Section
6 405B and 406 of that Act. The Board may, consistent
7 with its rules of procedures and the act, enter into
8 a closed meeting on a case for purposes of seeking
9 legal counsel on a case, pursuant to D.C. Official
10 Code Section 2-575(b) (4) and/or deliberating on a
11 case pursuant to D.C. Official Code Section 2-
12 575(b) (13), but only after providing the necessary
13 public notice. And in the case of an emergency
14 closed meeting after taking a roll call vote.

15 The decision of the Board in these contested
16 cases must be based exclusively on the public record.
17 To avoid any appearance to the contrary the Board
18 requests that persons present not engage the members
19 of the board in conversation.

20 Please turn off all beepers and cell phones
21 at this time so as not to disrupt these proceedings.

22 Preliminary matters are those which relate to
23 whether a case will or should be heard today, such as
24 request for a postponement, continuance, or
25 withdrawal, or whether proper and adequate notice of

1 the hearing has been given. If you're not prepared
2 to go forward with the case today, or if you believe
3 that the Board should not proceed, now is the time to
4 raise such a matter.

5 Mr. Secretary, do we have any preliminary
6 matters?

7 MR. MOY: Mr. Chairman, good morning, and
8 good morning to members of the board. We do, but in
9 most cases we can -- staff would suggest handling
10 those preliminary matters on a case-by-case basis.
11 But I do have information for the record as to
12 today's docket. We have some, a couple of cases that
13 have been postponed and rescheduled.

14 On the public meeting session, the decision
15 for Application No. 16334A of Bright beginnings,
16 Inc., has been rescheduled to February 15th, 2017.
17 Number one. Number two, the modification of
18 consequence to Application No. 19134A of the Embassy
19 of Zambia has been rescheduled to February 15th,
20 2017. And Application No. -- and this is a case
21 originally scheduled on the public hearing session
22 for today. This is Application No. 19391 of
23 Catherine O'Connor. That has been rescheduled to
24 February 15, 2017.

25 And, that completes what I have to say for

1 this morning, Mr. Chairman.

2 CHAIRMAN HILL: Okay. Great. Thank you, Mr.
3 Moy.

4 MR. MOY: Oh, there is one other thing. I'm
5 sorry.

6 CHAIRMAN HILL: Sure.

7 MR. MOY: Thanks for reminding me. Although
8 these two appeals are not scheduled until January
9 18th, 2017, I want to announce for the record that
10 Appeal No. 19410 and 19412 has been rescheduled to
11 February 1st, 2017. That's it.

12 CHAIRMAN HILL: Okay. Great. Thank you. If
13 you wouldn't mind, anyone who is here wishing to
14 testify, if you could just please stand and take the
15 oath? Mr. Moy, if you don't mind giving that oath?

16 MR. MOY: Thank you, Mr. Chairman. With
17 pleasure.

18 All those who are planning to testify, if you
19 would stand? Good morning.

20 [Oath administered to the participants.]

21 CHAIRMAN HILL: Okay. Great. Thank you. I
22 suppose, just before we start, actually, I do want to
23 mention something, Mr. Moy. That this is going to be
24 Vice Chair D'Souza's last day with us and I am sorry
25 to see you go. It's been a pleasure working with you

1 these past months and you will be missed here, but I
2 wish you well in your next endeavors.

3 MR. HOOD: I also want to echo, on behalf of
4 the Zoning Commission, Anita, and I'm going to call
5 you by your first name, we really appreciate working
6 with you. Your analytical analysis to these cases
7 were very insightful to us, and helpful. And also
8 uncovered some of the things that -- I'm not saying
9 anybody comes in here and covers up things, but some
10 of the things that people come down and may not
11 actually give us all the information. So, we
12 appreciate working with you. You've been a stellar
13 board member to the Board of Zoning Adjustment. On
14 behalf of the Zoning Commission, we wish you well as
15 you move forward in life.

16 MS. BUTANI-D'SOUZA: Thank you so much. It
17 has been such an honor to serve on this Board and I
18 am so grateful to the mayor for nominating me. I
19 have been very fortunate to serve with really
20 tremendous colleagues on this board from the BZA and
21 from the Zoning Commission, and I do feel like I've
22 learned something every time that I've sat up here
23 today. So, you know, this has been such a thrill for
24 me, intellectually, to get to dive into some issues
25 that have been a real passion of mine, and grapple

1 with them in action.

2 But, I am looking forward to some newfound
3 freedom on the weekends to pursue some other very
4 important obligations and responsibilities for 2017.
5 So, excited to go out with a bang.

6 MR. HART: Just wanted to ditto some of the
7 comments that my colleagues have said. I haven't
8 worked with you very long. I've only been here for a
9 few weeks so I wish you well in your future
10 endeavors.

11 MS. BUTANI-D'SOUZA: Thank you.

12 CHAIRMAN HILL: Okay. Great. Mr. Moy, I
13 guess we're going to go ahead and get started here.
14 I just want to ask everyone, I mean, we have a really
15 full day today and I'm going to go over -- actually,
16 I'm going to quickly go over the schedule if I could
17 just so everyone knows. We're basically following
18 the agenda that you see for both the meeting cases
19 and the hearing cases. The only thing that's going
20 to change is that Application 19302 of Johann Lee is
21 going to be the first hearing case. So, that's all I
22 had to mention about that.

23 And then also if I could, you know, there's a
24 lot of different viewpoints today that we're going to
25 hear from. If everyone can kind of just -- I'd like

1 to calmly go through the cases and also the
2 opposition and just, we're going to try to remain as
3 civil as we can as we just move forward on our
4 points. Okay?

5 So, that's it. So, Mr. Moy, you want to go
6 ahead and start with the first meeting case?

7 MR. MOY: Yes, sir. Thank you. The first
8 case for decision is an application that's on our
9 expedited review calendar, which is Application No.
10 19380 of Jerry Clark. As you know, this is a request
11 for a special exception. Similar to the old Section
12 223, but now it's under Subtitle D, Section 5201.
13 This is from the lot occupancy requirements of
14 Subtitle D, Section 304.1, which would add a two-
15 story rear addition to an existing one-family
16 dwelling, R-2 Zone, 1215 Hamilton Street Northeast,
17 Square 3903, Lot 29.

18 CHAIRMAN HILL: Okay. Thank you, Mr. Moy.
19 Is the Board ready to deliberate? Okay.

20 So, after reading through the record on this,
21 I mean, it being again, expedited review, the only
22 thing that I had a little bit of difficulty with was
23 the -- that there wasn't a report directly from the
24 ANC. However, there was a letter in support from
25 Frank Wilds, who is the Commissioner SMD 5A-01. I

1 wasn't again clear as to whether or not that
2 commissioner actually was the SMD for this particular
3 project. But again, after reading through the record
4 and all of the analysis that the Office of Planning
5 had, I don't really have a lot of questions. Does
6 anyone have anything to add?

7 Okay. Well, then with that I'll go ahead and
8 make a motion to approve Application No. 19380 of
9 Jerry Clark as advertised.

10 MS. BUTANI-D'SOUZA: Second.

11 CHAIRMAN HILL: Motion has been made and
12 seconded.

13 [Vote taken.]

14 CHAIRMAN HILL: Okay. I just realized, I
15 need all three of you. I mean, I need both of you.
16 Like, we all have to agree. There's not an extra.

17 [Discussion off the record.]

18 MR. MOY: Staff would record the vote as,
19 actually, it's four, to zero, to one, Mr. Chair, with
20 Mr. Hood participating on this --

21 CHAIRMAN HILL: Oh, oh, I didn't realize Mr.
22 Hood. I'm sorry.

23 MR. HOOD: I'm sorry, I thought you were
24 doing the meeting case for Mike first.

25 CHAIRMAN HILL: Right.

1 MR. HOOD: You did the expedited, yeah. I'm
2 fine with that.

3 CHAIRMAN HILL: Yeah. Okay. All right. So
4 you had read it in the record and --

5 MR. HOOD: Yeah. I'm straight with the
6 expedite.

7 CHAIRMAN HILL: Okay.

8 MR. MOY: Yeah, so again the staff would
9 record the vote as four, to zero, to one. This is on
10 the motion of Chairman Hill to approve the
11 application for the relief, special exception relief
12 requested. Seconding the motion, Vice Chairperson
13 Butani. Also in support, again, Mr. Anthony Hood and
14 Mr. Carlton Hart. We have a board seat vacant.
15 Motion carries, sir.

16 Do the Board wish to waive the requirements
17 for a summary order?

18 CHAIRMAN HILL: Yeah, no. I'm sorry.
19 Summary order.

20 MR. MOY: Thank you. Okay. Next up is
21 Application No. 19309. This is of Valor P Street,
22 LLC. Again, or rather, this is a request for
23 variances from the lot occupancy requirements under
24 Section 772.1. Of course this is under the ZR-1958
25 regs. And the rear yard requirements under Section

1 774.1, to renovate an existing structure to create a
2 mixed use building containing eight -- I believe
3 eight dwelling units with a ground-floor restaurant
4 in the DC/C-2-C District, 2147 through 2149 P Street
5 Northwest, Square 67, Lot 835.

6 And at the board's last hearing on November
7 16th, 2016, the board requested additional filings,
8 information, and those post-hearing submissions are
9 entered in the case record under Exhibits 95 through
10 Exhibits 99B.

11 CHAIRMAN HILL: Okay. Great. Is the Board
12 ready to deliberate?

13 MS. BUTANI-D'SOUZA: Yes.

14 CHAIRMAN HILL: Okay. So, and this was
15 again, a very controversial case that we had. There
16 was a lot of witnesses. I can see some of them here
17 in the audience today again. And would anyone like
18 to start?

19 MS. BUTANI-D'SOUZA: Sure. I can start. So,
20 you know, in reviewing this case I can certainly
21 understand and sympathize with out difficult and
22 saddening it is to lose something like a view. But
23 unfortunately, that is the nature of life in the
24 city. I do tend to agree with the excellent analysis
25 from the Office of Planning regarding the exceptional

1 situation on this very complicated case.

2 Specifically, the Office of Planning found
3 that this was exceptional, not just because it is in
4 the historic district, but that fact, in combination
5 with the fact that this is a contributing building
6 and HPRB saw fit to apply very significant
7 restrictions on the building area, including a 51-
8 foot setback on part of the building, and a 34-foot
9 setback on another part. We heard testimony that
10 these requirements create major inefficiencies in the
11 location of the core within the building. And I
12 agreed with the Office of Planning that this created
13 an exception situation resulting in a practical
14 difficulty under a strict application of the --
15 excuse me, under the strict application of the zoning
16 code.

17 So, although loss of a view is a very
18 unfortunate thing, the zoning code unfortunately does
19 not preserve the right to a particular view. You
20 know, in evaluating the case the incremental impact
21 on DuPont West did not appear to me to constitute a
22 substantial detriment to the public good. Because
23 the building is 23 feet away, and as evidenced by the
24 sun study, shadow study that was presented by the
25 applicant, the additional area allowed by the relief

1 would impact less than five percent of the windows on
2 the building for a total of about five percent of the
3 sunlight hours.

4 In this zone, a by-right development can go
5 up to 90 feet in height. Obviously, that you know,
6 that is subject to Historic Preservation Review
7 Board.

8 This proposal is the 60-foot height which is
9 in deference to that Historic Preservation
10 requirement. That is significantly lower than, you
11 know, what could be done to a noncontributing
12 structure in a historic district.

13 I also thought that the relief did not appear
14 to impair the Zoning Regulations. And I was
15 comforted that our colleagues on the Historic
16 Preservation Review Board had evaluated the building
17 envelop to make it as aesthetically pleasing and
18 historically appropriate as possible.

19 I also appreciate that the applicant agreed
20 to screen the mechanical equipment to provide, you
21 know, some relief to the neighbors who testified, and
22 protect the tree that overhangs the property.

23 So, regarding the condition that the ANC
24 recommended, that all alcohol sales be banned, we did
25 evaluate and heard testimony on this request by the

1 ANC. We heard testimony that the restaurant that's
2 currently there, or I don't know if it's restaurant
3 or a tavern, but it currently serves alcohol, that it
4 has not been a nuisance since the neighborhood
5 polices very well, and the ABRA process appears to be
6 working, you know, in that case.

7 There was also testimony in the supplemental
8 filings which compellingly argued that the question
9 about ABRA is not related to the zoning relief
10 requested, and I'm curious for my colleagues thoughts
11 on that. I tend to agree that this ban on all
12 alcohol licenses is outside the purview of the Board
13 of Zoning Adjustment. It seems to me that it's an
14 ABRA issue, and I know that we have entertained
15 restrictions on certain uses, restaurant and alcohol
16 related in other zoning cases. But in this case I
17 didn't think that the condition that was proposed
18 pertained to the relief being requested. So, I would
19 actually not be in favor of any restriction on
20 alcohol in this location. I think we should leave
21 that to our colleagues on ABRA to decide.

22 Then finally regarding the condition on
23 underpinning that the applicant provide their plans
24 and notify the neighbors about their underpinning
25 plans, I believe that this is again, not really

1 something that's related to zoning, so I would be
2 inclined to remove this clause. I think that's
3 something that the neighbors should enshrine in
4 something like a construction management agreement.

5 So, generally speaking, I come out in support
6 of the relief requested with those two modifications
7 to the conditions.

8 MR. HART: As always, a very thorough --

9 CHAIRMAN HILL: Yeah, that was [Speaking off
10 mic.]

11 MR. HART: Very thorough analysis by Board
12 Member D'Souza.

13 Yeah, I'd tend to agree that with the height
14 and setback changes, or I shouldn't say changes, the
15 height and setback allowances I guess that the
16 applicant is kind of reducing or building under, also
17 agree that the penthouse, having that screened, is
18 also definitely a pleasant, a nice change.

19 The ABRA issue, I think kind of with you on
20 that in terms of thinking that ABRA was probably the
21 -- or is probably the location, the agency that
22 should be actually handling that. And so, I think I
23 would support the application as it's been filed, and
24 also think that your analysis regarding ABRA and the
25 underpinnings should be handled in a different matter

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1 outside of our purview.

2 CHAIRMAN HILL: Okay. Again, it was a very
3 controversial case, and I think that where I was, was
4 kind of just looking at, you know, again the
5 standards in terms of whether the applicant met the
6 three prongs. And I mean, I think in this instance I
7 do believe that they clearly do meet the test, and
8 that it was the confluence of factors that brought me
9 to my thought in listening to the applicant's
10 testimony, you know, the different factors in terms
11 of the design and how they had to pull back from the
12 back, and you know, move back from the front, to get
13 to where I think they've met the test.

14 As far as the opposition, and I do feel for
15 them, I mean, I really wanted to see the way that --
16 I wanted to see what was kind of the by-right, you
17 know, what was going to happen if they had done it
18 by-right, and still had they built the building by
19 right, it was going to still block the views of many
20 of those units.

21 And then also the -- I was more comfortable
22 with the fact there's, you know, there's a 23 wide
23 foot alley that's in between the buildings in terms
24 of getting more light and air to those units. I do
25 think that -- and I would have, you know, fought

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1 myself, had my view been, you know, getting blocked.
2 I would have come up here and tried to make a case
3 against the building. I think, though, however that
4 you know, it was a little, I mean, I don't want to
5 say like hypocritical with that building is as high
6 as it is, and so your neighbor then should be able to
7 do the same thing if also they can meet the test for
8 the variance. So, I was again, convinced that the
9 test had been made, and again even though I am
10 empathetic to the fact that one's views would be
11 blocked, I mean, it unfortunately is just not -- that
12 view is just not there for, you know, by-right, for
13 those units.

14 As far as the tavern thing, I mean, I guess
15 I'm not going to defend that point, I suppose. I
16 mean, it's more like you know, the applicant was in
17 agreement. You know, I being one who lives in a
18 neighborhood that has taverns and restaurants and
19 things, if somebody is willing to say, you know, they
20 don't want to be a tavern then I would have happily
21 taken that.

22 So, you know, whether or not you guys want to
23 take that off the table and let ABRA decide, which is
24 what you all seem to be saying, is fine unless I can
25 convince you otherwise that it would be left as a

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1 condition.

2 MS. BUTANI-D'SOUZA: I just thought that
3 there was some confusion about what the ANC intended
4 when they said no alcohol sales, and I didn't think
5 that we really heard sufficient testimony to be able
6 to decide that, and I thought that it was outside the
7 purview of this Board, but that it would no doubt be
8 a topic of conversation for the -- for ABRA when this
9 whatever proposed tenant comes up. I'm sure ABRA
10 will hear hours of hearings on this neighborhood,
11 from this neighborhood on what that use should be,
12 especially given the history in that location.

13 So if ABRA says, you know, we don't think
14 that a tavern license is appropriate here, or we
15 don't think that any alcohol is appropriate here, to
16 me that seemed, you know, something more for them to
17 do than for us to impose -- especially given that the
18 relief here doesn't have anything to do with the use.

19 CHAIRMAN HILL: Yeah.

20 MS. GLAZER: Madam Vice Chair and Mr. Chair.

21 CHAIRMAN HILL: Sure.

22 MS. GLAZER: I just wanted to make one
23 comment. I believe the Board is aware that the
24 applicant proffered that condition. So, there is a
25 difference in the analysis.

1 MS. BUTANI-D'SOUZA: Well, I think the --

2 MS. GLAZER: Where it can consider it.

3 That's all I wanted to just mention.

4 MS. BUTANI-D'SOUZA: Okay.

5 MS. GLAZER: I'm not taking a position one
6 way or another. I just want to make that clear.

7 MS. BUTANI-D'SOUZA: I mean, in my view, and
8 I did consider the proffer that the applicant made,
9 but the proffer was for a restriction on tavern
10 licenses, which is not what the ANC requested. So,
11 you know, in their written report, which we give
12 great weight to, they requested a ban on all alcohol
13 sales. That's not exactly what the applicant
14 proffered and I just thought, we didn't really hear
15 enough testimony on that issue for me to be able to
16 say that.

17 CHAIRMAN HILL: That's fine. That's fine.
18 So, then, I'm going to go ahead and just make a
19 motion, I suppose, with these conditions that, I
20 mean, as I understand the conditions and I just want
21 to be clear on them, and I see the applicant is here
22 also, and if something, let me know, is not what you
23 had written down. But what I had was the interior
24 partitions, locations, the number, size, and location
25 of the units, stairs, and elevators are preliminary

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1 and shown for illustrative purposes only. Final
2 layout design interior plans may vary. The applicant
3 shall have minor flexibility to vary the final
4 selections of exterior materials with the color
5 ranges and general material types proposed pursuant
6 to HPRB approval, and based on the availability at
7 the time of construction, without reducing the
8 quality of materials.

9 Three of the applicants shall have minor
10 flexibility to make minor refinements to exterior
11 details and dimensions including belts, courses,
12 sills, bases, cornices, railings and trim, window
13 location, size and shape, or any other changes to
14 comply with HPRB approval, or that -- or otherwise
15 necessary to obtain final building permits.

16 And those are the only conditions that I have
17 then. And then I would go ahead and make a motion to
18 approve Application No. 19309 of Valor P Street.

19 MR. HART: Mr. Chair.

20 CHAIRMAN HILL: Yeah.

21 MR. HART: Just wanted to make sure we got on
22 the record that I actually reviewed the entire record
23 and think that I could second that motion.

24 CHAIRMAN HILL: Okay. But, Ms. Butani, you
25 have a question?

1 MS. BUTANI-D'SOUZA: No.

2 CHAIRMAN HILL: Okay. All right. So the
3 motion has been made and seconded.

4 [Vote taken.]

5 CHAIRMAN HILL: The motion passes.

6 MR. MOY: Mr. Chair, before I read back the
7 vote count, we do have an absentee ballot from Mr.
8 Michael Turnbull who participated on this
9 application. And his absentee ballot vote is to
10 approve the application with such conditions as the
11 Board may impose. So, that would give a resulting
12 vote of four, to zero, to one. This is on your
13 motion to approve with the conditions as you've
14 cited, Mr. Chairman. Seconded the motion, Mr.
15 Carlton Hart, also in support Vice Chairperson
16 Butani, and of course Mr. Turnbull. We have a board
17 seat vacant. Motion carries, four, to zero, to one.

18 CHAIRMAN HILL: Okay. Great. Thank you.
19 And I can't remember, so I can't do a summary order,
20 right?

21 MR. MOY: No, this is a full order.

22 CHAIRMAN HILL: Right. Right. Right.

23 MR. MOY: There's a party in opposition, so.

24 CHAIRMAN HILL: Okay.

25 MR. MOY: The next and final application for

1 in the Board's meeting session is Application No.
2 19387 of Graham Smith and Alexis Diao, D-I-A-O as
3 advertised and captioned for a special exception
4 relief under R-F use requirements of Subtitle U,
5 Section 320.2 and 320.2A, and a variance for the 900-
6 square foot per dwelling unit requirements, Subtitle
7 U, Section 320.2D. This would permit the conversion
8 of a flat into a three-unit apartment house, R-F-1
9 Zone, at 3616 11th Street Northwest, Square 2829, Lot
10 169.

11 The Board requested additional information
12 from the applicant and that filing is in your case
13 record under Exhibit 66.

14 CHAIRMAN HILL: Okay, great. Thank you, Mr.
15 Moy.

16 Are we ready to deliberate? All two of us?
17 Let's see. So, as I recall, I mean, last week we met
18 with this and they were -- the applicant was
19 requesting for variance to add an additional unit,
20 and the Office of Planning was against that due to
21 the 900-square feet per unit, and then after further
22 discussions I think the applicant and their attorney,
23 they came back and changed the application so that
24 they're no longer doing the 900 square feet. It's
25 just, again, the height, I think, was what they were

1 looking for.

2 And then that also, Commissioner Turnbull who
3 was here, he had some questions concerning the design
4 in terms of the roof. And so, after having a chance
5 to take a look at that, I am comfortable with
6 following the recommendations by the Office of
7 Planning, and would be in approval of this
8 application as they have revised it.

9 MR. HART: And as well, I, after hearing that
10 the applicant was no longer seeking the third unit,
11 they were just looking at the two units,
12 understanding that Board Member Turnbull was looking
13 at some architectural changes and the applicant has
14 actually resubmitted, or I guess given us a
15 subsequent submission that has provided us better
16 clarity on what that roof would look like, I think
17 that it is something that I could support as well. I
18 didn't really have issues with the other aspects of
19 the case. So, I think we can move forward.

20 CHAIRMAN HILL: Okay. Great. Thank you, Mr.
21 Hart. So what I -- I know that Commissioner Turnbull
22 has to -- I need his absentee vote, so I guess we'll
23 see what happens here.

24 Mr. Moy, I'm going to make a motion then to
25 approve Application No. 19387 as captioned by the

1 secretary.

2 MR. HART: Seconded.

3 CHAIRMAN HILL: The motion has been made and
4 seconded.

5 [Vote taken.]

6 MR. MOY: Okay. Before I record the vote,
7 Mr. Chairman, first off, I misspoke. I neglected to
8 update the revised relief. It's subtitle E, because
9 of the changes. So, we're at Subtitle E, Section
10 206.2, and Subtitle E 303.3, number one.

11 Number two --

12 CHAIRMAN HILL: So, real quick then. What I
13 then want to clarify is I'd like to make a motion
14 based upon the caption that you just clarified. The
15 motion has been made and --

16 MR. HART: Seconded.

17 [Vote taken.]

18 CHAIRMAN HILL: Okay. Thank you, Mr. Moy.

19 MR. MOY: Thank you. So, we do have an
20 absentee ballot from Mr. Michael Turnbull, who
21 participated, because now he would be the third
22 participant on this application, so I'm happy to say
23 then that the vote, final vote, is three, to zero, to
24 two. This is on your motion, Mr. Chairman, to
25 approve the application as you've cited for the

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1 relief. And seconded the motion, Mr. Hart, who
2 participated. And let's see, and of course Mr.
3 Michael Turnbull. We have a board seat vacant, no
4 other members participating. Motion carries, sir.

5 CHAIRMAN HILL: Thank you, Mr. Moy. Summary
6 order.

7 MR. MOY: Yes, thank you.

8 CHAIRMAN HILL: So that finishes our meeting
9 cases, I believe, correct?

10 MR. MOY: That's correct.

11 [Pause.]

12 CHAIRMAN HILL: If you all just give us a
13 minute, we're having technical issues.

14 [Pause.]

15 CHAIRMAN HILL: All right, Mr. Moy, we're
16 back online. If you could call our first hearing
17 case?

18 MR. MOY: All right. Thank you, Mr.
19 Chairman. So, that would be Application No. 19302 of
20 Johann Lee. This is a continued hearing, Mr.
21 Chairman, we last heard on November 16, 2016.

22 This is a request for a special exception
23 from the R-F use requirements of Subtitle U, Section
24 320.2, and the penthouse requirements of Subtitle C,
25 Section 1504.1 to convert a two-story one-family

1 dwelling into a three-story, three-unit apartment
2 house, I believe, in the R-F-1 Zone, 232 S Street
3 Northeast, Square 3569, Lot 56.

4 CHAIRMAN HILL: All right, great. Thank you.
5 Good morning. If you could please introduce yourself
6 from left to right for the record, please?

7 MR. LEE: Good morning. My name is Johann
8 Lee, 6002 Creekstone Lane, Centerville, Virginia.

9 MR. WILSON: Alex Wilson from Sullivan and
10 Barros on behalf of the applicant.

11 MR. SULLIVAN: Good morning, Mr. Chair and
12 members of the board. My name is Marty Sullivan with
13 Sullivan and Barros on behalf of the applicant.

14 CHAIRMAN HILL: Okay. Great. So, this case
15 was not that long ago, I suppose. And there were
16 some further questions that were being asked of the
17 applicant in terms of the design and then going back
18 to the ANC and presenting.

19 I just saw some things that got entered into
20 the file overnight from the ANC, however, if the
21 applicant or Mr. Sullivan, if you want to go ahead
22 and just kind of walk me through the design changes
23 that you submitted and then what basically happened
24 with the ANC.

25 MR. SULLIVAN: Sure. So, the design changes.

1 I think it was Exhibit 62A in the file, and
2 essentially it was wrapping the brick all the way
3 around on the 3rd Street façade as requested by the
4 Board.

5 [Pause.]

6 MR. SULLIVAN: And the applicant can answer
7 any questions about the design, the brick. But that
8 was the change requested by, I believe, Mr. Turnbull.
9 And so, it was previously Hardie Plank on that side,
10 and now it's brick.

11 Regarding the ANC, the applicant and counsel
12 both tried very diligently to get on the ANC agenda.
13 I have a list of attempts, and it was almost daily
14 that we were trying to get on. And in fact the
15 Commissioner Elect also was working hard to try to
16 get us on the agenda for last night's meeting. And
17 we got no response until yesterday when we got an e-
18 mail from the Chair saying that they had voted on it
19 again last month. And that was it.

20 And so, we weren't entitled to go before the
21 ANC again to show them the revised design. We told
22 them that we had some changes to show, but she just
23 said that they voted again and you can see from, I
24 think you have the resolution, they cite the
25 original. So they voted against it in June. Our

1 primary concern was the conversion to three units
2 would promote transit use of the space on a block
3 that has historically been home to families living in
4 single-family row houses.

5 And they -- so, they voted to reconfirm their
6 prior opposition of the application. So, we didn't
7 get the chance to go before them and show them the
8 changes. I don't know if that would have done any
9 good or not, but we tried very hard to that, but were
10 not able to get on the agenda.

11 CHAIRMAN HILL: Okay. Does the Board have
12 any questions right now? Or the applicant? Or
13 the -- I did want to talk to -- since I can see that
14 the SMD elect is here, and so I do have some
15 questions for her as well. But does anyone have
16 anything? Go ahead, please.

17 MS. BUTANI-D'SOUZA: Yeah. I'm just curious
18 what the applicant's response would be to the ANC's
19 report, just in terms of their argument that this
20 encourages transients. Just curious.

21 MR. SULLIVAN: Sure. Yeah, I think the --
22 it's obvious that the ANC's opposition as well as the
23 people that have submitted letters in opposition from
24 the community, it's a principled opposition against
25 the third unit. I think. And not so much about the

1 addition itself, which is before the BZA.

2 MS. BUTANI-D'SOUZA: And can I also ask, I
3 just want to make sure that I understand correctly.
4 The plans showed a four-bedroom unit included in
5 here. Is that still the case? Yes, that is.

6 MR. LEE: Correct.

7 MS. BUTANI-D'SOUZA: There is a split-level
8 four-bedroom unit and then two two-bedroom units.

9 MR. LEE: That's correct.

10 MS. BUTANI-D'SOUZA: So, these are not
11 efficiencies or one-bedrooms, or micro units or
12 anything like that?

13 MR. LEE: That's correct.

14 MS. BUTANI-D'SOUZA: Okay.

15 CHAIRMAN HILL: Okay. I did want to hear
16 from the Office of Planning. Well, actually, can I
17 ask the single-member district person to step
18 forward, please? The elect?

19 Good morning. If you could please just
20 introduce yourself?

21 MS. POWELL: Good morning. My name is Hannah
22 Powell, and I am the single-member Commissioner elect
23 for ANC 5E-03, which is the single-member district
24 for this project.

25 CHAIRMAN HILL: And, Ms. Powell, did you get

1 sworn in this morning?

2 [No audible response.]

3 CHAIRMAN HILL: Okay. Mr. Moy, could we
4 swear in Ms. Powell?

5 Oh, I'm sorry. There's other people standing
6 up. Anybody who missed the swearing in, if you could
7 please stand?

8 MR. MOY: Okay, yeah. That would be --

9 CHAIRMAN HILL: Thank you. Oh yeah, please.
10 Anyone, yes, that's going to testify, please stand.

11 [Oath administered to the participants.]

12 CHAIRMAN HILL: Okay. Great. And did you
13 fill out two witness cards? Okay, great. Okay.

14 Yeah, I mean, basically if you can kind of
15 fill me -- I appreciate you coming in like, I know
16 that it you know, you're not getting paid to be here.
17 But what I had hoped, again, was that the applicant
18 was going to have an opportunity to go before the ANC
19 and represent this, and then I would have something
20 to kind of go from with the ANC. I guess I'm -- I'm
21 trying to think of the right word. I'm glad there's
22 a report in there now, talking about the official
23 vote because this was, you know, again a
24 controversial case and it's something that does come
25 before us and will continue to come before us pretty

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1 often.

2 But can you explain a little bit to me as to
3 what happened with getting on the agenda and kind of
4 where you think things are with that?

5 MS. POWELL: Sure, Mr. Chairman. And I
6 agree. I had also hoped that we would be able to get
7 this on the agenda, and after numerous attempts both
8 from the applicant and then myself, going directly to
9 the Commission, the chair, multiple times, they were
10 not willing to put it on the agenda for this month.
11 So, unfortunately as an elect I don't have a whole
12 lot of control over that. Next month we, you know,
13 we would have more success in getting something on
14 the agenda.

15 However, we did, we had quite a bit of
16 interaction with the applicant. The applicant and I
17 spoke several times, and we also relayed the proposed
18 changes, so the changing of the siding, in exchange
19 for the community's agreement for three units by
20 special exception. And we engaged with a number of
21 the neighbors, we also engaged informally with the
22 leadership of the Eckington Civic Association which
23 you all may recall also voted in opposition to the
24 project. And I think I have to agree with the
25 applicant's attorney that there is a principled

1 objection here to having three units, and that it was
2 -- in all of our informal conversations with
3 residents in the immediate vicinity, they were in
4 opposition to the project, even with the change in
5 siding.

6 CHAIRMAN HILL: Okay. Thank you. Does the
7 Board have any other questions for the SMD elect?
8 No? Okay.

9 Then I actually want to ask the Office of
10 Planning, since you're here, if anything that has
11 been said is changing your opinion in terms of your
12 analysis.

13 MS. BROWN-ROBERTS: No. Good morning, Mr.
14 Chairman. Maxine Brown-Roberts for the record.

15 As outlined in our analysis we think that the
16 applicant has met all the requirements under Subtitle
17 U, Section 320.2, and so the issue regarding you
18 know, not having, you know, retaining this as a
19 single-family dwelling, the Zoning Regulations gives
20 the option and gives the conditions under which we
21 can have this, have a three-unit building, and I
22 think the applicant has met those requirements.

23 And so, we continue to recommend approval.

24 CHAIRMAN HILL: Okay. I mean, they get two
25 flats by right, if the third one --

1 MS. BROWN-ROBERTS: Yes, it's the third one.

2 CHAIRMAN HILL: Right.

3 MS. BROWN-ROBERTS: Uh-huh.

4 MS. BUTANI-D'SOUZA: And can I ask, I wanted
5 to just understand. So, in a by-right scenario
6 they're not restricted from quote/unquote popping
7 back just 10 feet. They can pop back, they can go
8 further back than that.

9 MS. BROWN-ROBERTS: No, there's a 10-foot
10 limit that --

11 MS. BUTANI-D'SOUZA: Under the by-right
12 scenario as well?

13 MS. BROWN-ROBERTS: Yes. Yes on the --

14 MS. BUTANI-D'SOUZA: Okay.

15 MS. BROWN-ROBERTS: -- by-right scenario as
16 well.

17 MS. BUTANI-D'SOUZA: So, even if it was two
18 units they could only go back --

19 MS. BROWN-ROBERTS: Right. And they're not.

20 MS. BUTANI-D'SOUZA: Uh-huh.

21 MS. BROWN-ROBERTS: So, they're still, you
22 know, they're still meeting that condition.

23 MS. BUTANI-D'SOUZA: Okay.

24 CHAIRMAN HILL: Okay. Let's see. So, again,
25 I guess I went back and I watched this whole thing

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1 again. And what I was trying to get to earlier when
2 I was talking about the by-right, and this is
3 actually just for future things that I'd like to see
4 is, is really -- and maybe even for the ANC is like,
5 you know, what is the by-right scenario look like?

6 And it was kind of like, if that -- what I
7 was hoping was that that was something that maybe the
8 ANC would have had a chance to understand, so that
9 they can decide whether or not they want a by-right
10 situation, which is -- and Mr. Sullivan or Mr. Lee,
11 maybe you can help me out in terms of like how much
12 space you're not building out.

13 MR. SULLIVAN: Well, I think our lot
14 occupancy is under 40 percent, and so we're somewhere
15 -- we have 20 percent lot occupancy to spare.

16 CHAIRMAN HILL: Okay.

17 MR. SULLIVAN: Sixty percent. And the 10-
18 foot rule, I think, is not effective. I know it will
19 be. It was voted on, proposed rulemaking was voted
20 on for the 10-foot by-right limit. It's not quite in
21 effect. I'm sure it will be soon.

22 But then, it would also impact the design
23 because then it would be difficult to do brick or
24 other high-end designs if you were doing a matter-of-
25 right, and we wouldn't be subject to any review by

1 the Board or by the ANC.

2 CHAIRMAN HILL: Right.

3 MR. SULLIVAN: Right. And the other thing
4 about the two units is, this unit is on the end of
5 the block, and there's a lot of multiple units in the
6 area.

7 CHAIRMAN HILL: No, I agree. I'm not even
8 talking about the particulars of the case. I guess
9 what I was asking about the last time was again, you
10 know, the opportunity for the ANC to see what they
11 would have been able to -- or what the owner would be
12 able to build, and that would give the opportunity
13 for the ANC to kind of like see what their options
14 are, I suppose.

15 And in terms of argument again, like what you
16 could do by-right in terms of the siding and stuff, I
17 mean, that's another discussion.

18 But, I did have a question for Mr. Lee just
19 in terms of, you do own the unit next door?

20 MR. LEE: That's correct.

21 CHAIRMAN HILL: Right. And so, your -- I
22 would assume your intent is to go ahead and do the
23 same thing to the building next door?

24 MR. LEE: I haven't made an official decision
25 yet. My primary focus has been on this. I suppose

1 it's an option but I haven't committed one way or the
2 other for the property next door.

3 MR. SULLIVAN: If I could add, he doesn't
4 have the 900 feet to do that.

5 CHAIRMAN HILL: Oh, okay.

6 MR. SULLIVAN: Yeah.

7 MR. LEE: Oh, as far as three units, no.
8 That's not an option at all.

9 CHAIRMAN HILL: Okay. Right. Okay. All
10 right.

11 MR. LEE: That's not feasible.

12 CHAIRMAN HILL: Okay. Okay. So, I was just
13 curious about it.

14 Does anyone have any more questions for the
15 applicant?

16 Okay. Thank you so much. So, do you have
17 anything else you'd like to add, Mr. Sullivan?

18 MR. SULLIVAN: No, I don't think so. Unless
19 there are any other questions. We have nothing to
20 add.

21 CHAIRMAN HILL: Mr. Moy, since this is a
22 continued hearing, I guess, and I've already asked
23 for opposition and support, correct?

24 MR. MOY: I think you may have, but out of an
25 abundance of caution it wouldn't harm to --

1 CHAIRMAN HILL: Okay. All right. Okay.

2 MR. MOY: -- go through those procedures
3 again.

4 CHAIRMAN HILL: Okay. So, then I'm going to
5 see if there's anybody else here from the ANC. Is
6 there anyone else here from the ANC that would like
7 to speak? No.

8 Is there anyone else who would like to speak
9 in support of the application?

10 Is there anyone here who would like to speak
11 in opposition to the application? Okay, please, step
12 forward.

13 If you could, again, just please state your
14 name and then your address? If you just push the
15 green mic there?

16 MR. LUECKE: Thank you, Mr. Chairman. My
17 name is Matt Luecke. I live at 207 S Street
18 Northeast, which is just down the block.

19 First of all I wanted --

20 CHAIRMAN HILL: Mr. Luecke, just to let you
21 know, I'm going to go ahead and give you three
22 minutes. Okay?

23 MR. LUECKE: Okay. Great. Thank you.

24 First, I just wanted to thank you for the
25 opportunity to be here. I appreciate the complexity,

1 just hearing this morning, that you all deal with and
2 the fact that we can come here and do this in a civil
3 way and you guys think thoughtfully about this, I
4 think is very valuable. So, thank you for that.

5 I am completely new to zoning. I normally
6 think about monetary policy, which is totally
7 different, obviously. My outsider's understanding is
8 that you all in this work are doing difficult work of
9 balancing different needs, which I very much
10 appreciate the need for more housing in the District
11 is very, very clear. The need for a mix in housing
12 is really important as well, and all ranges of
13 housing. So, I appreciate that. And I very much
14 appreciate the development that is being done in the
15 city and the people who are doing the development
16 work.

17 And I also would appreciate the civility that
18 you've encouraged. Just as an FYI, Mr. Lee and I
19 have spoken on the phone separately and I think, been
20 very intentional about having this not be personal at
21 all, and he's indicated the desire to move into this
22 unit, and I very much hope that that happens and that
23 we would be good neighbors and get to know one
24 another.

25 That said, again from my outside perspective

1 this seems, I'm sure, missing a lot of context, but
2 this seems relatively straight-forward in my own
3 analysis in the sense that we need a mix of housing
4 in this city, and by neighborhood. Eckington has
5 recently added thousands of apartment units, and
6 there are thousands more, literally, that are under
7 development within blocks of where we live. And we
8 are zoned, as I understand it, as a residential home
9 block. And that is in jeopardy.

10 Houses are being converted very quickly into
11 large apartment units. And this is another one where
12 that is happening.

13 We need a balance. We need spaces where
14 families with kids can have multiple rooms to have
15 their kids, and we need lawns and yard space. This
16 is a corner lot. I think it's very important.

17 So, I would just advocate that the community
18 seems to have spoken clearly. The ANC has voted.
19 The civic association has voted unanimously, numerous
20 neighbors have put in letters, and there seems to be
21 united opposition to this particular project. And I
22 would just encourage you to respect the need for
23 diversity in housing and the clear sentiment of the
24 community in this case.

25 Thank you very much and I appreciate you

1 hearing this.

2 CHAIRMAN HILL: All right. Thank you, Mr.
3 Luecke. Yeah, it was -- and we'll see how this
4 deliberation goes. I mean, as far as the criteria,
5 you know, we go through the regulations to see
6 whether or not this meets the special exception that
7 we are -- you know, that the applicant is able to
8 achieve.

9 As far as the housing, I mean, I know that
10 you know, there is you know, 900 square feet you need
11 to have per unit, so that kind of limits what one is
12 able to do.

13 This has now gone on for a while with us, and
14 I'm kind of just even speaking about what I want to
15 talk about later when we deliberate, that the whole
16 conversion issue and pop-ups, and you know, how the
17 building us able to be developed, I mean, they're
18 allowed, anyone is allowed two flats by right. And
19 they're able to go ahead and build it out. And it
20 would be a larger envelope that the person would have
21 in this particular situation. So, that's kind of
22 what I think about when we're going over some of
23 this.

24 And then also, what Ms. Butani had mentioned
25 earlier is that there is one four-bedroom unit, which

1 is more of a family kind of home. And I suppose
2 again, and where I was going earlier with kind of
3 asking the ANC to take a second look at it again was,
4 and where I was even kind of talking to the
5 applicant, was what was the two-flat option? You
6 know, is it two four-bedrooms? Is it, you know, and
7 is that something that the community would have more
8 in approval of?

9 But, I was just kind of making a comment.
10 Did you have something you wanted to say?

11 MS. POWELL: I just wanted to add that the
12 applicant and I did discuss this point exactly. I
13 had asked if he had looked into a two flat option and
14 what that would look like, and you know, for his
15 purposes whether or not he would be able to make a
16 return on the investment. As far as I know the
17 applicant hasn't really looked into that yet, and
18 certainly in all of the discussions we haven't seen
19 that option presented.

20 He's obviously allowed to do you know, many
21 things with his property. But I understand where
22 you're going, Mr. Chairman. I just wanted to say
23 that we asked about that and that did not factor into
24 the conversations thus far with the community.

25 CHAIRMAN HILL: Okay. And that's again,

1 another thing that unfortunately if the ANC had met
2 last night with the applicant, there might have been
3 some further discussion about that. But anyway, does
4 anyone have any further questions for the Office of
5 Planning or any of the witnesses?

6 Okay. Thank you very much. All right. So,
7 let's see, I did opposition, support, ANC. Does
8 anyone -- now, Mr. Sullivan, do you have anything
9 else you'd like to add?

10 MR. SULLIVAN: Yes, thank you. I certainly
11 respect and understand the opposition and I see where
12 they're coming from. It's more of a continuation I
13 think, of the discussion that we had a couple years
14 ago when this kind of action became a special
15 exception because two years ago this was matter of
16 right to do three units and matter of right to 60
17 percent. And so, their argument is more the larger
18 context, probably for the Zoning Commission, and not
19 specifically against this particular application.

20 And regarding -- and this project, too, is
21 one of the projects -- it's one of the last projects
22 that was in the pipeline. It was purchased in
23 anticipation of having a matter of right three units
24 prior to the change in the R-4 regulations. Not that
25 that's relevant to your decision, but that's in

1 response to her question about whether or not he
2 could do two instead. It was bought under the
3 expectation of doing three.

4 So, I understand their comments, but I think
5 they're not related specifically to this project
6 exactly, and whether or not it meets the specific
7 regulations. Thank you.

8 CHAIRMAN HILL: Okay. Does anybody have
9 anything else? All right. All right. I'm going to
10 close the hearing, then. Are we ready to deliberate?
11 Would you like to start? Okay.

12 MS. BUTANI-D'SOUZA: Okay. So, I took a
13 tremendous amount of time over the weekend to go back
14 through each of the letters of opposition, because
15 there were quite a few on this case. And, you know,
16 I do recognize that there's been a lot of emotion in
17 this hearing and I think it's important to really
18 look at the facts on the ground and evaluate each of
19 the arguments before we make our decision.

20 So, I have quite a few things that I went
21 through and I want to take the Board through them as
22 well.

23 So, the first question that came up was this
24 question of infrastructure and brown-outs and what
25 this block has the ability to handle an additional

1 unit beyond what is allowable by right. Although I
2 certainly appreciate the concerns about
3 infrastructure, that is outside the purview of this
4 Board. But if it is any consolation to the ANC and
5 to the neighbors, that question of infrastructure
6 will be evaluated as part of the DCRA process and
7 part of the process of getting a heavy up for new
8 units. So, if there is a need for additional
9 capacity on the block from PEPCO, they would make
10 that happen as part of that review.

11 Second concern that came up was pertaining to
12 parking and the increase in, you know, need for
13 parking here. Again, the plans very clearly show
14 that there will be three parking spaces provided
15 here, which is more than we often see. So, I didn't
16 think that the parking argument held water.

17 One of the neighbors submitted a letter in
18 which he commented that they wanted to preserve the
19 mansard roof for the third story, and I was heartened
20 to see that the developer has done that.

21 Okay. So next we get into some of the more,
22 the softer arguments here. The density and massing
23 don't fit with the neighborhood, was something that
24 came up in the letters. And again, I think that this
25 is an argument that perhaps ignores the plans that

1 are actually presented.

2 This is a very modest pop-up in the, you
3 know, in the parlance that we've come to use pop-up
4 and pop-back. They're going up one story, but
5 they're not by any means going to be the tallest
6 building on the block. The design is in keeping with
7 the existing design of the house. They're extending
8 the rear wall of the house by less than five feet,
9 which is 50 percent less than what they could do.

10 They have you know, in deference to the
11 request by this Board and the request by the
12 architect of the capital, changed the façade to
13 brick, which is certainly much more attractive and
14 fitting with this neighborhood. And you know,
15 obviously the code allows for this level of density
16 with a special exception.

17 The argument that there are too many smaller
18 units, too many other smaller units coming to
19 Eckington, which is an argument we heard again today
20 from Mr. Luecke, and you know, effectively that
21 argument is an argument that this should not be
22 approved because there are other developments, such
23 as the PUD in Eckington that have already been
24 approved.

25 And, you know, again, I think that in the,

1 perhaps in the emotion of the case people aren't
2 looking at what this is actually proposing. This is
3 proposing two, two-bedroom units and a very large
4 split-level four-bedroom unit. So it's proposing
5 family sized units. It's not proposing micro units.

6 With regard to the PUD, you know, that
7 project had its own separate zoning process and it's
8 one in which I have no doubt that the Zoning
9 Commission carefully evaluated questions of density
10 pertaining to this neighborhood. And I also have no
11 doubt that the developers who are building under that
12 PUD provided many amenities to the neighborhood of
13 Eckington to offset the increase in density that they
14 requested, because that is the nature of the PUD
15 process.

16 And certainly, the Zoning Commission would
17 have evaluated questions of traffic leading to that
18 development. And so perhaps since the folks who have
19 testified here said that they're not so familiar with
20 this process, perhaps they may not be aware of some
21 of the things that have been proffered in that case.

22 Furthermore, I don't think it's really fair
23 to restrict one property owner's ability to expand
24 his home in a manner that is consistent with the
25 zoning code, just because another project was

1 evaluated and approved first. That's really not how
2 the BZA process works. It's our job to check whether
3 this fits within the code, and give folks the
4 opportunity to present some valid arguments against
5 it.

6 So, if somebody believes that a neighborhood
7 is becoming too dense, that's an argument to be made
8 to the Office of Planning and to the Zoning
9 Commission. That's not really what the BZA does.

10 There was an argument in the record that
11 projects like this cause upward pressure on home
12 prices. Upward pressure on home prices due to condo
13 conversions. This argument, unfortunately ignores
14 reams of data regarding the causes of increases in
15 home prices in the District. Improvements in public
16 safety, broad trends favoring a desire to live closer
17 in, and most critically, a severely limited supply of
18 housing stock, which is vastly outstripped by demand,
19 these factors are far more important in driving up
20 housing costs than condo conversions. In fact, condo
21 and apartment conversions are actually part of the
22 solution to the affordability crisis in this city,
23 since they increase the supply of housing that is
24 available, which over time reduces pricing pressure
25 in the market.

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1 Approving something like this, which
2 increases supply, is actually the number one thing
3 that the District can do to manage the price of
4 housing city wide over the long-term. And there are
5 many, many publications and much research which
6 describes the nature of housing supply and demand in
7 the real estate market.

8 One that is particularly relevant here is the
9 White House paper published last September on the
10 impact of local zoning codes on supply and demand in
11 housing. It's called the White House Housing
12 Development Tool Kit. And I encourage folks who are
13 concerned about affordability and zoning questions in
14 their neighborhood, to read that. It's very short,
15 it's very simple, and it really powerfully distills
16 the research on how supply and demand and zoning all
17 work together in a housing market.

18 There was an argument also in the ANC elect's
19 letter. And I'm just going to quote here that -- and
20 I don't want to reinject the motion here, but there
21 has been a lot of emotion, that this project is
22 proposed by a developer who has blown off the
23 community and its concerns.

24 Now, I'm happy to hear in this hearing that
25 there has been some more reasonable discussion

1 between the community and the developer. You know,
2 as I evaluated the record we see a lot of developers
3 that come forward trying to get these three-unit
4 buildings in. I think that this developer has
5 actually really made an effort to preempt some of the
6 typical comments that you get on a development like
7 this, requests for parking, requests for the roofline
8 to fit in with the property, minimizing the height.
9 Things like that. So, we've already gone over the
10 elements of the project that kind of speak to those
11 issues.

12 There was a letter submitted in Exhibit 48
13 that this is a neighborhood where people quote, greet
14 each other as they walk down the street. There are
15 children playing. The single-family homes make this
16 area vibrant. The exhibit goes on to argue that the
17 increased traffic of this development will be
18 disruptive. I think this argument is actually a
19 pretty emotional one. But you know, to me it just
20 seems highly unlikely the addition of one flat by
21 special exception will be so disruptive as to cause
22 the children to stop playing and the neighbors to
23 stop saying hello. I just think that that's an
24 alarmist argument that injects emotion here that
25 really doesn't need to be here.

1 Likewise, the ANC report, which we received,
2 mentions that this will increase transients. I don't
3 see how apartments increase transients. This is not
4 a proposal for a boarding house or an SRO. Cities
5 thrive on having different types of housing that are
6 available to all income levels. And this is a great
7 way to introduce a four-bedroom unit, a family sized
8 unit, as we've come to call them, without the need to
9 put down a down payment that can take a family many
10 years to save.

11 So having considered the ANC's perspective on
12 that particular point, I did not find that argument
13 about transients to be compelling.

14 There was something mentioned in the record
15 along the same point that if a rowhouse, and this is
16 again a quote, "That if a rowhouse is converted into
17 a three-unit rowhouse, no one will live there for
18 more than a few years which will encourage crime and
19 civil disobedience."

20 Now, again, I appreciate that we're trying to
21 remove the emotion here, but I know that these
22 questions speak to broader questions about this kind
23 of unit. Frankly, I would direct people who believe
24 that apartments generate crime and civil disobedience
25 to look at neighborhoods like DuPont Circle and Foggy

1 Bottom, which have a great diversity of housing
2 stock, apartments, condos, and row homes. And they
3 also have some of the lowest crime rates in the city.
4 And certainly far lower than the rate in Eckington.

5 Condo conversions, another argument, condo
6 conversions permanently reduce the number of suitable
7 units for families. Again, we are evaluating a
8 project that includes larger units, including a four-
9 bedroom unit. So, I don't think that that argument
10 is situated in the facts here.

11 There was some friction regarding the
12 property being vacant after it was purchased, in the
13 record. Again, I don't think that that's relevant to
14 this hearing. It's under the purview of DCRA.

15 There was some friction in the record, and we
16 heard in the hearing last month regarding the
17 purchase of the adjacent home. Again, the purchase
18 of the adjacent home is not relevant to the zoning
19 proceeding on this property, nor should the BZA
20 penalize the owner because he purchased the home next
21 door and hasn't disclosed his plans for that home.

22 So, in terms of the arguments in favor of
23 this proposal, I think they're pretty simple. It
24 fits within the criteria for the special exception as
25 described by the Office of Planning. The developer

1 has gone out of his way to accommodate the comments
2 of this Board with regard to the façade, and has
3 addressed OP's concerns, and has made good efforts to
4 address community concerns on parking, size of units,
5 massing, and the bulk of the structure. In fact, I
6 think he's gone above and beyond the standard that
7 we've set of approval for similar applications.

8 So, I will wrap up there, but I would support
9 this particular application.

10 MR. HART: Okay. As I said earlier case,
11 Board Member D'Souza, you've outdone yourself. That
12 was a very well thought out and very eloquent
13 discussion of this case, and having you know, read
14 the full record for this case I agree with you on I
15 think all of the points that you've raised regarding
16 the -- the issues that were in opposition regarding
17 the infrastructure, parking, the preserving the
18 mansard roof, density, and the massing not fitting
19 into the neighborhood, too many other smaller units,
20 fitting with the code as it has been written, and
21 also would like to point out that recently, within
22 the last day I think, I've been made aware that D.C.
23 has increased its population to -- sorry, 680,000
24 people, which is the most since the 1970s.

25 And so, with that increase in population

1 there is a need and a diversity in the types of units
2 that are necessary to be able to house all of these
3 new residents. So, I think that there is -- this is
4 a fairly modest development that we're talking about,
5 and I think that the developer has actually been as
6 accommodating as you would expect, I think. I think
7 it would be great to have developers that were this
8 accommodating for projects and while I understand
9 that there is a definite need for -- the diversity in
10 housing runs from single-family housing to
11 multifamily, I think that while this is a change in
12 it, I think that this is something that has been done
13 fairly respectfully and the applicant has made
14 changes to the design throughout this process.

15 And it's been somewhat of a, I won't say
16 lengthy, but it has been a sustained process, no
17 doubt.

18 And with that, I think I could approve the
19 application as it's been submitted.

20 CHAIRMAN HILL: Okay. I was actually kind of
21 torn on this, and I think even from the first test,
22 again as I went back and looked at it, I could see
23 that, you know, I wasn't particularly there because
24 what -- I mean, I've been here now for just, you
25 know, a year and a half or so and it's been this

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1 again, thank you, the pop-ups, the pop-backs, you
2 know, that has come up again and again, or had come
3 up again and again. And for a while, you know, then
4 they, you know the Zoning Commission who is here,
5 lowered the height and then, you know, there was a
6 mezzanine I think that you could have put in there or
7 something. And so, and then they allowed this third
8 unit as a special exception.

9 So, what I was kind of struggling with was
10 that that was really what the ANC had in terms of any
11 kind of say on the matter, to a certain extent, I
12 suppose. I mean, again, if the Office of Planning --
13 you know, it's a very simple -- it's a special
14 exception. There's just boxes you basically check.
15 You know, it's like, you know, the chimney, you get
16 past the chimney thing. The solar panels, you know,
17 you get past -- then, basically a special exception
18 gets approved by the Office of Planning so that the
19 ANC, and this is where even to the applicant again,
20 if you come again before us, or I know that the
21 attorneys tend to come again before us, again, it was
22 kind of like giving the ANC the option, the
23 opportunity, or at least understanding of what -- I
24 mean, by right you can do two flats. You know, and
25 so by right you're not going to get a single-family

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1 house anymore. You know, you're going to get two
2 single-family homes. Whatever that might be, right?

3 And so, I was struggling with that, I
4 suppose, and then also when Mr. Hinkle was here he
5 kind of commented on that, you know, how the special
6 -- granting the special exception and how the project
7 fit within the neighborhood. So, I was kind of like
8 toying with, well, isn't the ANC the best people that
9 know what fits within the neighborhood. But I still
10 couldn't get there.

11 And I was disappointed, again, that you know,
12 we went out of our -- and I wasn't so sure that the
13 applicant, during the initial hearing, had actually
14 tried to make a case with the ANC, had tried to go at
15 the ANC and tried to get there, and then so we went
16 out of our way to say, okay, the next date is X, and
17 I do appreciate that the SMD elect is here and that,
18 you know, it just was last night so you still had to
19 go last night to your meeting, and then you're here
20 again today. So, that took a lot of your time.

21 However, it would have been nice for me to at
22 least have heard another round of deliberations or
23 something, or at least the applicant having the
24 opportunity to speak to the ANC again.

25 In terms of how each case, you know, we

1 deliberate on each particular case and whether or not
2 they meet the criteria for approval, and in this
3 particular case again, it's an end unit. You know, I
4 agree with you. I think that you know, it's
5 relatively modest to a certain extent. They've
6 changed the brick. That's very nice that I think
7 Commissioner Turnbull was here to do that because
8 that's something that usually is outside of what I
9 kind of focuses on.

10 But so, so basically, I'm back to where you
11 guys were. I was kind of trying to figure out where
12 I could kind of have a discussion with how the ANC
13 and the neighborhood is -- again, they just don't
14 want three units. You know, I mean, I know that
15 that's what is the discussion. You know, they
16 want -- but by right they can get two units. And so,
17 so in any case, so I'm on board with you guys and I
18 know that -- I don't know if Mr. Turnbull is also
19 putting in absentee -- I think is he for -- no,
20 because there's the three of us. Okay.

21 So then, I would go ahead and make a motion
22 to approve Application No. 19302 as advertised by the
23 secretary.

24 MS. BUTANI-D'SOUZA: Second.

25 CHAIRMAN HILL: The motion has been made and

1 seconded.

2 [Vote taken.]

3 CHAIRMAN HILL: The motion passes, Mr. Moy.

4 MR. MOY: Staff would record the vote as
5 three to zero to two. This is on your motion, Mr.
6 Chairman, to approve the application for the relief
7 requested. Seconding the motion, Vice Chairperson
8 Butani, also in support Mr. Carlton Hart, and of
9 course we have a seat vacant and another participant
10 not present today, not voting. But the motion
11 carries. This will be a full order.

12 CHAIRMAN HILL: Full order, yeah. And again,
13 you know, as far as the applicants and the ANC goes,
14 again you know, if you can get the applicant -- I'm
15 sorry. If you can get the ANC on board, then there
16 won't be opposition, perhaps, and then you don't have
17 to go through a full order, which takes longer to get
18 to development. So there is a, you know, a carrot
19 there. You know? So, okay. Anyway. Thank you all
20 so much.

21 MR. LEE: Thank you very much.

22 CHAIRMAN HILL: We're going to take a three
23 minute break. They're still having technical issues.
24 Thank you.

25 [Short break.]

1 CHAIRMAN HILL: Okay. All right, Mr. Moy,
2 we're going to get started again.

3 MR. MOY: Thank you, Mr. Chairman, so we're
4 back to the hearing session part of today's docket,
5 so parties to the table to Application No. 19358 of
6 Bearden Arts, LLC. And this application, Mr.
7 Chairman, has been captioned and advertised for a
8 special exception relief under the enlargement and
9 design requirements of Subtitle H, Section 910.1 and
10 Section 1202.2. This would construct a mixed use
11 building in the N-C-14 zone, 1341 H Street Northeast,
12 Square 1027, Lot 159.

13 CHAIRMAN HILL: Great. Thank you. Good
14 morning. If you could please introduce yourselves?

15 MS. BROWN: Good morning, Board Members. My
16 name is Carolyn Brown with the law firm of Donohue
17 and Stearns, here on behalf of the applicant, Bearden
18 Arts.

19 MR. SMITH: Good morning, Board Members.
20 Norman Smith, Norman Smith Architecture on behalf of
21 the applicant.

22 MR. ODUSANYA: Good morning. My name is
23 Christopher Odusanya, Norman Smith Architecture.

24 CHAIRMAN HILL: I'm sorry, could you
25 pronounce your last name again?

1 MR. ODUSANYA: Odusanya.

2 MS. BROWN: He won't be testifying, so if
3 that helps with the pronunciation later.

4 CHAIRMAN HILL: I might have some questions
5 for Mr. Odusanya.

6 Okay. So, Ms. Brown, you obviously know that
7 there's opposition and there's going to be some
8 questions that we're going to have. So, I'm going to
9 go ahead and ask you just basically to do a
10 presentation for us. Do you know how much time you
11 might need?

12 MS. BROWN: I think we wouldn't need more
13 than 15 minutes and I'll try to keep it shorter than
14 that.

15 CHAIRMAN HILL: Okay. Okay. Mr. Moy, could
16 we put 15 minutes on the clock there? And then
17 please, go ahead whenever you're ready.

18 MS. BROWN: Thank you. Again for the record,
19 Carolyn Brown on behalf of the applicant. I would
20 like first to have a couple housekeeping issues, or
21 actually just one, and that is to have Mr. Smith
22 qualified as an expert in architecture. His resume
23 is included in the materials as Exhibit 13 and he has
24 previously been qualified before the Board, but it's
25 been many years so he may not be in any booklet that

1 you have up there.

2 CHAIRMAN HILL: Okay, great. Which exhibit
3 was it again? I'm sorry.

4 MS. BROWN: Exhibit 13.

5 CHAIRMAN HILL: I've got 13A and 13B.

6 MS. BROWN: It's dated August 16th, 2016.

7 CHAIRMAN HILL: Oh, I got it. Okay. Okay,
8 let me just take -- all right. I don't have any
9 issue with Mr. Smith. Does anyone else?

10 Okay. That's fine. Thank you.

11 MS. BROWN: And, for the record, Ms. Gail
12 Montplaisir is in the audience and she is here on
13 behalf of Bearden Arts, LLC. So, if there are any
14 questions that come up, she was sworn in and can
15 answer them.

16 CHAIRMAN HILL: Okay. Where is she? Okay,
17 great. Thank you. Okay.

18 MS. BROWN: There are two main issues, I
19 think, for this case. One is the FAR interpretation
20 that we see in the opportunity report, the difference
21 between how the Zoning Administrator interprets
22 whether the cumulative effect of the various bonus
23 densities you get. We have a letter in the record
24 from the Zoning Administrator that indicates that the
25 total FAR for this site should be 3.6 FAR. And the

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1 Office of Planning has an interpretation that it
2 should be 3.5 FAR. We believe that the Zoning
3 Administrator's interoperation is the correct one.
4 He's the one charged with interpreting the
5 regulations and the applicant relied on that
6 interpretation in developing this project.

7 The second issue, I don't know if you want me
8 to pause there for a moment so you can look at that
9 issue, or if you want me to continue forward. Okay.

10 CHAIRMAN HILL: You can continue forward,
11 thank you.

12 MS. BROWN: Thank you. The second is we are
13 fully aware of the opposition in this case. We
14 believe, though, that most of the issues raised are
15 not relevant to the BZA proceeding and I think that
16 based on the discussions we heard this morning for
17 some of the other cases, that that would hold true
18 for this one.

19 One of the main points is a dispute over the
20 location of a party wall, and how much underpinning
21 should be occurring on the adjacent property to the
22 west. And again, that falls outside the zoning
23 purview.

24 The second issue that was raised -- well, I
25 guess I'd join two issues into one. The underpinning

1 issue, and then secondly the boundary line and the
2 construction efforts along the boundary line. So,
3 those are issues that will be resolved by DCRA during
4 the permitting process. The applicant has prepared
5 surveys to figure out the exact location of that
6 party wall and how much is on the applicant's
7 property and how much is on the adjoining property.
8 But again, those are outside the zoning purview. So,
9 I just want to get the parameters of the case kind of
10 set up.

11 And I think with that I guess my third point
12 is, you know, this is a special exception case. And
13 I think it's important to note that the applicant is
14 not asking for any relief from lot occupancy, height,
15 FAR, rear yard, or any of the other zoning
16 parameters. So in affect, this is a matter-of-right.
17 What throws them into the BZA process is that the
18 addition is more than 50 percent in size. And that
19 just means it goes through the design review process.

20 So, in considering what effects this project
21 has on adjacent properties, it's very limited in
22 scope and I think the Office of Planning did a very
23 good job at the top of page 7 of its report,
24 analyzing what the effects this project has on the
25 area and so we support the Office of Planning report

1 on that regard. We're pleased to have their support,
2 and we're also very pleased to have the support of
3 the ANC, and with that I would turn to Mr. Smith to
4 make a presentation.

5 MR. SMITH: We'll try to run through this
6 quickly, just give you the highlights. This is the
7 north elevation along H Street. The white buildings
8 to the east, with the subject building, 1341 is in
9 the middle with a green facia. And to the west is
10 the building that's owned by Dangerously Delicious
11 Pies.

12 CHAIRMAN HILL: Excuse me, Mr. Smith.

13 MR. SMITH: Yes.

14 CHAIRMAN HILL: As you're kind of going
15 through it, if you can show me again where the issues
16 in opposition were in terms of like there was a party
17 wall just --

18 MR. SMITH: Yes.

19 CHAIRMAN HILL: Yeah.

20 MR. SMITH: Yeah, I'd be happy to do that.

21 CHAIRMAN HILL: Thanks.

22 MR. SMITH: The issue of the party wall
23 concerns the wall on the right-hand side of 1341
24 between it and the next adjoining property, which is
25 Dangerously Delicious Pies.

1 Okay. And then these are views from the
2 alley. These are looking south and from the south
3 and are looking towards the northwest. So the
4 portion that you see at the -- excuse me. At the far
5 left is the H Street Country Club which has a rooftop
6 deck. And then moving to the right in this picture,
7 the white building is the former East Indian
8 Automotive Company. And I'm sorry, I don't remember
9 where it is right now.

10 Next building is Carriage House, which is at
11 the end of the Dangerously Delicious Pies lot. That
12 lot does have 100 percent lot coverage right now, so
13 they extend from north to south.

14 And then moving along the rear of 1341, and
15 then to the right you can see the Miketo (phonetic)
16 project, which is a restaurant and it has a garage on
17 the alley and they have occupied that garage, and
18 they also have added some infrastructure on the top
19 of that, along with a screen porch.

20 And then far to the right is, I believe, is
21 the Rock N' Roll Hotel. And above that you can see
22 the wood framing is the wood framing is the roof deck
23 on the Rock N' Roll Hotel.

24 And this is all taken from Linden Court,
25 which is quite, as you may know, is quite large, and

1 it has multiple entries, one from the -- from G
2 Street, and then one from H as well.

3 CHAIRMAN HILL: Okay.

4 MR. SMITH: This is a site plan that shows
5 the areas that we were looking at. On the far left-
6 hand side of it we were looking from the south back
7 at the adjoining buildings. And you can see that the
8 building in question, 1341, is the one that's
9 outlined in the existing configuration in the front.

10 In this it shows the proposed building
11 project. We are adding an addition to the rear, for
12 five stories, and adding two stories above the
13 existing building. There are three parking spaces at
14 the rear at grade. There is a ramp that goes down
15 from the Linden Court access down below, and there's
16 11 spaces, 11 parking spaces below.

17 Trash storage is arranged along those areas
18 next to the ramp, as well as a rear egress path,
19 which is, you can see in the cross-hatching. And
20 those are all covered and we've gone over that with
21 the ANC and resolved, I think, some concerns that
22 they might have had about that.

23 There were also some -- there is also a roof
24 structure with two stairs and an elevator which shows
25 on the bottom of the plan.

1 Let's just skip through these. These are the
2 existing condition plans.

3 Okay. The lower level, with the ramp coming
4 down, the parking space is arranged along the left-
5 hand side and then down along the bottom, one stair
6 and one elevator that will go down, miscellaneous
7 support spaces and utility entrance spaces.

8 The first floor, the plan is to have two
9 tenant spaces on the first floor. The core is
10 arranged along the east side, which is the bottom in
11 plan. And you can see the, again, the parking spaces
12 in the left rear.

13 Second floor is a business use for an
14 incubator space. This building has been used as an
15 incubator office space ever since the recession, the
16 great recession, I should say. It has provided a lot
17 of support for local businesses, their startups,
18 particularly in AE Field, Architecture and
19 Engineering field, and in the design field as well.
20 And they propose to continue that use, both on this
21 floor, the second floor, as well as on the third
22 floor which is the next one.

23 There will be one residential unit proposed
24 in the front right corner. That is the front
25 northeast corner. And then on the fourth and fifth

1 floors, residential units. Four per floor.

2 There is an internal courtyard that brings
3 light and air down into the building, and that goes
4 down to the third floor.

5 And the roof structure, with the two stairs,
6 elevator, small private stairs that serve the units
7 below that rise up to the small private decks up
8 there. And there is a small restricted access deck
9 at the top of that. There were some issues brought
10 up with the ANC and the ADZC of 6A, about that in
11 terms of noise and things like that. I think the
12 owner certainly has made -- I don't know if proffer
13 is the right word, but understands that that could be
14 a concern and we'll address sound issues with that.
15 And so I don't think it's going to be -- I don't
16 think that should constitute any major concern.

17 Now, I should also say, it is limited for the
18 use of the building too. So, it's not a public deck.

19 Okay. The front north elevation as it was
20 originally proposed. The south elevation. And then
21 after several meetings with neighborhood folks and
22 the ADZC of 6A, we made some changes over, I think,
23 three iterations to the north elevation in
24 particular. There was no specific concerns that I
25 recall about the south elevation.

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1 And so as you can see, the north elevation is
2 perhaps a little bit calmer. The colors certainly
3 have changed some. We're also proposing that there
4 be green walls for privacy on the top, which also
5 works for our GAR calculations. And I think other
6 than that there were no substantive changes in the
7 north. We already meet all of the requirements for
8 the H Street Overlay zone in terms of percentage of
9 glass, transparency of glass. We are proposing to
10 open up the bottom of the building at the street face
11 on the north as you can see from the bottom, with
12 some additional sliding or folding doors so they can
13 be open to the sidewalk in good and temperate
14 weather.

15 I don't believe that -- there was no issue
16 with that from the ANC or from any of the other folks
17 that we talked to. Okay?

18 CHAIRMAN HILL: Mr. Smith.

19 MR. SMITH: Yes.

20 CHAIRMAN HILL: I'm sorry. So, that's the
21 color now on the new portion of the building?

22 MR. SMITH: On the top, yes. It's a series
23 of pastel grays, light grays.

24 CHAIRMAN HILL: Because I remember seeing
25 something that was like multicolor. Is that --

1 MR. SMITH: Let's go back one. It was that
2 one, I believe.

3 CHAIRMAN HILL: Okay.

4 MR. SMITH: Yeah.

5 CHAIRMAN HILL: And so now the -- you met
6 with the ANC and they prefer the other colors?

7 MR. SMITH: Yeah. And some of it, frankly,
8 is a rendering issue, too. I mean, we went back in
9 and frankly recolorized it by bringing custom colors
10 in the rendering engine to more accurately show what
11 it was that we were proposing.

12 CHAIRMAN HILL: Yeah, I didn't like the
13 colors. Not that it -- you know. So, okay.

14 MR. SMITH: And this is just a building
15 section through the building. Shows the stairs.

16 And I think that briefly walks you through
17 the project.

18 CHAIRMAN HILL: Okay. Does anyone have any
19 questions from the Board to the architect?

20 MR. HART: Yeah, just one question. And
21 correct me if I'm wrong, there was a FAR bonus that
22 you received?

23 MR. SMITH: Yes, in this zone there is a .5
24 FAR bonus for façade preservation, and as the Office
25 of Planning letter from Mr. Cochran indicates, we

1 calculated it after discussions and several review
2 periods with the Zoning Administrator, Mr. LeGrant,
3 to take it in the fashion, in the sequence that we
4 did. So, there is the 2.5 base. There is the .5,
5 and then the 1.2 on the IZ. And that's how we
6 calculated that.

7 So, there is a .5 façade preservation bonus
8 in this area, and we do meet that. We are not
9 proposing major renovations or changes to the H
10 Street façade.

11 MR. HART: Yeah, it seemed like there was --
12 thank you very much.

13 MR. SMITH: Uh-huh.

14 MR. HART: It seemed like there was some
15 dispute, I guess, over that aspect of it. And I know
16 that you all have a response to that. I just wanted
17 to understand what you were -- how you see that, what
18 the opposition has said about that.

19 MR. SMITH: I'm not aware that the opposition
20 has an issue with that. I think that was something
21 that the Office of Planning raised as more of a
22 procedural issue that they would like your input on.
23 And of course we -- that's my understanding. Perhaps
24 I'm wrong about that.

25 But our position is that we had a

1 determination letter from the Zoning Administrator
2 and met with him several times over a period of
3 several months and proceeded on that basis in good
4 faith. And so what we're talking about is a .1 FAR
5 difference, which on this project is approximately
6 750 square feet.

7 MR. HART: Thank you.

8 CHAIRMAN HILL: And I neglected to mention,
9 Vice Chair D'Souza has recused herself from this
10 particular case. And, Mr. Hood, Chairman Hood,
11 you're with me, correct?

12 MR. HOOD: Yes, I'm with you from here on
13 out.

14 CHAIRMAN HILL: Thank you. That's great.
15 Welcome. Welcome. Do you have any questions for the
16 architect?

17 MR. HOOD: I do, but I'm trying to understand
18 this whole issue which about the front façade. But
19 I'll wait. Let me just hear some more conversation
20 and I'll wait and ask that.

21 But let me ask this, what is the height? And
22 I'm looking at the stat sheet. Now, what is the
23 height?

24 MR. SMITH: It's 55 feet.

25 MR. HOOD: Okay. And your neighbor, it's

1 unfortunate that you didn't have a corner. Can you
2 go back to where you were -- it's like one of your
3 first, your very first render where you were showing
4 us --

5 MR. SMITH: Oh, the first, the first north
6 elevation.

7 MR. HOOD: The issue about the party wall is
8 right here, right?

9 MR. SMITH: That is correct. That is
10 correct, yes.

11 MR. HOOD: So, I missed that. Okay. Are
12 there any issues over here that you know of?

13 MR. SMITH: Not that I'm aware of, no.

14 MR. HOOD: And this is 55. What is this
15 height?

16 MR. SMITH: I'm sorry. I can't see where
17 you're --

18 MR. HOOD: Right here, where you had a party
19 wall issue. What is that height?

20 MR. SMITH: Approximately 28 to 29 feet.

21 MR. HOOD: Okay. All right. Thank you.
22 Thank you for now.

23 CHAIRMAN HILL: Mr. Chairman, where did you
24 get a pointer?

25 MR. HOOD: Actually --

1 CHAIRMAN HILL: Did that come from the Office
2 of Zoning?

3 MR. HOOD: I'm going to tell this, if former
4 Commissioner Marcie Cohen is watching, at night she
5 used to be pointing all back there. So she finally
6 told me, she could never get it to point here. She
7 used to point over there, back over here, all -- so,
8 she finally gave it to me. I knew if I waited it
9 out, she would give it to me.

10 CHAIRMAN HILL: I see. I don't think I'm
11 going to wait you out, but I'm going to find myself a
12 pointer.

13 All right. So, Mr. Hart, no? Are you good?

14 So, actually, Ms. Brown, I did have a
15 question. I'd like to hear a little bit more about
16 like kind of your process going through the ANC, and
17 how that went and what your presentation was like,
18 and how you got eventually to the point where they
19 signed off.

20 MS. BROWN: Sure. I think that's probably
21 better answered from Mr. Smith.

22 CHAIRMAN HILL: Okay.

23 MR. SMITH: Yeah, I was intimately involved
24 in that. We met with Brad Greenfield, whom I believe
25 is here. And then subsequently with the Economic

1 Development Zoning Committee of ANC 6A, let's see, I
2 think twice or perhaps three times, I don't remember
3 how many it was. And really the issues, there were
4 two major issues. And I shouldn't say major, but
5 there were two issues.

6 One was, there was some concern about the
7 front north façade. And one of the things was the
8 color.

9 And also the arrangement of windows
10 continuing the vertical orientation of the façade
11 below. And while I disagreed with that, we were
12 certainly open to a discussion about that and because
13 of that we made a series of changes and went back to
14 them. We didn't show all of the different iterations
15 here, but the one that we are showing is the final
16 iteration that after discussions with the EDCC,
17 everybody agreed that that was acceptable.

18 The other issue was the one that is about the
19 party wall, which was also raised at the EDCC, and
20 we've tried to address that in several ways. There's
21 a party wall agreement that the owner has again,
22 proffered to the neighboring property owners. We've
23 showed them the survey which indicates where the
24 property line is, and tried to explain the situation
25 as we view it, as to what that means and what our

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1 abilities are to build on that wall.

2 So, after the EDCC we met with then met with
3 the -- we then presented in front of the full ANC one
4 time. They felt that they wanted to give a little
5 bit more breathing room to the project so that more
6 letters in support could be garnered. After that
7 time more letters of support were garnered. I think
8 there's a total of either 18 or 19. Yeah.

9 And, we went back to them again. That would
10 have been in October, early -- yeah, I think in
11 second week of October is when they met. Based on
12 all of the work that had been done up to that point,
13 including changes in the elevations, the garnering of
14 additional support, meetings with the neighbors, both
15 on the east and the west side, the ANC voted to
16 approve it based on that.

17 CHAIRMAN HILL: Okay. Great. Thank you.
18 Does anyone have any more questions for the applicant
19 right now? Okay.

20 Then, I'm going to turn to the Office of
21 Planning. Good morning.

22 MS. VITALE: Good morning, Mr. Chair and
23 Members of the Board. Elisa Vitale with the Office
24 of Planning. As you can see, you don't have Steve
25 Cochran before you this morning. I'm stepping in for

1 him to cover this case.

2 The Office of Planning is recommending
3 approval of this special exception request to permit
4 the expansion of an existing building at 1341 H
5 Street Northeast in the N-C-14 Zone.

6 As the applicant indicated, I think the issue
7 is raised in the staff report with respect to the
8 sequence in which the bonuses were applied, and I
9 think the thought is that the sequence in which the
10 bonuses were applied by the Zoning Administrator and
11 what the applicant, you know, followed in submitting
12 the application may not align with the intent with
13 respect to the order of application. I think
14 particularly as it relates to the IZ bonus, and kind
15 of based on input from the drafter of the IZ
16 provisions.

17 I think this is something that more
18 appropriately the Office of Planning staff can work
19 with the Zoning Administrator to address, and if
20 necessary OP could bring forward clarifying language
21 for Zoning Commission consideration. I think with
22 respect to the case before you, the Zoning
23 Administrator has weighed in and the applicant's
24 application comports with the Zoning Administrator's
25 interpretation with respect to the application of the

1 bonuses. I think if this is in fact an issue it
2 would be addressed more appropriately with, you know,
3 text that would be brought to the Zoning Commission
4 for consideration.

5 Actually, I think I'll rest on the record
6 with respect to the remaining analysis and can
7 certainly answer any questions that you might have.
8 Thank you.

9 CHAIRMAN HILL: Great. Thank you. Does the
10 Board have any questions for the Office of Planning?

11 Does the applicant have any questions for the
12 Office of Planning?

13 MS. BROWN: No questions.

14 CHAIRMAN HILL: Okay. All right. Then, in
15 that case I'm going to open it up to the audience
16 here. Is there anyone here from the ANC? Could you
17 please come forward?

18 If you could please just -- you just push the
19 little button that says push, and the green light
20 will come on, and introduce yourself and give us your
21 name and address. And did you get sworn in?

22 MR. GREENFIELD: Yes, I did.

23 CHAIRMAN HILL: Okay. And did you give the
24 witness cards?

25 MR. GREENFIELD: I have it, I haven't given

1 it.

2 CHAIRMAN HILL: Okay. Afterwards, if you can
3 just give it over to the --

4 MR. GREENFIELD: My name --

5 CHAIRMAN HILL: You can hand them over right
6 now if you'd like, so she can grab them.

7 MR. GREENFIELD: Okay.

8 CHAIRMAN HILL: Sure.

9 MR. GREENFIELD: My name is Brad Greenfield.
10 I live at 1336 Maryland Ave., or 1330 Maryland Avenue
11 Northeast. I am the Chairman of the Economic
12 Development and Zoning Committee for ANC 6A, so I'm
13 actually dual hatted as a neighbor and from the ANC
14 for this property.

15 The EDZ did meet and consider this twice and
16 the ANC also met twice. There was some opposition
17 from the neighbors at Dangerously Delicious, also
18 some concerns from Miketo, on the other side that I
19 believe have been addressed, or are in the process of
20 being addressed.

21 The ANC felt that the relief sought was in
22 line with what the community is looking for and so we
23 supported it.

24 In terms of façade, we felt that there were
25 no significant changes to the façade, so there was no

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1 opposition to the façade bonus being awarded in this
2 case.

3 CHAIRMAN HILL: Okay, Mr. Greenfield, is that
4 correct?

5 MR. GREENFIELD: Greenfield, yes.

6 CHAIRMAN HILL: So, Chairman Greenfield,
7 thanks for coming down. I mean, you guys are in
8 approval obviously.

9 MR. GREENFIELD: Yes.

10 CHAIRMAN HILL: So, you came down and you're
11 in approval. So, you took the day off?

12 MR. GREENFIELD: I'm also here for the next
13 case.

14 CHAIRMAN HILL: Oh, okay. All right.

15 MR. GREENFIELD: So, I'm happy to talk to
16 this one but --

17 CHAIRMAN HILL: Are you going to be as happy
18 with me at the next case?

19 MR. GREENFIELD: We'll see how it goes.

20 CHAIRMAN HILL: Okay. All right. Okay.
21 Well, I'm glad you came up here first then.

22 Let's see. Does anyone have any questions
23 for the Chairman?

24 MR. HOOD: Yeah, let me ask Mr. Greenfield.
25 I notice you in your letter, I think I -- didn't I

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1 notice that you all mentioned something about RPP in
2 your letter?

3 MR. GREENFIELD: We did ask for restrictions
4 on RPPs, which is a very common thing we do with new
5 developments, particularly on H Street.

6 MR. HOOD: Do you think that works?

7 MR. GREENFIELD: It works better than any
8 other option that we've seen.

9 MR. HOOD: Let me just help you out so you
10 won't waste your time and you won't be on promise
11 land. My discovery has been, it doesn't work. But
12 we are working to make it work. So, I wanted to put
13 that out front so you won't be on promise land and
14 you'll think something's working and it's not going
15 to work. So, I just want you to know that.

16 So, maybe your ANC can help us, the Zoning
17 Commission and others, continue to see how we can
18 make this really work. Okay?

19 MR. GREENFIELD: I appreciate that.

20 MR. HOOD: All right. Thanks.

21 CHAIRMAN HILL: All right. We're all just
22 working together here, today. This is great. We're
23 going to help out the Zoning Commission.

24 Let's see, Mr. Hart, do you have any
25 questions?

1 So, I do have a question for you. So, and
2 really the applicant also can answer. So, the issue
3 with the party wall and the underpinning, and there's
4 going to be a chance now for opposition, that had
5 been kind of addressed?

6 MR. GREENFIELD: It was discussed. We were
7 hoping that the two parties would come together
8 and --

9 CHAIRMAN HILL: Uh-huh. Hoping that the two
10 parties would come together.

11 MR. GREENFIELD: -- come to some kind of
12 conclusion.

13 CHAIRMAN HILL: Okay.

14 MR. GREENFIELD: We didn't feel that it was
15 something that the ANC really wanted to step into,
16 that it was really not so much a community concern as
17 a concern between the two properties.

18 CHAIRMAN HILL: Okay, I'm just curious, are
19 you the SMD for this also?

20 MR. GREENFIELD: I'm not. I'm not actually
21 an ANC Commissioner, I'm just on the committee for
22 the Economic Development.

23 CHAIRMAN HILL: Oh, I'm sorry. I'm sorry. I
24 misunderstood. Okay. Well, that changes your status
25 just a little bit but still, that's -- I'm glad that

1 you could come down nonetheless.

2 MR. GREENFIELD: Okay.

3 CHAIRMAN HILL: Okay. Let's see. So, does
4 anyone else want to speak in support of the
5 application here? I'm sorry. Is anyone here also
6 from the ANC or any ANC? No.

7 All right. Would anyone here like to speak
8 in support of the application?

9 Oh, please, come forward.

10 MR. MOY: While he's coming to the table, Mr.
11 Chairman, I just want to add to your remark. If you
12 look at the ANC letter under Exhibit 446, from the
13 ANC Chair, and it does say in the letter that Brad
14 Greenfield is authorized to act on behalf of ANC 6A,
15 if I'm correct.

16 CHAIRMAN HILL: Okay. Thank you. And I
17 didn't mean to kind of joke with Mr. Greenfield here.
18 I do realize. But thank you for clarifying that for
19 the record that you are here with the full force of
20 the ANC.

21 All right. Please, each of you, just your
22 name and then your address, and we'll give you three
23 minutes.

24 MR. SCHAFFER: Yes, good morning. My name is
25 Mike Schaffer. My address is 1005 E Street

1 Southeast, Washington, D.C. I'm actually a member of
2 the LLC and I also live in the community and I've
3 been a resident of the District since the early 80s.

4 I'm currently engaged in the sale of
5 residential real estate and I also work with a lot of
6 small businesses in this neighborhood as well as in
7 Northwest in terms of trying to find space to have
8 offices.

9 Our concept of this building which, you know,
10 Norman went into a little bit, we tried to address a
11 lot of the needs of the community with the small
12 office and incubator space. We found particularly in
13 2007 and the recession, there were a lot of
14 businesses that had issues finding suitable space in
15 the city that was actually within close walking
16 distance to where they live. And my brother, being
17 one of these people. So.

18 Also, there's a real shortage of
19 condominiums, and particularly in Capitol Hill, so we
20 felt that this was a really nice mix for the
21 neighborhood and for the project.

22 So we, I think, put a lot of thought into
23 this project and just wanted to you know, let you
24 know that I'm certainly here in support of this and
25 obviously I have a vested interest, but I more

1 importantly have a vested interest in the community,
2 having lived here since the 80s and wanting to do
3 something nice for the area and the community.

4 So, just want to thank you for your time and
5 wanted to weigh in on that. Thank you.

6 CHAIRMAN HILL: Okay. Great. Thank you.
7 Does the Board have any questions for Mr. Schaffer?
8 All right. Thank you, Mr. Schaffer.

9 Is anyone here wishing to speak in
10 opposition? If you could please come forward? If
11 again, if you could just introduce yourselves and
12 give me the address, please, and I'll give you each
13 three minutes.

14 MS. BASANTI: My name is Sandra Basanti. I'm
15 1339 H Street Northeast, Washington, D.C.

16 MR. BASANTI: My name is Rifaat Basanti, 1339
17 H Street. We, me and my wife, we're the owners of
18 the 1339 H.

19 CHAIRMAN HILL: And which one is 1339 H?

20 MR. BASANTI: That's the next door, the one
21 with the party wall.

22 CHAIRMAN HILL: With the Dangerously
23 Delicious Pies in it?

24 MS. BASANTI: Yes, that's me. I am
25 Dangerously Delicious Pies.

1 CHAIRMAN HILL: Okay.

2 MS. BASANTI: So, myself, my husband who
3 couldn't be here because he's baking, and my father,
4 own the business, and as well as the property.

5 I just want to clarify that the concept of
6 the project, we're not opposed to. I love the idea
7 of having more office spaces and all of that. I
8 would maybe disagree that there isn't an abundance of
9 condos on the H Street corridor that are being built
10 currently, but regardless, as far as from a business
11 standpoint, a lot of these developments are sort of
12 taking over entire blocks or are not right smack dab
13 in the middle of bars and restaurants.

14 And I think the concern from myself and the
15 eight other businesses that I've been in regular
16 communication with on either side of this project is
17 that we all either already have or plan to have our
18 outdoor patios and the issues that come along with
19 that as far as residences being sort of plopped down
20 right in the middle of all of these businesses is
21 just something that we want to be addressed. We have
22 reiterated several concerns that we feel like haven't
23 really honestly been thoroughly addressed. And I
24 think that's sort of where the frustration lies, as
25 far as the small businesses that surround this

1 project go.

2 And we have some pictures that sort of show,
3 I mean, images that just kind of -- as far as like
4 having residences and -- I mean, literally every
5 single business on either side of this project has a
6 roof deck or an outdoor patio. So, we've watched
7 fellow businesses literally have to close their doors
8 because one resident, you know, complained. And I
9 don't know if that's really an issue for zoning, but
10 it's just something, an example of a concern from the
11 neighboring businesses that we feel like hasn't been
12 addressed; hasn't really been addressed properly or
13 adequately.

14 As far as the specifics for the underpinning
15 and the boundary between the two businesses, I'm
16 happy to go into that. Although we've submitted all
17 of our information at this point, but as stated in
18 Exhibit 85 we feel that neither Bearden Arts, nor Ms.
19 Montplaisir, who we've been in communication with,
20 should have legal authority to trespass on to our
21 land, and their assertion that the law mandates
22 underpinning for the protection of the wall would
23 appear to be incorrect.

24 Although the law mandates that you protect
25 the party wall's structural integrity, it does not

1 permit, much less mandate, trespass onto our land to
2 attain such objective. The problem that we're having
3 is that we haven't been shown anything that shows the
4 underpinning will not directly affect our structure,
5 but also our business that is currently operating
6 because I'm not an expert on this stuff. I have no
7 idea how you protect the wall, but that wall that
8 runs along where they're hoping to underpin is like
9 smack dab on the other side of that wall is my
10 office, the kitchen, our boiler room. I'm just not
11 really clear, nothing has been shown. There haven't
12 been any conditions put in or anything that sort of
13 help us understand how this is going to adversely --
14 not adversely affect our business. And so, that's a
15 huge concern for us, obviously.

16 So, again, all we're asking is, we're not
17 necessarily opposed to the project. All we're asking
18 is for our concerns to be addressed properly, and
19 that happens to be one of them.

20 The other issue regarding the party wall, or
21 not --

22 MR. BASANTI: If you don't mind, I could --

23 CHAIRMAN HILL: Yeah, that's okay. Before we
24 move on. So, Ms. Basanti? Basanti?

25 MS. BASANTI: Yes.

1 CHAIRMAN HILL: So, again, there's a couple
2 of things. When you mentioned kind of the outdoor
3 space, and then also the -- and I'm trying to keep
4 both of -- there's the outdoor space issue that
5 you're talking about and then there's the party all
6 issue, right?

7 MS. BASANTI: Well, so there's ultimately
8 three issues.

9 CHAIRMAN HILL: Okay.

10 MS. BASANTI: So, we have the boundary issue.
11 And then we have the underpinning issue.

12 CHAIRMAN HILL: Uh-huh.

13 MS. BASANTI: And then we have the concerns
14 from the other neighboring businesses with having the
15 residents as far as --

16 CHAIRMAN HILL: The residents complain about
17 noise?

18 MS. BASANTI: Yeah, that's part of it but
19 its' -- I mean, yeah, I think that's ultimately the
20 main issues and we want to make sure that we're sort
21 of protected with -- we don't want there to ever be -
22 - and in the drawings it doesn't show windows
23 currently but they said that they could eventually
24 perhaps put windows back there overlooking our roof
25 decks, and all of that. And that's where we want to

1 make sure that we're protected in that sense. The
2 businesses aren't interested in having residences,
3 windows, or whatever, overlooking roof decks and
4 outdoor seating where inevitably we, the businesses
5 will -- I think it's more about nipping it in the
6 bud. Trying to deal with it now as opposed to it
7 being a huge issue later for all of us.

8 CHAIRMAN HILL: That's fine. And so, Ms.
9 Basanti, and then if you guys can also address some
10 of these as we kind of go through it. I mean, I'm
11 familiar with your business. I think you make very
12 dangerously delicious pies. It's a lovely, lovely --
13 and you guys were an early adapter. I mean, you were
14 there, you know, back when, you know, there was only
15 just like Rock N' Roll Hotel was the only thing
16 around there. There was nowhere to get anything to
17 eat.

18 MS. BASANTI: Exactly. Yes.

19 CHAIRMAN HILL: Okay? So, I understand, you
20 know, what you're trying to do. So, I'm just trying
21 to clarify. I mean, I'm familiar with the property,
22 I'm familiar with the area, and so I can -- and I'll
23 let your -- I mean your --

24 MS. BASANTI: Father.

25 CHAIRMAN HILL: Father? Sorry. Speak next,

1 but then and turn to the applicant in terms of
2 addressing some of these issues. But if you can keep
3 them straight for me because I am kind of curious.
4 So, you don't have to go over them again but so, just
5 when -- yeah, sir. Please?

6 MR. HOOD: Mr. Chairman, let me back up. I'm
7 going to have to take one at a time.

8 CHAIRMAN HILL: Sure.

9 MR. HOOD: Because I've seen a situation like
10 this before where residents come in to an already
11 existing establishment, and I want to make sure I
12 follow you. And there was concern that the residents
13 would come in and then an already existing
14 establishment that was there would complain, and then
15 they would be dwarfed out eventually. Is that what
16 you're saying?

17 MS. BASANTI: Right.

18 MR. HOOD: I'm not following you.

19 MS. BASANTI: So, we -- one of our fellow
20 neighbors who we've been in communication with had
21 another business just down the street. And
22 ultimately they ended up having to shut down and
23 change the concept because of one resident. They
24 were back and forth, who moved in after the business
25 had already been open. But because of the -- even

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1 though they had followed their VA and because the
2 resident continued to complain of noise complaints,
3 ultimately -- well, among other things. But that all
4 had to do with just being a business, really, on a
5 commercial block. They ended up having to shut down
6 and redesign and reopen under a different concept.
7 And that's sort of something where it was brought up
8 when I met with the other fellow business owners that
9 it's a real fear for us, especially to have them
10 right, like I said, right smack dab in the middle.

11 The three businesses to the east and then the
12 three business to the west are both -- all six
13 businesses have outdoor seating, roof decks, outdoor
14 patios.

15 MR. HOOD: So, do you have that now? I have
16 not had the luxury, as the Chairman and others who
17 have told me that they had your pies and been to your
18 place and good food, and I haven't had that luxury.
19 So, I'm coming from very late on that issue.

20 But let me just ask you, what are you doing
21 now? Do you have something in the pipeline?

22 MS. BASANTI: Yes. We are --

23 MR. HOOD: You have something --

24 MS. BASANTI: We have been approved, our
25 plans have been approved to have a second floor roof

1 deck on the south end of our building.

2 MR. HOOD: So, you already have your
3 approval?

4 MS. BASANTI: Yes.

5 MR. HOOD: So, what is the issue?

6 MS. BASANTI: Well, the concern is that after
7 the fact, if somebody has their -- at any point if
8 there's a window or whatever allowed, to be
9 overlooking -- as you can see from the photos that
10 their architect showed, that building towers over the
11 rest of us. If their window then is overlooking our
12 roof deck it's inevitably going to be an issue for
13 us.

14 MR. HOOD: But also a lot of people, and I'm
15 just saying, but we'll let the architect, and I don't
16 know, but a lot of people don't want people looking
17 into their places either.

18 MS. BASANTI: Right.

19 MR. HOOD: So, I see it's a two-fold. But
20 you've already been approved, so I think that may
21 negate my first issue, because you've already been
22 approved to do your roof deck.

23 MS. BASANTI: Right. Yes.

24 MR. HOOD: Right? But I'll let the applicant
25 -- I mean, the architect respond to some of that.

1 Okay. Thank you, Mr. Chair.

2 CHAIRMAN HILL: All right. Mr. Basanti, do
3 you want to go ahead and give me your testimony?

4 MR. BASANTI: Yes. I'll try my best. I'm
5 not very eloquent and I'm a little bit nervous as
6 well.

7 CHAIRMAN HILL: Please, take your time.

8 MR. BASANTI: I will just tell a story
9 because that's how I would present it.

10 These are three buildings who are there,
11 which are 1339 H Street is right in the middle, which
12 is our building. The one that has a pie with a skull
13 crossbones.

14 So, in 1892, that's about 27 years after the
15 civil war, two permits were issued to build two-story
16 structures. Those were 1339 H Street and 1337 H
17 Street, right next to it.

18 In 1907, a pair of three-story buildings was
19 permitted in 1341. That's where our -- that's where
20 the project is, the building, building project, arts
21 project.

22 So these three buildings are truly
23 historical, even though they might not be designated
24 as such. But they are truly historical. They are
25 over, way over 100 years.

1 The three buildings, the buildings as they
2 exist, were built with a shift off the survey line by
3 a few inches. Now, I'm sure in Washington you are
4 very familiar with that. Here are the three
5 buildings together, and I will just, if you bear with
6 me, I will show that survey lines. This is the one
7 from 1337 on to 1339. There is a little x there that
8 shows how much is the survey line, where the survey
9 line is. That means they are on to our property. I
10 don't want to use the word property because it's very
11 confusing.

12 The next one is this is 1339 on to the
13 building garden property. And see the X here, it's
14 about a couple of inches. One inch, one and a half
15 inches, et cetera.

16 I want to make another point. The building
17 garden building is also shifted to the neighbors. And
18 if you look up over the roof of the neighbors, the
19 building garden building goes on -- building arts
20 building goes by a significant amount over the survey
21 line.

22 Now, when they were going to build up two
23 more floors, they're taking the building boundary,
24 which is existing, and going up two more floors,
25 which is fine. I support that because it's none of

1 my business.

2 However, okay, one more point. The few
3 inches that are in the front, when you go 175 feet
4 down, they expand to about eight inches at the back.
5 This is the back of -- this is the back of one of the
6 buildings, and you can see it's almost like a brick
7 size difference. These are what you call survey
8 lines.

9 So, everybody -- so, building arts building
10 on the façade in the front, is building on top of
11 existing property. Their existing historical
12 property line, which is that a property line in that
13 case is the building boundary, not the survey.
14 They're not going back into the survey line. But as
15 they go back south of the -- from H Street, they run
16 into -- they have empty space, and then they revert
17 back to the survey line.

18 This is the different -- I'm showing here,
19 that our building is to the left, their building is
20 to the right. There is a gap. We have only 28 feet
21 of shared space in the front, and then after that the
22 two buildings are split, separate. And they run
23 separate for 150 yards or so. So, it's a very, very
24 long building.

25 What you see here is the -- we expanded and

1 this is what Sandra was talking about, they expansion
2 is, we're expanding our second floor but in order to
3 build a bar and a restaurant. And then, you see
4 where these logs are? This is where we're building a
5 roof deck.

6 And we have run into quite some opposition.
7 We already have the approval and everything from the
8 neighbor, saying that we do not own our own roof;
9 that they own five and a half inches and we own three
10 inches because they go back to the survey line. I
11 say, this is a double-standard.

12 In the front of the building they're using
13 the boundary line to build up, because -- and they're
14 entitled because that's a historic building. On our
15 historical building they say no, you have to revert
16 to the survey line. So, and this is the second
17 floor.

18 On the first floor --

19 CHAIRMAN HILL: Mr. Basanti, I'm just going
20 to interrupt you for one second. I got lost as to
21 how much time you had going on, so --

22 MR. BASANTI: Okay.

23 CHAIRMAN HILL: -- if you could just kind of
24 keep it to another minute or so?

25 MR. BASANTI: Okay.

1 CHAIRMAN HILL: I mean, I don't
2 necessarily --

3 MR. BASANTI: I will -- I am just trying to
4 tell you that what are we objecting? We're not
5 objecting to the building itself. We're objecting
6 to, effectively, the border line --

7 CHAIRMAN HILL: Okay.

8 MR. BASANTI: -- that is on the drawing.
9 We're objecting to the drawing. And we will ask you
10 to do something about this. This has an impact on
11 our building in a big way. I will just tell you how.

12 This, if you can follow this, this is the
13 three buildings next to each other. Okay? Can you
14 recognize --

15 CHAIRMAN HILL: Yeah, no, I see. I
16 understand.

17 MR. BASANTI: You can recognize them. So,
18 our building happens to be, the one that's in the
19 middle, has four roofs. Those four roofs. The first
20 one, which there is a shared wall, and then next to
21 it there is another section, and then a third
22 section, and then there is a second two-floor
23 building at the end, which is a loft. This whole
24 area, 175 feet long, is going -- according to the
25 plans, the current plans, will be bordered, bounded

1 by a wall that is their wall, the proposed wall is
2 going to be on top of our edge of the wall, not next
3 to it.

4 If they build next to it, I'm fine. But if
5 they come and build on top of it, whether it's -- so
6 five inches, seven inches, eight inches, this, we
7 feel, is an invasion of our property. Besides, this
8 has three effects.

9 In the short-term, we have a roof deck that
10 will go right there and we can't build it on -- we
11 cannot anchor it on the existing structure, because
12 they tell us no, they own five and a half inches and
13 we own three inches. We can't have that.

14 CHAIRMAN HILL: Okay.

15 MR. BASANTI: This is a problem for us.

16 CHAIRMAN HILL: Okay.

17 MR. BASANTI: In the long-term --

18 CHAIRMAN HILL: Uh-huh.

19 MR. BASANTI: -- we need to build up, just
20 like they are building up, and we told them, if you
21 want a party wall have a proper party wall, pull the
22 anchors together and we can share that wall. They
23 said, no, they will not share that wall. That's
24 their party wall. That's their wall and they called
25 it face online. That means they can windows or

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1 whatever, but we cannot touch it.

2 So, this is --

3 CHAIRMAN HILL: Okay. Okay. Okay. Okay.

4 MR. BASANTI: -- this is the concern.

5 CHAIRMAN HILL: Okay.

6 MR. BASANTI: So, in the long-term we don't
7 know whether we can go up or not because when we dig
8 down they have, in their plan, the underpinning under
9 our building. So, we don't know where their
10 foundation is. This is in the long-term.

11 And then the risk element of digging a
12 basement along the whole block next to our --

13 CHAIRMAN HILL: Okay, Mr. Basanti, you've got
14 to kind of wrap it up just a little bit. Okay?

15 MR. BASANTI: I will. I'm just saying.

16 CHAIRMAN HILL: Okay.

17 MR. BASANTI: This is the third point of the
18 risk --

19 CHAIRMAN HILL: Okay.

20 MR. BASANTI: -- for us. I will read this.

21 What do we need from the BZA? Number one,
22 ask the project to adjust its design plans to
23 recognize, to the recognition of the de facto
24 boundary of our existing structure due to its
25 historical and continuous presence.

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1 Number two, allow -- I will distribute this.
2 I will distribute this with the pictures.

3 Number two, allow an easement to minimize the
4 extent of excavation under our 100-year-old building,
5 and thus reduce the extent of the need to trespass on
6 our building. Just a couple of inches.

7 CHAIRMAN HILL: Okay. Okay.

8 MR. BASANTI: Number three, the project does
9 not address our water drainage or snow removal after
10 the full 175 feet corridor will be built. Everybody
11 knows that in D.C., or in America, the snow, the snow
12 flows from the west to the east. This is a wall on
13 our east. And there is a corridor --

14 CHAIRMAN HILL: Okay. Mr. Basanti, you're
15 going to have to wrap it up. So --

16 MR. BASANTI: Yes.

17 CHAIRMAN HILL: Okay.

18 MR. BASANTI: So, who is going to remove the
19 snow?

20 CHAIRMAN HILL: Okay.

21 MR. BASANTI: We don't have any assurance.

22 CHAIRMAN HILL: Okay.

23 MR. BASANTI: And the last thing is that the
24 project's design, as it is now, should not allow
25 windows overlooking our --

1 CHAIRMAN HILL: Okay.

2 MR. BASANTI: -- deck.

3 CHAIRMAN HILL: All right. I just want to be
4 on the record, like you normally are only getting
5 three minutes. Okay?

6 MR. BASANTI: I will give you this.

7 CHAIRMAN HILL: I gave you 10 minutes. Okay?

8 MR. BASANTI: Thank you so much.

9 CHAIRMAN HILL: All right. Okay.

10 MR. BASANTI: And I will give you this --

11 CHAIRMAN HILL: Okay. You can submit it to
12 the secretary and they'll make copies.

13 MR. BASANTI: Yes, sir. Thank you.

14 CHAIRMAN HILL: So, the only reason why I'm
15 cutting it off is like, you're telling me a lot of
16 different things, okay.

17 MR. BASANTI: Yes.

18 CHAIRMAN HILL: And it sounds as though, you
19 know, you haven't even talked -- I don't know what's
20 gone on. You guys are the next door neighborhood,
21 obviously, right? So, before I move on to the
22 response from the applicant, okay, and to where you
23 are in terms of dealing with the next-door
24 neighborhood, trying to get to a point with the next-
25 door neighbor and there's concerns, I was kind of

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1 interested in the Office of Planning because this
2 whole issue about, you know, the property line and
3 even whether that's in our purview, right, which it's
4 not, you're shaking your head. I would imagine this
5 is a pretty common thing that happens over the
6 hundreds of years that Washington, D.C. has been
7 developing.

8 MS. VITALE: This is something that would be
9 more appropriately addressed by the Office of the
10 Surveyor. And I do know in the District there are
11 properties that have been built over property lines,
12 but that's not something that we generally get into
13 in our review of BZA cases.

14 CHAIRMAN HILL: Okay. Great. Thanks. So,
15 I'm going to turn to the applicant. So, there was a
16 list and some of those -- I mean, you guys have
17 talked together, and you've tried to get to
18 something. I mean, you mentioned at one time a party
19 wall agreement was proffered. Can you address -- and
20 please, do me a favor now, I just want to hear from
21 them and let them speak and hear what they have to
22 say concerning all of your concerns.

23 MS. BROWN: Yes, I agree with the Office of
24 Planning's assessment that these really do fall
25 outside the purview of the Board of Zoning

1 Adjustment. And I didn't want to interrupt and say
2 that we should stop talking about it, and we're happy
3 to address it, and if that's what you're asking, we
4 can go through our whole list of e-mail
5 correspondence and issues, but I don't want to take
6 up the Board's time telling you.

7 But the summary is, they have been in
8 discussions for at least four months on this issue.
9 And we take the issues very seriously. No one wants
10 to be accused of trespassing, and we think that it is
11 something that can be dealt with through the
12 surveyor's office, too, and get a licensed surveyor
13 to properly establish where the boundary line is and
14 move from there.

15 The DCRA has a very specific process on how
16 you get underpinning, and you have to notify your
17 adjacent neighbor, and you have to try to work that
18 out to make sure that nobody's property is damaged in
19 that process.

20 So, they have undertaken those requirements
21 under the building code, and they will continue to
22 undertake them. And no one wants to have, you know,
23 bad relationships with their neighbor, and this
24 applicant wants to maintain good relationships. We
25 know that that's key.

1 CHAIRMAN HILL: What about the question about
2 the windows, on that side?

3 MS. BROWN: The windows would be, if the
4 applicant were -- right now they're designed without
5 windows, but they want the option to put windows in.
6 they would of course be at-risk windows, and they
7 would -- and the applicant recognizes that, so if and
8 when the Bustanis (sic) decide to build something,
9 they fully recognize and they would have to record a
10 covenant with the District acknowledging that risk.

11 CHAIRMAN HILL: Okay. Okay.

12 MR. SMITH: May I also add two items to that
13 briefly? Also, not only would they be at-risk
14 windows, but they would be subject to the DCRA
15 building code -- excuse me, the DCMR 12 Building
16 Code, which has some restrictions on openings on
17 property lines in terms of adjacencies to existing or
18 construction, so they would have to be in conformance
19 with that, which would effectively raise them quite
20 high above any adjoining structure -- any joining
21 structure, which I think to some extent addresses any
22 concerns about sound, if that were, in fact, to even
23 happen.

24 The other thing I do want to make sure that
25 is clear and is on the record, is there is a survey.

1 There is an existing survey. It's done by a D.C.
2 licensed surveyor. It clearly shows where the
3 property lines are. In my opinion there was no
4 question about this. And that has been shared with
5 the Basantis. They, I believe, indicated they might
6 want to have somebody else look at it. I don't know
7 if that has happened.

8 The other thing is that on the -- the survey
9 versus hatch an offset marks and Mr. Basanti was
10 referring to, I can understand that that may appear
11 to be the case. And I'm very, again, sympathetic to
12 that.

13 CHAIRMAN HILL: I'm going to just interrupt
14 you. It's not in our area. Right? So, I'm not --
15 so, that's what I'm trying to figure out. And I'm
16 trying to also help you get something here. You
17 know?

18 And I don't know how the negotiations have
19 gone on to this point. Have you seen the party wall
20 agreement that they gave to you?

21 MS. BASANTI: We have -- I responded --

22 CHAIRMAN HILL: You do understand that some
23 of this isn't in our area.

24 MS. BASANTI: Right, I do. I do.

25 CHAIRMAN HILL: That's what it's -- that's,

1 you know, we're not even the board that you should be
2 talking in front of.

3 MS. BASANTI: I understand. I know that all
4 of this has been submitted to you and so I'm again,
5 just here sort of either reiterating if you want me
6 to, or to answer any questions if you have any.

7 But as far as the communication, party wall
8 agreements, all of that, I explained that it wasn't
9 sufficient just because it didn't actually address
10 anything that we had -- any of our concerns that we
11 had already discussed with them. It just sort of
12 reiterated their position. And so, nothing really
13 came of that. It wasn't really a conversation or a
14 negotiation. It was just sort of, instead of put in
15 a proposal it was put in a letter and asked to sign.
16 And we didn't -- so, we weren't able to sign because
17 we didn't -- I mean, it didn't really -- I don't
18 think that we were represented in that letter that
19 they drew up.

20 And since then we haven't met or had any
21 real, you know, like one on one conversations about
22 any of our concerns, and I think that's part of the
23 issue is the lack of communication that -- maybe it's
24 just bad timing because of the holidays or whatever,
25 everyone is busy. And you know, my father has been

1 traveling with work and all that kind of stuff. So,
2 it is you know, just being able to sit down and
3 actually flesh some things out hasn't happened. So,
4 as far as I am concerned we haven't really been able
5 to -- I don't think that many of our concerns have
6 been properly addressed.

7 CHAIRMAN HILL: And some of those concerns, I
8 mean, you were nodding your head earlier, is not
9 something that we would be involved in.

10 MS. BASANTI: I'm not 100 percent as far as I
11 only realized in the last case or whatever, that you
12 guys were talking that you were explaining that
13 underpinning might not be, you know, something that
14 you guys deal with or whatever. That isn't
15 necessarily -- again, I don't --

16 CHAIRMAN HILL: Okay. That's all right.
17 That's okay. Okay.

18 MS. BASANTI: Yeah, I wouldn't know that.

19 CHAIRMAN HILL: Okay. Okay.

20 MS. BASANTI: You know, necessarily.

21 CHAIRMAN HILL: Okay. Does any board member
22 have any questions for the witnesses?

23 MR. HART: Just well, actually one question.
24 In the letter that you wrote, Ms. Basanti -- did I
25 say that --

1 MS. BASANTI: Yes. Basanti. Yes, that's
2 right.

3 MR. HART: There were three -- when you were
4 talking about the special exceptions that the BZA can
5 -- that what we kind of approve, the second point of
6 that was that will that tend to affect adversely the
7 use of neighboring property in accordance with the
8 Zoning Regulations and zoning maps. Is that, you
9 were talking about this party wall issue?

10 MS. BASANTI: Right. Exactly. Yes.

11 MR. HART: I just wanted to make sure there
12 was nothing else that was in there that I was
13 missing.

14 MS. BASANTI: Okay.

15 MR. BASANTI: Yeah, well, the party wall by
16 implication has other side effects, like we have to
17 remove our rooftop. If it's approved the way they
18 want it, like to straddle our building, then there is
19 issues of like snow removal, water issues. We get a
20 lot of negative impact from having that; having -- I
21 mean, no assurances that we -- that we have to
22 handle, whatever comes to us from having a wall right
23 on our property.

24 MR. HART: Okay.

25 MR. BASANTI: So, it goes a little bit beyond

1 just a disagreement of where is the property line.
2 We know where the property line is.

3 MR. HART: But yes, but what you're saying is
4 that the party wall issue leads to, indirectly leads
5 to other issues.

6 MR. BASANTI: Leads to several negative --

7 MR. HART: And I understand that.

8 MR. BASANTI: -- impacts on us.

9 MR. HART: I was just trying to understand
10 what --

11 MR. BASANTI: Which is quite dangerous as far
12 as we're concerned because of the lengths of the
13 building.

14 MR. HART: Thank you.

15 MR. BASANTI: Thank you.

16 CHAIRMAN HILL: I'm going to just go one at a
17 time. Okay? So, again, would you like to respond?
18 I thought I saw the architect nodding at one point.
19 Not nodding but making a comment. If you could share
20 with me your comments on that issue?

21 MS. BROWN: Again, I hesitate to get into the
22 nuances and details of this because I just don't know
23 that it's an effective use of the time here for party
24 wall issues.

25 I think what we can commit to, obviously, is

1 that we're going to fully comply with whatever the
2 D.C. Building Code requires us to do. We have to in
3 order to get permits. And under the building code it
4 will address those issues of --

5 CHAIRMAN HILL: Okay. Okay. No problem. I
6 got you. Okay. Does anyone have any more questions
7 for anyone? Okay.

8 MR. HOOD: Mr. Chairman, I do have a
9 question.

10 CHAIRMAN HILL: Sure.

11 MR. HOOD: And I understand what Ms. Brown is
12 saying, but you know, I've been told by the Courts
13 that some things are within the Zoning Commission's
14 jurisdiction. Some of them going down that road
15 anyway.

16 Ms. Brown, it seems like you all have only
17 been working on this issue for four months.

18 MS. BROWN: I have not, but the applicant
19 has.

20 MR. HOOD: Oh, the applicant has been working
21 on it for four months. And that's the best
22 assurances. I mean, can there still be some -- and I
23 know some of this, you're right, Mr. Chairman, some
24 of this isn't in our purview. But some of this
25 actually is, because the decisions we make will

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1 impact. And you know that, right, Ms. Brown?

2 MS. BROWN: Yes, sir.

3 MR. HOOD: So, and I appreciate you helping
4 us to help us move along, but we want to make sure we
5 move along correctly. So, what I would ask is that,
6 Mr. Chairman, if there's an order, regardless of
7 whatever action this board takes, that you continue
8 to work with this business, who I understand has
9 great pies. Is that all you all do is pies? So,
10 okay.

11 But I think, because it's more than just
12 getting what you all want, it's about being a good
13 neighbor.

14 MS. BROWN: Absolutely.

15 MR. HOOD: So, I really think these both
16 organizations, both sides of that party wall could
17 still work together and come up with some resolve.
18 Okay? Everybody might not get what they want, but
19 you still can get some type of resolve, because at
20 the end of the day, you all are going to be
21 neighbors. I don't think any of us live in that
22 neighborhood. But if we do, we're not going to be
23 right there. So you all are going to be there, the
24 applicant as well as the business next door. Okay?
25 Thank you, Mr. Chairman.

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1 CHAIRMAN HILL: Okay. So, again, I can see
2 that you've worked, you know, you've worked with the
3 ANC. The ANC is here in support and is here for
4 something else. But, I guess I'm a little curious to
5 see if you can get a little bit more discussion with
6 the -- I mean, because you're the next door neighbor.
7 You know, I mean, it's not as if it's somebody down
8 the block or anything like that. I mean, I think
9 you're pretty much there, right. It's just that if
10 there was -- and I think, though, that Mr. Basanti,
11 again, you have to approach talking with the
12 applicant in a fair -- in an understanding way, which
13 is that some things you just can't change. You know,
14 I mean, like the way the property is, the way the
15 property lines are, the way the building is, but
16 working with them in some capacity. I don't know. I
17 mean, I don't know how long you guys have been
18 negotiating or talking. I'm kind of torn here, to be
19 quite honest.

20 I don't know what the other commissioners or
21 board members think. Like, if you -- I know if you
22 all went and talked today, maybe, just for like an
23 hour or so and then came back to us, if that would be
24 something that you guys would be willing to do. Or,
25 I can put it off again and we -- you guys can go back

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1 and meet with them and talk with them.

2 I don't know where you have been. I can see
3 now that somebody else is coming to the table. I
4 assume that's the property owner. And so, that's
5 kind of where I'm just kind of trying to figure this
6 out, right? And so, I'm going to go let you speak
7 also, as the property owner. Please, just knowing --
8 I know that you guys are trying, you guys are trying
9 to work things out, you're trying to be neighbors.
10 So, let's just try to keep it kind of relaxed.

11 So, please -- yeah, exactly. Well, yeah, I'm
12 sorry. That's my way. That's all I can think about.
13 So, before I move on to you -- well, actually, let's
14 just -- you're one of the property owners so you were
15 going to have something to say?

16 MS. MONTPLAISIR: Gail --

17 CHAIRMAN HILL: Oh, sorry.

18 MS. MONTPLAISIR: Gail Montplaisir, with
19 Bearden Arts, LLC. So, my company is the managing
20 member.

21 So, I've known the Basantis for a long time.
22 We've been -- we've always had good communication up
23 until very recently. And what I think is an
24 underlying problem here is that the way that the
25 District of Columbia deals with party walls and

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1 property line issues is different than what they
2 would like it to be.

3 And so we have proffered a party wall
4 agreement that assures them and provides them with
5 insurance that nothing we would do would undermine
6 the integrity of the party wall, and in fact would
7 secure it even more. So, it was --

8 CHAIRMAN HILL: Is that agreement in the
9 record?

10 MS. MONTPLAISIR: No, it is not, because
11 again, it's not under the purview of the BZA. But
12 just to put your, you know, put your mind at rest.

13 And then they came back -- and also that it
14 would not impinge upon any of their rights to build
15 up because they would still have all the rights that
16 they have. We even offered them free architectural
17 consulting because they were concerned that they
18 wanted to use a beam and they wanted to go across the
19 entire party wall when they build their deck. And we
20 explained to them, they can't do that because that
21 goes onto our property and it can be done with a
22 clip. So, we offered them free architectural advice
23 to be able to discuss this.

24 They've also mentioned that they had also
25 gotten a survey, but they have not disclosed to us

1 what the results of that survey were.

2 So, when they came back with their -- what
3 they wanted the edits to be to the party wall
4 agreement, what they essentially said was that they
5 wanted us to give up all of our rights to doing
6 anything on the party wall, and they didn't want us
7 to underpin the wall at all. They wanted us to leave
8 it as it is. Now, structurally, that's not possible.
9 And so the types of things that they were asking us
10 for were to give up our rights and not understanding
11 that we're very happy to help preserve their rights,
12 but we need to find a way to work together.

13 And I'm assuming in all best worlds, that you
14 know, that they want to find an agreement. But what
15 they presented to us was simply that we give up our
16 rights to them, and that we couldn't build anything
17 until they approved it. And that's not -- you know,
18 we need to get beyond that.

19 So, we're happy to keep working with them,
20 and we have offered them meetings after meetings, and
21 it's usually the -- even the last one was -- we've
22 been offering since September, we keep going
23 through --

24 CHAIRMAN HILL: No, that's okay. That's all
25 right. Thanks.

1 MS. BROWN: Well, just, we've had lots of
2 requests for meetings and they've only met with us
3 once, so, and that was in October.

4 CHAIRMAN HILL: Okay. All right. Does the
5 Board have any questions? Again, and I'm curious of
6 the Board because I'm kind of -- if we're ready to
7 deliberate, if we went to -- no, not just yet. Thank
8 you.

9 MR. HOOD: Mr. Chairman, I think that if I'm
10 reading you correctly, I think that more time
11 sometimes, and I know people might not want more time
12 in the discussion coming from us, waiting to hear --
13 and I hear about the purview issue, because for me,
14 all of us within our jurisdiction at some point
15 because our decision we make will have the impacts on
16 whatever we do, or whatever what's going to exist
17 there.

18 I think that there could be some more
19 discussion, and sometime, coming in front of this
20 board, sometime people wait to have the discussion
21 after they come in front of the Board, and then we've
22 been -- I think the Board has been very successful in
23 allowing people more time and waiting to get feedback
24 at the appropriate time, whichever is set.

25 So, I'm not sure where you are, but that's

1 kind of along the lines that I am, but you know, it's
2 up to the --

3 CHAIRMAN HILL: Okay.

4 MR. HART: I am somewhat torn, but not torn
5 because of -- torn because of some of what the
6 Basantis have said. They were actually talking about
7 that they were not actually opposed to the concept.
8 But really, this is about the implementation of how
9 to do this. And it seems as though, while they can
10 have more discussion about that, it -- I'm not sure
11 if that's necessarily the purview that -- within our
12 purview to kind of decide what that -- to some degree
13 it is, but to some degree it isn't, what that
14 implementation is, because really this is, how do you
15 construct this building that meets the building codes
16 as well as -- I mean, you have to have financier for
17 this and make sure the banks are okay with how you're
18 doing this as well. Probably insurance issues as
19 well, that are involved in this.

20 So, again, those don't seem like things that
21 we are kind of involved in, but it seems as though
22 there has, you know, been somewhat of a discussion
23 that is started, and it probably is going to continue
24 because you are neighbors and you will continue to be
25 neighbors. And I just, I guess it's the torn part is

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1 that because we have, you know, really no one that's
2 in opposition to the actual concept, it's the
3 implementation issue is what the issue is, I would
4 you know, listen to my fellow board members about how
5 to move forward on it. I haven't had enough
6 experience in the Board to be able to go through
7 that, but you know, kind of having read the full
8 record here, it just seems like the issues that we're
9 having to decide upon are actually already pretty
10 much decided upon.

11 Again, it's the implementation of how this is
12 moving forward is really on you all to kind of work
13 that out. But again, that's kind of --

14 CHAIRMAN HILL: Okay. All right. So, this
15 is where I am. And so, as Chairman Hood mentioned,
16 and what I'd just like to see, I mean, I think you
17 guys are already -- I mean, I think the design is a
18 good design. I think that you've made a case for the
19 variance. I'd like to hear just a little bit more
20 discussion with the next door neighbor. And that is
21 like, you know, either maybe just talk a little bit
22 today and you can come back to me and tell me that
23 you can't make any changes, nobody can get anywhere,
24 then that would be at least somewhere that I could
25 feel better about that there was a discussion.

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1 Or, we can, and this is also dependent upon,
2 you know, the financing and timing. I'd also like to
3 know whether if this gets pushed off until January,
4 if there is an issue. So, well, first of all, is
5 there any -- well, no. Let me do this. I mean, can
6 you guys just go talk for like an hour or so and then
7 come back to me and tell me whether you've gotten
8 anywhere?

9 MS. MONTPLAISIR: We'd be delighted to talk
10 more, but I think the fundamental issue here is a
11 dispute over survey boundaries and I don't know how a
12 discussion in the hallway is going to solve that.

13 CHAIRMAN HILL: Yeah, I don't think you're --
14 yeah, no. I agree. I don't think the survey
15 boundary issue is something that is going to be -- I
16 was more talking about the outdoor -- I don't know if
17 -- well, maybe there's nothing, then to talk about.
18 There's no outdoor -- your opposition is again, to
19 your concern about the outdoor -- the patio or the
20 windows, again, right?

21 MS. BASANTI: Well, the concern from, yeah,
22 the neighboring businesses, is basically one of a
23 noise issue. I think one of the other businesses the
24 last time we were here, submitted a letter asking for
25 them to consider using some sort of sound proofing or

1 whatever, if we're going to have residences right in
2 the middle of our block. And again, the -- yeah, the
3 window issue, just so that we can have some sort of
4 guarantee that there won't, in future plans, be you
5 know, windows overlooking our roof decks and outdoor
6 seating.

7 CHAIRMAN HILL: Yeah, but they could put
8 those there and then by right -- I mean, I'm sorry,
9 then when you all build up, you're going to block
10 their windows. If you ever built up.

11 MS. BASANTI: And wouldn't that be another
12 problem for us, or --

13 CHAIRMAN HILL: No, the windows aren't by-
14 right, meaning they're at risk.

15 You're allowed to build up just as high as
16 they're allowed to build up.

17 MS. BASANTI: Right.

18 CHAIRMAN HILL: So, those windows would get
19 knocked out.

20 MS. BASANTI: Okay.

21 CHAIRMAN HILL: So, but in any case, I
22 understand. Now I'm back to, here we are again.

23 So, if the Board is ready to deliberate,
24 then, it sounds like some of the issues are issues
25 that have been talked about. I'd like to hear, make

1 sure the discussions continue forward with the
2 property -- the neighbor next door.

3 As far as the conditions that were RPP, like
4 what happened with those, or where are you with that?

5 MS. MONTPLAISIR: So, we agreed at the ANC to
6 have right in our public offering statement that
7 nobody is eligible for an RPP. We also said we would
8 put in the public offering statement that there would
9 be no undue noise on our roof terrace, and then I
10 also talked to Joe Englert and Blair Zervose
11 (phonetic), who are partners in two of the
12 neighboring properties, and we agreed that we would
13 put in our public offering statement, also an
14 acknowledgement and warning to any future residential
15 purchasers or residents that they acknowledge that
16 they're moving into an urban area where there are
17 bars and restaurants that have roof terraces and that
18 there will be noise and that they understand that and
19 accept that before they actually enter into this.

20 Now, we came up with that with Joe Englert
21 several weeks ago, and you know, we anticipate that
22 that addresses to the best that we can, what that
23 would concern. And we're happy to work with the
24 Basantis on any other issues that they have, and we
25 have, and we're continuing to do so.

1 CHAIRMAN HILL: And what about the amplified
2 music on the -- oh, the roof deck. That's who you're
3 speaking of.

4 MS. MONTPLAISIR: That's roof terrace.

5 CHAIRMAN HILL: Okay.

6 MS. MONTPLAISIR: Right. We will not have
7 any amplified or allow any amplified music there.

8 CHAIRMAN HILL: Okay.

9 MR. HOOD: Mr. Chairman.

10 CHAIRMAN HILL: Sure.

11 MR. HOOD: Could she also -- I'd rather see
12 more emphasis to taking consideration what they'll be
13 doing on their roof deck, as opposed to the RPP,
14 because I can tell you right now, I'm thinking about
15 asking the Commission to put in legislation that RPP
16 cannot be talked about then, until we're able to
17 enforce it. Because right now all it is is a piece
18 to come down here and have a conversation about it.
19 And actually, I get very irritated when I hear RPP,
20 because I know under my own discovery it does not
21 work.

22 But I think as opposed to -- you can put it
23 in there, that's fine. But I just don't want
24 neighbors and communities to be on promise land. But
25 I think, though, if you could memorialize something

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1 in your agreement about you actually have a bar,
2 restaurant, or bakery or whatever it's called, I'm
3 not sure, right next door. And that may be something
4 that you'll run into. And knowing moving in to this
5 place that you have that next door, I think that may
6 ease some of that -- may ease some of the tension
7 that we have here. And if that's memorialized, Mr.
8 Chairman, then I don't have any problems moving
9 forward.

10 MS. MONTPLAISIR: I am happy to do so and we
11 will make sure that it goes into the public offering
12 statement that way.

13 CHAIRMAN HILL: That there is a roof deck
14 next door and --

15 MS. MONTPLAISIR: Absolutely.

16 CHAIRMAN HILL: -- making the people aware of
17 it.

18 MS. MONTPLAISIR: Absolutely.

19 CHAIRMAN HILL: Okay. All right. Okay.
20 Then, do we have any more questions for anyone?
21 Okay.

22 Then, I'm going to go ahead and -- did I ask
23 for everyone? Yeah. Then, I'm going to go ahead and
24 close the hearing.

25 Is the Board ready to deliberate? Mr. Hart,

1 would you like to go?

2 MR. HART: Yeah, and I appreciate for
3 everyone for coming down, and you know, spending your
4 time here, it's hard because you have to wait for us
5 to get to the cases. I think that the case has
6 definitely provided, and I wanted to thank OP for
7 coming to give us their recommendation on this as
8 well, the ANC for coming to give their information to
9 us.

10 I think that the case is, it sounds like it's
11 fairly unanimous in terms of the people not opposing
12 the actual project. Again, it gets down to that
13 implementation. How do you actually construct this,
14 and I think that there needs to be kind of further, a
15 continued discussion for this.

16 I think that the applicant has shown that
17 they are meeting the requirements that are in the
18 zoning code with regard to being in harmony with the
19 neighborhood. The issue about not tending to
20 adversely affect the use of neighboring property, I
21 think that's somewhat of a tricky one, but I think
22 that they are actually meeting that. They do need to
23 have a continued discussion, I think, with the
24 neighbors because I think that their issues that they
25 raise are issues that needs to be addressed.

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1 And with that, I think that I would make a
2 motion to approve the application.

3 CHAIRMAN HILL: I agree with your analysis.
4 I mean, I think that you know, again, the ANC is in
5 support, the Office of Planning is in support, I
6 think the design is one that's a good design and has
7 had feedback from the community. My only, you know,
8 hang-up as we publicly have to deliberate things was
9 that, you know, trying to address some of the issues
10 and concerns that the neighbor had.

11 However, since the majority of those issues
12 do not fall within our purview in terms of what it
13 would actually do to alleviate those concerns, I'm
14 also able to move forward. I would like to add the
15 condition that was mentioned before again, even
16 though it was asked for by the ANC and how the Zoning
17 Commission may move forward with RPP is, I'll be
18 interested to see in the future as well. But leave
19 the condition in there that RPP restrictions are
20 written into the sales documents. And then also
21 there be very clearly made into the sales documents
22 again, that there is a neighbor next door that has
23 outdoor seating and is well aware of that so that in
24 the future if there is -- and if you could share that
25 also with the next door neighbor in terms of the

1 verbiage in there, so if there is any issue moving
2 forward with someone next door complaining about
3 noise and music and things like that, they can then
4 refer back to that document, say you were very full
5 and well aware of it moving in.

6 So, I would second your motion, Mr. Hart, and
7 so the motion has been made and seconded.

8 Mr. Chairman Hood, do you have anything to
9 add?

10 MR. HOOD: I would just also agree. I think
11 the relief requested is in order as far as moving
12 forward, but I still have some hesitating issues on
13 the impact. But I will say that I think, and I know
14 Office of Attorney General will correct it if I'm
15 wrong, but I'm going to make sure that needs to at
16 least point to it in our order, whether it's
17 enforceable or not. But I think it should need to be
18 make mention of whatever the applicant and the
19 adjoining neighbor or business comes up with, as far
20 as that language and noting that basically that
21 business has been grandfathered, that business was
22 there first. Because I can tell you, there's another
23 project in this city where the Commission dealt with
24 of the same instance, and we had to make sure it was
25 memorialized.

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1 So, I think that helps the business out when
2 we go that route. So, with that I think the relief
3 requested is in order and I will be voting in favor
4 of this motion.

5 CHAIRMAN HILL: Okay. Motion has been made
6 and seconded.

7 [Vote taken.]

8 CHAIRMAN HILL: All right. Thank you. Thank
9 you all very much.

10 Mr. Moy, the motion passes.

11 MS. GLAZER: Mr. Chair, just clarification.

12 CHAIRMAN HILL: Sure.

13 MS. GLAZER: Language for the condition, is
14 this going to be by agreement from the parties? Are
15 you asking the applicant to submit something, or are
16 you -- or has the Board -- does the Board want the
17 Office of Attorney General to craft language that
18 reflects your comments?

19 CHAIRMAN HILL: I think the applicant and the
20 next-door neighbors can work together to come to an
21 agreement in terms of the language.

22 MS. GLAZER: Well, after the vote I don't
23 think that's a good idea, really.

24 MR. HOOD: Well, I think -- let me just say
25 this. I think that what we've asked you to do, and

1 we do review the order, and I think what we asked
2 them to do was to point to it. So, you know, it
3 won't get an okay unless it's pointing to it. And
4 yes, we did vote, but I think we do review the order,
5 last I checked. So.

6 MS. GLAZER: Well --

7 CHAIRMAN HILL: So, in the order it will be
8 memorialized that the applicant needs to put language
9 in there concerning the next door neighbor and their
10 outdoor music and roof deck.

11 MS. GLAZER: Well, is the applicant directed
12 to submit a proposed order? Is that what the Board
13 is thinking?

14 MS. BROWN: If it's appropriate I can address
15 that issue. I mean, it is fairly typical that the
16 applicant as the party can submit proposed findings
17 of fact and conclusions of law. We'd be happy to do
18 that if it's easier for us just to supply the
19 conditions that we believe reflect what you've
20 discussed here today. We can do that.

21 MS. GLAZER: My concern is that there maybe
22 was not adequate deliberation on the proposed
23 conditions, though, and that the Board would need to
24 revisit this.

25 MS. BROWN: I believe that they were

1 proffered by the applicant, so I think it makes it
2 easier for us to do that. They were proffers as
3 opposed to the imposition by the Board.

4 MS. GLAZER: Okay. Well, as long as it's
5 clear that the Board voted on the conditions that
6 were proffered.

7 CHAIRMAN HILL: Yes, it was clear to me.

8 MS. GLAZER: Okay.

9 CHAIRMAN HILL: Okay? All right. No, but
10 thank you.

11 MS. GLAZER: Except for the last condition,
12 the last discussion was regarding an agreement. I
13 wasn't sure if that was in the proffer.

14 MR. HOOD: I don't know if I necessarily said
15 make it a condition. I said, I think the order can
16 point to it, like we do on a lot of other issues. We
17 point to it, let them know that this is what's going
18 on. So it gives some assurances to the business next
19 door.

20 But again, I'll leave that up to OAG. If you
21 don't think that's sufficient maybe we need to
22 retract the vote and deliberate on it, and make it a
23 condition. I just simply said, point to it.

24 MS. GLAZER: Point to what? I'm not --

25 MR. HOOD: Point to what -- the discussion

1 that was had about -- I think Ms. Brown gets it.

2 CHAIRMAN HILL: Okay. So --

3 MS. GLAZER: Point to a representation that
4 the applicant agrees that it will work with the next
5 door neighbor regarding the resolution of various
6 issues?

7 MR. HOOD: No, of what she said that the
8 existing roof top terrace is in existence, bar, or
9 whatever they're going to do up there --

10 MS. GLAZER: Okay.

11 MR. HOOD: -- that new residents will know
12 that this is already there, just like she's going to
13 do the -- I hate to mention this, the RPP.

14 MS. GLAZER: All right. Well, then I don't
15 have a problem with that if the Board is -- I just
16 want clarity.

17 CHAIRMAN HILL: No, I appreciate that. Okay.
18 So, so as I understand -- well, so the motion has
19 been made and seconded.

20 [Vote taken.]

21 CHAIRMAN HILL: So, the motion passes.

22 MR. MOY: Okay. Staff would record the vote
23 as three, to zero, to two. This is on the motion of
24 Mr. Hart to approve the application for the relief
25 requested, along with the, I'm going to say amended

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1 conditions as to the language and staff will work
2 with the applicant on that language and share it with
3 the Chair if I need to. I'll leave that as is.

4 Seconded the motion, Chairman Hill. Also in support,
5 Mr. Anthony Hood. We have a board member not
6 participating and a seat vacant. Motion carries.

7 CHAIRMAN HILL: Okay. Thank you, Mr. Moy.
8 Thank you.

9 MR. MOY: This would be a summary order then.

10 CHAIRMAN HILL: A summary order, please.
11 Thank you.

12 MR. MOY: Thank you.

13 [Pause.]

14 CHAIRMAN HILL: Okay. Okay, Mr. Moy, you
15 want to go ahead and call our next case?

16 MR. MOY: Okay. Moving forward. Thank you,
17 Mr. Chairman. I believe is Application No. 19344 of
18 1336 H Street Northeast, LLC., as captioned for a
19 special exception relief under the N-C Development
20 Standard requirements, Subtitle H, Section 1200 -- or
21 rather 1200.1. This would construct at four-story
22 mixed use building in the N-C-14 Zone at 1336 H
23 Street Northeast, Square 1026, Lot 82.

24 CHAIRMAN HILL: All right. Thank you, Mr.
25 Moy. We're going in order of the schedule that came

1 in front of -- that's in the back door there. This
2 next one, we just heard, just to be clear for the
3 people in the audience, we are following the agenda
4 that's in the back corner there of the room.

5 And this is -- I'm glad that so many people
6 can be here today and just see how long the day can
7 be, right? You know. But after this we're going to
8 take a lunch break, just to let everybody know.

9 But oh no, no. Okay.

10 So, just let me get through this one first
11 and we'll see what happens then, next, if there's a
12 discussion.

13 UNIDENTIFIED SPEAKER: [Speaking off mic.]

14 CHAIRMAN HILL: Okay. All right. Never
15 mind. Hold on a second. Hold on a second.

16 Okay. Well, we've decided up here, we're
17 going to work through lunch. Okay? So, we're just
18 going to keep right along and chugging. So you all
19 just stay put. We're not going anywhere, and right
20 after this we're going to go to the next one and the
21 next one, until it's the end of the day. Okay?

22 All right. So, if you could just go ahead
23 and move down the line here, please, and introduce
24 yourselves?

25 MR. WILSON: Alex Wilson from Sullivan and

1 Barros, on behalf of the applicant.

2 MR. SULLIVAN: Good afternoon, Marty Sullivan
3 from Sullivan and Barros on behalf of the applicant.

4 MR. PONDER: Sean Ponder, 11th Property
5 Group, the applicant.

6 CHAIRMAN HILL: All right, Mr. Sullivan. You
7 know, the ANC is in denial and if I'm looking at the
8 right one. And we've all obviously reviewed the
9 record. However, if you want to go ahead and, you
10 know, walk through your presentation, particularly
11 into the issues that the ANC had with it, that would
12 be helpful for me. And if anybody has any other
13 questions from the Board that would be helpful for
14 the applicant, please let them know now. And other
15 than that, do you know how much time you may or may
16 not need, Mr. Sullivan?

17 MR. SULLIVAN: Five or 10 minutes I believe.

18 CHAIRMAN HILL: Okay.

19 MR. SULLIVAN: Yeah.

20 CHAIRMAN HILL: Okay, great. Mr. Moy, if
21 you'd start the clock because I just am completely
22 lost without the timer. Thank you. All right.

23 MR. SULLIVAN: Thank you. So, the relief
24 that we're requesting is actually rather small, and
25 it's special exception relief, first of all for lot

1 occupancy. And the lot occupancy limit is 70
2 percent. We're asking for 82 percent on the second
3 floor. So, it's commercial on the first floor so
4 there is no lot occupancy limit on the first floor.
5 So, the relief we're requesting is only for the
6 second, third, and fourth floors of the residential.

7 And then we're asking for court relief, and
8 rear yard relief is needed as well, even though the
9 rear yard proper is large enough, there is an egress
10 stairway into the rear yard for which we need relief.
11 All of that is special exception relief.

12 And the special exception requirements as
13 noted in the OP report have all been met according to
14 the Office of Planning, and I believe have not been
15 raised as an issue by the ANC. The ANC's issue, and
16 I won't speak for Mr. Greenfield, since he's here, is
17 related to the FAR bonus. And they don't agree with
18 Mr. LeGrant's determination that we are entitled to
19 the FAR bonus. And I can go into that to the extent
20 you want to get into the specifics.

21 We have a copy of the letter if the Board
22 would like to see that. So, you can go to the next
23 one.

24 So, the existing façade partially collapsed
25 around 2012, I believe. And then it was reconstruct

1 -- and this was two owners previous to the current
2 owner. It was reconstructed. You see the top
3 mansard part was retained and didn't come down, but
4 then it was faithfully reconstructed, or as
5 faithfully as possible reconstructed to what was
6 there before. And then two owners later. Now this
7 owner intends to do a development and preserve this
8 façade as it is.

9 So, the question with the ANC I think is not
10 whether or not we're retaining a façade. We are
11 retaining the façade that's there. The question is,
12 can you call that a pre-1958 façade or not. And
13 that's what the Zoning Administrator determined you
14 could because some of the key elements of that façade
15 did not come down in the collapse, and also it was
16 faithfully reconstructed.

17 So, in his opinion the interest of the Zoning
18 Regulations was served by incentivizing this owner to
19 retain the façade that's there now.

20 So, that -- and retain the façade is part of
21 the reason that some of the relief is required for
22 the lot occupancy. The court relief, by the way, is
23 only on top floor, not on the bottom floor.

24 So, as OP states, the building and the
25 addition will meet the purpose of the N-C zones

1 because it will have a mix of residential and retail
2 and service uses. They agree that it would enhance
3 the urban design of the area. And otherwise I could
4 go through all the requirements for the special
5 exception if you wanted me to, but they're all laid
6 out in the Office of Planning report and pretty
7 straight forward.

8 Oh, I want to point out this -- their
9 relationship of this building to the surrounding area
10 to the back. Other than a lot of properties on H
11 Street that back up to residential, this backs up to
12 a large parking lot. And then so there's not another
13 property for at least about 120 feet in the back of
14 this. So, there's no impact from the requested
15 relief on any properties.

16 And so, that's all we have. If there's any
17 questions for the applicant or if you have any
18 questions about the FAR bonus issue, I can answer it.

19 CHAIRMAN HILL: Okay. I don't have any
20 questions right now. I want to go to the Office of
21 Planning. Do you guys have any questions, anyone
22 here on the Board? Okay. Then, I'm going to turn to
23 the Office of Planning.

24 MR. JESICK: Thank you, Mr. Chairman and
25 Members of the Board. My name is Matt Jesick. We

1 feel that the applicant has met the special exception
2 criteria contained in the N-C-14 Zone, and therefore
3 we recommend approval of the application and I'd be
4 happy to take any questions. Thank you.

5 CHAIRMAN HILL: Does anyone have any
6 questions for the Office of Planning?

7 MR. HART: Just a quick question. With
8 regard to the façade, I know this is the Zoning
9 Administrator made the determination on it, but is
10 there a particular amount of façade that needs to be
11 retained for it to be considered -- is there a 50
12 percent, is there 25 percent, is there a number that
13 you're looking at?

14 MR. JESICK: I think it's, the wording of the
15 regulations is just the façade shall be preserved. I
16 don't think there's a number associated with it.

17 MS. BUTANI-D'SOUZA: I'm just curious. I
18 noticed in the pictures that they had shown of the
19 previous existing façade prior to the collapse, there
20 was a roll-up garage door that's now been replaced by
21 a large storefront window and two side flanking
22 windows. So, I suppose, does it matter that that
23 particular element is slightly different? Or is that
24 a question for the Zoning Administrator?

25 MR. JESICK: Well, I would leave that

1 specific question up to the Zoning Administrator.
2 I'd say the provision of a traditional storefront
3 window would certainly go towards the goals of the H
4 Street Overlay to create a more interactive and
5 active streetscape. So, we would certainly be in
6 favor of, you know, what they've proposed rather than
7 a roll-up door.

8 MS. BUTANI-D'SOUZA: Okay. Thank you.

9 CHAIRMAN HILL: Okay. Anybody have anything
10 else for the Office of Planning? Okay.

11 I did have a quick question. The increased
12 FAR, Mr. Sullivan, and to the property owner, you
13 said it was .05? Is that what the bonus was?

14 MR. SULLIVAN: 0.5, yes.

15 CHAIRMAN HILL: And so, again, I'm always
16 curious to this like, without the -- where is the
17 extra 0.5? Like, you would still go as high up as
18 you're going, correct? Probably, like it's --

19 MR. PONDER: Excuse me. I'm getting a cold.
20 Without the extra density we may not go up as high.
21 Reducing that floor area, the extra height, would
22 just mean that we're shrinking -- sorry -- shrinking
23 the size of the actual floors and able to do less
24 with them. The building becomes even more
25 inefficient.

1 CHAIRMAN HILL: Okay. I appreciate your
2 honesty. Okay.

3 Anyone have any more questions for the
4 applicant? Okay.

5 Then I'm going to look to the audience here.
6 Is anyone here from the ANC that wanted to speak.
7 Please, come up for it. Thank you so much. And
8 again, just please introduce yourself and give us
9 your address.

10 MR. GREENFIELD: Brad Greenfield,
11 representing ANC 6A. I live at 1330 Maryland Avenue
12 Northeast. The ANC is opposed to this plan and this
13 development based on the use of the FAR bonus for
14 façade preservation. The ANC feels that this is
15 completely inappropriate to use this bonus and in
16 conjunction with other applications of this bonus on
17 H Street, greatly diminishes that façade bonus
18 overall.

19 In this case it is not a pre-1958 façade. It
20 was almost completely rebuilt in 2012/2013, after it
21 collapsed due to long-term negligence.

22 I realize that this property owner had
23 nothing to do with that, however, we feel it's
24 completely inappropriate to use that bonus in this
25 circumstance.

1 CHAIRMAN HILL: Sure, go ahead Madam Vice
2 Chair.

3 MS. BUTANI-D'SOUZA: Thank you so much for
4 being down here, Mr. Greenfield. So, the ANC is
5 opposed to the use of the façade bonus. Is that
6 because the ANC is opposed to the height that results
7 from using the façade bonus, the FAR bonus associated
8 with the façade? What is the underlying reason? Is
9 it just a technicality that, oh, it collapsed so you
10 shouldn't be able to use this?

11 MR. GREENFIELD: ANC has -- ANC 6A and some
12 of the neighboring ANCs as well have long-standing
13 concerns about how the façade preservation bonus has
14 been applied across H Street. Going back to things
15 like Ben's Chili Bowl, when they came in, they got
16 the façade bonus even though their definition of
17 preserving a façade was maintaining a few bricks from
18 the old façade and putting them in, in a patch on the
19 new building.

20 There have been several instances where the
21 façade preservation bonus has been applied somewhat
22 arbitrarily in our opinion, and in this case we've
23 strongly felt that it was inappropriate since the
24 façade itself collapsed and thus is not pre-1958.

25 So, the underlying concern is more general.

1 It's not anything specific to this property or the
2 design they put forward, which we've looked at and it
3 was generally well received and we didn't have an
4 issue with. It's the fact that the precedent of them
5 receiving this bonus makes it so that almost anyone
6 coming in and doing next to anything they want with
7 these buildings on H Street, they're likely to get
8 that bonus going forward.

9 MS. BUTANI-D'SOUZA: So, did the ANC consider
10 what the Office of Planning just discussed, that the,
11 you know, the owner, I don't know whether it was this
12 owner or previous owner, had actually reconstructed
13 the façade to match what had collapsed? Did they
14 consider that at all?

15 MR. GREENFIELD: We did consider that and
16 while it's appreciated that the look and feel was
17 maintained, the concern is that the precedent creates
18 -- this creates a precedent where almost anything
19 goes on H Street in terms of preserving façade.

20 MS. BUTANI-D'SOUZA: Okay. And then, I
21 wanted to just from a -- sorry, let me just take a
22 minute.

23 I noticed in the record that there was some -
24 - there were some letters that said that this owner
25 had allowed the building to fall into disrepair,

1 causing the façade to collapse. We've heard that
2 this was not the owner that did that. When the ANC
3 and when there was all of this opposition, were they
4 aware that it was not this owner? Sometimes I think
5 there's a little bit of emotion, again, around who
6 the developer is and if there's a misunderstanding of
7 who the developer is I could see that that may
8 contribute to some kind of spite, or something.

9 MR. GREENFIELD: No, I think there was a
10 clear understanding of both the Economic and
11 Development and Zoning Committee, and at the ANC,
12 that this was not the owner that owned the building
13 when it collapsed. That was clearly stated multiple
14 times.

15 MS. BUTANI-D'SOUZA: Okay. Thank you.

16 MR. GREENFIELD: You're welcome.

17 CHAIRMAN HILL: All right. Does anyone have
18 any other questions for the ANC? All right.

19 So, I'm going to ask, is there anyone here
20 wishing to speak in support of the applicant? Is
21 there anyone here wishing to speak in opposition to
22 the application?

23 Okay. Does anyone have any more questions
24 from the applicant? Then, I'm going to turn to you,
25 Mr. Sullivan and go ahead and do you have any closing

1 statement you'd like to make?

2 MR. SULLIVAN: Just briefly, and you can tell
3 me to stop if you don't want to hear anything about
4 the response to Mr. Greenfield's concerns. Totally
5 understand their concerns.

6 I don't really agree with them. I think
7 they're okay because this situation isn't a case
8 where we're picking apart a portion of the façade and
9 saying, we're only keeping a little bit of it. You
10 heard him say that the look and the feel was
11 maintained, and I think that was what was behind the
12 Zoning Administrator's decision.

13 The issue isn't what percentage of the
14 façade, it's what year of origination do you give a
15 façade that partially collapsed and then was rebuilt,
16 which is kind of its own unique question. And I
17 don't think that would lead to a precedent. I
18 understand where the other case would.

19 And so, and it is, of course it's a self-
20 certified issue and the Zoning Administrator has made
21 his determination. But I think their fears are
22 unfounded on that point. So, that's all I have to
23 say about that. Thank you.

24 CHAIRMAN HILL: Okay. Great. Thank you.
25 Does anyone have any more questions for the

1 applicant? Okay.

2 Then, I'm going to go ahead and close the
3 hearing. Is the Board ready to deliberate? Okay.
4 Would you like to begin the deliberations?

5 MS. BUTANI-D'SOUZA: Sure. Okay. So, in
6 this instance we have an ANC that is opposed to the
7 application on the basis of the granting the façade
8 bonus. And I appreciate Mr. Greenfield's testimony
9 in clarifying what the ANC's thinking was on this.
10 The Board of Zoning Adjustment is required to give
11 great weight to the ANC's opinion in this matter.

12 So, in this instance we heard that the ANC
13 was concerned that this would set a precedent that
14 almost anything goes when it comes to getting the
15 façade preservation bonus. I actually don't agree
16 with that assessment. I actually don't think that by
17 approving this application we open up a potential
18 precedent because here we see that the Office of
19 Planning and the Zoning Administrator have carefully
20 considered the goals of the H Street Overlay. So
21 even though this is a reconstructed façade, they
22 evaluated it, you know, there was an attempt to
23 faithfully preserve, and where it needed to differ.
24 Obviously, you wouldn't want to reinstall an old roll
25 up door. They considered the goals of the H Street

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1 Overlay.

2 I don't know anything about Ben's Chili Bowl
3 and what was -- what happened there, but it doesn't
4 sound like that is really relevant here. And in fact
5 I think that not providing an incentive for a
6 developer to preserve that façade or recreate the
7 façade where it's unfortunately come down, would
8 actually encourage more facades to be modified
9 because of course, trying to recreate a historic
10 façade is going to be potentially more expensive than
11 going with something more modern. And certainly
12 having your historic façade there limits what you can
13 do on top.

14 So, for that reason I would -- I support this
15 application and I would vote in favor of it.

16 MR. HART: Excuse me. Having reviewed the
17 entire record I also would agree with Board Member
18 D'Souza's analysis of this and appreciate also having
19 the OP analysis on the case as well. I understand
20 that the ANC is not in support of this. But it
21 actually sounds as though, and I think you've given
22 some testimony saying that you're really looking at
23 the idea of façade bonuses and how they should go
24 about -- how the Zoning Administrator should go about
25 actually approving that bonus.

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1 And it seems as though while it is a concern,
2 it is not necessarily a concern about this case in
3 particular because it doesn't seem like you have
4 opposition to this actual case. It's more about sort
5 of an interpretation of some of the laws, I guess,
6 that we have.

7 And so I guess I would say that while I
8 understand that issue in this case, I don't think
9 that it's -- and it doesn't seem like they have -- it
10 doesn't seem like there is a good -- a determination
11 on how much of the façade needs to be maintained for
12 it to be considered pre-1958. The Zoning
13 Administrator has made a determination that this is
14 sufficient to be able to do that. I think that we
15 have to, you know, take that into consideration.

16 And so, all that being said, I think that I
17 would be able to support the application and, that's
18 it.

19 Sorry, and I would make a motion to -- that
20 we approve the application as submitted.

21 CHAIRMAN HILL: Okay. I have nothing to add,
22 actually. I think everybody said it well. I'd
23 second the motion.

24 MR. HOOD: I was just going to add, Mr.
25 Chairman, I would agree with the comments, especially

1 dealing with the FAR. I think the ZA and I usually
2 always agree with the ZA, but I think he has a
3 systematical way that he's dealing with allowances
4 for the façade interpret his case. And I also would
5 take note that the Capitol Hill Restoration Society
6 also submitted a letter in line with what I saw that
7 the ANC subcommittee, and the ANC as a whole, dealt
8 with as far as the façade.

9 So, I would agree and I will be voting in
10 favor of this application.

11 CHAIRMAN HILL: Okay.

12 MR. HOOD: I think the relief requested
13 amounts to being approval.

14 CHAIRMAN HILL: Okay. Thank you, Chairman
15 Hood. Ms. D'Souza.

16 MS. BUTANI-D'SOUZA: I'm just seconding your
17 motion.

18 CHAIRMAN HILL: All right. No, I seconded.
19 He was --

20 MS. BUTANI-D'SOUZA: Oh, I'm sorry.

21 CHAIRMAN HILL: He made the motion. That's
22 all right.

23 Motion has been made and seconded.

24 [Vote taken.]

25 CHAIRMAN HILL: Motion passes, Mr. Moy.

1 MR. MOY: Staff would record the vote as
2 four, to zero, to one. This is on a motion of Mr.
3 Carlton Hart to approve the application for the
4 relief requested. Seconded the motion, Chairman
5 Hood. Or rather, Chairman Hill. And also in
6 support, Mr. Anthony Hood and Ms. Butani, or Vice
7 Chairperson Butani. We have a seat vacant. Motion
8 carries.

9 CHAIRMAN HILL: Thank you. Summary order.

10 MR. MOY: Thank you.

11 CHAIRMAN HILL: Thank you all very much. And
12 also thanks to the ANC for coming down as well. I
13 really appreciate --

14 MS. GLAZER: Excuse me. Mr. Chair.

15 CHAIRMAN HILL: Oh, I'm sorry.

16 MS. GLAZER: There was opposition by a party.

17 CHAIRMAN HILL: Oh, right.

18 MS. GLAZER: The ANC.

19 CHAIRMAN HILL: So, it's a full order.

20 MS. GLAZER: Yes.

21 CHAIRMAN HILL: Too bad.

22 MR. MOY: The next application before the
23 Board, if I could have parties to the table to
24 Application No. 19388 of Hope and a Home as captioned
25 and advertised for a special exception relief under

1 the R-F use requirements of Subtitle U, Section 320.
2 This would operate a community service center in the
3 cellar of an existing flat, R-F-1 zone, at 1236
4 Columbia Road Northwest, Square 2853, Lot 51.

5 CHAIRMAN HILL: Good afternoon. You can
6 just, just ignore him. He's just setting it up
7 there.

8 If you all would just please introduce
9 yourselves? Oh, I'm sorry. You just need to push
10 the little button there until the little green light
11 comes on.

12 MS. FRENCH: Oh, I'm sorry. I thought it was
13 green.

14 CHAIRMAN HILL: That's all right.

15 MS. FRENCH: My name is Lynn French, and I'm
16 Executive Director of Hope and a Home.

17 MR. STOIBER: My name is Jeff Stoiber. I'm
18 the President of Stoiber and Associates Architects.
19 We're working with Hope and a Home on this project.

20 CHAIRMAN HILL: Okay. So, I don't really
21 have a lot of questions, actually, about this. I
22 mean, the application, to me I have been, you know,
23 have read the record and seems fairly straightforward
24 to be quite honest. However, some board members
25 might have some questions in terms of what they'd

1 like to know about the project.

2 I guess if -- Ms. French, are you going to be
3 presenting, or who is the architect? Are you just
4 answering questions?

5 MR. STOIBER: We tend to agree with you that
6 it's pretty straightforward. There aren't a lot of
7 complex issues to it.

8 CHAIRMAN HILL: Okay.

9 MR. STOIBER: And so, I think answering
10 questions, maybe we keep this one short for everyone.

11 CHAIRMAN HILL: Okay. okay. Great. Does
12 anyone here on the board have any questions currently
13 for the applicant? Okay.

14 Then in that case I am going to turn to the
15 Office of Planning, and hear what you have to say.
16 Is that DDOT? No. Okay.

17 MR. JESICK: Good morning, Mr. Chairman and
18 Members of the Board. I'd like to introduce Mr.
19 Bryan Golden to the Board. He's one of our newest
20 staff members at the Office of Planning, and Bryan
21 comes to us with a lot of great experience from the
22 Austin, Texas Planning Office, and he's been with OP
23 for a couple months now, but this is his first BZA
24 case. And I'll turn it over to Bryan. Thank you.

25 CHAIRMAN HILL: So, you just came for the

1 introduction. That's it. That's all you've got to
2 do.

3 MR. HOOD: Well, I have a problem with that
4 because I didn't get a introduction. I had to ask
5 was he new the other night. So, we going to have to
6 talk about that.

7 CHAIRMAN HILL: Well see, up here the way we
8 do things is, we get an introduction. You know? All
9 right. Okay. Please, welcome.

10 MR. GOLDEN: All right. Thank you very much.
11 So, the Office of Planning feels like the application
12 meets the criteria of the special exception and so
13 we're willing to stand on the record and recommend
14 approval for this. And we're here if you have any
15 questions.

16 CHAIRMAN HILL: Okay, great. Thank you.
17 Does anyone have any questions for Mr. Goldstein?
18 Golden? Golden. Mr. Golden. No?

19 Does the applicant have any questions for Mr.
20 Golden?

21 MR. STOIBER: I don't believe we do.

22 CHAIRMAN HILL: Okay. Great. Well, then
23 with that I'm going to go ahead and turn it over into
24 the audience here and see, is there anyone here from
25 the ANC? Wonderful.

1 If you could, when you get a chance, just
2 please introduce yourself and where you live.

3 MS. LOVE-WADE: Good afternoon. I'm Dottie
4 Love-Wade. I'm Vice Chair of ANC 1A and single-
5 member district 1A-11, which this project is located.
6 I live down the street at 1116 Columbia Road
7 Northwest.

8 CHAIRMAN HILL: Thank you. And I see that
9 the ANC is obviously is in approval, Ms. Love-Wade.
10 Thank you so much for coming down and speaking on
11 behalf of the applicant. I don't really have any
12 questions for the Commissioner. Does anyone have any
13 questions?

14 All right. Well, thank you very much for
15 coming down. Sorry you had to wait so long for that.

16 MS. LOVE-WADE: That's okay.

17 CHAIRMAN HILL: But thanks for your
18 participation.

19 MS. LOVE-WADE: Thank you.

20 CHAIRMAN HILL: Let's see. Is there anyone
21 here wishing to speak in support of the application?
22 Support?

23 Is there anyone here wishing to speak in
24 opposition to the application? Opposition? All
25 right. If you could all please come forward, please?

1 [Pause.]

2 CHAIRMAN HILL: Good afternoon. Now, before
3 you all speak, have you all been sworn in?

4 [No audible response.]

5 CHAIRMAN HILL: Okay. Great. If you could
6 just go from my left to your right and introduce
7 yourselves and tell me your address, please?

8 MR. PREVOO: Dirk Prevoo. I live at 1240
9 Columbia since 1987.

10 CHAIRMAN HILL: Which is what? I'm sorry.

11 MR. PREVOO: 1240 Columbia Road since '87.

12 MR. SWANSON: Gregory Swanson, 1131 Columbia
13 Road.

14 MS. TALIAFERO-SWANSON: Anita Taliafero --

15 CHAIRMAN HILL: If you could just speak into
16 the microphone there?

17 MS. TALIAFERO-SWANSON: Anita Taliafero-
18 Swanson, 1131 Columbia Road.

19 MS. LOVINGGOOD: Jacqueline Lovinggood. Is
20 this on? Oh, Jacqueline Lovinggood. I live at 1209
21 Columbia Road. The property has been in my family
22 since 1923, and I have been there since 1938.

23 CHAIRMAN HILL: Okay. Thank you.

24 MS. LOVINGGOOD: Seventy-eight years.

25 CHAIRMAN HILL: Thank you. All right. Mr.

1 Prevo, I'm just going to start with you, okay? And
2 go again, to my left to right and I'm going to give
3 you each three minutes. And actually, now I didn't
4 see anything -- you guys hadn't submit letters before
5 into the record in terms of opposition, correct? You
6 all just -- that's okay, you don't have to.

7 So, go ahead and I'm going to start with you,
8 Mr. Prevo.

9 MR. PREVOO: Actually, I didn't get the
10 letter for some strange reason. It must have been
11 misdelivered or lost in the mail.

12 CHAIRMAN HILL: No, no, no, I didn't see you
13 guys submit any letters in opposition.

14 MR. PREVOO: I actually, I never got the
15 letter from the city.

16 CHAIRMAN HILL: Oh, I see.

17 MR. PREVOO: About it, for some reason. It
18 got lost in the mail or something. So, I actually
19 only saw it when I walked by the sign earlier this
20 week.

21 CHAIRMAN HILL: Okay. Okay.

22 MR. PREVOO: And that's when I started asking
23 my neighbors.

24 The first thing I wanted to thank you all for
25 giving us the opportunity to be here and participate

1 here. It's a very interesting set-up.

2 The first thing I wanted to say, the ANC
3 supports it. Well, the strange thing is, nobody in
4 the neighborhood was asked to even come to an ANC
5 meeting. We all live in the same block. We all live
6 within 50 yards from actually the executive director
7 and the ANC Vice Chair. So, it would have been very
8 easy to actually inform us earlier, and that's one
9 thing I wanted to actually express a sadness about
10 that it never happened.

11 I went over the application here that was
12 submitted, on the online application when I found
13 out. I noticed that, and I like to call a spade a
14 spade. And I noticed that the word transitional
15 housing and regular housing are thrown together here.

16 Now, I support the goals of the organization.
17 I'm not saying I'm against what they're doing. What
18 I'm doing here, what I'm trying to say here is, they
19 submit the application and say the neighborhood of
20 the -- the residents of the two flats are similar to
21 the broader neighborhood. And I have defined the
22 neighborhood as the streets around it. Which is not
23 transitional housing. It hasn't been transitional
24 housing since 1993.

25 Number two is, it's unclear to me if I talk

1 to some people involved, it's an office. If I talk
2 to other people, it's a service center. And Greg
3 wants to talk about that and I don't want to take his
4 question away. But the other thing in the
5 application is, it talks about parking. Anybody who
6 lives in Ward 1 knows parking, especially during
7 daytime hours, is very difficult. It's creating two
8 extra parking spaces for six office members and
9 people that will come to visit that office is going
10 to be an additional burden on the neighborhood.

11 And thirdly, I mean, allowing an office to be
12 established in a residential neighborhood on a 100
13 percent residential block, as an exception, and we
14 all have heard it today here, actually you approve
15 exception after exception. It's almost as if
16 exception is a rule. And it will become -- you
17 approve it for this organization. The next
18 organization will come in and it will be approved
19 also on the same grounds, because yeah, what they do
20 is great work. But the neighborhoods themselves are
21 no longer residential.

22 So, I'm actually, I'm going to state that I'm
23 against the erosion of this particular neighborhood
24 by approving the zoning change to allow an office to
25 be established, or a service center to be established

1 there. So, I'll leave it at that. Thank you.

2 MR. SWANSON: Thank you. And excuse the
3 voice. I have some hoarseness, so please if you
4 can't understand just let me know.

5 At this this table of opposition sits roughly
6 over a century and a half of experience of
7 individuals who have given their professional lives
8 to make sure there has been some equity within this
9 world. From the perspective of education, from the
10 perspective of development, from the perspective of
11 leadership.

12 We are not philosophically -- by that I mean
13 philosophically, I agree with the goals of this
14 organization. The only question I have is, when I
15 receive the notice, when we receive the notice on the
16 first week of November, I just needed some clarity.
17 What does service center mean? And any victim,
18 service center could be a food bank, a clothing
19 distribution center, an educational center.

20 If we just pass this from the perspective of
21 a service center, it's wide open. I am only
22 requesting specifics. If this is going to be an in-
23 take center, let's file the application as an in-take
24 center. Let's be specific as to the goals or the use
25 of this facility. To just say a service center is a

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1 misnomer. It's wide open, simply because once the
2 in-take center is there, they can open up a food
3 bank, a clothing distribution center, which only
4 presents more and more problems.

5 The only thing I'm requesting of this Board
6 is clarity. Simple as that. Clarity. They want an
7 in-take center, file the application as an in-take
8 center. No, ifs, ands or buts. No
9 misunderstandings. Thank you.

10 CHAIRMAN HILL: Thank you.

11 MS. TALIAFERO-SWANSON: Anita Taliafero-
12 Swanson. I agree with my husband, of course.

13 My main concern is that issue of what exactly
14 is this going to be? I don't understand what it is.
15 I agree with him. If I understand it correctly, this
16 organization has an office nearby at 14th and R or
17 so, so I just don't understand why you would need an
18 office in -- on a residential street, in a
19 residential neighborhood, in the residence itself.
20 Especially when I don't know what that means. It's
21 vague to me.

22 I have concerns about how it will be
23 monitored if it's going to be a lot of people coming
24 in to visit this, whatever it's going to be. I have
25 concerns in that area.

1 This proposed, frankly, is not well taken
2 care of, to be honest with you. It's one of the few
3 eyesores on that block, I call it. It's already not
4 well taken care of and it's -- so, I just imagine
5 that an addition to that particular building would
6 not necessarily improve the neighborhood. Thank you.

7 CHAIRMAN HILL: Thank you.

8 MS. LOVINGGOOD: Okay. I have a problem with
9 this notification that you sent me. It was sent from
10 the Zoning Board Office, I guess. And it says if you
11 want to find out more about the case that you're to
12 go to this website and you can get all the
13 information on exactly what the center is supposed to
14 be doing, something or other. And I have a friend of
15 mine, because I'm not computer literate, but he is,
16 and he went on the website and he said, I couldn't
17 get -- I couldn't get any information.

18 I said, well, try again. You know. And he
19 said it wasn't no such website. So, I couldn't get
20 any information. I came down here. I really was not
21 knowledgeable about what the issue, you know, what
22 the center is going to be like. Now, to me, it
23 sounded like it's a business office. If it's a
24 business office it needs to be in the business
25 district. It doesn't need to be in our neighborhood.

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1 There are no poor people in our neighborhood. You
2 know, so who are they serving? They're not serving
3 us.

4 But I do have a problem with that, you know,
5 because I do like to be knowledgeable about what I'm
6 talking about. But I couldn't be. And then you
7 asked me, did we have any other names of people. I
8 didn't know whether I had to get a petition up, or
9 how to do that. I do know that there are 10 other of
10 my neighbors that I'm speaking in behalf of that
11 could not be here. So, there are people in the
12 neighborhood that are opposing this. But I didn't
13 know how to go about organizing, you know, to
14 challenge this. Is there some kind of form you get
15 from the government if you want to do a petition, or
16 do you just write up something? And who do you
17 present it to?

18 And what I'm saying is we have no official
19 way of protesting. And you're going to sit here and
20 make a decision today on this case. And everything
21 you have done like you said down here, you have voted
22 in favor of the people filing for whatever it is they
23 want. You haven't voted for anybody else. Okay?

24 And where is my lunch? I'm hungry.

25 [Laughter.]

1 CHAIRMAN HILL: Yeah, you and me both. You
2 and me both.

3 All right. Does anyone have any questions
4 for the opposition? Okay. All right. We'll start
5 with Chairman Hood.

6 MR. HOOD: A question. The first gentleman,
7 I didn't write no names down, so forgive me. I was
8 just trying to understand. You mentioned that nobody
9 invited you to the ANC meeting. I'm trying to
10 understand what you mean, nobody invited you to the
11 ANC?

12 MR. PREVOO: In the past the ANC meeting sent
13 out little one-page notifications to everybody in the
14 neighborhood and said, we have a meeting on a
15 particular urgent issue. I would assume that on
16 something as important as this to a particular block,
17 and an ANC Vice Chair living on the same block, that
18 an effort would be made to get the people involved
19 that live on the block, and get -- inform them
20 properly what it is all about, because now I hear
21 from the ANC Vice Chair. I hear it's about an
22 office. I hear, when the executive director, that
23 it's about an office. The application talks about a
24 service center.

25 Now, your waiver process does not apply to an

1 office. It only applies to a service center. So,
2 that's why it would have been easier to have had a
3 discussion earlier on in this whole -- and clarify as
4 to what is really intended to be --

5 MR. HOOD: Okay. I think we may get -- I
6 just want to go back to your point. I've been in
7 this city too, for a while, and I have an ANC. And
8 my hat's off, if your ANC invites you to meetings, my
9 hat's off. They usually just tell me the third
10 Wednesday of every month. So, that's typically how
11 it works. So, I commend your ANC Commissioner if she
12 invites you, or personally invite to an ANC meeting
13 because it's incumbent upon the residents of us, to
14 get involved. I'm not saying you don't, I'm not
15 saying you do, but I'm just making the statement.
16 I'm just going by what you said.

17 The other thing is, I think you all mentioned
18 that you weren't clear of somebody mentioned that you
19 weren't clear of what's exactly going forward, what
20 the relief is. Application of Hope and a Home
21 pursuant to 11-DCMR, Subtitle X, Chapter 9 for a
22 special exception and the R-F use requirements of
23 Subtitle U, 320, to operate a community service
24 center in the cellar of an existing flat in the R-F-1
25 Zone at the premises of 1236 Columbia Road. And it

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1 has the square and the lots, Square 2853 and Lot 51.

2 The way this office was set up is if you're
3 not computer savvy, you come down here and you can
4 get assistance from this office. This office is an
5 award winning office. I know because it became one
6 since I've been here. And that's one of the things
7 that we wanted to do was level the playing field.
8 So, when you go and you say, you look at the website,
9 the website has plenty of wards. People nationally
10 look at the Office of Zoning's website, because it's
11 the most informed website.

12 And if you don't know how to use it, and I
13 understand, everybody is not savvy, and one of the
14 things that we tried to do, and I'm not defending
15 what we're saying, I just want to make sure that this
16 office gets its just due, is that the Office of
17 Zoning made sure we leveled the playing field. So we
18 have technicians back there to be able to assist you.
19 It's -- you have to make a trip down here, and they -
20 - hold on. Let me finish, ma'am. Let me finish.
21 Let me finish.

22 You just have to make a trip down here and we
23 will be able to assist you. So, what I'm trying to
24 say is, you may not do this all the time. A lot of
25 people don't do zoning all the time, and I want you

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1 to know that as far as the zoning office is concerned
2 there is assistance here to give you help if you
3 don't do that. That's what we are.

4 MS. LOVINGGOOD: Well, why doesn't the
5 website work when we did go on the computer? Why
6 didn't it work?

7 MR. HOOD: Because sometimes technology, this
8 morning when I went to work, before I came here, I
9 tried to get on to a website and it didn't work. But
10 I'm sure later on this evening I'll be able to log
11 on. Yesterday I was not able to log on to something.
12 It didn't work. That's technology.

13 But anyway, let me let the Chairman continue
14 this hearing because I just wanted to echo those
15 things, so I wanted to make sure that that was out
16 there for future references.

17 CHAIRMAN HILL: Okay, hold on. Just give me
18 one second.

19 So okay. So, I did have one question of --
20 and I'll come back to Vice Chair D'Souza. Is Ms.
21 French, Ms. French?

22 So, what's going in there again, Ms. French?
23 Can you clarify that for me?

24 MS. FRENCH: It is an office. We were
25 advised by our architects that the category under

1 which this office falls is called community service
2 center. We, Hope and a Home owns 18 housing units in
3 the Columbia Heights neighborhood, and this is space
4 that we already own, and we believe that rather than
5 paying rent in another block that's also a
6 residential block, as we pay now, we could fix up the
7 space in the bottom of a building we already own and
8 use it as our office.

9 CHAIRMAN HILL: Okay.

10 MS. FRENCH: It's not a food bank. People
11 don't come in and out. The clients who live in the
12 properties, we have case workers who go out and meet
13 with them. They don't even come into our office to
14 meet with their caseworkers. Maybe occasionally
15 someone will stop by to drop off their rent or
16 something. But pretty much the work is done by the
17 staff going out to the clients.

18 CHAIRMAN HILL: Okay. And just for my own
19 clarification, what does your NGO do?

20 MS. FRENCH: Our nonprofit?

21 CHAIRMAN HILL: Yeah, your nonprofit. Yeah,
22 I'm sorry.

23 MS. FRENCH: We're a transitional housing
24 program for low-income homeless families.

25 CHAIRMAN HILL: Okay.

1 MS. FRENCH: Would you like me to talk about
2 it some, or you just wanted to know in general?

3 CHAIRMAN HILL: No, that's good enough.
4 Yeah, thanks. I just wanted a little clarity on it.
5 And Mr., it's Storybend (sic)?

6 MR. STOIBER: Stoiber. Stoiber.

7 CHAIRMAN HILL: Stoiber. You guys are better
8 over here. Stoiber.

9 So, then you went to the Zoning Administrator
10 and that's what he suggested you file under, correct?

11 MR. STOIBER: Exactly.

12 CHAIRMAN HILL: Okay. All right.

13 MR. STOIBER: I should mention one other
14 thing if you don't mind. Someone mentioned that
15 there was an addition being put on. There's no
16 addition being put on. We're using existing specs.

17 CHAIRMAN HILL: Okay. Okay. I mean, Vice
18 Chair D'Souza, you had some questions for the
19 opposition?

20 MS. BUTANI-D'SOUZA: Yes. So, first I want
21 to thank you all for your patience today. It's been
22 a long day. We've got a lot more after you too, so.

23 Okay. So, I would just want to go through
24 because I had questions for each of you. Mr. Prevoo?
25 Prevoo? Okay. So, you testified that you are

1 opposed to establishing an office in a residential
2 area. I'm just curious if you can give us a little
3 bit more information about what specific impacts of
4 the office that you're concerned about.

5 MR. PREVOO: It's the, any office generates
6 additional traffic.

7 MS. BUTANI-D'SOUZA: Okay.

8 MR. PREVOO: That's number one.

9 MS. BUTANI-D'SOUZA: Uh-huh.

10 MR. PREVOO: It also, if it's going to be
11 approved as a general office, that also means that if
12 I pass my license as a realtor, I can come back here
13 and say, I would like to open up a real estate office
14 in my basement, which means that it opens up the door
15 for a large number of other people to come before
16 this Board and say, we want to have more offices in
17 our neighborhood. One of my neighbors did it
18 illegally, not too long ago, and it had to stop.

19 So, that's one big concern. My other big
20 concern as I said earlier, if it is going to be an
21 office, office, that it does not -- from my reading
22 it doesn't seem to qualify under the exception that
23 it's being filed under.

24 MS. BUTANI-D'SOUZA: Uh-huh.

25 MR. PREVOO: Because it's not, to me, a

1 service center the way it's described in the
2 application.

3 MS. BUTANI-D'SOUZA: So, if there were some
4 restrictions that were put in the order around what
5 could be done in this space would that, you know, for
6 example, that this is only office work, or is it
7 there are not to be certain outside -- would that
8 help you to be more amenable to it?

9 MR. PREVOO: Now, what? To trace back to
10 what I said earlier is, according to what I read in
11 the application, if it's just an office it doesn't
12 qualify it under the exemption rule.

13 MS. BUTANI-D'SOUZA: Okay. So, you've got a
14 question about the actual relief that they're -- the
15 category that they're claiming or --

16 MR. PREVOO: Correct. That's number one.
17 Number two is, as I said, and it's not a criticism on
18 any person here, but exceptions become rules. And
19 there's nothing you can do about it because if you
20 approve it now, if you approve an office now, someone
21 else will come back, maybe not this year, maybe next
22 year. Well, definitely next year, then, for the same
23 exemption because they said, you know, we qualify
24 under the same as the other group already did so we
25 are entitled to have one also, another exemption to

1 the rule.

2 And that's why I am actually -- I'm
3 philosophical against it because you open up a door.

4 MS. BUTANI-D'SOUZA: Okay.

5 MR. PREVOO: And once the door is open, you
6 can't close it anymore.

7 MS. BUTANI-D'SOUZA: Okay.

8 MR. PREVOO: If you do approve it, I think it
9 should be through the ANC negotiations or other ways.
10 There should be limitations as to signage, as to
11 parking, et cetera. Right now Columbia Road does not
12 allow any visitor parking unless you have a pass.

13 MS. BUTANI-D'SOUZA: Uh-huh.

14 MR. PREVOO: So, I don't know how that will
15 be handled because there's no parking in the area.

16 MS. BUTANI-D'SOUZA: Uh-huh. Okay. Okay.
17 All right. Thank you very much.

18 So, Mr. Swanson, I am -- you mentioned that
19 you weren't sure what a service center means, and you
20 wanted to have some clarity about whether this is a
21 food bank, this is a clothing distribution center,
22 and that you were concerned again, about the use,
23 service center use.

24 So, I'm curious about whether you think that
25 it would be helpful to have some kind of restrictions

1 written into the order, if there were, about how this
2 were used, that would make you more comfortable with
3 what they're proposing here.

4 MR. SWANSON: Not just restrictions. Once
5 again, from the legal perspective, service center,
6 outreach, education, food banks, et cetera. Now, I
7 know perhaps the Office of Attorney General would be
8 willing to say something. Why can't it be more
9 specific? If it's an in-take office, file the
10 application as an in-take office. Simple as that.
11 That resolves everything. Doesn't need to be
12 negotiations. It's very simple. Your purpose is
13 stated emphatically.

14 MS. BUTANI-D'SOUZA: Uh-huh. Okay. So, you
15 would be --

16 MR. SWANSON: Amenable.

17 MS. BUTANI-D'SOUZA: -- amenable if it were
18 filed as an office?

19 MR. SWANSON: Yes.

20 MS. BUTANI-D'SOUZA: Okay.

21 MR. SWANSON: Put it as what it is.

22 MS. BUTANI-D'SOUZA: Okay.

23 MR. SWANSON: Okay. A community service
24 center, once again, we're not talking Brainiac here,
25 but anyone who has an interpretation of a community

1 service center, it's a wide and open category. If
2 you allow that to be used as a community service
3 center, you're allowing more than just an in-take
4 office.

5 MS. BUTANI-D'SOUZA: Okay.

6 MR. SWANSON: Simple as that.

7 MS. BUTANI-D'SOUZA: Okay. Mrs. Swanson. Is
8 it Mrs. Swanson or --

9 MS. TALIAFERO-SWANSON: Mrs. Taliafero-
10 Swanson.

11 MS. BUTANI-D'SOUZA: Mrs. Talifeld-Swanson
12 (sic).

13 MS. TALIAFERO-SWANSON: Uh-huh.

14 MS. BUTANI-D'SOUZA: You know, as you can see
15 I have to respect the multiple last names.

16 MS. TALIAFERO-SWANSON: Sorry.

17 MS. BUTANI-D'SOUZA: You mentioned that the
18 property was not maintained.

19 MS. TALIAFERO-SWANSON: No. No.

20 MS. BUTANI-D'SOUZA: And I was just wondering
21 if you could give us a little bit more information
22 about what you've seen and --

23 MS. TALIAFERO-SWANSON: We live exactly
24 across from this property. I sometimes visit the --
25 well, the neighbors on that side of the street, like

1 Mr. Prevoo, all complain about when -- I think as far
2 as I understand it, the tenants have a certain amount
3 of time to be in that property and then they are
4 transitioned somewhere else. But during each
5 transition, which I don't know how often it happens,
6 the way that things are done on the alley side is
7 just like dumping everything from the prior tenant
8 into the alley where as I understand it, you can't
9 even drive by.

10 The front of the property, the -- I mean, the
11 lawn is certainly not kept. The house doesn't have a
12 proper front door. It's open. It must be freezing
13 in there. It's just not well maintained.

14 And so, to have more people involved, more
15 use of space that I just don't feel good about it;
16 that it won't be run properly, as it should be. Just
17 concerns.

18 MS. BUTANI-D'SOUZA: Okay.

19 MS. TALIAFERO-SWANSON: About the whole thing
20 and why it was so hush-hush. And why is it, if it's
21 an office -- he's right. If it's an office, say it's
22 an office. You know, this service center makes me
23 nervous.

24 MS. BUTANI-D'SOUZA: Okay. Okay. Mrs.
25 Lovinggood I actually didn't have any questions for

1 you. I think Mr. Hood already spoke about your
2 comments, so I don't have any questions for you.

3 MS. LOVINGGOOD: No, I want to say something
4 to him because I had somebody go on the website, it
5 didn't work. I had them do it again. One night he
6 went one time and it didn't work. How are we
7 supposed to know the thing is down? You know? How
8 many times you supposed to --

9 MR. HOOD: What I'm going to do --

10 MS. LOVINGGOOD: -- try?

11 MR. HOOD: Right after we finish, you and I
12 are going to go back to the Director's office --

13 MS. LOVINGGOOD: No, I have to go to lunch.

14 MR. HOOD: You will not -- no, I want to --
15 you got to go to lunch.

16 MS. LOVINGGOOD: I'm a diabetic and I'm about
17 to pass out sitting in this chair.

18 MR. HOOD: Okay. Okay. Okay.

19 MS. LOVINGGOOD: I got to go eat.

20 MR. HOOD: But just call down to this office
21 and they will help you. Trust me.

22 MS. LOVINGGOOD: I, we didn't know this
23 service was here.

24 MR. HOOD: Okay. That's why I made my
25 points. That's why I was making my points to help

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1 you.

2 MS. LOVINGGOOD: Because I'm a senior
3 citizen, I can't be going --

4 MR. HOOD: Exactly. That's why I was making
5 my points to help you.

6 CHAIRMAN HILL: Thank you. Thank you. All
7 right. Thank you all so much. Okay. Do you have
8 one more comment?

9 MS. TALIAFERO-SWANSON: On a block like ours
10 that you know, has incredible amounts of traffic from
11 the ambulances from the hospital center, from the
12 fire trucks, from traffic, from -- it's too much.
13 And now we've got to deal with commercial offices on
14 our block as well. There's nowhere to park.

15 CHAIRMAN HILL: Okay. Okay. Okay. I got
16 you. All right.

17 MS. TALIAFERO-SWANSON: It's too much.

18 CHAIRMAN HILL: Okay. Thank you. Okay.
19 Sure.

20 Ms. French, I'm just -- Ms. Commissioner, you
21 can come speak if you'd like to speak. I had a
22 question, though for Ms. French, if I could just
23 again like, you know, you did present in front of the
24 ANC and get their approval.

25 MS. FRENCH: Yes.

1 CHAIRMAN HILL: Could you tell me how --

2 MS. FRENCH: [Speaking off mic.]

3 CHAIRMAN HILL: One sec. One second, I'm
4 sorry. One second, I'm sorry. You need, first of
5 all, you need to push the button. And just let me
6 answer my -- ask my question real quick, which was
7 that, how did that presentation go? You just said it
8 was a full room so there was quite a bit of
9 communication because the ANC voted nine to zero in
10 your favor, and so could you tell me a little bit
11 about -- and just calmly, please, again, like let's
12 just -- how the evening went and what it was like.

13 MS. FRENCH: Well, it was a regularly
14 scheduled ANC meeting, and it was -- our ANC meetings
15 are generally held at the Tubman Elementary School,
16 which is a couple blocks over from our block. I live
17 on the block where this office is located as well,
18 and it was on the agenda. The agenda is published in
19 advance of the meetings. We were last on the agenda.
20 I made a full presentation about what we were doing,
21 about the program. The ANC voted unanimously to
22 support it, and afterwards people from the audience
23 came up, there was not one negative comment. People
24 were very congratulatory and spoke of how they felt
25 that the need that we're addressing is a serious need

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1 in the city, and they thought that we take a very
2 good approach.

3 So, this is the first negativity I've heard
4 throughout all of this.

5 MR. HOOD: Mr. Chairman, can I do a follow up
6 question?

7 CHAIRMAN HILL: Yes, please. Go ahead.

8 MR. HOOD: Ms. French, I know the work of you
9 and Ms. Wade. But let me just say, can you just
10 elaborate, shortly, quickly -- I kind of looked at
11 what this does and I think the way I'm seeing this
12 is, I kind of equate this to wrap-around services. I
13 know that's what people say a lot of times, wrap-
14 around services. The best place for wrap-around
15 services, especially if you're a recipient, is where
16 they are.

17 So, could you just kind of help us understand
18 what this is?

19 MS. FRENCH: I'd be happy to. Hope and a
20 Home has been around since the 1970s. It was founded
21 when the city had a court order to close down the
22 orphanage that it used to run out at Blue Plains.
23 And it has evolved over the years. The theory is
24 that there are children who end up in foster care or
25 other -- find other consequences in their lives

1 because their parents aren't in a position to care
2 for them, they don't have affordable housing, they
3 don't have other supports that could actually break
4 the cycle of poverty in their life. And our goal is
5 to break the cycle of poverty. We own 18 units in
6 Columbia Heights that we've acquired over the years.
7 Families live with us for three years, and during
8 those three years we work with them, we have sort of
9 three pillars.

10 The first is the case worker who meets with
11 them at least once a week, if not more. Also
12 provides the support of a clinical psychologist if
13 needed, works on financial literacy, and finding what
14 other supports they need in terms of their personal
15 barriers to success and independence.

16 The second pillar is education. Every child
17 is enrolled in a good performing public charter or
18 private school. We raise a lot of money for
19 scholarships. We stick with families even after they
20 graduate because we send most of the children on to
21 college. If not college, to some kind of post-
22 secondary training. And for the adults our education
23 program means connecting them with an educational,
24 vocational, or certification program that positions
25 them to earn a better living so that when they

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1 graduate they can provide a strong nurturing home for
2 their children.

3 And the third pillar is employment. We have
4 a 90 percent efficacy rate with families graduating.
5 We are not publicly funded. The city unfortunately,
6 for whatever reason, isn't in the position to do all
7 that we do. We raise all of our funds through
8 foundations and private donations because we feel
9 that the only way to really address the issue of
10 homelessness in this city is to help people
11 reposition themselves to have a self-sufficient life.

12 MR. HOOD: Thank you very much.

13 CHAIRMAN HILL: No, no, just one second
14 please. I'm sorry. Commissioner Love-Wade, do you
15 have something to say?

16 MS. LOVE-WADE: Yes. I just wanted to give a
17 little clarity. We have our monthly ANC meetings the
18 second Wednesday of every month. Our agendas are
19 always preposted and in October we had a
20 presentation, it wasn't an action, it was a
21 presentation to the community about the Hope and a
22 Home, the project, and what they wanted to do.

23 And then in November is when we had the
24 actual presentation with the architect and the
25 executive director, and to the public where we did

1 vote.

2 I tried to take very good care of my
3 neighbors. They are all my neighbors. I've seen
4 them. I didn't hear any opposition. And just for
5 the record as you all know, this isn't the only case.
6 I have like 15 active cases at any given time in our
7 ANC area, where we have to look for zoning, ABC, et
8 cetera. So, I don't do as I used to when I was
9 younger, deliver door to door notices. And that was
10 also precomputerized age. So now everything is
11 pretty much automatic and you can go online and get
12 all of the information. I know that the application
13 was online. I know that the architectural drawings
14 were online. So, pretty much what you have, our
15 community has.

16 So, I just wanted to put some -- relieve my
17 neighbors to let them know, I'm not holding anything
18 back from them. I'm not trying to slide anything in
19 on them. When really important things happen, like
20 closing our alleys for repaving, I make sure that a
21 sign is on everybody's door. So, we try to take care
22 of them.

23 And this project is not new to our
24 neighborhood. These are not new neighbors. They've
25 been here for over 15 years. We have over three --

1 we have three on our block, but in my single-member
2 district there were eight, they were trying to put 20
3 at 40. So, we didn't get as many. But housing is so
4 important and I am sorry, but there are lots of poor
5 people on our block. And in the building across the
6 street from me there is a gentrification occurring,
7 but the homeless is -- the people who live here and
8 have lived here are being pushed out by the more
9 affluent people who can come in and pay the higher
10 rents. Those people have to have somewhere to go,
11 and it's incumbent upon me and people like Ms.
12 French, to make sure that we have that kind of
13 housing and opportunities available for our
14 community. So, we put a lot of work in trying to
15 accommodate.

16 I understood with the new zoning, there are
17 new boxes. The boxes that you used to check, you
18 can't check anymore. So, if it says resource center
19 or office space, you fit the box, but the service is
20 the same.

21 We're going to be having an office in the
22 basement where the business of that house upstairs,
23 the flats are going to remain the two flats, the land
24 occupancy is the same. We have some horrible
25 properties that are not maintained on my block.

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1 That's not one of them. I mean, it looks like the
2 rest of the houses. Some of them are in great shape,
3 some of them are not so great shape, and some of them
4 are in horrible. That is not one of the horrible
5 ones that we've been working to try to do something
6 with.

7 So, without taking up a lot of people's lunch
8 time, I just wanted to let the Zoning Commission and
9 our neighbors and the people in the back to know,
10 that we are try and work -- working together to try
11 to alleviate one of our major problems, which is
12 homelessness in this city for our less fortunate
13 residents. And that to live in a community you have
14 to give and take.

15 Now, I did hear something that was quite
16 disturbing about mixing commercial property with
17 residential property. Eighty percent of the houses,
18 private owned homes on our block, rent their
19 basements out. Now, whether they're doing it legally
20 through the city with an occupancy permit, or if
21 they're just doing it as they want to, once you start
22 accepting money for your property, that is
23 commercial. So, why should you be able to have a
24 commercial rental unit that brings in more traffic
25 and more parking, but you can't use your basement of

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1 your building to put a office in there? The same
2 thing? And also providing back parking. There's
3 some spaces in the back for a car, for a staff
4 person. It's not like it's a big office.

5 But despite the size of the office, it's the
6 use that I have concerns with that people are not
7 looking at the whole picture. So, if it's an apple
8 in the basement, or an orange in the basement, you've
9 still got fruit in your basement, and how you choose
10 to eat it or sell it or cook it, that's on you.

11 CHAIRMAN HILL: All right, Commissioner,
12 I'm --

13 MS. LOVE-WADE: If you can do it, we want to
14 do it.

15 CHAIRMAN HILL: That's alright. I'm already
16 hungry, and so now you're talking about fruit and
17 food and everything, and so --

18 MR. HOOD: I'm actually going to use that
19 scenario, but the people I'm going to do it in front
20 of are probably not listening tonight, so they'll
21 think I brought it up.

22 CHAIRMAN HILL: Oh, the fruit stand? You're
23 going to do fruit? Okay. Sure.

24 Just before you do, and I will let you speak,
25 even though -- I will let you speak. Just, I did

1 want to make one comment which is, you all had
2 brought up like special exceptions and how, you know,
3 you've been here for a little while and seen them
4 approved. I mean, we take this very seriously as to
5 what we do here. No, I know, I don't think you meant
6 anything by it, but I just wanted to point out that
7 we take very seriously what we do here. The special
8 exception is like the easiest one to kind of get
9 through because it's within the regulations. And the
10 Office of Planning takes a very long time to go
11 through their report as to how it works, and then
12 there's the process with the ANC, and also the
13 Department of Transportation. I just wanted to
14 clarify. I just want to let you know, it's really
15 very -- and then we spent all weekend going over
16 these cases. So, it is very much something that we
17 don't take lightly. I just wanted to kind of point
18 that out.

19 Now, please you did -- and then Vice Chair
20 has a question, but you did want to say something.
21 I'm sorry?

22 MR. PREVOO: First of all, what I wanted to
23 underscore is nobody debates the value of the work
24 that Hope and a Home does. That's not what this is
25 about. So, I want to make that clear, that nobody

1 here that's in opposition to --

2 CHAIRMAN HILL: I didn't take it that way. I
3 don't think any of us took it that way.

4 MR. PREVOO: -- (simultaneous speech) Hope
5 and a Home. So, please take the -- and also, I
6 actually, I didn't mean it as a criticism to you, and
7 that's just a general observation in life, that
8 certain exceptions lead to rules. And at the end of
9 the day it's not you. That's the way things happen.
10 I know, I mean, I heard the lady say she was reading
11 all these letters on a Sunday. Ms. Butani is like,
12 no, that's a lot of work.

13 CHAIRMAN HILL: Sure.

14 MR. PREVOO: And then I'm sure you
15 (simultaneous speech).

16 CHAIRMAN HILL: And that would -- that's
17 okay.

18 MR. PREVOO: So, very sorry.

19 CHAIRMAN HILL: That's all right. That's
20 okay. I'm just clearing it up for myself, but thank
21 you.

22 Vice Chair, you had a question?

23 MS. BUTANI-D'SOUZA: Yes. Ms. French, thank
24 you so much for the work that you do, your
25 organization sounds really wonderful and I think

1 we're lucky to have that kind of organization in this
2 city.

3 So, I want to make sure that I understand
4 from a walking and talking point of view. Help me
5 understand. How does this space walk and talk? Who
6 is coming into this space, what time are they coming
7 into this space, are you having a lot of meetings
8 here, how are they getting to the space? I'm curious
9 about that.

10 MS. FRENCH: Okay. There are six people who
11 will be operating out of this space. One of them,
12 me, will probably never use her car again because I
13 live at 1124, and this is right down the street. But
14 the staff will come in. Of the six staff only two do
15 not live in the neighborhood. And we will have two
16 parking spaces in the back. I also have two parking
17 spaces in the rear of my house that I'm willing to
18 make as an overflow if it becomes necessary.

19 Pretty much, we don't have meetings. If
20 someone comes to the office we may have a funder who
21 comes to just meet with me to hear about the program.
22 All of our work happens between 9:00 and 5:00 at the
23 office. The staff pretty much, the case worker is
24 either in the area of just the general case workers
25 or the education workers. And 95, at least, percent,

1 of their work is out with the clients, going to the
2 schools, making observations where the students are
3 enrolled, meeting with the families.

4 The first thing we do if someone is not
5 working when they come on our program, we give them
6 30 days to get a job. So, the case worker is meeting
7 them at lunchtime, near their job. There's very
8 little traffic in and out of our office. Really --

9 MS. BUTANI-D'SOUZA: Okay. That's very
10 helpful.

11 MS. FRENCH: -- it really will not be a
12 burden to the neighborhood.

13 MS. BUTANI-D'SOUZA: And I can appreciate,
14 you know, from their point of view, maybe they didn't
15 see the notice. So, for them, you know, this is up
16 in arms --

17 MS. FRENCH: I also wanted to add that the
18 Swansons have an exquisitely renovated house. And
19 they probably have met a standard that exceeds --
20 there are three to four different prototypes on the
21 block, and the kind of porch that they have is
22 different from many of -- most of the other houses.
23 They did an exquisite job, and I don't want to take
24 anything away from what they've done. But I don't
25 know that any of the rest of us meet their standard.

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1 MS. BUTANI-D'SOUZA: Okay, well, let's not --

2 MS. FRENCH: (Simultaneous speech.)

3 MS. BUTANI-D'SOUZA: Let's not get into that.

4 So, like I was saying, I can appreciate from their
5 point of view that they were caught blindsided by
6 this, and I can appreciate that from your point of
7 view coming into this hearing you may also be caught
8 blindsided by some of the concerns that have been
9 raised here.

10 Now, Mrs. Swanson did raise some concerns
11 about the upkeep of your property, which I'm sure --
12 I don't know whether that's news to you or not, but
13 I'm sure you would be open to discussing, you know,
14 if there's an issue and certainly if you were going
15 to be in this office resolving it.

16 So, I think there's an opportunity, perhaps,
17 if it is such a concern to these folks to perhaps put
18 something in the order around making sure that trash
19 is kept out of the alleyway. I don't think that that
20 is something that you would want to -- I don't think
21 that would be an issue.

22 So, those were my questions, Ms. French. I
23 actually have some questions about the Office of
24 Planning because there seems to be some confusion
25 about the use category here and I think it might be

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1 helpful to hear from the Office of Planning about why
2 this should be a service center and not simply an
3 office use, and what the difference is here.

4 CHAIRMAN HILL: Mr. Golden, from Austin,
5 Texas. Please, tell us about Washington, D.C.

6 MS. BUTANI-D'SOUZA: Or perhaps Mr. Jesick
7 can help out.

8 MR. JESICK: Well, yes. Actually, I was
9 looking up the definition of community service center
10 in the 2016 regulations. Unfortunately that exact
11 term is not in the definitions, but what is in the
12 definitions is community service use. And it reads,
13 a not-for-profit use established primarily to benefit
14 and serve the population of the community in which it
15 is located. This is from Subtitle B of the
16 regulations. And that has a very broad definition.
17 So, if the applicant has met with the Zoning
18 Administrator and the Zoning Administrator has
19 determined that this use falls under that category, I
20 think we would probably follow that guidance and then
21 evaluate it as such.

22 MS. BUTANI-D'SOUZA: Thank you, so much. So,
23 basically the Zoning Administrator has said that this
24 is a community service use, even though we've heard
25 testimony that it will be used for office.

1 MR. JESICK: That's our understanding, yes.

2 MR. HOOD: Mr. Chairman, I don't want to get
3 in the defensive mode, but I found myself -- and this
4 is not germane, but I think this needs to be said, in
5 front of the city council a number of times telling
6 people that we're not rubber stampers. And the thing
7 is, what people don't understand is, when cases come
8 in front of us, it may come in and I use this example
9 and you may not want to hear it. But when people
10 come in with a case and it comes in looking like the
11 letter A, this kind of goes to what Ms. Love-Wade was
12 talking about. When it comes in looking like the
13 letter A, when we finished our second, as you stated,
14 going through the Office of Planning, going through
15 our deliberations, going through input from the
16 community, it might come out of here looking like the
17 letter Z.

18 So, when people think that we rubber stamp
19 stuff, there's a lot of effort that goes into these
20 cases because the city is not as big as we think it
21 is, so we have to try to find ways to co-exist. So,
22 this is not a rubber stamp board. The Zoning
23 Commission is not a rubber stamp commission. Even
24 though somebody put our pictures up in the Wilson
25 Building with rubber stamps on our head. But we work

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1 real hard at what we do. We do. And I need to say
2 that because it's been reported in the Washington
3 Post and other places.

4 But anyway, let's get back to the case.

5 CHAIRMAN HILL: Mr. Chairman, that was your
6 commission. This is the BZA. We didn't have anybody
7 putting anything in city hall about us.

8 MR. HOOD: Not yet.

9 CHAIRMAN HILL: Oh, now, okay. Please, Mr.
10 Hart?

11 MR. HART: I'd like to say, I guess one thing
12 that I always have to keep on telling myself, the
13 reason that you all are here is part of -- this is
14 part of the process. And so, this is what we are
15 trying to do is to -- there was an ANC meeting. You
16 all did not know or did not hear about that.

17 There was a presentation at that meeting.
18 You were not aware of that. But the chance for you
19 to be able to -- you were asking, Ms. Lovinggood, you
20 were asking, when do you get a chance to be involved
21 in the process? You're involved in the process
22 today, right now. And we appreciate your time and
23 your effort to come here. And I know that it is
24 difficult to do that, given all of our busy schedules
25 and the time and when and where and how to go about

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1 doing that. A simple letter or e-mail is always
2 helpful as well.

3 And the reason that the chair was asking
4 about whether or not you had submitted a letter is,
5 many times we get letters prior to actually getting
6 the -- you all coming to testify. So, we have some
7 idea of some issues that we are not aware of. And
8 now, we are aware of the issues, and even better yet,
9 the proponent, the applicant, is aware of the issues
10 that she was not aware of as of a half hour ago. And
11 I think that that is part of the process, to be able
12 to have them -- have yourselves understood, and then
13 be able to relay that information in a considerate
14 and, you know, a cordial way to someone that may not
15 understand, why are you against this.

16 And it's not that you're against it, you're
17 really trying to say, I want to make sure that you
18 understand that we're just concerned because we don't
19 know what to expect from this. And you've heard,
20 now, some more information on that and I hope that is
21 helpful for you to understand what it is that they're
22 looking to do, and I appreciate your time and effort
23 to do that, and welcome to the process. Thank you.

24 CHAIRMAN HILL: Ms. -- well, just Ms. French,
25 again, you've heard from people that we didn't have

1 any opposition beforehand, so I didn't know all of
2 this was going to happen, and so now you've heard
3 more in terms of the neighbors. I know that, you
4 know, it's not often that we get a commissioner here
5 from the ANC, but you know, the ANC commissioner is
6 here so that you know more of the concerns about the
7 people in the neighborhood here.

8 And as far as any kind of further
9 clarification that I have to offer as far as like,
10 that, that again is the box that gets checked,
11 community service use. You know, and so that's just
12 the box that gets checked. And that's what happened
13 with the -- I'm just kind of trying to clarify that
14 so that you at least feel as though I'm trying to
15 give you some answer, which is that, you know, the
16 Zoning Administrator has said that that's the box
17 that needs to be checked, and that's why that is the
18 box that is being checked.

19 So, Ms. Butani, you had another question?

20 MS. BUTANI-D'SOUZA: I was just wondering
21 whether Mr. Jesick or Mr. Golden could just, for the
22 folks who are here today who weren't able to review
23 the record, if you could just run us through
24 literally three sentences what the criteria was here
25 so that we can have some comfort that this is not

1 something where you know, we're establishing a
2 totally out of the blue precedent that could result
3 in many, many businesses coming here; that there is
4 actually a defined process and set of criteria that
5 such applications need to be vetted against? So, if
6 you could just run us through quick couple sentences?

7 MR. GOLDEN: Sure. So, there are -- there's
8 three components, three tests that the application
9 would need to meet. The first being that the service
10 center should not be located where it's objectionable
11 to neighboring properties in regards to noise or
12 other objectionable conditions.

13 The second condition is that the use shall be
14 reasonably necessary or convenient to the
15 neighborhood in which it is serving.

16 And then the third defines community center a
17 little bit more. It says, a community center shall
18 not be organized for profit and no part of its net
19 income shall inure to the benefit of any private
20 person or individual. So, those are the three tests.

21 MS. BUTANI-D'SOUZA: What does that second
22 one mean, reasonably necessary for --

23 MR. GOLDEN: So, verbatim it's, the use shall
24 be reasonably necessary or convenient to the
25 neighborhood in which it is proposed to be located.

1 MS. BUTANI-D'SOUZA: And how did you
2 interpret that for this particular application?

3 MR. GOLDEN: So, it was our understanding
4 that many of the clients of this organization reside
5 in the neighborhood itself. There is other
6 properties within the neighborhood. And so we felt
7 that a change of use allowing them to operate at this
8 location offers easy access to the clients they're
9 already serving.

10 MS. BUTANI-D'SOUZA: Okay. Thank you so
11 much. I don't have any further questions.

12 CHAIRMAN HILL: Okay. Great. Does anyone
13 have any further questions for the Office of
14 Planning? Does the applicant have any questions for
15 the Office of Planning? Does the applicant have
16 anything they'd like to say in conclusion?

17 MS. FRENCH: I just, if you could just give
18 me this point of personal privilege. Other than the
19 architect, everyone at this table lives on the same
20 block. So, it's, on one hand not knowing that this
21 opposition was coming, it's a little surprising for
22 me. But I want to say to people from my heart, that
23 we do really good work in turning around people's
24 lives. We don't want to be bad neighbors. We have a
25 full-time person who maintains our properties. I do

1 understand what you're saying about the front door.
2 There is a common hallway there and we need to put up
3 another door there. I don't disagree with you on
4 that, and it's on my list to do.

5 But, we also have a changing block. We're in
6 a neighborhood, since I've moved on to this block
7 it's changed drastically. And there were several
8 rooming houses in a row, right up and down next to
9 there. And what happens is there have been squatters
10 in and out of there. There is a trash problem in the
11 alley. We police our folks pretty carefully. Our
12 maintenance person has a pick-up truck. I've heard
13 him lay people out saying, you can't put -- you know,
14 you've got to put your trash out. And he ends up
15 carting away stuff from the other two rooming houses.
16 I guess the city has seized one of those rooming
17 houses now, and the other one there's a procedure
18 going on. So, they're sort of in limbo, looking
19 horrible.

20 And he ends up carting away stuff when it
21 ends up behind our property. But we really have it
22 in our hearts to be good neighbors. And I will give
23 -- I've already given you my card, my good friend,
24 the Golden Retriever.

25 UNIDENTIFIED SPEAKER: [Speaking off mic.]

1 MS. FRENCH: But that shows how long I've
2 known you. I will give the three of you my card.
3 Knock in my door, call me. If you see anything
4 that's objectionable, we're happy to address it.
5 Part of what we're working with people on is the
6 kinds of changes to making their lives so that they
7 can blend in to a neighborhood. And I am completely
8 open to any suggestion or request that you have.

9 CHAIRMAN HILL: Okay. Okay.

10 MR. SWANSON: Ms. French, no problem. Once
11 again, you've been a great neighbor. But it's just
12 like Ms. Lovinggood has been in the school system for
13 50 years. Between the three of us we've been
14 responsible for bringing programs advising national
15 and international government, spending over \$3
16 billion in higher education, health, housing, you
17 name it, we've done it.

18 So, as I said, philosophically we agree with
19 what you're doing. We've been in the same business
20 all our professional careers. The only thing we
21 needed was, as I said, clarification.

22 CHAIRMAN HILL: Okay.

23 MR. SWANSON: Okay? That's all we need to
24 deal with, what are we getting.

25 CHAIRMAN HILL: Okay. Okay. And I hope

1 you're getting a little bit more clarification. I
2 know it doesn't sound like you got the clarity that
3 you might have liked. However, you know, again, the
4 process and how people have to check off the right
5 box for the application, and what Ms. French just
6 said was that, I suppose, you know, hopefully that
7 provides some relief in terms of your ability to work
8 with her. If you see something that doesn't seem
9 like what you've heard here, then that's something
10 that you can talk with Ms. French about.

11 So, all right. Does anyone have any more
12 questions for anyone? Okay.

13 Then, I'm going to go and close the hearing.
14 Is the Board ready to deliberate? Okay. I mean,
15 I'll start. I mean, again, I didn't know -- there
16 was no opposition until just now. So, I thought this
17 was going to go much quicker than it did. And I'm
18 glad that we did have a chance to hear you guys out
19 before, you know, we go -- I don't think we're going
20 to get any lunch.

21 But nonetheless, again, the process that I'm
22 going through with this particular special exception
23 is that I agree with the analysis that the Office of
24 Planning has made for this special exception. I
25 think that they have gone through the community

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1 process which is, you know, presenting in front of
2 the ANC, and the ANC getting a unanimous vote, nine
3 to zero. Even usually when there is some discrepancy
4 within the ANC I'll get at least a couple of opposing
5 people, and then I can ask a few more questions about
6 that.

7 I do appreciate the people that have come and
8 expressed their concerns in opposition. And as I had
9 mentioned before, hopefully Ms. French will continue
10 to alleviate any fears they might have, and any
11 concerns they might have, and work with them, now
12 that they've come forward. You now know even more so
13 who they are and what their concerns are.

14 So, I would be again, resting on the analysis
15 of the Office of Planning and moving forward in
16 approval of this. I don't have a lot of questions.

17 Does anyone else have anything they'd like to
18 add before I make a motion?

19 MR. HOOD: Mr. Chairman, I would just add
20 that I think that the definition is definitely
21 suitable, which the Zoning Commission and the Office
22 of Planning and others put in place. I also think
23 that the Office of Planning report really spells out
24 exactly the relief requested in moving forward, how
25 this is applicable as you've already stated to this

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1 particular case in front of us.

2 CHAIRMAN HILL: Okay. Then, unless anyone
3 has anything else to add, I'd go ahead and make a
4 motion to approve Application No. 19388 of Hope and a
5 Home as read by the secretary.

6 MR. HOOD: I'll second.

7 CHAIRMAN HILL: Motion has been made and
8 seconded.

9 [Vote taken.]

10 CHAIRMAN HILL: The motion passes, Mr. Moy.

11 MR. MOY: Yes, staff would record the vote as
12 four, to zero, to one. This is on the motion of
13 Chairman Hill to approve the application for the
14 request for the relief requested. Seconded the
15 motion, Mr. Hood. Also in support, Vice Chair
16 Butani, and Mr. Hart. We have a board seat vacant.
17 The motion carries, sir.

18 CHAIRMAN HILL: Can we get a summary order?

19 MR. MOY: Yes, sir.

20 CHAIRMAN HILL: Okay. Thank you. Thank you
21 all very much. We're going to take a 10-minute
22 break.

23 [Short recess.]

24 CHAIRMAN HILL: All right. Good afternoon,
25 we are back. We are -- we've had some food so the

1 sugar rush is going to kick in. And let's see, we're
2 going to reorganize just a little bit. Okay?

3 So, for all of you who are here, we're going
4 to go -- the next one we're going to do is 19367.
5 Okay? Then after that, we're going to go 19390.
6 Then after that we're going to go 19389, followed by
7 19392, and 19397. Okay? All right. Oh, I'm sorry.
8 That's all right.

9 So, the first one we're going to is 19367.
10 The next one we're going to go to is 19390. And then
11 you're good? Okay. All right.

12 Mr. Moy, I guess you just have to officially
13 call, please.

14 MR. MOY: Yes. Thank you, sir. And, for the
15 record for the transcript. So, I see the parties are
16 assembling at the table, witness table, to
17 Application No. 19367 of Frank and Andrea Mirkow. I
18 think that's how it's pronounced, M-I-R-K-O-W.
19 Captioned and advertised for a special exception
20 relief under the rear yard requirements of Subtitle
21 D, Section 306.1 and the side yard requirements of
22 Subtitle D, Section 307.1. This would construct a
23 rear second-story garage addition in the R-1-B zone.
24 This is at 4831 Alton Place Northwest, Square 1498,
25 Lot 821.

1 CHAIRMAN HILL: Okay. Good afternoon. If
2 you could please introduce yourself from my right to
3 left.

4 MS. MIRKOW: Andrea Mirkow, 4831 Alton Place.

5 MR. MIRKOW: Frank Mirkow, 4831 Alton Place.

6 MR. CAUICKSHANK: Neil Cauickshank,
7 Architectural Solutions.

8 CHAIRMAN HILL: And you're the architect of
9 the property? Okay. You guys didn't look like you
10 knew each other for a second, so I got confused. All
11 right.

12 Okay. Have you all been sworn in?

13 MR. CAUICKSHANK: Yes, sir.

14 CHAIRMAN HILL: Okay. And you filled out
15 your witness cards?

16 MR. CAUICKSHANK: Yes, sir.

17 CHAIRMAN HILL: Okay. So, I was a little
18 confused because I didn't see plans in the record
19 until I guess -- did these just come in or did you --
20 when did you submit the plans?

21 MR. CAUICKSHANK: So, we originally submitted
22 plans when we applied. Those were uploaded earlier
23 on and then there was some discussions with the ANC
24 and with the neighbors, and there were some revisions
25 done, and then we submitted the revised plans a

1 couple days ago. Just like Thursday or Friday.

2 CHAIRMAN HILL: So, did you all meet with the
3 ANC?

4 MR. CAUICKSHANK: Yes.

5 MR. MIRKOW: We did.

6 CHAIRMAN HILL: And when did you meet with
7 the ANC?

8 MR. MIRKOW: I believe it was a week ago
9 today, or a week ago yesterday.

10 CHAIRMAN HILL: Okay.

11 MS. MIRKOW: I think it was December 8th.

12 MR. MIRKOW: December 8th.

13 CHAIRMAN HILL: Okay. And did the ANC vote?

14 MR. MIRKOW: Yes, they did. They voted
15 unanimously in favor of a resolution that crafted --
16 we had offered some compromise to assuage the
17 concerns of our neighbors. We'd had numerous
18 meetings, one of them brokered by the ANC, three
19 members of the ANC, including the Chairman, Mr.
20 Bender, at our home. We offered numerous concessions
21 and compromises trying to get to a compromised
22 solution that assuaged everyone's concern. The ANC
23 took those. There was a hearing on the 8th, and the
24 ANC passed a unanimous resolution supporting the
25 special exception contingent upon those two or three

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1 concessions that we had offered and accepted.

2 CHAIRMAN HILL: And those concessions are in
3 the plans in Exhibit 43?

4 MR. MIRKOW: Yes. And we revised the plans
5 accordingly and our architect uploaded those, which
6 is the most recent upload, of course. We had designs
7 put up, up there, quite a while ago.

8 CHAIRMAN HILL: Okay. And what were the
9 concessions?

10 MR. MIRKOW: The concessions were -- one of
11 the issues, the special exception we were requesting
12 was a side -- an exception for the side setback. And
13 we offered to move it five feet. It was originally
14 right next to the neighbor's property line. We
15 offered to move it three feet, and that was not
16 accepted, and then we offered to move it five feet
17 and that was the one incorporated into the resolution
18 of the ANC.

19 Another one of our neighbor's concerns, I
20 believe, had to do with water runoff. So, we offered
21 to put in gutters, downspouts, water rain barrels in
22 the property, and that was also a contingent
23 concession or condition of the resolution that was
24 adopted. So, those were the -- yes, and again, one
25 of her concerns was the structure, the two-story

1 structure were to have windows facing her property.
2 She was concerned, somehow, that someone would look
3 down on her. We agreed to have those frosted and
4 opaque in some way.

5 CHAIRMAN HILL: Okay. And those are all in
6 the revised plans that are in the record.

7 MR. MIRKOW: Yes, sir. Yes, they're in it
8 now.

9 CHAIRMAN HILL: Okay. All right. Does
10 anyone have any questions for the applicant? No?
11 Okay. Then, I'm going to turn to the Office of
12 Planning.

13 MS. THOMAS: Good afternoon, Mr. Chair.
14 Karen Thomas for the Office of Planning. We are in
15 support of this application as presented. But I have
16 one issue that I'd just like to raise, and I spoke to
17 the architect briefly about it. This was raised with
18 the Zoning Administrator yesterday in meeting with
19 him. I met with him because I had some concern about
20 the setback from the alley, which measures three
21 feet.

22 Section 5004, Subtitle T, says that accessory
23 -- it should be set back at least 12 feet from the
24 center line of the alley. You have a question?

25 UNIDENTIFIED SPEAKER: [Speaking off mic.]

1 MS. THOMAS: Oh, okay. And it's -- the alley
2 is 16 feet wide so that it would need an additional
3 foot pulled in from the alley, as it shows, it shows
4 three feet. So, it needs to be four feet. So, if
5 they could revise those plans and submit it to you so
6 that they would not need relief, because they would
7 have an issue of going -- presenting the plans, the
8 approved plans as three feet, to DCRA at permit
9 stage, and they would have to probably come back to
10 meet that requirement.

11 CHAIRMAN HILL: Okay. Is that something that
12 you're aware of?

13 MS. MIRKOW: We were just made aware of it.

14 MR. MIRKOW: We were --

15 CHAIRMAN HILL: Just made aware of it. Okay.
16 And you're comfortable with it?

17 MR. MIRKOW: Yes, if we can -- if it would
18 expedite the process and facilitate things, yes, we
19 would --

20 CHAIRMAN HILL: Okay.

21 MR. MIRKOW: -- concede that one additional
22 thing.

23 CHAIRMAN HILL: Okay. And I know we've done
24 this before, but can they just make a hand drawing on
25 that and submit that now? Or --

1 MR. CAUICKSHANK: I can revise the drawing
2 and submit it later, upload it later this afternoon
3 if that's acceptable.

4 CHAIRMAN HILL: No, that's a problem.

5 MS. THOMAS: No, they can -- I would be
6 amenable to that, and with a four foot written in
7 there.

8 CHAIRMAN HILL: Right.

9 MS. THOMAS: And I'll let the Zoning
10 Administrator know. It's up to --

11 MR. MOY: Well, Mr. Chairman, we have -- the
12 Board has, on occasion allowed the applicant to make
13 minor changes on the hardcopy of the drawings. In
14 other words, if you had one with you and you were to
15 mark those drawings as discussed between you and
16 Office of Planning, then I'd be agreeable to having
17 that entered into the record.

18 MR. MIRKOW: I don't think that that would be
19 a problem. I'll refer to my architect.

20 CHAIRMAN HILL: Okay. And I'm going to let
21 you guys step away to do that anyway. But so, that's
22 fine with me.

23 MS. BUTANI-D'SOUZA: Is that going to create
24 an issue with the parking below, if you reduce the
25 size of the garage by a foot?

1 CHAIRMAN HILL: You can just push the -- you
2 need to push the button on the mic. That's all
3 right.

4 MR. CAUICKSHANK: So sorry. We are
5 relocating the garage, pushing that foot towards the
6 house by a foot.

7 MS. BUTANI-D'SOUZA: Okay, so you wouldn't
8 reduce the size of the garage, you'd just move it
9 towards the house. Okay.

10 CHAIRMAN HILL: Okay. All right. Does
11 anyone have any more questions for the applicant?
12 Okay.

13 Then I'm going to go ahead and see if -- does
14 the applicant have any questions for the Office of
15 Planning?

16 MR. MIRKOW: No.

17 CHAIRMAN HILL: Okay. Is there anyone here
18 from the ANC wishing to speak? Is there anyone here
19 wishing to speak in support of the application?

20 Is there anyone here wishing to speak in
21 opposition to the application? Okay. If you could
22 please step forward?

23 MS. BUTANI-D'SOUZA: Can I also ask a
24 question? It looks like the ANC resolution is
25 predicated upon retaining the existing five-foot, six

1 side yard setback. But I see that your plans show a
2 five-foot, one side yard setback.

3 MR. MIRKOW: That was, I believe, a typo in
4 the original resolution. It was meant to be five-
5 foot, one. And I think Chairman Bender sent a
6 subsequent resolution adjusting that to five foot, or
7 five-foot, one.

8 MS. BUTANI-D'SOUZA: Okay. So, the existing
9 setback is five-foot, one.

10 MR. CAUICKSHANK: Correct.

11 MR. MIRKOW: Yes.

12 MS. BUTANI-D'SOUZA: Okay. I just haven't
13 had a chance to review the drawings because they came
14 in, you know, yesterday.

15 MR. CAUICKSHANK: And to the drawings, this
16 was uploaded originally when we applied for the
17 variance. This is not a correct site plan. I mean,
18 the setback is a little bit further. But this should
19 be on the website. I'm not sure why you weren't able
20 to see that.

21 MS. BUTANI-D'SOUZA: Oh, I was able to see
22 the plans that you uploaded a long time ago, but
23 there is a whole series of changes that have been
24 made to them that I didn't see when we --

25 MR. CAUICKSHANK: Okay, in the latest one.

1 Okay.

2 MS. BUTANI-D'SOUZA: -- reviewed them,
3 because they came in after, well past the deadline.

4 MR. CAUICKSHANK: Okay.

5 MS. MIRKOW: The only change would have been
6 the side setback.

7 MS. BUTANI-D'SOUZA: You know, we have to
8 review the plans in depth, and there's a tremendous
9 record on this property, and there's also a huge e-
10 mail back and forth that's very confusing to follow.

11 So, you know, I assume that you're not
12 planning to come before this Board again, and
13 certainly I won't be here, but you know, for future
14 reference for anyone who's watching, it's difficult
15 to review something without plans, current plans.

16 CHAIRMAN HILL: Okay. If you could go ahead
17 and introduce yourselves and give me your address,
18 please, as well? I'm sorry, you need to push the
19 little button until the green light comes on.

20 MR. BOREK: Walter Borek, 4833 Alton Place
21 Northwest.

22 MS. MILLS: And I'm Sondra Mills. I'm at
23 4827. I'm directly, excuse me, to the east of the
24 Mirkow property.

25 MR. BOREK: And I'm directly to the west.

1 CHAIRMAN HILL: Okay, you're on either side
2 of the property?

3 MS. MILLS: Yeah.

4 CHAIRMAN HILL: Okay. And, well, I'll let
5 you have three minutes each. Okay? Mr. Moy, if you
6 could set the clock for me?

7 And then, please, go ahead.

8 MS. MILLS: Okay. I'll start if that's all
9 right.

10 CHAIRMAN HILL: Sure. Sure.

11 MS. MILLS: Again, I live immediately to the
12 east of the Mirkows. And I filed my objections to
13 their original application back in November in
14 anticipation of the hearing that was scheduled for
15 November 16th. And as you know, it's been reset for
16 today.

17 In the meantime, as you've heard, there have
18 been some meetings with the Commissioners of ANC 3E.
19 The commission had originally planned to recommend
20 that BZA reject the Mirkows' application. And three
21 commissioners met with me and with Mr. Borek and his
22 wife, and to try to see if a compromise could be
23 reached.

24 Unfortunately, we didn't reach a compromise
25 with the Mirkows. ANC 3E then held a public meeting

1 on December the 8th, and the Commissioners didn't
2 recommend approval of the project at that time.
3 Chairman Bender said that he would have preferred
4 that the Mirkows at least comply with the eight-foot
5 minimum setback requirement from my property. To
6 reach a compromise the ANC stated they would not
7 oppose the Mirkows' application if it complied with a
8 number of conditions, and the ANC resolution that was
9 filed with BZA, I think just last Friday,
10 memorializes that decision.

11 I looked on BZA website last night, and I saw
12 that there was, it appears to be an amended plan of
13 sorts, three or four pages, with a note at the bottom
14 that says, "Revision to comply with ANC 3E
15 resolution."

16 These drawings really don't tell me very much
17 about what the Mirkows plan to do. During our
18 discussions with the ANC a number of options were
19 considered. For example, would there be a shed roof,
20 would there be a flat roof, how tall would the
21 building actually be, where would the setback be?
22 Those issues were discussed. And I really can't tell
23 from this most recent submission, what their current
24 plans are.

25 The concerns that I had stated in my November

1 4th letter are essentially that when you look at this
2 accessory structure that they want to build, the two-
3 story structure, and particularly when you consider
4 that in conjunction with the second-story addition
5 they're putting on the other side of the house next
6 to where Mr. Borek and his wife live, as well as a
7 pergola with sort of a barbeque pit underneath that,
8 directly beside my fence, when you look at all of
9 those things together they really interfere with the
10 light, the air, the privacy, and sort of the visual
11 intrusion from my yard.

12 I've spent 10 years developing a garden and I
13 believe that their planned structures will cast
14 considerable shadows over the plantings. That may
15 not even survive as a result.

16 So, I think, you know, a picture is worth a
17 thousand words. And one of the drawings that they've
18 submitted back in Document 37, this is the so-called
19 shadow study drawings, I think really sort of tells
20 the story. If you look at -- I'm sorry if I'm
21 running out of time here. I'm trying to move as
22 quickly as I can. It's the 17th slide within that
23 package.

24 The 17th slide shows basically what it will
25 look like from my yard. You just see a solid line of

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1 buildings extending from where their house currently
2 is, across where the pergola is, the two-story
3 addition on the other side, and then this new
4 structure that they plan to put in place of the
5 existing garage.

6 So, I just feel as though it's asking too
7 much. This is not a situation where we've had bad
8 relationships for years. I've gone out of my way to
9 be neighborly. I've bought presents for their
10 children, I cut their grass for five years. We've
11 tried very hard to be good neighbors to them and I
12 feel as though they are asking too much and this is
13 too much of an intrusion.

14 CHAIRMAN HILL: Okay. Okay. Thank you. Mr.
15 Borek.

16 MR. BOREK: Yes. My wife and I have been
17 residents for 29 years of a park -- I'm a registered
18 architect. I've been an architect for the past 45
19 years. We strongly object to the granting of this
20 special exception. This process has been incredibly
21 contentious and has irreparably damaged our
22 neighborhood fabric. We have been dealt with most
23 cleverly, deceptively, and deviously.

24 I have already filed rebuttals for nine of
25 the exhibits. This is my PowerPoint show. It is

1 just several pictures of photographs. What I've done
2 is I've taken the standards, broke them out, and then
3 put the applicants' statements underneath those
4 standards on one page, and then each section which
5 coincides with that has drawings and photographs to
6 explain why the relief, that this should be refused.

7 MS. BUTANI-D'SOUZA: Those are the exhibits
8 42A, B, C, et cetera, with the synopsis and rebuttal?

9 MR. BOREK: No, ma'am.

10 MS. BUTANI-D'SOUZA: No?

11 MR. BOREK: No. They're the ones that I just
12 referred to, the synopsis and rebuttal.

13 MS. BUTANI-D'SOUZA: So, there's a -- are
14 there many -- so, Monday was the 19th and we all
15 reviewed this over the weekend, so I see that there
16 is about 20 exhibits that have been added.

17 MR. BOREK: They're all single sheets.

18 MS. BUTANI-D'SOUZA: From the 19th to the
19 20th. So, you know, I just haven't had a chance to
20 review any of this.

21 MR. BOREK: I spoke with Mr. Varga and he
22 said it would be okay to do it on Monday. Monday
23 morning. So.

24 CHAIRMAN HILL: Okay. That's fine. That's
25 fine. Please, go ahead and just continue.

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1 MR. BOREK: Could I please? Or do I have to
2 give (inaudible)?

3 CHAIRMAN HILL: Give it to Mr. Moy.

4 MR. BOREK: It's a PowerPoint without the
5 computer. I did this to make the presentation as
6 brief as I possibly could.

7 CHAIRMAN HILL: Okay.

8 MR. BOREK: There's just, there's one
9 technical question if I can --

10 CHAIRMAN HILL: Sure.

11 MR. BOREK: It's germane. There are,
12 regardless of where we are right now, what's been
13 offered for side yards and rear yards, the Office of
14 Planning came out with 1.67 feet. The Zoning
15 Administrator came out with .75 feet. The Exhibit
16 37, December 5th drawings, came out with 3.9 feet. I
17 mean, 3-foot, 9-inches. So, before we even start,
18 those three are the dimensions that we have been
19 working with, but it's hard to work with them because
20 they're sort of a moving target.

21 CHAIRMAN HILL: Okay.

22 MR. BOREK: Okay. Thanks.

23 CHAIRMAN HILL: Okay. Yeah, I understand.
24 Okay. I'm going to turn to the applicant for a
25 second here because you know, again, there's a lot

1 more information here that we didn't have.

2 MR. CAUICKSHANK: Can I get a copy of the
3 PowerPoint presentation, or whatever it is?

4 MR. BOREK: Sure.

5 CHAIRMAN HILL: Yeah. So, the architectural
6 drawings that you just submitted, they were submitted
7 on Monday? Is that -- the revised architectural
8 drawings were on Monday?

9 MR. CAUICKSHANK: Yeah, I believe so.

10 CHAIRMAN HILL: And with the Office of the
11 Attorney General, there, Sherry, I'm sorry if you can
12 just clarify for me as far as the great weight of
13 what was supplied. Is that -- from the ANC. Does
14 that have everything needed in there?

15 MS. GLAZER: I believe it has most things.
16 It may not have had a comment about notice being
17 sent, but I believe in most respects it appears to be
18 sufficient.

19 CHAIRMAN HILL: Okay. Okay. So, this is
20 what I am interested in doing. Or, actually, I want
21 to talk to -- a little bit about you guys. There was
22 what I thought was kind of going to happen, to be
23 quite honest, because I didn't have any architectural
24 drawings until just now, so I thought we were going
25 to go back around through this and I'd have a chance

1 to review the drawings a little bit more closely.

2 I don't think I'm going to be able to come to
3 a decision on this without taking a look at the
4 drawings. So, what I would now suggest is there are
5 two -- your two immediate neighbors on either side,
6 and I know that it sounds like you've tried to -- and
7 there was a lot of back and forth with e-mails, it
8 seems, in terms of trying to get to some kind of a
9 resolution. What I'd like to ask the applicant and
10 the people in opposition here, to talk again, you
11 know, to go -- because we can't decide now. I mean,
12 even there's other members of the Board here that
13 don't have enough time to review the information in
14 terms of any of the architectural plans.

15 So, what I'd like to do is kind of ask you
16 all to get together again. I know you've tried, and
17 get together again and kind of come to some -- see if
18 you can come to an agreement. The ANC and you, I'm
19 sure, went to the ANC meeting.

20 MS. MILLS: Yes. Yes.

21 CHAIRMAN HILL: And you testified again
22 about --

23 MS. MILLS: Yes.

24 CHAIRMAN HILL: -- your opposition to it.
25 Correct?

1 MS. MILLS: Yes.

2 CHAIRMAN HILL: And so the ANC did pass the
3 vote to approve. And what was the vote to approve?
4 Do you remember?

5 MR. MIRKOW: It was unanimous, five to zero.

6 CHAIRMAN HILL: Okay. So, is --

7 MS. MILLS: I beg your pardon.

8 CHAIRMAN HILL: Sure.

9 MS. MILLS: They did not really approve it.
10 They said they would not oppose so long as conditions
11 were met. They had originally decided that they
12 would reject the proposal.

13 CHAIRMAN HILL: Right. But those conditions
14 are being met.

15 MR. MIRKOW: Yes.

16 MS. MILLS: I don't know that, sir.

17 CHAIRMAN HILL: Right.

18 MS. MILLS: That's part of my, my confusion.

19 CHAIRMAN HILL: Okay. Okay.

20 MS. MILLS: Because the drawings are just
21 not, these most recent submissions since the ANC
22 resolution, are not sufficiently clear for me to be
23 able to understand exactly what it is they are
24 proposing at this time.

25 CHAIRMAN HILL: Okay. So, and honestly, I

1 really do appreciate and know what -- how things with
2 neighbors can get very passionate. And so this is
3 kind of a place for us to kind of reset, okay, here.
4 And so, if perhaps the applicant's architect could
5 meet with the parties in opposition to clarify the
6 things that the ANC had been asked for you to do in
7 order to gain approval, and then I'd like to get some
8 kind of submission from both of you, if you would,
9 either again, that you understand and you are in
10 agreement, or you don't understand and you're again
11 in opposition. That would be a place for me to then
12 take a look at it again. Okay? So --

13 Sure, you can go ahead. Speak.

14 MR. MIRKOW: I appreciate it. So, I want to
15 just quickly address some of those points and address
16 your points so that we're clear on how to move
17 forward in --

18 CHAIRMAN HILL: Okay.

19 MR. MIRKOW: -- sort of an expeditious
20 manner. I actually do want to echo Ms. Mills'
21 earlier point about neighborliness.

22 Up to this issue, they have been fantastic
23 neighbors and we tried, certainly --

24 CHAIRMAN HILL: No, and I'm sorry. And
25 hopefully you guys will become good neighbors again.

1 You know, but --

2 MR. MIRKOW: I wanted to echo that and I
3 would never take that away from -- secondly, I
4 understand that in this case the timing of the
5 completion of the documentation is a bit of an
6 obstacle. I just wanted to be very forthright as to
7 why that was. You saw, this is a rescheduled hearing
8 because we rescheduled to have meetings, to try to
9 sit together and find a consensus or a compromise
10 together. That's why it was rescheduled. The
11 meeting was only last week. Mr. Bender, the
12 Chairman, preferred the resolution with the
13 contingent upon, rightly said, contingent upon these
14 conditions, only I think as late as last Friday.
15 Hence, and then our architect as quickly as he could,
16 adjust it, and then uploaded them.

17 That is the sort of harry scary kind of last
18 minute uploading. It was driven by the process that
19 was especially intended to create a consensus.

20 We will, of course, do whatever we need to do
21 to meet with Ms. Mills and Mr. Borek, and clarify --
22 here's what I want to make sure. The resolution from
23 the ANC said they would not oppose our exception, our
24 request for exception, contingent upon our fulfilling
25 these three or four caveats that we just mentioned,

1 the windows, the drainage, the five-foot setback from
2 the side.

3 We agreed to those and we will walk through
4 Ms. Mills and Mr. Borek, how we will fulfill these
5 conditions.

6 CHAIRMAN HILL: Okay. Yeah, that's one part
7 that I'd like to do.

8 MR. MIRKOW: Okay.

9 CHAIRMAN HILL: And then also if you could
10 clarify with the Office of Planning. They had their
11 -- because now you're going to come back, okay? So,
12 if they can fix the Office of Planning's concern,
13 okay? And you can show that to me in the drawings
14 again. All right?

15 And then while you meet with the opposition,
16 if -- I mean, if there is any way to get them on
17 board, and again, I guess what I'm trying to get at,
18 is you know, the ANC has now signed off. I mean, be
19 it as you said, you know, they -- as long as they
20 meet the criteria, what I'd like to see is that, you
21 know, if there is other concerns that you might like
22 to talk with the neighbor about, and if there's any
23 way you can get to a resolution that would be great,
24 obviously, right? And I would like to see something
25 by the next time we meet, that is your statements.

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1 Okay?

2 And so, if you haven't given me any
3 statements, that means you haven't met with them,
4 right? So, you know, either it's one way or the
5 other.

6 So, am I clear on everything?

7 MS. MILLS: Yes. May I simply add one
8 additional thought here? There were some other
9 concerns that I had about this proposal that dealt in
10 part with the overall height of this two-story
11 building that are not explicitly addressed by the
12 ANC's resolution.

13 And the Mirkows proffered a couple of
14 different plans. That's part of why I am confused
15 about what they intend to do. One of them had a flat
16 roof that was a couple feet lower. The other had
17 this very sloping shed roof that was taller. I don't
18 know which of those they're planning to do --

19 CHAIRMAN HILL: Okay. I understand.

20 MS. MILLS: -- at this point.

21 CHAIRMAN HILL: So, go ahead and meet with
22 the architect. All right? And you'll get
23 clarification. Okay? And, again, knowing that the
24 Office of Planning is currently in approval, as is
25 the ANC. I say that so that, you know, I hope that

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1 you can work together, right, and somehow come to
2 something that you all can live with because you guys
3 are going to be neighbors.

4 So, that being the case, Mr. Moy, can I get
5 some scheduling as to when we might have -- be able
6 to get drawings and then come back?

7 MR. MOY: All right, Mr. Chairman. As you
8 know, in the month of January there's only two
9 hearings. The first, which would be January the
10 11th, the other would be January 18th. With the
11 holidays, I think perhaps not knowing how the
12 schedule is going to go with meetings between the
13 neighbors and the applicant --

14 CHAIRMAN HILL: I think the 18th will be the
15 earliest that I would be comfortable with.

16 MR. MOY: Good. Good. So, if we continue
17 the hearing on the 18th, is the Board interested in
18 two filings, or just one filing from the two -- I'm
19 going to refer to them as two parties.

20 MR. CAUICKSHANK: Can we make an appeal to
21 try to do it by the 11th? I mean, we've been there
22 for a long time trying to negotiate.

23 CHAIRMAN HILL: Yeah.

24 MR. CAUICKSHANK: I don't know that the
25 negotiation's going to get any better, but the owners

1 are obviously willing to talk to their neighbors
2 again.

3 CHAIRMAN HILL: Yeah.

4 MR. CAUICKSHANK: If you can schedule us
5 earlier, we would really appreciate it.

6 CHAIRMAN HILL: Yeah, that's okay. I
7 appreciate what you appreciate. And the 18th is the
8 earliest I'm going to be able to do it. And what you
9 have possibly done before, I don't know. Okay?

10 The plans came up to us on Monday, and part
11 of the problem that I'm having is I can't even review
12 the plans. And so, now they weren't able to
13 understand the plans and they were your next door
14 neighbors.

15 And so, you know, you need to at least try to
16 walk them through it, so in any case, so back to the
17 question, which was do you want two filings?

18 MR. MOY: I was going to suggest, since you
19 requested that the neighbors --

20 CHAIRMAN HILL: Right.

21 MR. MOY: And we need it separately --

22 CHAIRMAN HILL: They need to see the drawings
23 first and then I need -- right.

24 MR. MOY: Separately. Then, perhaps one day
25 for filing for everything. Are you comfortable with

1 that or would you want the applicant to make their
2 filing first and then it's --

3 CHAIRMAN HILL: I would like the applicant to
4 make their filing first, and then the opposition can
5 make their filing. So at least I know for sure the
6 plans are in there.

7 MR. MOY: I understand.

8 CHAIRMAN HILL: Okay.

9 MR. MOY: So, let's see, today is the 21st.
10 Can the applicant make their filing -- well, it would
11 have to be after the 25th. So, I would say possibly
12 Friday, December the 30th, and then have the
13 neighbors be able to reply to the filings by, let's
14 say a week later, which would be January the 6th, of
15 January the 9th, which is a Monday.

16 MR. MIRKOW: In terms of the drawings,
17 absolutely.

18 CHAIRMAN HILL: Okay.

19 MR. MIRKOW: Absolutely. But would the
20 expectation be that we would have met with them by
21 the 30th?

22 CHAIRMAN HILL: When did you say again, Mr.
23 Moy, the filings from the opposition?

24 MR. MOY: It would be Friday, December the
25 30th. And then a response from the neighbors, let's

1 say January the -- I was going to say January the
2 9th, which is a Monday. Is that too soon?

3 CHAIRMAN HILL: Okay. So that means that you
4 would have met with them before January the 9th and
5 you have had an opportunity to respond to the
6 drawings, which you've already seen on the 30th.

7 MS. MILLS: Yes. Unfortunately I will be out
8 of the country starting on Christmas Day through
9 January 3rd, and so --

10 CHAIRMAN HILL: So, the 4th.

11 MS. MILLS: Yeah, I will be literally back
12 late on the 3rd and would be available on the 4th of
13 January.

14 CHAIRMAN HILL: Okay.

15 MS. MILLS: For the first time.

16 CHAIRMAN HILL: Is that good? You guys can
17 work it out.

18 MS. MILLS: Yeah, okay.

19 CHAIRMAN HILL: Okay? All right. So, just
20 meet and see where you can get -- okay. So, is there
21 anyone else here wishing to speak in -- so, I did
22 ANC, I did support, anyone wishing to speak further
23 in opposition?

24 Okay. So, is everyone clear? Okay.

25 MS. MILLS: I think so, yes.

1 CHAIRMAN HILL: Great. All right. Then,
2 good luck. Okay? Okay.

3 [Discussion off the record.]

4 MR. MOY: All right, Mr. Chairman. The next
5 application before the Board is Application No. 19390
6 of Jason Burnett as captioned and advertised for a
7 special exception relief under the penthouse setback
8 requirements, subtitle C, 1500.4, penthouse setback
9 requirements, Subtitle C, 1502.1, to allow the
10 addition of a penthouse and roof deck to an existing
11 three-story one-family dwelling, R-1-B Zone, 2316
12 Tracy Place Northwest, Square 2520, Lot 31.

13 CHAIRMAN HILL: Okay, great. Thank you.
14 Good afternoon. If you could please introduce
15 yourself from my left to right.

16 MR. BEIDLER: I'm Michael Beidler from Trout
17 Design, we're the architects for the project.

18 MR. BROWN: Patrick Brown from Greenstein,
19 DeLorme, and Luchs, on behalf of the applicant, Mr.
20 and Mrs. Burnett.

21 MS. BURNETT: Melissa Burnett, owner of the
22 property.

23 MS. MOLDENHAUER: Good afternoon, Meredith
24 Moldenhauer from the law firm of Griffin, Murphy,
25 Moldenhauer, and Wiggins representing SKNC.

1 CHAIRMAN HILL: Okay. Ms. Moldenhauer,
2 again, so SKNC, they've requested party status. Is
3 that where we are?

4 MS. MOLDENHAUER: We are not, actually. We
5 had a productive meeting this morning with the
6 applicant and have entered into a settlement
7 agreement with the applicant whereas they have agreed
8 to modify their application. They have actually made
9 quite useful time of this morning and have actually
10 already shown us revised plans, and so, so long as
11 those proffers were made we withdraw our opposition
12 and support the revised application as it now stands
13 in the record. I believe, which we will hear in a
14 moment from the applicant's counsel.

15 CHAIRMAN HILL: I'm sorry, did you say that
16 you had a productive meeting?

17 MS. MOLDENHAUER: Yes, we are withdrawing our
18 party status and supporting a revised application.

19 CHAIRMAN HILL: They had a productive
20 meeting?

21 MS. MOLDENHAUER: Yes.

22 CHAIRMAN HILL: Thank you. Yes, please. Go
23 ahead.

24 MR. BROWN: Race ahead and pick up where
25 Meredith left off.

1 What we have done specifically is one, in the
2 PowerPoint presentation that was submitted online
3 last night that you have, and we can go through if
4 it's necessary. We had already made a change to the
5 profile of the penthouse by one, making a shed roof
6 rather than a peaked roof, and lowered the profile
7 from eight and a half feet to six and a half feet.

8 And then as a result of our discussions this
9 morning, we have submitted a hard copy plan which
10 shows the penthouse remaining in the same footprint
11 place, recognizing that the profile of it has
12 changed, as I've mentioned before. We've -- on this
13 side we have left the planters in places originally
14 applied for which requires zoning relief because
15 there's not a setback. But on the planters that are
16 here and along this wall, we brought them back one-
17 to-one, so they're in compliance. So, no zoning
18 relief is required. So, that the applicant as it
19 stands now is special exception for the actual
20 penthouse area, and the relief from the setback for
21 this wall only. And it's important, this wall is,
22 the adjoining neighbor has submitted a letter of
23 support so that I think we have reached the point
24 where we've got a proposal that either complies with
25 zoning regulations or is not opposed by any party.

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1 The Office of Planning, I won't speak for
2 them, but their report certainly previously was in
3 support. We've also indicated as part of our
4 agreement that it's been shown on the plans, a spiral
5 staircase, which is really just a precaution in case
6 DCRA required the second means of ingress and egress
7 from the roof.

8 We, based on discussions with DCRA, which we
9 believe are reliable, we don't believe that that
10 second means of ingress would be --

11 CHAIRMAN HILL: Okay. That's fine. That's
12 fine.

13 So, and SKN is aware of everything that was
14 just said and you're in approval of these plans?

15 MS. MOLDENHAUER: Yes. So SKNC is now
16 supportive of the reduced relief requested, and is
17 supportive of the plan that you have in front of you.

18 CHAIRMAN HILL: Okay. And these have already
19 been submitted into the record?

20 MR. BROWN: Yes.

21 MR. HOOD: Mr. Chairman.

22 CHAIRMAN HILL: Yes.

23 MR. HOOD: Can I just ask?

24 CHAIRMAN HILL: Sure.

25 MR. HOOD: Mr. Brown, why can't you meet the

1 setback? It looks like you got a lot of things going
2 on up there. I think you can meet the setback.

3 MR. BROWN: On this wall?

4 MR. HOOD: I'm looking at what you just gave
5 me.

6 MR. BROWN: Yeah. Can I -- our architect --

7 MR. HOOD: I'm just saying, it's going to be
8 pretty hard sale for me for you to convince me that
9 you can meet the setback. When I look at what I see
10 here, you can meet the setback.

11 MS. BUTANI-D'SOUZA: I tend to agree. You
12 know, we didn't see anything in the record that
13 showed any attempt to look at other options for
14 meeting the setback. I also have a lot of questions
15 about the railing because it looks as though there is
16 an existing railing in place, but you're demolishing
17 the existing railing entirely in order to, I suppose,
18 bring it up to code. And then you're putting it back
19 in.

20 So, I guess I have a question for the Office
21 of Planning about whether that railing actually would
22 be allowed if it's being taken out in its entirety.
23 And it sounds like you said that you had -- you've
24 now moved the planters off of the face of the wall,
25 throughout the whole area, or no?

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1 MR. BROWN: We've moved the -- and my
2 apologies we don't have this in a PowerPoint. We've
3 moved the planters back from the rear wall one-to-
4 one.

5 MS. BUTANI-D'SOUZA: What about the other
6 walls?

7 MR. BROWN: And from this wall, again one-to-
8 one. Here, it's up against an adjoining attached
9 building. There's a detached building here. There's
10 a building face on here. We didn't see the need or
11 requirement to set it back because it's butting up
12 against --

13 MS. BUTANI-D'SOUZA: Well, it is actually
14 part of the regulations, so there is a need and
15 requirement to set it back unless there is a real
16 circumstance that prevents you from doing so. And I
17 don't really see how a planter could fulfill that
18 criteria.

19 I think the other question that I have is,
20 you know, if you do have an ability to access the
21 roof outside, which you've clearly shown with the
22 spiral staircase, I don't see why you would need to
23 have your penthouse located in that spot right up
24 against the wall.

25 So, from my point of view I would tend to

1 agree with Chairman Hood that I think there's a
2 pretty big bar that this board has put in place for
3 providing the relief that you've requested for a
4 penthouse, and I just didn't see anything in the
5 record that would get me to the point where this
6 would need to be in order to approve it. I mean,
7 we've had folks come back with considerably more
8 architectural analysis before we have authorized this
9 in the rare cases that we have.

10 MR. BROWN: Well, if we could, on at a time,
11 we'll address the penthouse question and we have it
12 in our PowerPoint slides, but the architect, I think,
13 can walk you through the basis and the process that
14 was undertaken to reach the penthouse location and
15 configuration the way it is.

16 I would mention, the spiral staircase is not
17 a -- it's basically if required as an emergency
18 stair. It's not an appropriate or functional daily
19 means to access the roof. It's really there as a
20 failsafe. So, I don't think you should equate what
21 we're proposing as a stair from the interior of the
22 building that is fully code compliant, and I'll let
23 the architect describe it. I don't think you should
24 equate that as something that could be substituted by
25 the spiral staircase, which is for a very different

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1 purpose.

2 And if you've ever been on a spiral
3 staircase, it's not particularly conducive --

4 MS. BUTANI-D'SOUZA: I have, thank you.

5 MR. BROWN: It's not a particularly conducive
6 for the way we typically walk up a flight of stairs
7 between one floor to another of our house. If you're
8 carrying your child, your laundry basket, whatever.
9 Spiral staircases --

10 MS. BUTANI-D'SOUZA: Are you planning to
11 carry your laundry basket to your roof deck?

12 MR. BROWN: You could. And, I mean, if you
13 have -- I mean --

14 MR. HOOD: Mr. Brown, let's get to the one
15 and one, the setbacks. I think that would help a
16 little more.

17 MR. BROWN: Well, I think two question --

18 MR. HOOD: All the rest of that --

19 MR. BROWN: Two questions have been asked,
20 and I think because the relief is one for the
21 penthouse itself, and two, the one-to-one, the
22 setback requirement. So, if we could let him address
23 the penthouse issue, and then we're not going to
24 shortchange you on the one-to-one --

25 MR. HOOD: Let me just say this. Ms. Butani,

1 if carrying a basket up to the rooftop was helping
2 you, then I'm sorry for interrupting. But I wanted
3 to get to the -- okay.

4 MS. BUTANI-D'SOUZA: I'm not, I mean, you
5 know, frankly I've already said I understand what a
6 spiral staircase is. I imagine that whatever you
7 build is going to be within the building code, so you
8 know, we can go through this but I think Chairman
9 Hood and I have both already said where we stand on
10 this. So, maybe you have all sorts of architectural
11 analysis in your PowerPoint. Let's see.

12 CHAIRMAN HILL: Well, so, I'm losing control.
13 Obviously the penthouse is of an issue, so if you
14 want to just go ahead and focus on the questions that
15 Vice Chair Butani and Chairman Hood have to say, then
16 hopefully we can -- you can answer their questions.

17 MR. BROWN: Yes. Yes. And if we could, and
18 I'll let --

19 MR. BEIDLER: Hi. Thank you for seeing us,
20 and so, the genesis of the project really started
21 with our client's desire to bring more light into the
22 third floor of the house. The house isn't being
23 fully renovated. It's not, like we didn't gut the
24 house and change the floorplates in the house.

25 The location that we're showing the stair

1 that's proposed to the upper level is directly above
2 the stair that's inside. That's existing in the
3 house, that runs all the way down through the house
4 to the ground floor. And so, logically we started
5 with opening up the roof there to enlarge the
6 skylight that's existing there.

7 And my client is coming from California.
8 They're used to being outside, they're very active,
9 they like to grow things. This particular lot is
10 very, it's treed. It's not a huge lot but the lot in
11 the back is full of trees. They're big trees, and
12 they're very, very opposed to taking down any of the
13 trees, you know, to provide light on the ground
14 because obviously tree canopy cover is very
15 important. So, these factors all play into sort of
16 the motion toward getting some space on the roof that
17 could get some sun on their skin and to grow some
18 things.

19 Jason likes to plant things and he likes to
20 grow vegetables and fruits, and so really this was
21 about getting up there to plant things on the roof.

22 I have to reinforce the idea that the spiral
23 staircase really isn't a save means of egress and
24 access because, you know, when you're carrying
25 anything up and down a spiral staircase it's just

1 uncivilized. I mean, it's difficult, it's dangerous,
2 and if it's exposed, like a spiral staircase in the
3 back would want to be in order not to impose an
4 architectural mass on the context that would -- we
5 would find unacceptable, this again seemed like the
6 logical place to bring a stair up in a very civilized
7 way so that you could walk up an interior stair while
8 allowing light to come down through the house,
9 stacked directly above the other stair.

10 We did look at options, and we have some
11 options in the PowerPoint. And I'll go through them
12 briefly if you'd like me to do that. But that's how
13 the stair got to where it is.

14 And originally, you know, the fantasy was
15 that we were going to have a big greenhouse on the
16 roof and it was going to be great, they could grow
17 lots of things --

18 CHAIRMAN HILL: Mr. Beidler. Mr. Beidler.
19 I'm sorry to interrupt you. Yeah, I guess if you
20 could go through the options? You said there was
21 other options, because I guess again the concern is
22 that why is it that you can't meet the one-to-one.

23 MR. BEIDLER: Yeah. Okay. So, the one-to-
24 one on the penthouse, it's because we're putting the
25 stair directly over the existing stair that's in the

1 house. This allows us to do this without changing
2 the third floor floorplate, at all. Any other option
3 to put the stair somewhere else on the third floor
4 would require us to either make an architectural
5 addition to the outside, like on the back, that would
6 have a really terrible impact on the context or would
7 require us to redo the third floor and second floor,
8 possibly, floorplates, which are not now being
9 renovated.

10 So, it's a logical place for us to stack it
11 above the existing stair. And the existing stair is
12 directly below this, and it goes down through the
13 house in that location, which is right on the east
14 side. And the property has this odd kink in it that
15 requires us to call for relief on the south side for
16 that small portion. So, that's why this is located
17 where it is, and we're asking for it here.

18 It also there, then, in this location, keeps
19 it out of the view plain from Tracy Place, from the
20 rear neighbor. It reduces the mass visually to
21 something that's actually not impacting the context
22 architecturally at all.

23 If we were to put the stair in another place
24 it would be seen from other places because it would
25 come up above the roof line, either further toward

1 the back, or one place we looked at it was on the
2 back porch, that would add something that looked like
3 a fire escape on the back of the house, which in the
4 context is pretty unappealing.

5 So, we moved forward with best intentions to
6 stack it above the existing stair to create a very
7 classic, very simple extension of the existing stair
8 up to that level.

9 So, to go to the planter issue, the setback
10 for the planter, that's on the east side. We had the
11 planter, as you may have seen in the original thing,
12 pushed out to the side where the existing railing
13 that's on the roof is located. We're going to push
14 the planter up against the back of that railing,
15 leaving that railing in place.

16 When were presented with the opposition from
17 the group that was represented by Meredith, we
18 negotiated this morning to move -- remove the railing
19 that is existing there, take that fabric off and move
20 it in, so that it conforms to the Zoning Regulations.
21 And we did that on the west side, which is, the
22 property is open on that side. There's a side yard.
23 And from the back so that it has less visual impact.

24 The east side, there is a house and a roof
25 right next door, and so relief on the east side, the

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1 planter there doesn't impact the neighbors in a way
2 that they find to be objectionable. In fact, they
3 supported the project. And so, you know, relief on
4 that side doesn't cause any harm or detract from the
5 architectural fabric over the context, because again,
6 it's not visible on just that east side.

7 Does that address your questions, Mr. Hood?
8 Chairman Hood. Sorry.

9 MR. HOOD: Yeah. Yeah, that's fine. I still
10 think that it's a design issue. I still think you're
11 looking at -- you mentioned that from California, and
12 they want more light. I still think that you can
13 meet the setback. I really do. I'm hard on the
14 setback and I think the commission put those in
15 process a couple of months ago for a reason. And so
16 far, everybody who has come down here, just like you,
17 had went back and come back with a setback. And I
18 think you can do the same. It's all design for me.

19 MR. BROWN: Excuse me. Two setbacks we're
20 discussion. One is the setback of the penthouse
21 itself, and then the second would be the setback of
22 the planters along that wall.

23 MR. HOOD: Which one did I comment on?

24 MR. BROWN: Well, you raised --

25 MR. HOOD: The penthouse. The penthouse.

1 MR. BROWN: -- You raised -- okay.

2 MR. HOOD: The penthouse setback is the one I
3 commented on. I think --

4 MS. BUTANI-D'SOUZA: I think you can meet
5 both of the setbacks.

6 MR. BROWN: Well, and I think going to the
7 point that the architect made, is that to setback on
8 the side that's adjacent to the attached structure,
9 moving it the other way, I think you went into great
10 detail about the underlying structure of the house
11 and the stairs, and I think we've seen before where
12 the existing infrastructure of the house below has
13 been an important factor.

14 But if you move the penthouse toward the
15 farther wall, you increase the impact. You may be
16 able to comply, but one of the things that very much
17 was of concern to the neighbors, and why we set back
18 the planter on that side was, that they wanted to
19 minimize the impact on that side.

20 So, I think it's appropriate because it has
21 less impact here. It coincides with the
22 infrastructure of the house. We wouldn't -- we
23 shouldn't be required to go to the expense, extreme
24 expense, Michael is correct, of tearing up the inside
25 of the house to move it so you could have a staircase

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1 further here, which quite frankly from what we've
2 heard from the neighbors, they don't want, and we
3 tried to comply.

4 So, it's a balancing test, but I think in all
5 the circumstances the penthouse itself, it's location
6 is in, not only the best place for the house itself,
7 but it's certainly in the best place as it relates to
8 the community and those who are interested, and
9 becomes invisible. We're talking about a structure
10 that's now less than six and a half feet high. So, I
11 think it's a minor footprint visually and otherwise,
12 in the location it is. Start moving it further over
13 and it becomes more visible. And I think we'd hear
14 from --

15 I don't want to speak for you, but certainly
16 your client's interest was in maintaining the setback
17 along this access, and that moving the penthouse
18 further in that direction would be of concern.

19 MS. MOLDENHAUER: I can address that now if
20 the Board would like. We can wait for party in
21 support statements. How would the Board like?

22 CHAIRMAN HILL: You can go ahead and address
23 it.

24 MS. MOLDENHAUER: Yes, so this morning we did
25 discuss this and I think part of the issue is that

1 this is a semi-detached home, and so from that -- and
2 that's the, correct me if I'm wrong, that's the east
3 side. So the east -- so the west side is the most
4 exposed to visibility. And so in our discussion of
5 asking for the applicant to comply with the one-to-
6 one setback, that was the most important side.

7 One of the concerns that was brought up by
8 the applicant's team this morning and my client in
9 our discussions agreed, was the potential concern,
10 even if they did comply with the penthouse to
11 Commissioner Hood's comment, that that would actually
12 pull the penthouse further into the center of the
13 property which would then make it potentially more
14 visible from Tracy, and also from 24th.

15 And so, we believe that under the prong B and
16 C under the special exception standards, that it may
17 be less visible if you request that relief for that
18 penthouse structure, but that our biggest concern was
19 the visibility of the planters which are now
20 complying on the setbacks.

21 CHAIRMAN HILL: So, if they made the setback,
22 if they moved the penthouse over to more in the
23 middle of the building, your -- SKN would then be in
24 opposition again?

25 MS. MOLDENHAUER: Sheridan Kalorama

1 Neighborhood Council indicated to me, Doug, one of
2 the representatives, indicated to me that there might
3 be a concern of visibility if that was moved over
4 more without either reducing it completely or getting
5 rid of it, because obviously then it would be more
6 visible. So, I think that, you know, the compromise
7 that we received this morning, we felt very confident
8 with because even though the penthouse was seeking
9 relief, we felt as though under prongs A through F,
10 which allow for special exception relief, that they
11 did -- that relief for the penthouse was making it
12 less visible and less intrusive into the community.
13 Whereas, we were not supportive of that relief on the
14 planters because no matter what that would be the
15 more visible side of the building.

16 CHAIRMAN HILL: Okay. All right. Before I
17 turn to the Office of Planning, Chairman Hood, Vice
18 Chair D'Souza, or Mr. Hart, do you have any further
19 questions?

20 MR. HOOD: No, I don't have any further
21 questions, but I still think that this is a design
22 issue. They are more characteristic of what impacts
23 of the special exception and which Ms. Moldenhauer
24 was just mentioning. But I really think that through
25 design and everything else, you're not asking them to

1 mess up the floorplate. But I think the design, I
2 think it will work.

3 And if they really believe that it's more
4 visible then they need to show me or give me a
5 rendering like we do on the Commission, to show me
6 where it's more visible, because I don't see it.

7 MR. BEIDLER: I have those if you'd --
8 they're in this PowerPoint if --

9 MR. HOOD: I looked at your PowerPoint. Take
10 me right to it.

11 And then even in your PowerPoint, you have
12 all these different options. How come you don't show
13 me an option with the one-to-one setback?

14 MR. BEIDLER: Which one do you want now?
15 Well, that is the point of moving it, because when
16 you move it over, related to the floorplan, if you
17 look at this option here, and you move it to this
18 location here, which basically obliterates a closet
19 here, and then there's a bathroom, then a hallway,
20 and laundry area on this area that have to get redone
21 and moved or eliminated. And then because the floor
22 joists run this way, we have to take out, basically
23 take out the entire ceiling and roof structure and
24 redo it in this whole area of the house. And then
25 you end up on the roof for the --

1 MS. BUTANI-D'SOUZA: That's if you put your
2 skylight on top of your stairs.

3 MR. HOOD: Yeah, you haven't --

4 MS. BUTANI-D'SOUZA: So, I again, I mean --

5 MR. BEIDLER: No, no, no, no. Here's the
6 stair right now, and this is what we're proposing.
7 We're proposing to put it there.

8 MS. BUTANI-D'SOUZA: The skylight on top of
9 the stairs, even in this scenario?

10 MR. BEIDLER: There is an existing skylight
11 there.

12 MS. BUTANI-D'SOUZA: Oh, the skylight is
13 existing?

14 MR. BEIDLER: Yes, ma'am.

15 MS. BUTANI-D'SOUZA: Okay.

16 MR. BEIDLER: Yes.

17 MR. HOOD: Aren't you expanding the skylight?

18 MR. BEIDLER: No, I'm explaining the stair.

19 MR. HOOD: No, but I'm saying -- no, not what
20 you're explaining, aren't you expanding, aren't you
21 making the skylight --

22 MR. BEIDLER: Yes, that --

23 MR. HOOD: Those are your own comments.

24 MR. BEIDLER: Yes. Yes, that was the point,
25 because --

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1 MR. HOOD: Okay.

2 MR. BEIDLER: -- in this area here, there's a
3 wall here that goes across, and there's a wall here
4 that goes across that are support walls that create
5 that --

6 CHAIRMAN HILL: Oh, no, I'm listening. No,
7 no, no.

8 MR. BEIDLER: That space in the middle that
9 is, that we were trying to work within, and not
10 having to get back to restructuring this whole thing.

11 And if you see here, there's a hallway on the
12 second floor here, that distance there doesn't meet
13 our setback on the east, either, because that's only,
14 I think it's four feet there. So, this piece on the
15 roof would still be required to have a relief on the
16 east side setback in that location.

17 MS. BUTANI-D'SOUZA: You know, we were here
18 last week with -- two weeks ago with Commissioner
19 Turnbull, who is the architect of the Capitol, and he
20 was recommending, for a similar project where we had
21 the literally exact same situation, a penthouse stair
22 that was up against that sidewall, and he was
23 suggesting something as simple as a roof hatch. Now,
24 I know that you're probably going to respond and say,
25 oh, roof hatch, and then you can't carry things up on

1 to the roof. Well, I tell you, I'm the daughter of a
2 roofer and I know plenty of people can carry many
3 things up a roof hatch, so I'm not going to entertain
4 that argument. But I would say that, you know, we
5 see many, many, many cases in front of this Board and
6 there's usually -- we haven't seen your firm come to
7 us with a penthouse case. At least, I haven't seen
8 it. So perhaps you were unaware of the level of
9 architectural analysis that we have required in these
10 cases, but I think you have a quite a long way to go
11 before you reach the level of analysis that would
12 justify the relief that you're requesting. The
13 penthouse relief has not been easy to achieve by this
14 Board.

15 So, I would you know, I don't know how the
16 Chair wants to go here, but if we're going to move
17 into deliberations I know how I would vote on this.
18 So, you know, that's where I am.

19 MR. BROWN: Perhaps in our presentation we
20 had provided discussions of Options A, B, and C. I
21 think, and we're aware of how the Board and
22 particularly Mr. Turnbull, has viewed these in the
23 past. And I think if we were allowed to continue, I
24 think we can satisfy his line of thinking, which
25 quite frankly I don't think we're entirely in

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1 agreement about whether that's what the regulations
2 say, but we came prepared to respond to that.

3 I also would draw your attention to the
4 Office of Planning report, which I think does a very
5 good job of analyzing the compliance with the special
6 exception tests for the penthouse. And I think I
7 don't want to take their time, but I think it would
8 be helpful for the Board to hear from the Office of
9 Planning.

10 If we could finish our discussions on the
11 various options that were considered, and this was
12 something that was considered, not because Mr.
13 Turnbull raised that standard, but because --

14 MR. HOOD: Is Mr. Turnbull voting on this
15 case?

16 MR. BROWN: No, but he is clearly --

17 MR. HOOD: Well, he's not the only one. But
18 I keep hearing Mr. Turnbull, so if you want Mr.
19 Turnbull's vote you might want to come back another
20 day because Mr. Turnbull is not up here.

21 MR. BROWN: But I think Mr. Turnbull has
22 enunciated, which the Chair has taken cognizance of,
23 specifically on the record, of a standard of review
24 that I think we're prepared to discuss, and it's
25 clearly something that the Chair has identified as

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1 something that needs to be incorporated in these
2 procedures.

3 CHAIRMAN HILL: No, no, no, no. Just give me
4 a second. Give me a second. Mr. Brown.

5 MS. BUTANI-D'SOUZA: I just wanted to say,
6 I've reviewed the PowerPoint presentation here, and I
7 don't have any more questions on it. I've looked at
8 the analysis and again, I am still not satisfied.
9 So, we can continue to go through this analysis if
10 the Chair feels that that's productive. But just so
11 that you know, I am -- I don't have any further
12 questions.

13 CHAIRMAN HILL: Okay. So, in any case, Mr.
14 Brown, you can go ahead and continue with the
15 different options if you'd like. I'd like to turn to
16 the Office of Planning because I think I would like
17 to hear what questions Chairman Hood and Vice Chair
18 D'Souza have to ask with the Office of Planning,
19 because they have approved this.

20 So, hello, Office of Planning.

21 MS. VITALE: Good afternoon, Mr. Chair,
22 Members of the board. Elisa Vitale with the Office
23 of Planning. The Office of Planning did support the
24 original application and we also support the reduced
25 relief that's presented today.

1 I am happy to run through my analysis but,
2 you know, as laid out in the report, I think in this
3 situation because this is a semi-detached property,
4 the applicant's you know, efforts to align the
5 penthouse along the party wall in conjunction with
6 the existing interior stair, did minimum the impact
7 of the penthouse to the greatest degree possible.
8 They're coming back today with a further reduced
9 height which I think would, you know, again kind of
10 decrease the impact and the visibility of the
11 proposed penthouse.

12 Just trying to see if there was anything else
13 relevant. But I really do, I think working with the
14 existing footprint, the location of the interior
15 stairwell, and citing it in such a way as to minimize
16 visibility on the detached side of the property,
17 those were reasons that you know, we're compelling
18 for Office of Planning in our analysis and we would
19 continue to support the reduced relief request and
20 can answer any questions. Thank you.

21 MS. BUTANI-D'SOUZA: Okay. I have a couple
22 of questions, Ms. Vitale.

23 Okay, so there is a section drawing in
24 Exhibit 7D-1 on page 10 of 16, and I had a lot of
25 questions about this one. It looked like they were

1 getting rid of the guardrail, but then they were
2 using the existing -- it looked like they were
3 getting rid of it and replacing it with one that was
4 higher, which I imagine is for code compliance
5 reasons.

6 But then they were using the existing
7 guardrail as a justification, I guess to grandfather
8 in this new guardrail that looks the same but is not
9 actually the same guardrail.

10 I just wanted to understand Office of
11 Planning's position on that, that if you're getting
12 rid of an element because it's not in compliance with
13 the code, and then you're replacing it back, does
14 that -- I mean, is that --

15 MS. VITALE: I don't believe they were trying
16 to use it to grandfather anything in. They were
17 requesting relief for a guardrail that did not meet
18 the required setback.

19 MS. BUTANI-D'SOUZA: Okay. So they were
20 requesting relief for the guardrail as part of this.
21 That was --

22 MS. VITALE: It's my understanding.

23 MS. BUTANI-D'SOUZA: The existing guardrail.

24 MS. VITALE: Any guardrail that's proposed,
25 they were stating that, you know, based on the one-

1 to-one setback requirement, given the height for the
2 proposed guardrail, that it would not have met that
3 setback and that relief was required. So, I don't
4 believe it was an attempt to grandfather or not. The
5 applicant, I think, can speak to this more
6 appropriately.

7 MS. BUTANI-D'SOUZA: So, I thought the
8 justification for the guardrail was that it was --
9 the justification for the lack of the one-to-one
10 setback for the planters was that there was an
11 existing guardrail that did not meet the one-to-one
12 setback. I guess, I don't understand, I guess,
13 Office of Planning's support for the setback relief
14 on the planters and the guardrail. If you can help
15 me understand that a little better, I think that
16 would be helpful.

17 MS. VITALE: Well, I think as I -- I think in
18 the initial proposal the guardrail was staying in the
19 same location. I mean, for safety reasons a
20 guardrail is required for a roof deck. They weren't
21 proposing to use the existing parapet, so I think we
22 were supportive of the notion of, you know, a low
23 guardrail that met code as a safety measure.

24 MS. BUTANI-D'SOUZA: Okay. Can I also ask,
25 so as I looked at this again, there is a -- they're

1 showing a circular staircase from the exterior
2 property to access the penthouse. I believe that the
3 standard requires that you know, there be, you know,
4 effectively, very, very difficult to get up to the
5 roof without the relief. But here we have another
6 option for getting up to the roof. So, I just, I
7 didn't understand why OP supported the penthouse
8 relief if there was another way to get up to the roof
9 without that relief.

10 MS. VITALE: I don't believe that the
11 standard for penthouse relief, you know, would be
12 tied to an exterior stair. And this certainly, this
13 isn't covered, it's not protected from the elements.
14 I don't think that this circular stair would
15 substitute for access to the roof, if that's your
16 line of questioning.

17 MS. BUTANI-D'SOUZA: Okay. So, you don't
18 agree with that. I'm just curious about what OP's
19 position is on these things.

20 MS. VITALE: I'm not entirely clear what
21 you're asking here.

22 MS. BUTANI-D'SOUZA: So, let me see if I can
23 -- I'll have to -- my computer is a little bit slow
24 so I can't pull up your report to read the exact
25 criteria here.

1 So, the criteria have something where the
2 strict application of the requirements of this
3 chapter would result in construction that is unduly
4 restrictive, prohibitively costly, or unreasonable,
5 or inconsistent with building codes. I guess I just
6 don't understand why -- it seems very reasonable that
7 they can access their roof from this exterior stair
8 case without prohibitively costly construction. So,
9 I didn't understand why there was a need for a
10 penthouse, you know, especially one up against the
11 roof like that; up against the side wall.

12 MS. VITALE: I think those are, they're two
13 very different issues. An open exterior, you know,
14 outdoor stair is -- when we're talking about
15 penthouse relief and the criteria, we are kind of by
16 that very nature, talking about access through a
17 penthouse that would be achieved through the interior
18 of the building.

19 MS. BUTANI-D'SOUZA: Okay. Okay, well, you
20 know, I have other questions but it seems like this
21 is going to get continued anyway, so, I'll just leave
22 it at that.

23 CHAIRMAN HILL: Okay. Does anyone have any
24 other questions for the Office of Planning? Chairman
25 Hood? Mr. Turnbull.

1 MR. HOOD: Yeah, well, you can call me Mr.
2 Turnbull.

3 Ms. Vitale, I'm just going to ask you a very
4 straightforward question, and I understand the
5 rationale and the vision and everything, but why is
6 it that Office of Planning will support this? Do you
7 believe that they can meet the one-to-one setback
8 with a few tweaks in the design, and not tearing up
9 the floorplate as Mr. Brown -- but even though I know
10 Mr. Brown wants Mr. Turnbull to sit here, so maybe we
11 can accommodate him.

12 MS. VITALE: No, no, no. And I appreciate
13 that it is a very high test and a high bar for
14 penthouse relief, and that is the very reason that
15 the Commission, you know, implemented these new
16 regulations with respect to penthouses.

17 I think it's not so much tearing up the
18 floorplate, but I think as they indicated, there is
19 an existing home and a floorplan that they're not
20 proposing to change. So, should you meet -- I think
21 there are a few issues in this particular case with
22 respect to meeting the setback, sure. They could do
23 a compliant penthouse.

24 I think if they were to do a compliant
25 penthouse it would be much more visible. The

1 property is in a historic district. The design as
2 proposed was reviewed and approved by HPRB staff, and
3 I think part of their goal too is to minimize
4 visibility and ensure that whatever is constructed
5 does not detract from the overall kind of character
6 and look and feel of the neighborhood. So, I think
7 that's one thing. They could meet the setback
8 requirement but it would be more visible. I think we
9 heard that the Sheridan Kalorama Neighborhood
10 Coalition or Council, I'm not sure of their exact
11 acronym, that they also had concerns about visibility
12 should a conforming penthouse be constructed.

13 I think with respect to the kind of the
14 floorplan and the floorplate, they could certainly
15 shift it over but then you would have a stairwell
16 that wouldn't align with the existing stairwell. You
17 would impact existing bedrooms, closet space,
18 hallways, and circulation on the floor below, were
19 you to introduce the penthouse in the conforming
20 location.

21 So, I think what we have is a situation where
22 a nonconforming penthouse may be the least intrusive
23 on, you know, most desirable outcome. I think in
24 this instance they've reduced the height. It sits
25 behind an existing pitched roof at the front. It's

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1 aligned with the adjoining property to the east. And
2 I do think, too, these types of structures make more
3 sense when they're cited at a property wall. That's
4 where you would have, you know, a chimney, a vent,
5 you know, an elevator tower. You know, that
6 circulation structure is often kind of pushed up
7 against that party wall or adjoining wall, and that's
8 kind of the protocol that they've followed here.

9 So, no, I don't think -- I think they have
10 met that high bar or that high test for the relief in
11 this situation.

12 MR. HOOD: Okay. Mr. Chairman, what I need,
13 unless the architect can show me, I need to see a
14 view of exactly what's going -- I don't know if the
15 BZA typically asks for that, but I need to see
16 exactly what they're talking about, the impacts of
17 being able to see the penthouse versus meeting the
18 one-to-one setback. I think those are two fair
19 things that I can use that may help me in my
20 decision. Again, you may not need my vote, because
21 if you've got Mr. Turnbull's vote you won't have to
22 worry about me.

23 CHAIRMAN HILL: Okay. So, I guess I'd turn
24 to the applicant. I mean, you can see -- I don't
25 know -- well, I can see that you're not going to get

1 two at this particular point it seems like, and so
2 what I -- and I think some further clarification
3 could possibly help you get there, although you know,
4 that might not be the case. Maybe you will come up
5 with something now that does not need the penthouse
6 relief, or you could submit some options again that -
7 - I mean, basically the options that you have, none
8 of them are conforming, really. None of them are
9 showing us how you would do it, right, and how
10 expensive it would be or what the costs would be. I
11 mean, it's not really convincing Chairman Hood or
12 Vice Chair D'Souza that, you know, this is relief
13 that you need, right?

14 I mean, I'm actually you know, I'm pretty --
15 I am more along the lines of Office of Planning, I
16 suppose, in terms of using the existing stairwell and
17 the satisfying of the Sheridan Kalorama Association,
18 and then also that you've gone through the ANC
19 already and gotten their approval.

20 However, I know that the Zoning Commission in
21 particular, you know, has gone through tremendous
22 effort in terms of the penthouses and the penthouse
23 relief, and the one-to-one has been something that
24 they are very much concerned with in terms of how
25 it's justified.

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1 And so, you know, I guess to -- and Chairman
2 Hood and Vice Chair D'Souza could even specify more,
3 but I think, you know, something that shows us what
4 the option is of meeting the requirement versus, you
5 know, why you can't.

6 And, I don't know, Mr. Hart, you have any
7 comments as well along those lines?

8 MR. HART: Thank you, Mr. Chair. Yeah, I
9 mean, some of this I'm kind of struggling with. And
10 what I'm really thinking that may be helpful to see,
11 and I think Chairman Hood said it a little earlier,
12 or Commissioner Hood said a little earlier about,
13 while you have a view showing, I think it was slide
14 number 9, that shows kind of the view from California
15 Street, there aren't a lot of views from Tracy
16 looking kind of towards your site, your building,
17 with some of these other alternatives, options you've
18 put forward. You've said that there are going to be
19 more -- they'd be more visible because of their
20 height and over the building, and I think that might
21 help some of the other board members to understand
22 that.

23 And, you know, we've kind of raised that
24 Commissioner Turnbull has asked for some things here
25 as well. All I would suggest is to be able to have

1 the idea that there isn't another alternative, he had
2 raised and I think Board Member D'Souza also asked
3 about the hatch, just to be able to say, okay, we
4 have actually looked at that; that is not -- the
5 reason the hatch is helpful is because there's no
6 height to it. I mean, there's no height that's
7 associated with it. And so, you can kind of deal
8 with some of these issues that you have without
9 having to go, you know, that high up.

10 That might not be something that is work for
11 you, but it's helpful for us to see that it doesn't
12 work for you. And I think that that's what some of
13 us are kind of talking about, is about the -- we have
14 gone through and looked at this very diligently and
15 we understand that these things don't work, and these
16 are why they don't work in this particular case.

17 And, you know, we unfortunately have to --
18 well, fortunately I guess, have to look at this and
19 understand that this is a case-by-case basis, but
20 also understand that there are other -- you know,
21 that cases will come up to us and we have to look at
22 these and wonder if maybe we should have asked for,
23 you know, asked for this. And I think that it would
24 be helpful to see this information so that we can
25 then kind of say, yeah, we've looked at this.

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1 Now, I don't want to look at options A
2 through Z, but I think maybe the hatch may be helpful
3 to actually understand what that would -- how that
4 might work here. The options you've presented, I
5 don't think any of them do the setback, one-to-one
6 setback.

7 MR. BEIDLER: That's correct. And so, for
8 point of clarification, Chairman Hood, and Member
9 Hart, would you like three images from the street and
10 from different places, or do you just want line
11 drawings that show -- because line drawings are kind
12 of a lie because they show one point, which isn't
13 really contextual.

14 MR. HOOD: I would like 3-D.

15 MR. BEIDLER: Okay.

16 MR. HOOD: You can show me one where what
17 you're asking for.

18 MR. BEIDLER: Yes.

19 MR. HOOD: And one if you meet the setback so
20 I can kind of visually see what some of the
21 complaints are from your counterpart.

22 MR. BEIDLER: Okay. One of the great things
23 we can offer right now is that, as a result of our
24 requirement by Historic Preservation, we have to do a
25 flag test. And the shape changed as a result of the

1 flag tests. We were out there playing with where we
2 were originally proposing the penthouse and the new
3 shape is there, now built with Blaze Tape to make
4 sure that it's not visible. And so, you can see the
5 four corners, but you can't see it now.

6 So, the nice thing about the -- if you want
7 to see this option physically, you could actually go
8 there now and see that you can't see it. But we'll
9 go ahead and do 3D model shots for you of any options
10 you'd like to see. We're happy to do that.

11 MR. HOOD: Actually, we're not permitted to
12 go around looking at cases that are in front of us,
13 so I want to put on the record I will not be going by
14 there to look and see if I can see it.

15 CHAIRMAN HILL: So, do you have -- you
16 understand what you're being asked? You need to
17 approach a microphone. Sorry.

18 MR. BROWN: Mr. Hood, and earlier before you
19 were discussing, and maybe it's been overcome or
20 subsumed in what we're talking about, these models.
21 But you were looking for elevations and relationships
22 from different angles. You think we can handle that
23 all in the context of what we just discussed?

24 MR. HOOD: I think your architect just, I
25 think he answered my question. I think you got it.

1 CHAIRMAN HILL: Okay. All right. Okay.

2 MR. HOOD: Let me just say, if you just
3 follow that, I think I'm good. I can be able to look
4 at it.

5 CHAIRMAN HILL: Okay. So, take a look at
6 those drawings or 3D imaging, or whatever it is that
7 you want to submit. And again, as you mentioned, if
8 it's going to be an issue, then with the Sheridan
9 Kalorama -- I forget what the last part is again, but
10 -- Neighborhood Council, thank you, that's SKNC, that
11 that's another thing to point out that I'm interested
12 in.

13 Okay, does anybody have any other questions?
14 Okay. Did we go through the whole thing? I'm going
15 to go through the whole thing. I'm probably going to
16 have to go through the whole thing again anyway.
17 But, is there anyone here wishing to speak? Is there
18 anyone here from the ANC?

19 Is there anyone here wishing to speak in
20 support of the application?

21 Is there anyone here wishing to speak in
22 opposition to the application?

23 Oh, thank goodness. Okay. All right. Then,
24 in that case I would like -- unfortunately you're
25 going to have to wait for, and I just want to make

1 the joke but I'm not going to, Chairman Hood to come
2 back again.

3 MR. HOOD: Oh, I can do a proxy. I think I'm
4 coming back soon.

5 CHAIRMAN HILL: Yeah, I think you're --

6 MR. HOOD: Maybe Mr. Turnbull will take my
7 place.

8 CHAIRMAN HILL: I'd like you to be here, and
9 Mr. Turnbull, the reason why that came out was there
10 was a whole hatch issue that happened. And I don't
11 think I brought up Mr. Turnbull's name at the
12 beginning. I just want to go on the record as saying
13 that that was --

14 MS. BUTANI-D'SOUZA: Oh, I think Mr. Turnbull
15 is more strict about this than anyone up here, so --

16 CHAIRMAN HILL: But that was not me that
17 brought up Mr. Turnbull, for the record.

18 MS. BUTANI-D'SOUZA: That was me.

19 CHAIRMAN HILL: Yeah, it was not me. I did
20 not bring up Mr. Turnbull. It was not me.

21 MR. HOOD: No, no, that's fine. Or maybe
22 I'll get Commissioner May. I know they watch these
23 all the time.

24 CHAIRMAN HILL: Okay. So, that -- I would
25 like --

1 MS. BUTANI-D'SOUZA: Commissioner May is very
2 strict.

3 CHAIRMAN HILL: I would like -- Chairman
4 Hood, I would like you, okay? All right.

5 MR. HOOD: Well, if I'm here.

6 CHAIRMAN HILL: So, I'm requesting you
7 because I don't want to do this again with somebody
8 else.

9 So, Mr. Moy, if you wouldn't mind telling me
10 when Chairman Hood is here again?

11 MR. MOY: Mr. Hood is due to return February
12 the 15th, unless he comes at an earlier date.

13 MR. HOOD: You want to do it soon, you let me
14 know, I'll try to arrange to get here.

15 MR. MOY: And then we could arrange to have
16 that case heard first in the day.

17 CHAIRMAN HILL: I mean, the closest you guys
18 are going to get from me again is January 18th.

19 MR. BROWN: Well, and January 18th I think
20 Mr. Hood was coming back then, weren't you?

21 CHAIRMAN HILL: No, he wasn't coming back, I
22 don't think.

23 MR. BROWN: I think the ask is something we
24 can do and be back January 18th.

25 CHAIRMAN HILL: Okay. Chairman Hood, do you

1 want to come? I mean, February 15th, does it really
2 matter so much if we wait until February 15th? And
3 the reason why, if you could tell me why because it's
4 better if he comes here for you, I got to let you
5 know.

6 MR. HOOD: I actually think I'm here in
7 January. You have -- I'm not here in January? Okay,
8 good. All right.

9 CHAIRMAN HILL: Okay.

10 MS. BURNETT: We can't occupy the house until
11 we have some resolution on this.

12 CHAIRMAN HILL: Okay.

13 MS. BURNETT: Because if there is to be
14 construction --

15 CHAIRMAN HILL: Right. No, and I
16 understand --

17 MS. BURNETT: -- (simultaneous speech) move
18 out of the house.

19 CHAIRMAN HILL: I understand your -- I guess,
20 I just want to make sure you're following me.

21 MS. BURNETT: Sure.

22 CHAIRMAN HILL: Which is to say that you're
23 better off if Chairman Hood is here, and he is here
24 on the 15th of February. He might not be here on the
25 28th of January. So, do you want the 28th of

1 January, or do you want the 15th of February.

2 MR. BROWN: The 18th of January.

3 CHAIRMAN HILL: I'm sorry, the 18th of
4 January.

5 MR. HOOD: I am here January 25th. I thought
6 I was here before that.

7 CHAIRMAN HILL: Oh, oh, oh, look at that.
8 People are just --

9 MR. HOOD: Do you all have a hearing on the
10 25th?

11 CHAIRMAN HILL: I don't know, can somebody
12 answer a question for me outside there too?

13 MR. HOOD: They look out for me.

14 MR. MOY: There's no hearing on the 25th.

15 CHAIRMAN HILL: Oh, that's right. That's
16 right.

17 MR. MOY: You'll be here by yourself.

18 CHAIRMAN HILL: No, that's right. That's
19 right.

20 MR. HOOD: Okay, well, I'm still here on the
21 25th.

22 CHAIRMAN HILL: So, okay. Okay. So, there
23 was the 18th, there was January 18th, correct, Mr.
24 Moy?

25 MR. MOY: Yes.

1 CHAIRMAN HILL: And then there was February
2 15th.

3 MR. MOY: That's right.

4 CHAIRMAN HILL: And it's up to you guys.

5 MR. MOY: Or if you -- that's assuming you
6 want Mr. Hood, otherwise, you know, you'll have other
7 zoning --

8 CHAIRMAN HILL: No, I understand and I'm
9 being clear.

10 MR. MOY: Okay. You are.

11 CHAIRMAN HILL: Like, do you guys -- I'll
12 give you whatever you want.

13 MR. HOOD: If they want February the 1st --
14 never mind.

15 CHAIRMAN HILL: No, no, no, no, don't confuse
16 me now. So, what date do you like?

17 MR. BROWN: Yeah, January 18th.

18 CHAIRMAN HILL: Okay. January 18th. So, Mr.
19 Hood, if you can join us, great. If you just send a
20 proxy, then that's how that goes.

21 MR. MOY: This is a continued hearing or a
22 decision?

23 CHAIRMAN HILL: Yeah, it's a continued
24 hearing. It's a continued hearing for me.

25 MR. MOY: Because otherwise it's going to be

1 Turnbull who is here on the 18th. Okay. Okay. All
2 right.

3 [Discussion off the record.]

4 MR. BROWN: Mr. Hill, and then we'd set a
5 schedule for filings?

6 CHAIRMAN HILL: No, but I'm being clear
7 again, I want to be clear. So, Commissioner Hood is
8 not here in January on the 25th. You are going to
9 get, now, Mr. Turnbull, apparently. So, I'm sorry
10 the 18th.

11 MR. MOY: That's the 18th.

12 CHAIRMAN HILL: So, you're going to stick
13 with the 18th.

14 MR. MOY: There's no hearing on the 25th.

15 CHAIRMAN HILL: Yeah, you can talk.

16 [Discussion off the record.]

17 MR. BROWN: February 15th.

18 CHAIRMAN HILL: Oh, there you go. That's
19 what I think is your best shot. Okay. And that
20 still doesn't necessarily mean you're going to win, I
21 don't think. But you never know.

22 All right. So, then the filings, when are
23 good, Mr. Moy?

24 MR. MOY: Okay. February 15, we said. Well,
25 if the applicant -- well, they have a little bit more

1 time to do the 3D or oximetric drawings, whatever you
2 want to call it.

3 CHAIRMAN HILL: I'd like a Lego model.

4 MR. MOY: Oh, a model.

5 CHAIRMAN HILL: No, I'm just kidding. I'm
6 just kidding.

7 MR. MOY: Does the architect be prepared to
8 submit something, let's say by Monday, February the
9 6th? Is that --

10 MR. BEIDLER: Yes, not a problem for us.
11 Thank you very much.

12 MR. MOY: Okay. All right.

13 MR. BEIDLER: February the 6th.

14 MR. MOY: For filing.

15 MR. BEIDLER: Okay.

16 MR. MOY: Then the continued hearing on the
17 15th.

18 MR. BROWN: Would a 3D model help?

19 CHAIRMAN HILL: I think -- no, no, I don't
20 think a 3D model will help. I think whatever you --
21 I mean, again, and I mean this sincerely that you've
22 heard a lot of testimony here, you've heard a lot of
23 questions from the Chairman and some questions from
24 Mr. Hart, and their concerns. And again, whatever
25 you want to present that can convince them that you

1 cannot do the one-to-one setback, and they want to
2 see some options that include the one-to-one setback
3 and what that does to the project. Okay? All right.
4 Are you good?

5 MR. BROWN: Yes.

6 CHAIRMAN HILL: Okay. All right. Thank you
7 all very much.

8 [Pause.]

9 CHAIRMAN HILL: Okay. We're going to be very
10 accommodating and we're going to do 19397 because
11 apparently, there's people are trying to escape, and
12 I also am one of those people. But, I am here, with
13 you.

14 MR. MOY: Okay, again, for the transcript,
15 this is Application No. 19397 of KHP the 4th or IV
16 D.C., LLC. Captioned and advertised for variance
17 relief from the R-A accessory use requirements of
18 Subtitle U, Section 410.1D, permitting the conversion
19 of an existing ground floor office area into a café
20 and adding a new signage to an existing hotel, R-A-10
21 Zone at 1515 Rhode Island Avenue Northwest, Square
22 195, Lot 149.

23 CHAIRMAN HILL: Okay, great. Thank you, Mr.
24 Moy. If you could please -- we'll give --

25 MS. MAZO: Yeah, I mean, can we go ahead and

1 start. I'm not sure if we'll need the PowerPoint for
2 this unless you all have questions. Samantha Mazo on
3 behalf of the applicant.

4 CHAIRMAN HILL: Wait a minute. Just give me
5 a second. Give me a second. Give me a second.

6 MS. MAZO: Sure.

7 CHAIRMAN HILL: Can you introduce from left
8 to right for me, just --

9 MS. MAZO: Oh, sure.

10 CHAIRMAN HILL: That's okay.

11 MS. MAZO: Please, go ahead.

12 CHAIRMAN HILL: Thanks.

13 MR. ARFF: Good afternoon, my name is Tobias
14 Arff. I'm the general manager for the Darcy Hotel.

15 CHAIRMAN HILL: Could you pronounce your last
16 name again?

17 MR. ARFF: A, like apple, R like Robert, F
18 like Frank, F like Frank.

19 CHAIRMAN HILL: How do you say it?

20 MR. ARFF: Like it sounds, Arff.

21 CHAIRMAN HILL: Okay. Got it.

22 MS. MAZO: Samantha Mazo, counsel for the
23 applicant.

24 CHAIRMAN HILL: Thank you.

25 MS. MOLDENHAUER: Meredith Moldenhauer,

1 counsel for the applicant.

2 MR. CRAWFORD: Alex Crawford, Streetsense,
3 architect for the applicant.

4 CHAIRMAN HILL: Okay. And yeah, Ms. Mazo,
5 just I agree in terms of that if you want to go ahead
6 and -- I don't have a lot of questions in general,
7 and I know that you have some witnesses or something.
8 Who is trying to leave?

9 MS. MAZO: So, Mr. Arff, his, one of his sons
10 is sick today and so he's at an alternative daycare
11 and --

12 CHAIRMAN HILL: Okay. Okay. All right.
13 Okay.

14 So, the -- okay. So, there are some
15 particular questions, I think, from members of the
16 Board. I, myself, am more interested again in kind
17 of like, you know, the ANC and how you know, that --
18 your presentation with them went. And if anyone
19 other has questions that they would like to ask the
20 applicant to particularly highlight, and also before
21 you get started or after the Board has asked their
22 questions as to what would you like to particularly
23 highlight, Mr. Arff, if you have to go or maybe we'll
24 hear your testimony first, but I'm going to let my
25 board members first ask if there's anything

1 particularly that they'd like to hear from Ms. Mazo.

2 MS. BUTANI-D'SOUZA: Okay. So, I have just
3 really one question on this. Can you please, at some
4 point in your presentation, restate why you believe
5 this passes a variance test, bearing in mind that --
6 this is 19397, right?

7 CHAIRMAN HILL: Uh-huh.

8 MS. BUTANI-D'SOUZA: Okay. Bearing in mind
9 that according to the, I believe the D.C. Court of
10 Appeals, the proposed use of a property is not a
11 sufficient basis for determining the presence of
12 exceptional conditions, and the use, or prior use of
13 a particular property is inapplicable to the first
14 condition that the property itself be unique. So, in
15 other words, in reviewing your application and
16 looking at the three prongs of the variance test,
17 some of the justifications that were given seem to
18 suggest that the proposed use of the property was the
19 justification for the exceptional condition, and that
20 the prior use was a justification for the exceptional
21 condition.

22 So, we're asking you to clarify what your
23 argument is for the variance test, such that it does
24 not run afoul of those two D.C. Court of Appeals
25 decisions. These are the *Metropol* (phonetic) and

1 *Capitol Hill Restoration Society* decisions.

2 MS. MAZO: Okay. Well, I appreciate that.
3 As the Board is also aware there is -- sorry. There
4 is other case law in which the exceptional conditions
5 can be a confluence of factors, such as *Gill Martin*,
6 and so exceptional conditions, while they do not
7 necessarily -- or while the *Metropol* case has made a
8 -- there is dicta in the *Metropol* case indicating
9 that there was a question there about the exceptional
10 condition that particular case, there is other case
11 law out there that certainly supports the argument
12 that we have made here.

13 So, I just had to run through the property.
14 This is an existing -- or was an existing hotel, an
15 existing 220 room hotel, the Doubletree, it's located
16 on Rhode Island Avenue, just kind of northwest of --
17 or I guess northeast of Scott Circle. The property
18 is surrounded by high-density -- or high-density
19 uses, including, directly adjacent to it is the
20 Holiday Inn Hotel. To the west is a high-density
21 General Scott condominium. Across the street is an
22 American Coatings Association. And also, surrounding
23 it on very highly trafficked Rhode Island Avenue is
24 the Canadian -- I'm sorry, the Australian Embassy,
25 and other high-density projects. Here, just other

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1 images of the hotel.

2 And so, what we are requesting relief from
3 here is really very minor, and it is relief from an
4 area variance provision of the accessory use
5 provisions in the R-A Zone, this zone is an R-A-10,
6 in which we are requesting relief to -- the necessary
7 relief to transform what is currently identified here
8 as office space, into a café, into a 1,200 foot café,
9 as well as to add new signage to the property, and
10 we're only adding a total of 12 feet of commercial
11 adjunct signage.

12 Just for the Board's edification, the
13 particular variance that we're seeking only applies
14 to commercial adjunct uses in hotels and residential
15 zones. So, that has specific requirements in terms
16 of not being able to add additional commercial
17 adjunct space, which we are doing here, and also to
18 limit the additions of commercial adjunct signage,
19 which we are also doing here. Both of them in modest
20 -- in a modest manner.

21 The proposal here is really part --

22 CHAIRMAN HILL: Ms. Mazo.

23 MS. MAZO: Sure.

24 CHAIRMAN HILL: I'm sorry. Could you just
25 pull back from the microphone just a little bit.

1 It's just a little --

2 MS. MAZO: Sorry.

3 CHAIRMAN HILL: -- crisp up here. Thank you.

4 MS. MAZO: Sorry. You know, really the
5 proposal here is part of an overall renovation of the
6 hotel that is ongoing currently now. The hotel and
7 Mr. Arff can speak to this, but the hotel is going to
8 be renovated and rebranded to the Curio brand, which
9 is going to be for -- it's going to be renamed the
10 Darcy Hotel. As part of that, the brand, the hotel
11 is getting a face lift and a renovation, and will be
12 upgraded. And as part of that then we're converting
13 this office area into the café, as well as to add new
14 signage for the new restaurant concept.

15 No square footage is being added to the
16 hotel, so that's not changing. Furthermore, there
17 are no changes to the area along the rear.

18 Here are just other images, and Mr. Crawford
19 from Streetsense can, you know, address any questions
20 that you may have about the café itself, as well as
21 about the adjunct signage.

22 The signage itself is going to be halo lit,
23 which means the lighting is going to be less
24 intrusive because it will reflect off the rear of the
25 building.

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1 I just, quickly to address Chairman Hill's
2 comments about the ANC, we presented to the ANC, to
3 the ZPD on December 7th, and then we presented to the
4 full ANC on December 14th. The ANC voted unanimously
5 to support the project. Their report is in the
6 record at Exhibit 44. They have full support for the
7 project and there were no conditions that were placed
8 on it.

9 You know, going towards, really to address
10 Vice Chair D'Souza's questions, the exceptional
11 conditions here really are the existing ground-floor
12 layout we have. We have a situation where the
13 project itself, or the existing ground floor, there
14 is a central -- this one? Well, the existing ground
15 floor -- oh, sure. This, I guess, will work out.

16 So, the existing ground floor is, there's a
17 lobby there. There's a restaurant on one side.
18 There are ballrooms now. Under the very strict
19 zoning requirements that this property is operating
20 under, the restaurant cannot be expanded in size.
21 The ballroom cannot be expanded in size. The lobby
22 cannot be expanded in size. All of the commercial
23 adjuncts that are existing on the structure cannot be
24 expanded or changed in size without seeking relief.

25 And so, the floor -- an exceptional condition

1 here is the fact that the floorplan itself is
2 basically static and cannot be changed.

3 Another aspect of this property itself that
4 is unique and is really shown here is the existing
5 ground-floor -- first of all, the existing ground-
6 floor storefront windows. The lobby is flanked by
7 six windows and one entrance on both sides. So this
8 is the office door and the windows and the patio that
9 are west of the lobby. And then here is the
10 corresponding same similar, exact same symmetrical
11 design on the east of the lobby, and the east of the
12 lobby is where the existing restaurant is and where
13 the restaurant will stay, where the west of the lobby
14 is where the new office is going into.

15 So, those ground floor conditions similarly
16 really have to remain in place. Another exceptional
17 condition that impacts this property is the fact that
18 once you get beyond the face of the building, you are
19 in public space. And so the existing patios, the
20 existing layby, the existing awning, they're all in
21 public space.

22 And so, to address that we have met with
23 DDOT. There is a pending public space application
24 that is in place to essentially bless and grandfather
25 the existing conditions on the site. Once this

1 applicant is approved for the café on the west side,
2 then the applicant will be submitting another public
3 space application in order to address and activate
4 the east side patio. And so, that's an exceptional
5 condition that certainly does not apply to all hotel
6 areas within the District and is unique to this
7 property.

8 I would say another existing is, you know,
9 really does relate to the public space issue is that
10 the -- with the existing public space in the lobby,
11 that there is already direct entrances to the
12 restaurant, which is staying the same, and the office
13 area from the public space. And so, that in
14 conjunction, in a confluence of factors with the --
15 with the existing storefront windows, and the
16 existing floorplan of the building, that is really
17 static due to the zoning requirements. They do
18 create a confluence of factors that creates an
19 exceptional condition on the property.

20 Would you like me to continue?

21 MS. BUTANI-D'SOUZA: I'm sorry. Can you just
22 go back over that a second? So, you're saying that
23 you have a use as a hotel, and zoning mandates
24 certain percentages of your ground floor to be used
25 for certain things.

1 MS. MAZO: No. No, no, no, I'm not saying
2 that. I'm saying that we have a use from a hotel
3 that is dating back to 1961. In 1980 there was a
4 change to the Zoning Regulations that essentially put
5 limitations on the ability of these existing hotels
6 in these residential zones to expand their commercial
7 adjuncts as a matter of right. And that used to be
8 called 345 under the old regulations, and it's now
9 410.1 under the new regulations.

10 And so, because of that, there's no ability
11 to expand the existing restaurant. There's no
12 ability to expand the existing lobby or the existing
13 hall -- prefunction spaces, the ballrooms, any of
14 those areas within the hotel cannot be expanded as a
15 matter of right.

16 And so, the point is, is that the ground-
17 floor layout of the hotel is really set in stone due
18 to the zoning requirements that are already placed on
19 the hotel, due to the fact that while the hotel use
20 itself is not nonconforming because there's a special
21 provision that allows for hotels that were in place
22 prior to 1980 to be considered to be matter of right
23 uses, the ability of those hotels to expand their
24 commercial space, or to add restaurant space, or add
25 floor area is restricted as a matter of right.

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1 MR. HART: And as a, just a point of
2 clarification, you would need a variance to actually
3 change that is what you're also saying.

4 MS. MOLDENHAUER: And that's what we're
5 seeking today.

6 MR. HART: No, I'm saying, but you would need
7 a variance -- you're saying all this stuff is kind of
8 set in place.

9 MS. MAZO: Right. We would need additional
10 variances if what we wanted to do was to go into that
11 ground floor and increase the size of the restaurant,
12 or increase the size of the ballrooms, or increase
13 the size of the prefunction area, we would need
14 variances for all of that.

15 MR. HART: Yeah, no. I was just -- you were
16 just saying, all that stuff was set in place. I was
17 just saying that, you would just need variance. You
18 can change it, you just need to go -- you would need
19 to go through a variance process.

20 MS. MAZO: That's correct.

21 MR. HART: I understand your point.

22 MS. MAZO: Yeah, that's correct.

23 MR. HART: I just was making that, that's
24 all.

25 MS. MOLDENHAUER: Board Member D'Souza, I

1 don't know if this specifically answers your question
2 but I think what Ms. Mazo just described, and what
3 Mr. Hart was touching upon, along with the physical
4 conditions, so the physical existing layout of the
5 public space, which is very unique having those
6 existing bollards and outdoor area and patios, as
7 well as what Ms. Mazo said, the physical condition of
8 the windows, and that ground-floor level, the limited
9 uses that that can be for a hotel use is what creates
10 the exceptional condition for the relief that we're
11 requesting here. And it is what I believe --

12 MS. BUTANI-D'SOUZA: Sorry. Can you clarify
13 when you say the -- can you relate that point that
14 you're making? Why is the physical space
15 exceptional? Help me understand why that --

16 MS. MOLDENHAUER: The nexus is, I think, what
17 you're looking for.

18 MS. BUTANI-D'SOUZA: I'm sorry?

19 MS. MOLDENHAUER: The nexus, the connection,
20 the nexus between the uniqueness and the practical
21 difficulty.

22 MS. BUTANI-D'SOUZA: I'm trying to get your
23 justification away from a use argument, and I think
24 the argument that Ms. Mazo just made is effectively
25 that, zoning, this use is constrained by zoning to be

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1 this. And so that goes back to the use. I'm trying
2 to get you guys out of that.

3 MS. MOLDENHAUER: So, the -- and I'm trying
4 to lead us towards more the physical conditions. So,
5 the physical outdoor patio already exists. The
6 physical patio as Ms. Mazo showed, it's a mirror, a
7 twin sister to the existing restaurant that's already
8 there. And so right now it is outside of an office,
9 which is awkward, abnormal to have that. It's also
10 you have an outdoor patio right next -- you cannot
11 locate a hotel room on the ground floor right on
12 Rhode Island Avenue.

13 So, the question is the limitation to that
14 point of where, what else can be placed there, is
15 very limited and restrictive. So, the question of
16 can we then see -- and also, the size of those
17 windows, those windows are uniform throughout the
18 entire first floor of the property and are being
19 maintained as those big large six-foot tall -- is
20 that correct? Taller than six foot, the Streetsense
21 architect can confirm the depth, but those windows
22 are preexisting. That puncture in the fenestration
23 is already there. And so the question is then, what
24 would be appropriate and what would then lead to the
25 variance case of, you know, what would not create a

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1 practical difficulty for having something located.
2 And so, we are seeking an area variance, not a use
3 variance but an area variance, to locate a café
4 there.

5 And, because of the existing patio, the
6 existing windows and bay windows in its existing
7 location, I mean, this property is not located on one
8 of the side small residential streets that some
9 hotels that fall under this section are located.
10 This property is located in a zone, another unique
11 factor, that is on Rhode Island Avenue. As Ms. Mazo
12 pointed out, it's across from Embassies. It's on a
13 very, very wide street right at the intersection.

14 All of those factors lead to the challenge of
15 what to do on that space. And then the practical
16 difficulty with being able to say, well, a café to
17 service the hotel and the public, to utilize the
18 existing outdoor patio, would be the most appropriate
19 and not allowing that would be practically difficult
20 for the hotel because there would either be unused
21 public space that actually has negative public space
22 implications. There would be picture windows that
23 might need to be closed, that would not look
24 attractive and would have negative impacts, so it
25 would have practical difficulty on the overall

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1 remodel of the hotel.

2 And so, I believe that it does satisfy that
3 connection between the unique physical conditions
4 with the practical difficulty of doing alternative
5 uses, and then any other use, as Ms. Mazo pointed
6 out, would be a variance no matter what because if
7 you wanted to expand the ballroom, that would be a
8 variance. If you wanted to expand the function
9 space, that would be a variance.

10 So, doing this and obviously the ANC was very
11 supportive, very positive about seeing a café being
12 able to be located here. The purpose of this
13 regulation was in 1980, to try to keep hotels
14 becoming convention center spaces throughout the
15 city. I don't know if Commissioner Hood was on the
16 board at that time, but --

17 MR. HOOD: You said 1980?

18 MS. MOLDENHAUER: But, so --

19 MS. BUTANI-D'SOUZA: He's been on the Board
20 since birth.

21 MS. MOLDENHAUER: But I think that the
22 rationale for this case is not something where the
23 change in the zoning has -- it can be a factor. It's
24 not obviously what we're relying on.

25 CHAIRMAN HILL: Okay. Okay. I'm going to,

1 just going stop you there. Do you have more
2 questions? Okay.

3 Chairman Hood, do you have any questions?
4 Okay. Mr. Hart? Okay.

5 I'm going to -- you guys done for now? Okay.
6 I'm going to turn to the Office of Planning if that's
7 all right.

8 MS. FOTHERGILL: Good afternoon. For the
9 record, I'm Anne Fothergill with the Office of
10 Planning. And as you saw in our report we did review
11 this application for this specific property and found
12 that it did meet the variance test for the reasons
13 the applicant has cited, the fenestration, the major
14 thoroughfare, the layout of the ground-floor, the
15 location on a high-density Rhode Island Avenue, and
16 we found the confluence of factors did create an
17 exceptional situation resulting in a practical
18 difficulty and that there would not be a substantial
19 detriment to the public good or harm to the Zoning
20 Regulations. And we -- but again, for this specific
21 property because as the applicant stated, there are
22 other properties where this -- they might not meet
23 this criteria.

24 And so, we do support it for this application
25 and we rest on the record in support of the

1 application.

2 CHAIRMAN HILL: Okay. Great. Thank you.
3 Does anyone have any questions for the Office of
4 Planning? Vice Chair D'Souza, do you have any
5 questions for the Office of Planning? Okay.

6 Then, let's see, what was I going to do? Oh,
7 you had a question? Okay. Mr. Hart.

8 MR. HART: So, the -- I guess I'm just trying
9 to get to some of why we're here and trying to
10 understand why this would be such a difficulty for
11 them to be able to, the applicant to be able to go
12 through a variance process for seemingly -- I mean, I
13 can kind of understand it but it just seems so
14 onerous to go through this process because they are,
15 you know, trying to do something that you would think
16 would be helpful for the city in terms of having some
17 retail on the ground floor. I mean, having an office
18 on the ground floor at this location doesn't seem to
19 make a lot of sense because it seems like it's prime
20 location, and having an office for your employees, it
21 just seems a little bit odd.

22 And, I don't know if you have any explanation
23 as to why that's the case.

24 MS. FOTHERGILL: I think that the -- having,
25 as the applicant mentioned, if you had a hotel on a

1 side street in a residential zone, it may not be
2 appropriate to put -- to use this space for this
3 reason, a street front space. And so I think that
4 the criteria are very strict so that they have to go
5 through this process. And as you saw, there are four
6 criteria, specifically for this section of the
7 regulations that are very clear. And I think it's
8 for this exact reason, because they want to make sure
9 it gets reviewed and gets thoroughly reviewed.

10 In fact, the Office of Planning spent a lot
11 of time on this one. And for this specific one we
12 support it because the variance test is a high
13 standard and so I think it's just to make it -- to
14 make it a little difficult, and so that the ones that
15 get approved are for a reason.

16 MR. HART: They're more thorough in their
17 thinking through --

18 MS. FOTHERGILL: That's right.

19 MR. HART: -- for allowing or not allowing.

20 MS. FOTHERGILL: That's right. And I think
21 the applicant may be able -- it sounds like she knows
22 exactly when this was put into place, and may be able
23 to speak a little more to the intent of the
24 regulation.

25 CHAIRMAN HILL: But, so I mean, I appreciate

1 hearing from the Office of Planning that you did
2 spend a lot of time on this because I know that there
3 are other hotels that have come before us that have
4 had -- that want to put cafes in, that are down, and
5 they wanted to expand or change, you know, the
6 services that they were offering, and the community
7 was, you know, concerned.

8 The one thing that I had, and I know you guys
9 talked about it in the application, but because
10 originally there wasn't the ANC 2B report, and that's
11 what I just -- I don't know when they put it in, but
12 it wasn't there when I was, you know, looking at it
13 over the weekend. But so, just to clarify again
14 because I am curious, so like they would actually --
15 it seems to me that this was actually an easier sell
16 for you guys than normally could be the case, because
17 I know where the property is and it's right on that
18 main road. Can you tell me a little about the ANC
19 meeting?

20 MS. MAZO: Well, sure. I will speak very
21 quickly about the ANC meeting and then Mr. Arff can
22 just speak more generally about the relationship that
23 the hotel has with the neighbors.

24 CHAIRMAN HILL: Okay.

25 MS. MAZO: But just generally in terms of the

1 ANC meeting, we went to the ZPD on December 7th. I'm
2 sorry. That's the ANC 2B. They have a special
3 Zoning Preservation and Development Committee. And
4 prior to that we had had discussions with Abigail
5 Nichols, who is the SMD for the project, and she
6 reached out to many of the neighbors and asked them
7 specifically if they had any questions. And in
8 response we actually obtained the e-mail that is in
9 the record at Exhibit 39, which is an e-mail in
10 support from Jeffrey Brooks, in which he indicated
11 his support for the project and he said that he was
12 looking forward to this project and this new amenity.

13 CHAIRMAN HILL: Is he just a resident in the
14 area? Is that, Jeffrey Brook?

15 MR. ARFF: Yeah, he is.

16 CHAIRMAN HILL: Okay.

17 MR. ARFF: He owns a rowhouse behind us for
18 many years and --

19 CHAIRMAN HILL: Okay. Okay.

20 MR. ARFF: -- we actually invited him and a
21 lot of neighbors, prior to that meeting for a meeting
22 where we introduced our concept.

23 CHAIRMAN HILL: Okay.

24 MR. ARFF: It was about 20 attendees, and
25 they're actually all very excited about what's going

1 to happen. The additional benefit of having a café
2 in walking distance. It's only open for lunch and
3 breakfast, so no noise issues in any case. So,
4 everybody was very supportive from the neighborhood.
5 So, we -- when I came on board about seven months
6 ago, I think we did a great community outreach to
7 them and built a great relationship with all the
8 surrounding buildings and neighborhoods and --

9 CHAIRMAN HILL: Okay.

10 MR. ARFF: Very excited about what's going to
11 happen, hopefully.

12 CHAIRMAN HILL: Okay.

13 MS. MAZO: All right. And sorry, just to
14 follow up then, on December 14th, when we went back
15 to the full ANC 2B, in which they made their nine to
16 -- their unanimous vote in support of the project,
17 which is memorialized, excuse me, in Exhibit 44, they
18 were all very excited about the project. One of the
19 -- actually, one of the neighbors who is not on the
20 ANC but is very involved said that, you know, he's
21 looking forward to it, asked when it was going to be
22 opened.

23 They are familiar with, or they indicated
24 they were familiar with Bayou Bakery and Chef Dave
25 Guas, who is going to be coming in and leasing the

1 space. And they were excited about it, so this was
2 certainly a -- this is certainly a project that the
3 neighborhood appreciates.

4 And, oh sorry, and another neighbor who also
5 attended indicated that they were happy to see
6 additional activation along Rhode Island Avenue,
7 because they said this was a bit of a dead space here
8 and so they're happy to see another commercial area
9 open up there --

10 CHAIRMAN HILL: Okay.

11 MS. MAZO: -- in order to be able to --

12 CHAIRMAN HILL: Okay.

13 MS. MAZO: -- provide commercial serving.

14 CHAIRMAN HILL: Okay. Okay. Great. Okay.

15 Vice Chair D'Souza, you had a question with Office of
16 Planning?

17 MS. BUTANI-D'SOUZA: Hi, Ms. Fotherhort
18 (sic). So, again, I'm trying to understand the first
19 prong of the test and to understand it such that it
20 doesn't trip up these use issues that we've
21 discussed. And I see in your report that it
22 discusses a fenestration pattern. Is it fair to just
23 distil this argument that basically this space looks
24 like a restaurant and therefore it should be a
25 restaurant? I mean, that's sort of what it sounds

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1 like to me and I'm trying to --

2 MS. FOTHERGILL: I think that we would say
3 that the physical layouts of the parallel space with
4 the restaurant, the opening to the patio, combined
5 with -- so, and the small space that isn't conducive
6 to some other use for the hotel, but the small space
7 facing the patio, parallel to the restaurant, and the
8 fenestration along the street, combined with
9 literally this specific location on this major
10 thoroughfare, opening on to the patio, all together
11 is the exceptional situation of this specific
12 property.

13 MS. BUTANI-D'SOUZA: So, it looks like a
14 restaurant, so it should be a restaurant, is sort
15 of --

16 MS. FOTHERGILL: I am just saying that it's
17 space -- the fenestration pattern with the openings
18 to the patio, it's the physical layout that is the
19 exceptional situation.

20 MS. BUTANI-D'SOUZA: Okay. Thank you.

21 CHAIRMAN HILL: Okay. Does anyone have any
22 more questions for Office of Planning?

23 Does anyone have more questions for the
24 applicant?

25 I was a little disappointed to see that it's

1 no longer going to be called The Fred.

2 Let's see. Okay. So, I'm going to turn to
3 the audience here. Is there anyone here from the
4 ANC? Is there anyone here wishing to speak in
5 support of the application? Is there anyone here
6 wishing to speak in opposition to the application?
7 Okay.

8 Would the applicant have any more questions
9 for the Office of Planning or would you like to make
10 a closing statement?

11 MS. MAZO: I mean, we have no more questions
12 for the Office of Planning. I mean, our argument, I
13 think, has been laid out and has been supported by
14 the Office of Planning that the property itself is
15 unique due to the fenestration, due to the confluence
16 of factors with the existing public space, and due to
17 the interior physical restrictions on that ground
18 floor that make it difficult to, one, expand or
19 change the uses there, but also structurally
20 different to expand -- difficult to expand, or change
21 the uses that are already existing on the ground
22 floor, except to replace this office with a community
23 serving café.

24 CHAIRMAN HILL: Okay, great. Thank you.
25 Does the Board have any more questions of the

1 applicant? Okay. Then, I'm going to close the
2 hearing. Is the Board ready to deliberate?

3 Okay. Then I'm going to start. I mean, I
4 was convinced from the applicant that they met the
5 variance test. I also am, again as I mentioned
6 during the questioning with the Office of Planning,
7 happy to see that the Office of Planning did take
8 some pretty hard -- a hard look at this and given the
9 fact that we have had previous applications come
10 before us that they weren't in support of in a
11 similar nature, and given the location of the
12 property, I think they meet the standard and I would
13 be in support of the application.

14 Does anyone have anything else they'd like to
15 add?

16 Okay. Then, I'd go ahead and make a motion
17 to approve Application No. 19397 as captioned by the
18 secretary.

19 MR. HART: Seconded.

20 CHAIRMAN HILL: Motion been made and
21 seconded.

22 [Vote taken.]

23 CHAIRMAN HILL: Motion passes, Mr. Moy.

24 MR. MOY: Staff would record the vote as
25 four, to zero, to one. This is on the motion of

1 Chairman Hill to approve the application for the
2 relief that the applicant has requested. Seconded
3 the motion, Mr. Hart. Also in support, Vice Chair
4 Butani and Mr. Hood and there's a board seat vacant.
5 Motion carries, sir.

6 CHAIRMAN HILL: Thank you, Mr. Moy. Summary.

7 MR. MOY: Yes.

8 CHAIRMAN HILL: Mr. Moy, I actually don't
9 where we are anymore. So, its, you know, I assume
10 the applicant knows apparently, but you can please go
11 ahead and call whichever one you got next, and
12 clarify it for me.

13 MR. MOY: Are you losing someone, Ms.
14 Moldenhauer?

15 MS. MOLDENHAUER: [Speaking off mic.]

16 MR. MOY: So, which case is yours?

17 MS. MOLDENHAUER: [Speaking off mic.]

18 MR. MOY: That's the one.

19 CHAIRMAN HILL: Okay. There you go. All
20 right.

21 MR. MOY: I just wanted to be sure that was
22 yours.

23 CHAIRMAN HILL: Okay. So, have you all been
24 sworn in? Were you all sworn in this morning?
25 Congratulations. Welcome to the end of the evening,

1 and there's still one before you. I'll congratulate
2 you all when you get up here as well.

3 Okay. So, if you could please introduce
4 yourselves left to right for me?

5 MR. STOOPS: Hello. I'm Michael Stoops.

6 CHAIRMAN HILL: Oh, sorry. Hold on. Mr.
7 Moy.

8 MR. MOY: Yeah, very quickly. Let me speak
9 really fast. Application No. 19389 of --

10 CHAIRMAN HILL: I'm sorry.

11 MR. MOY: -- 4328 Georgia, LLC., request for
12 a special exception on the minimum -- under the
13 minimum parking requirements, Subtitle C, Section
14 701.5, variance from the rear yard requirements,
15 Subtitle G, Section 405.2. This would permit the
16 construction of a four-story mixed use building in
17 the M-U-4 Zone, 4328 Georgia Avenue Northwest, Square
18 2914, Lot 10.

19 CHAIRMAN HILL: All right, great. Thank you.
20 I'm a little punchy so I forgot where we were with
21 that. So, if you could go left to right for me here,
22 and introduce yourselves?

23 MR. STOOPS: Michael Stoops, 4328 Georgia
24 Avenue Northwest, Washington, D.C.

25 MS. MOLDENHAUER: Meredith Moldenhauer, land

1 use counsel.

2 MR. STEVISON: Matt Stevison, architect.

3 CHAIRMAN HILL: And, Mr. Stoops, how are you
4 connected with this?

5 MR. STEVISON: I'm with PGN Architects.

6 CHAIRMAN HILL: Oh, no, Mr. Stoops. I'm
7 sorry.

8 MR. STOOPS: I am the owner.

9 CHAIRMAN HILL: Okay. Right. I was just
10 clarifying because I didn't hear what you said, what
11 you were here for. And I'm sorry, could you say your
12 name again?

13 MR. STEVISON: Matt Stevison with PGN
14 Architects.

15 CHAIRMAN HILL: Okay. So, Ms. Moldenhauer, I
16 would like to hear from you, your presentation here.
17 In particular, I guess, the ones, you know the
18 comments that were from the Office of Planning, the
19 ANC, and DDOT as to -- well, actually, yeah, I guess
20 there weren't comments actually. I take it back.

21 MS. MOLDENHAUER: No, we have the support
22 from the ANC, full support, and support from OP on
23 all areas of relief.

24 CHAIRMAN HILL: Okay. Well, I'll let you go
25 through your presentation, then, because I'm trying

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1 to find out what I had a question about. But, if you
2 could just go ahead and does anyone have any
3 particular things they'd like to specifically hear
4 from the applicant before she begins her
5 presentation? Okay. So, a high-level presentation
6 would be nice.

7 MS. MOLDENHAUER: I was saying, would you
8 like me to simply surmise?

9 CHAIRMAN HILL: The high-level presentation
10 would be nice.

11 MS. MOLDENHAUER: I will simply --

12 CHAIRMAN HILL: Thank you.

13 MS. MOLDENHAUER: I will provide our closing
14 and then if we need to have testimony from anybody
15 else.

16 So, the property is unique. You can see the
17 shape. It's a trapezoidal shaped property on a
18 corner. Because we are seeking parking relief we are
19 showing how it is transit friendly, and it is close
20 to major bus lines and is also within only a short
21 distance to Metro, is the bottom of this image.

22 The property, this is the existing property.
23 This is one of the exceptional conditions as well as
24 its shape, is the 15-foot building restriction line,
25 which you can see here, at the top of the screen.

1 The project is a 14-unit dwelling project with two IZ
2 units, which is an estimated number, and ground-floor
3 retail as well as bicycle parking.

4 I'm jumping. This, I think shows really, and
5 again, Matt Stevison is here from PGN Architects and
6 can answer more questions about the challenging
7 situation of the lot. But, this slide summarizes
8 without -- with complying with rear yard, 32 percent
9 of the building area is lost due to the BRL.
10 Providing a rear yard would eliminate 47 percent of
11 the building area. That is nearly half of the
12 buildable area.

13 So, as you can see, we can walk through. Mr.
14 Stevison, if you can just quickly make a five second
15 conversation about the location of the building core
16 and how that is very limited based on both the
17 building restriction line and the size of the lot, we
18 can then maybe jump through this.

19 MR. STEVISON: Sure. The core of the
20 building has been pushed against the demising wall
21 there. It makes sense to look at the core in this
22 location because ideally, especially being on the
23 corner, you want to sort of open up both sides that
24 face the street. So, that's really where you would
25 want your units and your retail space to be located.

1 It also allows a large open retail space which then
2 interacts with the outdoor seating area, which is
3 part of the retail space as well. And there's some
4 renderings later on in the presentation that explain
5 in more depth what we were thinking out there.

6 The building restriction line really creates
7 a narrow condition on the Georgia Avenue side of the
8 project. Where we have our core, you know, our two
9 stairs and our elevator, two means of egress, exiting
10 out of the front and the rear off of the alley. And
11 we have a trash room. So, that space, the lobby
12 being, you know, pretty modest, is, it's a very
13 efficient space.

14 But you can see how sort of narrow that
15 retail bay gets as you get towards the Georgia Avenue
16 side of the project. So, from programming
17 standpoint, sort of the most programmable part of
18 this building is as it tapers out in the back and
19 gets wider, and that would be the area of the
20 building that we would be seeking relief to make it a
21 little bit easier to program on the rear.

22 MS. MOLDENHAUER: So, to summarize, if you
23 had to comply with the rear yard requirement, you
24 would then lose the most efficient portion of the
25 building?

1 MR. STEVISON: That's correct. And the
2 overall building efficiency would be reduced quite
3 substantially as well.

4 MS. MOLDENHAUER: And that's based because of
5 the shape of the property and the 15-foot building
6 restriction line that reduces your buildable
7 requirements.

8 MR. STEVISON: That's correct.

9 MS. MOLDENHAUER: And everything that you're
10 showing on the building core is required. The trash
11 room that size is now required by DDOE. Is that
12 correct?

13 MR. STEVISON: That's correct. There's some
14 new requirements that are just implemented in regards
15 to trash rooms, providing recycling, those sorts of
16 things.

17 MS. MOLDENHAUER: And then I'll jump down,
18 unless the Board would like to go through anything
19 else, and if you can walk through the parking
20 challenges of the site and just walk through this
21 quickly for the Board as well?

22 MR. STEVISON: Sure. Not being able to build
23 anything over the building restriction line would
24 actually necessitate us pulling the ramp, you know,
25 into where I've shown it on that plan right there.

1 The core, obviously, would still be located in the
2 same place, against the demising wall.

3 You can see, even though there's about a half
4 floor difference between the Georgia Avenue side of
5 the project and the alley side of the project, so the
6 ramp wouldn't need to be as long to get down as it
7 would if you were going down a full floor. Even
8 going down a half floor, it just creates a condition
9 where you couldn't even get two spaces, two
10 conforming spaces down there. And you certainly
11 don't have enough clearance to make the turn back
12 around to sort of park underneath the ramp or against
13 the alley side if this was to be a garage. Just as a
14 parking garage it really doesn't work.

15 MS. MOLDENHAUER: And you couldn't back up
16 the driveway, obviously. So, you would not be able
17 to get out of the driveway if you pulled down into
18 it.

19 MR. STEVISON: Correct.

20 MS. MOLDENHAUER: And if you did this as
21 well, you would end up having your entire first floor
22 retail taken up with a ramp and then getting access
23 to the parking.

24 MR. STEVISON: That's correct. It would
25 essentially make first floor retail not feasible.

1 MS. MOLDENHAUER: And given the new standards
2 for the special exception for parking relief, the
3 special exception can be satisfied if the property is
4 in a transit-rich location, which this is, you also
5 provided in the record, which was filed within the
6 required time period for DDOT to review it, a traffic
7 study, which outlined the minimal impact of the
8 relief requested here.

9 Then going on --

10 MS. BUTANI-D'SOUZA: Can I ask a quick
11 question?

12 MS. MOLDENHAUER: Sure. Please.

13 MS. BUTANI-D'SOUZA: Are you guys planning on
14 having the address of the property be Georgia Avenue,
15 or Webster? Is it Webster Street? Is the --

16 MS. MOLDENHAUER: We have spoken with the ANC
17 and the address would be Georgia Avenue. On Georgia
18 Avenue right now is not eligible for RPP.

19 MS. BUTANI-D'SOUZA: Okay. Thank you.

20 MS. MOLDENHAUER: So, we had a single-member
21 districted flyer to the community and we had a
22 community meeting where we went through some really
23 great visual videos of the design of the building,
24 spoke with many people who live on Webster Street and
25 in the neighborhood. We have three letters of

1 support from those individuals who actually came out
2 and got to hear about the project. The ANC then
3 voted unanimously to support this application. That
4 letter of support is in the record as well.

5 And so, as indicated there, we're asking for
6 two areas of relief. One is special exception for
7 two parking spaces. As Mr. Stevison indicated, there
8 is no way to physically provide them on the site.
9 The only way to physically provide them, you wouldn't
10 be able to get out of the garage. You would be able
11 to drive in, but you wouldn't be able to back out and
12 there would be no physical way to located it.

13 The rear yard relief that we're requesting is
14 a rear yard relief under the standards for the fact
15 that the unique condition, the commercial corner
16 location, the irregular shape of the property, and
17 the 15-foot building restriction line create a
18 practical difficulty because 47 percent of the
19 buildable area would be removed if we were required
20 to have to comply with the rear yard requirement.

21 And that obviously creates a practical
22 difficulty which is stemming from the trapezoidal
23 shape. If this was a rectangular building you would
24 not have, as Mr. Stevison stated, that very narrow
25 portion of -- I'll kind of go back to that image.

1 That the front portion of the lot is 24 feet wide.

2 I'm going the wrong direction. I apologize.

3 Is, so you can see this is 25 feet whereas
4 the rear is 45 feet wide. So, by having to provide a
5 rear yard it's not just simply the building
6 restriction line, but it's also the shape of the
7 property. If this is a square shape of the property
8 where the front was as efficient as the rear was, it
9 would not create the same practical difficulty as we
10 have outlined it here today, and as why we are
11 seeking the relief from this case.

12 I will ask the Board if they have any other
13 questions, and I can address any additional issue in
14 closing if necessary.

15 CHAIRMAN HILL: The only quick question I
16 have is, in the ANC they did ask that the applicant
17 is going to keep them, you're going to keep the ANC
18 appraised of any changes that would happen to the
19 building in terms of color, materials, and things
20 such as that?

21 MS. MOLDENHAUER: Yes, and we will.

22 CHAIRMAN HILL: Okay. I just needed a
23 verbal. Okay.

24 So, does anyone have any questions for the
25 applicant?

1 MR. HART: Just one quick question.

2 CHAIRMAN HILL: Okay.

3 MR. HART: You don't need any relief on the
4 roof at all?

5 MS. MOLDENHAUER: We are fully compliant on
6 the roof.

7 MR. HART: Okay. It was just hard because I
8 realized I didn't have a section, I just have a -- I
9 have a plan on slide 17.

10 MS. MOLDENHAUER: Thank you for directing me
11 to the slide as I'm going --

12 MR. HART: Well, actually --

13 MS. MOLDENHAUER: Right here. So, this is --
14 now I'm -- yes, so this is fully compliant. This is
15 a party wall condition with a property that is higher
16 than the structure, so we can build to that. There's
17 no required setback, and then this is 10 feet setback
18 which is compliant, a one-to-one setback, and then we
19 have a setback from the railing.

20 MR. STEVISON: The only thing I would add is,
21 we're still working out the sections, so we would
22 maintain the one-to-one setback, whether it's 10
23 feet, 9 feet, 11 feet, we're not sure but it would
24 maintain the one-to-one setback.

25 MR. HART: Yeah, I was more curious about the

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1 party wall.

2 CHAIRMAN HILL: Okay, great. Does anyone
3 have any more questions before we turn to the Office
4 of Planning?

5 All right, turn to the Office of Planning.

6 MS. THOMAS: Good afternoon, Mr. Chair.
7 Karen Thomas with the Office of Planning. At this
8 point we concur with the applicant's relief, request
9 for relief on variance relief from the rear yard, and
10 a special exception from the parking requirements.
11 The lot is exceptionally shape and size, due to the
12 building restriction line, makes it exceptional in
13 complying with these requirements.

14 And the relief from the parking is also
15 supported by DDOT, and we relied on their analysis as
16 well to make our determination.

17 And with that, I will stand on the record and
18 be happy to take any questions. Thank you.

19 CHAIRMAN HILL: Thank you. Does anyone on
20 the Board have any questions for the Office of
21 Planning?

22 Okay. Then, I'm going to turn to the
23 audience here. Is there anyone here from the ANC
24 wishing to speak?

25 Is there anyone here wishing to speak in

1 support of the application? Is there anyone here
2 wishing to speak in opposition to the application?

3 Okay. Then, with that I'm going to turn back
4 to the applicant. Is there anything else you'd like
5 to add in closing?

6 MS. MOLDENHAUER: No. We believe we satisfy
7 the standard, we thank you for your time, and we
8 would request summary order.

9 CHAIRMAN HILL: Okay. Does the Board have
10 any more questions for anybody? All right. Then,
11 I'm going to close the hearing.

12 Is the Board ready to deliberate? Would
13 someone else like to start the deliberations?

14 MS. BUTANI-D'SOUZA: Sure. So, with regard
15 to the variance relief for the rear yard, I concur
16 with the OP report. I think the trapezoidal shape of
17 the lot is an exceptional condition that results in a
18 practical difficulty if the rear yard provision is
19 enforced. I think that's pretty clear.

20 With regard to the special exception relief
21 for parking, the applicant has undertaken a parking
22 study which shows adequate supply, and DDOT concurs
23 with it, and the applicant has also gotten ANC 4C on
24 board, which is impressive given that parking has
25 been quite a topic of discussion for the Ward 4 ANCs

1 and I believe particularly ANC 4C.

2 So, I would be very supportive of this
3 application.

4 CHAIRMAN HILL: And before I move on, I'm
5 sorry, Mr. Hart, the applicant agrees to the
6 conditions, in turn, installing a transit screen in
7 the building and lobby, providing bicycle parking.
8 Or maybe you already said this, I apologize if you
9 have. Providing bicycle parking which meets zoning
10 requirements, including secure long-term parking
11 located on-site, and short-term parking located
12 around the perimeter of the site. For bicycles?

13 MS. MOLDENHAUER: Yes, we do.

14 CHAIRMAN HILL: Okay. All right. Does
15 anyone else have anything to add?

16 All right. Then I'll go ahead and make a
17 motion to -- oh, would you like to make a motion?
18 Make a motion to approve Application No. 19389 as
19 captioned by the secretary.

20 MS. BUTANI-D'SOUZA: Second.

21 CHAIRMAN HILL: Motion has been made and
22 seconded.

23 [Vote taken.]

24 CHAIRMAN HILL: Motion passes, Mr. Moy.

25 MR. MOY: Staff would record the vote as

1 four, to zero, to one. This is on the motion of
2 Chairman Hill to approve the application for the
3 relief requested. Seconding the motion, Vice
4 Chairperson Butani-D'Souza. Also in support, Mr.
5 Anthony Hood and Mr. Carlton Hart, board seat vacant,
6 motion carries, sir.

7 CHAIRMAN HILL: Great. We got a summary
8 order, Mr. Moy?

9 MR. MOY: Yes.

10 CHAIRMAN HILL: Thank you. Final case, I
11 believe. I hope.

12 MR. MOY: Yes, Mr. Chairman. This is the
13 last case of the day. Parties are at the table to
14 Application No. 19392 of Revanna, LLC. Captioned and
15 advertised for special exception relief under the M-U
16 use requirements of Subtitle U, Section 513.1(a),
17 which would allow the operation of an animal care and
18 boarding use in the M-U-4 Zone, 2222 through 2224
19 18th Street Northwest, Square 2553, Lot 829.

20 CHAIRMAN HILL: Okay, great. Thank you, Mr.
21 Moy. If you could please introduce yourselves from
22 left to right?

23 MS. MOLDENHAUER: Meredith Moldenhauer, land
24 use counsel.

25 MS. MAZO: Samantha Mazo, land use counsel.

1 MR. ABBOLT: Paul Abbolt, owner of Revanna,
2 LLC.

3 MR. COWIE: Chris Cowie, Cowie Associates
4 Architects.

5 CHAIRMAN HILL: Okay. Well, you guys have
6 been here a lot today. And, so that's good. That
7 means business is good.

8 So, let's see. If you could, for me, give
9 more of a brief overview. I don't have a lot of
10 questions. I am kind of interested in the ANC and
11 what they had to say and I see now the report is in
12 there, which I had missed earlier. So, I'd, again,
13 like to hear a little bit how that went. And then
14 obviously, you can go over why and how you meet the
15 special exception.

16 Does the Board have any other particular
17 things they'd like to hear from? Okay.

18 So, with that, Ms. Mazo, you can please give
19 yourself a little bit of a high-level review if you
20 wouldn't mind, but highlighting those points that I
21 mentioned. Thank you.

22 MS. MAZO: Is this better with the
23 microphone? Okay.

24 Hi. Again, Samantha Mazo with the law firm
25 of Griffin, Murphey, Moldenhauer, and Wiggins. We're

1 here with Mr. Paul Abbolt, and then with his
2 architect, Chris Cowie.

3 One thing I do just want to mention for the
4 record, and it's in the PowerPoint, but Mr. Abbolt
5 currently also runs a doggie daycare in Rockville,
6 and so he is a professional in kind of all things
7 doggie daycare. And he and his wife, Laura, who is
8 also here, have been running a successful business of
9 this type on Rockville, and indeed at the record --
10 in the record at Exhibit 38 are nine letters in
11 support from this current customers.

12 And so, just you know, just for the Board's
13 background that we are working with a professional
14 here.

15 Just in terms of the application, again, we
16 are on 18th Street and we're in the site of a former
17 restaurant. It used to be called, I think, the Sava
18 Grill, we're adjacent to other retail. It's a high
19 commercial resident -- I'm sorry, highly commercial
20 area along 18th Street in Adams Morgan. The property
21 is itself, you know, really suited for retail use.
22 It's right on 18th Street.

23 The proposed project is, again, it's a doggie
24 daycare site and it will be replacing the existing
25 100 seat doggie restaurant with a doggie daycare.

1 The hours that we're proposing, they're in the
2 record, 7:00 a.m. to 10:00 p.m. with pet grooming.

3 Mr. Abbolt has proposed a doggie chauffer,
4 which is kind of a doggie van that he will use for
5 drop-offs.

6 And one thing that was of -- a question that
7 was raised by the ANC and also by the Kalorama
8 Citizen's Association is the question of trash, and
9 how to keep the trash from really being accessed by
10 rodents. There is a rat problem in that area in
11 particular because of the restaurants that are there.
12 And so, in order to accommodate that the trash will
13 be kept in a solid metal container which is already
14 existing. It's the restaurant's old refrigerator,
15 which is in the rear of the restaurant. The doggie
16 waste will be bagged and then kept in that trash
17 metal container until it is removed at least once a
18 week by a commercial trash removal.

19 Let me just go through here. You know, the
20 zoning relief that we're seeking here, it's a special
21 exception under 513.1(m), and you know, as this Board
22 is aware, accordingly this particular use is a use
23 that is intended to be in this zone provided that it
24 satisfies the conditions of the special exception.
25 And we walk through very briefly on this slide 9,

1 talking about how indeed this project will satisfy
2 those requirements.

3 The project has no external yards. The
4 project will install safeguards, such as sound
5 mitigation materials, caulking, and sealed
6 penetrations. The architect is here, he can respond
7 to any questions about that.

8 But the purpose there is to really mitigate
9 noise and sound and fumes from traveling. All
10 windows will be kept closed. The doors facing the
11 residential buildings are already solid core.

12 One thing that I think is also nice, in the
13 rear of the building, because it was a restaurant,
14 there were windows there at one time, but those
15 windows have already been bricked up. So, it's not a
16 situation where there are windows in the rear of this
17 doggie daycare that will be facing any -- that will
18 be facing properties to the rear. They're already
19 bricked up.

20 Again, we talked about trash because that
21 really was a question. And as we indicated, the
22 trash will be bagged, stored inside the closed metal
23 container, and the trash will be collected at least
24 weekly by a qualified waste disposal company.

25 Continuing, the odors to control pet owners,

1 the applicant will use an air filtration system. The
2 applicant will install floor finish and wall finish
3 materials that are impervious, washable, and at least
4 48 inches from the floor, as required. And then
5 there are no external yards.

6 The property, or the project is harmonious
7 with the Zoning Regulations and no adverse effect on
8 the neighbors. The proposed size and scale, it is
9 going to be fairly small in scale and size, really
10 fits in well with the moderate density neighborhood
11 serving retail and commercial uses that are permitted
12 in the M-U-4 Zone.

13 Again, the applicant is going to be
14 implementing specially designed material to limit
15 objectionable animal noise, odor, and waste. Trash,
16 as we have discussed, and the doggie chauffer van
17 will, you know, eliminate, or limit any potential
18 vehicular concerns, which were not raised by DDOT.

19 Talking about DDOT and Office of Planning,
20 Office of Planning is here. DDOT also, and Office of
21 Planning recommends approval subject to a condition.
22 DDOT also has a letter of no objection.

23 To the extent the applicant proffers a
24 condition that addresses both DDOT's condition and
25 the OP's condition, and it's here on slide 12 that

1 the applicant will post signage in the building and
2 provide information to customers stating that the
3 commercial loading zone is not for customers to use
4 for animal drop-offs or pick-ups. DDOT's concern is
5 that there isn't an existing commercial loading zone
6 in front of the property, and DDOT and both the
7 Office of Planning did not want that to be used by
8 customers for dropping off and/or picking up of their
9 dogs. And so, OP and DDOT proposed, and the
10 applicant will proffer that they will include signage
11 indicating that that area is not to be used that way.

12 Next, I'm going to just talk very briefly
13 about community outreach. Mr. Abbolt can speak to
14 that directly. Mr. Abbolt really did a terrific job
15 of reaching out to his neighbors. We wish kind of
16 all our clients could be this proactive. He worked
17 very hard to meet with the adjacent neighbors
18 directly to the rear of the building is a property
19 called the Kalorama View, I think. And we were able
20 to get a letter of support from that condo
21 association. That's in the record at Exhibit 37.

22 And we also have letters in support from the
23 adjacent neighbors and those are at Exhibit 34 and
24 32. We also have another letter of support in the
25 record at Exhibit 16.

1 We went to the ANC twice. First, we went to
2 the ANC 1C Planning, Zoning, and Transportation
3 Committee, and I mean, those, you guys are very aware
4 of ANC 1C. They you know, they're a tough nut to
5 crack quite often, from a zoning perspective. And
6 they were very excited about this project. Many of
7 the ANC Commissioners, as well as the neighbors, are
8 happy to be able to convert this area from a
9 restaurant use, which they, we understand, had fume
10 problems, had noise problems, had those sorts of
11 concerns, to be able to convert it into this use
12 which just across the board has gotten nothing but
13 good vibes and good comment.

14 Mr. Abbolt can speak to it, but he is getting
15 calls even now, once we posted the sign for the BZA
16 application, there are people in the neighborhood who
17 have dogs who want to start using his services, and
18 this really is going to be, and is already thought of
19 as a community serving -- sorry, a community serving
20 retail option.

21 On December 7th, we went to ANC, the full
22 ANC, and they voted unanimously to support the
23 application. And the memorialization of that is at
24 Exhibit 50. And so, we have that ANC report in the
25 record.

1 Again, the applicant received numerous
2 letters of support from neighbors and current
3 customers, including the Kalorama Terrace Condo
4 Association, which is the condo association in the
5 rear.

6 In addition, Mr. Abbolt has outreached to the
7 Adams Morgan Bid. They are very excited about the
8 project. There's been quite a bit of press about
9 this project in Borderstand, and some of the other
10 blogs, all of which has been positive. In general
11 people are very excited about this use, very excited
12 about Mr. Abbolt. They have looked at the Life of
13 Riley website, the website for the Rockville
14 location, and they you know, they appreciate the
15 amount of hard work and the effort that Mr. Abbolt
16 has put into that location, and they really see this
17 as being a wonderful addition to the 18th Street
18 retail corridor and really the whole Adams Morgan
19 community.

20 CHAIRMAN HILL: Okay. Thank you. Does any
21 members of the Board have any questions for the
22 applicant?

23 MR. HOOD: It's not overnight. I think their
24 hours are what, 7:00 to 10:00?

25 MS. MAZO: I'm going to have Mr. Abbolt

1 address that.

2 MR. ABBOLT: It's overnight as well. So, we
3 do boarding. Daycare with a 7:00 to -- well, I
4 should -- it will probably be 9:00 to 5:00. In
5 Rockville, our first van leaves at 7:00 in the
6 morning and gets back to Rockville at 9:00. It will
7 be similar in D.C. But yes, we do have dogs
8 overnight.

9 MR. HOOD: Okay. And, I was looking. So, we
10 got all the soundproofing and all that, right?

11 MR. ABBOLT: Yeah.

12 MR. HOOD: All that's taken care of. Okay.
13 All right. Thank you.

14 CHAIRMAN HILL: Okay. Mr. Abbolt, you've
15 been here for a while. I am kind of curious, I mean,
16 you know, you were here again from this morning,
17 correct? And you were sworn in this morning?

18 MR. ABBOLT: I wasn't sworn in, no.

19 CHAIRMAN HILL: You weren't sworn in. Okay.
20 Whoever wasn't sworn in, could I swear you in real
21 quick with Mr. Moy?

22 Anybody who wants to speak or say anything
23 who is still here, please stand up and be sworn in.

24 [Oath administered to the participants.]

25 MR. MOY: Thank you.

1 CHAIRMAN HILL: Okay. So, what I would like
2 to hear, I mean, I've seen the presentation and I'm a
3 little curious, actually. So, the existing pet care
4 center that you have out of Rockville, you have like
5 suites it looks like, and little rooms and things.
6 Is that a similar concept that you guys are going to
7 do over on 18th? Is it 18th Street again?

8 MR. ABBOLT: Yeah. Yeah, we'll use the
9 Rockville location as a template. It won't be
10 identical but yeah, very similar.

11 CHAIRMAN HILL: So, there will be suites and
12 things such as that?

13 MR. ABBOLT: Yeah.

14 CHAIRMAN HILL: Okay. All right. I have a
15 dog, that's why I was just now thinking. My dog goes
16 far away, but you know, it doesn't have a chauffeur
17 service. It has a van. No.

18 Okay. So, would you like to tell us, since
19 like I said, you've been here, would you like to tell
20 us a little bit about your project?

21 MR. ABBOLT: Yeah. Well, if I've got some
22 free air time, I'll take it.

23 So, we've been going for almost two years in
24 Rockville. We've got three departments. So,
25 daycare, grooming, and boarding, and the idea of the

1 boarding is that to initially create a cage-free
2 environment, so it's no crates. Now, that said, we
3 do have a holiday crate option in Rockville because
4 we're so busy. In Rockville, we only have 16 suites.
5 Most people have more than one dog so right now we've
6 got 40 dogs staying each night. And, you know, we
7 hear the competitors in D.C. are pretty close to our
8 proposed location to 40, 50, 60 dogs a night
9 sometimes, as we hope to share in the business that
10 they're enjoying at the moment.

11 We do have a chauffeur service as well. It
12 runs four times a day in Rockville. It will be the
13 same in D.C., two pick-ups and two drop-offs. It
14 will be a tighter radius because of traffic in D.C.,
15 but we'll serve as many people as we possibly can.

16 I believe President Obama just got a house in
17 our neighborhood and we certainly hope to get his
18 dogs into our business.

19 CHAIRMAN HILL: I think he might have a
20 different option, but you never know.

21 Does anyone have some more questions for the
22 applicant? Okay.

23 I'm going to turn to the Office of Planning.

24 MR. MORDFIN: Good afternoon. I'm Stephen
25 Mordfin, and the Office of Planning continues to

1 support this case. It's in conformance with all of
2 the requirements for special exception. And as such,
3 the Office of Planning recommends approval because it
4 does conform to each and every one of the criteria,
5 and therefore we recommend approval.

6 CHAIRMAN HILL: Okay. Does anyone have any
7 questions for the Office of Planning? Okay.

8 Does the applicant have any questions for the
9 Office of Planning?

10 MS. MAZO: No, we're fine. Thank you.

11 CHAIRMAN HILL: Okay. Then, I'm going to
12 turn now to the audience. Is there anyone here from
13 the ANC?

14 Is there anyone here wishing to speak in
15 support of the application? Please come forward. If
16 you could please just state your name and your
17 address as well?

18 MR. STEWART: Cedric Stewart. My address is
19 20 West Gudi (phonetic) Drive, number 200 in
20 Rockville, Maryland.

21 CHAIRMAN HILL: Okay. I'm going to give you
22 three minutes.

23 MR. STEWART: Okay. I worked with Mr. Abbolt
24 to locate the space. I've been working with him for
25 the greater part of a year now and had the

1 opportunity to visit the existing space. And while I
2 do not currently have a dog I was thoroughly
3 impressed by the business model. It is cage-free.

4 And what I have likened it to is seemingly
5 the Ritz Carlton of doggie daycare. You know, there
6 is nothing quite like it in the Metropolis. And, I
7 work closely, I specialize in residential and
8 commercial leasing in the Washington Metropolitan
9 area, and I have some clients that live near the
10 proposed location and I did a poll to see, you know,
11 what their options were.

12 And quite frankly, they were not very pleased
13 with the current state of affairs. And so, I
14 encouraged them to you know, rally behind this. Some
15 of them even came, after having investigated his
16 current location, they came and spoke in favor at the
17 ANC hearing.

18 Also, I don't know if you mentioned it, but
19 there's a live feed where you can check on your dogs
20 any time. So, everything that I've seen from Mr. and
21 Mrs. Abbolt, the business itself, and even the
22 overwhelming support through the community lets me
23 know that this is the kind of project that is a
24 positive change to a neighborhood. So, I'm happy to
25 have been a part of it and I'd really like to see

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1 them flourish.

2 CHAIRMAN HILL: Okay. Great. Thank you.
3 Does anyone have any questions for the witness? All
4 right.

5 Is there anyone here wishing to speak in
6 opposition? If you could please come forward? If
7 you'd just go ahead and tell me your name and
8 address? And you have to speak into the microphone.
9 You have to push the button there.

10 MR. ANDERSON: Chris Anderson. Chris
11 Anderson.

12 CHAIRMAN HILL: Okay, Mr. Anderson. Where do
13 you live?

14 MR. ANDERSON: Yeah, I live a block away.

15 CHAIRMAN HILL: And what's your address? I'm
16 sorry.

17 MR. ANDERSON: 2201 Champlain Street.

18 CHAIRMAN HILL: Okay. Mr. Anderson, I'm
19 going to give you three minutes also, okay?

20 MR. ANDERSON: I'm representing Adams Morgan
21 Neighbors for Action. That's a community group. I'm
22 the secretary of which.

23 CHAIRMAN HILL: Okay. And how many people
24 are in that group?

25 MR. ANDERSON: Well, we have about 40.

1 CHAIRMAN HILL: Okay. All right. Well, I
2 guess you're mentioning that because you know you get
3 a little more time, or are you just trying to tell me
4 -- yeah. Sure.

5 MR. ANDERSON: (Simultaneous speech) but I
6 can (simultaneous speech).

7 CHAIRMAN HILL: Sure. That's okay. I mean,
8 you get five minutes. So, right.

9 MR. ANDERSON: Thank you.

10 CHAIRMAN HILL: And can you tell me, before
11 you start the clock, Mr. Moy, can you tell me again
12 what the organization is again, that you represent?

13 MR. ANDERSON: Adams Morgan Neighbors for
14 Action.

15 CHAIRMAN HILL: Adams Morgan --

16 MR. ANDERSON: One of the reasons we were
17 formed was a lack of outreach. When that hotel was
18 built at the top of Champlain Street and we had a lot
19 of problems with compliance. But I'd like to speak
20 to this case right now.

21 CHAIRMAN HILL: Yeah, please do.

22 MR. ANDERSON: On the face of it, I think
23 it's completely inappropriate. There's restaurants
24 and coffee shops on that strip. Now, how is -- and I
25 have a complaint about the exception to this case.

1 Is there in the rule books, because conflict is
2 expected.

3 How can this exception be approved knowing
4 that affected neighborhoods of only limited
5 engagement on the potential land use conflicts this
6 case presents? The restaurant owners have not been
7 talked to. Office of Planning has not been there.
8 So, they have no idea what's going on.

9 And how, how -- you know, so, there's a lot
10 of questions coming out of that. How are the patio
11 restaurant people on both sides of this address going
12 to be affected by people coming in and out with dogs?
13 I just happen to think it's completely inappropriate,
14 but there's an outreach issue here.

15 Solution. Delay this exception until
16 applicant has direct and forthright conversations
17 about doggie mitigation on this spot at this
18 location.

19 CHAIRMAN HILL: Okay. Is that your
20 testimony?

21 MR. ANDERSON: That's my testimony.

22 CHAIRMAN HILL: Okay. Does anyone have any
23 questions for the party in opposition?

24 Okay. I just had one clarifying question.
25 You had said, I thought, that you had spoken to both

1 neighbors on either side.

2 MR. ABBOLT: Yeah, the people with the
3 patios, I've spoken to them both. They've said they
4 currently open at 5:00 or 6:00 p.m., but because of -
5 - if we come to the neighborhood they're going to
6 open earlier because they're so excited by the
7 traffic that we're going to bring.

8 MR. ANDERSON: Really?

9 CHAIRMAN HILL: Okay. Excuse me.

10 MR. ANDERSON: Sorry.

11 CHAIRMAN HILL: Yeah, just give me a second.
12 Okay. So, you did speak to both neighbors,
13 and they're excited about it.

14 MR. ABBOLT: Yeah, so we have one direct
15 neighbor on each side. I've spoken to both. There's
16 a barber shop one door down in the same block, I have
17 a letter of support from him. And there's another
18 neighbor on the same block and I got a verbal support
19 from them. But, I've spoken to all of them.

20 CHAIRMAN HILL: Okay. Mr. Anderson, so, did
21 you go to the ANC meeting when this was spoken about?

22 MR. ANDERSON: No, I missed that. But my
23 main grievance really, right now, is OP wasn't there.
24 No one officially came to speak to those restaurant
25 owners. And when I spoke to them they didn't say

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1 what I just heard here.

2 CHAIRMAN HILL: Who did you speak to?

3 MR. ANDERSON: The owner of, I think it's --
4 they changed the name of the restaurant.

5 CHAIRMAN HILL: Is that one of the ones that
6 are right next door to the --

7 MR. ANDERSON: Yeah.

8 CHAIRMAN HILL: -- property?

9 MR. ANDERSON: Yeah.

10 CHAIRMAN HILL: Okay. So, I'm just hearing
11 conflicting --

12 MR. ANDERSON: I don't know him personally.

13 CHAIRMAN HILL: Okay. I'm just hearing
14 conflicting comments, but I have to go with also,
15 what the ANC did.

16 MR. ANDERSON: Oh, okay.

17 CHAIRMAN HILL: And the ANC met and spoke and
18 voted in favor of this, and they heard from -- yeah,
19 they heard from your entire ANC.

20 MR. ANDERSON: Okay. But they didn't hear
21 from our group or me.

22 CHAIRMAN HILL: Okay.

23 MR. ANDERSON: I just think it's completely
24 inappropriate.

25 CHAIRMAN HILL: Okay. I understand. All

1 right. Oh, sir. Go ahead.

2 MR. HOOD: So, you have 40 people in your
3 group.

4 MR. ANDERSON: Yeah.

5 MR. HOOD: And you're within a single-member
6 district?

7 MR. ANDERSON: Yeah.

8 MR. HOOD: And the ANC, nobody out of the 40,
9 not one --

10 MR. ANDERSON: Well, I missed the last
11 meeting.

12 MR. HOOD: Okay, you missed it. What about
13 somebody else in your group? Did anybody in your
14 group go to the last meeting?

15 MR. ANDERSON: I didn't even know about --
16 this issue just popped up. I didn't even know about
17 it and so, I'm not -- I didn't have a chance to read
18 the 10-page document either.

19 MR. HOOD: Right, but I mean, I'm just saying
20 that your ANC meets the same night every -- most
21 ANCs, unless yours is different, they meet the same
22 night every month.

23 MR. ANDERSON: Right.

24 MR. HOOD: Either the third Wednesday like
25 mines, or -- which is tonight, Mr. Chairman, so I

1 need to -- or either it's the second Tuesday --

2 CHAIRMAN HILL: You have a long night, then.

3 MR. HOOD: But, I'm just saying, so you have
4 40 members in your group and nobody made it to the
5 ANC meeting, whether this was on the agenda or not.

6 MR. ANDERSON: This is the first I've heard
7 of it. Yes, today, earlier this week.

8 MR. HOOD: How did you find out about this
9 case?

10 MR. ANDERSON: Well, some -- a member from my
11 group told me, from talking on the street, because we
12 frequent that street.

13 MR. HOOD: So, you're not within 200 feet?

14 MR. ANDERSON: Oh, no. I'm not within -- I'm
15 probably about 800 feet. But it's not, it's not my -
16 - it's an issue of the people who have to put up with
17 a dog hotel amidst their food restaurants.

18 MR. HOOD: So, you're representing them too?

19 MR. ANDERSON: I'm representing myself in
20 this case. Now.

21 MR. HOOD: Okay.

22 MR. ANDERSON: Now that I've been
23 marginalized down to me, that's fine.

24 MR. HOOD: Okay. No, I'm just trying to
25 figure out the whole -- what's existing -- excuse me,

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1 what's existing in front of us.

2 CHAIRMAN HILL: Okay. Thank you.

3 MR. HOOD: Thank you.

4 CHAIRMAN HILL: All right. Does anyone have
5 any more questions of the applicant? All right,
6 would the applicant like to say anything in closing?

7 MS. MAZO: Yeah, this will be very quick.
8 Just for the record, at Exhibit 32 we have a letter
9 in support signed by the owner, Michael Shin of 2216
10 18th Street, which is one of the adjacent retail
11 properties directly adjacent to the property.

12 I also note for the record that at Exhibit 50
13 the ANC's letter of support does indeed indicate that
14 the ANC -- sorry, the December 7th, ANC meeting was
15 duly noticed. And I can speak from personal
16 experience that indeed the notices of the ANC
17 meetings were posted on the ANC's website, and I
18 understand they were also posted through the
19 listserv.

20 Finally, I do just note that there are many
21 doggie daycares that are very close to retail.
22 Especially in this area. You have the City Dogs,
23 which is directly across the street from Laoreal
24 Plaza, just down 18th Street. You also have the Wag
25 Time on 19th Street, which is directly adjacent to

1 Corduroy, which is a five-star restaurant. You also
2 have a very, very large, I'm trying to remember the
3 name, but a very large doggie daycare that's at 14th
4 and Florida, that is directly adjacent to all of the
5 retail all the way up and down 14th Street. So,
6 there are many instances within the city in which
7 doggie daycare and restaurant are adjacent to each
8 other, and there have been no concerns that I know
9 of. So, thank you.

10 CHAIRMAN HILL: Okay. Great. Thank you.
11 Does the Board have any further questions for the
12 applicant? Okay. Then, I'm going to close the
13 hearing.

14 Is the Board ready to deliberate?

15 MR. ANDERSON: May I have one more --

16 CHAIRMAN HILL: No, I'm sorry. You've had
17 your chance to talk.

18 MR. ANDERSON: Did I?

19 CHAIRMAN HILL: Yeah.

20 MR. ANDERSON: I used it up?

21 CHAIRMAN HILL: Yeah, sorry. Is the Board
22 ready to deliberate?

23 Okay. Okay. Well, I can start the
24 deliberation. I mean, other than the opposition that
25 has come forward, now I do realize that the

1 opposition waited here as well to have an opportunity
2 to speak. Everyone else in the neighborhood is in
3 support. The ANC has supported this, they have voted
4 unanimously to support this. They have, there is in
5 the record, there is letters of support from the
6 neighbors on either side of the property.

7 I think that accordingly the analysis from
8 the Office of Planning has led me to be able to
9 support the special exception. And again, I do think
10 that the applicant has also proven that they seem to
11 be a very reliable business and I do wish them
12 success in the area.

13 There are many other similar type businesses
14 that are up and down those streets, and they are also
15 located next to restaurants as was mentioned before.

16 So, does anyone else have anything to add?
17 Okay.

18 Then, I'll go ahead and make a motion to
19 approve Application No. 19392 and as captioned by the
20 secretary, and ask for a second.

21 MS. BUTANI-D'SOUZA: Second.

22 CHAIRMAN HILL: The motion has been made and
23 seconded.

24 [Vote taken.]

25 CHAIRMAN HILL: The motion passes, Mr. Moy.

1 MR. MOY: Staff would record the vote as
2 four, to zero, to one. This is on the motion of
3 Chairman Hill's motion to approve the application for
4 the relief requested.

5 I don't think there were -- there were no
6 conditions attached to this, correct?

7 CHAIRMAN HILL: I don't believe so. Oh,
8 yeah. I'm sorry. There was one, and I guess, I
9 think the applicant might have mentioned it but just
10 to be clear, that the applicant post in the building
11 and provide information to its customers that they're
12 not to use the commercial loading spaces in 18th
13 Street for pick-up and drop-off of the pets. Okay?
14 And the applicant is nodding in agreement.

15 MR. MOY: Okay. Thanks, Mr. Chair.
16 Seconding the motion, Vice Chair Butani-D'Souza.
17 Also in support, Mr. Hood, Mr. Hart. Board seat
18 vacant. Motion carries, sir.

19 CHAIRMAN HILL: Okay. Thank you. Thank you
20 all.

21 MS. MAZO: Summary order?

22 CHAIRMAN HILL: Yes, please. Summary order.
23 And also, there's one more vote I think that I have
24 to take care of. But that doesn't require you guys.

25 [Pause.]

1 CHAIRMAN HILL: Oh so, Mr. Moy, I have that
2 we have to take a vote, right, on the closed
3 meetings?

4 MR. MOY: Yes, sir.

5 CHAIRMAN HILL: Okay. So, in accordance with
6 Section 405C of the Open Meetings Act, D.C. Code
7 Section 2575C, I move that the Board of Zoning
8 Adjustment hold closed meetings on Monday, January
9 9th, and Tuesday, January 17th. These meetings start
10 at 3:00 p.m. and are held for the purpose of
11 obtaining legal advice from our counsel, and
12 deliberating upon but not voting on the cases
13 scheduled to be publicly heard or decided by the
14 Board on the day after each such closed meeting.

15 Those cases are identified on the Board's
16 public meeting and hearing agendas for January 11th
17 and January 18th. A closed meeting for these
18 purposes is permitted by Section 405(b)(4) and
19 (b)(13) of the act. Is there a second?

20 MS. BUTANI-D'SOUZA: Second.

21 CHAIRMAN HILL: Will the secretary please
22 take a roll call vote on the motion?

23 MR. MOY: Thank you, sir. When I call the
24 member's name if you would please replay with a yes
25 or no, yea or any.

1 [Roll call vote taken.]

2 MR. MOY: Mr. Anthony Hood?

3 MR. HOOD: Yes.

4 MR. MOY: Vice Chair Butani-D'Souza.

5 MS. BUTANI-D'SOUZA: Yes.

6 MR. MOY: Chairman Hill.

7 CHAIRMAN HILL: Yes.

8 MR. MOY: Carlton Hart.

9 MR. HART: Yes.

10 MR. MOY: We have a board seat vacant. The
11 motion carries, Mr. Chairman.

12 CHAIRMAN HILL: Okay. I request, then that
13 the Office of Zoning provide notice of these closed
14 meetings in accordance with the act.

15 MR. MOY: Yes, thank you.

16 CHAIRMAN HILL: Mr. Moy, is there anything
17 else we need to address today?

18 MR. MOY: No, I think that completes the
19 Board's day and completes 2016 BZA hearings.

20 [Whereupon, at 5:27 p.m., the Board Hearing
21 was adjourned.]

22

23

24

25