

GOVERNMENT  
OF  
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

+ + + + +

PUBLIC HEARING

+ + + + +

WEDNESDAY

JUNE 13, 2018

+ + + + +

The Regular Public Hearing convened in the Jerrily R. Kress Memorial Hearing Room, Room 220 South, 441 4th Street, N.W., Washington, D.C., 20001, pursuant to notice at 9:30 a.m., Frederick Hill, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

FREDERICK L. HILL, Chairperson  
LESYLLEE M. WHITE, Board Member  
CARLTON HART, Board Member (NCPC)  
LORNA JOHN, Board Member

ZONING COMMISSION MEMBERS PRESENT:

PETER MAY, Commissioner

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY, Secretary

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

SHERRY GLAZER, ESQ.

## OFFICE OF PLANNING STAFF PRESENT:

JOEL LAWSON  
JONATHAN KIRSCHENBAUM  
MATT JESICK  
ELISA VITALE  
MAXINE BROWN-ROBERTS  
STEPHEN MORDFIN  
KAREN THOMAS  
ANNE FOTHERGILL

The transcript constitutes the minutes from the  
Public Hearing held on June 13, 2018.

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

(9:57 a.m.)

CHAIRMAN HILL: All right, Mr. Moy.

SECRETARY MOY: All right, Mr. Chairman. The first two cases, I don't know if, whether or not you want me to call both cases or not, but for now, the first case is appeal number 19613 of B Monroe Ventures, LLC, captioned and advertised as an appeal from the determination made on July 28, 2017 by the Zoning Administrator at Department of Consumer Regulatory Affairs, that per Subtitle E, Section 307.3, a side yard would be required to construct two flats on the existing vacant lots in the RF-1 Zone.

This is at 1844 Monroe Street, Northwest, square 2614, lot 38. As I was mentioning earlier, there is a related case application to the same subject property.

CHAIRMAN HILL: Can you read them both? Can we do them both?

SECRETARY MOY: Yes, I, yes, I can.

CHAIRMAN HILL: Because they're both, they're both requesting postponement, correct?

SECRETARY MOY: Absolutely, Mr. Chair. That is case application number 19614 of B Monroe Ventures, LLC. Captioned and advertised for a variance from the side yard requirements, Subtitle E, Section 307.3, which would construct a new three-story flat, RF-1 Zone, 1844 Monroe

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1 Street, Northwest, square 2614, lot 38. And this Board will  
2 recall, there is approved party status.

3 CHAIRMAN HILL: Okay. Whoever's here, could you  
4 come to the table? Okay, good morning. If you could please  
5 introduce yourselves, from my right to left.

6 MS. LORD-SORENSEN: Good morning, Chairman Hill,  
7 and members of the Board. Adrienne Lord-Sorensen, assistant  
8 general counsel with the DC Department of Consumer and  
9 Regulatory Affairs.

10 MR. KELLER: Keenan Keller, 1850 Monroe Street  
11 party intervenor, along with Donna Murphy.

12 CHAIRMAN HILL: Could you say your last name  
13 again, sir? I'm sorry.

14 MR. KELLER: Keller. K-E-L-L-E-R.

15 CHAIRMAN HILL: Keller. Thank you.

16 MS. MURPHY: All right. I'm Donna Murphy, and  
17 together with my husband, Keenan Keller, we own the property  
18 at 1850 Monroe Street, and we're the party intervenors.

19 CHAIRMAN HILL: Okay, great.

20 MR. SULLIVAN: Good morning, Mr. Chairman, and  
21 members of the Board. My name is Marty Sullivan, on behalf  
22 of the Applicant and Appellant.

23 CHAIRMAN HILL: Okay. So Mr. Sullivan, I guess  
24 you have filed a motion -- a motion? -- you've requested  
25 postponement. And in the request, it is, the reasoning

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1 behind it was that you believe that this, that you're working  
2 with DCRA to possibly resolve the issue, and is that  
3 basically it?

4 MR. SULLIVAN: That's it. And then, we wanted to  
5 reserve our right, especially for the appeal, in the  
6 meantime, to make sure that our, what's going to be, looks  
7 like a matter of right solution, is, works. And as long as  
8 that gets approved, but we would like to reserve our rights  
9 in regard to the appeal.

10 And then, the Zoning Commission didn't resolve the  
11 issue of the text amendment that would've resolved this, in  
12 their last meeting, and so that's been extended as well.

13 CHAIRMAN HILL: Okay. So you're sort of trying  
14 to, I mean, okay. So when is it that you think this will be  
15 resolved, one way or the other?

16 MR. SULLIVAN: I'd like to think really quickly.  
17 But since we requested the postponement, and I know the  
18 neighbors have requested a date --

19 CHAIRMAN HILL: The intervenor --

20 MR. SULLIVAN: -- and we're fine with that.

21 CHAIRMAN HILL: Right. The intervenor was --

22 MR. SULLIVAN: Yes.

23 CHAIRMAN HILL: -- in objection to the  
24 postponement, and then they mentioned that they had prior  
25 obligations, and that there was a date that possibly could

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1 have worked for them. But even if that were the case, are  
2 you saying that this will be resolved by July 18th?

3 MR. SULLIVAN: It sure seems like that.

4 CHAIRMAN HILL: Okay, one way or the other.  
5 Whether we're either going to be here or not, that --

6 MR. SULLIVAN: Yes.

7 CHAIRMAN HILL: Okay. All right. So now, Mr.  
8 Murphy and -- oh, I'm sorry. Ms. Murphy and Mr. Keller, so  
9 you guys are, we seen the objection to the postponement, and  
10 then also the possibility that even if we were to postpone,  
11 to do something either July 18th or later, and would you, do  
12 you have any comment on that?

13 MS. MURPHY: Yes. We object to the postponement  
14 because, as parties to these cases, we think that the cases  
15 should be resolved, involving us, and we have not been  
16 notified or provided any information about what the possible  
17 resolution is.

18 So we just, we didn't know, learn about the  
19 possible resolution until we received a request to consent  
20 to the motion to postpone. So if there's a resolution to  
21 these matters, we think it should involve all of the parties.

22 And then, with regard to the date, if it is  
23 postponed, yes, a date July 18th or later, you know, we'd  
24 like the opportunity to make sure that we can be present for  
25 whenever the hearing is rescheduled.

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1           CHAIRMAN HILL: Okay. So I actually don't know  
2 what the intervenor is supposed to be involved in, right?  
3 I mean, and now I'm looking at Ms. Glazer. Like, there's not  
4 any, that's not something that they are involved in as the  
5 intervenor. They're an intervenor to this particular case,  
6 correct?

7           MS. GLAZER: Well, since this is an appeal, it's  
8 a little different than if it were an application, I think.  
9 With an appeal, it sounds like the parties are, the other  
10 parties, DCRA and the Appellant, are discussing a matter of  
11 rights solution, which would probably result in a withdrawal  
12 of the appeal, if I'm not --

13          CHAIRMAN HILL: Okay. So I guess the answer to  
14 that is you are not part of this process, and if the appeal  
15 were to go through, you're an intervenor for the appeal.

16          And so if the appeal is, if the appeal is dropped,  
17 then I guess it would go away. And then, your, then I don't  
18 know what the next steps would be on your part, in terms of,  
19 I guess, then you would appeal a permit or anything like  
20 that, that might, I don't know. I don't know.

21          MS. MURPHY: So this is the first time we've heard  
22 that this is a matter of rights solution, so that's new  
23 information to us.

24          MR. KELLER: Today, as of this moment.

25          MS. MURPHY: As of this moment, that was not

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1 included in the motion. So that's useful information,  
2 obviously.

3 In terms of the application for variance though,  
4 I don't know, we're a party also to the application for  
5 variance, so I don't know whether that is a different legal  
6 standard.

7 CHAIRMAN HILL: I think that, in the experience  
8 that I've had, the parties will try to come to some kind of  
9 resolution, and if you're here before us, you will then find  
10 out, you know, any information during the hearing that you  
11 would be privy to as an intervenor.

12 MS. MURPHY: And that really seems to put existing  
13 property owners at a disadvantage in this process, but you  
14 know, we will do what we can.

15 CHAIRMAN HILL: Okay.

16 MR. KELLER: I think the thing that we want to  
17 stress at this particular moment, that the zoning approval  
18 process shouldn't be a trial by ambush, with respect to  
19 property owners. We're getting new information, as of this  
20 moment, with respect to an as a right solution.

21 CHAIRMAN HILL: No, that, I'm just going to --

22 MR. KELLER: Yes.

23 CHAIRMAN HILL: First of all, like, I don't  
24 believe that there's any ambush involved. And so I mean, you  
25 have, we just hear the cases that come before us.

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1           And so you know, I can't, we're not here to force  
2 other people to do, like, you know, they're here, the  
3 Appellant is here, and they're trying to work whatever  
4 they're trying to work through.

5           You, as the neighbor, as a property owner, as the  
6 intervenor, will have all of the information necessary during  
7 the hearing for the appeal, if it does happen. And so --

8           MR. KELLER: When you say during the hearing, do  
9 you mean literally at this moment, so that we can't brief any  
10 issue that comes before us?

11           CHAIRMAN HILL: You would have, if the appeal were  
12 to go through, you would have an opportunity, as the  
13 intervenor, to cross-examine and present your testimony also,  
14 during the appeal. And everything would be in the record  
15 before the appeal happens. So you'd be able to see  
16 everything in the record before you came to the appeal. So  
17 you'd see, you'd see everything in the record before you came  
18 here.

19           MS. MURPHY: So the other thing I would note, and  
20 I don't, again, I don't, I'm not an expert in this area, so  
21 I don't know how it applies, but the ANC has also opposed the  
22 variance in this case and submitted an opposition, so that  
23 should be taken into account and --

24           (Simultaneous speaking)

25           CHAIRMAN HILL: Yes, it will be. It will be.

1 Okay. So, and from our standpoint, again, I'm just trying  
2 to, we're trying --

3 MR. KELLER: So with respect to any new  
4 application that would be made, before, given the fact that  
5 the ANC has a right to comment, and they've taken a position  
6 adverse to the original application, before there could  
7 actually be any hearing, this information would have to come  
8 before the ANC so they could actually review it also before  
9 this body actually heard and took a position on any new  
10 application that was given.

11 CHAIRMAN HILL: Yes.

12 MR. KELLER: So put it, to sort of make it simple,  
13 assuming that they file a new application, before this body  
14 would be able to make a determination, the ANC would have to  
15 have its time period to review that new application and  
16 potentially comment one way or another, or not comment at  
17 all, before it would come back here?

18 CHAIRMAN HILL: Yes.

19 MR. KELLER: Okay. So that would actually extend  
20 the time period for any hearing beyond July. And since the  
21 ANCs don't meet in August, you're actually now into  
22 September.

23 CHAIRMAN HILL: I mean, I don't understand what  
24 your question is.

25 MR. KELLER: My --

1 MS. MURPHY: We just, I think what we're trying  
2 to say is we want to make sure that the process is followed  
3 in the way it needs to be, and that the ANC, and we as  
4 parties, have an --

5 CHAIRMAN HILL: Sure.

6 MS. MURPHY: -- opportunity to get the information  
7 in advance. With regard to this July 18th date, it's not  
8 clear that if there's new information relevant to the  
9 variance, that that's going to allow enough time for ANC  
10 participation. I don't, you know, we don't have any idea  
11 what's being considered --

12 (Simultaneous speaking)

13 MS. MURPHY: -- so that's the issue.

14 CHAIRMAN HILL: Okay. Mr. Sullivan?

15 MR. SULLIVAN: Yes, if I could clarify something.  
16 If we, if we're here on July 18th, it's with, it's with this  
17 case.

18 CHAIRMAN HILL: Yes.

19 MR. SULLIVAN: And if we, if we are, can satisfy  
20 the matter of right requirements -- it's called compliance,  
21 not an ambush -- then we won't be here.

22 CHAIRMAN HILL: Yes.

23 MR. SULLIVAN: So there's not going to be any  
24 changes prior to --

25 CHAIRMAN HILL: Okay. So if you have any

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1 questions for, beyond, and I know it's confusing, but the  
2 Office of Zoning is located across the hall, and they can  
3 give you a little bit more information about the process.  
4 But the process is followed.

5           And so if you are here on, if we do, and I don't  
6 know what date we're going to do it, but if we do do it on  
7 July 18th, then you would be here for the appeal, which is  
8 what we're here for, and you would be here --

9           MS. MURPHY: For the existing record?

10           CHAIRMAN HILL: For the existing record. And you  
11 would be here for the application that is, you know, whatever  
12 the back up, you know, the other application that's also  
13 being postponed today, if we're back here on --

14           MR. KELLER: On or about July 18th.

15           CHAIRMAN HILL: -- the 18th, yes. On or about  
16 July 18th, right. So --

17           MS. MURPHY: On the existing record?

18           CHAIRMAN HILL: Yes, on the, so Mr. Moy, can you  
19 tell me how July 18th is looking, and also, then, I think  
20 there's only one more day before we recess after that, right?

21           SECRETARY MOY: Yes. Well, actually, Mr.  
22 Chairman, there, July 18th and July 25th, was it, they're  
23 coequal, and so, in other words, it won't matter, in terms  
24 of the load of the docket, on which day --

25           CHAIRMAN HILL: For the Board? Okay. Then let's

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1 do July 18th, because the last day is the last day. So I'd  
2 rather not --

3 SECRETARY MOY: That's correct. That's correct.

4 CHAIRMAN HILL: -- you know, okay. So we're going  
5 to postpone both, unless the Board has any other questions  
6 or thoughts, I'd go ahead and say, let's postpone appeal  
7 number 19613, as well as application number -- excuse me one  
8 second -- as well as application number 19614, to September  
9 -- I'm sorry, not September -- July 18th. Does the Board  
10 have any thoughts on that? Okay. You had a question?

11 MS. MURPHY: Mr. Chairman, may I?

12 CHAIRMAN HILL: Sure.

13 MS. MURPHY: We, the first time we heard the July  
14 18th date was when you just mentioned it. Could we have an  
15 opportunity to check and make sure that we can be present on  
16 that date? That was not ever --

17 CHAIRMAN HILL: I thought that was the date that  
18 you guys said that --

19 MS. MURPHY: No.

20 CHAIRMAN HILL: -- worked for you guys.

21 MR. KELLER: No, we did not.

22 MS. MURPHY: We said, we said that we were not  
23 available on the dates they had previously suggested.

24 CHAIRMAN HILL: Okay. I'm sorry. I'm trying to  
25 --

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1 MS. MURPHY: So --

2 CHAIRMAN HILL: I'm trying to help also in this

3 --

4 MS. MURPHY: I appreciate that.

5 CHAIRMAN HILL: -- particular area. I mean --

6 MS. MURPHY: I'm just trying to make sure we're

7 --

8 CHAIRMAN HILL: -- because if, the postponement  
9 means that we wouldn't be here. I'm sorry. We're postponing  
10 to see whether or not these two cases go away. And so that's  
11 what I'm just trying to see, and if it, and we're going to  
12 be back here and they're not going to go away -- I'm sorry.  
13 If they don't go away by July 18th, then we will be back  
14 here. So you're not here July 18th.

15 MS. MURPHY: I don't know. We need to, we don't  
16 literally have our work calendars in front of us.

17 CHAIRMAN HILL: Okay. One second. One second.

18 VICE CHAIR HART: Mr. Chairman, the intervenor has  
19 actually submitted a letter, and they submitted a letter in  
20 opposition, of course. We all read through that. But in  
21 that, it does say if the Board --

22 MS. MURPHY: I'm sorry.

23 VICE CHAIR HART: -- does grant the Appellant's  
24 request for postponement of the hearing, we would request  
25 that it be postponed to July 18th or later, as we will be out

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1 of time on a long planned trip, blah, blah, blah.

2 CHAIRMAN HILL: Right. All right.

3 MS. MURPHY: I apologize.

4 VICE CHAIR HART: But I'm just saying that we are  
5 not just pulling the number out of the air, we're actually  
6 looking at what it is that is before us, and we're trying to  
7 make a determination on that.

8 MS. MURPHY: You're correct. That was my mistake.  
9 I'm sorry.

10 CHAIRMAN HILL: That's okay.

11 VICE CHAIR HART: I'm just reading what's here.

12 CHAIRMAN HILL: That's okay. Did you guys submit  
13 that one?

14 MR. KELLER: Yes.

15 MS. MURPHY: Yes, we did.

16 CHAIRMAN HILL: Oh, okay. Yes. So --

17 MS. MURPHY: I'm not going to look at it.

18 CHAIRMAN HILL: That's all right. So July 18th,  
19 then, we're going to put it on there, okay? Because --

20 MS. MURPHY: Okay.

21 CHAIRMAN HILL: -- that's what seemed to work.  
22 And so Mr. Moy, July 18th, okay?

23 SECRETARY MOY: Yes, sir.

24 CHAIRMAN HILL: All right. Okay. I know it's  
25 confusing, and I know it's difficult, and I know it's a pain,

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1 and so, but we'll, hopefully, we'll see you on July 18th.

2 MR. KELLER: with the caveat being that we're not  
3 necessarily in control of our schedules. Today, we're  
4 actually here for another postponement, when they, business  
5 of the United States is being done, and we're not there, and  
6 we'll get back to it. But thank you very much, Mr. Chairman.

7 CHAIRMAN HILL: All right, Mr. Keller. Thank you.

8 MS. MURPHY: Thank you.

9 CHAIRMAN HILL: Thank you. All right, Mr. Moy.

10 SECRETARY MOY: All right. If we could have  
11 parties to the table to case application number 19689 of MIC9  
12 Owner, LLC, as amended for special exceptions from the  
13 private school regulations under Subtitle X, Section 104.1,  
14 and from the bulk extension regulations under Subtitle A,  
15 Section 207.2.

16 This would construct a new office space and a  
17 111-unit apartment house on the campus of an existing adult  
18 private school in the RA-2 and RA-4 Zones as premises 2300  
19 16th Street Northwest, square 2568, lot 806, 808, and 809.  
20 And I believe, in the record, Mr. Chair, there is a request  
21 for party status under Exhibit 54.

22 CHAIRMAN HILL: Okay. Is the party status request  
23 person here? Okay, great. Let's go ahead and do that first.  
24 Okay, give me one second. Just give me one second. Let's  
25 introduce everybody, okay? So if I could just go right to

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1 left --

2 MS. PERRY: Amanda Perry. I'm the ANC  
3 commissioner for 1C08.

4 MR. HITCHCOCK: Con Hitchcock, counsel for Beekman  
5 Place Condominium Association.

6 CHAIRMAN HILL: Welcome back, Mr. Hitchcock.

7 MR. HITCHCOCK: Welcome back, sir.

8 MR. CUMMINGS: Jon Cummings with Westbrook  
9 Partners, the Applicant.

10 MR. AVITABILE: David Avitabile with Goulston &  
11 Storrs, counsel for the Applicant.

12 CHAIRMAN HILL: Could you say your last name  
13 again, sir?

14 MR. AVITABILE: Avitabile.

15 MR. BELL: Matthew Bell with Perkins Eastman DC  
16 architect.

17 MR. HART: Mathew Hart, Perkins Eastman architect.

18 MR. HOLLIDAY: Stuart Holliday , CEO, Meridian  
19 International Center.

20 MS. MILANOVICH: Jami Milanovich with Wells +  
21 Associates, traffic consultant for the Applicant.

22 CHAIRMAN HILL: Okay. Just if you all could just  
23 turn off your microphones when you're not speaking, just  
24 because there's feedback sometimes. Mr. Hitchcock, so you  
25 had asked, requested party status?

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1 MR. HITCHCOCK: Yes, sir. And yesterday, we filed  
2 a letter on behalf of the association withdrawing the  
3 request. It should be, it's in the record as Exhibit 70.

4 CHAIRMAN HILL: Okay. All right. Well, then,  
5 that's easy. Well, then, thanks for coming.

6 MR. HITCHCOCK: Thank you.

7 CHAIRMAN HILL: All right. So which one of the  
8 group here is going to be speaking? Okay.

9 MR. AVITABILE: I'll be the ringleader today.

10 CHAIRMAN HILL: Okay.

11 MR. AVITABILE: We do have a two experts that we'd  
12 like to proffer.

13 CHAIRMAN HILL: Yes.

14 MR. AVITABILE: They're in the record. Matt Bell  
15 from Perkins Eastman DC as an expert in architecture, and  
16 Jami Milanovich, at the end of the table, as an expert in the  
17 field of transportation engineering.

18 CHAIRMAN HILL: I thought you guys were both in  
19 the book already. Aren't you?

20 MR. AVITABILE: They are.

21 CHAIRMAN HILL: Okay, great. All right. So Mr.  
22 Avitabile --

23 MR. AVITABILE: That's right.

24 CHAIRMAN HILL: Sorry. The first thing, just  
25 really quick, so well, I, if we could go through your

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1 presentation, and then, again, just highlighting what is the  
2 request that you're asking of us to relief from, and then how  
3 you're meeting the standards for the, that relief, for us to  
4 grant the relief.

5 If you'd also touch on the DDOT condition that  
6 they had mentioned, I'm going to go ahead and put 20 minutes  
7 on the clock, just so I know where we are, and you can start  
8 whenever you begin, or start whenever you like,

9 MR. AVITABILE: Right. Our case is somewhat  
10 complicated. The presentation may be a little bit longer  
11 than 20 minutes, but we'll --

12 CHAIRMAN HILL: Okay.

13 MR. AVITABILE: -- do our best to --

14 CHAIRMAN HILL: We'll just see where, we'll see  
15 where you end up.

16 MR. AVITABILE: Great. All right. Good morning,  
17 Chairman Hill, members of the Board. We're pleased to be  
18 here today to present an application that's been years in the  
19 making, and will permit the construction of a new building  
20 on a missing gap in the 16th Street corridor, across from  
21 Meridian Hill Park. It's a special and unique site.

22 It's located in the Meridian Hill historic  
23 district, and it's also adjacent to two historic landmark  
24 mansions designed by John Russell Pope. It's also located  
25 in two different zones, the moderate density RA-2 Zone, and

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1 the high density RA-4 Zone.

2           The site is located on the campus of Meridian  
3 International Center, which is operated here as a private  
4 school since 1960. We propose to construct a new condominium  
5 building on the site. The building will also contain space  
6 for modernized office and meeting space for Meridian, and  
7 parking for both uses.

8           To facilitate the project, we require two areas  
9 of special exception approval. Approval to move the zone  
10 boundary line of a split zone lot, and the approval to modify  
11 the existing private school plan to accommodate the project.

12           The building's followed a long and winding road  
13 to arrive before you today. I first started working on this  
14 project back in December 2013, four and a half years ago.

15           The initial proposal was for a larger building  
16 with a more modern design that was intended to proceed as a  
17 plan unit development. The version of the project that is  
18 before you today was discussed extensively, or the version  
19 of the project that we presented then was discussed  
20 extensively with a working group of neighbors that was a  
21 convened by a facilitator, and it was submitted to HPRB back  
22 in early 2015.

23           Based on extensive comment from community  
24 stakeholders, the ANC, staff at the Historic Preservation  
25 Office, and the Historic Preservation Review Board, we halted

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1 the advancement of that version of the project in mid-2015.

2 We then took a fresh look at the project, and  
3 beginning in 2016, changed the direction with a new  
4 architect. Over a period of many months, and through three  
5 trips to HPRB, we ultimately secured concept approval from  
6 HPRB in June 2017.

7 Following HPRB approval, we prepared and submitted  
8 this application, and we also reconvened the working group  
9 of neighbors to discuss the anticipated impacts of this  
10 project, as well as other issues and concerns.

11 Over a period of many months, the working group  
12 engaged with us in a thoughtful, constructive, and  
13 deliberative manner, and we are pleased to say that we are  
14 here today with a revised design, and a memoranda of  
15 understanding that have been agreed to by the associations  
16 and representatives of our surrounding homeowners.

17 It's been a long road, but the end result has made  
18 it a worthwhile journey. As you may have seen in the last  
19 few days, we've reached consensus with the Beekman Place  
20 Condominium Association on an alternative circulation plan  
21 for the project. Those plans were submitted yesterday.

22 All vehicles will still enter from Belmont Street  
23 Northwest. However, under this revised plan, all vehicles  
24 that are parked in the garages exit directly out onto  
25 Crescent Place Northwest, rather than back onto Belmont.

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1           The trucks, valet, and vehicles conducting drop  
2 off and pickup activity do still use Belmont. We'll go  
3 through this in the presentation, but I wanted to make sure  
4 that you were aware of this change, which was just submitted  
5 yesterday, based on these last minute discussions with  
6 Beekman Place.

7           We submitted the plans, along with a brief  
8 memorandum from our traffic expert, affirming that the change  
9 will not have any adverse impact on the transportation  
10 network, and we also submitted revised versions of the MOUs  
11 with the surrounding associations acknowledging this change.

12           Presentation we have before you today, we have  
13 some comments from both Meridian and the Applicant. Our  
14 architect, Matt Bell, of Perkins Eastman will then review the  
15 design of the project with you, followed by a review of the  
16 transportation study from our traffic consultant, Jami  
17 Milanovich.

18           And then, I'll work through the remainder of the  
19 burden of proof. In the interest of time, we could cut the  
20 introductory comments from both Meridian and the Applicant  
21 to move this along.

22           I think that might be appreciative to move it  
23 along. I recognize you want to keep the presentation short,  
24 so we can jump right to Mr. Bell, if you'd like.

25           CHAIRMAN HILL: Okay. Unless the Board has any

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1 objection.

2 MR. AVITABILE: Okay.

3 CHAIRMAN HILL: Okay.

4 MR. AVITABILE: So we'll skip to Matt.

5 MR. BELL: Good morning. Oops, I'll turn the  
6 microphone on. Good morning. Matt Bell with Perkins Eastman  
7 DC. I'm going to cover several different things that David  
8 mentioned.

9 I'm going to talk a little bit about the site  
10 context, and the historic district, and what some of the  
11 issues are, and characteristics of that district that we are  
12 embracing as part of the design.

13 I want to talk a little bit about the Meridian  
14 campus, and what's there on the site, and how we're  
15 responding to what's there. Talk some more about the project  
16 design, showed some perspectives, both aerials and ground  
17 level views.

18 This is an aerial from the southeast, if you can  
19 see. Talk about the floor plans. Mention, of course, I'll  
20 point out the new parking arrangement, and how that works,  
21 because I think that's essential to the most recent  
22 developments that Mr. Avitabile has pointed out, and the  
23 heightened density issues in the context of 16th Street, and  
24 then move on to talk about the zoning building line moving,  
25 and the adverse impact of that, and why that makes this a

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1 better project, and why that was a necessary aspect of the  
2 design in shifting the density to the, to the 16th Street  
3 side.

4           And also, the fact that the project will really  
5 not have any objectionable impacts, in terms of light air or  
6 shadow, and noise impacts. In the end, we're bringing to you  
7 a project that is both in harmony with the zoning  
8 regulations, asking for this building zoning line movement  
9 to accommodate a very important aspect, which is the historic  
10 buildings next door, which, by right, would probably have a  
11 very different kind of impact.

12           So with the zoning change, it gives you something  
13 that is quite sympathetic to the historic buildings next  
14 door. And we think, in the end, through the feedback that  
15 we've gotten, the approval with HPRB, and also the back and  
16 forth of the neighborhood, we're bringing to you something  
17 today that we think is quite in character with the  
18 neighborhood, and quite, something that will add to the  
19 historic character of the, character of the historic  
20 district, the grandeur of 16th Street, and also, the grandeur  
21 of the two John Russell Pope houses on the site.

22           So this is the design that was submitted  
23 initially, by another architect in 2015, and the design that  
24 we're bringing to you today, on the right side. And one of  
25 the things we've sought to do is to, a couple of things.

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1           Number one, design a building that is in character  
2 with the, with the landscape of 16th Street, and also the  
3 historic buildings next door, in a sense that we're using a  
4 language of bay windows, this tall vertical element in the  
5 center, and putting the main entry to the building on the  
6 center axis of the, of the, of the facade.

7           Also, stepping the building back at the skyline  
8 to get a lot of interest and relief there, and using these  
9 corner balconies to make more vertical readings on the side  
10 elevations.

11           We also have corner entries. You can see, it's  
12 a lower portion there. I don't know if you all can see the  
13 arrow. Can you see the arrow there?

14           CHAIRMAN HILL: Yes.

15           MR. BELL: Okay. All right. And then, entries  
16 and stairways that I'll point as we go into the site plan.  
17 The building, where are we here? I thought we were going to  
18 that one. Yes. We'll get around to that.

19           Let me just back up a second and talk about the  
20 16th Street Meridian Hill historic district. It is  
21 characterized as two essential building types. One of the  
22 grand apartment buildings that you see as you go up 16th  
23 Street, and surrounding Meridian Hill Park, these tend to be  
24 larger buildings, they tend to have vertical expressions,  
25 they tend to have centralized entries, bay windows.

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1           They tend to have a sort of sense of arrival at  
2 the front door, which is quite distinct. Some of them extend  
3 back into the block some distance there. You can see some  
4 of those noted in red.

5           And also, we have smaller neoclassical pavilions  
6 like the White-Meyer House and Meridian International, which  
7 are two of the buildings that are part of the Meridian school  
8 complex that are also on the site.

9           So the historic district talks about these two  
10 buildings types as important characteristics of the area, as  
11 important things to recognize and respond to, in particular,  
12 on this site.

13           And this is a site where those two kinds of  
14 buildings meet each other, the taller buildings on 16th  
15 Street, and the sort of neoclassical pavilions to the, to the  
16 west.

17           VICE CHAIR HART: Mr. Bell, just one quick  
18 question. That, the slide that you just had, did you say the  
19 buildings in black are part of the, are all historic  
20 district, are all historical buildings?

21           MR. BELL: This is a, the, I don't, these aren't  
22 --

23           MR. HART: They're either historically significant  
24 or on the registry.

25           MR. BELL: Yes, they're either historically

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1 significant or on the registry, and the historic district is  
2 outlined in the dotted line.

3 VICE CHAIR HART: Okay, thank you.

4 MR. BELL: Okay. And the two pavilion buildings  
5 that are just to the west of our site, are the two buildings  
6 I'm going to talk a little bit about.

7 VICE CHAIR HART: Thank you.

8 MEMBER WHITE: Yes, I had one question too. I'm  
9 familiar with this area. What's on that site right now? The  
10 --

11 MR. BELL: You're way ahead of me.

12 MEMBER WHITE: Okay.

13 MR. BELL: We're getting there.

14 MEMBER WHITE: All right.

15 MR. BELL: Hold that thought. And typically,  
16 these apartment buildings, this is one analysis we did, they  
17 have centralized entries. They're typically made out of  
18 masonry. There's a very formal sense of entry on 16th  
19 Street, a very grand sense. Some of them are illustrated  
20 there.

21 There's a general symmetry to the building in the  
22 massing, mostly vertical expressions of the architectural  
23 language. And also, very important aspect, there's a front  
24 yard garden.

25 16th Street has this sort of continuous garden,

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1 as you go up and down 16th Street, you can see illustrated  
2 here with our general massing taller on 16th and shorter to  
3 the west.

4           You can see Meridian Hill Park, but as a  
5 characteristic of that sort of grand boulevard, as it was  
6 extended from the L'Enfant plan to have this sort of green  
7 sort of front lawn across the front of the building. And you  
8 can see this a little bit more in detail here.

9           It also characterized by two very important items.  
10 One is a group of two trees. There are two very large trees  
11 on the site, you can see there, that we are seeking to  
12 preserve and enhance and extend their lives.

13           And the second is this berm. There's a berm that  
14 sort of goes up from 16th Street to the building that we, of  
15 course, unlike the previous design that was submitted, we  
16 think that's something that would be very good to experience,  
17 and we've designed a walkway that allows to people to move  
18 up and down that.

19           Getting onto the existing school plan, as you  
20 asked, this is what's there today. So the two buildings that  
21 are there today are the White-Meyer House and the Meridian  
22 House.

23           The earlier one was the White-Meyer House,  
24 designed by John Russell Pope, and also the Meridian House,  
25 also designed by Pope. Pope was the architect of the

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1 National Gallery, the National Archives, did a number of  
2 buildings, very important neoclassical buildings that are  
3 well-loved aspects of our city scape today.

4           These were residential buildings, but one  
5 important thing as well about Pope, is that he was a student  
6 at the Beaux-Arts in Paris. So he was a very academic  
7 architect, and these are buildings that have a sort of very  
8 academic kind of style associated with them. Back up.

9           I just want to point out entries. You can see  
10 along Crescent Place, Jami Milanovich is going to talk more  
11 about the traffic, but there's a wall that extends around  
12 this property. There are formal entries to the White-Meyer  
13 and the Meridian House on Crescent Place.

14           There's a loading entry for the Meridian House on  
15 Belmont, and then a loading area for White-Meyer on Crescent  
16 Place. The site, currently, as you can see there to the, to  
17 the east, on the eastern side, is currently used as a parking  
18 lot.

19           Next one. So that gives you a sense of the  
20 character. This is a view of the, of the rear of the  
21 White-Meyer from 16th -- or, excuse me -- from Belmont, and  
22 a view of the Meridian International House. And I mentioned  
23 Pope is a kind of academic architect.

24           Both of these two buildings that he designed have  
25 these very beautiful forecourts. White-Meyer came first, so

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1 that has a very generous kind of oval shaped forecourt that  
2 you go up, and maybe you've been to events there.

3           You go up into that, and it's a very beautiful  
4 sort of entrance into that building, and the same thing with  
5 the Meridian House, although that's a bit, a bit shallower.

6           The White-Meyer House, you can see clearly what  
7 he was doing was that when the Meridian project came along,  
8 he sort of pushed that building up so that it kind of flanks  
9 the side, rather than pushing it all the way back.

10           You have a slight difference in the approach to  
11 the street there, but they are actually oriented towards  
12 Crescent Place. They are, clearly, the idea was like a  
13 French hotel, that clearly, Pope was familiar with.

14           They were to be, meant to be experienced, first,  
15 through the forecourt, and then, rising up to the entry in  
16 both of these buildings. We have used the forecourt as a way  
17 of organizing our project, which you can see on the right  
18 hand part of the slide, and actually, a forecourt, in this  
19 case, facing south to Belmont.

20           That was the easiest way to make a very efficient  
21 forecourt for service, and for different kinds of entry into  
22 the building that I've explained, but it does something to  
23 compliment that.

24           So what we were doing, really, in adding to this  
25 site, was making a new edge that reflects the opposite side

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1 than what Pope was doing with the Meridian House.

2           So our new edge, which is the lowered edge, which  
3 is in scale, and I'll walk through that, is in character and  
4 in scale that is complimentary to the White-Meyer House,  
5 which is the building in the middle of that complex.

6           So it's sort of framing it, in a sense. So in our  
7 design, moving from right to left, or from east to west,  
8 across the slide, we have a formal entry on 16th Street  
9 there, and on the north of that, I'll show the parking exit  
10 there on Crescent.

11           Then, we have an entry court on Belmont, which  
12 takes care of our pedestrians, it takes care of service  
13 entry, it takes care of entry into both parking of customers,  
14 which are the residential parking and the Meridian House  
15 parking, and it brings people into that complex.

16           So it pulls any kind of service, or those entries,  
17 into this sort of courtyard off the street. And then, there  
18 is a lawn entrance for Meridian's operations, which is on the  
19 upper part of our building, that goes out into the lawn areas  
20 that Meridian uses for different kinds of activities. And  
21 you can see the rest of them labeled there.

22           So just walking around the site now, from the,  
23 from, starting from the southeast, you can see, this is a  
24 view, you can see the bay windows and the prominent entry,  
25 the way in which the site entourage and the stairs referred

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1 to, bringing you up onto the, onto the site, over the berm.

2           You can see the two existing trees that are there,  
3 that we'll be designing around. And you can see the way in  
4 which the building has, we believe, the sense of the grandeur  
5 that you have along 16th Street that makes it such a  
6 wonderful part of our city scape. You can see to the north,  
7 as well, some of the tall apartment buildings that are our  
8 neighbors.

9           So the bay windows, the balconies, and the lawn,  
10 sort of contribute to that, and then, the garden wall steps  
11 up to the court, the entry court on Belmont, that you can see  
12 between us and the White-Meyer House. So we're just going  
13 to move around the corner there.

14           This is a view of the entry court, moving into the  
15 building from Belmont. And as I mentioned, this will be an  
16 entry point for pedestrians, cars for Meridian, cars for  
17 residents, and also, this service entry.

18           So won't have any service or loading docks or  
19 parking entries on this side of the street, facing the  
20 street. That's all taken care of in the court, so this is  
21 a place where Ubers will come, and taxis will leave people  
22 off, and so on and so forth.

23           The materials of the building are designed to be  
24 a kind of subtle but rich palate of brick, of irrigated  
25 stone, and some probably metal architecture that will be of

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1 a warmer color. This is the palate we presented to the HPRB,  
2 and we think that this is really consistent with what we see  
3 on 16th Street.

4 The building, as it sits next to the White-Meyer  
5 House, if you sort of came out of White-Meyer and took  
6 immediate view to the right, you would see this facade, with  
7 one caveat I'll mention, which is a really a three-story  
8 facade, which is in scale with the Meridian House on the  
9 other side.

10 Next slide here. It's changed a slight bit,  
11 because Meridian's requested us to put a door on that side,  
12 and this is an updated drawing that Mat's highlighting the  
13 new door there, so it's pretty much the same facade. We're  
14 just moving the door around from the end elevation to this  
15 elevation, facing Meridian.

16 VICE CHAIR HART: Sorry. Mr. Bell, the, that,  
17 this elevation is, you're saying that it's the, is this, I  
18 didn't remember seeing this drawing in the, in the packet.

19 MR. BELL: Yes.

20 VICE CHAIR HART: This is the, this is the first  
21 time we're seeing this?

22 MR. BELL: Yes, this is the --

23 VICE CHAIR HART: Which is fine, I just wanted to  
24 make sure that that's what I'm --

25 MR. AVITABILE: There's actually a package in our

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1 pre-hearing submission from three weeks ago.

2 VICE CHAIR HART: Okay.

3 MR. AVITABILE: One of the sets of plans should  
4 have this change, but it is, it is new. It's not, it wasn't  
5 in the original set.

6 VICE CHAIR HART: I understand that. Thank you.

7 MR. BELL: It's not changing the height or  
8 anything. It's just moving the door around the corner. But  
9 you can see here, as well, in this drawing, the way in which  
10 we're shifting heights to respond to the different conditions  
11 on different sides of the building. So moving around the  
12 building, then, from that facade, this is on Crescent Place  
13 now, and you can see the wall of the White-Meyer building,  
14 and the red brick, and then you can see the lower portion,  
15 the 50-foot high portion of our section there, again,  
16 articulated with bay windows and a general vertical massing  
17 in stone that is compatible with the scale of the  
18 neighborhood. As we step down, there's a bit of grade here,  
19 stepping down, and then you can see the building as it is  
20 taller on 16th Street with the various setbacks there that  
21 we've agreed to, in terms of the height. And this, of  
22 course, is what's been approved by the Historic Preservation  
23 Review Board. So we come all the way around to the, to the  
24 northeast corner of the building, and you can see, again, the  
25 entry from the sidewalk, coming up some steps, with a ramp

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1 to the front door. A very prominent front door there, and  
2 then the central entry feature and the vertical bay windows.  
3 I will point out one thing that is not in the drawings that  
4 is in the plans, we will have a parking exit door there, and  
5 that's been a result of the late-breaking developments that  
6 Mr. Avitabile referred to, in terms of changing the parking  
7 ramp there. We will have a parking exit door there that will  
8 be a one way out condition. I'll explain that in a minute.  
9 It's a fairly minimal change to that facade. So just talking  
10 about the building's plan and organization, as has been  
11 mentioned, this building is, and in the submissions, this  
12 building is both a residential building, and it is also a  
13 conference facility for Meridian. So it is solving a number  
14 of problems at once. It has an entry lobby on the east,  
15 which is the main lobby for the residential building, and  
16 that, this is shown at the 168 elevation, and we'll show  
17 what, so this is a, if you were walking into the building  
18 from 16th Street, up the ramps, you would go into that main  
19 lobby, and you would find the elevator lobby and some  
20 residential units along the hallways there. And if you  
21 continued on, you would find, to the west, in pink, the  
22 conference facilities for Meridian. Okay? If you go down  
23 a level --

24 CHAIRMAN HILL: Mr. Bell?

25 MR. BELL: Yes?

1 VICE CHAIR HART: Could I, just --

2 MR. BELL: Sure.

3 VICE CHAIR HART: -- one question again. I'm  
4 sorry I'm interrupting, but it's --

5 MR. BELL: That's all right.

6 VICE CHAIR HART: -- as you're kind of showing  
7 them, they're kind of coming to me. In one of the images,  
8 you've noted a couple of times that there's some existing  
9 trees on 16th Street --

10 MR. BELL: Yes.

11 VICE CHAIR HART: -- that you wanted save. They,  
12 are they heritage trees? Are they -- they are? And can you  
13 just describe a little bit about the topographic change that  
14 you're, that's happening along, because I'm not really sure  
15 that there is --

16 MR. BELL: How far up is this?

17 VICE CHAIR HART: -- you know --

18 (Off microphone comments)

19 MR. BELL: Yes, it's about 11 feet of grade.

20 VICE CHAIR HART: And so what is the, so you're  
21 regrading a portion of this? This is all staying the same?

22 MR. BELL: We're, so here, okay. I'm glad you  
23 asked, I'm glad you asked that.

24 VICE CHAIR HART: That, well, that's kind of --

25 MR. BELL: Yes, no, that's important. I --

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1                   VICE CHAIR HART:     -- what I'm trying to  
2 understand.

3                   MR. BELL:    The, it's in public space, first of  
4 all. We are working, we've designed a ramp system that will  
5 work with the roots of those trees so as not to disturb them.  
6 They are in public space, so obviously, there's an issue  
7 there relative to how, you know, getting approval for what  
8 you would do there.

9                   There's significantly more grade from the south  
10 than there is from the north on the sweep arc of that,  
11 because the building's pictured, the street's pictured  
12 downhill.

13                   What we've designed is a ramp that will be  
14 accessible, there's a small accessible jump ramp on Crescent  
15 that comes up to the front door there, and then there's a  
16 step ramp that comes up from the southern, southeastern  
17 corner.

18                   That berm is sloped pretty good, but it is a  
19 fundamental characteristic of 16th Street, and we want to  
20 keep it. It's a nice thing. There are two significant  
21 specimen trees that are more or less symmetrically disposed  
22 around the axis of the building. Not exactly, but close  
23 enough, you know?

24                   So what we want to do is have the entry of the  
25 building and the trees work in as a kind of framing element

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1 together so the ensemble of those things seems like they're,  
2 they always were.

3 VICE CHAIR HART: So it's more, you're looking at  
4 a more natural, as, you've kind of laid out, this is how  
5 you've seen it in other instances, and you're trying to  
6 emulate that in this case?

7 MR. BELL: You said it much better than I did.  
8 I mean, in a sense, we think that adds to the grandeur of the  
9 building on 16th Street. There was concern by HPRB with the  
10 previous design about the corner entry and things, and we  
11 think that, you know, this will be a very important way for  
12 the building to nest along that street, to have the formality  
13 of the symmetry of the two trees, and the berm in referring  
14 to all that.

15 We spent a fair amount of time, by the way,  
16 looking at the design of that ramp to make sure it would  
17 work.

18 VICE CHAIR HART: Yes, no, that's fine. I just  
19 wanted to make sure that I was understanding it.

20 MR. BELL: Yes.

21 VICE CHAIR HART: Actually, looking at this image,  
22 and you had another image that was actually down 16th Street,  
23 looking up, and I was kind of looking at it like, wow,  
24 they're, are they building, you know, are they adding some  
25 topography? And I was trying to understand what that

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1 existing topography was --

2 MR. BELL: No, sir.

3 VICE CHAIR HART: -- with that. So thank you.

4 MR. BELL: We're working with what's there.

5 VICE CHAIR HART: Thank you.

6 COMMISSIONER MAY: So while we're on that topic,  
7 the, you're actually increasing the berming there, where the  
8 trees are? Or is it all existing?

9 MR. BELL: It's all there.

10 COMMISSIONER MAY: All existing, okay. That's  
11 all.

12 MR. BELL: We've embraced the berm. Have a lot  
13 of history with berms in this town, but --

14 MR. AVITABILE: Very early on in the process, we  
15 met with DDOT and with Urban Forestry, and they directed us  
16 that those trees must be saved. They wouldn't allow them to  
17 be removed, and so that became a fundamental concern at the  
18 site.

19 MR. BELL: And we think they're great things, so  
20 we want to keep them. So this is the entry I just mentioned.  
21 If you go down a level, you get to the entry court level that  
22 comes in off of Belmont. So those are at two different  
23 levels in the building.

24 Now, someone arriving by car could, would come  
25 into the court, and they would go into the garage if they

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1 were parking, and if they were a residential, you know,  
2 someone living in the building, they would go down a speed  
3 ramp to the lower level, which Mat's showing here.

4           If they were coming for a Meridian event, they  
5 would go into the garage, and they would park on that level.  
6 So the Meridian parking and the residential parking are  
7 separated there.

8           If you were coming to an event, you could get  
9 dropped off at the pink lobby there for Meridian, or if you  
10 were coming to visit somebody via car, you could come into  
11 a residential lobby and go into the elevators there on the  
12 right side.

13           The service entry and the service activity is just  
14 inside the gate, so a truck would come in and then could back  
15 into there, and then pull back out. So the, and the other  
16 thing I want to point out, in the upper right corner, is the  
17 exiting of the ramp out onto Crescent.

18           This enables the vehicles from the residential  
19 level, and also from the Meridian level, the meeting  
20 conference level, to exit out onto Crescent. So the cars can  
21 go out onto Crescent, but the truck traffic and service still  
22 goes out onto Belmont. So a couple things have been achieved  
23 here.

24           As I mentioned, service vehicles and service doors  
25 and loading docks are all contained within the courtyard, so

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1 the visual impact of that is significantly minimized, as  
2 compared to what you might see in other projects. And we  
3 have the private vehicles of either Meridian business or  
4 residential inhabitants of the building going out onto  
5 Crescent there.

6 That was a significant advancement from previous  
7 design, and we think that's a totally acceptable way for this  
8 to work, and it has assuaged many of the issues that some of  
9 the community groups had with the building. These are lower  
10 level parking.

11 You can see, you come down on the lower level  
12 there, on the left, and you go back out on the far right  
13 there. All right? You go up, this is, again, that first  
14 level.

15 Again, so going up above that, you can see  
16 residential levels there, double height space, Meridian's  
17 conference facilities, in yellow are all of the residential  
18 levels, and that's, these are floors six, seven, and eight,  
19 and you can see the extent to which -- go back one, Mat, if  
20 you don't mind -- yes, you can see the Crescent side, it  
21 pulls out to the street, but as we, the second floor, but by  
22 the time we hit the sixth floor, that piece is pulling back  
23 there, so we're at a 50-foot height, plus penthouse there,  
24 and then we're pulling back even further on seventh and  
25 eighth.

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1           So the bulk of the massing of the building is  
2 along 16th Street. Let me just take you to some elevations,  
3 so you can see these things in a, in a more conceptual way.

4           This is the elevation on 16th Street, and I think  
5 this gets to the question of the formal entry and the trees,  
6 you know, what we were seeking to do with the ramp and the  
7 front door and the expression of the skyline and preserving  
8 the two trees.

9           The berm is existing, and we're setting back and  
10 using that berm as part of that entry. We've also stepped  
11 the roof line back to get both a more interesting roof line,  
12 and that was also something we worked very hard on the design  
13 to make it something that was, could be embraced by all.

14           The court here, the Belmont court is here in  
15 elevation. This is the side elevation, facing south. You  
16 can see the balconies on the corner, which tend to make the  
17 building seem more vertical on that elevation. We have a  
18 more vertical expression there, which we think,  
19 proportionally, is nicer.

20           And then, you can see the extent to which the  
21 building, more or less, addresses the cornice height of the  
22 White-Meyer, with the 50-foot height there, and we have  
23 another drawing to show that. So the building steps down.

24           VICE CHAIR HART: And for, sorry, and for this  
25 one, you have the red brick on the wall.

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1 MR. BELL: Right.

2 VICE CHAIR HART: That's existing? That's --

3 MR. BELL: Some of that's existing, some of that  
4 will be part of our wall, extending the White-Meyer wall down  
5 to our courtyard. We have a view of that. We'll show you  
6 --

7 VICE CHAIR HART: Thanks.

8 MR. BELL: -- in a second here. This is the  
9 section here showing the piece facing the White-Meyer House,  
10 and the outline of a piece of the White-Meyer House beyond,  
11 and you can see the building, the height differential between  
12 16th Street and the Crescent Place sign here. And this is  
13 the Crescent elevation.

14 So on the far right, is the White-Meyer building,  
15 and you can see the way in which our height approximates the  
16 White-Meyer building, and then we step up to 16th Street,  
17 again, addressing the characteristics of the historic  
18 district, which are tall, grand, Beaux-Art apartment  
19 buildings, and then these pavilion, neoclassical pavilions  
20 that are also characteristic of the historic district.

21 So that building makes very clear reference to  
22 both. And then, the further elevation along 16th Street, the  
23 extent to which you can see some of the taller buildings, and  
24 grand apartment buildings, and how our building fits in  
25 there.

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1           We have the characteristic berm probably a little  
2 bit more so than some of the other buildings, and we're, as  
3 I mentioned, we'll be retaining that. And then, the  
4 elevation of the courtyard.

5           So you can see, there was a wall that will be  
6 continuing, that sort of becomes the wall of our Belmont  
7 Place courtyard there, and you can see the general massing  
8 there.

9           It's easier to see in this slide, the 50-foot  
10 height of our building, and then the outline of the buildings  
11 beyond, which are some of the other existing apartment  
12 buildings in the area.

13           And then, the Crescent elevation, showing from  
14 right to left, the Meridian International House on the right,  
15 the original White-Meyer, which was the first building here,  
16 and then our proposal to the left, and then the height as it  
17 goes up along 16th Street.

18           CHAIRMAN HILL: Mr. Bell, I'm going to, do you  
19 have a lot more slides?

20           MR. BELL: We just want to talk a little bit about  
21 the zoning request.

22           CHAIRMAN HILL: Okay. Yes, because you just --

23           MR. BELL: Yes, not a lot more.

24           CHAIRMAN HILL: No, I appreciate it. I mean, it's  
25 a lovely project, and if it wasn't for we're going to be here

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1 all day, I'd like to --

2 MR. BELL: I hear you.

3 CHAIRMAN HILL: -- spend more time on it, but  
4 just, I was kind of, like, you know, about the traffic noise,  
5 adverse impact issues, if you can kind of --

6 MR. BELL: Yes.

7 CHAIRMAN HILL: -- touch on those, but --

8 MR. BELL: Sure.

9 CHAIRMAN HILL: Thanks.

10 MR. BELL: So this is the view looking down 16th  
11 Street. You can see the way it fits into that context. So  
12 the zoning issue, we're requesting a zoning boundary shift.

13 This is the existing RA-4 on the, on the east,  
14 RA-2 on the west there. We are requesting the shift of 35  
15 feet. This would allow us to place more of the FAR buildable  
16 area into the west, or the eastern portion of the site, which  
17 has some significant benefits in terms of the massing of the  
18 building. And this gives you a sense of the density by  
19 right.

20 On the left side would be 182,000. On the right  
21 side, with the shift, would be 195,000, but we're only  
22 building 141,996, so we're not maximizing the density, we're  
23 shifting what would be in the RA-2 zone into the RA-4 zone  
24 so that we can more directly address the character, the  
25 character difference between the shorter side of the site and

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1 the taller side on 16th Street.

2           Where that is most felt is in the height of the  
3 building. The maximum allowable height in the RA-4 zone is  
4 90 feet. Our building is 80 feet 4 inches there. You can  
5 see by the measuring point.

6           The maximum allowable height in the RA-2 is 50,  
7 but we're extending that 50-foot height further east. So the  
8 yellow zone shows, theoretically, what we could do in the  
9 taller zone, but not what we are doing. The green line is  
10 what we are proposing.

11           So this is the massing, as has been approved by  
12 the Historic Preservation Review Board. We have been careful  
13 to, as I mentioned, make the building massing have a very  
14 salubrious effect on the White-Meyer House with the courtyard  
15 and the steppings there.

16           Just to show a little bit of what that would be  
17 like, if we didn't have the boundary shift and shifted the  
18 density on the 16th Street portion further east there, it's  
19 not clear whether HPRB would've approved this, but certainly,  
20 that's where that massing could've ended up.

21           So it does have a very important positive impact  
22 on both making a building that is in character and taller on  
23 16th Street, and addressing the character of the historic  
24 buildings to the west.

25           So just to go back and toggle back and forth a

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1 little bit, you can see, excuse me, you can see what that  
2 does by putting that massing there. It makes a big  
3 difference in terms of the height of the building, and even  
4 though we're not maximizing any of the FAR.

5 We have solar studies we could show. They don't  
6 make any adverse impact, or objectionable impacts of the, we  
7 have them as compared to by right, or what we're proposing.  
8 I don't know if you want to see them or not, but we do have  
9 them if the, anyone would like to --

10 CHAIRMAN HILL: At least not yet. We'll see what  
11 happens.

12 (Simultaneous speaking.)

13 CHAIRMAN HILL: There's a bunch of stuff I think  
14 we're still going to go through, but okay.

15 MR. BELL: Right. This is showing the height of  
16 our building as compared to some of the adjacent buildings.  
17 There, 1661 Crescent is actually closer. It's a tall  
18 building. It's actually closer to the White-Meyer building  
19 than 2300 16th, as we are proposing it. So before I turn it  
20 over to Jami, I think what we have here --

21 (Off mic comments.)

22 MR. BELL: David's telling me now, that's enough.  
23 So that's enough.

24 CHAIRMAN HILL: Okay.

25 MR. BELL: But I think we have something that

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1 works pretty well.

2 CHAIRMAN HILL: Okay.

3 MR. BELL: And it's a nice design, and we think  
4 that there's no objectionable impacts or no adverse impacts.

5 MR. AVITABILE: All right. Now we have a few  
6 comments from our traffic engineer on the traffic and parking  
7 impacts, and then I'll summarize it.

8 CHAIRMAN HILL: Okay, great. Thank you.

9 MS. MILANOVICH: Good morning. I'd like to start  
10 by talking about the proposed circulation in the context of  
11 the larger neighborhood, but before I do that, I think it's  
12 really helpful to understand the existing circulation.

13 So you can see on this slide, our site, what is  
14 currently an existing parking lot is located here, obviously  
15 16th Street to the, to the east. This portion of Belmont  
16 Street, between 16th Street and Beekman Place, is two-way.

17 The rest of Belmont Street to the west, and then  
18 the loop around to Crescent, is one-way, as you can see by  
19 the arrows. And 17th Street here, also, is one-way  
20 northbound.

21 So currently, all of the traffic that enters this  
22 neighborhood to the various residential buildings must enter  
23 from Belmont Street, because that's the only two-way portion.  
24 And so you can see Beekman Place, which is immediately to our  
25 south.

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1           They enter via Belmont Street, make the left into  
2 their site, and the existing parking lot that occupies the  
3 site currently, you have to enter Belmont, travel around the  
4 loop, and then make the right turn into the parking lot.

5           CHAIRMAN HILL: Is Beekman Place there, is that  
6 two-way right there?

7           MS. MILANOVICH: Beekman Place?

8           CHAIRMAN HILL: That street, is that --

9           MS. MILANOVICH: Yes. That is street is two-way  
10 as well.

11          CHAIRMAN HILL: Okay.

12          MS. MILANOVICH: That's, essentially, a driveway  
13 to that condominium development.

14          CHAIRMAN HILL: Okay, thank you.

15          MS. MILANOVICH: And then, in terms of outbound  
16 traffic, Beekman Place has the option of turning left or  
17 right out of their site. They get to take advantage of that  
18 two-way portion of Belmont Street.

19                Belmont is a stop sign controlled intersection,  
20 where it intersects with 16th Street. The Meridian traffic  
21 that is in the existing parking lot has to turn right out of  
22 their site, again, because Crescent is one-way.

23                And so all of the current Meridian traffic is  
24 exiting via Crescent Street -- I'm sorry -- Crescent Place,  
25 to the traffic signal there. So in terms of the proposed

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1 circulation, again, you can see, we've overlaid the site plan  
2 on the aerial.

3           Again, all traffic has to enter from Belmont  
4 Street, taking advantage of that two-way portion of Belmont  
5 Street. We're not changing any access for Beekman, so our  
6 cars that are heading to the parking garage will enter there.  
7 Trucks will enter there.

8           As Matt indicated, this service court not only  
9 serves cars, provides access to cars that are going to the  
10 garage, it also can accommodate Uber and Lyft traffic, so  
11 we're getting those on private space, and not having them  
12 stop on the public street to create traffic congestion.

13           And the loading facility has also been designed  
14 so that all of the backing maneuvers happen on private space.  
15 So they're, the trucks are entering and exiting front first  
16 from Belmont. In terms of the outbound traffic, this is the  
17 change that we've been talking about.

18           We have incorporated an additional curb cut on the  
19 north side of the project in this location that will allow  
20 traffic that parks in the parking garage to exit via Crescent  
21 Place, where they would have to make that right turn, and  
22 then they will be able to turn onto 16th Street with the aid  
23 of the traffic signal there.

24           CHAIRMAN HILL: It wasn't clear to me, just real  
25 quick, the parking garage, is that one-way? Like, everyone

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1 has to come in and out the same direction, correct?

2 MS. MILANOVICH: Everybody comes in via Belmont  
3 to the, to our parking facility.

4 CHAIRMAN HILL: The parking garage?

5 MS. MILANOVICH: Yes.

6 CHAIRMAN HILL: Yes.

7 MS. MILANOVICH: And then, they exit onto Crescent  
8 Place.

9 CHAIRMAN HILL: Right. Everyone that goes into  
10 the parking garage will have to come out there?

11 MS. MILANOVICH: That's correct.

12 CHAIRMAN HILL: Okay.

13 MR. CUMMINGS: The only, the only are that I'd add  
14 to that is if Meridian has valet, the valet operators will  
15 be able to use the garage in two-way fashion. So valet would  
16 return the car back through the entry court, deliver it to  
17 --

18 CHAIRMAN HILL: To the courtyard?

19 MR. CUMMINGS: -- the passenger, the courtyard,  
20 right.

21 CHAIRMAN HILL: Okay. So then people would come  
22 out that courtyard and take a left?

23 MR. CUMMINGS: That's correct. But if you're a  
24 resident in the building, if you're an employee of Meridian,  
25 if you're a self-parker for an event or a meeting there, you

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1 would have to use the exit onto Crescent, so we'd have a  
2 mechanized arm bar or something of that measure to, you know,  
3 notify and signalize traffic which direction that they should  
4 go at the time.

5 CHAIRMAN HILL: Okay.

6 MR. CUMMINGS: Yes.

7 MS. MILANOVICH: And --

8 CHAIRMAN HILL: Thank you.

9 MS. MILANOVICH: And I would also add, trucks will  
10 be required to exit via Belmont Street. They'll make the  
11 left turn onto Belmont, and then the right turn onto 16th.  
12 And the reason for that is the grading of the site. We  
13 weren't able to get enough clearance to get the trucks up to  
14 Crescent Place.

15 CHAIRMAN HILL: Okay. And again, and thank you  
16 for pointing that out. When the receptions are over, then  
17 there would be, you're saying, a bar or something, so they  
18 couldn't take a right turn. They'd have to take a left turn.

19 MR. CUMMINGS: The, if you're receiving your car  
20 through valet, you could take either a left or a right out  
21 of that, out of the entry car, with your car. Trucks have  
22 to turn left towards 16th Street.

23 CHAIRMAN HILL: You said something about a bar.  
24 That's what I just didn't understand, so --

25 MR. CUMMINGS: Yes. So in a valet scenario, the

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1 bar would be raised, allowing two-way traffic. We're still  
2 working through the logistics of --

3 CHAIRMAN HILL: Oh, okay, you're talking about  
4 inside the garage?

5 MR. CUMMINGS: Correct, inside the garage.

6 CHAIRMAN HILL: Okay. So then, but people from  
7 the reception, or whatever it is, the special event, they  
8 could take a left or a right, leaving that court?

9 MR. CUMMINGS: That's right.

10 CHAIRMAN HILL: Okay.

11 MR. CUMMINGS: And then, the intent was not to  
12 have valet run all the way through Crescent, back down  
13 through 16th Street, back into Belmont. So it was, again,  
14 trying to internalize --

15 (Simultaneous speaking.)

16 CHAIRMAN HILL: So I mean, most likely, they're  
17 not going to take a right anyway, but okay. All right.

18 MR. AVITABILE: Right. And well, part of it is,  
19 too, when the garage is being used for valet operations, many  
20 of those events will still actually be up at either Meridian  
21 House or White-Meyer House.

22 So the valet will actually be returning the car  
23 to the person coming out at Meridian or White-Meyer on  
24 Crescent Place. So that's part of the reason why, for valet  
25 operations, they're coming out on Belmont, because they're

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1 coming out on Belmont, and the valet is bringing the car  
2 around to the front of either historic house, and then that's  
3 when they're picking it up.

4 CHAIRMAN HILL: So how do they do it now? They  
5 do it with that, the courtyard --

6 MR. AVITABILE: Well, right now, if you have an,  
7 they have that surface parking lot right now.

8 CHAIRMAN HILL: Oh, okay.

9 MR. AVITABILE: And so right now, the car has to  
10 come out on Crescent and go all the way around the block.

11 CHAIRMAN HILL: Or the valet in that court, you  
12 mean, the existing court?

13 MR. AVITABILE: Right, on the existing parking  
14 lot. That's right.

15 CHAIRMAN HILL: Okay.

16 MS. MILANOVICH: Right. So the valet actually has  
17 to come out of the parking lot, and they have to go back out  
18 to 16th Street, and loop around down to Belmont to return,  
19 because they can't make a left --

20 (Simultaneous speaking.)

21 CHAIRMAN HILL: I see. Okay. All right. Thank  
22 you. I'm sorry.

23 MEMBER WHITE: Quick question. Rush hour, 16th  
24 Street, how, are there any accommodations for that? And how  
25 is that going to impact the area?

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1 MS. MILANOVICH: Yes. So if you can bear with me  
2 one minute, I'm going to get into that. We have actually  
3 done a detailed study, looking at the evaluation during both  
4 the morning and the afternoon peaks.

5 MEMBER WHITE: Okay.

6 MS. MILANOVICH: So in terms of trip generation  
7 for the proposed project, you can see the number of vehicle  
8 trips that this project is expected to generate in this  
9 table.

10 I would note that DDOT has a trip threshold that  
11 requires a traffic impact analysis, and that threshold is if  
12 you have 25 or more trips in the peak hour, in the peak  
13 direction. And you can see, in the morning, we have 28 trips  
14 in the peak direction, and in the PM, we have 26 trips in the  
15 peak direction.

16 So we barely meet DDOT's threshold for requiring  
17 a traffic impact analysis. Anything less than 25 trips is  
18 generally considered inconsequential, and so a traffic impact  
19 analysis isn't required.

20 Nevertheless, we, you know, we did exceed that,  
21 and so we did, we actually did, despite the fact that we  
22 barely exceeded that, we did an extensive study that included  
23 12 study intersections that you can see on this map.

24 I just note that north is pointed to the left, so  
25 16th Street is running horizontally across your page, and our

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1 development is on the bottom side of 16th Street on this map.

2 We paid particular attention to the three  
3 intersections that are shown in this, in this box, and that's  
4 because, as we've been working with the neighbors over the  
5 last several years, they obviously were most concerned about  
6 those three intersections.

7 So most of our discussion, despite the fact that  
8 the study included all 12 of those intersections, most of our  
9 study, discussion with the community, has focused on those  
10 three intersections.

11 DDOT defines an impact as a drop in a level of  
12 service from a level of service D or better, to either a  
13 level of service E or a level of service F, as a result of  
14 the proposed project.

15 For intersections that are currently operating at  
16 a level of service E or F without the project, any increase  
17 in average delay per vehicle of more than 5 percent is  
18 considered an impact.

19 Likewise, if you increase any queue lengths by  
20 more than, by 150 feet or more, that would be considered an  
21 impact by DDOT. DDOT requires all impacts to be identified,  
22 and mitigation measures to be recommended to alleviate those  
23 impacts.

24 Based on DDOT's criteria that I've just listed,  
25 the, and as we've shown in our study, the proposed project

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1 would not have any adverse impact on any of those 12 study  
2 intersections.

3 I will say that DDOT, their criteria for an impact  
4 is one of the most aggressive of any jurisdiction that I've  
5 worked in. It's very difficult to not have an impact. I  
6 think is probably the first project I've worked on in 15  
7 years that didn't have an impact that needed to be mitigated.

8 So I think that just goes to two things. One, the  
9 trip generation for this project is pretty low, and two, the  
10 existing volume on the neighborhood streets is relatively  
11 low, and there's some additional capacity there.

12 CHAIRMAN HILL: So since you're talking about  
13 DDOT, I mean, the condition that they had was that, you know,  
14 the Applicant fund and construct improvements that bring the  
15 intersections of 16th Street Northwest and Belmont Street  
16 Northwest and 16th Street Northwest and Crescent Place up to  
17 DDOT standards. All improvements are subject to DDOT review  
18 and approval, so the Applicant does agree to that situation?

19 MR. AVITABILE: Yes. Yes, we do.

20 MS. MILANOVICH: Yes, we do.

21 CHAIRMAN HILL: Okay.

22 MS. MILANOVICH: And those are focused on  
23 pedestrian improvements.

24 CHAIRMAN HILL: Yes, I was just curious. Just  
25 since we were talking about DDOT, like, what are, what are

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1 DDOT's standards?

2 MS. MILANOVICH: Yes. So the ADA ramps at the  
3 crosswalks do not currently comply with the existing  
4 standards. At Belmont, where it intersects, there's a  
5 crosswalk here.

6 There are ADA ramps, but they don't have the  
7 truncated domes on them, which allows visually impaired  
8 people to sense that they're approaching a crossing. So  
9 those need to be updated. DDOT is trying to move away from  
10 what are considered mid-block crossings, or unsignalized  
11 crossings.

12 So they had actually done a study a number of  
13 years ago that recommended the removal of these two  
14 crosswalks across 16th Street, because the traffic on 16th  
15 Street does not stop. And so we've agreed to remove those  
16 crosswalks. That was part of what DDOT had requested.

17 Up at Crescent Place, the ADA ramps, I think  
18 they're actually even missing on the east side of 16th  
19 Street, so we'll need to construct those. And then, on the  
20 west side, there's only one ramp for two crosswalks, and the  
21 current standards require you to have separate ADA ramps for  
22 each crosswalk. So we'll have to construct new ADA ramps at  
23 that intersection as well.

24 CHAIRMAN HILL: Okay.

25 MS. MILANOVICH: So that's what DDOT was referring

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1 to.

2 CHAIRMAN HILL: Okay. Okay.

3 MS. MILANOVICH: I just --

4 CHAIRMAN HILL: Sure, yes, go on.

5 MS. MILANOVICH: -- one more thing. I just want  
6 to answer Ms. White's questions.

7 CHAIRMAN HILL: Sorry.

8 MS. MILANOVICH: So we did look specifically at  
9 the intersection of Belmont and 16th Street. The Belmont  
10 Street approach was an unsignalized intersection during the  
11 AM peak period, as projected to operate at a level of service  
12 A, and during the PM peak period, is projected to operate at  
13 a level of service C. That's primarily due to the fact that  
14 the vast majority are turning right.

15 I think there's one car in the PM that turned left  
16 when we did our traffic counts. No one in the AM turned  
17 left, because everybody that lives in that development has  
18 the opportunity to traverse the loop and come out at Crescent  
19 with the aide of the signal, where it's much easier to make  
20 a left.

21 I've spent a fair amount of time at that  
22 intersection myself, just looking at it, and that's exactly  
23 what happens. Every once in a while, you see somebody trying  
24 to make a left, but it's much easier and quicker to go up to  
25 the signal to do it. So that's why we're seeing such a good

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1 level of service there.

2           And then, at Crescent Place, the eastbound  
3 approach on Crescent Place, as it approaches 16th Street, is  
4 projected to operate at a level of service D during both the  
5 AM and PM peak period. And in both cases, the queues are  
6 very short.

7           One of the things that we'd heard from the  
8 neighbors at Belmont Street is that that two-way portion is  
9 very constrained, and it's very hard for two-way traffic to  
10 get through.

11           And if you look at this picture, you can see, with  
12 parking on both sides of the street, it is pretty tight. And  
13 so, you know, based on the concerns that we heard from the  
14 neighbors, you can see on the left here, there's about 16  
15 feet of travel way in between the two sides of parked  
16 vehicles.

17           That's very tight for two-way traffic. So what  
18 we've proposed is to remove those three parking spaces on the  
19 south side of Belmont that would allow us to open up that  
20 travel way to 22 feet, which is more typical for two-way  
21 travel.

22           And then, we would stripe a double yellow line to  
23 further delineate that there's two separate lanes of traffic.

24           CHAIRMAN HILL: And then you're just losing the  
25 three spots?

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1 MS. MILANOVICH: That's correct.

2 CHAIRMAN HILL: Okay.

3 MS. MILANOVICH: And then, just really quickly,  
4 some additional improvements that we've recommended, based  
5 on our, not because we have an impact, but based on our  
6 discussions with the neighbors, they very much wanted a  
7 signal installed at Belmont. The Applicant was willing to  
8 do that.

9 Unfortunately, the traffic volumes aren't high  
10 enough. It doesn't meet any of the warrants that are  
11 required to be met in order to install a signal. But what  
12 we've done is we've said, once the building is open and  
13 occupied, we'll conduct a study afterward, in case our  
14 projections were off, for whatever reason.

15 And if a traffic signal is warranted at that time,  
16 and if approved by DDOT, we would install the traffic signal  
17 at that time. I mentioned the upgrade to the ADA ramps.

18 We've also, will be working with DDOT to see if  
19 they'll allow us to install do not block the box markings.  
20 That's the cross hatch pattern that signals to people on 16th  
21 Street to stop in advance of the intersection, and not block  
22 that intersection.

23 We think that'll help people as they're exiting  
24 Belmont Street. One of the other things was a recommendation  
25 by one of the neighbors, a very creative suggestion, was,

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1 well, if we can't get a traffic signal at Belmont, could we  
2 install a signal detector at Belmont that would essentially  
3 trip the signal at Crescent, and stop traffic on 16th Street  
4 to allow traffic at Belmont, that creates a gap in 16th  
5 Street, to help facilitate that traffic?

6 So we're exploring that with DDOT. They seemed  
7 open to it. They needed to look into it a little further.  
8 But again, I thought that was a creative solution that we can  
9 work on with DDOT.

10 We do have a transportation management plan. I  
11 won't read all of those. It's pretty typical of what we see.  
12 I would note that DDOT has indicated that it is appropriate,  
13 given the level of impacts that this project is projected to  
14 have.

15 We'll have a loading management plan as well, and  
16 we do meet the minimum parking requirements, and we looked  
17 at census data, as well as DDOT's parking tool, and our  
18 proposed parking ratio is in the range of those two pieces  
19 of information.

20 So we feel pretty comfortable that we have the  
21 right number of parking spaces. So with that, I'll turn it  
22 back over to David to summarize.

23 MR. AVITABILE: All right. And we'll wrap up as  
24 how we address the burden of proof. I think you've heard  
25 from Mr. Bell how we've generally addressed the burden of

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1 proof for adjusting the zone boundary line.

2           The standard is that there's no adverse impact on  
3 the present character or future development in the  
4 neighborhood. And as Mr. Bell walked through, the way we've  
5 massed and organized the development at this site is the best  
6 approach for fitting in with the surrounding context,  
7 focusing the density towards 16th Street, pulling away from  
8 the center of the neighborhood, pulling away from the  
9 historic landmarks, and that's the conclusion that HPRB came  
10 to, was the right balance, given the mix of historic  
11 character of the historic district, as well as the historic  
12 landmarks.

13           And I think the other important point here is,  
14 even though moving that zone boundary line does increase the  
15 amount of density we can build on the RA-4 side of that line  
16 by about 13,000 square feet, we're leaving far more than that  
17 on the table, so to speak, by not building it over on the  
18 RA-2 side, in the moderate density.

19           So it, I think, is not only, meets the test, but  
20 it's consistent with the intent and purpose of the zoning  
21 regulations of focusing density in medium and high density  
22 zones, and away from moderate density zones. That's that  
23 special exception.

24           The other special exception is the modification  
25 of the private school. And of course, the standard there is

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1 no objectionable impact due to noise, traffic, the number of  
2 students, or other objectionable conditions.

3           And what we've done, through the extensive  
4 conversations with the neighbors, as encapsulated in those  
5 three memoranda of understanding that are in the record, is  
6 come up with a whole series, I mean, there's 15, 20 pages to  
7 each of those agreements, of measures that we've committed  
8 to put into place to address those impacts.

9           And to summarize, on noise, we have limits on the  
10 use of amplified music for both Meridian events, and for  
11 anything that's happening on the rooftop of the residential  
12 building, restrictions on the hours and location of Meridian  
13 events to limit where outdoor events do happen for Meridian,  
14 and how late they go.

15           We have screening requirements and restriction on  
16 hours for the residential rooftop as well to limit the noise  
17 impact from that. And finally, a number of measure to  
18 mitigate noise related to truck traffic, you know, the fact  
19 that the loading is interior to the development and inside  
20 the building, limitations on the locations of where that sort  
21 of activity occurs, and again, limitations on the hours of  
22 when trash trucks and loading and catering is going to  
23 happen.

24           All will help to reduce adverse impacts due to  
25 noise during, you know, off hours, when people are sleeping

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1 or relaxing. Next slide. That was, next slide after that.  
2 Thank you.

3 Traffic impacts, I think Ms. Milanovich addressed  
4 many of those, how we don't have the objectionable impacts  
5 there.

6 I mean, the change in addressing the circulation  
7 of the traffic through the building really does go a long way  
8 toward ensuring that the project won't have an adverse impact  
9 on the surrounding network. The MOUs have a number of other  
10 measures in them to address traffic impacts.

11 All of those different street improvements for,  
12 not just vehicular traffic, but pedestrian traffic,  
13 improvements to the intersections, will all help address any  
14 impact of this project, and frankly, represent an improvement  
15 over existing conditions.

16 There are also numerous measures in the MOUs,  
17 particularly in the Meridian MOU, that deal with management  
18 of, not just truck traffic and trash, but also the shuttle  
19 bus and the Meridian events, the Meridian valet.

20 And then, moving to the next slide, there's  
21 objectionable impact here due to parking. We're providing  
22 nearly double the amount of required residential parking, and  
23 the Meridian use will use both valet and offsite.

24 There are commitments to offsite parking as well  
25 to accommodate their event needs. And finally, there are two

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1 ways in which the project will actually help improve existing  
2 conditions in the neighborhood. Meridian will continue to  
3 allow for evening and weekend parking in its garage by  
4 neighborhood residents, so that provides an additional  
5 parking resource for neighborhood residents or their guests.

6 And to the extent that we don't sell all of the  
7 parking spaces in our building, in the residential building,  
8 we have offered to give the neighbors an opportunity to  
9 purchase those spaces as well. Go to the next slide.

10 The next standard is no objectionable impact due  
11 to number of students or number of people. And here, again,  
12 Meridian's committed to maintain its existing levels of  
13 activity. We've mentioned this a number of times in the  
14 filing, that this new space within our building for Meridian,  
15 isn't being used to expand their use.

16 It's merely modernized state of the art space that  
17 will be an alternative to holding events or having offices  
18 in the existing historic mansions. Some of the programs and  
19 events that Meridian operates, there's a need to have a more  
20 state of the art venue for audio visual capabilities. That's  
21 what this space will provide.

22 And in terms of number of people, the residential  
23 building is a matter of right, and there's no limit on the  
24 number of units you could have. So from that perspective,  
25 there's no adverse impact. Okay.

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1           And then, finally, the last, you know, any other  
2 objectionable impacts, I think we've also encapsulated in the  
3 MOUs. You know, there are commitments to maintain the  
4 surrounding sidewalks, you know, removal of litter  
5 management, even a commitment to put up dog waste stations  
6 to help with people walking their dogs, commitments to  
7 address potential light pollution with cutoff lights.

8           And the last item, but it's certainly not the  
9 least, one of the major items that's encapsulated in the  
10 MOUs, and comes out of this project, is the creation of an  
11 ongoing group for dialogue between Meridian and all of the  
12 surrounding neighborhood associations.

13           And this partnership will provide an opportunity  
14 to talk through issues, resolve disputes, if and when they  
15 arise.

16           There's a measure for, there are measures to  
17 address complaints, and there's even provisions in there  
18 where the neighbors can impose fines on Meridian, and on the  
19 new condominium development, should they not live up to the  
20 commitments that they've made to help, to help ensure the  
21 enforcement of these commitments.

22           And I think that's important. I think the last  
23 thing I'd note on the MOUs is that the versions we submitted  
24 to you, we have continued to have conversations with all of  
25 our neighbors, and as we've been talking through the impact

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1 of the change in the garage entrance, which was primarily  
2 required, requested by the neighbors to the south, some of  
3 the neighbors to the north have, had some very good insights  
4 onto making sure that that entrance is designed in a way  
5 where we're thinking through pedestrian safety and other  
6 things.

7           And so we're continuing to look at that, and  
8 continuing to have that dialogue, and there may be one or two  
9 items that are added to address that. So then, finally, you  
10 know, the last standard of proof for a special exception, any  
11 special exception, is that it's in harmony with the purpose  
12 and the intent of the zoning regulations and the zoning map.

13           And I think as we walked through in our written  
14 submissions, and you've heard today, you know, you've got,  
15 the residential use here is permitted as a matter of right,  
16 so it's consistent with the underlying zoning.

17           The Meridian use has coexisted in this  
18 neighborhood since 1960. It has, it has expanded its uses  
19 over those years and decades, but this project here is not  
20 to expand the intensity of the use. It's merely to  
21 reallocate the uses across the site. And the overall height  
22 and density of the project is within the matter of right  
23 zoning limits.

24           So this is consistent with the purpose and intent  
25 of the zoning regulations. And then, the last standard is

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1 that the special exceptions will not tend to adversely affect  
2 neighboring property, and I think that's very similar to the  
3 no objectionable impact, and we've walked through that.

4           You know, you've got a building design that's been  
5 determined to be compatible with the historic context. Not  
6 only the overall historic context of 16th Street or along  
7 Meridian Hill Park, but also specifically these two  
8 landmarks. We've got massing here that results in actually  
9 less impact than matter of right.

10           CHAIRMAN HILL: Okay.

11           MR. AVITABILE: And then, finally, all of the  
12 other impacts.

13           CHAIRMAN HILL: Okay.

14           MR. AVITABILE: That's it.

15           CHAIRMAN HILL: All right. Thanks, Mr. Avitabile.  
16 Mr. Avitabile, I ran into you before, at the little coffee  
17 shop. You said you were going to help me get out of here  
18 fast, right? Okay. I'm going to turn, I'm sorry, does the  
19 Board have any questions? Please.

20           MEMBER WHITE: Just one quick question. Can you  
21 respond to some of the push back that you've gotten from the  
22 ANC on this project? I mean, it's a very extensive project.

23           It looks like you've made some significant  
24 attempts to address some of the concerns of the neighbors,  
25 but I'm looking at their response in the record. So I have

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1 some concerns and questions about that, so I'd like you to  
2 respond to it.

3 MR. AVITABILE: Sure. You know, I think, first,  
4 understand that the ANC resolution was passed before we had  
5 reached this most recent design change to address the  
6 concerns of Beekman Place, I think at that ANC meeting.

7 The majority of the people that were there and  
8 were still expressing concerns about the project were Beekman  
9 Place residents. I won't speak to whether the changes we've  
10 made addressed the ANC's concerns or not. You know, the ANC  
11 commissioner's here. He can speak to that.

12 What I will say is that, I think that, of the  
13 concerns that were raised in that resolution that are issues  
14 that are before the BZA in this case, I think we've addressed  
15 all of them, and I think we've addressed all of them in a  
16 very comprehensive and meaningful manner, and I think the  
17 fact that the condominium association to the south, that had  
18 filed for party status and has withdrawn, that shows you that  
19 that condominium association determined that we had addressed  
20 it, and that the other associations around the perimeter did  
21 not even choose to file for party status.

22 I know some of them are here today, and I'm not  
23 going to presume to speak for them as well, but you know,  
24 they'll address, I think, the process that we all went  
25 through in pulling together these MOUs, that ultimately, I

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1 do think, represent a concerted balance, concerted effort to  
2 balance the impact of this project, and make sure it would  
3 fit within the context in an acceptable way.

4 I would note that there were two other areas that  
5 come up repeatedly in the ANC resolution. One are  
6 construction impacts, and I think the Board has traditionally  
7 found that construction impacts aren't really a zoning impact  
8 that gets considered when you consider whether or not a  
9 project has objectionable or adverse impacts.

10 With that said, one of those three MOUs is a very  
11 detailed memoranda of understanding on construction, intended  
12 to deal with the impacts of this project while it's being  
13 constructed.

14 Not only the construction itself, but also  
15 ensuring the provision of parking, not only alternative  
16 parking for Meridian, since we'll be constructing on their  
17 existing parking lot, but also, there are provisions in there  
18 to deal with alternative parking for the on-street parking  
19 spaces that will come out of service during the construction  
20 of the project.

21 The other item that's raised in the ANC resolution  
22 repeatedly is the comprehensive plan. And as I think as the  
23 Board knows, the comprehensive plan is not, is not considered  
24 when you're considering a special exception request.

25 It's not listed in the criteria. It's not

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1 something that the Board considers. They're relying largely  
2 on the provisions of the comprehensive plan that say, the  
3 Board should consider the comprehensive plan, but the  
4 comprehensive plan itself is not a self-executing document.

5           The, ultimately, if the Board were to consider the  
6 comprehensive plan, the Zoning Commission would have to write  
7 that into the Board's rules and regulations and say, Board,  
8 we'd like you to consider the comprehensive plan. So those  
9 --

10           CHAIRMAN HILL: Okay, one second. I think, I  
11 think Ms. White got her answer.

12           MR. AVITABILE: Okay.

13           CHAIRMAN HILL: Commissioner May?

14           COMMISSIONER MAY: Thank you, Mr. Avitabile, for  
15 that lengthy explanation, but I don't think you really got  
16 to the key issue from my perspective. I mean, everything you  
17 said was, you know, I could've pretty much said that.

18           The real issue, from my perspective, is that the  
19 complaint from the neighbors, and from the party, before the  
20 withdrew their request for party status, was the fact that  
21 the school is not living up to current agreements.

22           And now, we have a new and improved agreement, and  
23 there are definitely some operational improvements that are  
24 apparent for the operation of the school, private events and  
25 things like that, that will come with this project, I mean,

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1 along with the massive change that it's going to be.

2 But generally speaking, I think operational  
3 improvements. But I mean, what is it, you know, why do we,  
4 why should we believe at this point that the school is going  
5 to behave better than the neighbors allege they have not in  
6 the past?

7 And I'm not saying, you know, I don't know how  
8 accurate all that stuff is, but it's in there. Let's have  
9 an answer to it.

10 MR. HOLLIDAY: So Stuart Holliday. I'm the CEO  
11 of Meridian, and I just wanted to state that, you know,  
12 Meridian, while it's classified as a school, is a, is a,  
13 really a leadership center. We bring work with the State  
14 Department to help strengthen international understanding.

15 COMMISSIONER MAY: I, you know, I'm going to cut  
16 you off, because we've been going on too long. We don't need  
17 to know the mission. From our perspective, a school is a  
18 school.

19 MR. HOLLIDAY: Okay.

20 COMMISSIONER MAY: So if you can speak to the  
21 specific --

22 MR. HOLLIDAY: Sure.

23 COMMISSIONER MAY: -- complaints about --

24 MR. HOLLIDAY: Yes.

25 COMMISSIONER MAY: -- you not behaving in

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1 accordance with previous agreements.

2 MR. HOLLIDAY: Thank you. We have received very  
3 few complaints at Meridian over the last decade. There is  
4 a, we see, a very, a gap in understanding between how some  
5 of our neighbors feel about our living up to our existing  
6 MOU, which was voluntarily entered into, and their  
7 perception.

8 The evidence is that we simply have not received  
9 that many complaints over the last five years about our work.  
10 There are areas of improvement. There are, there have been  
11 complaints that are legitimate that relate to shuttle buses  
12 double parked, noise at events.

13 But this characterization, I think, is not widely  
14 held, I would submit, by the majority of neighbors in terms  
15 of how we conduct our activities. So we actually disagree,  
16 and do not have a --

17 CHAIRMAN HILL: So Mr. Holliday, I'm going to, I'm  
18 going to follow up with --

19 MR. HOLLIDAY: Yes.

20 CHAIRMAN HILL: -- Commissioner May, because, so  
21 basically, like, what's the teeth in this now --

22 MR. HOLLIDAY: Right.

23 CHAIRMAN HILL: -- that wasn't there before?

24 MR. HOLLIDAY: So this will become part of the BZA  
25 order, as I understand it. This is a binding, you know,

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1 document, which we have to live up to, and has penalties in  
2 there. We're a not for profit --

3 CHAIRMAN HILL: That's okay.

4 MR. HOLLIDAY: -- organization.

5 CHAIRMAN HILL: So what are the penalties? How  
6 do the penalties work?

7 MR. HOLLIDAY: The penalties work in that, through  
8 this community group mechanism, that if there, if an issue  
9 has not been resolved immediately, that the group can meet,  
10 and can impose a penalty --

11 CHAIRMAN HILL: All right. And what's the  
12 penalty?

13 MR. HOLLIDAY: -- a monetary penalty.

14 CHAIRMAN HILL: What's the monetary penalty?

15 MR. HOLLIDAY: Well, there are successive  
16 penalties. There, as up to \$7,000 worth of penalties that  
17 can be incurred.

18 CHAIRMAN HILL: Okay.

19 MR. HOLLIDAY: And we also think, frankly, that  
20 having this mechanism, this community group, and better  
21 relationship and open channel with our neighbors is going to  
22 lead to, I think, us being aware where there are issues, be  
23 more readily to respond to them, and to put into place  
24 whatever policies we can to make sure that the, that the  
25 issues are addressed.

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1 CHAIRMAN HILL: Commissioner May, are you getting  
2 your question answered?

3 COMMISSIONER MAY: Yes, I just have one followup,  
4 which is, you specifically cited shuttle buses double  
5 parking.

6 MR. HOLLIDAY: Yes.

7 COMMISSIONER MAY: What do you do when that  
8 happens? Somebody complains that that's happened, what do  
9 you do?

10 MR. HOLLIDAY: So two thing. First, is we have  
11 our staff that goes out and actually, if somebody calls  
12 Meridian or emails us, we go out and make sure we get on that  
13 right away. We have a great staff of people who manage our  
14 operations.

15 The second thing is we have contracts with our  
16 shuttle bus providers. These are for our State Department  
17 programs, and these guidelines are very specifically put in  
18 there, and we have said two things.

19 One is we have reached out as a result of this  
20 process to actually reaffirm that we will not use these  
21 vendors or partners anymore if they, if they exhibit, you  
22 know, disregard for the, for our standards, and we are  
23 serious about that, and we've put them on notice.

24 COMMISSIONER MAY: Well, one last question. How  
25 long have you been the CEO?

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1 MR. HOLLIDAY: Eleven years.

2 COMMISSIONER MAY: Okay, thanks.

3 MR. CUMMINGS: If I may just talk to process  
4 quickly, about --

5 CHAIRMAN HILL: No, that's okay.

6 MR. CUMMINGS: No? With the evaluation reports  
7 --

8 CHAIRMAN HILL: Okay, all right. Okay. Thanks.  
9 Appreciate the offer. Anyone else real quick? I know the  
10 Office of Planning, I mean, we've still got to go through a  
11 bunch of people and things. Office of Planning?

12 MR. JESICK: Thank you, Mr. Chairman, and members  
13 of the Board. While this is a very complex case with a lot  
14 of moving pieces, the criteria for a zoning evaluation are  
15 relatively straightforward, and that gets to, what are the  
16 impacts of the project? And that is for both of the special  
17 exceptions.

18 So in regards to the special exception for the  
19 private school, we felt that the impacts would be minimal.  
20 According to the Applicant, the number of staff and number  
21 of events would not increase as a result of the new physical  
22 space of the school, and therefore, the traffic study  
23 concluded that the overall level of traffic would not  
24 increase a significant amount.

25 Visually, the school was, the expansion of the

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1 school was designed to almost feel like it was tucked into  
2 the hillside, and would act as an extension of the plinth on  
3 which the White-Meyer House sits, and that was done in  
4 cooperation with HPRB to minimize the visual impacts of the  
5 expansion of the school.

6           It would be visible from some vantage points, and  
7 a portion of the retaining wall would increase in height  
8 along Belmont Street, but that retaining wall would still be  
9 much, much lower than the existing retaining wall immediately  
10 behind the White-Meyer House.

11           Similarly, in regard to the zone boundary line  
12 shift, we found it compelling that the overall level of  
13 density would be significantly less than what could be  
14 achieved as a matter of right under the current zoning. So  
15 therefore, any impacts related to density would not be a  
16 result from the zone boundary line shift.

17           The zone boundary line shift simply allows a  
18 concentration of the density along 16th Street, where it has  
19 historically been developed in that neighborhood. Also, we  
20 placed a lot of value on the design review that went into the  
21 HPRB process.

22           They sought to minimize the appearance of height,  
23 while not wanting the building to appear too squat along that  
24 16th Street frontage, which is characterized by taller  
25 buildings.

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1           So we felt that overall the project did not have  
2 unacceptable impacts on the surrounding neighborhood, and  
3 therefore, we recommended approval of both special  
4 exceptions. I'd be happy to take any questions. Thank you.

5           CHAIRMAN HILL: Okay. Does the Board have any  
6 questions for the Office of Planning?

7           VICE CHAIR HART: Just a quick question. Maybe  
8 it's not a quick one. Just saying. So just the question on  
9 the, you know, the issue that talked about a little bit. I  
10 think you may have heard some of that.

11           But the question that I had was really around,  
12 what was envisioned with the, I mean, this has a split zone,  
13 so there was some acknowledgment that there would be a  
14 different type of development on the eastern side than there  
15 would be on the western side. So this is, you're saying that  
16 this is in keeping with that, with that idea?

17           MR. JESICK: Yes, I think the design, as proposed,  
18 is in keeping with that. Although, the, as the Applicant  
19 showed in their presentation, some of those existing  
20 apartment buildings extend well back into the block.

21           In this particular situation, you do have those  
22 landmarks of the Meridian House and the White-Meyer House,  
23 and I think the density is appropriately kept off of those  
24 buildings and concentrated along 16th Street. So yes, we  
25 felt that the density in that location was appropriate.

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1           VICE CHAIR HART:   And the, and the, as you're  
2 going down 16th Street, from north to south, you have kind  
3 of taller buildings, and then you get to south of the site,  
4 which is much more, much lower density development that's  
5 happening just south of, what is that street now? Belmont,  
6 I think.

7           MR. JESICK:   Yes, the Beekman Place development  
8 is row houses, so that is much lower density.

9           VICE CHAIR HART:   And so you wouldn't, you  
10 wouldn't expect there to be an even lower transition between  
11 the apartment houses that are, or apartment buildings that  
12 are to the north of the site, and, or do you think that this  
13 is, and the Beekman Place development, you wouldn't think  
14 there would be an even greater kind of stepping down in  
15 development?

16           MR. JESICK:   We concurred with the outcome reached  
17 by the HPRB, which is the development, as proposed, is  
18 compatible with the buildings to the north, and that it had  
19 no adverse impact on the townhouses to the south, if you  
20 examine the shadow studies.

21           I can get you those, obviously, since this  
22 building is to the north, but not have light impacts. Also,  
23 the building is symmetrical, you know, in and of itself, so  
24 a step down within the building mass would likely be viewed  
25 as inappropriate, from a historic preservation standpoint.

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1           And furthermore, I believe the HPRB and HPO staff  
2 did not want the building to be reduced in height as a whole.  
3 They didn't want it to appear too low scale for that historic  
4 district, which is characterized by taller buildings.

5           VICE CHAIR HART: Thank you.

6           CHAIRMAN HILL: Okay. We can jump around here,  
7 but let me just keep moving forward, unless anybody has a  
8 pressing question for OP? Okay.

9           Commissioner Perry, welcome. So is there anyone  
10 else here from the ANC, other than this commissioner? Okay,  
11 please, come forward. If you could please also introduce  
12 yourself.

13          MR. GUTHRIE: Ted Guthrie.

14          CHAIRMAN HILL: So are you a commissioner, Mr.  
15 Guthrie?

16          MR. GUTHRIE: Yes.

17          CHAIRMAN HILL: You're both the same ANC?

18          MR. GUTHRIE: yes.

19          CHAIRMAN HILL: Okay. Are you both presenting the  
20 same opinion, or you have different views, or you don't know?

21          MR. GUTHRIE: We are presenting a consistent  
22 opinion --

23          CHAIRMAN HILL: Okay.

24          MR. GUTHRIE: -- which is focused more on the  
25 specifics.

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1 CHAIRMAN HILL: Okay.

2 MR. GUTHRIE: And I'm a more generalized speaker.

3 CHAIRMAN HILL: Just, so the ANC has five minutes,  
4 so you all can divide your time up the way you like, and  
5 we'll have, I'm sure we'll have questions, but I just wanted  
6 to let you know.

7 And so since Ms. Perry came first here, I'll start  
8 with you, Ms. Perry. I'm going to put five minutes on the  
9 clock, and you guys can just kind of go through what you want  
10 the Board to know. And then, I'm sure we'll have some  
11 questions for you. But welcome to both of you. Thanks for  
12 coming out.

13 MS. PERRY: Okay.

14 CHAIRMAN HILL: Please.

15 MS. PERRY: Thank you. Amanda Perry. I'm the  
16 commissioner for 1C08, which is the district in which this  
17 project is located. The ANC, as you know, adopted a  
18 resolution unanimously on May 23rd, at a special forum that  
19 we convened just for this project.

20 The, some of the residential groups have since  
21 entered into MOUs with the developer, however, there continue  
22 to be individual residents who have concerns. I know some  
23 of them have submitted their concerns to the record for this  
24 case, and given some of our own concerns, we maintain our  
25 opposition to this project.

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1           And some of that also is that there's other  
2 members of this ANC who will be impacted if this is allowed  
3 to move forward, including the residents at the envoy, who  
4 weren't a part of the working group, negotiations, people who  
5 are using 16th Street are going to be impacted, or that's how  
6 we see it.

7           So I know you wanted to just kind of keep this  
8 focused on the zoning impacts, so I will try to, try to keep  
9 it within that analysis. Critical to this case is the  
10 Applicant's request for an expansion of an institutional use,  
11 and to do so, obviously they need to show that doing, putting  
12 this project there is not going to be likely to create any  
13 objectionable impacts on the surrounding neighborhood.

14           So the first point I want to make, which we also  
15 pointed out in the resolution, is that this isn't a question  
16 of likelihood, this is certainty. They, Meridian is already  
17 creating a burden on the community. Commissioner May raised  
18 that, and I appreciate that, you know, and Mr. Avitabile  
19 noted as well, that the prior BZA orders allowing Meridian  
20 to operate as a private school have expanded over the years.

21           And even though it was anticipated as functioning  
22 like a private school, it's functioning as a private event  
23 center, as much as anything else. In 2017, they had 149  
24 events, 87 of which were private rentals, 39 weddings. You  
25 know, when that happens, the entire neighborhood turns into

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1 a parking lot. You know, the shuttle traffic is a problem.

2 I know Mr. Holliday said that, you know, when they  
3 get complaints about it, they move them, but half the time,  
4 when we say that complaints have been registered with them,  
5 they say they didn't get them, and the fact remains that the  
6 shuttles end up exactly where they were the next time they  
7 have an event.

8 So in light of that, and the history of their, of  
9 violating this previously enacted MOU with the community, you  
10 should not allow them to modify this. The Applicant states  
11 that it's not going to, that this conference center is not  
12 going to have any undue impacts, and we think that's a bold  
13 assertion.

14 And when you look at the, at the size and the  
15 location of this project, it really strains belief to think  
16 that a 10,000 square foot conference center is not going to  
17 create additional undue burdens on the community.

18 On page 10 of the Applicant's statement, they  
19 discuss all the ways that this conference center is going to,  
20 you know, help them and help Meridian, and you know, enable  
21 them to come into the next century, and you know, attract  
22 business and whatnot.

23 But that only makes it harder for us to believe  
24 that they're not going to expand their operations, despite  
25 their assertion that this is not about adding additional

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1 space, it's just going to be alternative space.

2           And again, that would be easier to believe, if  
3 they had not consistently violated the underlying MOU. You  
4 know, and there was reference to the enforcement provisions  
5 of the MOUs that create a working group for the community,  
6 which I think is good.

7           It's really important that those MOUs have that.  
8 But it's still unfortunate that that puts a huge burden on  
9 the residents, who have spent so much time already, you know,  
10 trying to improve the situation there, then going through  
11 this working group process, to then have to come together  
12 every time and vote on whether violations have occurred, and  
13 hopefully make them stick.

14           So I realize I'm running out of time. The other  
15 thing, too, is that we're being told, only look at the  
16 conference center, and not at the building, because the  
17 building is by right.

18           The components of this project are inseparable  
19 from each other. You've got the motor court, the parking  
20 garage. They're all going to be shared. So we would say  
21 that it really is impossible to separate them, and that the  
22 burdens, the impacts from both should be considered.

23           And even if you don't include it as being covered  
24 under the requirements of 11X1041, it needs to be considered  
25 as an existing entity. And it's hard to say that it, that

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1 as an existing entity, a 10,000 square foot conference center  
2 would not have a burden on the noise and traffic and  
3 congestion, because, you know, if you assume for the moment  
4 that that building was already built, how would that  
5 conference center, a 10,000 square foot conference center and  
6 parking garage in your backyard not create an impact?

7           You know, I am also concerned, based on what I'm  
8 seeing from the OP report, is that that seems to be working  
9 off of the Applicant's statement and the MOUs, and I'm  
10 curious to know what other studies were done to really assess  
11 this project, and some of the underlying complaints about,  
12 you know, what's been going on there, to just take it at the  
13 Applicant's word and these MOUs --

14           CHAIRMAN HILL: Okay.

15           MS. PERRY: -- does not, does not give the, a full  
16 picture.

17           CHAIRMAN HILL: Okay, Commissioner Perry. I just  
18 want to let the other commissioner also have some time.  
19 Would you like to go ahead?

20           MR. GUTHRIE: Yes, I've just got a couple of brief  
21 points to make. This process has been going on for a long  
22 time. The ANC had a special meeting, passed a resolution two  
23 weeks ago.

24           During the discussion of that resolution, we were  
25 told that it was absolutely physically impossible to direct

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1 traffic onto Crescent Place. That was two weeks ago.

2 Suddenly, miraculously, that it is possible, and  
3 we would suggest that they're coming here before you today  
4 without bringing it back in front of the ANC, suggests that  
5 they're trying to avoid getting the ANC's position on this  
6 newly reframed transportation approach.

7 The other piece is that they look at this as  
8 solving two problems, but the two problems aren't existence  
9 of a condominium project and a conference center. The two  
10 problems are funding for the conference center, and the  
11 conference center.

12 The only reason that we have had such continued  
13 and strenuous objection from the neighborhood is that they're  
14 trying to do too much on what is actually a fairly small lot.

15 They are putting two project where there should  
16 only be one. They should either have the conference center  
17 or have the residences. When you put both of them on, that  
18 has to have the sort of impact that will be substantially  
19 detrimental to all of the people who live in the  
20 neighborhood, probably all of the people who commute down  
21 16th.

22 And for them to claim that their studies show that  
23 this will have no impact on traffic to build a substantial  
24 condominium, and to have substantially additional space for  
25 their conference facilities is disingenuous, to say the last.

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1           CHAIRMAN HILL:   Okay.   Okay.   I mean, I don't  
2 think, I mean, I hear what you guys are saying, and I'm glad  
3 that we're going to have a chance to kind of, like, vet some  
4 of this and talk a little bit more about it.

5           I don't think, they're not saying that they're not  
6 going to have any impact.   They're saying they're not going  
7 to have any undue impact.   And so that's where we also always  
8 seem to come in.

9           I do have another question for Mr. Avitabile, and  
10 we're going to kind of go back and forth here a little bit,  
11 but does the Board have any questions for the commissioners?

12          MEMBER JOHN:   I have a question.

13          CHAIRMAN HILL:   Sure.

14          MEMBER JOHN:   I was wondering if, in your opinion,  
15 the provision of parking spaces in the project would somehow  
16 ameliorate some of the problems that the residents were  
17 having in the past, and whether the provision of that new  
18 circular driveway off of Belmont Street would help with some  
19 of the load, not loading, some of the traffic that would come  
20 from the events, you know, that might occur?

21          MR. GUTHRIE:   Well, I do think that putting all  
22 of the heavy traffic into that court that is right off  
23 Belmont is going to limit the impact on, and requiring them  
24 to leave going out to 16th, is going to reduce the amount of  
25 traffic that has historically been there for events or

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1 conferences, because, you know, they had to go all the way  
2 around before. So yes, it will reduce from, basically, from  
3 Beekman on, the impact of traffic there. Your first question  
4 was --

5 MEMBER JOHN: Well, the second question was about  
6 the traffic light at, I believe that's Crescent. There will  
7 be a new traffic light at Crescent?

8 MR. GUTHRIE: There is currently --

9 MEMBER JOHN: It's proposed, or there is one now?

10 MR. GUTHRIE: There is currently one at Crescent.  
11 There was requested by the Belmont, by the Beekman people  
12 that there be one at Belmont as well --

13 MEMBER JOHN: Okay.

14 MR. GUTHRIE: -- but the DDOT study suggested that  
15 it was not sufficient to meet their threshold requirement.  
16 But they've indicated that they're going to do another  
17 traffic study later to see whether once the facility is  
18 built, it meets the threshold for DDOT, is my understanding.

19 MEMBER JOHN: Thank you.

20 VICE CHAIR HART: Mr. Guthrie, I was trying to,  
21 and I asked the Office of Planning this as well, but, and I'm  
22 only asking you or Ms. Perry, either one of you can answer.

23 The, there is existing zoning that's there. The  
24 existing zoning allows a certain amount of development. Are  
25 you, are you thinking that that is allowing too much

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1 development by right? Or are you thinking that what they're  
2 proposing is too much?

3 I'm trying to kind of understand where you're  
4 coming down on it, because it does allow 182,000 total square  
5 feet of development. They're doing 141. I understand that's  
6 still a lot, but I'm trying to kind of understand where you  
7 all are with that.

8 MR. GUTHRIE: The problem comes from both the  
9 expansion of the school facility and the construction of this  
10 substantial residential facility on a piece of property that  
11 reasonably supports one or the other, but not both. That's  
12 where the problem comes in. Yes, zoning --

13 VICE CHAIR HART: Yes --

14 (Simultaneous speaking.)

15 MR. GUTHRIE: Zoning allows a certain amount.  
16 HPRB limits the amount that you can use the available zoning,  
17 because of historical context, that they won't allow you to  
18 build to the full height.

19 But the problem is that they're wedging two  
20 projects into one site that will have such an adverse impact  
21 because the amount of traffic generated by those two is  
22 clearly more than either one would be by the, by itself.

23 VICE CHAIR HART: Okay.

24 MR. GUTHRIE: And the fact that they've chosen to  
25 finance it that way is what leads to the imposition on the

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1 neighborhood.

2 VICE CHAIR HART: Okay, thank you. And one other  
3 questions that doesn't have anything to do with the actual,  
4 the structure itself. The, Ms. Milanovich, who is our  
5 traffic consultant, said that as part of the things that DDOT  
6 asked them to do, one of them was to actually, to remove the  
7 pedestrian crossings along 16th Street at Belmont.

8 MR. GUTHRIE: I'm not sure whether it's Belmont  
9 or Crescent.

10 VICE CHAIR HART: I think it was Belmont, because  
11 --

12 MR. GUTHRIE: Belmont?

13 VICE CHAIR HART: -- Belmont because there's no,  
14 there's no light there.

15 MR. GUTHRIE: Right. And --

16 VICE CHAIR HART: And I didn't know what, I didn't  
17 know what your, the ANC's position was on that.

18 MR. GUTHRIE: We haven't taken a position on that.

19 VICE CHAIR HART: Okay, thank you.

20 CHAIRMAN HILL: Anyone else? Okay. Just a  
21 reminder, Commissioner Guthrie, so you meet, Commissioner  
22 Perry, you're the SMD for this project. Where are you,  
23 Commissioner Guthrie?

24 MR. GUTHRIE: I'm over in the Washington Heights  
25 historic district, but also sit on the Timing Zoning and

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1 Transportation Committee, and was, until the 1st of the year,  
2 the chair for this ANC.

3 CHAIRMAN HILL: Okay. I'd say congratulations,  
4 but our, for getting off of it, I guess. But still on.  
5 Okay. Let's see. Mr. Avitabile, what, can you explain to  
6 me, just a little bit again, kind of what the matter of right  
7 option would be for your client?

8 MR. AVITABILE: So the height of the building that  
9 could be built in the RA-4 zone is 90 feet. Our building is  
10 80 feet tall.

11 Over on the RA-4 side of the line, if we didn't  
12 move the zone boundary line, could we bring up the slide that  
13 has that data? You could build, what's 103 minus 13? Thank  
14 you, 90. So you could build, on that --

15 CHAIRMAN HILL: Right, you wouldn't get, you  
16 wouldn't get the height. You wouldn't get the height. So,  
17 because the HPRB wouldn't give you the height.

18 MR. AVITABILE: Well, right. But we're not even,  
19 but the point is, we're not even using 90 feet of height,  
20 even on all of the property where we could do 90 feet of  
21 height.

22 So we're, the little sliver in the center, where  
23 we're moving the property line, we're not doing that to get  
24 height. What it does is it allows extra density. It  
25 increases the amount of density that's generated by that

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1 portion of the property --

2 CHAIRMAN HILL: Okay.

3 MR. AVITABILE: -- by 13,000 square feet.

4 CHAIRMAN HILL: Okay. So that takes care of that.

5 And then, the expansion of the use, so you wouldn't then do  
6 the conference center?

7 MR. AVITABILE: You couldn't have the Meridian,  
8 the problem, it's a little bit of a complicated puzzle here,  
9 because the existing parking lot is used by Meridian right  
10 now.

11 It's been mentioned in their previous private  
12 school approvals. It's questionable as to whether, if we  
13 were simply building a condominium building here, whether  
14 that alone would require you to go back and modify the  
15 private school plan, because this has been historically used.  
16 But we're not asking that question. So --

17 CHAIRMAN HILL: Okay. I'm just, I got my answer.  
18 I got my answer.

19 MR. AVITABILE: Okay.

20 CHAIRMAN HILL: Okay. Okay, yes. So, and I think  
21 we're going to hear from a lot of people, and I don't know  
22 if we need to take a, how many people are here testifying,  
23 if you could raise your hand. Okay. Oh, okay. Two, three.  
24 Okay. Okay.

25 Let me just ask my one quick question, and then

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1 I think we're going to take a break. The, so right now,  
2 commissioners, so, and this is where we're going to kind of  
3 get back, I think, to again, the teeth of all of this,  
4 because I live in, I live next to a place that's turned into  
5 a conference center, and so, you know, there's a bunch of  
6 things that happen, and we have to complain, and they go on  
7 deaf ears at times. So the process now that you guys kind  
8 of go through, what's the process now?

9 MS. PERRY: For?

10 CHAIRMAN HILL: A complaint. They're double --

11 MS. PERRY: Complaining?

12 CHAIRMAN HILL: -- parking on the, you know,  
13 whatever. Do you call somebody?

14 MS. PERRY: Sending emails, text messages.

15 CHAIRMAN HILL: To who?

16 MS. PERRY: It's harder, to the Meridian event  
17 staff, usually during the event --

18 CHAIRMAN HILL: Okay.

19 MS. PERRY: -- but oftentimes, that person who's  
20 designated is in the middle of running an event, so --

21 CHAIRMAN HILL: Right.

22 MS. PERRY: -- can't necessarily be responsive.

23 CHAIRMAN HILL: Right. So you didn't have, up  
24 until, and I don't know, and I'm going to ask for  
25 clarification in terms of the MOU, you didn't have a direct

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1 person that you could call, that is an immediate, you know,  
2 will answer the phone and you'll deal with that? It was just  
3 kind of like, you know, you called the center and you got who  
4 you got?

5 MS. PERRY: No. My understanding is that we did,  
6 and I think it has evolved kind of over the years, but that  
7 there was a directed person to contact. It wasn't just like  
8 we were calling over to Meridian, you know, their general  
9 number.

10 CHAIRMAN HILL: Okay. And have either of you had  
11 experience with like calling them and then nothing really  
12 happened?

13 MS. PERRY: Yes. How do you mean though?

14 CHAIRMAN HILL: You guys. Either, anyone in your  
15 community? I mean, you've had feedback --

16 MS. PERRY: Oh, yes.

17 CHAIRMAN HILL: -- that people have called, and  
18 they call, and nothing happens.

19 MS. PERRY: Absolutely. Absolutely.

20 CHAIRMAN HILL: Okay.

21 MS. PERRY: Yes, I mean, the, you know, events are  
22 going late, or that, you know, the shuttles are double  
23 parked, or that people can't get through to their homes  
24 because there's, you know, they're doing drop offs for, you  
25 know, the event rentals.

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1 CHAIRMAN HILL: Right.

2 MS. PERRY: And yes, generally --

3 CHAIRMAN HILL: Right. Okay.

4 MS. PERRY: -- those complaints are not responded  
5 to.

6 CHAIRMAN HILL: Because, and we're going to, we're  
7 going to take a quick break here, but Mr. Avitabile, I mean,  
8 I thought this was going to be easy, or I didn't necessarily  
9 know it was going to be easy or not, but like, I'm really  
10 going to, and I think the Board members, at least one other  
11 has expressed, again, what is the difference now between what  
12 we're agreeing to as the Board versus the MOU that we did the  
13 last time with the Board, right?

14 And there seems to be enough in the record to  
15 indicate that it hasn't been the easiest to take care of, and  
16 unfortunately, you're the CEO and have been for 11 years, so  
17 you got kind of a bad track record that's going on here at  
18 this point.

19 You're disagreeing with it, but there's other  
20 people that are saying, you know, and as somebody who lives  
21 next to one of these things, you know, you know, you know,  
22 yes. So okay. So anyway, so we're going to take a break,  
23 okay? All right, we're going to take a 15 minute break.

24 (Whereupon, the above-entitled matter went off the  
25 record at 11:45 a.m. and resumed at 12:01 p.m.)

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1           CHAIRMAN HILL: Okay. All right. So, there was  
2 people -- so, we asked for -- we talked to the ANC people.  
3 Before the Commissioners come back, or if they come back,  
4 we'll see, is there anyone here wishing to speak in support?  
5 Doubted it.

6           Is there anybody here wishing to speak in  
7 opposition? Okay, if you can come forward. I thought there  
8 was one other -- okay. You -- okay, that's all right. You  
9 can come forward or you don't have to, it's up to you if you  
10 want to come forward. You can come forward and if you want  
11 to speak, now's your opportunity.

12           I think you guys got sworn in, correct? Okay.  
13 Did you get sworn in? No, you did not? If anybody's here  
14 who hasn't gotten sworn in who plans on testifying today, if  
15 you could please stand and take the oath administered by Mr.  
16 Moy here, to the right?

17           If anyone's going to testify, I don't know if that  
18 gentleman is -- okay, if you can stand and take the oath  
19 here, administered by Mr. Moy. Anyone else? Great.

20           (Witnesses sworn.)

21           CHAIRMAN HILL: Okay. So, if you could please  
22 state your name for me, both of you?

23           MR. PERRY: Jake Perry.

24           CHAIRMAN HILL: And where do you live, Mr. Perry?

25           MR. PERRY: I live at 1664 Beekman Place --

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1 CHAIRMAN HILL: Okay.

2 MR. PERRY: -- Washington, D.C.

3 CHAIRMAN HILL: Okay. And, sir?

4 MR. McPEEK: Steve McPeek, I live at 2200 17th  
5 Street Northeast.

6 CHAIRMAN HILL: Okay. So, you'll each have three  
7 minutes, as members of the public. And so, the clocks are  
8 up there on the ceilings and you can begin whenever you like.

9 MR. McPEEK: Great, thank you.

10 MR. PERRY: Thank you, first, to the Board. I just  
11 want to say, as a former member of the Alcohol Beverage  
12 Control Board, I appreciate your service. I spent many, many  
13 hours and days in your position.

14 CHAIRMAN HILL: Yes, your board sucks more than  
15 this Board, by the way.

16 (Laughter.)

17 MR. PERRY: It was a very learning experience.  
18 Anyway, I'm just here to express my opposition to the  
19 application before you right now.

20 The developers are obligated to show that the  
21 special exemption they seek will not have an adverse impact  
22 on the neighboring properties. As a ten-year resident of  
23 this SMD, they have not and cannot satisfy that obligation  
24 under the current proposal.

25 Again, I just want to say, when I was on the

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1 Alcohol Beverage Control Board, I gave great -- the idea of  
2 the ANC's great weight weighed heavy with me and I think the  
3 fact that the ANC sort of voted unanimously on this, I think  
4 it says a lot.

5 I would just say, as an 11-year resident, I think  
6 a lot of what has been said about the -- the complaints, I  
7 think are valid. I think the shuttle buses are there all the  
8 time, so they block the way, the delivery loading docks block  
9 the way.

10 And I would just say, I mean, I'm sorry, but for  
11 me, we're all busy, for me to look up a number and try to  
12 figure out how I call the person, I got to -- usually, I'm  
13 trying to get somewhere.

14 So, the idea that I'm going to have to call and  
15 make a complaint -- if there aren't a lot of them, which I  
16 don't think that's true, but I think it's just, you know,  
17 sometimes people just don't have time to complain. But I  
18 just say, it does happen. The shuttle buses are there all  
19 the time.

20 And, look, there's also just the noise and I would  
21 just tell you this, come to that block on a Saturday after  
22 a wedding, I guarantee you you're going to see cigarette  
23 butts on the sidewalk, because there's a patio, people smoke  
24 cigarettes, and that's what happens.

25 So, thank you for your time, thank you for your

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1 service, and I hope you will oppose this.

2 CHAIRMAN HILL: All right, Mr. Perry. Sir? Yes,  
3 you get a new three minutes. Mr. Moy, you got a new three  
4 minutes there? And you have to push the button in order to  
5 -- yes. No problem.

6 MR. McPEEK: Okay. My name is Steve McPeek. I've  
7 been an owner at Meridian Crescent Condominium for 12 years  
8 and I represented our association on the community working  
9 groups, developing the MOUs. I participated in 16 working  
10 group meetings since December. I also engaged our  
11 association and board during this process.

12 In my observation, the developer and Meridian  
13 International Center acted in good faith while collaborating  
14 with neighbors to draft the MOUs to address community demands  
15 and to mitigate potential adverse impacts of the proposed  
16 development.

17 We understand the MOUs are now near final and the  
18 Meridian Crescent Condominium Association Board has voted to  
19 sign them. On behalf of our association, I would like to  
20 provide the following brief statement.

21 Meridian Crescent Condominium neither supports nor  
22 objects to the new development at 2300 16th Street. Our  
23 building is situated on 17th Street between Belmont Street  
24 and Crescent Place, where 100 percent of our residences face  
25 the street across from Meridian House.

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1           If you look on the diagram, we're the crescent  
2 shaped building at the lower-left hand corner of the screen.  
3 And you can see where we overlook Meridian House and also,  
4 that court -- or that lawn, which a lot of the events are  
5 held, including the weddings. We have large windows of our  
6 living rooms and bedrooms across the face of our building.

7           Our residents have raised concerns about adverse  
8 impacts of the development, especially increased traffic flow  
9 in front of our building, and increased delays at 16th and  
10 Crescent Place intersection. We also understand the  
11 importance of safety and unobstructed traffic flow at the  
12 16th and Belmont intersection, as the intersection is the  
13 gateway of our community.

14           The proposed building will sit directly on 16th  
15 Street, a major thoroughfare. We strongly oppose diverting  
16 traffic through the quiet streets of the neighborhood,  
17 including 17th Street. We endorse the MOUs as written, as  
18 they ensure that traffic flow will exit onto 16th Street in  
19 the most direct way.

20           By having traffic enter the new development from  
21 Belmont and garage traffic exit onto Crescent, the overall  
22 adverse impacts on both intersections should be less than  
23 previously considered alternatives.

24           The MOUs also contain numerous provisions to  
25 mitigate potential adverse impacts from Meridian operations,

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1 the construction of the building, and activities of the  
2 proposed condominium. Most importantly, they include a  
3 framework for accountability, including penalties designed  
4 to enforce the provisions of the agreements.

5 It is essential that Meridian and the developer  
6 abide by the obligations of these agreements and that the BZA  
7 or other appropriate body will help the neighbors enforce the  
8 MOUs, if necessary.

9 Although we are in close proximity to Meridian  
10 House, we have not heard significant objections to Meridian's  
11 current operations from our residents. We trust that they  
12 will continue to act as good neighbors. And I thank you for  
13 the opportunity to present.

14 CHAIRMAN HILL: Could you repeat that second --  
15 what you just said just before the end?

16 MR. McPEEK: Although we are in close proximity to  
17 Meridian House, we have not heard significant objections to  
18 Meridian's current operations from our residents. And that  
19 we trust that they'll continue to act as good neighbors.

20 CHAIRMAN HILL: Okay. All right. Does the Board  
21 have any questions for the witnesses? Okay. All right. For  
22 the record, this Board does not suck, it's a very good Board.

23 (Laughter.)

24 CHAIRMAN HILL: And ABRA also does not suck,  
25 they're just -- I was just using a term of endearment.

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1 (Laughter.)

2 CHAIRMAN HILL: Exactly, it's a very, very  
3 important job ABRA does. Oh, the clock, right, no, it  
4 doesn't work all the time. Okay. Thank you all very much.  
5 Thank you. Okay. So, we're back over here.

6 Mr. Avitabile, I'm just kind of curious, since you  
7 have this thing on here, what could you build in that little  
8 lot that's right there, next to Meridian House? To the left  
9 of Meridian House?

10 MR. AVITABILE: So, theoretically, that's in the  
11 RA-2 zone. You could build a building of up to 50-feet in  
12 height and a 1.8 FAR. You'd have to deduct the existing  
13 Meridian House from that.

14 I'm not sure exactly what you'd be able to build,  
15 but that's a lot that's about 30,000 square feet and change.  
16 So, double that for the amount of density you could build,  
17 backup in Meridian House.

18 We'd have to do the math, but you could  
19 theoretically build something there. Whether it would get  
20 approved or not, unlikely given that that is a historic --

21 CHAIRMAN HILL: Oh, HPRB, you'd have to go through  
22 HPRB? That's right.

23 MR. AVITABILE: It's a historic landmark --

24 CHAIRMAN HILL: Okay, all right.

25 MR. AVITABILE: -- and that lawn is considered to

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1 be --

2 CHAIRMAN HILL: Okay.

3 MR. AVITABILE: -- I think part of the landmark.

4 CHAIRMAN HILL: Okay, great. Just curious.

5 MR. AVITABILE: So, ultimately, nothing.

6 CHAIRMAN HILL: All right. Does the Board have  
7 questions for the applicant?

8 MR. AVITABILE: We did have a very short rebuttal,  
9 that was really to go --

10 CHAIRMAN HILL: Yes, that's okay.

11 MR. AVITABILE: Okay. But --

12 CHAIRMAN HILL: Yes, that's all right. I think  
13 we're going to have some things we're going to ask of you.  
14 Do you guys have any questions? I mean, I know what I'm kind  
15 of struggling with and it's still, again, is the -- I mean,  
16 there's three MOUs, right? And they're extensive.

17 And so, I guess I'll kind of talk a little bit  
18 through this. I mean, how did you get the group, the Beekman  
19 Place Condominium to withdraw their party status? So, that's  
20 my first question. What did -- what were they sticking on  
21 or how did you kind of get through that? So, I'd be curious  
22 of that.

23 Then, I know that what I would like to see later,  
24 I'm just asking the question about the -- how you got their  
25 withdrawal, right, Beekman Place -- actually, why don't you

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1 just answer that first.

2 MR. AVITABILE: Sure. John will speak to that, I  
3 think, and then I'll fill in color.

4 CHAIRMAN HILL: Okay.

5 MR. CUMMINGS: Yes, thank you. So, back in  
6 November of last year, we had, through the HPRB process, we  
7 had a group of working members through the neighborhood of  
8 key stakeholder neighborhoods. So, 1661 Crescent to the  
9 north, Meridian Crescent, 17th Street neighbors, and Beekman  
10 Place to the south.

11 It was roughly about 15 members in total of those  
12 communities. So, we were working together through HPRB  
13 process. In November of last year, we reformed that group  
14 again to focus on the matters at hand, as it relates to the  
15 BZA, the two special exceptions that we were seeking.

16 We knew that we had to address things like noise,  
17 traffic, otherwise objectionable impacts. So, we set out  
18 this framework to try to pull out what were the concerns from  
19 the neighborhood? We essentially did a charrette process.

20 So, back in November, we had the existing Meridian  
21 MOU that had been in place, that they offered back in 2000,  
22 so it's almost 20 years old at this point. We used that as  
23 kind of the guiding framework of what that document would  
24 look like.

25 From that process, we solicited out about 120

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1 individual comments from each community. So, we had a  
2 running list of about 120 kind of areas of either concern or  
3 improvements that they would like to see addressed in these  
4 various MOUs. Some of them were related to the new condos,  
5 some were related to --

6 CHAIRMAN HILL: I'm sorry, Mr. Cummings --

7 MR. CUMMINGS: Yes?

8 CHAIRMAN HILL: -- I'm going to cut you off.

9 MR. CUMMINGS: Okay.

10 CHAIRMAN HILL: So, what, again -- so, they just  
11 withdrew --

12 MR. CUMMINGS: Yes.

13 CHAIRMAN HILL: -- like last week.

14 MR. CUMMINGS: Yes.

15 CHAIRMAN HILL: So, what finally got them to  
16 withdraw?

17 MR. CUMMINGS: So, basically the drive aisle. The  
18 original design had everything coming in off Belmont, also  
19 exiting off of Belmont.

20 CHAIRMAN HILL: Okay.

21 MR. CUMMINGS: We --

22 CHAIRMAN HILL: So, you moved that up to the top  
23 corner there?

24 MR. CUMMINGS: We moved the drive aisle exit from  
25 the resident parking garage and the Meridian garage to allow

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1 that traffic to exit onto Crescent. The main concern that  
2 was identified from Beekman was really the peak hour traffic  
3 congestion.

4 And by moving residents who were leaving the site  
5 or coming to the site for rush hour times, I believe that  
6 mitigated their concerns, so they were ready to sign on to  
7 the MOU and withdraw their concerns at that point. They were  
8 involved in the process from the start --

9 CHAIRMAN HILL: Okay.

10 MR. CUMMINGS: -- a lot of their --

11 CHAIRMAN HILL: Okay.

12 MR. CUMMINGS: -- fingerprints are --

13 CHAIRMAN HILL: Okay. All right.

14 MR. CUMMINGS: -- in that MOU.

15 CHAIRMAN HILL: So, Mr. Avitabile, and you can go  
16 ahead and rebut things in a minute here and give a little bit  
17 of a conclusion. I mean, I'm not going to, personally, and  
18 the Board can speak up, I'm not going to be able to decide  
19 this today.

20 What I'd really want to see from you, for the  
21 record, is kind of just -- I mean, again, there's three MOUs  
22 and there's a lot of things in there. What I would want to  
23 know is just exactly how do we know that the applicant will  
24 live up to the agreement that they've put forth? And in a  
25 very practical sense.

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1 I mean, unfortunately, to one of the witness'  
2 testimonies, nobody wants to have the phone call anyway and  
3 it seems, at least from some of the witnesses that we've had,  
4 it has -- the reputation is not as clean as maybe, obviously,  
5 you would have liked it to have been before you came before  
6 us.

7 And I can understand that, over 20 years, things  
8 might shift. Like that first year, it might be pretty  
9 intense, everybody's making sure that things go properly and  
10 then, they just kind of go away, less concerns from the  
11 applicant.

12 So, really, I would be looking for whatever, just  
13 a summary of whatever the teeth are and how the teeth work  
14 and convincing the Board that the applicant now is going to  
15 live up with these conditions, so that we can feel  
16 comfortable in terms of the adverse impact.

17 So, that's my first thought. Does the Board have  
18 any other thoughts?

19 MEMBER WHITE: My only thought is, just based upon  
20 what Chair Hill just said, because you were able to get  
21 Beekman on board with the project, and my question is,  
22 whether or not there's anything out there that you believe  
23 would get the ANC to be more supportive of it.

24 Maybe it's too late to do that, but it sounds like  
25 we probably won't make final decisions on this today. But

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1 anything in the record that would be helpful in terms of  
2 olive leaves that you've extended out to the ANC that would  
3 address some of their concerns, I think would be helpful,  
4 because it is a pretty strong vote here, so I've got to pay  
5 attention to it. But that would be my only comment.

6 VICE CHAIR HART: Mr. Chairman, I think that, while  
7 I am appreciative of the MOU, there are things in the MOU  
8 that are not pertaining to us and it just seems like I'm  
9 almost wanting -- I mean, while I understand the OP kind of  
10 says the conditions that we had back in -- that the previous  
11 zoning order, we shouldn't be kind of moving forward with  
12 those, which I don't have an issue with.

13 But I almost feel like we need to have -- kind of  
14 pull out some of the items that are in the MOU and to be able  
15 to make them conditions in the zoning order, in the BZA  
16 order.

17 And I'm just struggling with cutting through the  
18 17 pages and kind of saying, okay, well, you're telling us  
19 how many events that you're going to have per year, and  
20 whatever that is, but those things kind of deal with the  
21 amount of impact that is kind of agreed to. And some of the  
22 timing and all that stuff, that seems like it should be kind  
23 of a condition.

24 And I'm almost thinking that we should have the  
25 applicant just go through it and say, these are conditions

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1 that are pertaining to zoning, or that you think are  
2 pertaining to zoning, and this is what we should -- we could  
3 incorporate as part of the, or include as part of the zoning  
4 order, if we do approve this. I mean, that's the big  
5 assumption.

6 CHAIRMAN HILL: Okay. So, Mr. Avitabile, you heard  
7 what Vice Chair Hart said, in terms of giving us a list of  
8 conditions that we would then add to the order. And just to  
9 follow up what he's saying, then, I would want to know in the  
10 document that you provide us, what are the teeth to those  
11 conditions, right? And so, that's -- go ahead, sorry.

12 VICE CHAIR HART: Yes, and one other item is, the  
13 drawings, if we could have a complete set that is all  
14 updated, because I think we have it in several different  
15 places right now. And I appreciate Mr. Bell for going  
16 through the drawings, I think it's very helpful to hear the  
17 analysis and all that stuff.

18 But it seemed like there were some things that  
19 have happened, or at least included, like the new exit of the  
20 ramp onto Crescent, you know, that's something that is, while  
21 it may be in the drawings in our file, it seems like it's  
22 kind of, some of these things are in different places or, oh,  
23 we updated this portion of it.

24 And I'd like to have just one set that has, these  
25 are all the updated drawings that we have. And then we can

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1 say, if, again, we get to a zoning order, we can say, Exhibit  
2 80-whatever, or whatever, these are the final drawings that  
3 we're approving, as opposed to, well, Exhibits 50 and 21 and  
4 -- so, I just think that would be a little cleaner.

5 MEMBER JOHN: Mr. Chairman?

6 CHAIRMAN HILL: Sure.

7 MEMBER JOHN: I also have a question concerning  
8 Paragraph 15 of the Meridian MOU. And it sort of relates to  
9 what Mr. Hart has said. It's Exhibit 69D. And in one of the  
10 paragraphs, it says that the parties reserve the right to  
11 bring this matter before the BZA or DCRA if they cannot come  
12 to resolution in terms of payment of fines and things like  
13 that.

14 I'm not sure to what extent that that paragraph  
15 belongs in the MOU, if the Board is expected to enforce some  
16 of the issues. Same thing Mr. Hart said. I mean, we would  
17 not have jurisdiction to enforce a lot of the issues that are  
18 addressed in the MOU.

19 So, I'm not sure if we want to hear from the  
20 parties concerning whether or not the fine was paid or it's  
21 an appropriate fine or what. So, I'm not sure --

22 MR. AVITABILE: Right. That's not the intent of  
23 that provision. The intent of that provision is -- and  
24 again, I think our commitment to the neighbors was that we  
25 would proffer all of the conditions in the MOUs as

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1 conditions.

2 I think we all understood that some of these of  
3 these things do go beyond zoning and the Board might very  
4 well say, parse out the ones that are zoning conditions  
5 versus the ones that -- like the construction MOU, those are  
6 all commitments that are outside the bounds of zoning.

7 And I think we can and will pull together a list  
8 of the conditions that are appropriate for a zoning order.  
9 All of the commitments would still stand and be enforceable  
10 through the MOUs.

11 The point of that particular provision was to  
12 suggest, really, to the extent that the MOUs themselves were  
13 conditions of the zoning order or to the extent that  
14 provisions of the zoning order, conditions of the zoning  
15 order, if we violate a condition of a zoning order, they have  
16 a right to ask for enforcement action to be taken.

17 First step is going to the zoning administrator  
18 and if they don't agree with the zoning administrator and he  
19 declines to take enforcement, they can ultimately appeal that  
20 to the BZA.

21 So, I think the important point here was, the  
22 neighbors wanted to make it clear that, to the extent that  
23 there's a zoning order that says, Meridian or Developer, you  
24 need to do this, and we don't do it, the fine isn't their  
25 sole remedy, if there's actually a zoning condition. That's

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1 the point.

2 MEMBER JOHN: So --

3 MR. AVITABILE: We're not thinking, if we -- the  
4 intent here is not --

5 MEMBER JOHN: I get it.

6 MR. AVITABILE: -- if a truck was --

7 MEMBER JOHN: I get it.

8 MR. AVITABILE: Yes.

9 MEMBER JOHN: So, my rule of thumb is, if someone's  
10 asking a question about the language, there's something wrong  
11 with it.

12 MR. AVITABILE: Okay.

13 MEMBER JOHN: So, maybe it would be a good idea to  
14 rephrase it to say exactly what you just said.

15 MR. AVITABILE: Okay.

16 MEMBER JOHN: Thank you.

17 MR. CUMMINGS: And I think, Ms. White, you had a  
18 question about olive branches to the ANC, to go back to your  
19 question there. The ANC, back in November when we started  
20 this working group, the ANC was part of that. They've been  
21 invited to and engaged in pretty much all the meetings to  
22 date with the working group.

23 They have every opportunity to provide, you know,  
24 comments and concerns in that process. We responded to, a  
25 lot of their concerns are in the MOUs. So, they were a party

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1 to that and part of that whole process as well. So, it's  
2 been over seven months now of direct engagement, almost on  
3 a weekly basis.

4 CHAIRMAN HILL: Okay. Any -- sorry, Commissioner  
5 May?

6 COMMISSIONER MAY: I'm sorry, was Mr. Avitabile  
7 going to actually do a rebuttal?

8 CHAIRMAN HILL: No, we're not -- yes, I just -- he  
9 didn't --

10 COMMISSIONER MAY: I mean, I have some things to  
11 say, but I think they're more deliberative than questions.

12 CHAIRMAN HILL: Okay.

13 COMMISSIONER MAY: So, I'm interested in the  
14 rebuttal and then, I'll just have a few comments.

15 CHAIRMAN HILL: Okay. Then, the last thing that  
16 I would be interested in, and this is -- I don't know  
17 whether, Mr. Avitabile, this is something that you could  
18 proffer or I'm going to try to understand with OAG later.  
19 Because what I'm -- and I'm just, because we do this in the  
20 public, I'm just struggling with this myself in trying to  
21 speak out loud.

22 That the expansion of the use, I'm trying to  
23 figure out how to put some kind of a time limit, or at least,  
24 this is just what I'm initially thinking, I don't know, and  
25 if you can help me get there, great.

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1           But, like, an expansion of the use, in terms of  
2 the conference facilities, like, what we've had, oftentimes,  
3 is we'll do a time limit. And so, we'll go ahead and present  
4 the order, the order will -- and you have to come back in  
5 five years -- three years, five years.

6           And then, you then show us that the -- we made the  
7 right judgment in terms of approving it. So, I have to  
8 figure out how one even goes about that. But the building's  
9 going to be there, so it would be the expansion of the use,  
10 I guess, that could be on a time limit, where you'd have to  
11 come back.

12           So, I just have to kind of figure that out, I'm  
13 just throwing that out there. You want to go ahead and do  
14 your rebuttal? Because then, Mr. May has, I think, some  
15 questions for you or comments.

16           MR. AVITABILE: Sure. And I think what we were  
17 going to focus on in rebuttal was largely answering your --  
18 really everyone's question about the existing conditions with  
19 Meridian and enforcement --

20           CHAIRMAN HILL: Sure, that sounds great.

21           MR. AVITABILE: -- going forward.

22           CHAIRMAN HILL: That's a good idea.

23           MR. AVITABILE: So, I think the first thing,  
24 though, that's helpful -- can you go up and put up the  
25 Meridian, the floor plan? We did want to address the nature

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1 of the Meridian space in the building. I think it was  
2 suggested it was a 10,000 square foot conference center.

3 It's not quite -- that's not quite accurate. One  
4 of, actually, the changes we made in response to the  
5 community comments, originally, it was proposed as a single  
6 meeting room, but what we've since done is divide it up.

7 So, there is a meeting room there, maximum of 175  
8 people, that's on the bottom part of it. That's a room about  
9 the size of this room here. And then, the rest of that is  
10 open office space, that will be used by Meridian.

11 So, I think the suggestion that this is a  
12 conference center is a bit of a misnomer. This is additional  
13 space for Meridian to keep doing what they do.

14 CHAIRMAN HILL: Yes, that's okay.

15 MR. AVITABILE: Okay.

16 CHAIRMAN HILL: I think it's a conference space --

17 MR. AVITABILE: Okay.

18 CHAIRMAN HILL: -- but that's okay.

19 MR. AVITABILE: Okay.

20 CHAIRMAN HILL: All right.

21 MR. AVITABILE: But then, regarding the Meridian  
22 use, and Ambassador Holliday will speak a little bit to this  
23 as well, but I think one of the things that we try to do  
24 through the MOU process was identify -- as John said, we  
25 started with the existing MOUs and then, we look through them

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1 and try to identify, what isn't being done now that could or  
2 should be done?

3           Looking at all the other institutions in the  
4 District, both private schools and universities, what are the  
5 best practices? And I think we've implemented and brought  
6 onboard here nearly every single one.

7           Establishing a hotline that people can call with  
8 a specific person as a single point of contact to be  
9 addressed. You know, providing notification out to neighbors  
10 of when events are going to be and following up on when those  
11 events were held.

12           Setting up a system for receiving complaints and  
13 reporting out on how they were resolved. Creating this  
14 partnership -- and I will say, this partnership is not a  
15 novel idea, it's an approach we used very successfully to  
16 resolve the issues with Georgetown University. And I think  
17 that, I'm optimistic that the same formula can work here, and  
18 has worked here, it helped --

19           COMMISSIONER MAY: Are you going to bring in Don  
20 Edwards?

21           MR. AVITABILE: Don Edwards actually was the  
22 original facilitator on this three and a half years ago.

23           COMMISSIONER MAY: Is he still on it?

24           MR. AVITABILE: He hasn't been on it, we've been  
25 operating without him. But I like to think that Don -- we're

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1 using Don's playbook.

2 COMMISSIONER MAY: Okay.

3 MR. AVITABILE: We -- well, I mean, we've had --  
4 I mean, the fact is, of the four community association  
5 representatives that engage in this working group process,  
6 all four of them either have filed party status or actively  
7 withdrawn, showed up here and said, we don't oppose or  
8 object, or didn't show up, which sometimes silence is golden.  
9 I mean, I think --

10 CHAIRMAN HILL: All right Mr. Avitabile.

11 MR. AVITABILE: And then, the last part is, the  
12 dispute resolution process. You want to speak to that?

13 MR. HOLLIDAY: I just wanted to make just one  
14 minute point, which is, we've been there 58 years. There's  
15 a history, there are a lot of neighbors, there are a lot of  
16 opinions. I think, while we may disagree on the anecdotes  
17 that have been mentioned previously, it doesn't matter, we  
18 want to do a better job, we want to be held accountable.

19 We want to be held to the highest standards and  
20 we want to do whatever we can do to make sure that this does  
21 not affect our neighborhood. And if we need to go back and  
22 look at existing approaches to things, we will, we are  
23 committed to that.

24 We want to be here and functioning into the  
25 future. And so, we're not arguing that there have been

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1 issues, we're just saying they need to be put and framed in  
2 the context of our work and that we want to resolve them and  
3 make sure we're held accountable.

4 CHAIRMAN HILL: Okay. All right. Well, I mean,  
5 we're all hearing the same thing. And so, we're just trying  
6 to figure out how to make sure it gets done this time  
7 differently than it got done the last time. And I appreciate  
8 that, as I said, over 20 years, priorities shift, in terms  
9 of what might have been important. And so, Ambassador  
10 Holliday?

11 MR. HOLLIDAY: Yes.

12 CHAIRMAN HILL: What were you the ambassador of?

13 MR. HOLLIDAY: I was our deputy representative at  
14 the United Nations, back in a different era.

15 CHAIRMAN HILL: So, once you get the Ambassador  
16 title, that just sticks?

17 MR. HOLLIDAY: It's good for restaurant  
18 reservations, but I don't typically use it.

19 (Laughter.)

20 CHAIRMAN HILL: That's interesting. That's  
21 interesting. Okay. All right. I'm pretty -- I mean, I  
22 just, I want to be convinced. I mean, I'm just stuck, okay?  
23 Like, I just, and no offense, like, there's just -- I just  
24 don't know what to say, right? Like you have to kind of --  
25 you have to prove it to us, right?

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1           And again, Mr. Avitabile, if you can figure out  
2 how to parse this out so that there's a term limit for the,  
3 whatever you want to call it, that would be a helpful thing.  
4 Does anybody got anything else?

5           COMMISSIONER MAY: Yes, I have a few things to say.

6           CHAIRMAN HILL: Sure, oh, great. Commissioner May?

7           COMMISSIONER MAY: So, I mean, this is a really  
8 interesting case and I know it has a long history, I mean,  
9 it occasionally gets -- makes the news somewhere and I've  
10 seen how it evolved.

11           And I can say that, I mean, not having paid much  
12 attention to it before, but seeing what we see today and how  
13 sensitively designed the building is and how well it fits,  
14 I mean, and the fact that the relief needed to build a  
15 building like this, I mean, putting aside the school use, the  
16 relief needed to build a building like this is really pretty  
17 minor.

18           And I think that the architectural approach, if  
19 that's what necessitates shifting the line, the zone  
20 boundary, I think that's really very minor. And I think  
21 that, in comparison to what can be done as a matter-of-right,  
22 what's being done here I think is being done extremely well  
23 and the neighbors should be grateful that the design is as  
24 strong as it is and they've done the moves that they've done.

25           So, I don't think that there's any question that,

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1 ultimately, the special exception for moving the zone  
2 boundary or that shift, is something that can be done. And  
3 I think that -- I mean, we did hear a fair amount of  
4 opposition, there's opposition in the record, most of that  
5 opposition goes to the building.

6           And I think that is rooted in the fact that this  
7 has been an open space for a long time and it's been a green  
8 space and it's been a substantial amenity just to have that.  
9 I mean, granted, there was a parking lot in the middle of it,  
10 but still, it was green and open space.

11           And people don't like seeing stuff like that  
12 change, but this is -- I mean, it's pretty clear that there's  
13 a matter-of-right ability to do something pretty substantial  
14 here.

15           So, I think that the concerns having to do with  
16 the building itself, while I can appreciate where they come  
17 from, I don't think from a zoning perspective that those  
18 concerns weigh against approval of that particular special  
19 exception.

20           When it comes to the operation of the school, I  
21 think that there are unresolved questions and there is  
22 clarity that is needed. And I think the Chairman has already  
23 stated some of the things that we need in order to get to a  
24 decision on this. Of course, having clarity about what's  
25 going to become a condition of the order, including a

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1 condition that limits the time.

2           Certainly, the time, I mean, after the time limit  
3 is up, if we come back here in three years or five years and  
4 say, oh, things are still terrible and everybody's  
5 complaining about it, it's not going to make the building go  
6 away, but it could certainly change the nature of the  
7 operation of the school. And I think that's what the  
8 recourse would be in the long run. So, I think having that  
9 kind of a time limit is important.

10           And of course, having really excellent operations.  
11 I mean, this is an event facility in a residential neighbor  
12 and so, it has to be managed extremely well and very much in  
13 a hands-on way.

14           And the only way that you can make something like  
15 this work and have the neighbors be happy is to bend over  
16 backwards to make sure that there are not cigarette butts on  
17 the floor and there are not people double-parking and things  
18 like that.

19           Those are all manageable things. And based on  
20 what you are doing here, I think that they are all within the  
21 realm of what the Meridian Center can accomplish. So, I  
22 think spelling it out very clearly and making that conditions  
23 of the order and then, having to renew in a few years, I  
24 think is the way we have to address that.

25           I think the one last thing is that there was a

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1 substantial change in the plans between happened -- or what  
2 the ANC reviewed and what we see now. And I think, frankly,  
3 it is a huge, huge development, and I don't fault the design  
4 team for not having come up with this before. I mean,  
5 sometimes, you have to take a few steps backwards and rethink  
6 things in order to come to something like this.

7           But I think it is a huge, huge improvement,  
8 because it puts people leaving the building right next to the  
9 light where they will be getting onto 16th Street. And there  
10 are not going to be that many of them, but you certainly  
11 don't want to have them loop through the neighborhood and  
12 line up at that intersection in order to get out.

13           And I think that this is just a, as I said, a huge  
14 improvement and I'm glad it happened, even if it happened  
15 late. Just the same, it would be useful to take this back  
16 to the ANC and get their reaction to this change and see if  
17 that changes any minds.

18           And I think that's an important thing. So, that's  
19 something else that I would like to see. Other than that,  
20 I mean, if we get those things that you've asked for and some  
21 word from the ANC, then I think that we could make a decision  
22 on this.

23           CHAIRMAN HILL: Okay. Mr. Avitabile, so, obviously  
24 the ANC would be better, because then you don't have to get  
25 a full order, you could get a summary order. So,

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1 Commissioner May is asking you to go back to the ANC, would  
2 that be something you'd be interested in doing?

3 MR. AVITABILE: We'll do that.

4 CHAIRMAN HILL: Okay. So then, we can put this on  
5 for decision, or do you all want to talk to anybody?

6 COMMISSIONER MAY: I think that if we just get the  
7 submissions that we requested, then I think we can go  
8 straight to deliberation.

9 CHAIRMAN HILL: Okay. All right. Okay. All  
10 right. So, then, you would have to go back to the ANC, I  
11 don't know when the ANC can get you on their calendar. Yes?

12 MR. AVITABILE: They meet in early July, I'm not  
13 sure when. They normally meet the first Wednesday of the  
14 month, but that's July 4. July 11?

15 CHAIRMAN HILL: Okay.

16 MR. AVITABILE: So, it would be after July 11 that  
17 we'd need to come back to you all --

18 CHAIRMAN HILL: Okay.

19 MR. AVITABILE: -- unfortunately, on those two --

20 CHAIRMAN HILL: That's all right. That's all  
21 right. Commissioner Perry, since you're here, would you mind  
22 coming forward again?

23 MS. PERRY: Yes?

24 CHAIRMAN HILL: Can you get them on the agenda, do  
25 you know?

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1 MS. PERRY: I think, because it should go through  
2 PZT, I don't know that I can make that decision --

3 CHAIRMAN HILL: Okay.

4 MS. PERRY: -- at this second.

5 CHAIRMAN HILL: So, that's all right. So, you can  
6 try to get -- we'll just see. I mean, you can try to get  
7 them on the agenda, whatever, and then, that would be the  
8 11th, is the -- and then -- and I'm not saying we're -- if  
9 you could get us something one way or the other, that would  
10 be great, and then we would have it in the record and be able  
11 to at least get your position. I don't necessarily think  
12 it's going to change, by the way, but that's just my opinion.

13 So then we would be back here again, maybe for a  
14 decision, the last day of July, Mr. Moy? So, can you walk  
15 me through how the filings and all that would have to go, if  
16 we came here for a decision the last day?

17 SECRETARY MOY: Yes, sir. Yes, sir, with pleasure.

18 CHAIRMAN HILL: And can you come, Mr. May?

19 COMMISSIONER MAY: I'm going to be here for an  
20 FMBZA case on the 25th --

21 CHAIRMAN HILL: The 25th?

22 COMMISSIONER MAY: -- so, I'll be able to stay.

23 CHAIRMAN HILL: Oh, great, perfect.

24 COMMISSIONER MAY: That's the last one.

25 CHAIRMAN HILL: Oh, that's perfect.

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1           SECRETARY MOY: Yes. So, I would propose, Mr.  
2 Chairman, that, working backwards, then the Board sets this  
3 for decision on July 25. Perhaps something in writing, a  
4 response from the ANC, July 18, assuming that they meet on  
5 this application on their hearing on the 11th.

6           Then perhaps the applicant can submit additional  
7 information requested by the Board by -- how much time would  
8 you need, Mr. Avitabile? July 4?

9           MR. AVITABILE: Well, other than that being the  
10 holiday, but we could certainly I think submit either before,  
11 immediately before or immediately after the holiday. I think  
12 that's enough time for us to pull together --

13           SECRETARY MOY: Well, let's --

14           MR. AVITABILE: -- a full set of plans.

15           SECRETARY MOY: Okay, let's do before. I mean, I'm  
16 assuming --

17           MR. AVITABILE: Sure.

18           SECRETARY MOY: -- you're coordinating with the ANC  
19 --

20           MR. AVITABILE: Yes.

21           SECRETARY MOY: -- and that would give the ANC even  
22 more time, too.

23           MR. AVITABILE: That's fine with us.

24           SECRETARY MOY: So, how about Monday, July 2?

25           MR. AVITABILE: Sure.

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1 CHAIRMAN HILL: Okay. Everybody got the time line?  
2 Okay. So, after Mr. Avitabile -- I'm never going to believe  
3 you when I see you again out in public about how long things  
4 are going to take.

5 (Laughter.)

6 MR. AVITABILE: This is shorter than I thought it  
7 was going to take.

8 CHAIRMAN HILL: Oh, wow.

9 (Laughter.)

10 CHAIRMAN HILL: You're definitely not -- you're at  
11 the end every day now. You're at the end. I will see your  
12 name and I will go, oh, put him at the end, so all these  
13 people can go home before you come up.

14 (Laughter.)

15 COMMISSIONER MAY: We might need to watch out for  
16 Mr. Bell, as well.

17 CHAIRMAN HILL: Oh, right, Mr. Bell.

18 (Laughter.)

19 CHAIRMAN HILL: We're calling out names. So, let's  
20 see. So, then, Mr. Avitabile, you definitely need to have  
21 this tidy, okay? So, you've heard from Commissioner May, in  
22 terms of like a time limit of some kind.

23 So go ahead and split that out however you think.  
24 I'm looking at five years, you know. And so, that sounds  
25 like a reasonable time frame for the expansion of the use.

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1 And so, you can submit that however you want it, make it  
2 easier for us.

3 And then, I guess that's it. Does anybody have  
4 any other -- oh, sorry, Ms. White?

5 MEMBER JOHN: Mr. Chairman --

6 CHAIRMAN HILL: I mean, John?

7 MEMBER JOHN: -- John. Can you summarize again  
8 what we're asking for? The proposed conditions that relate  
9 to zoning, split those out of the MOU. And I'm not sure what  
10 else.

11 CHAIRMAN HILL: Sure. Mr. Avitabile, I'm going to  
12 let you read it back to us, so we know we're on the same  
13 page.

14 MR. AVITABILE: The conditions related to zoning.  
15 Full set of plans. We're submitting the -- considering the  
16 time frame, the time limit, which I think would be part of  
17 the conditions.

18 And then, I think, the last item would be the --  
19 again, addressing the operational issue, spelling out exactly  
20 what Meridian's going to be doing to manage its operations,  
21 to live up to the commitments it has made.

22 CHAIRMAN HILL: Yes, specificity of the teeth,  
23 right --

24 MR. AVITABILE: Right.

25 CHAIRMAN HILL: -- the repercussions if you don't

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1 live up to those.

2 MR. AVITABILE: And I think --

3 MEMBER JOHN: Mr. Chairman, I thought we were  
4 looking at what processes would Meridian institute to handle  
5 all of these operations, not just the resolution part of it,  
6 but on the front end, what new processes, since apparently  
7 some people in the neighborhood feel that whatever is there  
8 now is not working.

9 MR. AVITABILE: That's part of what I intended --

10 MEMBER JOHN: Okay, thank you.

11 MR. AVITABILE: -- the process, as well as the  
12 results.

13 MEMBER JOHN: Thank you.

14 CHAIRMAN HILL: Okay. Yes, the cleaner it sounds  
15 to us, the better your chances, I guess.

16 SECRETARY MOY: Mr. Chairman?

17 CHAIRMAN HILL: Yes?

18 SECRETARY MOY: Just one final thought, does the  
19 Board need any further -- from Office of Planning or not?

20 CHAIRMAN HILL: I don't think so.

21 SECRETARY MOY: Okay. I just wanted to --

22 CHAIRMAN HILL: No, I appreciate that. All right.  
23 Okay. All right. Are we clear?

24 MEMBER WHITE: Just one thing, you were going to  
25 have them connect with the ANC.

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1 CHAIRMAN HILL: Yes, and then, you have to go back  
2 to the ANC, which you know that.

3 MEMBER WHITE: Yes.

4 CHAIRMAN HILL: Mr. Avitabile --

5 MR. AVITABILE: Yes.

6 CHAIRMAN HILL: -- any questions?

7 MR. AVITABILE: No questions.

8 CHAIRMAN HILL: Okay. So unfortunately, you all,  
9 we are going to take another five minute break. And then,  
10 we'll be right back.

11 MR. AVITABILE: Thank you all.

12 CHAIRMAN HILL: Ten minutes, ten minutes.

13 (Whereupon, the above-entitled matter went off the  
14 record at 12:40 p.m. and resumed at 12:49 p.m.)

15 CHAIRMAN HILL: All right, Mr. Moy, you want to go  
16 ahead and call our next case?

17 SECRETARY MOY: Thank you. Mr. Chair, I believe the  
18 next case application is 19739 of Ben Saran and Margot  
19 Licker, as amended for special exceptions under the use  
20 requirements Subtitle U, Section 301.1(3), Subtitle E,  
21 Section 5201 Lot Occupancy Requirements of Subtitle E,  
22 Section 404.1, and under Subtitle E, Section 5007 from the  
23 accessory building rear yards setback requirements of  
24 Subtitle E, Section 5004.1 and pursuant to 11 D.C.MR Subtitle  
25 F, Chapter 10, for area variance from the accessory

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1 structured dwelling access requirement of Subtitle U, Section  
2 301.1(c). This would construct a two-story rear addition to  
3 an existing principal dwelling unit and to construct a  
4 two-story accessory structure RF-2 Zone, 1828 15 Street N.W.,  
5 Square 191, Lot 58.

6 CHAIRMAN HILL: Okay, great. Thank you, Mr. Moy.  
7 Just before we get started, are the people here for  
8 application 19759 of Christopher Cassimus in the room? Okay,  
9 great. We're going to try to hear that before lunch, so just  
10 want to make sure that everybody doesn't leave. And I don't  
11 know how much farther, but I think that's it. We'll go  
12 through these next two cases and then we're going to have  
13 lunch, because a few board members here will start to get mad  
14 and you don't want that.

15 So if you could please introduce yourselves?

16 MS. DOWNEY: Hi, I'm Megan Downey, architect.

17 MR. SAFRAN: And I'm Ben Safran, the homeowner.

18 CHAIRMAN HILL: Ms. Downey, I think you presented  
19 last time?

20 MS. DOWNEY: Yes.

21 CHAIRMAN HILL: Okay, that's great. If you could  
22 just kind of again tell us what has happened since then. I  
23 know there's a lot in the record that explains it, but if you  
24 could tell what has happened since the last time you were  
25 here.

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1 MS. DOWNEY: Sure. Certainly. So just quickly, just  
2 so you remember that this is a carriage we're adding, just  
3 to the house and a carriage house, accessory structure back  
4 of the house. There have really been three main things that  
5 have happened since the last hearing.

6 One is that we were able to get the letter of  
7 support from both adjacent neighbors and those have been  
8 uploaded into the record. The second is that since the  
9 hearing we discussed the project with FEMS, which is Fire and  
10 Emergency Medical Service. FEMS has reviewed our project and  
11 has found it to not impede emergency access. We now have a  
12 written statement of approval from them, also uploaded in the  
13 record, and lastly, since our presentation we've been working  
14 with the Office of Planning to address their concerns and we  
15 now have OP support for all four areas of relief.

16 CHAIRMAN HILL: As I said, the record you have,  
17 you've put everything into the record, which we reviewed  
18 since you were last here. Does anybody have any questions for  
19 the Applicant concerning either the previous hearing or this  
20 hearing? Or, I mean, what has been submitted into the record?  
21 Okay. Then I'm going to turn to the Office of Planning.

22 MS. VITALE: Good afternoon, Mr. Chairman, members  
23 of the Board, Elisa Vitale with the Office of Planning. Just  
24 briefly, as indicated by the Applicant, the additional  
25 information has been submitted into the record. In our

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1 initial report we noted that we believe one additional area  
2 of relief was necessary and that we would like to see input  
3 from Fire and Emergency Management Services prior to  
4 analyzing the Applicant's request for that new and additional  
5 relief.

6 We now have that information and we can recommend  
7 approval of the variance relief from the access requirements,  
8 normally a 15 foot alley within 300 feet of a street is  
9 required. In this instance the new accessory structure would  
10 be located on a 10 foot alley but it is within 85 feet of  
11 Swann Street and there is also a fire hydrant located in  
12 close proximity to the proposed accessory structure.

13 That concludes my report. I'm happy to answer  
14 questions.

15 CHAIRMAN HILL: Does anyone have any questions for  
16 the Office of Planning?

17 MEMBER WHITE: My one question is, I'm still  
18 struggling a little bit with the variance test for this  
19 particular case. I'm not clear that they've met the test but  
20 if you could walk me through what your analysis is with  
21 respect to that part of the relief, that would be  
22 appreciated.

23 MS. VITALE: Certainly. I think in this instance  
24 the variance necessary because the Applicant was proposing  
25 to locate an accessory unit, or locate a second principal

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1 unit in an accessory building. When the Zoning Commission  
2 updated the zoning regulations in 2016, the ability to split  
3 the two principal units in the RF-1 zone between the  
4 principal dwelling and the accessory building, this was a new  
5 provision.

6 At that time if the accessory building was not in  
7 existence as of January of 2013, there was a five-year  
8 waiting period that was adopted by the Zoning Commission just  
9 so that these new accessory buildings weren't, there wasn't  
10 kind of a rush to construct these for a second unit in RF  
11 zones.

12 So you can obtain relief to use that new accessory  
13 building for a second unit by special exception. In this  
14 case, because the Applicant requested that special exception,  
15 we supported it, and because they weren't on a 15 foot alley,  
16 that's what kicked them into the variance relief and the  
17 variance request, and in this instance because they were able  
18 to get input from Fire and EMS that that narrower alley width  
19 would not present an issue for access for emergency response  
20 vehicles we believe that this is relief that we can support  
21 for the variance for this second unit in this new accessory  
22 dwelling.

23 COMMISSIONER MAY: All right, so I'm struggling  
24 with the same thing and I don't think my question was  
25 answered by your response. What I'm struggling with is, what

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1 is the necessity, what is the exceptional circumstance and  
2 practical difficulty that this, the Applicant faces in the  
3 use of this property? Because they could build this and not  
4 build it as an accessory unit, or they could have the  
5 accessory unit in the basement. And even the plans show  
6 something that looks almost like an accessory unit.

7           So I'm having trouble understanding what the  
8 circumstances that drives us? I appreciate the fact that it's  
9 not going to be a hazard. And don't get me wrong, I like the  
10 idea of doing things like this, and in fact when we debated  
11 this at the Zoning Commission, the original proposal was, did  
12 not include the 15 foot wide alley within 300 feet of the  
13 road or whatever it was. And those conditions came out of  
14 consultation with FEMS.

15           So if now we are hearing that there are different  
16 requirements from FEMS, it seems to me that that implies that  
17 there should be a reconsideration of the zoning regulations  
18 to allow this wherever it occurs, rather than trying to make  
19 an exception in this circumstance because for reasons I don't  
20 know. So, anyway, maybe you can shed more light on that.

21           MS. VITALE: I don't think we're, I don't think  
22 this is a change from the input from the FEMS because I think  
23 that 15 foot wide alley requirement within 300 feet of the  
24 street, and then also I think that was to provide the ability  
25 for FEMS to weigh in and to look at other factors like the

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1 location of hydrants in the square and other items.

2 I think certainly if the variance test isn't the  
3 appropriate kind of test of relief for whether or not this  
4 type of use in an accessory building is appropriate, I think  
5 that's certainly something we could bring to the Zoning  
6 Commission to take a look at if that's not the right test  
7 here.

8 COMMISSIONER MAY: I think the real thing I'm  
9 struggling with is I just don't see how this meets the  
10 variance test. It's not that I'm unsympathetic to what they  
11 want to try to do, and I think that the idea of having a  
12 carriage house with an upper floor unit makes a lot of sense  
13 in this circumstance, providing it can be done safely, but  
14 I don't see how it meets the variance test. So anyway, leave  
15 it at that.

16 VICE CHAIR HART: Yeah, I actually had the same  
17 questions. I just, what makes it difficult is that if you  
18 look at even the OP report, the supplemental report, on page  
19 6 there was kind of like an image showing the entire, or at  
20 least this portion of the block where this alley is, and it  
21 looks like just about all of the, if we use the reasoning  
22 that you stated, all of those units could be, could actually  
23 get the same variance as well for the same reason.

24 Because they are fairly, at least a number of them  
25 could, so I don't know what the difference is between why

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1 this property is different than the other properties and that  
2 difference should then be allowing this property and not  
3 those other properties to be able to get the, this property  
4 should get the variance and not those.

5 If not, it seems like all of them could get it and  
6 then it becomes well, if it's just kind of normal then why  
7 is this, how does this one stand out?

8 CHAIRMAN HILL: Okay, was there, no question just  
9 a comment? Okay. Just real quick, back to the Applicant,  
10 again, I can't remember, if you don't get the variance, then  
11 the whole project doesn't work?

12 MS. DOWNEY: We're not able to put a unit above --

13 CHAIRMAN HILL: Right, so you can have a garage or  
14 whatever. So I, in terms of what has been said and in terms  
15 also the Office of Planning, the analysis is not necessarily  
16 the strongest in some regard, but I'm comfortable with the  
17 analysis that the Office of Planning has provided. However,  
18 if there is something that the Zoning Commission should look  
19 at a little bit more clearly, then that might be something  
20 that the Office of Planning again could bring up with the  
21 Zoning Commission. But again, that's just kind of a comment  
22 on that. Do you have any questions for the Office of  
23 Planning?

24 MS. DOWNEY: No.

25 CHAIRMAN HILL: And I think I did the last time,

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1 but since we're here, is anybody here wishing to speak in  
2 support? Is there anyone here wishing to speak in opposition?  
3 Is there anyone here from the ANC? Okay. Is there anything  
4 else you'd like to add?

5 MR. SAFRAN: Just a question for the Board. Is it  
6 helpful for us to share our perspective to the points on that  
7 first variance test, or you're --

8 COMMISSIONER MAY: If you're going to repeat what  
9 you've already stated in the previous hearing or in the  
10 written submissions for this hearing today, it's not really  
11 worth doing it over again. But if you have something that you  
12 think we're missing, by all means.

13 CHAIRMAN HILL: You can clarify, if you want, how  
14 you think you're meeting the first prong of the test, I  
15 suppose.

16 MR. SAFRAN: Yeah, and maybe one point in  
17 clarification in particular to multiple structures and my  
18 neighbors being able to meet it the test, I think our  
19 understanding was uniqueness isn't necessarily limited to  
20 just our building. If there are one or two properties that  
21 are meeting the test, for example, in the square, our  
22 neighbors could also meet the same criteria.

23 In addition there are structures that are adjacent  
24 to us that have in fact kind of built, they are granted, they  
25 had structures previously.

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1 CHAIRMAN HILL: Okay. That's okay. So, I'm sorry?

2 MS. DOWNEY: I was going to say, I was just going  
3 to follow up on that. I think what he's trying to say is that  
4 our understanding of the first part of the variance test is  
5 that it can be unique to block, it doesn't necessarily have  
6 to be unique to the site, and then following up on Mr. Hart's  
7 comment, I was just going to say that there three other  
8 existing structures there which kind of limit us in where we  
9 can locate it and it will also prevent them from doing the  
10 same thing because they already exist.

11 CHAIRMAN HILL: Okay. Does the Board have any  
12 questions, final questions, for the Applicant? Okay. Let's  
13 see. So is the Board ready to deliberate? Okay. I kind of  
14 stated my position in terms of that I think the Applicant has  
15 met the requirements, and I think that the Office of Planning  
16 has provided a report that I can get behind. I don't  
17 necessarily think it is the most strong, but it still is  
18 something that I can get behind.

19 In addition to that, the support that they've  
20 received from the ANC as well as the neighbors on either side  
21 of them, although that does not influence our decision, it  
22 is great weight that we give to the ANC to this particular  
23 project. So I'd be in support, and look to my colleagues for  
24 their opinion.

25 COMMISSIONER MAY: So, maybe I'm an outlier on

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1 this, I don't know, but I think that the test for the  
2 variance for the accessory unit in the carriage house has not  
3 been met. I think that in terms of the other relief, it's all  
4 very sensible, the addition, the lot occupancy, the setback,  
5 you know, clearly it's difficult to meet setback requirements  
6 when your alley is ten feet wide.

7 I don't have any problem with those, that relief,  
8 and certainly building a carriage house makes sense, it's  
9 whether that carriage house can be an accessory unit within  
10 the bounds of the zoning regulations. And again, I just don't  
11 think that the test has been made that there is an  
12 exceptional circumstance that creates a practical difficult  
13 for the Applicant.

14 They can still have a second unit in the basement,  
15 they could use the space over the garage for other purposes,  
16 just not for an accessory unit, again within the bounds of  
17 what the Zoning Commission previously decided.

18 I think that if we decide that, if this Board  
19 decides not to grant that variance as I am suggesting,  
20 certainly the Applicant could work with the Office of  
21 Planning or could petition the Zoning Commission to have that  
22 requirement for a 15 foot wide alley and 300 feet in order  
23 to be, have this considered as a special exception. I mean,  
24 if this fit within those criteria based upon the information  
25 that we have in the record, I mean if it were a 15 foot wide

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1 alley, it would be no problem, but it's not a 15 foot wide  
2 alley.

3           And again, those regulations came out of  
4 consultation with FEMS and we, as I recall, pushed the Office  
5 of Planning and FEMS as far as we thought we could. And  
6 apparently FEMS could be pushed farther if they're willing  
7 to agree to this.

8           So anyway, I would argue that we grant all of the  
9 relief except for the accessory unit in the carriage house  
10 and that if there is, if the Applicant still wants to pursue  
11 this in the future that again they could petition the Zoning  
12 Commission to have that regulation changed and we would have  
13 to consider that case.

14           MEMBER WHITE: I guess I kind of question, had the  
15 first question about the fact that I was struggling with the  
16 variance aspect of it and obviously the, I'm comfortable with  
17 the special exception portion of the relief that's requested,  
18 but the variance test is a higher test, it's harder to meet  
19 that test, I don't think the 10 foot alley is, I don't think  
20 that's an exceptional condition that meets the variance test.

21           I would concur with Mr. Peter May there,  
22 indicating that I think the best way to resolve this would  
23 be to work with the Office of Planning and the Zoning  
24 Commission to see if they can make some amendments to the  
25 rules here, but looking at the strict construction of the

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1 regulations with respect to meeting the variance test for the  
2 accessory dwelling structure access, I don't believe at this  
3 point that they've met this test. So I would not support that  
4 aspect of it but I would support the special exception  
5 request.

6 MEMBER JOHN: Chairman, I too cannot get past the  
7 variance test because the size of the lot is not an  
8 exceptional condition if there are other lots on the block  
9 that are the same size. And while I like the project and it's  
10 great to have the carriage house, and if you had come before  
11 us for a special exception, I would have been in support of  
12 the application. So everything else, all of the arguments  
13 that you made are fine, but I have to disagree with the  
14 Office of Planning in this case and I cannot give great  
15 weight to that part of their recommendation.

16 CHAIRMAN HILL: Okay, just give me one second.

17 VICE CHAIR HART: Yeah, I actually would also be  
18 in support of the special exception relief that the Applicant  
19 is looking for, but unfortunately I too don't think that  
20 you've met the variance test and I think, just for the  
21 reasons that my other Board members have given and I don't  
22 need to add any more to that,

23 CHAIRMAN HILL: You had something you wanted to  
24 say?

25 MR. SAFRAN: Yeah, so given the Board's

1 deliberation for their consideration, if we were to amend the  
2 application to remove the kitchen defining elements such that  
3 it wouldn't be an additional dwelling unit and it would  
4 instead just require a special exemption, would the Board,  
5 can we amend our application at this time and have that be  
6 something that the Board considers now instead?

7 CHAIRMAN HILL: Well, first of all, I'm turning to  
8 OAG first. How does that work?

9 MS. GLAZER: I can't comment on what the Applicant  
10 would have to do to negate the existence of the accessory  
11 dwelling unit. I think the accessory structure requires  
12 relief from the Board, and the Board seems inclined to grant  
13 that. But I think in terms of how to build or construct the  
14 accessory structure, it might be better off discussing that  
15 with OP or with the ZA.

16 CHAIRMAN HILL: Okay. That's fine. What I was just  
17 confused about was given the deliberations that the Board is  
18 having in that if there was a denial of the variance, and I'm  
19 looking to Commissioner May, then do they need the denial in  
20 order to go to the Zoning Commission to get reconsideration?  
21 Is that what you were --

22 COMMISSIONER MAY: No, no. This case would be  
23 decided once and for all here. (Simultaneous speaking.)

24 Petition the Zoning Commission to have a rule, the  
25 15 foot alley and 300 feet away from a street rule changed

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1 --

2 CHAIRMAN HILL: Changed to a special exception.

3 COMMISSIONER MAY: No, it is a special exception  
4 now, but those are the minimum standards to get the special  
5 exception to have the accessory unit, right? Ms. Vitale,  
6 maybe you want to come it.

7 MS. VITALE: Sorry, and I think this one, it gets  
8 a bit confusing here because we actually had to consult with  
9 the zoning administrator to determine the appropriate relief  
10 for this case. In the RF zones, as I mentioned previously,  
11 you can have two dwelling units. Those dwelling units can be  
12 split between the principal building and the accessory  
13 building. Subtitle U, Section 301.1 lays out certain items  
14 whereby that second dwelling unit can go in the accessory  
15 building as a matter of right, and that includes the access  
16 requirement which is that 15 foot alley within 300 feet of  
17 a street.

18 In that section of the use permissions for the RF  
19 zoned in the zoning regulations, it doesn't give you a  
20 special exception out. It doesn't provide for that relief if  
21 they don't meet those criteria. So then in this instance,  
22 because they're not on a 15 foot alley, they can't do it as  
23 a matter of right, they can't do it as a special exception,  
24 it has to be a variance.

25 There's also another section in 301 in the use

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1 permissions for accessory buildings that relates to this  
2 issue of new of dwelling units and newly constructed  
3 accessory buildings and it actually says that you can request  
4 special exception to locate that second unit in an accessory  
5 building that is constructed after 2013, so a newly  
6 constructed accessory building, that you can get relief to  
7 put, if your accessory building is built as a matter of  
8 right, so meaning it complies with all of those requirements  
9 laid out in 301.1, if you meet all of those and the building  
10 is constructed as a matter of right, you can request special  
11 exception.

12           This accessory building cannot be constructed as  
13 a matter of right because it doesn't meet the alley  
14 centerline setback requirement and because it doesn't meet  
15 the minimum access requirements.

16           I think that one thing too, when the Office of  
17 Planning was reviewing this was in the lower-density zones,  
18 in the R zones, if you want to put, in the R zones you can't  
19 have two principal units but you can have an accessory  
20 dwelling unit in an accessory building. In the R zones if you  
21 don't meet the access requirement, you can get relief from  
22 that by special exception. It's not a variance. I think this  
23 is something that OP believes would be appropriate to bring  
24 back to the Zoning Commission to consider.

25           I think, I don't think there needs to be a change

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1 with respect to the 15 feet, I just think the relief valve,  
2 the more appropriate relief valve, is special exception and  
3 not variance and that's not accounted for in the RF zones.

4 COMMISSIONER MAY: Right, I got confused for a  
5 second, but yeah, the 15 feet is the, that's the matter of  
6 right requirement as an alternative to having a 20 foot wide  
7 alley.

8 MS. VITALE: 24 foot.

9 COMMISSIONER MAY: 24 foot, right.

10 MS. VITALE: Correct.

11 COMMISSIONER MAY: That's what we worked hard to  
12 get when we read the zoning regulations. So petitioning to  
13 have special exception relief to that conditioned on FEMS  
14 support or something like that, it would not be unreasonable  
15 but what that would mean is having that, the Zoning  
16 Commission would have to make that change and then the  
17 Applicant would have to come back and seek that special  
18 exception in another application. Or you could put the whole  
19 thing on hold while you get the text amendment and six months  
20 from now come back with this case, at which point it wouldn't  
21 be a variance relief, it would be a special exception relief  
22 assuming the Zoning Commission decided it favorably.

23 But what I think that we could, in terms of the  
24 question in front of us right now, I think that the only  
25 thing that's an issue is the accessory dwelling unit in the

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1 carriage house and there are two types of relief that are  
2 needed for that, the special exception to have it not in the  
3 main building, and then the variance for the access issue for  
4 the 15 foot wide alley.

5           So if that's what, if you are withdrawing those  
6 requests, then I think that the building can still be built,  
7 the alley building can still be built, and the addition can  
8 still be built, you just will not be able to use it as an  
9 accessory dwelling unit. You could do all of those things and  
10 then you could petition and then come back for your special  
11 exception later and by the time you have it all constructing,  
12 because you know the contractor's going to string you out for  
13 like a year or two, and maybe you'll get it done before you  
14 finish construction. But then it does mean filing for a  
15 separate application.

16           MS. GLAZER: Mr. Chair, I don't see a problem with  
17 that, or I guess the Applicant could choose and hold this  
18 case in abeyance for a period of say, six months, and then  
19 come back and amend the application if the text amendment has  
20 been changed.

21           CHAIRMAN HILL: Okay, wait a second. Ms. John?

22           MEMBER JOHN: So I have a question. If they went  
23 ahead with the building, they could not have any indication  
24 that it's being used as a dwelling, because it couldn't have  
25 a kitchen or anything like that. So I doubt if they'd get a

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1 permit to put in a kitchen and all of those things and maybe  
2 a meter in the back or whatever people do, so I think the  
3 advice from OAG might be your best option.

4 COMMISSIONER MAY: Yeah, I think they would have  
5 to amend the drawings to take out the things that make it a  
6 dwelling unit, whether it's the kitchen and the bathroom, I  
7 think there can be a powder room or something like that.

8 CHAIRMAN HILL: Okay, so now I'm jumping around.  
9 So what I'm not clear on just in terms of the procedure, I've  
10 got the Applicant in front of me, I've already done whether  
11 there's people here or not people here, so I can ask  
12 questions of the Applicant now. Sometimes I do it the wrong  
13 way, and I get told that later.

14 So I'm asking the Applicant here if you would be  
15 interested in holding this in abeyance, the application,  
16 while you possibly pursue whatever it is you're going to  
17 pursue, but do you want to hold this in abeyance for six  
18 months?

19 MR. SAFRAN: If I can clarify the options, what I'm  
20 hearing is one option is if we withdrew the additional  
21 dwelling unit in the back carriage house and instead had all  
22 of the other components of the design, but amended, work with  
23 OP and work with DCRA to not have the components that make  
24 that an additional dwelling unit, that that would be a  
25 project that would be supportable.

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1           In parallel, we could work with the zoning  
2 administrator and OP and whoever else to determine whatever  
3 steps we might be able to take in terms of revision to make  
4 that a dwelling unit, however it would not be approved as  
5 such at this time. And given that understanding, that feels  
6 like a course that we would like to pursue. We would be --

7           CHAIRMAN HILL: You would amend your application.

8           MR. SAFRAN: Amend our application, withdraw the  
9 additional dwelling unit.

10          CHAIRMAN HILL: So you'd have to amend your  
11 application, then we'd be back here on a decision for the  
12 amended application.

13          MS. GLAZER: Plans would also have to be amended.

14          CHAIRMAN HILL: Yeah. We'd have to see new plans  
15 and so we'd have to go back to the ANC now instead of just  
16 pulling the variance, right? Because we're getting less  
17 relief. So what you're asking to do is amend your  
18 application. We'll go ahead and let you have time to amend  
19 your application, submit drawings, get a supplemental from  
20 OP, do we need a supplemental from OP? Guess we don't need  
21 a supplemental from OP. Okay. Submit drawings, and then we  
22 can put this on for a decision based upon the amended  
23 application. Does the Board have any questions, thoughts?

24          MEMBER JOHN: Mr. Chairman, I would just suggest  
25 that they confirm that what we have said here is something

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1 they could do. You know. Studios are allowed, I don't know  
2 if this would be like a studio, but I would hate for you to  
3 go away from here thinking you have a solution and we might  
4 not have said what the regulation ---

5 CHAIRMAN HILL: Well, we're not, yeah. They'll  
6 submit their application however they will.

7 MEMBER JOHN: I don't want to leave the impression  
8 that we're saying that that's a solution that would  
9 definitely work.

10 MS. DOWNEY: I actually talked to DCRA about this,  
11 when we get to permit what would be considered a unit, and  
12 they told me that there were three things. Than one was being  
13 independent, one was a bathroom and one was a functioning  
14 kitchen. I can't remember which, I think it's like a stove  
15 and a fridge, and that we couldn't have one -- As long as one  
16 of them wasn't there we would be okay for a permit to not be  
17 considered a unit.

18 CHAIRMAN HILL: Okay.

19 MR. SAFRAN: And if I understand your question, we  
20 recognize the risk that that may not be able to become an  
21 additional dwelling unit, it would have to be used as a home  
22 office or something to that effect. Unless as we went through  
23 the process that changed. If I'm understanding.

24 MEMBER JOHN: Well, I think you know what the  
25 process is, because I believe you just said you spoke with

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1 DCRA and this is what they advised you to do. So I would say  
2 go with DCRA and their advice.

3 MS. DOWNEY: I guess my question is, and what's  
4 something I don't know, and maybe you probably know this  
5 better, I don't know if DCRA, if there's anything between  
6 DCRA and zoning, that there's any kind of overlap. Or that  
7 there's a difference. I don't know.

8 MEMBER JOHN: Well, I'll look to the Chairman, but  
9 I would suggest you work with OP and DCRA and figure out what  
10 the best solution is.

11 COMMISSIONER MAY: I think the best solution is,  
12 figure out what you, how you would amend your application,  
13 make sure it's okay with the Office of Planning, run it by  
14 DCRA so that you know what you will be able to do with what  
15 you have in your proposed plans. Because they're the enforcer  
16 for the zoning regulations and they'll look at our decision  
17 and make sure that we've given you the relief that you are  
18 supposed to have to be able to do what you want to do with  
19 it. Make those couple steps and then come back. That's the  
20 way to make sure that you're safe.

21 MS. DOWNEY: Okay.

22 CHAIRMAN HILL: Okay, so you're going to amend your  
23 application, you're going to submit revised plans and then  
24 we can put this on for decision and Mr. Moy, are we going to  
25 go with the same thing, to try to get it the last day, since

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1 Mr. May is here?

2 SECRETARY MOY: It would be July 25th.

3 CHAIRMAN HILL: Okay. So can you talk me back  
4 through the deadlines again?

5 SECRETARY MOY: Okay, so you met before the Board  
6 July 25th, and I believe I heard you say that this would be  
7 for a meeting as opposed to a hearing, is that what you said?  
8 So deferring to the Office of OAG, but I think it might be  
9 wise to have a period in the event that there may be  
10 additional filings from the public, so I'd give that a week  
11 if there are any, for any filings for, but for the Applicant  
12 to file the amendment, new drawings, whatnot, let's say by  
13 July 9, is that possible? That's a Monday.

14 MS. DOWNEY: Yes, that's possible.

15 SECRETARY MOY: Okay.

16 CHAIRMAN HILL: Okay, thanks.

17 MS. DOWNEY: Thank you.

18 CHAIRMAN HILL: Sure. So we've been here for 5, 6  
19 hours and we've decided nothing. Anyway, we're going to do  
20 one more and then we're going to have lunch, okay? O whoever  
21 is next?

22 SECRETARY MOY: All right, that one more is Case  
23 Application number 19759, that of Christopher Cassimus, did  
24 I pronounce that correctly? Captioned and advertised for a  
25 special exception under Subtitle E, Section 205.5 and 5201

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1 from the rear yard addition requirements, and Subtitle E,  
2 Section 205.4 and under Subtitle E, Section 206.2 and 5203  
3 from the upper floor addition requirements of Subtitle E,  
4 Section 206.1, to construct a third story and two-story rear  
5 addition to an existing flat RF-1 zone at 1307 S Street,  
6 N.W., Square 238, Lot 803.

7 CHAIRMAN HILL: All right, if you would please  
8 introduce yourself for the record?

9 MR. ROUSE: Yes. My name is Michael Rouse,  
10 architect with MPR Architecture, here representing my client  
11 Chris Cassimus. There's a letter of authorization for my  
12 representation of him in the record. He is unable to be with  
13 us today.

14 CHAIRMAN HILL: Okay. I don't have a lot of  
15 particular questions about your application, I thought it was  
16 relatively straightforward but if you want to go ahead and  
17 kind of walk us through the project as well as the relief  
18 that you're requesting and the reason why you think you're  
19 meeting the standards for us to grant that relief. I'm going  
20 to go ahead and put 15 minutes on the clock just so I know  
21 where we are, and you can begin whenever you would like.

22 MR. ROUSE: The project is at 1307 S Street,  
23 there's an image here of that streetscape, everything from  
24 1320 being a D.C.-owned warehouse to three-story townhouses,  
25 two-story standalones and two-story attached houses, so we

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1 have a lot of variety on the street. Just a view from the  
2 alley area and then some closeups of the project.

3           What we're proposing to do is, I'm just going to  
4 zoom ahead here just to get to the site plan. Basically, 1307  
5 is a duplex. It's a frame building in the front, which would  
6 be on the south side of the property and then at the back is  
7 a 1936 brick structure that is basically a one-bedroom  
8 apartment. It's under one ownership, and my client is the  
9 owner. He would like to expand the back unit for his own  
10 residence and rent out the front to create a three-bedroom  
11 house in the back.

12           I'm just going to go back here to some of the  
13 elevations. The east side elevation showing that frame  
14 building in the front, the very tall three-story brick  
15 townhouse in the back and then this two-story kind of brick  
16 mass towards the back with a little frame addition on the  
17 back which is a filled-in porch and greenhouse.

18           We worked a lot with the Historic Office, Historic  
19 Preservation, and I really look to minimize our site lines  
20 from the street so this section kind of shows that from  
21 directly in front of the house, we've minimized the street  
22 views.

23           Some of the interior plans, just kind of showing  
24 the layout of the three-bedroom house, two bedrooms on the  
25 second level and then a master suite up above. Here's the

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1 east elevation. I do want to talk for just a second about the  
2 massing and what you're seeing. We are basically putting a  
3 mansard roof on this brick box to kind of help mitigate that,  
4 bring the scale down.

5           But the other thing is, the neighbor directly to  
6 the east of us, kind of behind us in this view, that would  
7 be 1305, we've tried to stop the third story mass at the back  
8 of their building so we're not encroaching too much on their  
9 rear yard. And then at the back we do step down to a  
10 two-story addition there to get some extra space for that  
11 second bedroom.

12           Images from the front, now obviously this is an  
13 elevation, everything's pulled forward, but as I showed you  
14 in Section D, the view of that mansard roof is mitigated.

15           And then this is the view of the west side. One  
16 of the things we're doing here with that addition, we're  
17 going back an additional four and a half feet from where we  
18 are previously, and also in kind of filling the side yard  
19 that the little infilled porch left us. Materially, we are  
20 going to stop the break at about a two-story level and then  
21 go to stucco to help to break down the scale for the western  
22 neighbor. And then just some three-dimensional views.

23           I want to talk briefly about the ANC and also  
24 reaching out to the neighbors. We received full approval from  
25 the ANC. We received a letter of support from 1305, which is

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1 the neighbor in that right hand image, that two-story stucco.  
2 In addition, we reached out to everyone through a form letter  
3 that my client reviewed the project with them, they signed  
4 it that they reviewed it and had no objection. We've been  
5 working closely also with the neighbor at 1309. We did ask  
6 for a letter, we did not receive one, but we did receive his  
7 no objection, I guess, support through that form letter.

8           We also provided solar studies. I'm sorry I  
9 don't have those in this file, but we also received favorable  
10 reports from OP and also the Department of Transportation.  
11 We feel that with the special exceptions tests of light and  
12 air, we feel that we're not, we've got a side yard of five  
13 feet on the east side so we're not really messing with any  
14 windows on that side, light and air is still available for  
15 1305, and at 1307 all their windows face north so they're  
16 still available at least for their air. They're already not  
17 getting any direct sunlight.

18           Privacy and use of the enjoyment of the  
19 neighboring yards. On the west we have no windows overlooking  
20 into that rear yard for 1309. For 1305, we're actually taking  
21 what was a glassed-in porch that had a lot of visibility into  
22 the rear yard of 1305 and changing that to just a few  
23 windows, so we're reducing the amount of visibility into the  
24 yard there. In addition, there's a five-foot privacy fence  
25 as well.

1           Visually intruding on the character, scale or  
2 pattern of houses along the street, I think the image on the  
3 right of this sheet that you're seeing is about the minimal  
4 view that you're going to see so we've been very careful to  
5 limit that view and to also make it compatible with the  
6 mansard roof.

7           We feel that with this special exception grant of  
8 extending the 10 foot that we're not, we're still in harmony  
9 with the zoning code and the zoning maps. That's all pretty  
10 much spelled out in my burden of proof. I'm happy to answer  
11 any questions.

12           CHAIRMAN HILL: All right, thank you, Mr. Rouse.  
13 Does the Board have any questions for the Applicant?

14           VICE CHAIR HART: Your matter of right is, would  
15 be taller than what you're proposing.

16           MR. ROUSE: Yes, it would be. Just heading back  
17 here, yes. We can go 35 feet and we propose a height of just  
18 about 30 feet, 29.9.

19           VICE CHAIR HART: Thank you.

20           MEMBER WHITE: Can you just tell me specifically  
21 what kind of feedback you've gotten from your neighbor, the  
22 neighbor at 1309 S Street? Is that the neighbor who didn't  
23 submit any --

24 (Simultaneous speaking.)

25           MR. ROUSE: Did not submit any letter.

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1 MEMBER WHITE: But signed a statement.

2 MR. ROUSE: Signed a statement saying he had  
3 reviewed it and he had no objections.

4 MEMBER WHITE: So he, he or she is going to have  
5 the biggest impact.

6 MR. ROUSE: Correct. We offered kind of a draft  
7 letter that he could revise. My client is going through some  
8 medical stuff right now so he's been indisposed for two  
9 weeks, and right before him being indisposed we were trying  
10 to get that letter. The neighbor said yeah, I'll sign it,  
11 I'll give it to you, but we never received it.

12 MEMBER WHITE: So no objections what so ever, no  
13 concerns.

14 MR. ROUSE: No. And I believe they've been  
15 neighbors together for over a decade so they're very much on  
16 good speaking terms and things like that.

17 CHAIRMAN HILL: Anyone else? Okay. Going to turn  
18 to the Office of Planning.

19 MS. BROWN-ROBERTS: Good afternoon, Mr. Chairman  
20 and members of the BZA. The --

21 CHAIRMAN HILL: I'm sorry. Could you state your  
22 name?

23 MS. BROWN-ROBERTS: Oh, sorry, Maxine Brown-Roberts  
24 from the Office of Planning.

25 CHAIRMAN HILL: Thank you.

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1 MS. BROWN-ROBERTS: Thanks. The addition results  
2 in the building extending beyond the minimum ten feet and  
3 therefore they need to meet the requirements of Chapter 5201.  
4 As outlined in our report, the Applicant has demonstrated  
5 that the addition will not affect the light and air or  
6 privacy of the adjacent properties and that the addition will  
7 not be visible from the street. We do not recommend any other  
8 special treatment and therefore we recommend approval. Thank  
9 you, Mr. Chairman. I'm available for questions.

10 CHAIRMAN HILL: Does anyone have any questions for  
11 the Office of Planning? Okay. Does the Applicant have any  
12 questions for the Office of Planning?

13 MR. ROUSE: No.

14 CHAIRMAN HILL: Okay. Is there anybody here from  
15 the ANC? Is there anyone here wishing to speak in support?  
16 Is there anyone here wishing to speak in opposition? Okay.  
17 I'm back to the Applicant. Anything you like to add in  
18 closing.

19 MR. ROUSE: No.

20 CHAIRMAN HILL: Okay. I'm going to close the  
21 hearing. Is the Board ready to deliberate? Okay. I, as I was  
22 stating in the beginning I didn't have a particular issue  
23 with it in terms of I thought that they were meeting the  
24 criteria for us to grant the special exception. I also would  
25 agree with the report that the Office of Planning has

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1 provided as well as the report that we received from the  
2 ANC1-B, they were in unanimous approval of 10-0-0 and did not  
3 state any issues or concerns.

4 I am happy to see that the neighbors on either  
5 side who will be the most affected have at least submitted  
6 something into the record in terms of their approval. So I  
7 again think that the standards have been met so I would be  
8 in approval of this application. Does anyone have anything  
9 they would like to add? Okay. Then I'm going to go ahead and  
10 make a motion to approve application number 19759 as  
11 captioned and read by the Secretary and ask for a second.

12 VICE CHAIR HART: Second.

13 CHAIRMAN HILL: Motion made and seconded. All those  
14 in favor say aye.

15 (Chorus of ayes.)

16 Those opposed? Motion passes, Mr. Moy.

17 SECRETARY MOY: Staff would record the vote of  
18 5-0-0 that's on the motion of Chairman Hill to approve the  
19 application for the relief being requested. Seconding the  
20 motion, Vice Chair Hart, also in support then Mr. Peter May,  
21 Ms. White, Ms. John and the motion carries.

22 CHAIRMAN HILL: Thank you. Summary order, Mr. Moy?

23 SECRETARY MOY: Yes, sir.

24 CHAIRMAN HILL: So as I mentioned before, we're  
25 going to go ahead and break for lunch. We're going to shoot

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1 for 2:00, which means 2:05 at least. We're back here 2:00,  
2 2:05.

3 (Whereupon the above-entitled matter went off the  
4 record at 1:37 p.m. and back on at 2:26 p.m.)

5 CHAIRMAN HILL: All right, Mr. Moy. We can get  
6 started again whenever you like.

7 SECRETARY MOY: Okay, Mr. Chair. The recorder is  
8 up and running and the time is 2:29. We have parties to the  
9 table for case application 19769 of MR 1700 or 1700 Columbia  
10 Retail. Caption, an advertisement for a special exception --  
11 I'm sorry. Caption for a special exception under the use  
12 requirements Subtitle U, Section 513.1 to permit a veterinary  
13 hospital in the MU 5A zone at premises 1700 Columbia Road  
14 N.W., Square 2562, Lot 52.

15 CHAIRMAN HILL: Okay. Thank you, Mr. Moy. I'm not  
16 really good at the predicting lunch thing, so I'll learn  
17 again that that was wrong and I, because I took the advice  
18 of our Board here members telling me what time we were going  
19 to get back and it was wrong. That's right, I'm blaming all  
20 you people. I do apologize for that.

21 Let's see. If you could please introduce  
22 yourselves for the record?

23 MS. BATTIES: Sure. Leila Batties, with the law  
24 firm of Holland and Knight on behalf of the Applicant MR1700  
25 Columbia Retail, which is an affiliate of Monument Realty,

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1 and I'm also joined by my colleague Joe Gaon.

2 DR. VARELA: Dr. Rene Verala, I'm director of  
3 veterinary quality with Banfield Pet Hospital.

4 CHAIRMAN HILL: How do you say it again, sir?

5 DR. VARELA: Rene Verala, V-E-R-A-L-A.

6 MR. ALVSTAD: Nathan Alvstad, construction program  
7 manager for Banfield Hospital.

8 CHAIRMAN HILL: Ms. Batties, I guess you're going  
9 to be presenting to us?

10 MS. BATTIES: Very briefly.

11 CHAIRMAN HILL: Okay. I've got good news and I've  
12 got bad news. The good news, I guess, is that I don't have  
13 a lot of questions. The bad news is I didn't see anything  
14 from the ANC so I guess you're going to speak to that. Okay,  
15 we'll get to the ANC. We'll get to the ANC. That's fine.

16 And then the other was just that there was an  
17 issue of the text amendment, and I guess what in the past,  
18 we've done a couple of things in the past but where the Board  
19 seems to be falling now is that we're unable to vote on  
20 things until after they've been through the, published in the  
21 register, so I'm just kind of putting that out there right  
22 now so you'll know where we're headed regardless of where we  
23 end up going with this.

24 That being said, you can go ahead and present your  
25 presentation. Let us know again the relief that you're

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1 requesting for and how you meet the standard for us to grant  
2 that relief and I'm going to put 15 minutes on the clock just  
3 so I know where we are, and you can begin whenever you like.

4 MS. BATTIES: I'm going to start, Chairman Hill,  
5 to address your issue of the text amendment. In the case of  
6 the text amendment for the veterinary hospital use, the  
7 Zoning Commission approved the text amendment on an emergency  
8 basis so it took effect immediately which was back in April.

9 MS. GLAZER: That's what I was going to say, Mr.  
10 Chair. I was informed of the same thing, that it was approved  
11 initially on an emergency basis. That wasn't what was stated  
12 in the OP report, but I did --

13 MS. BATTIES: April 12 was the date.

14 MS. GLAZER: I didn't know the date.

15 CHAIRMAN HILL: Okay, so we can vote on this?

16 MS. GLAZER: It's in effect. If emergency text  
17 amendments are treated differently.

18 CHAIRMAN HILL: Okay. We'll get that from the  
19 Office of Planning when we get to that point also then. So  
20 go ahead, same thing, 15 minutes on the clock and you can  
21 begin whenever you like.

22 MS. BATTIES: Okay, great. Good afternoon. The  
23 Applicant MR17 Columbia Retail LLC is the owner of the  
24 subject property and proposes to lease the space to Banfield  
25 Pet Hospital. The two representatives from Banfield here

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1 today are here to testify to the hospital operations, the  
2 design of the facility and the mitigation of impacts as set  
3 forth in the zoning regulations and they've introduced  
4 themselves, Dr. Rene Verala and Mr. Nathan Alvstad.

5           The Applicant is seeking special exception  
6 approval to permit a veterinary hospital use and a mixed-use  
7 building pursuant to Subtitle U, Section 513.1L. Based on  
8 monuments application to the Zoning Commission, this section  
9 of the zoning regulations was amended on an emergency basis  
10 on April 12 in order to allow veterinary hospital uses in the  
11 MU zone, including the subject property, so long as certain  
12 criteria are met.

13           In the interest of time I won't walk through every  
14 criteria. At this point in my presentation, the application  
15 and the pre-hearing statement walk through them. Nathan will  
16 speak specifically to some of the mitigation noise, odor and  
17 mitigation and how we meet those criteria, and if you have  
18 any questions again, the criteria are pretty straightforward  
19 in our pleadings but Nathan will speak to some of the  
20 specifically.

21           Before concluding my opening remarks, I want to  
22 note that in making its case to the Zoning Commission, the  
23 Applicant did demonstrate the significant demand for  
24 veterinary hospital uses in the District, given the city's  
25 growing population as well as the growth in pet ownership.

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1 In D.C. there's only one veterinary hospital for every 27,000  
2 households, approximately, and that's compared to markets  
3 like San Diego where there's one veterinary hospital for  
4 every 3500 households and then in Seattle, where Banfield  
5 also operates, there's one veterinary hospital for about  
6 every 4000 or 4100 households.

7           So there is significant demand in the city. The  
8 need to meet this demand was expressed at the neighborhood  
9 level during the ANC meeting, both at the ANC committee  
10 meeting and then at the ANC meeting last week. The property  
11 is within AN1C and at their regularly scheduled meeting last  
12 week they took a vote, voted unanimously to recommend  
13 approval of the application.

14           I also want a note in the record that the resident  
15 in the unit directly above the proposed veterinary hospital  
16 space has issued into the record a letter in support of the  
17 application. That's at Exhibit 23 of the record. This  
18 concludes my opening comments, and I'll turn the presentation  
19 over now to Dr. Verala.

20           DR. VARELA: Okay, so to review my job duties as  
21 director of veterinary quality, I oversee the medical  
22 operations of 16 hospitals in Maryland, Pennsylvania and  
23 Delaware and I also am serving in interim capacity as  
24 vice-president of veterinary quality from Pennsylvania down  
25 through Virginia as well.

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1           The veterinary operations, obviously, are anything  
2 that have to do with the treatment and care of pets  
3 themselves, the training of the associates there and also for  
4 the recruitment of veterinarians into the communities, so  
5 it's a big part of what I do and how we would like to grow  
6 as an organization.

7           Our practice, Banfield Pet Hospital, is the  
8 largest preventative care practice in the country and we  
9 focus on keeping pets healthy. That's what we do, and we do  
10 that in communities all across the country. We have one other  
11 facility within the District, and that's what we call the  
12 Yards. That's at 1212 4th Street, S.E., and it's been open  
13 for several years now and has been growing very well for us,  
14 so it's definitely meeting the need of those already referred  
15 to in that area.

16           We chose this particular site location because of  
17 the ability to serve the families because of the ability to  
18 serve the families in this community, the pet-owning families  
19 in this community, and there seems to be already a pent-up  
20 demand for those services that are there.

21           The hospital that we're proposing, as you see, is  
22 just under 2500 square feet, so a pretty nice-sized facility.  
23 We'll see roughly 17 to 25 pets there on a daily basis, and  
24 the services that we provide are largely what you think about  
25 in preventative care. There are vaccinations, routine exams,

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1 obviously some other things that go along with that.

2           The blood work, we do in-house blood work for  
3 keeping these pets healthy as well, so urinalysis, we also  
4 perform anesthesia where we do preventative dentistry is a  
5 big part of our practice as well, and the routine spays and  
6 neuters that we have grown to expect from veterinarians in  
7 the community.

8           We also will see these pets when they're ill.  
9 Thankfully, most of the illnesses, which is a small  
10 percentage of the cases that we have, roughly about 15  
11 percent of the cases we have, run the gamut to simple little  
12 ear infections to sometimes when they have an upset belly.  
13 So the diarrhea cases that annoy everybody, that really  
14 concern them.

15           And there are times when the pets are in a  
16 slightly worse state and need to see a specialist, and we  
17 definitely leverage Friendship Hospital for Animals in the  
18 D.C. area as well as the referral hospital of choice for our  
19 clients. The whole point with that is to make sure there's  
20 continuum of care for these patients and the clients so they  
21 don't have to worry so much about the care of their pets.

22           The hours of operation, our standard hours of  
23 operation are 7 a.m. to 7 p.m., and currently we're not open  
24 on Sundays but we're actually even thinking about in some  
25 places even being open on Sundays. It just depends where

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1 we're going with that right now.

2           We definitely will start off with two full-time  
3 veterinarians and one part-time veterinarian in this hospital  
4 and roughly about eight support staff including a practice  
5 manager, so we think about two to three veterinary  
6 assistants, two to three veterinary technicians and two to  
7 three receptionists but keeping around eight support staff  
8 there.

9           Those are the big highlights, and I'm definitely  
10 eager to answer any questions after we get done with our  
11 presentation.

12           MR. ALVSTAD: Thank you, Dr. Verala. Like I said,  
13 my name is Nathan Alvstad, I'm the construction program  
14 manager, and I'm going to be speaking today just purely from  
15 a construction standpoint and basically what our design is  
16 for the hospital and what we're proposing.

17           So this first, this will be our sixth hospital  
18 that we're proposing to build in a similar building, that is  
19 a mixed-use building. The markets that we've built in  
20 previously include Portland, Oregon; Denver, Colorado; San  
21 Diego, California and as Dr. Verala previously mentioned,  
22 right here in D.C. at the Yards.

23           Looking at the 1700 Columbia Road location,  
24 overall it's a very similar condition in terms of the  
25 features, functions and most importantly, the engineering of

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1 the shell building that we're looking to do our build out in.

2           With that, if you'll go ahead and take a look at  
3 this slide, this is our proposed layout. I'll do a quick tour  
4 of our proposed hospital. Starting here, you can see around  
5 the corner of Columbia Road and 17th there. Going into the  
6 hospital, we do build out a vestibule. That's to help prevent  
7 any pet escapes. We have our lobby area there, reception  
8 desk. Going up into the corner, we have our four exam rooms,  
9 our canine ward there in the middle, that's where most of the  
10 dogs will be kept, and treatment area.

11           In the back you can see we have our isolation ward  
12 and then finally, our feline ward. Surgery there in the  
13 middle, our x-ray suite and then finally, for the associates  
14 a break room and our maintenance area.

15           Moving on the next slide, something we take very  
16 seriously is sound mitigation. In relation to where we  
17 currently sit and the tenants that are adjacent to us, at  
18 this location we only have one to the right of us which is  
19 Ace Hardware. What we do, which is a standard design for all  
20 of our hospitals, we actually build an additional demising  
21 wall which is engineered for sound.

22           Coming off that demising wall that separates the  
23 two tenants, we come off one inch which creates an air gap  
24 which helps capture a lot of these low and high frequency  
25 sound waves that are generate from your larger and smaller

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1 pets.

2           That new wall is a 3 5/8 steel stud frame that  
3 goes all the way up to the deck and then it's insulated with  
4 three inch bat insulation and instead of just using a  
5 standard gyp board or sheetrock, we actually layer a sound  
6 dampening sheetrock that's called soundbreak XP.

7           In reference to the residential floor above, we  
8 actually commissioned an acoustics analysis, and not to bore  
9 you with the details of it, but the summary of the analysis  
10 was that based on existing conditions of the shell, which is  
11 the floor slab above us which is a 12 inch thick post-tension  
12 slab and the proposed design of us having a drop ceiling with  
13 lay-in acoustical tiles, they consider this a sufficient was  
14 of mitigating any noise from penetrating up to the first  
15 floor.

16           Finally, on my last slide here, this just shows  
17 basically a higher view of the hospital and its surrounding.  
18 This is basically a pathway to the existing trash enclosure  
19 that is inside of the building. That is basically it, I'm  
20 open to any questions you guys may have.

21           CHAIRMAN HILL: Sure, of course. Does anyone have  
22 any questions?

23           MEMBER WHITE: So this building, first of all I  
24 love your cover. I'm a pet lover but obviously as a Board  
25 member we got to look at the criteria. I have two boxers.

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1           This building, who are the adjacent tenants? This  
2 used to be like the Ontario Theatre, is that correct? I'm  
3 trying to remember.

4           MS. BATTIES: So they have a commercial tenant,  
5 retail tenant, right next to them, Ace Hardware and then  
6 above there are residential units.

7           MEMBER WHITE: Are you actually boarding pets as  
8 well, 24 hours a day or is it --

9           MS. BATTIES: No.

10          MEMBER WHITE: Just care.

11          MS. BATTIES: Just care. Boarding is not part of  
12 the operation. There may be circumstances for convalescence  
13 or medical reasons that animals have to stay, but that's not  
14 part of their normal operations at this facility.

15          MEMBER WHITE: Okay. And just take me through, you  
16 know, waste, how waste is disposed, how you mitigate odor,  
17 and that kind of thing.

18          DR. VARELA: On a daily basis, especially I imagine  
19 you're talking about the fecal waste, I think that's the  
20 biggest thing, we really, we take care of that as normal  
21 trash. Our hospitals don't produce more than really, a couple  
22 of kitchen-size bags of total waste, whether it's paper or  
23 any of that stuff. On a daily basis that's brought right out  
24 to the dumpster facility so that's something that's managed  
25 by routine very well.

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1 MEMBER WHITE: Do you do surgeries too?

2 DR. VARELA: Yes, absolutely. And so part of the  
3 waste in a medical facility, thankfully we're not dealing  
4 with humans here, that's part of what I love about my  
5 profession, the type of medical waste you have to think about  
6 are sharps, like the needles, any kind of glass, slides, that  
7 sort of stuff, and that's actually put into hazardous waste  
8 containers and we have a vendor that takes those away. We  
9 don't store those on site. When the container is full, these  
10 are pretty small containers, they get taken away and carted  
11 off.

12 MEMBER WHITE: Thank you. That's all.

13 CHAIRMAN HILL: Sure, please.

14 COMMISSIONER MAY: I just have one question. Did  
15 you say that the slab above it is a 12 inch thick  
16 post-tension slab?

17 MR. ALVSTAD: That is correct.

18 COMMISSIONER MAY: What are they doing on the  
19 second floor that they need 12 inches of concrete?

20 MR. ALVSTAD: That's just how the architect  
21 designed it, I guess.

22 COMMISSIONER MAY: Wow. I mean, it seems, you  
23 usually see like a five inch slab post-tension, but I don't  
24 know.

25 MEMBER WHITE: Like I said before, I think, if this

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1 is the same building, it was used as a concert hall and --

2 COMMISSIONER MAY: Well, it was the Ontario  
3 Theatre, but didn't that get demolished and then replaced?

4 MS. BATTIES: I don't know. Josh, do you have any  
5 history on that?

6 COMMISSIONER MAY: It was demolished.  
7 (Simultaneous speaking.)

8 I heard what he said. And I'll repeat it for the  
9 record. So it's a stick-built structure on top of a podium  
10 and so the top layer of the podium is typically going to be  
11 thicker. I was looking at the whole thing and thinking it was  
12 concrete construction, so that's why I was puzzled. But it  
13 actually helps you a great deal with the sound insulation  
14 having 12 inches there. That alone is going to stop 90  
15 percent of any kind of sound transmission. Thank you.

16 CHAIRMAN HILL: Okay, going to turn to -- You have  
17 a question?

18 VICE CHAIR HART: Just a quick question. On the  
19 sound dampening wall, is really just to the, that's just the  
20 wall that's abutting the Ace Hardware?

21 MR. ALVSTAD: That is correct.

22 VICE CHAIR HART: So the rest of it won't get that  
23 treatment, it's just that area.

24 MR. ALVSTAD: Yeah, so the rest of it is the  
25 storefront, and we may also, I believe the entrance there to

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1 the lobby, the whole building, we may propose doing the sound  
2 mitigation wall there as well.

3 VICE CHAIR HART: I don't know what the wall is on  
4 Columbia or on 17th Street.

5 MR. ALVSTAD: That's all just storefront, except  
6 for the built, it's existing storefront, we'll plan of  
7 building a 3 5/8 steel-stud wall in front of that so it's not  
8 completely exposed.

9 VICE CHAIR HART: So you would have a --

10 MR. ALVSTAD: On the inside.

11 VICE CHAIR HART: On the inside, so that would just  
12 be --- what's on the outside?

13 MR. ALVSTAD: Just windows, glass, glazing.

14 VICE CHAIR HART: So the windows would look at the  
15 back of a wall, or are you going to be frosting them over,  
16 what are you doing to them?

17 MR. ALVSTAD: For the x-ray room, I know we'll  
18 definitely be required to build a wall. It will be a  
19 lead-lined wall, just because of radiation. So the x-ray room  
20 will actually be the only one that has a wall built on the  
21 inside with better lead lined. For the break room, it'll be  
22 up to what's the landlord will allow us. Normally, typically  
23 we'll do like a frosting or graphics so there's a little more  
24 privacy in that break room.

25 VICE CHAIR HART: Then the front will actually have

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1 just the storefront, just the glass up there, and then along  
2 Columbia you'll have the wall in front of the storefront?

3 MR. ALVSTAD: For the exam room we'll most likely  
4 do the exact same thing where we'll have either frosted glass  
5 or some sort of graphic. I think the only wall that we're  
6 proposing, like I said this is all proposed plan, none of  
7 this has been approved yet, the only wall that we propose  
8 building on the inside of that glass just because we're  
9 required to based on, again, x-ray radiation.

10 VICE CHAIR HART: Okay. Thank you.

11 CHAIRMAN HILL: Okay. The existing tenant, is that  
12 the Ace Hardware?

13 MS. BATTIES: There are two tenants in the  
14 building. There's an Ace Hardware and there's a Core, Solid  
15 Core Fitness studio.

16 CHAIRMAN HILL: I'm just looking, where it says  
17 existing tenant, is that the Ace Hardware?

18 MR. ALVSTAD: That is correct.

19 CHAIRMAN HILL: Okay. My friends own it, that's why  
20 I was curious. They're dog lovers, too. What does isolation  
21 mean?

22 DR. VARELA: In any well-run hospital you want to  
23 have a place where maybe very sick pets that are potentially  
24 infectious can actually go right to and they can be treated  
25 there so they don't potentially infect other pets in the

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1 hospital. Thankfully, we don't use it very often. It would  
2 be a place with just a few kennels in there and either a sick  
3 pet or a sick dog would actually go right there, and we're  
4 able to make our evaluations and determine whether they're  
5 truly infectious or not.

6 CHAIRMAN HILL: Okay, great. Thank you. All right,  
7 I was just curious. I'm going to turn to the Office of  
8 Planning.

9 MR. MORDFIN: Good afternoon. I'm Stephen Mordfin,  
10 for the record. The Office of Planning supports this  
11 application. It was filed pursuant to a text amendment, 1802,  
12 that was approved on an emergency basis and when the  
13 Commission took their vote, it had to take effect immediately  
14 to allow the Applicant to file for the application. There is  
15 an error. The footnote on the bottom of page 1 is not  
16 correct.

17 This text amendment is in effect, the Applicant  
18 can apply for this -- use as was proposed in the text  
19 amendment.

20 CHAIRMAN HILL: Okay. Thank you. Does anyone have  
21 any questions for the Office of Planning? No? Does the  
22 Applicant have any questions for the Office of Planning?

23 MS. BATTIES: I would just ask that you clarify  
24 your report in that the hospital's not limited to serving  
25 just cats and dogs.

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1 MR. MORDFIN: No, it's, Office of Planning  
2 recommended approval of a veterinary hospital, which includes  
3 all pets that can be legally sold in the District of  
4 Columbia. The plan showed for cats and dogs, so I described  
5 it in the report as a veterinary hospital for cats and dogs  
6 but the zoning is not limited to that and I see no reason  
7 that the Board should have to either.

8 CHAIRMAN HILL: Okay, great. Anything else? Okay.  
9 Is there someone here from the ANC? Good afternoon. If you  
10 could just introduce yourself for the record.

11 MR. GUTHRIE: Ted Guthrie for ANC 1C. I'd like to  
12 apologize for not having, someone else was supposed to  
13 getting the paperwork in that showed our approval, but we  
14 voted unanimously to approve this application and we're very  
15 supportive of it. In particular in the Adams Morgan we love  
16 having commercial space used by something other than a  
17 licensed alcohol establishment. We welcome you to the  
18 neighborhood.

19 CHAIRMAN HILL: That's great. We know normally when  
20 the ANC stands up like that it's not good. So I would just,  
21 I was preparing for something else. I was like, wow, okay.  
22 So, great. Can you get us something for the record, I guess?

23 MR. GUTHRIE: We'll get you something.

24 CHAIRMAN HILL: Okay. So we'll leave the record  
25 open, Mr. Moy, for something from the ANC? All right, great.

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1 Thank you, Commissioner. Thanks for staying with us. Is there  
2 anyone here wishing to speak in support? Is there anyone here  
3 wishing to speak in opposition? Okay, going back, any  
4 questions, Dr. Varela, have you seen Isle of Dogs?

5 DR. VARELA: I've yet to see it. Small children at  
6 home, I'm just backlogged.

7 CHAIRMAN HILL: Okay, gotcha. Any other questions  
8 for the Applicant? Okay. You have anything you'd like to add?

9 MS. BATTIES: Nothing further.

10 CHAIRMAN HILL: Okay. I'm going to close the  
11 hearing. Is everyone ready to deliberate? Okay. I think that  
12 the, again, they've met the criteria for us to go ahead and  
13 approve this. I think that the Office of Planning support is  
14 fairly straightforward and it's nice to hear about all the  
15 different things that they have done to alleviate any  
16 possible adverse impact on this project, so I don't have any  
17 issues. Does anyone have anything they'd like to add?

18 VICE CHAIR HART: Yes, Mr. Chairman, just that I  
19 just wanted to point out that the Office of Planning, while  
20 they've provided us their report, they also made some minor  
21 changes to it, stating that it wasn't just a hospital for  
22 cats and dogs, it was a hospital for pets that are legally  
23 sold, I guess, in D.C., and that the text amendment, the  
24 footnote on the OP report on page 1 about the related text  
25 amendment was stated in error and that it actually should be

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1 that the zoning amendment was an emergency text amendment and  
2 has already taken effect, so we would be able to if we so  
3 choose, be able to approve it today.

4 MEMBER WHITE: I would concur with your comments.  
5 I think that the Applicant did meet the special exception  
6 criteria for vet hospital use under Subtitle U 513.1 and the  
7 record's full, they've got community support, OP support,  
8 it's an all-around good project. It seems like it's something  
9 that the neighborhood is supportive of and needs and wants,  
10 and so my comment is that I would be supportive based on the  
11 criteria in the regulations.

12 MEMBER JOHN: I support everything that my  
13 colleagues have said, and I also believe that the record of  
14 the OP and the analysis of OP is fairly thorough in terms of  
15 meeting the special exception criteria under the new text  
16 amendment, so I support the application.

17 CHAIRMAN HILL: Commissioner May, do people come  
18 with emergency text amendments that much?

19 COMMISSIONER MAY: It happens maybe once a year,  
20 something like that, and sometimes we act on them that way  
21 and sometimes we don't.

22 CHAIRMAN HILL: All right. I'm going to go ahead  
23 and make a motion to approve application number 19769 as  
24 captioned and read by the Secretary and ask for a second?

25 MEMBER WHITE: Second.

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1 CHAIRMAN HILL: Motion made and seconded. All those  
2 in favor, say aye?

3 (Chorus of ayes.)

4 All those opposed? The motion passes, Mr. Moy.

5 SECRETARY MOY: Staff would record the vote as  
6 5-0-0, based on the motion on the Chairman Hill to approve  
7 the application for the application for the relief being  
8 requested. Seconding the motion, Ms. White. Also in support,  
9 Mr. Peter May, Vice Chair Hart, Ms. John, the motion carries.

10 CHAIRMAN HILL: Summary order?

11 SECRETARY MOY: Yes, sir.

12 MS. BATTIES: Thank you very much.

13 CHAIRMAN HILL: Thank you. Good luck. Mr. Moy,  
14 we're just going to hang out here a little while until Ms.  
15 John returns.

16 (Whereupon the above-entitled matter went off the  
17 record at 2:55 p.m. and back on at 2:58 p.m.)

18 CHAIRMAN HILL: All right, Mr. Moy.

19 SECRETARY MOY: Thank you, Mr. Chairman. So if  
20 we can have parties to the table to Case Application Number  
21 19771. This is of Lee Wells and Malcolm Haith, if I  
22 pronounced it correctly, H-A-I-T-H, as caption advertised for  
23 a special exceptions under Subtitle E Section 5201 from lot  
24 occupancy requirements -- or rather lot occupancy provisions,  
25 Subtitle E Section 304.1 and the accessory building size

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1 restrictions of Subtitle E Section 5004.2 and under Subtitle  
2 E Section 206.2 and 5203.3 from the roof top architectural  
3 element provisions of Subtitle E Section 206.1, this would  
4 construct an accessory building and remove an existing porch  
5 roof on the existing principle dwelling unit, RF-1 Zone at  
6 1834 Ontario Place N.W., Square 2583, Lot 351.

7 CHAIRMAN HILL: Okay, great. Thank you. We just  
8 got Commissioners coming out of the woodwork today. All  
9 right. If you could just please introduce yourselves from  
10 my right to left.

11 MR. GAMBRELL: Okay. Alan Gambrell, former ANC1C  
12 Commissioner.

13 MR. GUTHRIE: Ted Guthrie, ANC1C.

14 MR. SULLIVAN: Marty Sullivan, Sullivan and  
15 Barrows on behalf of the Applicant.

16 MS. WILSON: Alex Wilson from Sullivan and Barrows  
17 on behalf of the Applicant.

18 MR. FOTIU: Steve Fotiu form the Eisen Group  
19 Architects.

20 CHAIRMAN HILL: Could you say your last name again  
21 for me?

22 MR. FOTIU: Fotiu.

23 MR. HAITH: Malcolm Haith, homeowner.

24 MR. WELLS: Lee Wells, homeowner.

25 CHAIRMAN HILL: Okay, great. So Mr. Sullivant,

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1 I guess you're going to presenting to us?

2 MR. SULLIVAN: Yes, sir.

3 CHAIRMAN HILL: Okay. And you guys just -- you're  
4 here just to speak during the ANC portion and also then to  
5 provide testimony; is that correct? So -- I mean you will  
6 be. So if it's okay, I'll just call you back up when it's  
7 that time during the hearing. Thank you. All right. Yes,  
8 Mr. Sullivan, okay. So I guess this is actually pretty  
9 involved. I am going to -- I mean we've read through the  
10 record and probably are going to have, you know, questions  
11 as you kind of go through this. But if you could, in  
12 general, as you know, if you can just go ahead and tell us  
13 again the different kinds of relief you're requesting and how  
14 you're meeting the standards with which for us to grant that  
15 relief.

16 Also, there was, I guess, a preliminary matter  
17 with a past filing, the 21-day filing. I think there were  
18 some corrections that you specified. One was -- I guess it  
19 was in instead of 65 percent -- or it's 66 percent and you  
20 were clarifying the record on the drawings. I, unless the  
21 Board has an issue -- I mean I thought they were pretty minor  
22 discrepancies that I would allow into the record so that we  
23 can clearly understand what we're talking about. Does the  
24 Board have any objection?

25 MEMBER WHITE: No objection.

1           CHAIRMAN HILL: Okay. So we're going to have Mr.  
2 Sullivan and allow that filing and then after that, you can  
3 go ahead and begin when -- I'm going to put, I don't know,  
4 put 20 minutes up on the clock just so I know where we are.  
5 And you can go ahead and begin whenever you like.

6           MR. SULLIVAN: Thank you, Mr. Rodriguez Chair.  
7 So the relieve that we're asking for is first of all, special  
8 exception relief from Section E 206, which is the  
9 architectural element restriction provision, and related to  
10 the accessory -- that's related to the front of the house,  
11 the alteration of the porch roof.

12           Related to the rear, the accessory structure being  
13 constructed takes over lot occupancy, so we're asking for  
14 special exception relief to go to 66 percent lot occupancy.

15           And there are two provisions regarding rear yard  
16 accessory building. You can have an accessory building in  
17 a required rear yard. This is a new provision under the 2016  
18 regs and the -- provided, you are limited to 10 feet in  
19 height with that building. And the other requirement is that  
20 you're limited to 100 square feet of gross floor area. So  
21 we are asking for special exception relief. Those two  
22 provisions are part of the rear yard requirement in accessory  
23 -- in the accessory building regs. And the Zoning  
24 Administrator has certified in another case that that is  
25 available for special exception because it's part of the rear

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1 yards and the Office of Planning agrees with us on that.

2           So from that, we'll go right to the architect, and  
3 we're going to talk about the accessory building first, and  
4 then we'll go to the front, the porch room. And I don't  
5 think the accessory structure part of this is all that  
6 complicated, but --

7           CHAIRMAN HILL: It's okay. That's a good plan.

8           MR. SULLIVAN: Oh, yes, I'm sorry. First, I'd  
9 like to just have the homeowner briefly tell us how we got  
10 here.

11           MR. HAITH: Hi, again. Malcolm Haith. This is  
12 my partner, Lee Wells. We purchased our home approximately  
13 a year-and-a-half ago after looking for a long time in Adams  
14 Morgan and Lanier Heights. And we submitted our building  
15 permit last March of 2017 and received comments in August of  
16 2017 that we could not modify the existing front porch.  
17 Ourselves, along with Steve, went down and met with the  
18 zoning reviewer at DCRA. They determined that the porch  
19 could be removed because our application was in before April  
20 2017. At the same time, we also had comments about the third  
21 floor height adjustment, so we took those comments and  
22 modified the plans to step back the third floor. But the  
23 porch was determined to be approvable and was subsequently  
24 approved in October of 2017. So we had a fully approved  
25 building permit and started construction with permitted and

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1 budgeted plans in November of last year.

2           In late February, we received notice that the  
3 porch was in violation of the architectural element rule and  
4 we received a stop work order. We met with DCRA and  
5 determined the only process for us to continue would be to  
6 go through the BZA process, and that's why we're here. The  
7 issue for us is we're scheduled to move into our home any day  
8 now. We have furniture arriving, trying to get cable set up  
9 and because of this porch issue, which we cannot touch under  
10 the agreement with DCRA, we can't continue the construction  
11 of the front of our house. And the estimated cost to replace  
12 the porch is approximately \$26,000.00, and the structural  
13 needs for the retaining wall that is failing now that holds  
14 up the porch is an additional \$5,100.00. So this could cost  
15 upwards of \$30,000.00 for us that is totally unbudgeted and  
16 we were going off of approved plans by DCRA which we thought  
17 should be valid. So that's why we're here.

18           MR. FOTIU: I just want to say one thing. The way  
19 that it was discovered was that Malcolm and Lee decided to  
20 pursue BZA relief for a garage, an accessory garage. This  
21 had been determined from day one that we would do it in two  
22 phases. We thought it was sort of a savvy approach that we  
23 would, once the -- we would go for the building permit so  
24 that they could start construction. They already live in  
25 Lanier Heights. They pay rent. They were going to start

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1 paying a mortgage simultaneously so during the three to four  
2 months that you wait in the runup to get to a BZA hearing,  
3 we figured we might as well go ahead and submit our building  
4 permit, start construction, and then submit a BZA application  
5 for the accessory garage.

6 Office of Planning, at that point -- or was it  
7 someone from DCRA? Someone from DCRA, when looking at the  
8 request for the accessory garage, looked into the record and  
9 said, "Wait a second. We should have never let them touch  
10 this porch." And so they issued a stop work order without  
11 ever telling Malcolm or Lee why they were doing that but, you  
12 know, obviously, when you get a stop work order, you  
13 immediately jump and try to figure out what's going on. And  
14 at that point, it was determined that the zoning reviewer  
15 should never have told us we would be allowed to alter the  
16 porch and subsequently, the permit should not have been  
17 issued showing the porch alteration. So I just wanted to add  
18 that detail, how it was discovered.

19 MR. HAITH: And we live in Adams Morgan right now  
20 but are moving to Lanier Heights. I know there's a  
21 distinction.

22 CHAIRMAN HILL: Okay. So actually, a couple  
23 questions just on this. So you had an approved permit in  
24 April -- or before April? I'm trying to understanding what  
25 the April 2017 date was?

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1 MR. FOTIU: April was when the new regulation that  
2 restricted --

3 CHAIRMAN HILL: All right. Okay.

4 MR. FOTIU: -- fully became enacted.

5 CHAIRMAN HILL: And so you had a permit -- you had  
6 an approved permit when?

7 MR. FOTIU: In November. Our meeting with DCRA's  
8 zoning reviewer was in August, and one last timeline item  
9 moving backwards, we submitted our drawings in March.

10 But we were told in our meeting with DCRA that  
11 there was no vesting period for this particular zoning  
12 regulation and even though we had submitted our drawings that  
13 because there was no vesting period, we would need to push  
14 back the third floor from the existing facade and which we  
15 did and that we wouldn't be allowed to touch the porch. We  
16 asked if there was any ability to allow for the porch because  
17 this regulation -- because it had -- for the very reason that  
18 there had not been a vesting period, could there be some sort  
19 of allowance for this. The zoning reviewer went and checked  
20 with his supervisor -- I believe it was Mamadou Ndaw and  
21 returned and told us that it was okay to proceed with the  
22 porch alteration. And subsequently, a couple months after  
23 that, the building permit was issued by DCRA showing the  
24 porch alteration.

25 CHAIRMAN HILL: What has been done to the porch?

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1 MR. HAITH: It has partially been removed as of  
2 today.

3 CHAIRMAN HILL: You don't have a picture of what's  
4 been done to the porch, do you?

5 MR. HAITH: I have it on my phone.

6 CHAIRMAN HILL: Okay. That's all right.

7 MR. FOTIU: Also, I should mention the reason it  
8 was partially removed is that the Zoning Administrator got  
9 involved and basically said, you know, you're going to need  
10 to go through a BZA process to get approval for the porch  
11 alteration; we shouldn't have given you that. And because  
12 the two scenarios are that the porch is under disrepair or  
13 animals have lived in it previously, structurally, it's  
14 failing and it's connected to the neighbor's porches. So it  
15 has the potential for dragging the neighbor's porches down.  
16 So what the homeowner was given by the Zoning Administrator  
17 was an affidavit that basically stated that the porch would  
18 need to be removed before this hearing.

19 And so because no matter what, it has to be  
20 removed, it's either going to be replaced with a replica or  
21 a replication of that design or the altered plan, which is  
22 what we're seeking relief for today. So either way, it had  
23 to come down. It was a safety matter. In fact, the postman  
24 was refusing to even deliver mail because he felt it was  
25 deemed a safety hazard. So again, we had an affidavit

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1 telling us that it needed to be removed before this hearing.

2 CHAIRMAN HILL: Okay. Does the Board have any  
3 questions for the testimony at this point? Okay, Mr. May.

4 COMMISSIONER MAY: Yes. I'm a little confused  
5 about all of the relief and the entirety of the project and  
6 the fact that you're set to move. I mean there's an  
7 indication on the drawings that there's an addition to the  
8 back of the house beyond the garage? Is that -- or was that  
9 how you are describing that part of the building?

10 MR. FOTIU: So we do have a presentation where  
11 want to get into a little bit more detail of the design  
12 elements. We just wanted to give a little bit of background  
13 story.

14 COMMISSIONER MAY: Got it, okay.

15 MR. FOTIU: But just to mention, the addition was  
16 part of the building permit application that was approved in  
17 November and has been already built. It's part of the  
18 existing structure at this point.

19 COMMISSIONER MAY: Right. And that was built as  
20 a matter of right because it didn't violate lot occupancy  
21 because you didn't have the garage in the plan. All right.

22 CHAIRMAN HILL: Okay. Mr. Sullivan?

23 MR. SULLIVAN: Just a point of clarification. The  
24 affidavit, too -- the purpose of that was so that the  
25 Applicant could promise DCRA that if the porch was removed

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1 for safety reasons, that it has to -- the Applicant has to  
2 agree that it goes back up should this case not be approved.  
3 So that was the purpose of that.

4 So I think we'll talk about the accessory  
5 structure and how that meets the special exception  
6 requirements next.

7 MR. FOTIU: Thank you, Chairman, Members of the  
8 Board. Steve Fotiu. I just want to now officially -- that  
9 was sort of a background story but I'd like to officially  
10 present sort of our case. And I'd like to start with the  
11 accessory garage and what you're seeing on the screen are  
12 photographs from the alley showing the majority -- the vast  
13 majority of houses -- I believe it's 29 houses on the same  
14 side of the block -- have a garage. I believe three either  
15 have a garage door with a parking pad behind or just in the  
16 case of the subject property, a parking pad with no garage  
17 door. So again, the vast majority, about 90 percent of the  
18 houses, do have a garage.

19 The request to add an accessory garage, as Mr. May  
20 actually pointed out this, because there's already an  
21 addition -- it was by right, adding the garage now triggers  
22 a lot occupancy that's higher than the 60 percent  
23 permissible. Through a special exception process, there is  
24 permissible up to 70 percent lot occupancy provided that  
25 we're able to prove the sort of the standard that we do not

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1 affect the light and air available to neighboring properties,  
2 that the privacy and use of and enjoyment of the neighboring  
3 properties is not negatively affected and that the addition  
4 or structure together with the building is not -- as seen  
5 from the street or alley, does not pose sort of a negative  
6 design and does not intrude on the character or scale of the  
7 neighborhood.

8           So with that, the next -- some of the articles  
9 then call for exhibits that would demonstrate this and that's  
10 what we'd like to show. Specifically, in our ANC hearing,  
11 we heard neighbors concerned about the light and air  
12 character, and we did feel it was important to demonstrate  
13 what we had known or what we had already studied but had not  
14 necessarily shown with exhibits. We have these exhibits here  
15 showing -- so this exhibit shows the overall block massing,  
16 the red there shows the addition already as the existing  
17 condition, and as shown in light red is the proposed garage.  
18 And what I want to show are a series of sunlight studies and  
19 sort of go through and demonstrate that the affect of the  
20 garage as a 10-story tall -- I'm sorry, 10-foot tall garage,  
21 which would be identical to the neighbors', versus a 13-foot  
22 8 garage, which is what we're proposing, that the difference  
23 in light and air is negligible.

24           So what -- in each case here, we're going to look  
25 at time of year. This is equinox so it's fall and spring.

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1 CHAIRMAN HILL: I'm sorry, you said 13 point what  
2 again?

3 MR. FOTIU: Thirteen foot eight.

4 CHAIRMAN HILL: Okay.

5 MR. FOTIU: So what we see here is -- and the next  
6 several slides will be in equinox, May and September, and  
7 demonstrating a majority of the year here. Starting with the  
8 morning, you see a 10-foot tall garage in red and a 13 foot  
9 8 garage, so I will just toggle back and forth and you see  
10 a minimal shadow that is just to the lower left of the garage  
11 on the neighboring garage, the shadow changes. This is when  
12 the sun is coming from the east and is relatively low. There  
13 are some -- jump right back one second -- there are some  
14 taller structures that are to the south of the property and  
15 so in many cases, those taller structures are shading the  
16 backyards of our subject property and the neighbors' in the  
17 morning. So again, the effect of the garage from 10-foot to  
18 13-foot 8 is relatively negligible.

19 Moving through the day, at noon, you can see the  
20 difference. You can see all the shadows cast by the garages  
21 in a row into the backyards and the difference in the shadow  
22 from 10-foot to 13-foot 8. Moving through the day into 3  
23 p.m. as the sun has now moved past due south and is sort of  
24 heading towards west, you can see again the difference in  
25 shadows from 10-foot to 13-foot-8. And now 5 p.m. -- this

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1 is the last one on this particular time of year -- towards  
2 the end of the day, the sun is mostly from the west which  
3 would be page left here, and toggling back and forth, the  
4 shadow is basically casting onto the neighboring garage and  
5 the alley. So again, a negligible impact from 10 feet to  
6 13-foot-8.

7           Moving into the summer where the sun is relatively  
8 high in the sky, this would be, you know, between 20 and 25  
9 percent of the year; in the morning, you can see that all of  
10 the garage are casting shadows into the backyard. That  
11 shadow line is relatively consistently and increasing the  
12 height of the garage has a relatively negligible effect.  
13 Moving to noontime, again, the two shadows -- and I can speed  
14 up if you'd like. That's sort of the effect. Wintertime  
15 being that the sun is relatively low, I'll just point out  
16 that really, the shadows again are negligible but there's  
17 very little sunlight even hitting this back -- any of these  
18 backyards in the winter because of the angle of the sun.

19           So at this point, really, the question is what is  
20 the standard and I'd like to hand it back over to Marty.  
21 Yes.

22           MR. SULLIVAN: So that's the discussion on the  
23 accessory building and I'd like to move to Section 2016 now  
24 and talk about the front of the building. And we went  
25 through this last week and we're trying to home in on what's

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1 the standard for special exception relief from Section 206.  
2 And the zoning regulations provide, of course, the general  
3 requirement and then the three specific criteria. And the  
4 three specific criteria, we meet the first two and all would  
5 agree on that. That's a simple test, but it's the third  
6 criteria that, which is Subsection D of that section, is  
7 identical to the actual restriction. So you have a circular  
8 provision that in order to get relief from Section 206, you  
9 have to meet the requirements for Section 206.

10 We think that the Office of Planning and the  
11 Applicant now agree on what you do in that situation, that  
12 you then refer just to the general requirements. And there  
13 is no further specific requirement D, because D is cancelled  
14 out. Where the Office of Planning and the Applicant pass  
15 diverge is what exactly is that general requirement. And the  
16 general requirement is, of course, that the project be in  
17 harmony or the relief, if granted, be in harmony with the  
18 general purpose and intent of the zoning regulations and maps  
19 and will not tend to affect adversely the use of neighboring  
20 property. So what does that mean?

21 About a year ago, what it meant in cases like this  
22 -- and according of the Office of Planning reports -- was it  
23 meant the general purpose and intent of the zoning  
24 regulations. It was very general language in the reports  
25 just about the residential character of a neighborhood and

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1 the other zoning requirements. And you can see from the  
2 cases that we submitted with the prehearing statement that  
3 this Board and the Office of Planning supported various  
4 alterations and special exceptions from Section 206.

5 About a month ago, we requested additional  
6 information from the Office of Planning on what I the  
7 standard, what do we do with this circular provision. And  
8 they told us that the answer was that we should be talking  
9 about the character scale and pattern of houses on the  
10 street. And that's why you'll see that in our prehearing  
11 statement that was our argument.

12 CHAIRMAN HILL: Oh, dear, God, I'm having a  
13 flashback now.

14 MR. SULLIVAN: Yes.

15 CHAIRMAN HILL: I completely agree with that.  
16 Right. Now I'm back with you.

17 MR. SULLIVAN: So last week then, if you came --

18 CHAIRMAN HILL: Last week. Yes, I remember last  
19 week.

20 MR. SULLIVAN: -- last week -- if we're on slide  
21 44, this is what it became, the general purpose and intent,  
22 they referred to the introductory paragraph for RF-1, pulled  
23 out the phrase, "neighborhood character" and said that word,  
24 that phrase, among all these other items of general -- and  
25 this is RF-1. This isn't general zoning regs. This is the

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1 RF-1, which I think is more specific. Neighborhood character  
2 could mean discussion of windows, rhythm, streetscape, who  
3 knows. I mean it's hard to understand exactly what the  
4 target it. With this report, then that changed. And in this  
5 report, they simply say that the intent of this specific  
6 provision, the provision requiring review, 206, is intended  
7 to preserve the streetscape integrity of residential  
8 buildings, so it's a moving target.

9 I have to --

10 COMMISSIONER MAY: I'm sorry, do want to explain  
11 to me again how that's a moving target, because it's always  
12 been perfectly clear to me.

13 MR. SULLIVAN: Well, I think there's been --

14 COMMISSIONER MAY: I mean just walk me through  
15 what you just said again --

16 MR. SULLIVAN: Yes.

17 COMMISSIONER MAY: -- again a little bit slower  
18 or something.

19 MR. SULLIVAN: Okay. Maybe a moving target's not  
20 the right term. It's not a clearly-defined standard.

21 COMMISSIONER MAY: Okay. Explain to me why you  
22 think that is the case, because I did not get it from what  
23 you just said.

24 MR. SULLIVAN: Okay. So there's three specific  
25 criteria, none of which mention anything about -- the only

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1 -- the third criteria says that you shall not remove an  
2 architectural element.

3 COMMISSIONER MAY: Right. These are the criteria  
4 relating to putting an addition onto the top of the house,  
5 right?

6 MR. SULLIVAN: You can't reduce -- you can't  
7 remove a -- yes, 206 says, yes --

8 COMMISSIONER MAY: Right.

9 MR. SULLIVAN: -- you can't alter or remove an  
10 architectural element --

11 COMMISSIONER MAY: Architectural feature.

12 MR. SULLIVAN: -- including --

13 COMMISSIONER MAY: Porches, turrets --

14 MR. SULLIVAN: -- dormer, porches, correct. And  
15 there's three special exception criteria, the specific  
16 criteria and that third criteria is a repeat of 206.

17 COMMISSIONER MAY: Right.

18 MR. SULLIVAN: So in order to meet 206 you have  
19 to meet 206.

20 COMMISSIONER MAY: And the special exception  
21 relates to what relief? It's a special exception for what

22 MR. SULLIVAN: Relief from Section 206.

23 COMMISSIONER MAY: From 206?

24 MR. SULLIVAN: From the restriction of altering  
25 the architectural elements.

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1           COMMISSIONER MAY: So that's how it's -- you're  
2 deciding that it's circular?

3           MR. SULLIVAN: Yes. It's written in a circular  
4 and so we're not sure what to do with that, but we -- I mean  
5 one way to --

6           COMMISSIONER MAY: Well, we'll ask the Office of  
7 Planning how they interpret it. I'll go back and look at it  
8 again.

9           MR. SULLIVAN: I think -- yes, okay. So I think  
10 that the level of detail in the Office of Planning reports  
11 for this relief have changed a lot in the past year. And so  
12 this report talks about public parking, first of all, and  
13 shade of public parking even though we're not in the public  
14 space, we're not in the public parking. So, you know, we  
15 have an expert witness architect to talk about how this  
16 particular alteration fits within the character of this  
17 block. I guess we're just looking for guidance on -- in a  
18 sense, it's a little bit like we'll tell you what the  
19 standard is when we see it but it's not really clearly  
20 defined in the zoning regulations. So, Steve, I'll turn it  
21 over to you.

22           MR. FOTIU: Yes. I would say that that's actually  
23 relatively clear to me as well. I mean I understand you were  
24 looking -- seeking for some understanding of what the  
25 statement that was being made but to me, it's relatively

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1 clear what the Office of Planning was trying to do, and even  
2 though they continue to use different wording, what they're  
3 trying to do. There are non-historic districts, non-historic  
4 homes that have porches and have architectural elements that  
5 the Office of Planning would like to preserve because of  
6 their architectural character and their DC-ness, if that's  
7 a term.

8           Now I think that the fact that they have allowed  
9 for special exception means that there is a standard that  
10 could be met, a threshold that you can meet to prove that  
11 zoning doesn't apply in every case. I mean that's what today  
12 -- that's what BZA is about, is that zoning doesn't apply to  
13 every case and there are exceptions, and you can come and  
14 prove the threshold has been met, and that's what the Board  
15 is here to determine. So for us, in looking what OP is  
16 trying to do here, we would agree that there are many cases  
17 where it's just very clear a porch or other architectural  
18 element should not be altered. And I will show you examples  
19 because we feel very strongly that there are some pretty good  
20 examples where there should not have been an alteration,  
21 there should not be alterations.

22           On the other end of the subjective spectrum, we  
23 believe that there, because of the fact that there's a  
24 special exception allowed, that there must be a subjective  
25 level you could prove that says, well, in this case, it

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1 doesn't negatively impact the block; it doesn't negatively  
2 impact the character or integrity of that neighborhood, and  
3 that's what we would like to -- that's what we believe we can  
4 prove, and I will show you exhibits to that fact. So just  
5 a few exhibits here showing examples in Capitol Hill and  
6 Mount Pleasant. These are historic districts. Nonetheless,  
7 a threshold was met even here that somehow they were allowed  
8 to remove porches.

9 COMMISSIONER MAY: Most of these pre-date --

10 MR. FOTIU: Yes, absolutely.

11 COMMISSIONER MAY: -- the regulations, right?

12 MR. FOTIU: Correct.

13 COMMISSIONER MAY: I live around the corner from  
14 the one on the top and it looks terrible.

15 MR. FOTIU: And that's my point. That is --  
16 that's actually my point.

17 COMMISSIONER MAY: Right. So you're saying that  
18 you should not remove these porches?

19 MR. FOTIU: And there are specific cases where  
20 there are 13 or 17 or 25 identical --

21 COMMISSIONER MAY: So four doesn't qualify is your  
22 argument, because there are four now?

23 MR. FOTIU: And we'll get there. There's actually  
24 three. So -- and there's nine different types of row houses  
25 or architectural characters on the same side of our block.

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1 So the point here is that when you have the same identical  
2 house, this is what OP is trying to stop, both in historic  
3 districts, as theses shown -- again, as shown, historic  
4 districts and non-historic districts. So showing again  
5 examples here. The top example, 15 identical row houses, one  
6 had its porch removed on the bottom; 25 identical row houses,  
7 one has its -- two have their porch removed. They stand out  
8 and this is the end of the spectrum that says this is obvious  
9 that these are examples where they should not have been  
10 removed. Again, an example -- and most of these -- every one  
11 except for one example is an RF-1 zone so, again, 25  
12 identical row houses, 3, and in fact, three in a row have  
13 been removed.

14 So that moves now to what we believe is at the  
15 other end of the spectrum. There are 15 different row  
16 houses, apartment buildings, or architectural shifts that  
17 happen on this block, nine of which occur on our side of the  
18 block. This is a diagram demonstrating whether their  
19 building is pushed back from the street -- pulled from the  
20 street block wall I should say, whether it's pulled forward  
21 from that block wall, whether there is a porch or not a  
22 porch. And I'd like to show you some quick photos of those  
23 examples. The photo in the upper left, transition from one  
24 to two, there is a slight shift in block wall. It's not  
25 really visible because of the tree.

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1           And then the porch -- the height of the porch  
2 changes, relatively minor there, from two to three. And  
3 three -- condition three includes the subject property. You  
4 see a roughly six-foot change in the block wall and porches  
5 that move out much closer to the street.

6           In transition three-four in the lower left, you  
7 see the group of four row houses that are identical. The  
8 last one of the four has already had its porch removed, and  
9 it transitions to a series of row houses that have no  
10 porches, have bay windows. And so there the block wall seems  
11 to move forward and the bay window is the predominant element  
12 in those. So really, the feeling is that the facade, there's  
13 sort of an in and out, back and forth going on, changes in  
14 scale, changes in architectural elements. Transition  
15 four-five shows a shift back to porches. Condition five-six,  
16 porches stop and an apartment building occurs; six-seven, no  
17 porches but again, bay windows that culminate with sort of  
18 turret roofs. And then sort of at the end of the block,  
19 seven-eight-nine, you see there a rapid change from bay  
20 windows to porches to a relatively tall apartment building.

21           So as you move down this block, your eye is  
22 constantly changing. It's constantly receiving information  
23 about a different architectural move. In that sequence, in  
24 that overall sequence of things, what we believe is that the  
25 subtle porch alteration is imperceptible. And what we have

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1 here is essentially the existing condition, so you see to the  
2 left, there's one type of porch; to sort of in the middle is  
3 the four identical row houses, one of which already has its  
4 porch removed; and then the row houses with no porches. And  
5 in that context, the partial porch alteration is just a blip  
6 in a larger block of discontinuity, changes in character,  
7 changes in architectural elements.

8 I should we struggled right at the last minute to  
9 try to get you a visual to show, but one of the other things  
10 that the homeowner intends to do here is to paint the brick  
11 a light grey and then the trim would be a slightly darker  
12 charcoal grey. And what that does is it also further  
13 delineates the difference from the partial porch that we're  
14 proposing to the porch that's directly to the right that it's  
15 connected to. If you see, theirs is essentially white or  
16 cream. The proposal on ours is that it be charcoal grey and  
17 you would see a very distinct line where that splits, and so  
18 there's further separation from the neighbor in that point  
19 visually.

20 So at this point, I'd just like to respond to a  
21 couple of the items in the OP report. One item Marty alluded  
22 to, which is speaking of the parking zone, and the porches  
23 have traditionally provided protection or shade for the  
24 parking zone. Typically, that's something that is considered  
25 beyond the building restriction line. That's sort of --

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1 those are projections, bay windows and porches, that are  
2 allowed to be constructed beyond the property line. All of  
3 these moves that occur on this block are within the building  
4 restriction line, within the property line. So really, I  
5 would think that that's not relevant here but even more than  
6 that, we have almost 50 percent of the houses don't have  
7 porches or 50 percent of the block doesn't have porches. So  
8 are we saying that the people who park directly in front of  
9 a house that doesn't have a porch somehow don't feel the same  
10 experience or somehow don't feel as safe to park there? I  
11 think it's not quite correct.

12 COMMISSIONER MAY: I'm sorry, are you talking  
13 about parking cars?

14 MR. FOTIU: This is OP's report.

15 COMMISSIONER MAY: Right. So, just so you  
16 understand, parking in this context --

17 MR. FOTIU: The streetscape zone.

18 COMMISSIONER MAY: -- it relates to the park-like  
19 character of front lawns. It has nothing to do with vehicle  
20 parking.

21 MR. FOTIU: Okay. So even if it's about  
22 streetscape --

23 COMMISSIONER MAY: Planning can explain that.  
24 Christine, the Office of Planning --

25 MR. FOTIU: -- so even if it's about streetscape

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1 --

2 COMMISSIONER MAY: It's just about streetscape.

3 MR. FOTIU: So in the same context, if it's about  
4 streetscape, my --

5 COMMISSIONER MAY: It's -- well, yes, I mean  
6 street case and again, the park-like character of the front  
7 yards.

8 MR. FOTIU: Okay. So my point -- my second point  
9 still speaks to that which is that 50 percent of the houses  
10 already do not have a porch, in which case are we saying that  
11 somehow those houses don't speak to the street or don't have  
12 the same sort of relationship to the park-like setting of the  
13 streetscape?

14 The next comment is about integrity and character  
15 in the OP report, and I believe that our very point is about  
16 the fact that the character of this block is one of variety  
17 and different types of architecture. And so a porch  
18 alteration of this small amount is really one that does not  
19 -- could not have the impact of negatively altering the  
20 integrity of the block.

21 And finally, there's a comment about window  
22 treatments. I'm not sure -- it alludes to window treatments.  
23 I'll speak to that for a second but there's a second comment  
24 in there. We are replacing the windows with windows that  
25 would be approved in a historic district, which isn't

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1 necessary in this particular case but it's something that the  
2 homeowners wanted to do, and so it's a high-quality window.  
3 The windows themselves, the openings aren't being altered at  
4 all. The window product itself will be a high -- it is a  
5 high-quality product what has been installed. I believe what  
6 was being alluded to was when you remove the porch, what  
7 about the areas of the building that used to be covered by  
8 a porch. And in that case, it's face brick and the face  
9 brick that exists underneath the porch when the porch is  
10 removed, the intention here is to repoint the brick with  
11 similar joints to the rest of the face brick and then to  
12 paint the entire facade. So it will be imperceptible where  
13 a porch had been and where there had not been a porch. So  
14 I believe the comment about that we had not addressed what  
15 is going to happen if the porch alteration is approved, what  
16 we would do to the brick, I think, I just wanted to speak to  
17 that for a moment. Yes, go ahead. Thank you.

18 MR. SULLIVAN: So in closing our presentation, I  
19 just want to touch on a couple of the issues that the ANC has  
20 raised and I'm sure we'll maybe address them again in  
21 rebuttal and closing. But if I could just briefly, there is  
22 a claim that the removal of the front porch would convert  
23 this from a three-story building to a four-story building.  
24 The removal -- first of all, that's self-certified and this  
25 plan was approved by DCRA in October. But the removal of the

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1 porch itself doesn't have any impact on the measurement of  
2 -- on the building height measuring point as it relates to  
3 stories but also, we're self-certifying. So if that were the  
4 case, then we wouldn't be here.

5           There's a claim that the variance is required for  
6 the accessory structure for the height and gross floor area,  
7 but those provisions are tucked within the rear yard  
8 requirement because they only apply when you're in a  
9 required rear yard and they're in the rear yard section of  
10 the accessory building regulations. And so special  
11 exceptions as it applies to yards, the Zoning Administrator  
12 has determined that those provisions are tucked into the rear  
13 yard and, therefore, get special exception. Actually, that's  
14 also an item that's self-certified and so if the Zoning  
15 Administrator changed his mind, that would be on me because  
16 I self-certified to that.

17           Conversely, if we were over 20 feet, it would be  
18 a variance in any case because then we would be in violation  
19 of the height section of the accessory building regulations.  
20 So between 10 and 20 feet, it's a special exception.

21           There's a claim that you'll read and they're  
22 saying we're asking for something four times the size of  
23 what's permitted. I have no idea why this accessory building  
24 and required rear yard was limited to 100 square feet.  
25 That's essentially saying you can't have a garage in a

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1 required rear yard anymore. And so everybody that builds a  
2 garage needs special exception relief from that provision and  
3 would probably be at least two, three, or four times larger  
4 than 100 square feet.

5 Pervious surface was raised. We did revise the  
6 plans to clarify that we're over the 20 percent and it's also  
7 a self-certified item, and that's all I have.

8 Regarding the petition, I'll just mention I think  
9 the petition itself, which had a few signatures, was somewhat  
10 misleading. It talks about reducing the required rear yard  
11 setback from 20 feet to 15 feet. We have 40 feet. It says  
12 we don't comply with the pervious surface requirement, which  
13 we do. And then it misstates the lot occupancy limit by four  
14 percent, which is a minor difference. Steve, you have  
15 something --

16 MR. FOTIU: I just want to add it seemed like  
17 maybe there was some confusion about what you said about the  
18 garage request. So right now, an accessory structure is  
19 allowed to be 100 square feet. If you want an accessory  
20 garage, you know, a typical parking space is 9 feet by 18  
21 feet, so that's already more than 100 square feet. So if  
22 you're looking to do a garage, you're already going to have  
23 to ask for special exception.

24 COMMISSIONER MAY: Not if there's sufficient rear  
25 yard space between the garage and the house.

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1 MR. FOTIU: For a garage --

2 COMMISSIONER MAY: If the space --

3 MR. FOTIU: That's just --

4 COMMISSIONER MAY: -- if you got 20 feet --

5 MR. FOTIU: Right.

6 COMMISSIONER MAY: -- between the garage and the  
7 house, you don't need a special exception to build a garage.

8 MR. SULLIVAN: Correct.

9 MR. FOTIU: Correct.

10 MR. SULLIVAN: Right. It's just for when you're  
11 in the required rear yard.

12 COMMISSIONER MAY: Right.

13 MR. SULLIVAN: Right, which all of these buildings  
14 are or most buildings in the row house district would be.

15 COMMISSIONER MAY: I'll get to my questions in a  
16 second. Thank you.

17 MR. SULLIVAN: So that's all.

18 CHAIRMAN HILL: Okay. I agree. All right.  
19 Thanks, Mr. Sullivan. Okay. Let's go to the Office of  
20 Planning first. Do you want to go to -- okay. all right,  
21 sure. Commissioner May, you want to do your questions now?

22 COMMISSIONER MAY: Yes, please. Thank you. So  
23 you talked about the repair that would be done to the brick  
24 if the porch is removed. So yes, I mean I think you alluded  
25 to this or mentioned it specifically that very often the

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1 brick that is, you know, behind where the porch is attached  
2 is a sidewall or rearwall brick as opposed to a front-facing  
3 brick with a narrow joint or something. I don't know what  
4 the particular detailing is here. And you talked about  
5 repointing but repointing doesn't necessarily fix joints if  
6 the bricks are of different sizes or of a different finish.  
7 So would you be removing those bricks and toothing in new  
8 brick that matches the old?

9 MR. FOTIU: No. The intention is to have --

10 COMMISSIONER MAY: Yes. So let me just tell you  
11 that I am a student of porches, okay, and particularly in  
12 RF-1 neighborhoods, and I can tell you I can think of one  
13 example where a porch has been removed where it is not  
14 visible. And I forget the exact address. It's on F Street  
15 N.E. But there's only one example and they removed the brick  
16 and they toothed in new brick to match the old and you don't  
17 notice it. That's the only way to do it. So that's just a  
18 statement. That's not a question.

19 And I have a question about the rear yard relief  
20 and this goes to the addition. So if there had not been an  
21 addition that was already approved, would there be relief --  
22 would you need relief for the garage; would there already be  
23 a 20-foot rear yard?

24 MR. FOTIU: If the addition had not been --

25 COMMISSIONER MAY: Built.

1 MR. FOTIU: -- built --

2 COMMISSIONER MAY: Right.

3 MR. FOTIU: -- then we would not need the -- we  
4 would still need a special exception for the size and for the  
5 proposed height of the garage, however, not for the --

6 COMMISSIONER MAY: No, no, no.

7 MR. FOTIU: -- lot --

8 COMMISSIONER MAY: I'm not talking about the  
9 10-100 rule. I'm talking about --

10 MR. FOTIU: Yes, not the lot occupancy.

11 COMMISSIONER MAY: If the addition had not been  
12 built, which was part of your original approved project that  
13 you've already built, right -- if that had not been built,  
14 was there 20 feet between the back of the house and where you  
15 would be building your garage?

16 MR. FOTIU: Yes. There would have been 20 feet.

17 COMMISSIONER MAY: Right. Okay, thank you.

18 CHAIRMAN HILL: All right. Anybody else?

19 MEMBER JOHN: So when you purchased the house,  
20 were you aware that the porch was in disrepair and might need  
21 extensive work?

22 MR. HAITH: Yes, we were. That's part of the  
23 reason why we decided to remove it.

24 MEMBER JOHN: Okay. All right, thank you.

25 MR. HAITH: The whole was in total shambles so

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1 what we're doing we're really proud of. I think the  
2 neighborhood should be, too.

3 MEMBER JOHN: Sure. And one more quick question.  
4 I'm still confused about the month and year that you got the  
5 permit to do the renovations.

6 MR. HAITH: We received the permit in October of  
7 2017. We submitted and were accepted into the permitting  
8 process prior to the rule change. We did that in March. The  
9 rule change happened in April with no vesting.

10 MEMBER JOHN: Okay. But the permit was issued  
11 10/17?

12 MR. HAITH: Correct, after our meeting with DCRA  
13 --

14 MEMBER JOHN: Right.

15 MR. HAITH: -- saying we could remove the porch.

16 MEMBER JOHN: But that's still the operative date  
17 --

18 MR. HAITH: Correct, yes.

19 MEMBER JOHN: -- 10/17? Okay. Thank you.

20 VICE CHAIR HART: Mr. Fotiu, you've provided us  
21 with your analysis of looking at the porches in the kind of  
22 -- that would support your contention that this is not a, you  
23 know, similar street frontage along Ontario in this location,  
24 so there is a variety of street frontages, and this is  
25 different than some of the other places where you're taking

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1 out almost the -- you're taking out a porch in an area that  
2 there is a continuous line of purchase. But I didn't see you  
3 talk about where you think -- because right now you're  
4 proposing kind of a partial porch. Do you have instances  
5 where that has been -- like where they've done what you're  
6 proposing, because it seems like there is the -- either you  
7 have porches or you don't have them or you've taken one, a  
8 complete porch out, but I hadn't seen any instances where  
9 you've looked at just kind of putting in a portion of a  
10 porch, so the roof.

11 MR. FOTIU: That's a good question. I didn't do  
12 an extensive search for such a condition. I wasn't really  
13 looking for that. I apologize, I think -- hearing your  
14 question, I see that that would have -- that may have been  
15 helpful. I think we were focused really on the case that we  
16 were trying to make, which was that because of the overall  
17 block having a lot of different conditions, that the partial  
18 alteration wouldn't have an impact.

19 VICE CHAIR HART: No, no, I understood that. I  
20 was just trying to think of -- you have instances -- you've  
21 shown us a variety of instances along this particular street  
22 frontage where they have done a lot of different things but  
23 not what you're proposing.

24 MR. FOTIU: That's correct.

25 VICE CHAIR HART: So I just didn't know where that

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1 came from.

2 MR. FOTIU: I don't have an example that I could  
3 show you to point out someplace else where a partial porch  
4 alteration has been done and what impact it has.

5 VICE CHAIR HART: Yes. I mean just it looks a  
6 little odd because of what you've kind of shown along the  
7 block. And the image that you had on your PowerPoint that  
8 shows the kind of before and after -- I don't know which  
9 slide this is, slide 56 and 57, you know, kind of showing it,  
10 just -- like I said, it just looks a little bit odd.

11 MR. FOTIU: I'd like to, if I could, I want to  
12 pull out the thumb drive and I apologize if the presentation  
13 goes black, but I wanted to point out we have a version of  
14 this that shows the paint that the owner plans to apply and  
15 what that does for the porch. I think it has an impact  
16 that's worth seeing if you don't mind.

17 CHAIRMAN HILL: I'll tell you what, while your  
18 loading that, let me go ahead and turn to the Office of  
19 Planning.

20 MS. THOMAS: Good afternoon, Mr. Chair. Karen  
21 Thomas for the record. We are not in support of the removal  
22 of this porch, partially or otherwise, for the simple reason  
23 that the porches in this neighborhood, whether they block  
24 face shifts or not, are an integral part of the residential  
25 character of the street frontage. So simply put, we don't

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1 think that the removal would satisfy the purpose -- the  
2 intended purpose of the regs, which is to maintain the  
3 character of a neighborhood or not substantially alter the  
4 character.

5           We think that the altered porch would create an  
6 incompatible facade with the remaining row dwellings in the  
7 group, and that group being those four homes even though one  
8 of the -- the yellow house is shown with the porch removed.  
9 We think that continuing that pattern will alter that  
10 extental (phonetic) of homes. So I don't think it's very  
11 complicated for us. Porches do form an integral part of  
12 of the RF-1 where they do exist and that's something that we  
13 would not be in the habit of encouraging the removal of  
14 porches in the RF-1.

15           And with respect to the garage, we have no issue.  
16 We take no issue with the special exception request for the  
17 garage structure and with that, I'll stand on the record of  
18 our report.

19           CHAIRMAN HILL: Okay. Dos the Board have any  
20 questions for the Office of Planning?

21           COMMISSIONER MAY: Yes. So with regard to the  
22 circular argument or the route -- the argument that the  
23 regulations are circular when it comes to removal of porches,  
24 I mean basically the regulation state that you can't remove  
25 a porch or a turret or other defining feature in a row house

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1 like this, right?

2 MS. THOMAS: That's correct.

3 COMMISSIONER MAY: And so going to 5203.3, which  
4 has to do with roof additions, for -- the route for relief  
5 seems a little -- I don't know if that makes sense.

6 MS. THOMAS: I think in discussion, we believe  
7 that the term porch and those other aspects were  
8 inadvertently left out, and that's something that we intend  
9 to take a look at and --

10 COMMISSIONER MAY: So there's something missing  
11 with regard to conditions --

12 MS. THOMAS: Yes.

13 COMMISSIONER MAY: -- for a special exception  
14 approval related to removal of a --

15 MS. THOMAS: Removal --

16 COMMISSIONER MAY: -- feature like --

17 MS. THOMAS: Yes, because --

18 COMMISSIONER MAY: That rings true to me as well.

19 MS. THOMAS: Yes.

20 COMMISSIONER MAY: I can't remember the exact  
21 discussion when this was all being debated but certainly, the  
22 key issue is this, you know, a contributing factor; is it  
23 something where it doesn't really matter very much because  
24 there isn't that much integrity or it's sort of a one-off?  
25 So I understand and appreciate that and I appreciate that

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1 clarification.

2 I'm a little confused as to why the Office of  
3 Zoning supports the relief related to the garage when it  
4 comes to the 10-100 rule as it were, because the 10-100 rule  
5 was never intended to be about putting garages in rear yards.  
6 It was about being able to have a shed or something, right?  
7 I mean 100 square feet is just a shed, a storage shed. But  
8 the Office of Planning seems to have bought into a pretty  
9 bizarre interpretation that I think that DCRA has come up  
10 with, yet another of those things I have to list on my areas  
11 of disagreement with Matt LeGrant in the interpretation of  
12 zoning regulations.

13 But I don't understand how you can connect these  
14 two things. I mean basically, this is a kind of a backdoor  
15 way to get relief that the Zoning Commission never intended  
16 to be relief as a special exception in my view. So I'm  
17 wondering how you -- I mean how are you connecting the 10-100  
18 rule to the relief that's requested in this circumstance?

19 MS. THOMAS: Well, I did discuss this with Matt  
20 and I don't want to speak for DCRA --

21 COMMISSIONER MAY: Of course, yes.

22 MS. THOMAS: -- but there needs to be some clarity  
23 with these provisions as well. The way we looked at it is  
24 -- was that if this were the case, then every garage within  
25 the R-1 would require special exception relief because --

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1 COMMISSIONER MAY: Right.

2 MS. THOMAS: -- because it presumes a lot that is  
3 extra long, a deep lot --

4 COMMISSIONER MAY: Right.

5 MS. THOMAS: -- for it not to be within that --

6 COMMISSIONER MAY: -- but within the required rear  
7 yard --

8 MS. THOMAS: Yes.

9 COMMISSIONER MAY: -- but the required rear yard  
10 is only 20 feet.

11 MS. THOMAS: Twenty feet.

12 COMMISSIONER MAY: And theoretically, your lot  
13 occupancy is 60 percent so theoretically, the first 60  
14 percent of your lot is your house, then you can have a  
15 20-foot rear yard, then you can have a 20-foot garage --

16 MS. THOMAS: Right.

17 COMMISSIONER MAY: -- in a normal matter of right,  
18 you know --

19 MS. THOMAS: So --

20 COMMISSIONER MAY: -- confirming lot.

21 MS. THOMAS: -- so what Matt -- Mr. LeGrant is  
22 looking at, "perhaps," he said -- and then this would negate  
23 the whole issue of why they're here in the first place, but  
24 we will not get into that but I'll just explain that at times  
25 past, they would look at the portion of the garage that would

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1 actually be in that area of the required rear yard, which  
2 would be the 20 feet. And the other portion would be out of  
3 it. Let's say you have --

4 COMMISSIONER MAY: Right, partially in, partially  
5 out.

6 MS. THOMAS: Partially out, yes. So, you know,  
7 we looked at it this way and that and -- but we did discuss  
8 it and we realized that there is some clarity needed with  
9 respect to that, because we would not typically support  
10 relief for height under any circumstances and --

11 COMMISSIONER MAY: Right.

12 MS. THOMAS: -- as a special exception --

13 COMMISSIONER MAY: Right.

14 MS. THOMAS: -- it rightfully should be a  
15 variance. The way I looked at it was that if you look at it  
16 with it partially in, partially out, you would have -- in  
17 this case, the garage would be nine feet. It would meet the  
18 10-foot rule within that section of the required rear yard,  
19 and out of the rear yard, as you go towards the alley, it was  
20 the 13 feet. We, you know --

21 COMMISSIONER MAY: Did you, sort of, do you  
22 calculate how much of it was going to be --

23 MS. THOMAS: -- because the height --

24 COMMISSIONER MAY: Yes.

25 MS. THOMAS: -- we don't exactly know how much.

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1 I mean that could be provided by the Applicant --

2 COMMISSIONER MAY: Yes.

3 MS. THOMAS: - if it's a 100 square feet or more  
4 because it --

5 COMMISSIONER MAY: Well --

6 MS. THOMAS: -- would be two situations, but the  
7 height itself is nine feet --

8 COMMISSIONER MAY: No, I got that point.

9 MS. THOMAS: Yes. And so --

10 COMMISSIONER MAY: I mean if you buy that line of  
11 argument -- well, I haven't bought into that line of argument  
12 that you can -- that the 10-100 rule was intended to address  
13 situations for garages where you would park cars. So that's  
14 one of the big things that I'm struggling with here so --

15 MS. THOMAS: Yes.

16 COMMISSIONER MAY: All right. I appreciate your  
17 explaining why it was that you --

18 MS. THOMAS: That we --

19 COMMISSIONER MAY: -- agreed with DCRA's bizarre  
20 interpretation.

21 MS. THOMAS: Yes, okay. Thank you.

22 MEMBER JOHN: Mr. Chairman?

23 CHAIRMAN HILL: Sure, of course.

24 MEMBER JOHN: I still don't know if I understand  
25 this but under Section 5007, there's a special --

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1 CHAIRMAN HILL: Okay. All right. So I'm sorry,  
2 go --

3 MEMBER JOHN: Might be for OP --

4 CHAIRMAN HILL: Sure, go ahead, ask again. I'm  
5 sorry.

6 MEMBER JOHN: -- or OAG. So there's a special  
7 exception for the development standards of this chapter which  
8 would be the accessory building structure in the RF zone.  
9 So that would seem to allow a special exception for this  
10 structure in the rear yard. So I'm not sure if I've got the  
11 right provision.

12 MS. THOMAS: Yes. You have the right provision  
13 because it starts off with special exception; 500 starts off  
14 with the exceptions to the development standards shall be  
15 permitted as a special exception --

16 MEMBER JOHN: Okay.

17 MS. THOMAS: -- under X and then under Subtitle  
18 E 5201. So --

19 MEMBER JOHN: Then it referred --

20 MS. THOMAS: -- you could -- yes --

21 MEMBER JOHN: -- refers --

22 MS. THOMAS: -- it just refers --

23 MEMBER JOHN: -- refers --

24 MS. THOMAS: -- and refers and refers, yes.

25 MEMBER JOHN: Okay. All right. Thank you.

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1 MS. THOMAS: Okay.

2 CHAIRMAN HILL: Okay. God, I can imagine people  
3 -- do you guys like sit around OP and just banter things  
4 around and try to -- does the Applicant have any questions  
5 for the Office of Planning?

6 MR. SULLIVAN: Yes. Thank you. Ms. Thomas, were  
7 garages and accessory buildings, under the 1958 regulations,  
8 were they permitted as a matter of right in required rear  
9 yards without restriction, without these restrictions?

10 MS. THOMAS: I think without these restrictions.  
11 I can't remember. I can't recall without it in front of me  
12 so.

13 MR. SULLIVAN: And then your report opines that  
14 this garage, exceeding the 60 percent lot occupancy and  
15 exceeding the 10 feet in height up to 13 feet and exceeding  
16 the 100-square foot to the 375 or whatever it is meets the  
17 special exception criteria in the zoning regulations as  
18 currently written, correct?

19 MS. THOMAS: Yes. For the garage, yes.

20 MR. SULLIVAN: Yes. Thank you.

21 CHAIRMAN HILL: Okay. All right. Is there anyone  
22 here from the ANC? Oh, yes, that's right. It's been so  
23 long, you know. I know, just come on up. You guys are --  
24 you're lucky everything's happening today, boy, I guess. I  
25 don't know. It was meant to be, huh? And I apologize, I

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1 know you did it already but if you wouldn't mind just  
2 reintroducing yourselves for the record?

3 MR. GUTHRIE: Ted Guthrie, ANC 1C.

4 MR. GAMBRELL: And Alan Gambrell.

5 CHAIRMAN HILL: All right. Mr. Gambrell, you're  
6 a member of the public, okay, and so I'm going to do the ANC  
7 first.

8 MR. GUTHRIE: He was, however, authorized  
9 specifically by the ANC in our resolution to make a  
10 presentation to this Board on behalf of the ANC.

11 CHAIRMAN HILL: Okay.

12 MR. GUTHRIE: We tried -- we --

13 CHAIRMAN HILL: No, that's all right. I'm just  
14 trying to figure out what I'm supposed to do. So -- because  
15 the ANC gets -- so what are --

16 MR. GUTHRIE: I'm not going to take more than a  
17 couple of minutes.

18 CHAIRMAN HILL: -- Ms. Glazer -- no, that's okay.

19 MR. GUTHRIE: And then I'd like to pass it off to  
20 him.

21 CHAIRMAN HILL: Okay. So you're -- and so I'm  
22 looking to OAG again, and you're almost retired, Ms. Glazer,  
23 but not just yet.

24 (Laughter.)

25 CHAIRMAN HILL: So you're, Commissioner Guthrie,

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1 saying that Mr. Gambrell was authorized by your ANC to speak  
2 on behalf of the ANC?

3 MR. GUTHRIE: Yes, he was.

4 CHAIRMAN HILL: So you'd like to give some of your  
5 time to him?

6 MR. GUTHRIE: Yes.

7 CHAIRMAN HILL: Okay. Is there an issue with that  
8 Ms. Glazer? No. Okay. All right, then that's fine. So  
9 then combined, you would have had eight minutes, okay, so  
10 I'll put eight minutes on the clock and whatever you get to,  
11 Mr. Guthrie, you want to pass off to Mr. Gambrell, you're  
12 more than welcome to. And Mr. Gambrell, again, if it goes  
13 a little over eight minutes, I'm not crazy, okay. So just  
14 -- but, you know, it's we're trying to do this properly. So  
15 ahead, Mr. Guthrie.

16 Oh, no, I lost -- my Mr. Secretary's gone. So I  
17 have a little stop watch on here. I'm going to do it myself.  
18 So go ahead and you can begin whenever you like. Hold on.  
19 Commissioner May, he did the text savvy thing there the last  
20 time as I recall.

21 Okay. Well, then you're out of luck I guess.  
22 I'll go ahead and just do my own little clock here. I'll let  
23 you know; okay?

24 MR. GUTHRIE: Okay. First of all, ANC 1C has  
25 substantial understanding and concern for the Applicants

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1 based on their experience with DCRA. We have regularly had,  
2 let's say, similar experience with DCRA where we hear one  
3 thing and then we hear another thing and, you know, you don't  
4 get bound until you wind up making decisions based on their  
5 representations.

6           So we have sympathy there but the problem is that  
7 I don't know if you've ever walked down the street, this is  
8 a charming, charming street. And Adams Morgan is full of  
9 lovely streets but this perhaps is one of the most charming.  
10 It's only a block long and it has a wonderful symphony as you  
11 walk down the street. It is not done in unison but there's  
12 no requirement that I see in that regulation that it be a  
13 unified block before the provision applies that says you  
14 can't mess with this. This is more of a few and the only,  
15 the only sour note along that side of that street is the one  
16 that is of the foursome that some 30-40 years ago had the  
17 porch stripped off before there were any regulations. And  
18 it stands out. It's very clear that there should be a porch  
19 there, and their proposal to have a demi-porch gives them  
20 sort of a -- they're doing it for reasons other than  
21 aesthetics. And I think that the requirement directly goes  
22 to aesthetics and that their proposed change does not meet  
23 the standards for making the alteration in what is very  
24 characteristic on this block.

25           As far as the garage unit, I looked at the initial

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1 photos that they supplied and I thought, well, of course,  
2 everybody else has a garage, why shouldn't they have a garage  
3 back here. At that time, I wasn't aware that they'd already  
4 bumped the house back both the original porch and I believe  
5 another five feet beyond that so that they've taken up a  
6 substantial amount of the rear yard with their, you know,  
7 enclosed housing, which is perfectly fine but you don't get  
8 to go back to the buffet line once you have decided that  
9 that's what you want. You don't get to come back and then  
10 exceed the lot limits, which is what they want to do. And  
11 that just doesn't feel fair to the neighbors and yes, the  
12 particular sun studies may suggest that there's not going to  
13 be a significant number of plants that fail because they no  
14 longer get any sun. But I believe it says "light and air"  
15 and there is certainly a sense in the row house neighborhoods  
16 that we need to have breathing space. We need to feel like  
17 we're not in tenements. That's part of the point of being  
18 in the row houses. And if you decide to push back the house,  
19 you've given up, to our mind at least, the opportunity to  
20 build a substantial structure on the rear that, you know,  
21 would make it more than the 60 percent lot occupancy.

22           And I'd also point out that the disagreement with  
23 the proportion of lot occupancy has to do with whether or not  
24 you include the porch that they want to take off, and they're  
25 taking that out of the equation and saying it's only 64

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1 instead of 69 percent lot occupancy after they put their  
2 garage on. I don't think they get to take the porch off  
3 until you say it's okay to take the porch off.

4 So in summary, ANC is opposed to this application  
5 in both respects. We think that -- you know, we welcome them  
6 to the neighborhood. We hope they enjoy their neighbors.  
7 We hope the neighbors get along with them but please stop  
8 taking the last shrimp off of the buffet plate, you know.  
9 And we're all neighbors here and when you want to have more  
10 than your fair share --

11 CHAIRMAN HILL: That's -- wait a second.

12 MR. GUTHRIE: -- you need to recognize that your  
13 neighbors are not going to be happy with that.

14 CHAIRMAN HILL: Okay, I got it. Okay. All right.  
15 So Mr. Gambrell, you know, you got another five minutes, I  
16 suppose. He went a little over but Commissioner Guthrie, as,  
17 you know, those things haven't cost the amount of tenements  
18 in like forever. I mean that is not, you know -- and those  
19 aren't tenement prices anymore. But okay, Mr. Gambrell.

20 MR. GAMBRELL: Okay. Again, my name's Alan  
21 Gambrell, a former ANC 1C Commissioner. The vote in  
22 opposition to the special exception was four, zero, and one,  
23 and it is based on a recognition that special exceptions are  
24 intended to accommodate special circumstances. This is not  
25 the case for this property. It seems that the homeowners

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1 secured their initial permit but did not request a garage  
2 because lot occupancy would be exceeded. Now they want a lot  
3 occupancy special exception.

4 Relatedly, the homeowners chose to add an  
5 additional 10 feet to the back which was a matter of right,  
6 but this had an impact on lot occupancy and also made the  
7 rear yard smaller and thus created a need for Board approval  
8 for a garage.

9 The homeowners want to tear the porch off alleging  
10 that DCRA's initial approval and then reversal puts them at  
11 a cost disadvantage in having to preserve the porch, but then  
12 they want approval instead to spend that money to build a new  
13 garage, one that would exceed lot occupancy.

14 In summary, these challenges were created by the  
15 choices that were made. The Applicant is really asking for  
16 more than what RF-1 allows, more than what others on the  
17 block have but most importantly, as the Office of Planning  
18 report details, the request to remove the porch is in  
19 conflict with the intended character of the RF-1 district and  
20 is not supported by the special exception review criteria.  
21 Removal of the porch would diminish the architectural  
22 character of this RF-1 block. Opposition to most of what's  
23 being requested is pretty overwhelming. It's the Office of  
24 Planning report on the porch, the letters from over two dozen  
25 neighbors including the abutters and the ANC. Notably, this

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1 opposition does not reflect an NIMBY, or not in my backyard  
2 mentality; rather it's the belief that the integrity of the  
3 zoning regulations is worth preserving.

4 I'm going to skip a little bit given my time  
5 limits. I want to get to the porch first. Regarding the  
6 matter of what we learned today, that this was partially  
7 removed today, there are some neighbors that'll testify --  
8 and I'll let them share their concerns on that -- I am  
9 actually personally a little bit in disbelief that happened.  
10 As I said, opposition to removal of this porch is  
11 overwhelming. ANC 1C agrees with the Office of Planning  
12 report to deny the special request to remove the porch.

13 The slideshow, it talks about the lack of rhythm.  
14 Well, as you -- many of the Board members, if not all of you,  
15 know that's pretty typical of how DC row houses are  
16 developed. There aren't that many that necessarily have  
17 identical characteristics. Oftentimes row houses were built  
18 in little clusters. That's pretty standard. Furthermore,  
19 that's not really a criterion in terms of the architectural  
20 element of preservation. The porch removal, as Ted  
21 mentioned, was done years and years ago. Bottom line, RF-1  
22 architectural element is about protecting the neighborhood  
23 characteristic of the block.

24 The Applicant had submitted an Exhibit 31-F, and  
25 they cite 12 BZA cases where the Office of Planning had

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1 recommended approval to alter the architectural element. The  
2 message seems to be, at least for me, go with the Office of  
3 Planning recommendation. It was probably inadvertent, but  
4 that Exhibit actually supports our position because the  
5 Office of Planning also recommends denial to alter. So I  
6 probably don't need to say more. Of course, we know the  
7 Office of Planning report came out after Exhibit 31 was  
8 submitted.

9           Regarding the concern about DCRA's initial  
10 approval of this permit, again, I'm going to truncate some  
11 of my comments. All parties really have a responsibility to  
12 know what the regulations say. That includes architects.  
13 Certainly, the ANC knows these rules, the neighbors know  
14 them. Frankly, it's an unfortunate fact that errors do occur  
15 on this very block of Ontario Place. There are currently  
16 seven projects that have resulted in stop work orders,  
17 working without permits, and other problems. DCRA should not  
18 have issued a permit to remove the porch, but it appears that  
19 little apparent harm was done as a consequence because no  
20 action was taken in terms of the construction.

21           As for the alleged cost of preserving the porch,  
22 the ANC really sees the zoning regulations as the only thing  
23 we can all turn to in terms of finding some commonality.  
24 Appeals to economic hardship end up pitting neighbor against  
25 neighbor. In the discussion of the ANC resolution, there was

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1 recognition that the homeowners clearly had a right to make  
2 choices on how to spend their money. However, the special  
3 exception process does not seem to be the mechanism to  
4 relieve parties of the choices they make. The owners  
5 determined to incur expenses to add a floor, which is a  
6 right; the owners chose to spend money to add 10 foot to the  
7 back of the building, which was a right; the owners chose to  
8 spend money to excavate and underpin the footprint of the  
9 building but now limit spending to excavate new stairs to  
10 enter under the porch. If the porch removal is approved,  
11 there will certainly be new costs to demolish the porch, to  
12 build a smaller porch and lay a patio service entryway.

13           Again, I'm going to skip through some comments  
14 here as I wrap this up. Regarding the garage and the rear  
15 yard, the PowerPoint that was reviewed with the shadow  
16 studies, which was just submitted yesterday and we just had  
17 an opportunity to look at it this morning, some of the  
18 drawings are a little unclear. It seems the rear yards seem  
19 too big. Proportionally, it seems like they have  
20 20-foot-long garages which are the same length as the rear  
21 yards, which I'm pretty sure these rear yards would not be  
22 20 feet. The adjacent properties seem to be shown with  
23 non-existing fourth levels. So those are just things that  
24 have to be made observations on the fly looking at these  
25 things on a phone. However, the issue is that homeowners

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1 created this problem, as Commissioner May pointed out.

2 In summary, the project is asking for more than  
3 everyone else has, a lot more. Special exceptions should be  
4 just that, special and exceptions. Two, opposition is  
5 overwhelming and is not based on NIMBY mentality but rather  
6 a desire to protect the integrity of the regulations, in  
7 particular, the intent of RF-1. And ANC also asks the Board  
8 to carefully consider how to handle special exception  
9 requests that split intended development of a property into  
10 multiple permits that actually create so-called hardships but  
11 can seek to wash them away by using the special exceptions  
12 process.

13 And just my final comment, I would like to respond  
14 to a few things that Marty Sullivan mentioned in terms of  
15 ANC's position and the petitions. Regarding the removal of  
16 the porch would create four-story facade, I was hoping not  
17 to get into this but, you know, it has to do with the whole  
18 issue about what's a cellar, what's a basement. I'm just  
19 going to avoid going into details on that.

20 Regarding the variance versus special exception  
21 issue we raised, frankly, that's beyond my pay grade to get  
22 into. I get very confused by it. My pay grade, by the way,  
23 being here is zero. I get paid nothing.

24 Regarding the pervious surface calculation,  
25 concede that point because I believe there's a new permeable

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1 walkway in the front to address the percentage requirement.

2           Regarding the garage impact, I think you're going  
3 to hear later from the next door neighbor to speak to that.

4           CHAIRMAN HILL: Mr. Gambrell, I'm going to ask you  
5 just to wrap it up just a little bit. I'm sorry.

6           MR. GAMBRELL: I have one more.

7           CHAIRMAN HILL: Okay.

8           MR. GAMBRELL: And then my last point was  
9 regarding the rear yard depth of 40 feet, that's 40 feet  
10 without a garage. So that there's no confusing there, the  
11 OP report uses the 40-foot figure but with the garage, it's  
12 not going to be 40-foot.

13           CHAIRMAN HILL: Okay, great. Okay. Thanks. Were  
14 you here for the ambassador part, when there was an  
15 ambassador here? No, you weren't?

16           MR. GAMBRELL: I wasn't here, no.

17           CHAIRMAN HILL: I think you get to be called  
18 Commissioner for life now apparently, probably get to  
19 whatever that title is. So all right, does the Board have  
20 any questions of the witnesses?

21           (No response.)

22           CHAIRMAN HILL: I guess just Commissioner Guthrie,  
23 the -- as far as the garage goes -- and I mean again, you  
24 know, I'm a little bit -- you know, you guys talk about the  
25 light and air from the garage. I mean you really -- I mean

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1 the -- your ANC was thinking that that garage did take away  
2 light. I'm just trying to understand. You really -- are you  
3 -- were you guys opposed to the garage because of the light  
4 and air or more because it seemed like, you know, they were  
5 going after -- you know, going -- returning to the buffet,  
6 if you will?

7 MR. GUTHRIE: Had they not extended the house  
8 back, I don't believe that there would have been objection  
9 to having the garage.

10 CHAIRMAN HILL: Got it.

11 MR. GUTHRIE: But it's like asking for both  
12 things.

13 CHAIRMAN HILL: That's okay. I understand. Okay.  
14 Anybody else? No.

15 (No response.)

16 CHAIRMAN HILL: All right. Thank you, gentlemen,  
17 very much. All right. So, Mr. Sullivan, we're back to you,  
18 I guess. Oh, no, I'm sorry. Wow, I forgot. You don't have  
19 to worry, I forgot it completely. Does anybody here wish to  
20 speak in support?

21 (No response.)

22 CHAIRMAN HILL: Is there anyone here who wishes  
23 to speak in opposition? Okay, please come forward. Sure,  
24 why not. Come on up. You've been here all day. Okay. Did  
25 you all get sworn in I assume? Okay. So if you'd introduce

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1 yourselves for the record? Please let's go through that  
2 first, if you could just introduce yourselves for the record  
3 and give us your address. You need to push the button.

4 MR. OLOWOFOYEKU: Toby Olowofoyeku, 1878 Ontario  
5 Place.

6 CHAIRMAN HILL: Give me one second. Could you  
7 spell your last name again, sir? Could you say your last  
8 name.

9 MR. OLOWOFOYEKU: It's pretty difficult.  
10 Olowofoyeku.

11 CHAIRMAN HILL: Your last name?

12 MR. OLOWOFOYEKU: Yes, Olowofoyeku. You want me  
13 to spell it?

14 CHAIRMAN HILL: Yes. I think maybe we'll go ahead  
15 and have you spell it for the transcriber.

16 MR. OLOWOFOYEKU: O-L-O-W-O-F-O-Y-E-K-U, 20-year  
17 resident Lanier Heights.

18 CHAIRMAN HILL: Oh. All right. How do you say  
19 it again? How do you say?

20 MR. OLOWOFOYEKU: Olowofoyeku. It means -- it's  
21 got a meaning.

22 CHAIRMAN HILL: Sure, you can tell us.

23 MR. OLOWOFOYEKU: An uncrowned hero.

24 CHAIRMAN HILL: Oh.

25 (Laughter.)

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1 CHAIRMAN HILL: Okay.

2 (Laughter.)

3 CHAIRMAN HILL: An uncrowned hero, okay. That's  
4 great. That's actually one I don't think I can pull off.  
5 Okay. Your name, please?

6 MS. PETERS: My name is Ann Peters. I'm at 1836  
7 Ontario Place.

8 CHAIRMAN HILL: Great. Peters I can say. Okay.

9 MS. BRYANT: My name is Pat Bryant, and I'm at  
10 1888 Ontario Place.

11 CHAIRMAN HILL: Okay. Sir, what did the name mean  
12 again? No, really, what did the name mean again?

13 MR. OLOWOFOYEKU: In Yoruba, uncrowned hero.

14 CHAIRMAN HILL: Uncrowned hero. Okay. All right.  
15 So Mr. Uncrowned Hero --

16 MR. OLOWOFOYEKU: Yes.

17 CHAIRMAN HILL: -- you have three minutes, and you  
18 can go ahead and give your testimony whenever you like.

19 MR. OLOWOFOYEKU: We residents of Lanier Heights  
20 spent many years -- and it's even in the news we had a big  
21 battle over pop-ups and pop-backs. We welcome all new owners  
22 to Lanier Heights, but they need to follow the rules. 1834  
23 proposed request goes against what the Lanier Heights  
24 neighborhood fought for for several years to get our rezoning  
25 to RF-1. 1834 pops back at least 10 feet, and if you go and

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1 look at it from the back, it's much higher than everybody  
2 else, wants more and more and more all the time. Now they  
3 want to take all the space in the -- additional space for the  
4 garage. They want to go past the lot coverage by another 10  
5 percent when the rest of us are living with 60 percent. They  
6 even want the garage which they are proposing to be 13 feet  
7 high. Everybody else, most of us have 10-foot garages.

8 Yes, it looks like by taking the front porch out,  
9 the house will actually look like a four-story house if you  
10 look from the basement. It's -- that's not what all of us,  
11 including mine -- we actually look more like three-story  
12 houses. The basement is hidden from the front.

13 We should not allow this Applicant to breach all  
14 the new -- all the rules that residents, including myself,  
15 have fought very hard for for several years. Their special  
16 exception is being used to break not just one, more garage,  
17 porch, the top. Goodness gracious, why don't you just build  
18 over the whole -- I'm sorry to add that -- why don't you just  
19 build over the whole lot and then we don't need to look at  
20 you in the face? There are seven to eight current  
21 conversions on my street. Three of them have stop work  
22 orders. All of them come to the street and they want to bend  
23 the rules. They want to go and break -- they're going to the  
24 basement and break everything. Two doors from mine, they  
25 were breaking into the back, disturbing us on Sunday. They

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1 had to go and get a stop -- luckily DCRA or whoever gave them  
2 a stop work order.

3           The owners and the architects know the rules.  
4 When they were applying for the building permits, that is the  
5 time to put in I want so and so garage, not after you  
6 pop-back and you are longer than everybody else. Now you  
7 want to come add the garage after. It's too late. I mean  
8 we don't -- you don't -- don't be greedy. Just stay with  
9 your 60 percent, and we'll all be happy.

10           Now the garage demonstrations they have given us  
11 are not actually true. They didn't show their own building  
12 going further than everybody else. They just showed you they  
13 were the same length. Their building is at least 10 feet --  
14 in fact, from the actual boundary of the old property, it is  
15 14 feet back. How much more do you want? I mean I'm one of  
16 those who stay at the extreme end, which is the original  
17 14-feet of the original end of your house.

18           Now this man, they've already added the 14 feet,  
19 maybe 10 feet longer than theirs. That should be enough.  
20 You have most -- you have enough space in there which you  
21 could have used for your garage. It's too late now. It's  
22 too late.

23           CHAIRMAN HILL: Okay. All right. Thank you, sir.

24           MR. OLOWOFOYEKU: Thank you.

25           CHAIRMAN HILL: Ma'am?

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1 MS. PETERS: All right. Thank you. One quick  
2 point. We did upload yesterday Exhibit 47. It is comments  
3 in opposition from myself, Ann Peters, and my husband, David  
4 Alexander. Just want to mention him there as well.

5 CHAIRMAN HILL: Yes, we got it.

6 MS. PETERS: And thank you for considering our  
7 concerns and our opposition to the special exceptions  
8 requested in this application. I do live right next door at  
9 1836 Ontario Place. We have lived there in our home for  
10 nearly 20 years.

11 I will not repeat everything that's in my comments  
12 of opposition, but I do want to highlight a number of points  
13 and in particular, starting from the back of our house and  
14 the opposition to the special exceptions to exceed the lot  
15 occupancy maximum and to build a larger than permitted  
16 accessory structure in the rear yard.

17 As has been pointed out before, our new neighbors  
18 have already substantially extended the original footprint  
19 of the home. Before the new construction, we were four  
20 houses in the back all in a row, all of fairly equivalent  
21 length in the back as well. They decided to go back beyond  
22 their rear walls, I think estimated by 14 feet or so, up  
23 three stories given that it's two stories of an extended  
24 internal living space and a third rear level with an  
25 extensive roof deck with windows facing into our yard on

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1 those two levels.

2 I did want to point out, as my neighbor here has  
3 said, when the photos -- if our colleagues over there want  
4 to go back to the photos of the rear by the garages, those  
5 are photos taken prior to any construction. It does not show  
6 the extension of the current construction.

7 CHAIRMAN HILL: I'm sorry, we --

8 MS. PETERS: So I just put that there --

9 CHAIRMAN HILL: -- we do understand.

10 MS. PETERS: I should also say that in -- related  
11 to the petition signed by the neighbors, it was signed.  
12 Whatever concerns there are, it does -- with information on  
13 there, it was signed by everyone on either side and then two  
14 houses over, 1832, 1836, 1830, and 1838.

15 We also just wanted to point out beyond what we  
16 were talking about that there is no special need here, no  
17 special exception, and we do need to stick to that 60 percent  
18 lot occupancy. In this particular situation, it's even more  
19 important given the extension on the back and then pushing  
20 in and the light and air flow. And we need that open space  
21 within our neighborhood.

22 Regarding the porch, I do want to say that earlier  
23 this afternoon while we were here waiting, a little before  
24 1:00 -- and I did not see this till later -- we were advised  
25 that demolition had begun on the porch. The porch has --

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1 while it was in somewhat disrepair when the new neighbors  
2 purchased it, it has seriously declined even further under  
3 their ownership, which has been a concern for us for quite  
4 some time. But we believe that it is an integral part of our  
5 neighborhood, the porch-scape; 1834 is actually in the middle  
6 of a set of three full porches. The current configuration  
7 on that is unusual by any stretch of the imagination.  
8 There's nothing else like what they are proposing there, and  
9 we firmly believe that it should remain a porch roofline  
10 there.

11 CHAIRMAN HILL: Okay. Thanks, Ms. Peters. Ms.  
12 Bryant?

13 MS. BRYANT: I only have a general comment because  
14 all the details really have already been expressed, but that  
15 is that as a layperson who doesn't necessarily aspire to  
16 become an architect or a regulatory affairs person, or a  
17 zoning attorney, there is a lot of time that residents are  
18 being required to spend to what feels like protect their, you  
19 know, their quality of life. And I really don't want to have  
20 to go house-by-house and go through this process, and I also  
21 have enough of a sense that this is sort of downstream from  
22 everything, that it really starts at a different point, DCRA  
23 being perhaps the starting point.

24 But I'm just expressing my sort of lack of comfort  
25 with this process. Again, it has felt very adversarial and

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1 that's not where I want to be in life, and I don't think  
2 anybody on our street wants to be there. So if there's  
3 anything you can do to stop this --

4 CHAIRMAN HILL: Yes. That's -- okay --

5 MS. BRYANT: -- process, I'd appreciate it

6 CHAIRMAN HILL: Yes, I appreciate it. I mean --  
7 yes, what was I going say. I mean this is the process, and  
8 this is how it works, and this is -- and I think this is  
9 about as efficient as it gets, believe it or not. I mean  
10 there's -- you know, everyone gets a voice, everyone gets to  
11 do what they do when we're in front of this Board. And we're  
12 actually the -- we're at the end of the line, you know, and  
13 it's either, you know, one way or the other.

14 Sir, you can go ahead and make a quick comment if  
15 you --

16 MR. OLOWOFOYEKU: I will just ask --

17 CHAIRMAN HILL: Sure.

18 MR. OLOWOFOYEKU: -- just asking a question. Why  
19 today is somebody destroying their porch because we're here  
20 discussing about the issues to do with the --

21 CHAIRMAN HILL: I know. It's okay. I mean if --  
22 I don't -- if they don't get the ruling, then they'd have to  
23 rebuild the porch, so you don't have to worry about it.

24 MR. OLOWOFOYEKU: Okay.

25 CHAIRMAN HILL: So let's see -- okay, thank you

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1 all very much. Unless, Mr. Sullivan, you have something?

2 MR. SULLIVAN: No, thank you.

3 CHAIRMAN HILL: Okay. All right. So we're back  
4 over here. I guess I don't have a lot of questions I  
5 suppose. Does the Board have any questions they want to ask  
6 of the Applicant, final questions? No? No.

7 Does the Applicant have anything else they'd like  
8 to say in closing?

9 MR. SULLIVAN: Just a couple minor points in  
10 rebuttal.

11 MR. FOTIU: Well, I would just -- I would say that  
12 part of the reason this has been relatively contentious is  
13 that there's some misinformation that was used to convince  
14 everyone that there were nefarious reasons why things were  
15 done in the sequence they were done or -- but even the  
16 conditions of our requests, for example, our addition  
17 projects 4 foot 6 beyond the neighboring property. I think  
18 we heard 14 feet; we heard 10 feet. It projects 4 foot 6  
19 beyond the neighbors.

20 The study -- the shadow study, I will admit I did  
21 not survey every backyard or property so there are some  
22 differences in, you know, reality versus the -- study, but  
23 what it does show is in really stark -- starkly shows that  
24 the difference between a 10-foot garage and a 13-foot garage  
25 is negligible. Also, I would say that the ANC posited that

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1 the one house that has its porch removed stands out really  
2 like an eyesore, but I would say that, honestly, it's barely  
3 noticeable. As an architectural -- as an architect and  
4 someone who studies this and does this professionally, I  
5 think with the variety of different things that are going on  
6 on that block, it's not really that noticeable.

7           Finally, I would say that there's a lot of  
8 statements about that we are exceeding the amounts that we  
9 should be, 69 percent, 66 percent. These are all within the  
10 special exception amounts, and I know that you, the Board,  
11 understands that, but it's just part of the way that it's  
12 been used to foment opposition on the street is to claim that  
13 we're asking for things we should not be allowed to even ask  
14 for. So I'll leave that at that.

15           And then the last thing I want to say is that OP  
16 has stated today almost categorically that they would not --  
17 that they don't approve these kinds of porch alterations, but  
18 I believe that you, as a Board, have already seen such cases  
19 and have approved porch alteration cases in the past 12  
20 months that that's been in existence. Thank you.

21           MR. HAITH: I'd like to say just a few, I guess,  
22 rebuttal comments. We were so happy to move into this  
23 neighborhood. We had no ill intentions and still do not.  
24 We had no idea and had we have known, we would have chosen  
25 a different street because it's been a hard process. It's

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1 interesting to hear people talk about time and money. This  
2 is my time and my money that I'm spending to be here to do  
3 something that was approved by the City. I mean it's  
4 interesting that our neighbors can say that their property  
5 rights are more important than my property rights when we  
6 have clearly shown that there are no real impacts.

7           The open space and air, you can't come onto our  
8 property if we had a fence there so how do you get to enjoy  
9 the open space of our parking pad? I just think that it's  
10 a bit overblown. We are not developers here, and I  
11 understand some of the opposition to what's happened on the  
12 street. But this is not we're doing -- this is not a profit  
13 margin that's shrinking. It's a shrinking bank account  
14 because of this porch issue.

15           So we want to do what we think is fair and right  
16 for the neighborhood. We think that we are adding value and  
17 people should be happy compared to what was sitting there for  
18 years dilapidated. And we hope that the Board will consider  
19 that we just want to be good neighbors going forward. We're  
20 going to live here and hopefully be happy. Thank you.

21           CHAIRMAN HILL: Okay. Yes, I mean -- and I  
22 appreciate, you know, that you guys are going through this  
23 and this is a process that is very stressful for everybody.  
24 And so, you know -- but one way or the other, this is  
25 probably going to end today. So okay -- oh, yeah, just I did

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1 have a question for the Office of Planning real quick again.  
2 So as far as, again, the garage, right, like the analysis  
3 that you're providing for the garage, the light and the air,  
4 I mean it's not that I want you to repeat what you just said,  
5 but you didn't have any issue with the garage or the 13 feet  
6 height?

7 MS. THOMAS: No. We don't have an issue with the  
8 13 feet height because it doesn't exceed the height for  
9 accessory structures of 20 feet that's permitted in the area.

10 CHAIRMAN HILL: Okay. All right, great. So I did  
11 this already. Anybody have anything else they want to add?

12 (No response.)

13 CHAIRMAN HILL: All right. Mr. Sullivan, that's  
14 it, right?

15 MR. SULLIVAN: Short closing.

16 CHAIRMAN HILL: Oh, sure. Okay.

17 MR. SULLIVAN: I would just like to sum. I think  
18 regarding the garage and the accessory structure, it's been  
19 shown clearly that we meet the special exception requirements  
20 of light and air and privacy and that I haven't heard  
21 anything from anybody else disputing that other than just the  
22 general dissatisfaction with wanting more than 60 percent or  
23 being greedy. We're within the 70 percent and it meets the  
24 special exception tests.

25 Special exceptions are not special circumstances.

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1 Special exceptions are permitted under the zoning regulations  
2 if you meet certain requirements, and we meet those  
3 requirements. And I don't think I have ever seen a garage  
4 like this ever have this much consideration let alone be  
5 denied.

6           Regarding 206, the problem that I have with 206  
7 as a non-design professional is I don't know what to tell  
8 people since apparently there are standards but they're not  
9 written in the regulations. And we hear them and I try to  
10 understand what they are. What I think we have is I think  
11 we have an expert architectural designer who has designed  
12 this porch and has given exceptional testimony on the whole  
13 block and shown that this alteration is a minor alteration  
14 that doesn't have a material effect on the character of the  
15 neighborhood.

16           There have been cases in the past and we submitted  
17 12 cases in our prehearing statement. I think my point was  
18 that the Office of Planning is changing. There's a case on  
19 Gerard Street. It's in Exhibit 30-F. It's the first page  
20 of 30-F where a porch was removed, and the Office of Planning  
21 supported that, and the BZA approved that. And this was on  
22 a street where there were all porches, covered porches. So  
23 the standard has changed somewhat, and it's difficult to  
24 predict what it is.

25           If -- in the absence of a written standard, what

1 I think, what I thought that the purpose of the architectural  
2 element provisions were to stop the egregious effect of the  
3 pop-up or wiping out the mansard roof to go straight up or  
4 as the architect testified to, you have a row of 25 and you  
5 just drop the porch right in the middle of a row of 25. The  
6 Board has approved special exception relief from 206 many  
7 times, so there is room in there. There's a range and I  
8 think it's somewhere -- it's not the same range as an  
9 historic district; otherwise, the RF-1 is now the largest  
10 historic district in the City and decisions on that are being  
11 made by non-design professionals for the most part or a  
12 non-design Board, with all due respect to Mr. May, of course,  
13 who is a design professional. And I'm not -- I don't think  
14 that's what the Zoning Commission intended, to make it  
15 exactly like the historic district. And so I think there's  
16 room in there for reasonable alterations, and I think that's  
17 what the architect was testifying to so.

18 CHAIRMAN HILL: Okay.

19 MR. SULLIVAN: One more thing. I would like the  
20 Board to, if it was inclined, to rule separately on these  
21 areas of relief, to bifurcate the areas of relief and not  
22 deny the entire application --

23 CHAIRMAN HILL: Okay. We'll see what happens.

24 All right. Okay. So the -- yes, as far as the  
25 -- as far as your circular argument thing, I mean this is now

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1 two weeks in a row and so I also am trying to figure it out.  
2 And I mean I don't know, you know -- and again, back to even  
3 the comment that I think I made last week, which is that like  
4 I don't think it is -- everything is not crystal clear,  
5 right. And so that's where -- you know, that's why we all  
6 end up here. You know, if it was then crystal clear, then  
7 we wouldn't need this process which wouldn't really be -- it  
8 would be okay with me, you know.

9 (Laughter.)

10 CHAIRMAN HILL: So -- because this is not my job.  
11 So -- okay, so thank you very much, going to close the  
12 hearing. Is the Board ready to deliberate?

13 Okay. I'm ready to deliberate. I'm going to  
14 start because I'm just going to -- I'm going to start.

15 So I think that I am in agreement with the Office  
16 of Planning. I think that they have made an argument as to  
17 why the removal of the porch should be denied. I also am in  
18 agreement with the Office of Planning in terms of the garage  
19 and that I don't think that -- and I understand the community  
20 in terms of what they were saying in terms of the light and  
21 air; however, I think that all those homes already have a  
22 garage and they're already there and the garages are already  
23 there, and that part of what we had gone through before was  
24 that the regulations changed so that you could only go back  
25 10 feet matter of right, and they're going back within their

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1 matter of right limits.

2           So I do feel a little bit -- even though it's not  
3 -- I don't know, I guess it has some influence but it's not  
4 within the regulations that there was this process that they  
5 went through with getting a permit and they thought that they  
6 were going to -- everything was taken care of and so they are  
7 moving forward with their project, and then they get the stop  
8 work order and they have to change their plan. So I just --  
9 I am empathizing with that aspect of the discussion.  
10 However, I'm with the Office of Planning and I would be in  
11 approval of the exceptions that the relief that's been  
12 granted to allow for the garage but not for the removal of  
13 the porch. And who wants to go next? Commissioner May I  
14 think wants to go next

15           COMMISSIONER MAY: Yes. So we'll do a little  
16 point-counterpoint here. I will agree with the Chairman that  
17 the Office of Planning is correct about the porch removal.  
18 You know, the arguments that we've heard, that the loss of  
19 a single porch is negligible, I disagree with that. That  
20 it's hard to find the loss of a single porch costing the  
21 integrity of a block, I disagree with that. I think that,  
22 you know, the argument having to do with the uniformity of  
23 the block and the fact that there are stretches of different  
24 houses that are consistent and so creating a little bit of  
25 non-conformity within a row when there's a lot of other

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1 variations, I also don't think that applies.

2 I think the ANC was correct in describing the  
3 character of the neighborhood and having these stretches of  
4 homes. I mean they typically built four, five, six at a  
5 time. Sometimes things get built, you know, 10 and 12 at a  
6 time. Certainly, that happened in one of the examples that  
7 you cited that's around the corner from me where, you know,  
8 the -- half the block was built at one time, and it was all  
9 built with the same porch-front style house. That's  
10 relatively unusual. Actually, what's happening on this block  
11 is much more common in my experience.

12 So, you know, there's no question in my mind that  
13 in this circumstance, the porch should not be removed. Now  
14 is there room for reasonable alterations? Yes, I think there  
15 is, and I think one of the things that was suggested by  
16 someone who testified was that, you know, you could remove  
17 the porch decking for a portion of that porch to get more  
18 light to the entry point for the basement unit or whatever.  
19 Things like that happen with some frequency, and I think  
20 that's -- you know, that could be an acceptable alteration  
21 because it preserves that appearance of the porch from the  
22 street and gives you the light and air and access that you  
23 would want to have. That's the kind of alteration that I  
24 think is permissible in this circumstance.

25 There have been circumstances where removal of a

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1 porch makes sense, and I have voted in favor of some of those  
2 things in the past, but this is not one of those cases. And  
3 I agree that there probably is room for greater clarity in  
4 the way the Office of Planning interprets this and supports  
5 or doesn't support and the guidance that we receive here, and  
6 maybe that's something that should be taken up by the Zoning  
7 Commission.

8           With regard -- now this is the counterpoint part.  
9 So I disagree with the Office of Planning, and I disagree  
10 with the Chairman on this, and I disagree with the Zoning  
11 Administrator. I do not believe that the relief that is  
12 required in this circumstance amounts to a special exception.  
13 I don't care how they have tied these things together. They  
14 have -- you know, they tie the regulations in knots on a  
15 regular basis -- well, not that regular but an occasional  
16 basis when -- you know, in trying to get certain projects  
17 approved. And sometimes that's with the advice of counsel,  
18 sometimes it's, you know, it's other people who manage to  
19 make an argument and convince people that this is the way it  
20 can be interpreted. This is not one of those cases. The  
21 10-foot height limit and 100 square foot limit for an  
22 accessory building in a required rear yard was intended to  
23 deal with a backyard shed and nothing more. Now if it wound  
24 up being 110 feet, okay, maybe there's a reason to grant a  
25 special exception for that because you're on an existing, you

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1 know, foundation or some other reason why that makes sense  
2 to do it. But it's not intended to permit garages.

3           And what went wrong here is -- and whether this  
4 was an intentional strategy or not -- what went wrong here  
5 is that the Applicant in this case filed their permit to  
6 build their extension that went into the rear yard; it was  
7 all matter of right because there was no garage and it was  
8 perfectly acceptable. It was, you know, within the bounds  
9 of the 10 feet, et cetera; you know, all that was fine at the  
10 time. But what that does is it means that the required rear  
11 yard brings it too close to the garage to have a garage  
12 anymore. And that's the way the bed has been made, and I do  
13 not see a route out of this short of a variance, and it's not  
14 a variance that I would support.

15           So I think that the Applicant should go back and  
16 think about getting one of those roll-up doors to have a  
17 protected parking space and build a 100 square foot shed and  
18 leave the porch on or build the porch back because that --  
19 you know, they can spend the money from the garage. I mean  
20 I think that the arguments that came from the ANC and from  
21 the neighbors make a lot of sense, and it is more about the  
22 integrity of the zoning regulations than the particular  
23 circumstances. It is not about the impacts of that -- of  
24 building a garage where there's a garage next to it and a  
25 garage next to it here. I mean, you know, there is no garage

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1 in this circumstance. That is rear yard and the only way to  
2 violate that rear yard is with a small shed. And that's, you  
3 know, that's it from my perspective. So I'm not buying this  
4 argument at all.

5 CHAIRMAN HILL: Okay.

6 COMMISSIONER MAY: Oh, and I --

7 CHAIRMAN HILL: Oh, sorry.

8 COMMISSIONER MAY: -- I would say that a 13-foot  
9 garage is not a problem but in this case, a garage is a  
10 problem.

11 CHAIRMAN HILL: Okay. So I'll remember when  
12 Commissioner May is on to speak a little bit more firmly when  
13 I'm expressing myself. So who would like to go next?

14 VICE CHAIR HART: Only just a question for  
15 Commissioner May. If this were a -- if a former home -- or  
16 property owner at this property had built this -- you know,  
17 had built the -- what the Applicants have built, the  
18 expansion and then the Applicants bought this and said, you  
19 know, we want to put a garage in, you're just saying that  
20 they should be going for a variance? I mean is the issue  
21 because there that it's --

22 COMMISSIONER MAY: I don't know of a --

23 VICE CHAIR HART: -- that it's easier to --

24 COMMISSIONER MAY: -- I don't know of special  
25 exception relief that would apply to the reduction of a rear

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1 yard in this circumstance and I mean --

2 VICE CHAIR HART: Yes. Maybe then it's a whole  
3 but it's --

4 COMMISSIONER MAY: What's been proposed here  
5 doesn't work for me. I don't believe that special exception  
6 applies. So yes, I mean I think it would have to be a  
7 variance. I mean there have been circumstances where -- and  
8 this dates back a few years but people would have to, you  
9 know, demolish the garage in order to build the addition, or  
10 demolish the addition in order to build a garage. That used  
11 to happen. And sometimes people would demolish the addition,  
12 build the garage, and then come back for relief so that they  
13 can rebuild the addition, you know, because, you know, I mean  
14 all sorts of crazy things have happened in the past. But we  
15 are where we are right now. We have new regulations that  
16 guide these things and there's -- you know, we tried to make  
17 it clear in the zoning regulations that you can build a shed  
18 in the required rear yard and that was it. And that's all  
19 that fits here. Doesn't work what's proposed.

20 VICE CHAIR HART: Thank you. I mean when I was  
21 first reading through this and now hearing all the testimony  
22 that we've gotten -- when I was first reading through it, I  
23 was kind of like, oh, it's just a small accessory building,  
24 you know, okay. But actually hearing a little bit more of  
25 the kind of behind the scene or the this was the intent of

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1 the regulation, it makes me kind of wonder if the -- it makes  
2 me wonder if the relief is really, as you said, Mr. May, the  
3 -- a variance and not a special exception. I understand that  
4 that's what DCRA said. I understand that's what the Office  
5 of Planning said, but it does make me, you know, hesitate  
6 about being an approval -- being -- supporting the relief for  
7 accessory building size restrictions and lot occupancy.

8 So I guess what I'm saying is that I'm not sure  
9 if I can support it myself given some of the conversation  
10 that we've had today.

11 MEMBER JOHN: Mr. Chairman?

12 CHAIRMAN HILL: Sure.

13 MEMBER JOHN: So without repeating everything that  
14 everyone has said concerning the porch, I agree that the  
15 porch should not be removed because as I look at the picture  
16 of the three houses together or four houses -- three houses,  
17 I think, with a porch, there's a certain -- I'm not an  
18 architect, but there seems to be a certain symmetry about  
19 those houses and the rest of the block in that area. I don't  
20 see a lot of houses that don't have porches. There are some,  
21 but I wouldn't say that the majority don't have porches. So  
22 for the reasons that OP has stated and for some of the other  
23 -- for the reasons stated by my colleagues, I support not  
24 removing the porch, and I'm very, very sympathetic to the  
25 owners.

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1           You know, having said all of that, I agree also  
2 that the special exception criteria is met only because we're  
3 looking at Section 5007, which talks about an accessory  
4 structure in an RF-1 zone and the availability of special  
5 exception for that structure. And so if we apply the special  
6 exception criteria, I don't think there's a basis for -- to  
7 deny it as a special exception for some of the reasons that  
8 OP has said.

9           I also agree with Commissioner May that this might  
10 be an area that the Commission needs to address in the future  
11 to remove some of the confusion about whether, in these  
12 cases, we're really looking at a garage. So I see a split  
13 -- well, for me, I would prefer a split decision so it's kind  
14 of up to Ms. White.

15           MEMBER WHITE: Boy, I'm afraid to open my mouth  
16 on this one. This case is -- this is really a mess, and I  
17 am very sympathetic to the property owners. They're coming  
18 into this neighborhood, buying this property, you know, that  
19 may have been vacant for a number of years. So, you know,  
20 I do hope that there can be some positive reinforcement  
21 within the neighborhood to kind of get them back on track  
22 with the neighbors so that things can be neighborly.

23           But with that said, I am in agreement, based upon  
24 my reading of the regulations and giving weight to the report  
25 that was submitted by Ms. Thomas, that I think that there is

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1 support that the porch has to remain on this particular block  
2 in order to maintain the symmetry of the neighborhood. So  
3 I would be supportive of that. But I do think that there can  
4 be some bifurcated relief with respect to the garage. I see  
5 that -- you know, just from a special exception perspective,  
6 I don't see that there are any adverse impacts with respect  
7 to allowing the property owners to be able to have a garage  
8 structure in the rear of their property, especially given the  
9 fact that there appears to be a lot of consistent parking  
10 that's provided within that block within that neighborhood.  
11 It seems as though everybody has the option to be able to pop  
12 -- park in the rear of their properties. So I don't see that  
13 that would have a negative impact on the neighborhood.

14           So my opinion, based on the application before me,  
15 is that I think they have to maintain the porch, but I do  
16 think that a case has been made for them to have bifurcated  
17 relief in order to have the accessory structure, to be able  
18 to have garage parking.

19           COMMISSIONER MAY: All right. What can I say?  
20 I mean I understand that it's not -- that I'm arguing against  
21 the Office of Planning and the Office of Planning is given  
22 great weight in this circumstance, and I don't know what I'm  
23 given on this.

24           (Laughter.)

25           COMMISSIONER MAY: But I -- you know, I do think

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1 that this does go back to the zoning regulations and the way  
2 they were written and intended. And so depending -- well,  
3 I think that regardless of what happens here, it's an issue  
4 that the Office of Planning will need to bring back to the  
5 Zoning Commission to clarify because, again, it was very  
6 clear to me that the intent of the rules with regard to  
7 allowing a structure in a required rear yard, right, not just  
8 in a rear yard generally but a required rear yard, that 20  
9 feet that's required in this zone, was limited to a 10-foot  
10 tall 100-square foot structure, and it was intended to allow  
11 for a shed in a required rear yard and nothing more. It was  
12 not intended to be twisted somehow into a way of gaining  
13 relief to build a garage structure where one would otherwise  
14 not be allowed for whatever other reasons that might apply  
15 to a given property. And in this circumstance, it happens  
16 to be the fact that they used up some of that rear yard to  
17 build an addition.

18 And so anyway, I don't think I'm going to win  
19 anybody over on this, but I -- this is just the way I see it.

20 CHAIRMAN HILL: Okay. Well, Commissioner May, you  
21 are a member of the Zoning Commission and so, you know, the  
22 Office of Planning does have to -- I saw a lot of writing  
23 down over there that the Office of Planning was doing and so,  
24 you know, I'm sure you have a lot more weight than you think.  
25 But I think --

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1           COMMISSIONER MAY: Well, maybe with the Office of  
2 Planning but with you, I don't know.

3           CHAIRMAN HILL: Oh, yes. Hey, are you kidding?  
4 This is -- you're -- you got a -- you're a strong voice. But  
5 I still am where I was and with the analysis that we've had  
6 and provided here in terms of discussion, so I'll go ahead  
7 and make a motion and see where it goes. And I'm going to  
8 make a motion that we deny the porch but approve the other  
9 special exceptions, and we'll see what happens here. So --  
10 sorry.

11           COMMISSIONER MAY: No. I mean could we handle  
12 those two issues separately with separate motions --

13           CHAIRMAN HILL: Okay.

14           COMMISSIONER MAY: -- because I want to vote with  
15 you on the porch removal but I want to vote against you on  
16 the garage.

17           CHAIRMAN HILL: Do you want to make the motion  
18 then for the porch?

19           COMMISSIONER MAY: All right. Yes, sure. Give  
20 me a sec. I'm trying to find the exact citation here so.  
21 I would move that the Zoning -- sorry -- the Board of Zoning  
22 Adjustment disapprove the requested special exception relief  
23 for -- let's see, where is it -- E 5203 regarding  
24 architectural features, removal of the existing front porch,  
25 and ask for a second.

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1 VICE CHAIR HART: Second.

2 CHAIRMAN HILL: The motion made and seconded. All  
3 those in favor, aye.

4 (Chorus of ayes.)

5 CHAIRMAN HILL: All those opposed?

6 (No opposition voiced.)

7 CHAIRMAN HILL: Okay. So that motion passed, Mr.  
8 Moy.

9 SECRETARY MOY: Very quickly, that would be on the  
10 vote of five to zero to zero on the motion of Peter May,  
11 seconded by Vice Chair Hart, also in support, Ms. White and  
12 Ms. John.

13 CHAIRMAN HILL: Okay. And I don't remember, how  
14 does this work now? So is that a summary order again or is  
15 that now a full order? That's a full order?

16 MS. GLAZER: It's a -- both would be full orders.

17 CHAIRMAN HILL: All right. So that's a full  
18 order. Okay. Then I'm going to make a motion to approve  
19 Application Number 19771 for -- pursuant to 11 DCMR Subtitle  
20 S, Special -- Chapter 9 for Special Exception under Subtitle  
21 E 5201 from the lot occupancy provisions of Subtitle E 304.1  
22 and the accessory building size restrictions of Subtitle E  
23 504.4 for an accessory structure, building structure and ask  
24 for a second.

25 MEMBER WHITE: Second.

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1 CHAIRMAN HILL: The motion made and seconded. All  
2 those in favor, aye. Aye.

3 MEMBER WHITE: Aye.

4 MEMBER JOHN: Aye.

5 CHAIRMAN HILL: All those opposed?

6 COMMISSIONER MAY: Oppose.

7 VICE CHAIR HART: Oppose.

8 CHAIRMAN HILL: Mr. Moy? I can tell you if it  
9 wasn't loud enough.

10 SECRETARY MOY: Yes. Why don't you do that.

11 CHAIRMAN HILL: Okay. So I think Ms. John voted  
12 in favor, aye; I voted in favor, aye; Ms. White voted in  
13 favor, aye.

14 SECRETARY MOY: Okay. So that'd be --

15 CHAIRMAN HILL: The architects voted in favor,  
16 nay.

17 SECRETARY MOY: I see then. So that would be  
18 three to two to zero, and the motion would carry.

19 CHAIRMAN HILL: Okay. So that's also a full  
20 order?

21 SECRETARY MOY: That's correct.

22 CHAIRMAN HILL: All right. So there you go. All  
23 right. Thank you all very much.

24 MS. GLAZER: Mr. Chair?

25 CHAIRMAN HILL: Yes, sure.

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1 MS. GLAZER: For the part that was approved, we  
2 need new plans then. If the Applicant wanted to bifurcate  
3 it, I believe he did, and we would need new plans showing  
4 that the porch was not removed.

5 MR. SULLIVAN: Yes. We could --

6 CHAIRMAN HILL: Okay.

7 MR. SULLIVAN: -- put -- a plat, I would think,  
8 should do it since the porch design is no longer at issue

9 CHAIRMAN HILL: But we can just -- we have -- the  
10 plans are already there. You're saying that are with the  
11 porch?

12 MR. HAITH: When we went to DCRA.

13 CHAIRMAN HILL: You have to speak in the  
14 microphone, sorry.

15 MR. HAITH: When we went to DCRA and had the  
16 meeting, we bubbled the existing and said porch to remain but  
17 they're not --

18 CHAIRMAN HILL: Okay. So actually, can we just  
19 get plans? Can we just get plans. Just give us plans of  
20 whatever it is that actually is going to be done there, okay?  
21 And when can we get those plans?

22 MS. GLAZER: Does the Applicant want a full order  
23 on the porch issue, or do you want to just withdraw that part  
24 of the application and amend it?

25 MR. FOTIU: I believe what makes sense is to

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1 submit drawings that show the porch remaining and the garage  
2 being added for the purpose of the second motion that you  
3 guys voted on.

4 CHAIRMAN HILL: Right. Okay, that's fine. So  
5 you're just going to keep it the way -- you're not going to  
6 --

7 MR. FOTIU: Whether that means we're not  
8 requesting or we're, you know --

9 MR. SULLIVAN: I don't think we can withdraw --

10 MR. FOTIU: -- pulling back the request for the  
11 --

12 MR. SULLIVAN: -- after the vote anyway.

13 MR. FOTIU: -- porch.

14 CHAIRMAN HILL: All right. So that's -- okay, so  
15 just go ahead. Thank you. That's okay. Just go ahead and  
16 submit the plans for what we approved, and when can we get  
17 those?

18 MR. FOTIU: Certainly less than a week.

19 CHAIRMAN HILL: Okay. All right. So get those  
20 in in less than a week, okay.

21 No, sir, we're done. I'm sorry.

22 MR. OLOWOFOYEKU: I'm just requesting --

23 CHAIRMAN HILL: Wait, wait. I'm sorry, sir.  
24 They're just -- I can't -- you can ask them stuff. I can't  
25 -- we just closed the hearing so just wait for them. Just

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1 give them a second and then you can ask them whatever you're  
2 looking for. Okay. So do -- are we clear?

3 MR. FOTIU: Yes.

4 CHAIRMAN HILL: All right. Okay. Thank you.  
5 We're going to take a quick break or -- yeah, we'll take a  
6 quick break and then we'll have our last case.

7 (Whereupon, the above-entitled matter went off the  
8 record at 4:57 p.m. and resumed at 5:13 p.m.)

9 CHAIRMAN HILL: All right. Mr. Moy, you can call  
10 it when you like.

11 SECRETARY MOY: Thank you, Mr. Chairman. This  
12 would be Application Number 19772 of 1729 T Street, TF LLC,  
13 captioned and advertised for variances from the closed court  
14 requirements of Subtitle F Section 202.1, FAR -- or rather  
15 floor area ratio requirements, Subtitle F Section 302.1, lot  
16 occupancy requirements of Subtitle F Section 304.1. This  
17 would construct a five-unit apartment house, RA-2 Zone. This  
18 is at 1729 T Street N.W., Square 151, Lot 15.

19 CHAIRMAN HILL: Okay, great. Thank you. If you  
20 could please introduce yourselves from my right to left?

21 MS. RODDY: Hi. My name is Christine Roddy with  
22 Goulston & Storrs.

23 MR. LEWIS: Dave Lewis, Goulston & Storrs.

24 MR. TEASS: Will Teass, a principal with  
25 Teass/Warren Architects.

1 MR. FLEISHER: Travis Fleisher. I'm the owner of  
2 the subject property.

3 CHAIRMAN HILL: Okay, great. Well, thanks for  
4 hanging out with us here until the end. It's so funny, if  
5 I see people out in public, like it's so intense up here, I  
6 never remember names, you know, because I have seen all you  
7 people -- I've seen you two at least before. So what did  
8 that have to do with anything? Nothing. So all right, I  
9 wish this was going to be really super fast, but I don't  
10 think it's going to. But who's going to present?

11 MR. LEWIS: I'll start.

12 CHAIRMAN HILL: Okay. So Mr. Lewis, I guess you  
13 can just start with your presentation and tell us what it is  
14 you're here to get or try to get and why we should give it  
15 to you, how you're meeting the standards for us to grant the  
16 relief requested. And I'm going to put 15 minutes on the  
17 clock just so I kind of know where I am, and you can start  
18 whenever you like.

19 MR. LEWIS: Thank you, Chairman. So we're here  
20 requesting variance relief from the closed court FAR and lot  
21 occupancy requirements of the RA-2 zone, as Mr. Moy  
22 mentioned, for a property located at 1729 T Street. The  
23 property is located in the Strivers' Section Historic  
24 District and the Applicant has previously received concept  
25 design approval for the project from the HPRB.

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1           As mentioned, the Applicant seeks to construct a  
2 five-unit multi-family dwelling on the property. The new  
3 building will contain units of varying bedroom counts, two  
4 3-bedroom units; one 2-bedroom unit; and two studio units.  
5 So we believe we meet the variance test for each of the items  
6 of relief requested. Travis will take just a few minutes to  
7 talk about his efforts to engage and interact with the  
8 community as well as neighbors. We have a few neighbors with  
9 us here today. We also come to you with unanimous support  
10 from the ANC. And then we'll talk through the project and  
11 how it satisfies the standards for variance relief for each  
12 item of relief requested.

13           But before I get into the OP -- I'm sorry --  
14 before I get into their presentation, I just wanted to  
15 address the OP report. The OP report is at Exhibit 41. As  
16 you read through OP's analysis, it's pretty clear that they  
17 believe the application satisfies the variance test for  
18 closed court and lot occupancy relief. But OP seems to have  
19 some concerns and some suggestions about the requested FAR  
20 relief. So I just wanted to give you all our thoughts on  
21 that sort of at the outset.

22           So our view is that the project satisfies the  
23 variance test with respect to FAR relief and that the opt-in  
24 IZ program is not part -- not a requirement for obtaining FAR  
25 relief via the variance standard. We've reviewed OP

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1 suggestion that we opt-in to the IZ program, obtain  
2 additional FAR that way. The Applicant has studied that  
3 approach from a financial perspective and has found it to be  
4 unworkable for a couple of reasons. First, as I mentioned,  
5 this is a five-unit development. The IZ regulations, by  
6 their sort of -- by the standard, do not apply to units that  
7 are fewer than -- or do not apply to developments that are  
8 fewer than 10 units. There's good reason for that minimum  
9 threshold. Smaller projects or projects with fewer units  
10 simply cannot afford to cost subsidize the income-restrictive  
11 unit and still be economically viable, and that's very much  
12 the case here. So the Applicant has examined the financial  
13 implications of providing IZ unit in this building. We just  
14 found the project would not work.

15           The second reason is related to that. If the  
16 Applicant were to opt-in to the IZ program, it would sort of  
17 be -- it would be in the IZ program for its entirety. And  
18 as the IZ regulations are applied to the project, the  
19 Applicant would have to set aside 25 percent of the floor  
20 area of the project for IZ and -- Will, if you could go to  
21 the next slide -- and the reason for that is even though the  
22 opt-in program is optional, the proportionality requirements  
23 as to the unit that would have to be the income-restricted  
24 unit are not optional.

25           So the IZ regulations proportionality rule affects

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1 unit sizes with one bedroom or studios. So under Subtitle  
2 C Section 1005.1, the proportionality -- I'm sorry --  
3 proportion of IZ units that are studios and one-bedrooms  
4 cannot exceed the proportion of market rate units that are  
5 studios and one-bedrooms. So if we had one IZ unit and it  
6 was a studio or a one-bedroom, it would be 100 percent of the  
7 IZ units would be a studio or a one-bedroom.

8           So the only way to satisfy the proportionality  
9 rule is to provide a two-bedroom IZ unit and out of the five  
10 IZ -- or out of the five total units in the building, a  
11 two-bedroom unit, looking at the numbers on the screen, the  
12 two bedrooms are 1300 square feet, we have 5700-something  
13 square feet of total residential floor area. That's roughly  
14 a quarter of the residential space.

15           I just want to pause here to note that even though  
16 we're not opting into the IZ program, the program or the plan  
17 or the unit mix for the building does affirmatively advance  
18 District housing policy. One of the key policies in the  
19 District is to provide family-sized units and so we have two  
20 3-bedroom units that achieve that threshold. This was  
21 something that the ANC was very excited about, frankly, and  
22 it's actually expressly called out in the ANC report as a  
23 positive feature of the project. So the project does provide  
24 affordable -- I'm sorry -- it does provide a beneficial  
25 housing component. It just cannot economically support an

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1 IZ unit. And unfortunately, the IZ program, as it's written,  
2 as the regulations are written, there's no flexibility that  
3 you all can grant on the proportionality short of a variance.

4           So fortunately, for the Applicant, our perspective  
5 is the IZ opt-in program is entirely optional and, you know,  
6 under the variance test set forth in Subtitle X and according  
7 to the Board's rules and Subtitle Y, there's no requirement  
8 that the Applicant opt-in to a program in order to obtain  
9 variance relief. All that matters is the Applicant satisfy  
10 the sort of the black and white standard for variance.

11           I just want to call your attention to one other  
12 item in the OP report, and this is -- this kind of goes to  
13 OP's analysis of the FAR variance test itself, sort of apart  
14 from the IZ program. OP notes in its analysis regarding the  
15 property's uniqueness, that the property size and location  
16 between contributing buildings does not make it exceptional.  
17 If you look back to our application, our prehearing  
18 statement, our application lists numerous additional reasons  
19 that their property is exceptional including it's immediately  
20 adjacent to two structures that are both non-conforming with  
21 respect to lot occupancy, rear yard, and FAR. There's a need  
22 to provide a lightwell given the existing non-conforming  
23 lightwell next door. There's an encroaching party wall onto  
24 our property. The lot itself is very narrow. There are a  
25 number of reasons that we give that are not addressed in the

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1 OP report.

2           And I would just note that the Court of Appeals  
3 has long held that a property may satisfy the uniqueness  
4 prong of the variance test by virtue of a confluence of a  
5 number of factors that may not be unique in any one  
6 particular area. It can achieve that standard or satisfy  
7 that standard through uniqueness in a number of different  
8 ways.

9           And I think with that, on that point, I will --  
10 I'll turn things over to Travis to talk about the community  
11 outreach part.

12           CHAIRMAN HILL: Okay. Mr. Lewis, just real quick.

13           MR. LEWIS: Sure, yes.

14           CHAIRMAN HILL: So the -- I know about the opting  
15 into the program to get the increased FAR, but even the  
16 increased FAR was just going to be -- take you to 2.16 and  
17 what you guys have is 2.31; is that right?

18           MR. LEWIS: It's --

19           CHAIRMAN HILL: Even that wouldn't get you there.

20           MR. LEWIS: Correct.

21           CHAIRMAN HILL: Right. You would still have to  
22 make some changes in order to get down to the 2.16?

23           MR. LEWIS: Or ask for a variance for the gap  
24 between 2.16 and 2.3.

25           CHAIRMAN HILL: Okay. All right, great. And you

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1 can go ahead and tell us about the community outreach but  
2 again, you know, drilling down to -- because I did even --  
3 I got to say I was a little confused about all of the  
4 different things that you were pointing out in terms of the  
5 confluence of factors --

6 MR. LEWIS: Sure.

7 CHAIRMAN HILL: -- that were getting us to the  
8 variance test. So if you could kind of walk through that and  
9 then also the design, I just got a little lost. That's all.  
10 So you can kind of like --

11 MR. LEWIS: I think it's probably best for me to  
12 defer to the architect on that.

13 CHAIRMAN HILL: Okay. We can hear the community  
14 outreach first then.

15 MR. FLEISHER: Yes. I was going to mention --  
16 Will is going to run through the design elements you're  
17 discussing, but I wanted to just briefly touch on the  
18 community outreach because it kind of informs how we got to  
19 where we are today. We made it a point early on to engage  
20 with the neighbors both that are going to be directly  
21 impacted to the east and the west. And after meeting with  
22 them, one of the key takeaways was that that neighborhood to  
23 the east, it's a cooperative building; 1725 T Street has a  
24 significant lightwell that allows light to flow into a number  
25 of their units, and preserving that was one of the most

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1 important takeaways from our meetings. So that kind of  
2 became the guiding principle for our design which was  
3 unanimously approved by the Dupont Circle Conservancy --

4 CHAIRMAN HILL: Preserving the lightwell --

5 MR. FLEISHER: Preserving the lightwell.

6 CHAIRMAN HILL: -- which you guys will point out  
7 during the presentation.

8 MR. FLEISHER: Which --

9 CHAIRMAN HILL: Okay.

10 MR. FLEISHER: -- exactly. So we were unanimously  
11 approved by the Dupont Circle Conservancy; the ZBT, which is  
12 a subcommittee of the ANC; and twice by the ANC, both for the  
13 historic concept and for the zoning relief that we're seeking  
14 here today.

15 So I'll let Will just run through the presentation  
16 so you guys can get a better sense for it.

17 CHAIRMAN HILL: Okay. And Mr. Lewis, I forget  
18 now. I'm trying to remember. I thought every fourth unit  
19 had to be an IZ unit? Is that -- or I'm mixing some  
20 metaphors? So --

21 MR. LEWIS: It's in the RF Zone.

22 CHAIRMAN HILL: Oh, okay.

23 MR. LEWIS: We're in the RA-2.

24 CHAIRMAN HILL: Okay, there you go. Right.

25 That's right. Okay. Mr. Teass.

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1 MR. TEASS: Thank you very much and I appreciate  
2 the opportunity to make this presentation today. One thing  
3 I would like to point out, you're not seeing double right now  
4 on the screen. There is a case from a few years ago that  
5 you're seeing on the right-hand side of this image, which is  
6 to the east of the subject property which, in a lot of ways,  
7 is a very similar case that was approved by the Board with  
8 very similar sets of issues. And we took a lot of our design  
9 cues from that design in terms of an approach to historic  
10 preservation.

11 So the subject property we're talking about here  
12 today is at 1729. I'll give you a little bit of background.  
13 It has, as was previously mentioned, is surrounded on both  
14 sides by exceptionally large, exceptionally deep buildings.  
15 Those buildings actually create a very much what we call a  
16 cave-like effect. The property had been improved with a  
17 single-family structure built in 1978. That structure does  
18 not contribute to the historic district, and that is part of  
19 a separate raze application that has been approved by HPRB.  
20 In terms of the context of the street, here you're seeing the  
21 exteriors from T Street.

22 I think the image in the upper right-hand corner  
23 speaks to the context of the larger apartment buildings  
24 flanking on either side. There are two Wardman buildings to  
25 the east, and both of those Wardman buildings, as you can see

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1 in these previous images, there's a pattern of lightwells.  
2 There's actually kind of a pronounced pattern of lightwells  
3 up and down this particular block.

4           So again, you know, one of the emphases that we  
5 did from a -- we took from a design perspective was really  
6 to match the scale of street. And so while we're permitted  
7 to go up to four stories, 50 feet, you know, presumably, HPRB  
8 wouldn't let us exercise our full zoning envelope, we did set  
9 the top floor back and we did that in a nod to also what's  
10 happening on -- at 1719, which is the other building on the  
11 block. And I think that this section here represents that  
12 setback condition where the street is on the right-hand side  
13 and we're showing the unit configurations; two studios in the  
14 basement; a studio -- I'm sorry -- a one-bedroom plus den on  
15 the ground floor, and then two 2-bedroom plus dens. And I  
16 just wanted to clarify one point that was made earlier in  
17 that we're providing not -- it's not a 3-bedroom unit  
18 technically under the building code. It's a 2-bedroom unit  
19 plus a den. It effectively functions as a 3-bedroom but I  
20 think I just wanted to raise that point.

21           As we go around to the rear of the building, I  
22 think the image on the right really conveys the exceptional  
23 condition of the property in that you have these two very  
24 long, very large buildings on either side. The building to  
25 the east, which is in the left of that view, is where the

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1 light court occurs, and you can see a detail here where  
2 you're seeing that -- the lightwell, the adjacent property  
3 to the east.

4           The existing site plan, I think, also accentuates  
5 the unique conditions. This is really one of the deeper  
6 sections of -- one of the lots in this particular square that  
7 has the deepest adjacent neighbors.

8           You know, in terms of building the case for  
9 confluence, I think we wanted to just quickly run through  
10 some of the points. The first is the party wall. So on  
11 either side of the property, the party wall does come, as a  
12 party wall should, encroaches on the subject property. In  
13 this case, I think what's important to note is that the party  
14 wall, while typically used for structural purposes, in our  
15 case, we are not using it for structural purposes. There  
16 were some concerns raised by neighbors on either side and so  
17 we will be designing a structural wall inside of that party  
18 wall. And so, therefore, we find that that's an encroachment  
19 that has a contribution to the FAR.

20           And so in terms of listing those -- the confluence  
21 of those factors, what we've done here is just sort of  
22 bullet-point them in terms of the party wall representing  
23 about .14 FAR. The idea that we would be providing a  
24 lightwell has an impact on the -- even though we're not  
25 counting that towards FAR, I think the idea is that that is

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1 part of the argument in terms of confluence, that by  
2 providing that lightwell, we're having to displace FAR  
3 elsewhere in the building.

4           Again, we talked about the setback and we have a  
5 16-foot setback from the roof edge on the top most level.  
6 And then the last thing is because we have the setback in the  
7 upper level, we've got an interior stair. There is one typo  
8 here in that the internal stair is .05, not .5. So the math  
9 here gets us to about .5 which is the basis for our request.  
10 I think that, you know, one point that we wanted to make in  
11 this presentation is that the fourth floor of our project is  
12 about 820 square feet, which translates to about .41. So  
13 simply taking the top floor off the building doesn't quite  
14 get us down to the required FAR.

15           COMMISSIONER MAY: Can you -- before you leave  
16 that one, you want to explain that again? I mean only one  
17 of these seems to actually impact the FAR. Only one of them  
18 is an addition to the FAR --

19           MR. TEASS: Correct.

20           COMMISSIONER MAY: -- which is the party wall,  
21 right?

22           MR. TEASS: And so I think we're positing the idea  
23 of an effective FAR in that because we're providing that  
24 lightwell, we're basically pushing mass around the building  
25 envelope or around the building itself. And the same thing

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1 goes for the setback and for the internal stair.

2           COMMISSIONER MAY: Yes, nice try. Doesn't work.  
3 I mean it's -- if you're talking about and expect something  
4 that's unique about the circumstance that actually affects  
5 the FAR, the only one that actually affects the FAR is the  
6 party wall, right?

7           MR. TEASS: I would argue that it's both the party  
8 wall and these other issues.

9           COMMISSIONER MAY: All right. I'll take that up  
10 again later.

11           MR. TEASS: One of the other aspects to our  
12 proposal today is that we're seeking lot occupancy relief,  
13 and so here we're permitted a 60 percent lot occupancy. We  
14 are -- which translates to a 1200-square-foot footprint.  
15 We're asking for 70 percent lot occupancy, and that's really  
16 related to the depth of the adjacent properties and we found  
17 that it's a reasonable balance of a request and a massing  
18 strategy. I think it's important to point out of that  
19 additional 10 percent, about a little over half of that is  
20 reflected in the building. The other four percent is  
21 reflected in exterior balconies that are located on the rear  
22 of the building.

23           Just as a point of comparison, the lightwell  
24 itself is about 90 square feet or about 4.5 percent of that  
25 lot occupancy. We are including that in our lot occupancy

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1 tabulation because we're occupying it at a lower level.

2           So we did -- you know, I think one of the  
3 questions that came up during our review was the condition  
4 of the really emphasizing the nature of the cave-like  
5 condition at the rear. And so along the bottom here is a  
6 study that shows the effect at the -- where you have the  
7 existing context in the proposed building being shown and you  
8 can see, obviously, that in the morning on the left and the  
9 evening on the right where, you know, quite a large portion  
10 of the rear facade is in shadow. If you were -- the row  
11 across the top is, if you were to take a matter of right  
12 scenario, and I will -- you know, I will concede that, you  
13 know, HPRB might not have let us have done that, but I think  
14 that, you know, what you're seeing is, you know, it going up  
15 higher one where you'll end up eliminating the light well,  
16 which I think is a negative impact to the neighbor. But I  
17 think, you know, it further exacerbates that cave-like  
18 condition.

19           I think that, you know, we had done a couple of  
20 diagrams that we wanted to just quickly review in that, you  
21 know, our matter of right option that would -- we would be  
22 able to do and not have to make a trip before the Board  
23 would, I think, block the lightwell and thus the impact --  
24 or the access to natural light to the neighbor, I don't'  
25 think that's a solution that the neighbors would be very

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1 happy with.

2 COMMISSIONER MAY: Can you go back one slide? One  
3 more.

4 MR. TEASS: One more?

5 COMMISSIONER MAY: Right. So I'm sorry, this is  
6 supposed to be the matter of right condition but that's a  
7 four or five-story building as opposed to a three-story  
8 building.

9 MR. TEASS: It's a -- it would be a four-story  
10 building with a cellar.

11 COMMISSIONER MAY: Right. Okay. So this is not  
12 really the matter of right?

13 MR. TEASS: Well, I mean it would be --

14 COMMISSIONER MAY: It's a matter of right in terms  
15 of footprint?

16 MR. TEASS: It would be a zoning envelope matter  
17 of right.

18 COMMISSIONER MAY: Except for FAR, it would not  
19 be --

20 MR. TEASS: No. This would be -- I mean this  
21 would be at 60 percent 1.8 FAR. We would have a smaller  
22 footprint.

23 COMMISSIONER MAY: Sixty percent --

24 MR. TEASS: Sixty percent lot occupancy --

25 COMMISSIONER MAY: -- lot occupancy for four

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1 stories?

2 MR. TEASS: Well, we would not -- I'm sorry, it  
3 would be adding 45 percent would be the true lot occupancy  
4 because we would take the 1.8 and we'd divide that over the  
5 four levels.

6 COMMISSIONER MAY: Right. So this is -- what  
7 you're showing there in the, I guess, the upper pictures is  
8 a 45 percent lot occupancy?

9 MR. TEASS: Correct. I'm sorry, yes.

10 COMMISSIONER MAY: Okay. All right. That's what  
11 I was trying -- because when you went to the next one, I  
12 thought it was going to be the same. Go to the next slide.  
13 And that's showing a 60 percent lot occupancy.

14 MR. TEASS: So this would be a different matter  
15 of right option where we only went three stories above grade  
16 --

17 COMMISSIONER MAY: Right.

18 MR. TEASS: -- and I think here the issue we were  
19 trying to articulate the impact that it would have on the  
20 lightwell of the adjacent property.

21 COMMISSIONER MAY: Right.

22 MR. TEASS: And, you know, I think this is, again,  
23 representing a theoretical context where if all the buildings  
24 were at 60 percent, no more than 60 percent lot occupancy and  
25 we were all at the same height, you would have what we

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1 consider a reasonable degree of access to light and air at  
2 the rear of the property, and I think that differs from the  
3 actual conditions because of the exceptional nature of the  
4 site.

5 I think, you know, getting towards the end of our  
6 presentation here, one of the things that we asked ourselves  
7 was what did a conforming closed court -- what did that look  
8 like. And I think here represents the -- what you would have  
9 with a conforming closed court and so you end up with an  
10 excessively narrow space. I think the other thing here is  
11 that the -- putting the bedrooms side-by-side at the rear,  
12 from an internal configuration perspective, leads to rooms  
13 that at nine-foot are fairly challenging to furnish and use  
14 as a bedroom.

15 COMMISSIONER MAY: On this one, you're saying that  
16 your left with 3 feet 4 because it has to be 16 feet 8 based  
17 on the height?

18 MR. TEASS: The height of the court.

19 COMMISSIONER MAY: What height?

20 MR. TEASS: That would be the 50-foot height.

21 COMMISSIONER MAY: The 50-foot height?

22 MR. TEASS: Correct.

23 COMMISSIONER MAY: But you're showing a  
24 three-story plus cellar building there.

25 MR. TEASS: Well, I think here the idea was that

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1 that court would go all the way down to the cellar level to  
2 maximize light and air to that lowest level.

3 COMMISSIONER MAY: I see.

4 MR. TEASS: And so I think I wanted to conclude  
5 with just an image of the proposed building here where you're  
6 seeing 1729, again, on the left and 1719, which had been  
7 previously approved, on the right-hand side. I think one of  
8 the things that we spent some time working with the community  
9 with was the materials and the detailing of the fenestration  
10 as it faces the street. We, obviously, went through the HPRB  
11 process but we also took cues from the neighborhood in terms  
12 of the brick selections and some of the material choices for  
13 what is technically an oriel window because it does not go  
14 all the way down to the ground. There is a separate entrance  
15 for basement units.

16 And at that point, that concludes the presentation  
17 that I wanted to make this afternoon.

18 MR. LEWIS: Thanks, Will. Happy at this point to  
19 take questions recognizing there's probably more conversation  
20 to be had about FAR and the requested relief. Thank you.

21 CHAIRMAN HILL: Okay. Does the Board have  
22 questions?

23 MEMBER WHITE: Could you restate what you believe  
24 to be the confluence of factors that allow you to meet the  
25 variance criteria --

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1 MR. LEWIS: Sure -- sure. So I would say there's  
2 probably five categories of factors --

3 MEMBER WHITE: -- and how they interrelate to each  
4 other?

5 MR. LEWIS: Sure -- sure. So I'd say there are  
6 probably five categories of factors and just listing them off  
7 the top of my head, not in any particular order, I would say  
8 the lot area and lot width are unique relative to the width  
9 and area of the immediately adjacent lot.

10 The non-conforming nature of the two adjacent  
11 buildings, both of them -- both the two adjacent --  
12 immediately adjacent buildings occupy approximately 90  
13 percent or more of their respective lots, have non-conforming  
14 FAR, non-conforming rear yard, so the non-conforming nature  
15 of the rear -- adjacent lots is probably the second factor.

16 The third factor that I would list is the  
17 encroaching party wall that is an inherited condition but  
18 because of certain circumstances with the neighbors, we can't  
19 use for structural -- to benefit the project structurally as  
20 it was designed.

21 Another category of limiting factors is the  
22 presence or the -- by virtue of the fact that we're in a  
23 historic district immediately adjacent to two  
24 historically-contributing structures, we sort of inherit  
25 those conditions as -- or those two buildings.

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1           MEMBER WHITE: Restate that one again? I'm sorry.  
2 I didn't quite --

3           MR. LEWIS: Sure -- sure. So we're in a historic  
4 district. Both buildings on either side of us, the non --  
5 the two non-conforming buildings, they're also contributing  
6 structures to the historic district and those are sort of --  
7 they're effectively permanent. Because they're contributing  
8 buildings, they're not going to go away, and they are built  
9 to a height that is lower than the zoning envelope allows  
10 today. And so effectively, because of the design guidelines  
11 that HPRB would impose upon us, we can't build to the full  
12 zoning height at the front of this property. We have to be  
13 set back as shown.

14           So I think that's the full roster of factors that  
15 make the property unique, but they do kind of work together.  
16 They interact with each other in a way that creates the  
17 hardship or that creates the practical difficulty in  
18 complying with the zoning regulations. And just as a for  
19 instance, given the width and the overall size of the lot,  
20 we're very limited in terms of site configuration. There's  
21 essentially only one layout on the lot that works. Likewise,  
22 the party wall and the adjacent structures' non-conforming  
23 features really inform the interior layouts of our building  
24 in a way that occasionally we do efficiencies. And the  
25 example there is -- if you could, Will, pull up just to kind

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1 -- site plan of what we're proposing; that's a good one --  
2 so if you see the building on the screen to the right, the  
3 existing non-conforming Wardman building has an existing  
4 lightwell that we're trying to match. That lightwell is  
5 itself non-conforming, a non-conforming closed court. We're  
6 trying to match it not only in terms of size but also in  
7 terms of the location sort of in a north-south orientation  
8 to maximize the benefit to both property owners from that  
9 lightwell. It wouldn't make sense for us to, say, partially  
10 occlude that lightwell. So by inheriting that condition,  
11 which we feel is a unique condition, it imposes some hardship  
12 in terms of the interior efficiencies of how the units are  
13 laid out. And I would say sort of the general thrust of all  
14 these unique factors is to really limit the amount of light  
15 that penetrates into this property. And all the design  
16 gestures are intended to remedy that condition.

17           You know, one thing that we're doing is going to  
18 a fourth story because at the rear, that would sort of pop  
19 up above our neighbors. Whereas our neighbors pop back  
20 behind us to access light, we sort of pop up above them a  
21 little bit. So I hope that addresses your question.

22           MEMBER JOHN: Mr. Chairman, I have a question.  
23 In the matter of right option, what happens to the lightwell?  
24 So if you were to block the lightwell -- okay.

25           MR. LEWIS: It greatly diminishes its benefit.

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1 I mean it certainly eliminates the benefit of the lightwell  
2 effectively for our property but it greatly diminishes its  
3 value for our neighbors.

4 MEMBER JOHN: Right.

5 MR. LEWIS: And I think, you know, Travis's kind  
6 of starting point in designing this property before, I think  
7 -- or as Will was first putting pen to paper was how do we,  
8 you know, effectively be good neighbors in this very tight  
9 urban condition. A big part of that was, I think, the  
10 historic context but, you know, our neighbors live there.  
11 They have been there for a long time. Protecting their  
12 access to light was a key component of -- a key design  
13 driver.

14 MEMBER JOHN: I get that but if it's bumping  
15 against, you know, your FAR ratio, then -- FAR ratio, then  
16 you might -- you know, that might be something to consider.  
17 Now could you also get light if you were to put in a sunroof  
18 at the top; would you -- is it a sunroof -- skylight? It's  
19 not a car -- skylight.

20 MR. LEWIS: That would benefit, really, only the  
21 top story. The benefit of the lightwell is that it goes all  
22 the way, I believe all the way to the ground or all the way  
23 to top of the first floor. So it's -- instead of a skylight  
24 benefitting only the top story, the lightwell brings light  
25 --

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1 MEMBER JOHN: All the way down?

2 MR. LEWIS: All the way through the building which  
3 is what the existing condition next door has, too. So it's  
4 not just the top floor unit that's benefitting next door and  
5 our design. It's the units, you know, from the top down.

6 MEMBER JOHN: Okay.

7 CHAIRMAN HILL: Anyone else?

8 (No response.)

9 CHAIRMAN HILL: All right, quick question. If you  
10 didn't get the FAR relief, then what would you do? If you  
11 got everything else, you'd keep the lightwell, you'd lose the  
12 roof you were -- I'm sorry, you said you would lose the top  
13 floor?

14 MR. TEASS: The top floor, I think, represents .41  
15 FAR so we would still have to --

16 CHAIRMAN HILL: Where do you see the .41?

17 MR. LEWIS: Sorry, down here at the bottom --

18 CHAIRMAN HILL: All right. I got you.

19 MR. TEASS: So we would have to, you know, come  
20 up with an additional .09 removal of space -- removal of area  
21 from the building. That would be one approach. I think that  
22 probably would require some study is my guess.

23 CHAIRMAN HILL: Okay. I mean I guess what I'm  
24 just -- and maybe I'm -- I'll wait for the Office of  
25 Planning. I'm just trying to see how you got to the 2.31

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1 with your design, meaning, you know, how come you didn't go  
2 back farther? I mean how come -- you know, how are you  
3 getting -- why did you stop from going back even farther than  
4 that?

5 MR. LEWIS: I think there was a couple reasons for  
6 that. One, it felt like an amount of FAR that we could  
7 justify based on the hardship. We're trying not to -- we  
8 could ask for more but we're kind of asking for an amount  
9 that feels appropriate to make these units habitable, to have  
10 an appropriate amount of light without being sort of as  
11 grabby as the existing buildings are next door. I think it  
12 was kind of a reasonableness amount -- reasonable aspect of  
13 it. Another sort of factor was the project that Will  
14 mentioned at 1719 T Street received a variance to go to 2.3  
15 and so we sort of saw that as the Board having blessed that  
16 amount as like -- as a reasonable amount of FAR.

17 CHAIRMAN HILL: Okay. Mr. Lewis, I appreciate the  
18 real answer. That's nice. And I'm saying that because I  
19 didn't get the real answer with somebody else last week.  
20 Okay. Can we go to the Office of Planning?

21 MS. FOTHERGILL: Good evening. I'm Anne  
22 Fothergill with the Office of Planning, and as the Applicant  
23 mentioned, the Office of Planning did find that the proposal  
24 -- well, let me start with the Office of Planning did not  
25 find that it met the variance test for FAR relief and, in

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1 fact, the zoning regulations were recently changed for the  
2 new provision that allows for a property in this zone to gain  
3 bonus density by opting into the inclusionary zoning program.  
4 And in this case, it would be 20 percent of FAR, and so that  
5 is what the Office of Planning encourages the Applicant to  
6 do and feels strongly that that provision is there to allow  
7 for bonus density in this zone, because it is very hard to  
8 make a variance case for FAR relief, and this is a way to  
9 gain bonus density.

10 So the Office of Planning does not support the  
11 variance relief that they have requested and instead  
12 encourages the opt-in to IZ route. And we did discuss the  
13 other variance relief that was requested and we can go  
14 through that, but that was the -- we can go through that if  
15 you want, the other two requests or I can stand on the  
16 record.

17 CHAIRMAN HILL: Okay. Does the Board have  
18 questions for the Office of Planning? Ms. White?

19 MEMBER WHITE: Just a quick question before I turn  
20 it over to the expert here. What was your recommendation  
21 with respect to the getting them to the point where they  
22 could comply with the FAR?

23 MS. FOTHERGILL: Well, our recommendation was that  
24 there is this new provision that did not exist when the  
25 neighboring property that has been referred to that received

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1 Board relief, that provision didn't exist then so we couldn't  
2 steer that Applicant to that route. In this specific case,  
3 that provision exists to provide a property owner the  
4 opportunity to gain bonus density and we encouraged them to  
5 pursue that route. It may not get them to the 2.31 that they  
6 are proposing and then, you know, that would be a different  
7 discussion if they took the 20 percent and then what happens  
8 after that.

9 CHAIRMAN HILL: So then just real quick before Mr.  
10 May, just -- so you haven't done the analysis to where if  
11 they did get the 2.16, you would still be in denial of  
12 getting them the 2.31?

13 MS. FOTHERGILL: No. We have not done that  
14 analysis.

15 CHAIRMAN HILL: Okay. Mr. May?

16 COMMISSIONER MAY: Yes. So in your report, it  
17 says that for the property a few doors down, that initially,  
18 OP did not support the FAR relief but eventually decided to  
19 support it. Can you explain what the rationale was for  
20 supporting it then?

21 MS. FOTHERGILL: I'm not sure I can. I was not  
22 the case manager but I know that it -- I believe it had a  
23 continued hearing and changes were made in response to the  
24 discussion with the Board and I don't know exactly. It was  
25 -- it also was a different case in the sense that it was

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1 in-fill construction. It was a vacant lot and there may have  
2 been factors related to that.

3 COMMISSIONER MAY: Okay. Yes. It might be  
4 helpful to understand that because of the problems that are  
5 -- the complications that the Applicant is citing with regard  
6 to opting into IZ which points out another thing that we  
7 probably should look at at the Zoning Commission, because the  
8 whole -- I mean that was one of the reasons why we created  
9 that provision was to give some ability to get a little bit  
10 more FAR. And if there are other provisions that sort of  
11 make it really difficult, like having to convert the  
12 two-bedroom unit into the -- I mean a bigger unit into the  
13 IZ unit so that 25 percent of the project is -- as opposed  
14 to 10 percent, would be IZ. I mean that's -- it's not going  
15 to be a very popular thing to opt into. So anyway, thanks.

16 MEMBER JOHN: One more question, Mr. -- I am  
17 preoccupied by this what lightwell. So on slide 9 -- so  
18 where is the lightwell on this picture?

19 MR. TEASS: So this is when you're standing at the  
20 alleyway looking at the rear of the subject property, you can  
21 see a corner of the lightwell here on the adjacent property.  
22 You see there's a chimney and then a chimney -- a chimney in  
23 the foreground, a chimney in the background, and then there's  
24 a lightwell here. You can see that in a little bit more  
25 detail right here so you've got, again, the two chimneys that

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1 frame the view and then you've got the lightwell on the  
2 adjacent property to the east.

3 MR. LEWIS: I think you can even see the window  
4 in that picture.

5 MR. TEASS: Yes. And the window you're seeing  
6 here is actually the window into one of the top units of the  
7 adjacent property to the east.

8 MEMBER JOHN: Excuse me. And there was a slide  
9 that showed all of the lightwells on that little block. Can  
10 you go back to that one?

11 MR. TEASS: I think you can see it easiest in the  
12 aerial view here. So the subject property is here. This is  
13 the lightwell in question. There's a symmetrical lightwell  
14 pairing here. There's another lightwell with a feature of  
15 symmetrical pairing for the project at 1719. You can see a  
16 lightwell further to the east, and if you move further to the  
17 west, there is this pattern of large buildings and  
18 lightwells. And then, you know, maybe a third of the way  
19 down the block, it transitions to a more sort of rowhouse  
20 fabric.

21 MEMBER JOHN: All right. And I think the point  
22 I was trying to make was that not all of these buildings that  
23 create the tunnel-like atmosphere have lightwells. Some  
24 don't. So I don't know how much that would get you but they  
25 don't all have lightwells.

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1           MR. LEWIS: I think the difference between those  
2 buildings and ours -- Will, if you could go to the shadow  
3 study, the second shadow study page? One more. Yes. So if  
4 you look, this is just kind of conceptual but the upper left  
5 and the upper right diagrams kind of speak to what you're  
6 saying. When all the buildings extend to the same rear  
7 distance, then they all have access to the light on that  
8 facade. We can't go back that far because of the lot  
9 occupancy limitation, and so we can never really access that  
10 quality light at the rear of the building in a way that the  
11 non-conforming neighbors that extend all the way to the  
12 property line or nearly all the way to the property line can.

13           MEMBER JOHN: Thank you.

14           VICE CHAIR HART: Can you -- I know that you  
15 described -- and anybody can answer this; I'm not really sure  
16 who's the right person to respond to it -- but the number of  
17 bedrooms per unit, that was a decision that you made because  
18 you wanted to. I know you said that the community wanted --  
19 the community was supportive of you having multiple bedroom  
20 units, but if you had one-bedroom units, are we talking about  
21 the need for the additional FAR? I mean it -- I understand  
22 that -- I don't know -- I just -- I just think that -- I was  
23 just wondering if there was a way that you -- that the number  
24 of bedrooms were also contributing to some of this as well.

25           MR. LEWIS: I mean maybe this is really for Will

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1 to answer. I think there was discussion about efficiency in  
2 terms of internal stairwells and that sort of thing that goes  
3 to that point.

4 MR. TEASS: I think that, you know, one thing to  
5 think about is, you know, in a building that we're showing  
6 here in the upper row is that if you had a pure matter of  
7 right development, even within the existing not only the  
8 zoning envelope but within the HPRB envelope, the fact is we  
9 do have a building to the left. And I want to call your  
10 attention to the -- I'm sorry to the west here. That's a  
11 four-story building that actually has a full cellar in it,  
12 and I think that it's not inconceivable that we could have  
13 gone to HPRB with a four-story building at 45 percent lot  
14 occupancy that had five units and each of those units would  
15 be a one-bedroom unit. And I think that that's something  
16 that is a pattern of development that other folks have done,  
17 and I think that that's something that we did not want to do  
18 here. And I think that was something that -- the ANC, one  
19 of the reasons I think they supported this was because of the  
20 configuration that we adopted here, is that we had both a  
21 diversity in terms of the unit types, but we also made  
22 provisions for larger units with larger bedroom counts, which  
23 has been a recurrent theme in that ANC in order to really  
24 balance the different types of families that live in the  
25 neighborhood.

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1           VICE CHAIR HART: So you're laying it on -- not  
2 laying it. You're saying that it's because having to provide  
3 internal stairs that connect one floor to the other, that  
4 that is throwing your FAR calculations into the variance?

5           MR. TEASS: Correct. So I think that, you know,  
6 our -- what we -- I would classify the upper levels as  
7 triplex units where you have sort of a living level, you  
8 know, one sleeping level and a sleeping level above that, and  
9 we have one that faces the street and one that faces the  
10 rear. And so I think part of that, there's an inefficiency  
11 that David spoke to earlier that, you know, in order -- you  
12 know, that the stairs, you're creating vertical circulation.  
13 I think we tried to address this in one of the previous  
14 slides as well, but there's an inefficiency in terms  
15 vertically stacking those units that on one side provides  
16 more bedrooms and more -- you know, a larger unit and larger  
17 bedroom count that can facilitate larger families, but it  
18 comes at the cost of having additional stairs within the unit  
19 which then has an impact on the efficiency if that makes  
20 sense.

21           VICE CHAIR HART: No, I understand that. I am  
22 still thinking that it's also a choice that you made.

23           MR. TEASS: Yes. I would --

24           VICE CHAIR HART: I mean as opposed to that you  
25 are being forced to do that, so -- not forced but you are

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1 being -- you know, you are kind of required to do that,  
2 there's nothing in the zoning regs of that -- you were just  
3 saying that your preference is that -- you as the --  
4 representing the Applicant, your preference is to have the  
5 various types of building -- of units that you're proposing?

6 MR. LEWIS: It's definitely a design choice.  
7 There are policy, slash, community reasons behind it. Part  
8 of it goes to the variance test, as well. There are these  
9 conditions inherent in the property. You know, Will compared  
10 our property to the four-story building immediately next door  
11 which extends 95 percent -- it covers 95 percent of the lot,  
12 and so it just has -- it has a much -- when it was designed  
13 or constructed had a much wider range of development choices  
14 than we have. We are -- the site is inherently constrained  
15 in ways that pushed us to make the design decisions we made.  
16 But you're right in terms of the bedroom count; it is a  
17 design decision but it's a design decision that comes out of  
18 the uniqueness of these multiple factors.

19 And I guess I would sort of point to the variance  
20 test again as, you know, we have a practical difficulty in  
21 complying with the regulations. It's not an impossibility  
22 but the impractical difficulty standard, you know, if you  
23 look at the case law, the term that is often used to describe  
24 what practical difficulty really means is undue burden. And  
25 we feel that given the context here, given the surrounding

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1 buildings, given the size of the lot, the zoning regulations  
2 impose an undue burden in terms of some of the design choices  
3 that we'd have to make in sort of the "but for" scenarios  
4 that you're positing.

5 VICE CHAIR HART: Thank you.

6 CHAIRMAN HILL: Can you take me back to the slide  
7 that talks about why the IZ thing is difficult again, the  
8 numbers. It's been a long day.

9 MR. LEWIS: Sure.

10 CHAIRMAN HILL: And so --

11 MR. LEWIS: Sure, yes.

12 CHAIRMAN HILL: -- like really, I thought I  
13 understood it and then I know Mr. May's getting it but like  
14 can you explain this to me again, like --

15 MR. LEWIS: Sure -- sure.

16 CHAIRMAN HILL: Go ahead.

17 MR. LEWIS: So the IZ rules, we can opt into the  
18 IZ program --

19 CHAIRMAN HILL: Yes.

20 MR. LEWIS: But once we're in, we have to follow  
21 all the rules in the IZ program.

22 CHAIRMAN HILL: Yes.

23 MR. LEWIS: And one of those rules deals with the  
24 proportion of the unit types. So it's -- the IZ rules  
25 specifically call out that studios and -- the policy

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1 rationale here is that the Zoning Commission didn't want to  
2 encourage people to provide only one bedroom or only studio  
3 IZ units. They want to provide a mix effectively. In a much  
4 larger building that's easier to accomplish -- in a five-unit  
5 building, that's a very difficult task just because of the  
6 absolute number of units, so few absolute. So the  
7 proportionality rule is complex, I will grant you that but  
8 basically, the proportion of studios and one-bedrooms cannot  
9 exceed -- IZ units cannot exceed the proportion of studio and  
10 one-bedroom market rate units.

11           So if we provide a studio or one-bedroom IZ unit,  
12 100 percent of the IZ units are studios and one-bedrooms and  
13 whatever the number is here, only 75 percent of the studios  
14 and one-bedrooms are market rate units. So the 100 percent  
15 is greater than the 75 percent; therefore, it violates the  
16 proportionality rule in the IZ regs. I realize this is like  
17 absurd math a little bit but it's because --

18           CHAIRMAN HILL: No, no, no. It's just --

19           MR. LEWIS: -- of the unit counts --

20           CHAIRMAN HILL: -- it's just because it's 6:00 and  
21 I have been doing this since 9:00 --

22           MR. LEWIS: Sure.

23           CHAIRMAN HILL: -- 9:30 -- so in order to meet the  
24 requirements -- and I can't read the little red box there  
25 that well, but -- so in order to meet the requirements, you

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1 have to provide one of the two-bedroom units as an IZ unit?

2 MR. LEWIS: Assuming we're going to provide one  
3 IZ unit. I mean I guess if we provided more than one, it's  
4 a different -- but assuming we're going to provide one IZ  
5 unit, it cannot be a one-bedroom or a studio. It has to be  
6 a two-bedroom. And the mismatch, the --

7 CHAIRMAN HILL: And you have one 2-bed -- you only  
8 have one 2-bedroom unit?

9 MR. LEWIS: We have two 2-bedrooms. I mean  
10 they're effectively 3-bedrooms but for IZ purposes, they're  
11 2-bedrooms because dens don't count.

12 CHAIRMAN HILL: So you'd have to give one -- you'd  
13 have to turn over one of those IZ units -- I'm sorry -- one  
14 of the 2-bedroom units to IZ?

15 MR. LEWIS: And the mismatch there is that by  
16 opting into the IZ program, the amount of floor area that  
17 we'd have to reserve to IZ is only something like 600 square  
18 feet. But because of the sort of demising configuration and  
19 because of this proportionality rule, essentially a quarter  
20 of the building goes to the IZ program. I think the opt-in  
21 program is a very good idea and there are many places in the  
22 District where it can work. Christine and I were talking  
23 about this just a few minutes ago. But this -- just a  
24 five-unit building is not one of those places.

25 MEMBER JOHN: So following up on that, if this

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1 were in the RF-1 Zone and you had to make the fourth unit an  
2 IZ unit, where would you put that unit? How would you --

3 MR. LEWIS: I mean, that's a --

4 MEMBER JOHN: I'm just -- you know, it seems --

5 MR. LEWIS: -- yes, that's a completely different

6 --

7 MEMBER JOHN: -- it seems kind of odd to me that

8 --

9 MR. LEWIS: It's a completely different context  
10 and --

11 MEMBER JOHN: I know but I'm just curious to know  
12 how that would work.

13 MR. LEWIS: And we've talked about it and our  
14 thinking is that the market just won't provide those if  
15 that's just an opt-in program, it's unlikely to -- that  
16 people are very unlikely to opt into.

17 MS. RODDY: I would -- also, this is Christine  
18 Roddy. I would just add in that RF-1 Zone is -- it permits  
19 flats whereas we're in the RA Zone which is apartment  
20 building. So I don't think that's really an apples to apples  
21 comparison just because the uses are different, and five  
22 units is a permitted use in the Zone.

23 MEMBER JOHN: I get all of that. I was just  
24 wondering from a design perspective and in terms of economy,  
25 because you're going to be renting it for the same amount of

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1 money if it were in the RF-1 zone, you wouldn't -- I mean you  
2 wouldn't -- the units wouldn't cost more. I just wanted to  
3 know from a design perspective, if this were in the RF-1  
4 Zone, could the IZ unit be accommodated? That's all.

5 MR. FLEISHER: So this is a 2000-square-foot lot.  
6 In the RF-1 Zone, by right, we'd only be allowed to do two  
7 units. So in order to get to that fourth, we would already  
8 have to get a special exemption or have a larger lot size.  
9 So just the dimensions that we would be working with on that  
10 lot would just be totally different than what we're working  
11 with given the FAR and the lot size and everything like that.  
12 So the design challenge wouldn't be apples to apples, if that  
13 makes sense.

14 MEMBER WHITE: One quick -- did the ANC push at  
15 all or ask or inquire about including an IZ unit at all  
16 during this process?

17 MR. FLEISHER: It was never brought up at the ANC.  
18 They were -- they strongly supported the project as we  
19 presented it.

20 MEMBER WHITE: Okay.

21 CHAIRMAN HILL: Okay. Zoning Commission? Yes.

22 COMMISSIONER MAY: I don't have any other  
23 questions.

24 CHAIRMAN HILL: Okay. All right.

25 COMMISSIONER MAY: I'm ready to move.

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1 CHAIRMAN HILL: All right. So I'm still just  
2 thinking here. Is anybody here from the ANC?

3 (No response.)

4 CHAIRMAN HILL: Is there anybody here wishing to  
5 speak in support? Is there anybody here -- okay, you're  
6 welcome to come forward. Well, let me first -- does anyone  
7 here wish to speak in opposition?

8 FEMALE SPEAKER: Nobody.

9 CHAIRMAN HILL: Okay. You can come on forward.  
10 We'll figure out whether your in support or opposition or --

11 (Off-mic comments.)

12 CHAIRMAN HILL: That's okay. Were you sworn in?

13 MS. KEDEM: Yes, this morning.

14 CHAIRMAN HILL: Okay. Oh, good for you.

15 (Off-mic comments.)

16 CHAIRMAN HILL: You have to speak into the  
17 microphone. I'm sorry. You have to introduce yourself and  
18 then --

19 MS. KEDEM: Yes.

20 CHAIRMAN HILL: -- even your comments, we have to  
21 get on the record.

22 MS. KEDEM: Sure. My name is Calanit Kedem.  
23 Should I spell that for you?

24 CHAIRMAN HILL: Say it again, I'm sorry.

25 MS. KEDEM: Calanit, C-A-L-A-N-I-T, and the last

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1 name is Kedem, K-E-D-E-M.

2 CHAIRMAN HILL: Okay. So Ms. Kedem, who are you  
3 with or who are you?

4 MS. KEDEM: I am the President of the 1725 T  
5 Street Co-op Association, so I'm the building adjacent on the  
6 east side.

7 CHAIRMAN HILL: Okay. Are you speaking on behalf  
8 of the Association?

9 MS. KEDEM: On behalf of my -- personally and on  
10 behalf of the Association, yes.

11 CHAIRMAN HILL: All right. So you'll get five  
12 minutes as a member of an association and -- to speak, and  
13 the clock -- well, I've missed the timer but it's kind of  
14 moving there.

15 MS. KEDEM: Okay, sure.

16 CHAIRMAN HILL: So you just kind of -- to see, you  
17 know, how much time five minutes goes. And you can present  
18 your testimony whenever you like.

19 MS. KEDEM: Yes. In fact, if -- could I just get  
20 my phone?

21 CHAIRMAN HILL: Sure, of course.

22 MS. KEDEM: Thank you. I'm so sorry.

23 CHAIRMAN HILL: That's all right. You're okay.

24 MS. KEDEM: So I just had a document in here that  
25 I wanted to --

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1 CHAIRMAN HILL: Sure.

2 MS. KEDEM: -- to look at. In any event, I --  
3 before I begin, I sense -- well, let me just preface my  
4 remarks by saying that I have lived in my building since  
5 1996, so many, many years. I was much younger back then.

6 CHAIRMAN HILL: We all were.

7 MS. KEDEM: All of my neighbors have been there  
8 for a very long time. The last one moved in 2004 so she's  
9 been there 14 years. So we're all long-term residents of the  
10 street, the building, the neighborhood. We care about our  
11 quality of life. We care about the streetscape and we care  
12 about our quality of life in the building. We're not going  
13 anywhere. We're not transient and so this is, you know, a  
14 very big issue to us.

15 So the little card didn't really have an  
16 appropriate box for me. I would have checked "other." I  
17 sense opposition from Ms. John to the lightwell. We would  
18 implore you not to oppose the lightwell because that was one  
19 of our biggest concerns is that the neighbors, my neighbors  
20 on the west side of our building had a lot of light because  
21 that structure that's there now is very -- it's a very small  
22 structure, so they have a lot of light.

23 This, you know, project is going to limit the  
24 amount of light and even a lightwell doesn't really address  
25 the issue adequately but without the lightwell, our living

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1 conditions are going to be greatly diminished. I mean, you  
2 know, light is a very important thing in a densely populated  
3 area and hard to come by.

4           So, you know, although I'm -- I have to say -- and  
5 I've talked to Travis a lot; he's been very forthcoming and  
6 we've met with him several times. I appreciate his openness  
7 and willingness to work with us, so we're very grateful for  
8 that. The design is not something I would have chosen but  
9 it's adequate.

10           But what we are concerned about, there are several  
11 issues; the light we thought was addressed but we hope -- the  
12 process here, it's a bit of a -- it's kind of opaque. I've  
13 never done this before. But if you opposed the lightwell,  
14 please do not oppose it.

15           The other issue is noise and soundproofing.  
16 They're using a party wall and we were told that we would get  
17 information on the insulation they were intending to use so  
18 that we could consult with other -- with professionals to see  
19 if it's adequate, because Mr. Fleisher said that we -- you  
20 know, we -- he assured us that we would use mutually  
21 acceptable soundproofing materials and not necessarily the  
22 minimum that the code requires but something that actually  
23 works because, obviously, noise, you know, is not, I think,  
24 for either property is not really a good thing to have. And  
25 right now there are no neighbors, you know, on that side,

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1 really, to affect noise.

2           Another issue that we are concerned about is  
3 runoff during construction -- or not run -- I mean the dust  
4 and all that sort of thing during construction. We want to  
5 have an agreement -- and just one second, please? I have my  
6 remarks right here. Yes, mitigation of dust runoff and noise  
7 during construction, we need to have an agreement on that.  
8 And also, Mr. Fleisher had told us that -- or represented  
9 that we -- and our letter, I think, is in your packet; it's  
10 dated May 9th -- that we'd enter into a construction  
11 agreement that addresses -- well, we thought light was  
12 addressed but to address the noise issue, the dust runoff and  
13 noise during construction and other matters before  
14 construction begins.

15           So my concern is that -- and this is why I kind  
16 of didn't know if I'm for or against -- I'm generally for the  
17 project but we would like to have all of these matters ironed  
18 out before construction begins. And we think that this is  
19 premature to approve this project without us having, as  
20 neighbors, an understanding of what's going to happen exactly  
21 and not just, you know, these -- so we're -- but that's our  
22 concern, that we don't know what they're intending. And  
23 we're afraid that if -- that unless we have, you know,  
24 assurances today that matters of concern will be taken care  
25 of before construction, we're concerned that we might not get

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1 their cooperation later, if you see my point.

2 CHAIRMAN HILL: Sure.

3 MS. KEDEM: So that's it.

4 CHAIRMAN HILL: Okay. Great. Well, thank you.  
5 What's the name of your association again?

6 MS. KEDEM: It's the 1725 T Street Co-op  
7 Association.

8 CHAIRMAN HILL: 1725 T Street Co-op, okay.

9 MS. KEDEM: Yes, quite simple.

10 CHAIRMAN HILL: And you're --

11 MS. KEDEM: I'm the President of the Co-op  
12 currently.

13 CHAIRMAN HILL: You're the President of the Co-op  
14 and you've been there since '96?

15 MS. KEDEM: Ninety-six.

16 CHAIRMAN HILL: Ninety-six.

17 MS. KEDEM: Twenty-two years, yes.

18 CHAIRMAN HILL: I know. It's amazing, the time  
19 flies.

20 MS. KEDEM: It does.

21 CHAIRMAN HILL: All right. Great. Thank you.  
22 Does anybody have any questions for Ms. Kedem?

23 (No response.)

24 CHAIRMAN HILL: No?

25 (No response.)

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1 CHAIRMAN HILL: Okay. Great. Thank you. Let's  
2 see, so back to just did someone -- oh, someone else wanted  
3 to speak in support or opposition or -- okay, you can go  
4 ahead and -- that's okay, you can sit down. And we need to  
5 get another -- we need to have another box on our card I  
6 guess. So if you could please introduce yourself again and  
7 give your address?

8 MS. RANSOM: My name's Elizabeth Ransom and I'm  
9 the -- representing the owners of the condominiums at 1731  
10 T Street. We're on the west of the 1729 project.

11 CHAIRMAN HILL: The other side.

12 MS. RANSOM: The other side.

13 CHAIRMAN HILL: Okay. How do you spell your last  
14 name?

15 MS. RANSOM: It's Ransom, like kidnap money.

16 CHAIRMAN HILL: I appreciate that. It's late in  
17 the day. Okay.

18 MS. RANSOM: My parents are both diplomats by the  
19 way, ambassadors, in case it counts.

20 CHAIRMAN HILL: Oh, wow.

21 MS. RANSOM: I'm just kidding.

22 CHAIRMAN HILL: Goodness. We had the ambassador  
23 here earlier from the --

24 MS. RANSOM: Yes.

25 CHAIRMAN HILL: -- United Nations or something.

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1 MS. RANSOM: Our building was designed in --

2 CHAIRMAN HILL: Just you're going to get five  
3 minutes as well because you're representing an association.  
4 You can start whenever you like.

5 MS. RANSOM: Okay. Great. Our building was  
6 designed in 1902. It's a contributing structure in the  
7 Historic Strivers' District. I have lived in the building  
8 for over 16 years and in DC for most of my life. First of  
9 all, I want to thank the Board, the BZA Board. It's great  
10 to see democracy in action and I really appreciate all the  
11 careful consideration you've given to all these cases. We're  
12 case eight and you're still listening and I appreciate that.

13 The owners of 1731 T Street are in support of this  
14 development at 1729 T Street, and we wrote a letter of  
15 support in favor the project. The developer decided against  
16 submitting it to the case record but I have submitted it  
17 along with a letter from a structural engineer who's  
18 outlining some concerns that we have. So I want to review  
19 our support and also our concerns.

20 So I really appreciate, like Calanit Keden said,  
21 the engagement from the developer and his architect. We've  
22 spoken with them before. They've come -- they've followed  
23 up with us. We also appreciate the development of a property  
24 that has been, for about a decade, kind of a blighted  
25 property, so this is wonderful. The developer sent the plans

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1 to us, presented at ANC and Conservancy meetings. They met  
2 with the condo owners. They've been open to taking  
3 questions. On June 3rd, they even came down to our basement  
4 to witness the flooding that we're having that is one of the  
5 concerns that I'm going to mention and also went into the  
6 backyard, and we showed them the things that we're worried  
7 about. They have begun following up on the concerns we  
8 expressed. They installed a tarp along the wall and they --  
9 this morning, they began taking out the deck.

10 There are several concerns which remain which I'd  
11 like to review. Our concerns are three-fold. There's a  
12 long-time lack of maintenance of their side of the party  
13 wall. Obviously, this predates them. There's improper  
14 drainage in their backyard including a poorly-attached roof  
15 drain pipe and possible blockage in the drain that we  
16 discussed.

17 The yard is also graded towards our building so  
18 water keeps -- every time it rains, all this rain we've had,  
19 water is flooding into our basement. It's -- as we showed  
20 them on June 3rd where we had standing water in the basement,  
21 it's running into our storage units. We put flood barriers  
22 and that sort of thing from Home Depot, but I don't know how  
23 much longer we can keep it up. And it's our basement and the  
24 lower level of Unit 1. We're also concerned that mold might  
25 be developing at this point. In the lower-level unit, we've

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1 had to start renting industrial strength dehumidifiers to  
2 keep the humidity down.

3           So these concerns aren't new. The predate this  
4 owner. DCRA was actually very helpful to us in enforcing the  
5 DC regulations with the previous owner, getting that owner  
6 to take a few steps including taking out the old hot tub that  
7 was broken and a few other little things, so there is  
8 significant documentation of it.

9           We've also raised in several committee meetings  
10 that we're concerned about the demolition process making sure  
11 that our historic structure is preserved. And we're  
12 concerned about how fragile our wall is given all the water  
13 intrusion. We understand the developers will be assessing  
14 the current state. Their structural engineer will be  
15 monitoring over time. We just want to make sure that  
16 precautions are taken to ensure our historic building is  
17 safeguarded during the process.

18           So the bottom line is before you approve the  
19 process, we just want the developers to take the necessary  
20 steps to ensure that their portion of the party wall does not  
21 allow leaks into our condominium building. And we want  
22 assurances that repairs to the party wall will address further  
23 water intrusion over the long-term, and we'd like assurances  
24 that the demolition and construction won't adversely affect  
25 our building. And other than that, we're in support.

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1 CHAIRMAN HILL: Okay. Great. Let's see, the --  
2 yes, sure.

3 MS. KEDEM: May I -- and I echo what Ms. Ransom  
4 said about -- and clearly, we wouldn't want the demolition  
5 or construction to affect our building either, so that goes  
6 without saying --

7 CHAIRMAN HILL: Okay.

8 MS. KEDEM: -- and I thought for the record --

9 CHAIRMAN HILL: Okay. I mean, Mr. Lewis, I don't  
10 know where we're going to get from this, but it sounds like,  
11 you know, if you guys had like a construction management  
12 agreement or something like that with the two next door  
13 neighbors, that's something that we might want to see. I  
14 don't know what's going -- we can talk about it again later.  
15 Just give me a second. And so -- and then, you know, it  
16 sounds as though, you know, you're fortunate they're not here  
17 opposing you. So just if you can allay their concerns in  
18 some fashion, that be great.

19 Okay. Does anybody have any questions for the  
20 witnesses?

21 (No response.)

22 CHAIRMAN HILL: No? Okay. All right. Thank you,  
23 all. So back to this -- so can you throw that thing up with  
24 all the numbers again. You guys can sit -- you guys can go  
25 back. Thank you.

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1 (Off mic comments.)

2 CHAIRMAN HILL: No, no. The one with the IZ.  
3 Yes, the IZ slide with the numbers. So Ms. Fothergill, just  
4 as far as the Office of Planning, I mean do you understand  
5 all this and do you agree with their argument? You don't  
6 agree with their argument?

7 MS. FOTHERGILL: The proportionality rule --

8 CHAIRMAN HILL: Yes.

9 MS. FOTHERGILL: -- would be required?

10 CHAIRMAN HILL: Yes.

11 MS. FOTHERGILL: Yes. I --

12 CHAIRMAN HILL: The proportionality rule would be  
13 required and so they would only need to -- if I understand  
14 this correctly, they'd only have to come up with 587 square  
15 feet for the IZ but they would actually be giving 1373  
16 because you'd have to give up one of the units and you give  
17 the smaller 2-bedroom unit. And so you don't -- from the  
18 Office of Planning's perspective, do you think that that is  
19 an economic hardship or you're still thinking that you  
20 continue to encourage them to go through this IZ process to  
21 possibly get the bonus density?

22 MS. FOTHERGILL: We don't generally consider  
23 economic hardship. The Board might but Office of Planning  
24 doesn't, and we see this as the property owner in this Zone's  
25 way to gain bonus density for FAR.

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1           CHAIRMAN HILL: Okay. And then the other thing,  
2 I guess -- and I don't know whether we're going to -- I can't  
3 believe we might not actually make a decision on something  
4 again, but if -- I'm a little confused on just -- and I know  
5 that each property is unique and -- but they keep talking  
6 about that one that's a couple down, and so I get a little  
7 confused as to, you know, I guess maybe -- depending upon  
8 what we end up doing here, I would be curious as to what it  
9 was that the Office of Planning looked at during that period  
10 and to how they got -- so I guess they were approved for the  
11 increased FAR then?

12           MS. FOTHERGILL: Yes. As I mentioned, it was a  
13 vacant lot. It was an in-fill project and it did have a  
14 continued hearing. So -- and there were changes to the plans  
15 and modifications made, but I do not know the exact --

16           CHAIRMAN HILL: Okay, because I'd just be -- look,  
17 if you could give us a little insight as to that because  
18 regardless of whether or not the IZ bonus density opt-in  
19 program was available then or not, they were granted the  
20 variance. And so, you know, that means -- and I can go back  
21 and look at the case but that means that they made the case.  
22 And again, I know that they're not comparable because each  
23 one is different, but they are on the same street and it does  
24 seem like there were similar instances. And it's also how  
25 I assume the Applicant has already stated that -- how they

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1 got to kind of this level of FAR, because they looked at the  
2 other project and they saw that one got 2.6 or 5 or whatever  
3 it was, and they, you know, they're less greedy, and so  
4 they're like, you know, trying to get the 2.16.

5           So -- and then -- and I'm just talking this out  
6 with the Board because I, again, don't know where we're going  
7 to get to, but I still then would be curious if -- I would  
8 even want some analysis, I guess, from the Office of Planning  
9 or insight. I don't know if you could give it, if they did  
10 get to the -- if they did get into the IZ program and got  
11 them to the 2.16, would then the Office of Planning be in  
12 favor of the variance to get them to the 2.31?

13           MS. FOTHERGILL: We can provide that analysis but  
14 -- and we're happy to, but the Applicant hadn't proposed  
15 that, so that's why it's not provided at this point.

16           CHAIRMAN HILL: Okay.

17           MS. FOTHERGILL: We can provide that if you're  
18 requesting it.

19           CHAIRMAN HILL: Okay. I don't know if I'm  
20 requesting it. I'm just kind of talking it through a little  
21 bit. Okay. So back to the Applicant and then I'll let the  
22 Board have their questions. Going to wait for the discussion  
23 to finish.

24           Okay. And so Mr. Lewis then, again, what I'm just  
25 continuing to struggle with is how you're getting the

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1 increased FAR, because I mean I've been here long enough to  
2 know that the Office of Planning doesn't usually approve  
3 increased FAR. It's like really difficult. It's one that  
4 they -- it's a really hard one for them to like get to.

5 MR. LEWIS: Yes.

6 CHAIRMAN HILL: And so I don't know -- I'd be  
7 curious, I suppose, as to what, if you didn't get the FAR,  
8 what it looks like; you know, what would happen to the  
9 project, because then you just -- you'd have to lose, you  
10 know, the first floor; you'd have to find whatever you needed  
11 to to get to the 1.8, right, and you'd still be getting the  
12 closed court and the lot occupancy, but you wouldn't get the  
13 FAR. So I'd just be curious as to what you guys would do for  
14 that?

15 And I don't know if we're doing this. I'm just  
16 -- since it's late in the day and I'm going to forget  
17 whatever I'm thinking about, that's kind of where I was.

18 So what does the Board think about anything?  
19 Sure. Of course, Mr. May.

20 COMMISSIONER MAY: I'm just -- I mean are we going  
21 to hear anything more from the Applicant and turn it back to  
22 the Board; is that where we are or are we just -- we're  
23 speculating in advance of closing? What are we --

24 CHAIRMAN HILL: I guess I was kind of just, again,  
25 speaking extemporaneously out loud as to where I am with

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1 stuff, and I can go and ask them if they have any comments  
2 to anything I mentioned and/or continue to --

3 COMMISSIONER MAY: I mean it doesn't sound like  
4 we're going to bring this to a conclusion right now, right?

5 CHAIRMAN HILL: I don't know. Really, I'm just  
6 kind of curious as to what -- I don't know what anybody else  
7 is thinking. I mean I know I'm a little --

8 COMMISSIONER MAY: I'll let you know what I'm  
9 thinking.

10 CHAIRMAN HILL: Okay. Yes. I know you will so  
11 that's why you got the light on --

12 COMMISSIONER MAY: All right. I'll go ahead now.

13 CHAIRMAN HILL: Yes.

14 COMMISSIONER MAY: I just don't know whether I was  
15 going to wait for --

16 CHAIRMAN HILL: You can go now. Just we're all  
17 -- we're winging it at this point. You know, it's 6:00.

18 COMMISSIONER MAY: Okay. So I have the same  
19 problem that you have. It's difficult to get to a FAR  
20 variance in this circumstance. I think that there are some  
21 very unique aspects to this property -- or unique is not the  
22 right word but exceptional circumstances having to do with  
23 the depth of the buildings that flank it on either side.

24 However, the particular design strategy which, you  
25 know, I think looks great in the front. I think you're doing

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1 a good job there and I think the idea of trying to occupy the  
2 full site and have an interior court as a way of getting  
3 light into the middle of the building is -- you know, is  
4 appropriate. And I think that that's how you can get to  
5 things like a 70 percent lot occupancy, however -- or relief  
6 that might be needed for the closed court.

7           However, it doesn't get you that extra floor of  
8 bedrooms. You know, I mean, would it get you everything  
9 except that with just a little tiny variance on FAR? I don't  
10 know. I mean that kind of depends on what the design  
11 solution would be.

12           I also think that some of the rationale that  
13 you've given us in terms of the analysis of different  
14 building configurations isn't really fully complete, and I  
15 can't really buy some of it. I mean you do a little bit of  
16 bait and switch, honestly. Where we talk about a matter of  
17 right solution; you know, what would happen with a matter of  
18 right closed court? Well, you know, a 50-foot tall closed  
19 court has to be, I don't know, 16 feet wide or 17 feet wide,  
20 which means that you have this little tiny passage going to  
21 the back. Well, you know, the building you're proposing  
22 doesn't have a 50-foot deep closed court. It has a 3-story  
23 closed court and so you can get by with 15 feet; that leaves  
24 you 5 feet which is still narrow but it's not so narrow that  
25 you can't pass through it. And I have seen designs of

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1 buildings where they do exactly that. They essentially have  
2 two kind of towers, a front and a rear. And you have a very  
3 substantial closed court in the middle and, you know, maybe  
4 you could do it in the matter of right. More likely, you  
5 would still need some kind of relief to make it a reasonable  
6 approach. But it's a reasonable approach and it's a way to  
7 lay out the building. And, you know, we're not seeing that  
8 here.

9 I mean I think the solution that you have is  
10 really good. It's just -- you know, it's not consistent with  
11 the allowed FAR. I think the only way that you can get to  
12 the additional FAR would be to opt-in. I understand that's  
13 a problem with the unit configuration that you have.

14 I also think that's a problem with the zoning  
15 regulations that we should probably take a look at, because  
16 it is exactly this kind of situation that that opt-in was  
17 supposed to address. And typically, that means -- you know  
18 -- I mean, I think maybe the Zoning Commission at the time  
19 was thinking in terms of small buildings where you're  
20 building, you know, four or five or six one-bedrooms or  
21 studios as opposed to this particular mix.

22 We also appreciate the mix. I mean the Zoning  
23 Commission has regulations that promote having larger units  
24 and certainly that comes up a lot in public testimony. It's  
25 certainly a desire of many neighborhoods to have larger units

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1 and not just have a whole bunch of little studios.

2           So I mean I understand that this -- it doesn't add  
3 up to an easy solution in this circumstance and I think that,  
4 you know, I am also not sympathetic to financial hardship  
5 arguments as a way of justifying additional FAR because it's  
6 just -- you know, it's too easy to manipulate the numbers and  
7 we don't have a good way of evaluating what's correct in that  
8 circumstance.

9           So I mean I think that the -- you know, unless  
10 there is some truly viable rationale for increasing FAR, I'm  
11 having a really hard time getting there. So I would -- I  
12 mean I'm not inclined to just vote no today. If we think  
13 that more information might be helpful, I'm happy to look at  
14 more information later. But as it is right now, there's not  
15 enough there to say yes.

16           CHAIRMAN HILL: Okay. All right. This is great.  
17 This -- I like this new way we're doing this. This is good.  
18 Okay. So has anybody else got anything else to say --

19           MEMBER WHITE: Yes.

20           CHAIRMAN HILL: -- before I turn it back to the  
21 Applicant?

22           MEMBER WHITE: Well, I'm in total agreement with  
23 Mr. May. I am -- that's why I was asking questions about the  
24 confluence of factors to see whether or not there was a way  
25 to frame the argument to meet the criteria for the FAR, but

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1 I'm not quite there yet, right. So obviously, I believe in  
2 the whole aspect of IZ units. I'm not making any formal  
3 recommendations, you know, that they do it in order to get  
4 approval, but that might be one way to meet the parameters,  
5 to meet the FAR criteria in order to get a variance. So I'm  
6 still not ready to move forward with the application, because  
7 I still don't think that they've met the criteria at this  
8 point.

9 MEMBER JOHN: Mr. Chairman, I'm still struggling  
10 with the criteria for the variance and whether the conditions  
11 that have been described are truly exceptional conditions  
12 that create a practical difficulty. And so I was asking  
13 questions to try to probe that justification, not necessarily  
14 because I disagree but sometimes you ask questions you think  
15 you know the answer to and then you find out you're wrong.  
16 So I am not ready to make a decision yet. I would like to  
17 see what could be done without the FAR approval. Otherwise,  
18 the design looks great.

19 CHAIRMAN HILL: Okay. Mr. Hart, do you have  
20 anything to add?

21 VICE CHAIR HART: No.

22 CHAIRMAN HILL: Okay. All right.

23 (Laughter.)

24 MR. LEWIS: Can I just ask a --

25 CHAIRMAN HILL: Yes. You can ask everything.

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1 Just give me a second.

2 MR. LEWIS: Sure.

3 CHAIRMAN HILL: So -- okay, sorry, Mr. Lewis. So  
4 what did you want to ask?

5 MR. LEWIS: I just wanted to confirm from Ms.  
6 White and Ms. John that your questions about satisfying the  
7 variance test is pertaining only to the FAR relief, or are  
8 you also asking about the court relief and the lot occupancy  
9 relief, because it sounded like Mr. May had questions about  
10 court relief in addition to the FAR, but most of the  
11 discussion so far has been about the FAR. So I just kind of  
12 -- is it all open or is it --

13 MEMBER WHITE: For me, it was primarily the FAR  
14 question.

15 MR. LEWIS: Okay.

16 MEMBER JOHN: That's a heavier lift --

17 MR. LEWIS: Right -- right, sure.

18 MEMBER JOHN: -- and so I wanted to see what you  
19 could do if you could not get that, because bear in mind,  
20 just as you're citing the previous case as justification to  
21 get over this difficulty, the person behind you is going to  
22 come in and point to this case. So we have to be careful  
23 about bending the rules and relaxing the standards and the  
24 criteria so much that we don't know what the rule is anymore.

25 MR. LEWIS: Sure.

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1           MEMBER JOHN:     And that's something that we  
2 struggle with all the time; otherwise, you know, we -- you  
3 know, we just can't justify our decisions if we are not clear  
4 about the criteria and how we're applying them. And this  
5 seems to be a very heavy lift. I mean I get the fact that  
6 there are two very, you know, tall buildings that are  
7 protected under the HPRB process and that there are some  
8 difficulties, but I have not seen enough -- there's nothing  
9 in the record that shows what other options, you know, could  
10 be tried in terms of the design. Do you need five units?  
11 These are not -- that's not really in our purview to make  
12 those kinds of suggestions.

13           MR. LEWIS:     I just -- I would say that in the  
14 variance context, it's really not our burden to show that  
15 this is the only option that works. I realize we do have  
16 some work to do but I just want to clarify sort of the  
17 parameters that we're working within.

18           MEMBER JOHN:    If I could just respond? But the  
19 variance is not to be -- the test is not satisfied because  
20 of the choice that you have made so --

21           MR. LEWIS:     Understood.

22           MEMBER JOHN:    -- so you don't make the choice and  
23 then say because I have this choice, I need a variance.

24           MR. LEWIS:     Sure.

25           MEMBER JOHN:    So that's the other point I was

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1 trying to make.

2 MR. LEWIS: I do, yes.

3 CHAIRMAN HILL: Okay. I don't want to forget what  
4 I'm kind of -- I think we're kind of asking and then we can  
5 clarify. So Mr. Lewis, first of all, I guess -- and if you  
6 can do this before -- if we end up asking for all these  
7 things, and if I understand what I think we're asking for,  
8 we're going to be back here on the 25th, if you can pull that  
9 off, because that's when Mr. May is back. And --

10 COMMISSIONER MAY: I was only going to be back for  
11 one case originally.

12 CHAIRMAN HILL: We're apparently putting  
13 everything off until the 25th and you're going to work with  
14 the Office of Planning to fix all those three things that  
15 happened today that seem to be unclear. And so first of all,  
16 it would be like construction management agreement with your  
17 two neighbors, okay, to allay their fears; and then I -- and  
18 this is actually I don't even know -- and you can talk with  
19 your client -- you know, maybe even going to the Office of  
20 Planning first and trying to figure out you think you may or  
21 may not be able to do with them, because if you wanted to  
22 continue down this path, I think you do have a little bit of  
23 a tough lift lit looks like, okay, in so much as the FAR.

24 I think that the other -- I think you made a good  
25 argument for the variances for the other forms of relief but

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1 the FAR -- and obviously, that's the one that we've been  
2 talking the most about -- and if you wanted to continue down  
3 that road, then I'd like to see what does the 1.8 get you;  
4 like, you know, how do you have to change the design to the  
5 1.8. I mean to Mr. May's point, I don't think he was  
6 necessarily arguing about the closed court as much as he was  
7 saying you maybe could have figured out how to do that and  
8 keep the closed court. I mean you wouldn't necessarily have  
9 needed that relief. He's seen it done before and the design  
10 and the programs still continued to work. So I would like  
11 to see what you can do if you had kept the 1.8.

12           And the other reason behind that is that we need  
13 to see plans that we actually approve. So when you come back  
14 here again, you know, if you want it to be finished one way  
15 or the other, we have to see whatever plans it is that we're  
16 actually approving, right, so that's why I would say if you  
17 can get to the Office of Planning and if you can even figure  
18 out with the Office of Planning as to whether or not you are  
19 going to opt-in and if you do opt-in, if they can give an  
20 analysis as to whether they're going to give you the extra  
21 whatever it is, you know, difference between the 2.16 versus  
22 the 2.31. I don't know but you all can figure that out with  
23 the Office of Planning. Whatever you come to us with next  
24 -- and I guess do we need a continued hearing? I don't know,  
25 we'll see at the end -- okay, everybody's saying "yes."

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1 Great. So Mr. May has -- you get a continued hearing as well  
2 as decisions. This is great.

3 So we're going to have a continued hearing, I  
4 guess, okay. And so there's a lot still to kind of get on  
5 the table, and the reason why I'm just kind of -- it's the  
6 end of the day and nobody's here so -- and if anybody's still  
7 watching, I can't believe you're still watching -- the -- but  
8 that we're having a discussion here that you're hearing from  
9 the Board what we want to see so that you might become  
10 successful, okay.

11 And again, the 1.8, see what that is; the  
12 construction management agreement. I guess the Office of  
13 Planning, if you could give us some analysis of how that  
14 other project got to where it got to. And I guess what I  
15 would like the Applicant to do is instead of making the  
16 Office of Planning work a lot, if you met with them first and  
17 this all kind of somehow gets worked out, then I don't need  
18 the information from the Office of Planning, okay, about how,  
19 why that other building is comparable. However, if you all  
20 have a long thing with the Office of Planning and you're  
21 still where you are and they're still where they are, then  
22 please, Ms. Fothergill, if you could provide us with some  
23 information as to how that other project to approved and why.

24 MS. FOTHERGILL: Yes.

25 CHAIRMAN HILL: Okay. Thank you. Yes, Mr. May?

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1           COMMISSIONER MAY:       So I think there's an  
2 unanswered question about what I was concerned about in terms  
3 of the relief, and I would just agree with my colleagues that  
4 it really is mostly about the FAR. I think the relief that's  
5 related to the closed court and lot occupancy can be tied  
6 more directly to the practical difficulties that you face on  
7 this site. And so that's easier to do. I think the thing  
8 that gets into your choice in the design strategy really is  
9 that additional FAR and, you know, why is that necessary to  
10 overcome the practical difficulties of this site. That's  
11 what it boils down to.

12           CHAIRMAN HILL: And then obviously, I didn't think  
13 about this. If you can somehow get together with the Office  
14 of Planning and it all works out, everybody else is on board  
15 so you get a summary order, you know. Otherwise, you're  
16 getting a full order and that's a year, you know, and so, you  
17 know, just to let you know; right, okay? We all understand  
18 that? Okay.

19           All right. So then I don't have the person that helps  
20 me with the dates. So if we're back here on the 25th again  
21 of July -- 25th of July, so then you're going to get -- Ms.  
22 Glazer, do you know the dates as to when everything has to  
23 be to everybody, when you can submit everything? Like I'm  
24 trying to remember. The Agency has to have enough time.  
25 Maybe one of the attorneys can tell me again the time

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1 parameters. I'm trying to remember the -- there's the seven  
2 days, so then when can you -- let's start this way. When can  
3 you think you can talk to the Office of Planning and figure  
4 out whatever you need to get to us?

5 MR. LEWIS: We'll have to file something with you  
6 all by the 11th.

7 CHAIRMAN HILL: By the 11th, okay.

8 MR. LEWIS: Effectively, yes.

9 CHAIRMAN HILL: Okay.

10 MR. LEWIS: Two weeks before --

11 CHAIRMAN HILL: Okay, right.

12 MR. LEWIS: -- to give OP 10 days and --

13 CHAIRMAN HILL: Give OP the time to get to the --

14 MR. LEWIS: -- and that gives you seven days.

15 CHAIRMAN HILL: Right. So you -- why don't you  
16 repeat again what you think we're asking for, Mr. Lewis?

17 MR. LEWIS: So the construction management  
18 agreement with the neighbors in some fashion; and then  
19 basically additional analysis on the FAR relief request; and  
20 as a couple sort of constituent parts, one of them being what  
21 is a "by right" FAR, 1.8 FAR, what does that get us --

22 CHAIRMAN HILL: With the other relief.

23 MR. LEWIS: -- with the other relief, right, in  
24 the context of the other relief. The next item is sort of  
25 communicating with OP in terms of what they would be willing

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1 to support in terms of the delta between 2.16 and the 2.3  
2 that we're requesting. We'd kind of add to that conversation.  
3 I think we'd be curious to know -- I'm just kind of throwing  
4 this out there since we're kind of talking openly -- you  
5 know, the big hurdle for us on IZ is the proportionality, so  
6 whether they would support some kind of relief from the --

7 CHAIRMAN HILL: Yes. I don't know how that works.  
8 You can talk --

9 MR. LEWIS: So -- so --

10 CHAIRMAN HILL: -- I don't think that's possible  
11 the way it sounds.

12 MR. LEWIS: I don't -- I mean we'd need a variance  
13 from --

14 CHAIRMAN HILL: Yes. That's like --

15 MR. LEWIS: It's a very -- that's a heavy lift is  
16 what --

17 COMMISSIONER MAY: I mean it's a question for OP  
18 whether they see a way to recommend a variance from the --

19 MR. LEWIS: -- for an optional --

20 COMMISSIONER MAY: -- from the proportionality.  
21 I don't know.

22 CHAIRMAN HILL: Okay. So you can talk -- it looks  
23 like the Office of Planning is willing to have that  
24 discussion with you, which is more than I thought so okay,  
25 keep going.

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1 MS. FOTHERGILL: That's all I have.

2 MR. LEWIS: That's -- I mean those are the two --

3 CHAIRMAN HILL: Okay. I think that's right. Did  
4 he miss anything? Okay.

5 COMMISSIONER MAY: He didn't.

6 CHAIRMAN HILL: All right. So the 11th. Okay.  
7 Go ahead.

8 MR. FLEISHER: Can I just say one thing on the  
9 construction management agreement?

10 CHAIRMAN HILL: Sure.

11 MR. FLEISHER: Just in my experience, that's  
12 something that would be extremely to have by the 25th  
13 considering that we're working with two neighbors. There's  
14 a total of 11 units. It's something that's time and cost  
15 intensive. I mean we've committed --

16 CHAIRMAN HILL: I got it. I understand.

17 MR. FLEISHER: -- we met with them. It just --

18 CHAIRMAN HILL: We need --

19 MR. FLEISHER: -- it's --

20 CHAIRMAN HILL: -- it's okay.

21 MR. FLEISHER: -- it's impractical --

22 CHAIRMAN HILL: I'm just saying like -- I mean we  
23 -- I understand and have -- we've done this a lot with  
24 different people. And so I'm just saying by the 11th, you  
25 get us whatever you can get us by the 11th, okay.

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1 MR. LEWIS: Because more realistically, we might  
2 have like a memorandum of agreement or something --

3 CHAIRMAN HILL: Okay. Memorandum of understanding  
4 or something --

5 MR. LEWIS: Agreement to agree.

6 CHAIRMAN HILL: -- agreement to agree.

7 MR. LEWIS: Well, I mean part of the rationale for  
8 not having a construction agreement today is the design of  
9 the building isn't fully baked and you heard from the  
10 neighbors that they have very particularized concerns about  
11 the party wall and the drainage, and some of those things  
12 really do depend on how the building is designed. So some  
13 of the specific items in the construction management  
14 agreement would just necessarily have to -- are predicated  
15 upon the decision that you all give us. So we can kind of  
16 come to an agreement with the neighbors that we will reach  
17 a construction agreement but the specifics of that  
18 construction might not be --

19 CHAIRMAN HILL: Okay. I understand what you're  
20 saying. So the thing that I would be looking for would be  
21 something that provides some kind of -- I'm not going to use  
22 that word again -- you know, calms the concerns of the two  
23 next door people; right, okay? You know, I know that you  
24 can't specifically address all the issues because you don't  
25 know what you're -- they don't know what they're building

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1 yet, you know, and so they can't specifically get to what you  
2 would want to be in a construction management agreement, but  
3 you can show us something that shows that you guys are  
4 committed to talking, you're committed to fixing all whatever  
5 these concerns are because they're here to help you, okay.  
6 And so just get us something by the 11th, okay. And so what  
7 that means for, you know, again, the people are here, it  
8 could be a memorandum of understanding perhaps to entering  
9 into a construction management agreement once the final  
10 design is met but addressing these issues, x, y, and z, and  
11 how you're going to address those issues x, y, and z.

12 MR. LEWIS: A timeline.

13 CHAIRMAN HILL: Okay. Great.

14 MR. LEWIS: Yes.

15 CHAIRMAN HILL: All right. Are we done? Okay.  
16 I want to be done. The -- now the owner, I'm just -- you  
17 bought this property how long ago?

18 MR. FLEISHER: Mid-January.

19 CHAIRMAN HILL: Have you done properties like this  
20 before?

21 MR. FLEISHER: This is our largest project in  
22 terms of the unit mix and square footage.

23 CHAIRMAN HILL: All right.

24 MR. FLEISHER: But we're currently working on four  
25 throughout the city similar so --

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1           CHAIRMAN HILL: Okay. All right. So that's it.  
2 I mean I guess I really -- I really -- Mr. Lewis, I hope you  
3 come back to me and you got Office of Planning on board,  
4 okay. That's -- you know, let's just get right there; right,  
5 okay? And if not, then you really have to figure out what  
6 it is you think we're going to possibly pass and then show  
7 us that so that we can just at least get to a decision,  
8 right, and then you can figure out what's going on, because  
9 if you come back and then we have to discuss it again and all  
10 that stuff and then we have to go back again to see what the  
11 design is that you're going to -- it's just going to --  
12 you're going to be back here again and it's after August.  
13 So it's September-October that you're back here again with  
14 whatever the new design is, okay, so -- all right. See you  
15 -- I'm going to see Mr. May on the 25th of July for the  
16 continued hearing. All right. Thank you all very much. I  
17 don't even know who to ask. Ms. Glazer, is there anything  
18 more for the Board today?

19                   (Laughter.)

20           CHAIRMAN HILL: No?

21           VICE CHAIR HART: Thank you, Ms. Glazer.

22           MS. GLAZER: No, Mr. Chair.

23           CHAIRMAN HILL: All right, we're adjourned.

24                   (Whereupon, the above-entitled matter was  
25 adjourned at 6:41 p.m.)

C E R T I F I C A T E

This is to certify that the foregoing transcript

In the matter of: Public Hearing

Before: DCBZA

Date: 06-13-18

Place: Washington, DC

was duly recorded and accurately transcribed under my direction; further, that said transcript is a true and accurate record of the proceedings.



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