

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

+ + + + +

PUBLIC HEARING

+ + + + +

WEDNESDAY

OCTOBER 17, 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 L. JOHN, Board Member

ZONING COMMISSION MEMBER[S] PRESENT:

ANTHONY HOOD, Chairperson

OFFICE OF ZONING STAFF PRESENT:

TRACEY W. ROSE, Sr. Zoning Specialist

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

HILLARY LOVICK, ESQ.

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OFFICE OF PLANNING STAFF PRESENT:

STEPHEN MORDFIN
KAREN THOMAS
BRANDICE ELLIOT
MAXINE BROWN-ROBERTS
MATT JESICK
ELISA VITALE

The transcript constitutes the minutes from the
Public Hearing held on October 17, 2018.

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

9:50 a.m.

1
2
3 BZA CHAIR HILL: All right, Ms. Rose, we can move
4 on to our hearing cases.

5 MS. ROSE: The first case is Application No.
6 18233A of Protestant Episcopal Cathedral Foundation on behalf
7 of National Cathedral School for Girls, NCS, pursuant to 11
8 DCMR Subtitle Y, Section 704 for a modification of
9 significance to the conditions of BZA Order No. 18233 to
10 permit an increase in the number of students and faculty at
11 an existing private school in the R-1-B and RA-4 zones at
12 premises 3101 Wisconsin Avenue N.W., and 3609 Woodley Road
13 N.W., Squares 1944 and 1922, Lots 25 and 17.

14 BZA CHAIR HILL: Okay, great. Well, good morning.
15 If you could please introduce yourselves from my right to
16 left.

17 MR. GRIFFIN: Sure. My name is Jeffrey Griffin
18 and my address is 604 North Overlook Dr., Alexandria,
19 Virginia, 22305.

20 BZA CHAIR HILL: Mr. Griffin, if you could just
21 turn off your microphone. If more than one is on at a time,
22 it gets a lot of feedback.

23 MS. SHIKER: Good morning. My name is Christine
24 Shiker with the law firm of Holland & Knight and I'm
25 representing the applicant in this case.

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1 MR. DETMAN: Good morning. Shane Detman; Director
2 of Planning Services with the law firm Holland & Knight.

3 MR. ANDRES: Good morning. Erwin Andres with
4 Gorove/Slade Associates.

5 BZA CHAIR HILL: Okay. Ms. Shiker, you're going
6 to be presenting to us?

7 Okay. Well, there was a police officer here and
8 he's now gone. So I'm not sure I'm happy he's gone or wish
9 he was here, so we'll see how it goes.

10 I guess I'm just going to kind of turn it over to
11 you in terms of presentation. I don't have any specific
12 things, so if you could just kind of walk us through what
13 you're trying to do and why we should approve the
14 application. I'm going to put 15 minutes on the clock just
15 so I know where we are, and you can start whenever you like.

16 MS. SHIKER: Okay, great. Thank you, Chairman,
17 members of the board. Again, Christine Shiker with the law
18 firm Holland & Knight representing the National Cathedral
19 School which is an existing private school that opened in
20 1922, it was chartered in 1920 -- excuse me 1900 -- and has
21 continued operating as a school for girls since that time.
22 As you can see on the board, the property is located
23 generally on the land of the Close where the Washington
24 National Cathedral is. We have the Woodley North Campus
25 which is on the north side of Woodley Road; that side is

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1 split zoned RA-4 and R-1-B, and then on the south side of
2 Woodley Street you have the southern portion of the campus
3 which is on the Cathedral Close grounds as well as the
4 athletic fields further to the east. The school is a legal
5 conforming use, having been in existing since prior to the
6 adoption of the 1958 regulations, but there has been a
7 history of Board of Zoning adjustment orders throughout time
8 and I don't think I need to go through those, but they're on
9 the board and they're on the screen and they are detailed in
10 our Statement of Justification. We are here today to request
11 a modest increase in the enrollment cap from 585 to 600
12 students and an increase in full-time faculty and staff from
13 165 to 175. The student enrollment increase is to allow the
14 school to achieve its optimal student enrollment by providing
15 a degree of flexibility, to allow for fluctuations that
16 happen over year to year. The increase in the faculty and
17 staff is to allow the school to adjust its student/teacher
18 ratios in response to changing trends in education,
19 especially with STEM education, and we'd like to make sure
20 that they can address current student needs and interests.

21 We have set forth in detail in our pre-hearing
22 statement the justifications for these two modest increases,
23 as well as how we meet the special exception standard.
24 Please note we have filed this as a modification of
25 significance to the most recent order which was from 2011;

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1 while it might have fallen into a modification of
2 consequence, we believed for the community and for the board
3 and the Administration of Efficiency, that it'd be best to
4 have a hearing on this in case there were any questions or
5 issues. And so we have filed it as a modification as
6 significant. We are very pleased to have Office of Planning
7 support, DDOT support and unanimous support from ANC3C, and
8 all those reports are in your record. The one point that I
9 will make is while we are requesting the increase, as noted
10 here in Condition 1, we also learned through our CTR process
11 and our work with DDOT that some additional transportation
12 demand management measures might be beneficial to the
13 operation of the school, and so therefore we have proposed
14 a new Condition 10 which would allow, which would provide for
15 some monitoring of neighborhood streets, would provide this
16 car pool corner, and it would specifically designate the
17 bicycle racks which are currently located -- this condition
18 was supported by DDOT and by the Office of Planning, and so
19 therefore we propose it is part of our application.

20 We have a full team here; we can answer any
21 questions about traffic with, Erwin Andres is here, Shane
22 could walk further through the special exceptions standard
23 if needed, and I have Mr. Griffin representing the National
24 Cathedral School if you wanted to find out more about their
25 enrollment or their faculty and staff. But I believe that

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1 the record is full with the pre-hearing statement and with
2 the reports from district agencies, and with that I would ask
3 the board if they had any questions. Thank you.

4 BZA CHAIR HILL: Does the board have any questions
5 for the applicant?

6 MEMBER WHITE: One question; I see you've got the
7 support from the ANC but I just wanted to get a little bit
8 more feedback regarding any neighbor concerns about traffic
9 or noise, or you know, the increase in the number of students
10 or parking. I didn't see anything in the record, but I just
11 thought I'd give you an opportunity to just kind of weigh in
12 on that particular issue.

13 MS. SHIKER: Sure. So we went through a detailed
14 review with the ANC; we went to a Planning and Zoning
15 Committee and did a presentation and then went to the full
16 ANC. Mr. Griffin, if you would just like to talk briefly
17 about our Neighborhood Liaison Committee and the continued
18 outreach that the school has with the community. I think
19 you'd find that there's not much in the record because we
20 have been having a very broad outreach and continuous
21 outreach so that we address concerns as they come forward.

22 MR. GRIFFIN: Yes, we actually have two
23 Neighborhood Liaison Committees; one was associated with the
24 approval of an athletic center a number of years ago; it
25 meets regularly and is primarily there to deal with the

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1 operations of the athletic center; and then there was another
2 liaison committee that was formed when we got approval to
3 innovate the buildings that were located north of Woodley
4 Road and that also meets. There was no concern expressed in
5 either of those meetings about the increase in faculty or
6 students, all of those people are able to park on site in a
7 parking garage, and so no concerns were voiced.

8 ZC CHAIRPERSON HOOD: The Neighborhood Liaison
9 Committees, were those part of the previous orders, or is
10 that just something you put in place?

11 MS. SHIKER: So they were part of the previous
12 orders and we continue to operate them to make sure that
13 concerns and issues that come forward have an appropriate
14 venue to be vetted.

15 ZC CHAIRPERSON HOOD: Okay. Mr. Chairman, I can
16 tell you right now, I'll be voting in support of this
17 application, especially when I see the ANC commissioner who
18 supports this, and I know her work is very diligent in this
19 city. So I applaud you all for getting that concurrency and
20 that "yay" from that ANC.

21 Thank you, Mr. Chairman.

22 BZA CHAIR HILL: All right. Thank you, Chairman
23 Hood. Ms. Shiker, I guess as far as the application goes,
24 real quick; so we're carrying forward the transportation
25 related conditions 3, 4, 5, 6 and 7 from the previous BZA

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1 order, correct?

2 MS. SHIKER: That is correct.

3 BZA CHAIR HILL: Okay.

4 MS. SHIKER: So as I have on the screen, the only
5 proposed changes would be the highlighted change to Condition
6 1 and then the addition of Condition 10; all the other
7 elements will continue as stated in 18233.

8 BZA CHAIR HILL: Right, so changing that one
9 condition and adding Condition 10?

10 MS. SHIKER: Correct.

11 BZA CHAIR HILL: What's "Land of the Close"?

12 MS. SHIKER: The Washington National Cathedral;
13 it's called "The Close."

14 BZA CHAIR HILL: What's it stand for?

15 MR. GRIFFIN: That's just the way the -- so the
16 campus of the National Cathedral is referred to as "The
17 Close."

18 BZA CHAIR HILL: Okay, I just didn't know. Okay,
19 I'm going to turn to the Office of Planning.

20 MS. THOMAS: Good morning, Mr. Chairman, members
21 of the board. Karen Thomas with the Office of Planning. The
22 Office of Planning is in support of the modification which
23 adds a modest increase in staff and students. The applicant
24 has addressed the criteria in Section 203 and took additional
25 measures to mitigate the potential impacts, and we support

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1 the TDM condition that was added, and also DDOT has supported
2 that in their submission to the record. And with that, I'll
3 stand on the record of your report. Thank you.

4 BZA CHAIR HILL: Thank you. Does anyone have any
5 questions for the Office of Planning?

6 Does the applicant have any questions with the
7 Office of Planning?

8 MS. SHIKER: We do not.

9 BZA CHAIR HILL: Okay. Is there anyone here
10 wishing to speak in support of the application?

11 Is there anyone here wishing to speak in objection
12 to the application?

13 Is there anyone here from the ANC

14 All right. With that, Ms. Shiker, carrying back
15 to you; do you have anything else you'd like to add?

16 MS. SHIKER: We would submit that we met the
17 burden of proof in this case and we'd ask the board to
18 deliberate at its earliest convenience. Thank you very much.

19 BZA CHAIR HILL: Okay. Does the board have
20 anything else?

21 All right, I'm going to close the hearing. Is the
22 board ready to deliberate?

23 Okay. Well, we know where Chairman Hood stands.
24 And so I also would be in agreement, that I think that even,
25 to use the applicant's words, I think it's a modest increase

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1 in terms of what they're trying to do, and they're adding a
2 condition that DDOT has recommended. I would also agree that
3 after reviewing the record and reading the Office of
4 Planning's report with the analysis that they've provided,
5 and as Chairman Hood has indicated, the support from the ANC.
6 And so I will also be voting in favor of this application.
7 Would anyone like to add anything?

8 Okay, I'm going to go ahead and make a motion to
9 approve Application No. 18233A as captioned and read by the
10 secretary, and ask for a second.

11 PARTICIPANT: Second.

12 BZA CHAIR HILL: Motion made and seconded. All
13 those in favor say aye.

14 (Chorus of aye.)

15 BZA CHAIR HILL: Aye. All those opposed?

16 The motion passes. Ms. Rose?

17 MS. ROSE: Staff will record the vote as 5 to 0
18 to 0 to approve the modification of significance, with a
19 motion by Mr. Hill seconded by Mr. Hood, with Mr. Hart and
20 Ms. White and Ms. John in support of the motion.

21 BZA CHAIR HILL: Okay, great. Thank you very
22 much.

23 MS. ROSE: Next is Application No. 19783 of Beyond
24 Light, Inc. pursuant to 11 DCMR, Subtitle X, Chapter 9 for
25 a special exception under the use requirements of Subtitle

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1 U, Section 420.1(a) to permit a community-based institutional
2 facility in the RA-1 Zone at premises 4212 Livingston Road
3 S.E., Square 6119, Lot 15.

4 BZA CHAIR HILL: Okay, great. Thank you, Ms.
5 Rose. Just one moment here while I get myself --

6 Good morning. If you could please introduce
7 yourselves from my right to left.

8 MS. LATHUM: Good morning; Shauna Lathum. I'm
9 serving as Clinical Director for Beyond Light.

10 MS. FLETCHER: Good morning, Ms. Fletcher, Taiwana
11 Fletcher; I'm the Executive Director of Beyond Light, Inc.

12 BZA CHAIR HILL: Okay. Well, welcome back, Ms.
13 Fletcher. And sorry about, I didn't have the record in front
14 of me the last time when you were here. I did have an
15 opportunity to kind of review everything that you have
16 submitted and I guess I would just kind of ask a few things
17 of whatever the board would like to know; I mean, what we
18 had, there was a lot of community opposition to this
19 particular project and I think there still might remain some.
20 I don't know if there's people here or not. And so I'd like
21 to know a little bit more about the community outreach that
22 you might have performed since the last time you were here.
23 And then, also, what I remember the board had asked for was
24 kind of like some specific discussion as to how you were
25 going to manage the facilities so that we basically were able

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1 to think that you would meet the criteria for us to approve
2 this application in terms of the affecting of the community
3 and things such as that.

4 So I'll let you go ahead and talk to the community
5 outreach portion of it, and then also, again, the process
6 that you feel is significant enough now that we should be
7 able to approve this application, meaning your own internal
8 process.

9 Before I do that, actually; is the ANC here?

10 If you'd come on forward, please.

11 Good morning, sir.

12 MR. JORDAN: Good morning.

13 BZA CHAIR HILL: Can you please introduce
14 yourself?

15 MR. JORDAN: Yes, my name is Absalom Jordan; I'm
16 an ANC commissioner for Advisory Neighborhood Commission 8D.
17 Our Single Member District is 8D03. And the commission is
18 sent the report to the board indicating that I would be the
19 spokesman for ANC 8D.

20 BZA CHAIR HILL: Okay, I saw that commissioner.
21 Thank you for coming down. And so, commissioner, as a member
22 of the ANC, you're an automatic party to the case. So what
23 we're going to do is, again, go ahead and have Ms. Fletcher
24 present what she has been asked to present about, and then
25 you'll have an opportunity to kind of ask questions of her

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1 in terms of her presentation. You'll then have an
2 opportunity present -- I can't remember whether the ANC
3 presented the last time or not, and so I know that they came
4 and gave opposition as well; there was a lot of opposition
5 from the community itself. And so normally in a continued
6 hearing, you're just kind of presenting on the things that
7 we asked about, but since I'm not terribly clear as to what
8 the ANC may have presented in the past, you can go ahead and
9 make a presentation in general. But if you can, kind of
10 specifically to what we were asking from the applicants since
11 the last time they were here.

12 Commissioner, were you here the first time?

13 MR. JORDAN: Yes.

14 BZA CHAIR HILL: Okay.

15 MR. JORDAN: Mr. Chairman, I would note that since
16 the last hearing, there's been three submissions in terms of
17 the burden of proof, and so we need to raise questions about
18 the burden of proof.

19 BZA CHAIR HILL: All right, that's fine. So Ms.
20 Fletcher, you can go ahead, and if you would just go ahead;
21 I'm going to put 15 minutes on the clock just so I know where
22 we are in terms of the hearing. And you can go ahead and
23 begin whenever you like.

24 MS. FLETCHER: Okay. Good morning, again, to all.
25 I'm going to actually present the community outreach part,

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1 and Ms. Lathum is going to actually present the security
2 portion of the male transitional program. For the community
3 outreach, again, we attached the letters of support from
4 residents in the Ward 8D03. And the letter of support stated
5 that they were open to male transitional programs. We had
6 one who is a security officer for D.C. government. We've
7 been talking to numerous residents in the area, in the ward,
8 of course on the Valley Ave. side of that particular ward you
9 have two programs there; one is Sergeant Ruths; you also have
10 a program that's located on 4th St. S.E.. We've also been
11 speaking with the team there, and of course, one of the
12 programs that are opening is a facility that will house the
13 residents that are located at D.C. General. And so we know
14 that homelessness, the cause of homelessness is generally
15 substance abuse and/or mental health issues, and it could be
16 a multitude of things. So -- yes -- I'm sorry -- we've been
17 just talking to numerous individual, passing out flyers, and
18 of course we've had people to that we're in agreement of the
19 male transitional program. So and talking to those that, as
20 we were canvassing certain areas, just processing about our
21 program and all that we do, we had support, verbal support
22 of a male transitional program. Is that sufficient?

23 BZA CHAIR HILL: Okay, so does the board have any
24 questions of the applicant concerning those statements?

25 MEMBER WHITE: One question I wanted to address

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1 because I'm sure the ANC is going to address it, is just kind
2 of briefly responding to the concerns about a transitional
3 facility having an adverse impact on the neighborhood.

4 MS. LATHUM: So my name is Shauna Lathum; I've
5 been Clinical Director of substance abuse children's programs
6 for the last 20 years. And so the security of the program
7 is really based on the structure. We've actually already
8 presented this program to CSOSA and have been approved for
9 it; within that there was a write-up for a security plan
10 which includes monitors that are on staff 24 hours a day,
11 security cameras, a checks and balance system; not as tight
12 as a jail system but pretty close where there's a log and
13 monitoring and check in and check out. So you really won't
14 have clients randomly around, and by the time they are doing
15 that, we're going to call in the authorities to address it,
16 because that means they're not where they're supposed to be.
17 The benefit of this program is that it's a workforce
18 development program on top of substance abuse treatment, on
19 top of addressing homelessness and family support.

20 I'm a resident of Ward 8; I live less than five
21 minutes away from the facility. My block looks very
22 different because it's single family home, so it looks like
23 a suburban lot, but it's less than five minutes away. Living
24 in Ward 8 we can all attest to that you see homelessness
25 every day, you see people with drug issues every day in and

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1 out of different phases of treatment. You see people with
2 mental health issues that are treated or untreated. We deal
3 with that problem every day. I would so much appreciate in
4 my community having a program that helps the problem, not
5 just sees the problem passing by as you're on your way to
6 work or other things. So within that area there's about ten
7 different drug treatment programs, and all those drug
8 treatment programs address many of the same issues. I've
9 supervised those programs, Federal City five minutes away,
10 CAG five minutes away; all those programs are operating in
11 the same model with 24-hour surveillance. And when I've been
12 there we've never had any major issues. We are actually
13 contacting authorities long before the community even gets
14 wind of it. And I can attest to the outreach that they've
15 done because they've been working on this facility doing work
16 for a long time, at least a period of the last six months.
17 So the community has seen that they're out there. So I don't
18 see security as a major issue because if CSOSA approved it
19 and everything met their standards, it definitely should meet
20 the standards of community. But I agree with the last group
21 that one of the things we probably should develop, but that's
22 once the program starts, is a community liaison group.

23 BZA CHAIR HILL: Okay. Ms. Lathum, hold on a
24 second. Commissioner, could you just turn off your
25 microphone? We're just getting some feedback, so one mic at

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1 a time. Thank you.

2 So -- and I'll let the board ask some questions.
3 But Ms. Lathum, I mean I appreciate that you've done this for
4 a long time, and so you're experienced at this. And so --
5 however, what I was struggling with the last time in terms
6 of what we had been trying to figure out, was how you're
7 going to do things and what kind of is the scheduling and
8 what kind of system is in place, and the only thing that I
9 saw submit into the record was kind of a weekly facility
10 accountability sheet. I don't know who submitted that. Did
11 you submit that?

12 MS. FLETCHER: Well, no. A lot of things were
13 submitted and attached to the application. I have it here
14 as well, along with the receipt stating that.

15 BZA CHAIR HILL: No, I understand that. And so
16 I'm just saying that --

17 MS. FLETCHER: Okay, so what gave me the security
18 plan? The security -- you want to take it?

19 MS. LATHUM: So I'll just run you through --

20 BZA CHAIR HILL: Ms. Fletcher, if you could turn
21 off your microphone -- thank you.

22 MS. LATHUM: So I'll run you through a day.

23 MEMBER HART: Which document are you referring to?

24 BZA CHAIR HILL: Hold on a second.

25 MEMBER HART: No, I'm over here. Which document

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1 are you referring to?

2 MS. LATHUM: She -- I'll walk you through -- she
3 submitted documents that had a security plan in it of what
4 was going on, but just so that we're all on the same page,
5 I'll just run you through a day of what --

6 ZC CHAIRPERSON HOOD: Mr. Chairman, before she
7 does that -- can I just interject something?

8 BZA CHAIR HILL: Sure.

9 ZC CHAIRPERSON HOOD: I kind of go along with your
10 lines; I don't see any structure in this case. I hear what
11 she's saying which actually is just -- the young lady's
12 testimony just gave me real pause -- this is just not what
13 I'm used to seeing; there's no structure here; running us
14 through a day, this stuff needs to be memorialized, it needs
15 to be written, and I don't see it. I see a blank weekly
16 accountability sheet. I just don't hear the structure of
17 something in this community for a semi-detached. And also
18 I don't understand -- I need to know how it's going to work,
19 especially a semi-detached dwelling like this as far as
20 adverse impacts. What she says is we get it before the
21 committee, that brings me great pause and cause moving
22 forward with this case because I don't see the structure for
23 us to even deal with this. That's just where I am on this.

24 MEMBER HART: Mr. Chairman, there is in Exhibit
25 40 a Statement of Program Expectations which is titled

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1 "Beyond Light, Inc." "Beyond Male" Operational Function and
2 Security Supervised Transitional Housing, 4212 Livingston Rd.
3 S.E., and this document does give some detail about how many
4 personnel will be there, which is seven people that are
5 staff. But the staff is not going to be there all the time;
6 there are certain staff that will be there during certain --
7 certain staff will overlap when they're at the facility. But
8 it does not describe -- and I was just a little curious, like
9 how do the -- if the clients that are there need to have
10 jobs, I'm not sure how they get to jobs because they don't
11 have a car, so is there a van that they're going to use to
12 be able to do that, is there some other way or are they just
13 supposed to be taking the bus to get there or taking Metro
14 or something? Again, I'm not exactly sure how that works.
15 There is a description of what the clinical care coordinator
16 does, what the monitors who will be there 24 hours a day will
17 do. There is a little bit of information regarding that, but
18 it is not clear as to -- and I think this is part of the
19 issue, too, is to -- once these individuals, the clients
20 leave the facility, how they're getting to where they're
21 supposed to be going and if there are people that are able
22 to visit them. I think there was some discussion about that
23 before, but I think some of that would be helpful to have --
24 and I think we asked for this in writing kind of how a day
25 would go. This document, Exhibit 40, does give a little bit

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1 of information about the, I think some of the information we
2 requested, but I think there needs to be a little bit more
3 thought to it because it looked like it was kind of pulled
4 out of another report. And so there were kind of excerpts
5 from another report that are interesting but I'm not sure of
6 the relevance to this particular case.

7 ZC CHAIRPERSON HOOD: And my last comment on top
8 of what Vice Chair just mentioned, Mr. Chairman, if we could
9 also -- if you could point me in the direction of the CSOSA
10 document, it may have some of that in it to help me get a
11 comfort level as the Vice Chair mentioned about the -- I
12 think what I saw the general, that exhibit that he just spoke
13 about to me was very general. I'm looking at more
14 specificity, and also I think maybe she did allude to a CSOSA
15 document, so.

16 BZA CHAIR HILL: Okay. Ms. Lathum, just give me
17 one second. Does anybody else have anything else before I
18 turn it back over to the applicant?

19 MEMBER JOHN: Yes, Mr. Chairman. I would like to
20 find out whether there were any discussions with the neighbor
21 who shares the building where the project will be housed?
22 It's semi-detached, and so the neighbor to the left I believe
23 testified at the last time. Have you done any outreach to
24 that neighbor?

25 BZA CHAIR HILL: Okay, so what -- Ms. Lathum or

1 Ms. Fletcher, however you want to respond, there's a bunch
2 of stuff that just got put forward to you. And so what I
3 heard, you heard the comments from Ms. John and Mr. Hart and
4 Chairman Hood, and so however you would like to start to
5 respond to some of those, please go ahead.

6 MS. LATHUM: I'll address, go back to the details
7 about how that CSOSA contract is put together. There's a day
8 structure that has groups throughout the day, but how this
9 particular CSOSA program works there is no one size that fits
10 all because we're helping individuals. Everything that each
11 client does, even before we can send you out to a job or
12 whatever, we have to put a plan together for each client; it
13 has to be pre-approved by CSOSA, then kicked back to us, and
14 then we can say -- because each client is going to a
15 different job, necessarily, so we don't have one plan that
16 fits all, but whatever we plan for that client to do in the
17 course of that, that has to be pre-approved by the CSOSA
18 agency, then it kicks back to us, and then we allow that
19 client to move about in the community. So if they lose their
20 job and that changes, then they have to sit back in our
21 facility, go back, we have groups throughout the day. But
22 because we want most clients to work, our day may fluctuate.
23 But in this CSOSA contract there's a high clinical case
24 management piece, which means we're meeting with these
25 clients every day if whatever they do has to be approved, so

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1 that's why it's not a one size fits all. Staff is on site
2 24/7 and you do meet with your counselor, but that's why
3 everyone's schedule isn't the same is because people's work
4 schedules won't -- everybody won't have a 9 to 5 work
5 schedule. And so some of the clinicians will have early days
6 and sometimes they'll have late days so that they can have
7 an opportunity to meet each of their clients each day because
8 if anything changes in that client's schedule, it has to be
9 pre-approved by CSOSA. So we actually do a lot of
10 documentation back and forth with CSOSA, and that's why when
11 you're looking at that document it doesn't have a one size
12 fits all. Does that make sense?

13 MS. FLETCHER: And just to add to what Ms. Lathum
14 is saying; I think previously you have to understand that
15 this is a work therapy program, so that means it's
16 sanctioned. We're taking the clients who are already
17 employed, right; they're only being sanctioned because they
18 have several sites, and some of their sites the clients are
19 sanctioned for 30 to 60 days, meaning they have no movement
20 at all. In our facility what we created, Beyond Light, was
21 a work therapy program because some of these offenders, is
22 what they call them, are already employed. They're just
23 being sanctioned for a substance abuse issue, hypothetically,
24 or something non-compliant; maybe missed several appointments
25 with their CSO or something to that effect, and so they

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1 sanction them. So in working, sitting down and kind of
2 processing some things, again as Ms. Lathum stated, this is
3 an individual -- all treatment is individualized; no
4 consumer/client has the same treatment plan. They just
5 don't. It's contingent on what issues it is or what the
6 assessment, the outcome is that the clinician who will be
7 working with the client will be addressing doing the one on
8 one, meaning individual sessions. Again, when we talked
9 about -- we're talking about family therapy -- we have
10 another location in northeast as well which is our free-
11 standing mental health clinic, so in some cases we will
12 provide services there. When we talk about things that are
13 associated because the clients, because they've had a
14 positive urinalysis, some of them are married, stable homes;
15 it's just that they struggle with certain things, a lot of
16 things unaddressed, childhood issues they've never been
17 addressed. They've been employed, been on their jobs five,
18 ten years, some work in D.C. government, some work in the
19 Postal Service, federal government jobs. So it's somewhere
20 along the lines their behavior where they may have got a
21 charge for anything that's paraphernalia, so it could be as
22 minute as that is how we view it.

23 So, again, the clients are referred to us; we're
24 only accepting clients who are already employed. So as Ms.
25 Lathum stated, each individual will come to us, they may have

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1 a 6:00 to 3:00 or 7:00 to 3:00 schedule, but they cannot work
2 past a certain time; meaning at a certain time, 5:30, 6
3 o'clock the offenders need to be in the facility.

4 BZA CHAIR HILL: Okay. All right, Ms. Fletcher.
5 So okay, commissioner, you're going to have an opportunity
6 to ask some questions of the presentation that was just
7 given. And Ms. Fletcher -- I'm sorry?

8 MS. FLETCHER: I apologize.

9 BZA CHAIR HILL: You need to turn on the
10 microphone.

11 MS. FLETCHER: Oh, I apologize. I didn't answer
12 Ms. John's question; you was asking me about any
13 communication. No, ma'am, I haven't had any communication
14 with the neighbor next door. I'm in the process of getting
15 ready to bury my 28-year-old niece who was found unresponsive
16 in a club here in the District, so my plate has been full,
17 and as you see running several programs. And again, let me
18 refer back to D.C. Housing; we provide services with D.C.
19 Housing, affordable housing in the city. As you know, in
20 D.C. the changes occur. We do that pro bono. So D.C.
21 Housing is fighting as well to try to maintain affordable
22 housing in the District. We provide services and mental
23 services, counseling, therapy, whatever their needs are to
24 assist those residents so they can try to maintain the
25 affordable housing, the vouchers, et cetera. We don't get

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1 paid for that. So I just wanted to add that record to you,
2 and no I have not. Because again, it was chaotic, it's all
3 over the place, I don't feel like reoccurrence of all of
4 that. And so it is where it is and that's fine. Because
5 again, as I stated earlier, she was very much open to it in
6 the very beginning when a male was present on a daily basis;
7 it changed when he was shifted to another responsibility.
8 And so my mother doesn't come to the property because she's
9 approached, harassed about what it was my brother's behavior
10 was prior to approval.

11 BZA CHAIR HILL: Okay, Ms. Fletcher. I'm really
12 sorry about your niece. And so -- and again, what I know
13 that the board was asking last time, we all were here last
14 time, and so we know the community in terms of what their
15 impressions are. And again, for me, I was just kind of going
16 back to X901 where I'm just trying to, again, understand will
17 not tend to adversely affect the use of neighboring property
18 in accordance with the zoning regulations and the zoning
19 maps. And I was looking for just kind of evidence to the
20 record as to how everything was going to be put together, so
21 we'll see how we go from there.

22 Commissioner Jordan, so do you have any questions
23 of the testimony that was just given? I'm just talking about
24 the testimony that was just given because after that you're
25 going to have 15 minutes of your own to present.

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1 MR. JORDAN: The first thing I want to note,
2 though, is she's amended her burden of proof three times
3 since the last hearing that you had. So I don't want to just
4 restrict it to what she testified against. And I'm going to
5 be honest, I'm not very clear in terms of what she's
6 testifying to. But I would like to -- I have some questions
7 I'd like to see if we can pursue those because they get to
8 the substance of the issue.

9 BZA CHAIR HILL: Okay. I think, Commissioner
10 Jordan, we are very clear as to how the community feels about
11 this and we're trying to -- well, what happened last time,
12 again, as I've repeated now to Ms. Fletcher a few times, is
13 some kind of things into the record that provided how the
14 facility was going to run in order so it wasn't going to
15 adversely affect the neighborhood, right. And so you can go
16 ahead and ask questions as you like and we'll just see where
17 we go, I guess.

18 MR. JORDAN: Thank you, Mr. Chair. The first
19 thing I'd like to know is a procedural question; that is we
20 submitted this past Monday a letter which included three
21 exhibits, and I wanted to know if they have been made a part
22 of the record? The exhibit is the Zoning Handbook, that's
23 Exhibit 1; Exhibit 2 is a opinion from the office of the
24 Attorney General concerning notification to ANCs by the
25 Office of Planning; and the third exhibit is like six or

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1 seven photographs of the yard, the area around the house
2 showing the trash and the unkempt nature and everything;
3 these photographs were taken on October the 6th.

4 BZA CHAIR HILL: Okay.

5 MR. JORDAN: I brought them in on Monday, they
6 were stamped in then, so I wanted to know --

7 BZA CHAIR HILL: Okay, commissioner. Let me --
8 why don't you go ahead and start asking your questions and
9 I'll look into those items in terms of what you're speaking
10 to.

11 MR. JORDAN: Okay, this is for Ms. Langley; Title
12 11, Subtitle Y, Section 301.11 provides that no applicant
13 shall be accepted unless they're prompted by a Certificate
14 of Service demonstrating that a copy of the application and
15 all the accompanying documents have been served upon the
16 affected ANC. Ms. Langley, can you turn to Exhibit 10 of
17 your submission?

18 MS. FLETCHER: I don't have that document before
19 me, Commissioner Jordan.

20 MR. JORDAN: Okay.

21 MS. FLETCHER: I don't want to sit here and go
22 back and forth with you on this, and the reason being is --
23 okay.

24 BZA CHAIR HILL: That's good. Just one second.
25 Your question, commissioner, was -- again, what was your

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1 question?

2 MR. JORDAN: The question is that the regulation
3 requires that she provide a Certificate of Service. I'm
4 speaking verbatim.

5 BZA CHAIR HILL: To the ANC?

6 MR. JORDAN: To the ANC.

7 BZA CHAIR HILL: Okay.

8 MR. JORDAN: And I'm trying to find out if she has
9 evidence in the record that she submitted a certificate that
10 she served the ANC and it's documented by showing that she
11 has a Certificate of Service.

12 BZA CHAIR HILL: Okay, give me one second. So
13 Ms. Fletcher, so the question is did you submit the
14 certificate to the ANC?

15 MS. FLETCHER: I've contacted the ANC board --

16 BZA CHAIR HILL: One second. That's all right,
17 that's all right.

18 MS. FLETCHER: Wait a minute; let me talk.

19 BZA CHAIR HILL: No, I'm not -- I'm not -- hold
20 on -- give me one second -- give me one second. I'm not, not
21 letting you talk; I'm just going to let Commissioner Jordan
22 now and I want you to finish your statement.

23 MS. FLETCHER: The answer is no.

24 BZA CHAIR HILL: Okay, so your next question,
25 commissioner.

1 MR. JORDAN: Okay, the next one is that in your
2 letter the question -- of Exhibit 10 -- there's no address
3 on it, there's no date on it -- the question is, though, in
4 the letter you state that you merely are making a request for
5 a hearing with the ANC board; am I correct?

6 MS. FLETCHER: Again, Commissioner Jordan, we've
7 been contacting you since 2017. You just recently responded
8 to us and it was cynical in nature. Again, our question --
9 I mean, my response to you was we were sending information
10 to our unmonitored; we didn't know whether or not the email
11 was monitored or unmonitored. No one ever responded. You
12 asked me about the AD03 email along with your email that you
13 presented to me. I have all the documentations here --

14 BZA CHAIR HILL: Okay, that's right. So I'm just
15 trying to get -- I'm just trying to get a yes or no.

16 MS. FLETCHER: And so, you know, you just recently
17 --

18 BZA CHAIR HILL: Ms. Fletcher -- I mean, I just
19 want to let you guys know we're just trying to get through
20 this, and I'm just trying to get through this, and then we're
21 going to deliberate, right, and we're going to decide what
22 happens, okay. And so what I hear you saying, Commissioner
23 -- and I want to get to your presentation actually in a
24 minute -- I mean, we want to hear from the ANC -- so these
25 questions seem to be that the applicant hasn't filled out the

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1 proper paperwork or done the proper steps necessary to even
2 be at this position is what your questions are about,
3 correct?

4 MR. JORDAN: Let me just say there are two things,
5 aspects of this; first is in terms of the application itself
6 is defective, but we don't want the board to reach a decision
7 based on the application being defective; we want the board
8 to reach their decision based on the merit.

9 BZA CHAIR HILL: Okay.

10 MR. JORDAN: Okay, so there are these questions
11 about the application and whether it was done properly, but
12 there are also questions there, substantive issues that need
13 to be addressed. If I cannot -- I want to ask her questions
14 that can be answered yes or no. And so --

15 BZA CHAIR HILL: That's okay. Commissioner, how
16 about we do this; can you go ahead and give your presentation
17 about the 15 minutes, because we'd just like to hear from
18 you, and then everybody gets -- they're going to have an
19 opportunity to question you, too, so we can just go back with
20 questions.

21 MR. JORDAN: My problem with that is that I can
22 raise the issues, but I wanted to cross-examine her because
23 I want the record to reflect that certain things have or have
24 not been done.

25 BZA CHAIR HILL: Okay. As far as -- you can go

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1 ahead and ask those questions and I'll -- and Ms. Fletcher
2 can answer them -- I think that you're going to know the
3 answer to some of those questions, but if the application is
4 here before us, then their part of the application has been
5 done to the level that it's before us. So I'd have to -- but
6 go ahead and continue to ask your question.

7 MR. JORDAN: The question is Exhibit 50, the
8 burden of proof, that you've just recently submitted it says
9 the ANC did not submit a written report; is that correct, yes
10 or no?

11 MS. FLETCHER: Correct.

12 BZA CHAIR HILL: You need to speak in the mic.

13 MS. FLETCHER: I'm sorry, correct. You know that
14 you didn't respond.

15 BZA CHAIR HILL: Now, excuse me; again, we're just
16 trying to get to -- so that was correct. Mr. Jordan?

17 MR. JORDAN: Are you aware that Exhibit 35 in this
18 case is the ANC report?

19 MS. FLETCHER: You never sent us the ANC report.

20 BZA CHAIR HILL: Okay, so that'd be no. Okay.

21 MR. JORDAN: The Section 300.8(f) of the above
22 reference, regulations require that you submit three color
23 images which shows pertinent features of the structure or
24 property involved in reviewing your application; you
25 submitted two pictures and both of them were the front of the

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1 property. Why didn't you submit the pictures of the side and
2 the rear of the property?

3 MS. FLETCHER: Well, that was the only thing that
4 was requested that we do was submit just what it was that we
5 submitted.

6 BZA CHAIR HILL: Ms. Fletcher, requested by whom?
7 The photographs were requested to be submitted by
8 who?

9 MS. FLETCHER: No, it wasn't requested; it was a
10 part of the application process.

11 BZA CHAIR HILL: Okay.

12 MS. FLETCHER: And when I asked about what areas
13 needed to be photographed, that's what was stated to us.

14 BZA CHAIR HILL: All right, commissioner, so
15 that's the answer.

16 MR. JORDAN: Ms. Langley, X901.3 of the rules
17 requires that you demonstrate through evidence your exception
18 will not have an adverse impact on the community. What
19 evidence have you provided that the male transitional home
20 will not have an adverse impact on the community?

21 BZA CHAIR HILL: Okay. Mr. Commissioner, I'm
22 going to answer that one. All the stuff that they submitted,
23 that's what they submitted to say that it's not going to be
24 an adverse impact on the community.

25 MR. JORDAN: But I'm saying the regulations --

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1 BZA CHAIR HILL: I'm looking at the regulations,
2 too.

3 MR. JORDAN: Okay. I'm saying there's no
4 specificity when you say all that they've submitted. I've
5 reviewed the records --

6 BZA CHAIR HILL: Commissioner Jordan, I agree, but
7 that's what they've submitted and that's what we're going to
8 have to do is decide whether or not they've met the criteria.

9 MR. JORDAN: Okay. Ms. Langley, will the men in
10 your program be ex-offenders who have committed violent
11 crimes?

12 MS. LATHUM: It won't be people who are a problem
13 in the community; it will be people who have gotten past a
14 certain clear --

15 BZA CHAIR HILL: Okay, I'm going to stop these
16 questions. So Commissioner, we're just trying to understand
17 -- we're trying to get information so that we can make a
18 decision, okay?

19 MR. JORDAN: But that's what I'm trying to help
20 you do.

21 BZA CHAIR HILL: No, believe me; we've been
22 through this now a lot and the record is pretty full. I
23 don't know the way this is going right now, but we definitely
24 want to hear from you, so I'm going to put 15 minutes on the
25 clock, okay, and you can go ahead and present. I see there's

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1 some people here in the audience that we might be hearing
2 from them as well, okay? So --

3 MR. JORDAN: Mr. Chairman, I just want to note
4 that I thought that I'd have the opportunity to cross-examine
5 her based on what she presented and based on what's in the
6 record, and we're not being allowed to do that. And even
7 though I might present my case at this point or our position
8 -- part of it will be strengthened, will be held up by the
9 fact that we are able to establish on the record some things
10 that she has to do, but let me just go ahead and deal with
11 this; first of all, there's some problems with respect to the
12 application itself; procedurally she hasn't done the things
13 that the applications require. And so the Certificate of
14 Service, that is a requirement and that would be a legal
15 document, either something from the Post Office or some
16 organization that says we serve this upon the ANC; that's not
17 a part of the record. The next thing is that there was a
18 requirement that there be three color photographs; what she
19 submitted is two photographs and both of them are of the same
20 -- the front of the building. We've submitted photographs
21 which show the building at its current state where there's
22 trash and what-have-you strewn all over the place. And so
23 when we're talking about the kind of relationship she will
24 have with the community, that's indicative of it there.

25 The rules require that she demonstrate through

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1 evidence and specific evidence, we see nothing in the record,
2 that where she points to the fact that she says this will not
3 have an adverse impact. Again, we've raised the question
4 about whether or not they're going to be ex-offenders,
5 whether or not they'll be people there who are rapists or
6 child molesters or what have you. The District of Columbia
7 has a 50 percent recidivism rate, a 50 percent recidivism
8 rate, so we have not been given any assurance, by Ms. Langley
9 or anybody else in testimony or anything that these people
10 won't be ex-offenders, won't offend again. Ms. Fletcher
11 states that in the burden of proof that she's going to have
12 seven staff members at the facility, and she says, the
13 statement is that they will be driving to work. So one of
14 the things that we note is that in the original filing,
15 Exhibit 11, she noted that she had a letter, a memo from the
16 Department of Transportation which indicated that her
17 facility would be all right if she had parking in the rear
18 and that they improved the alley. Subsequently, that's been
19 removed from the record and in her most recent submission,
20 Exhibit 50, she says that as a matter of right, R1-A Zoning,
21 she has a matter of right for parking. The parking, zoning
22 manual, Zoning Handbook lists the requirements for a
23 community-based facility and it says that there's to be one
24 parking space for every 1,000 square feet. There's nothing
25 that she's shown us in any place where she's going to have

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1 parking for those staff members; that's one of the questions
2 I wanted to ask her, is where these seven staff members are
3 going to park.

4 Now let's get into the Office of Planning because
5 the Office of Planning notes, I haven't seen them, I checked
6 the record yesterday. I don't see any new report from the
7 Office of Planning, outside of the one from July 6th. The
8 Office of Planning -- we want to ask Office of Planning,
9 cross-examine them, too, on this issue -- but the Office of
10 Planning notes that we had not submitted anything to the
11 record, and that's not correct. So if the Office of Planning
12 is going to change its opinion or change viewpoints in terms
13 of the memorandum, then we want to find out what it is. I
14 looked at the record as I said yesterday, last night really,
15 and we don't see any new report from the Office of Planning
16 regarding this particular one. Also, I note that in our
17 submission that we provided you on Monday, the Office of the
18 Attorney General says that the Office of Planning has to
19 provide notice to ANCs about decisions it's going to make or
20 take that resulting of an action before the Board of Zoning
21 Adjustment or before zoning. We have never gotten anything
22 from the Office of Planning prior to them making a
23 determination which notified, gave us 30 days notice and gave
24 us an opportunity to respond to their concerns. The other
25 thing I would note is that the regulations the Zoning

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1 Handbook is clear and the Office of Planning says that
2 because -- I don't have if they have a new report/memorandum,
3 I don't have that before us, it's not available at this
4 particular point in time -- but they said that there's no
5 problem with the parking situation, that they cite in their
6 report that the people, the clients will not be able to drive
7 to the facility, so that's their basis for saying there's no
8 DDOT requirement to review it. So the question is that there
9 is a requirement, that they have one parking space per 1,000
10 square feet, and that's not being considered. So based on
11 the fact that the ANC feels because of the community's
12 position on this and that it will have an adverse impact,
13 there's nothing in the record that assures that clients will
14 be in the program, won't continue to do the things that have
15 led them to the point where they're in, been incarcerated,
16 that because of the parking situation where there are going
17 to be seven employees who will be driving to work, that's
18 their statement, seven employees who will be driving to work,
19 using their cars to come to work, we believe that it will
20 have an adverse impact on the community. Some of this, I
21 think -- some of our concerns will be in some ways
22 ingratiated or enhanced by the fact that we're able to ask
23 cross-examination and obtain from the Office of Planning and
24 the applicant information which shows that they have not
25 provided the kind of assurances that will show that this will

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1 not have an adverse -- by the way, the regulation is clear;
2 the applicant has an affirmative duty to show that it will
3 not have an adverse impact. We don't have to come and show
4 that it will have an impact; they're supposed to submit
5 evidence. They have an affirmative duty to show -- if we
6 want we can cite the specific section, but I know you're
7 aware of that -- says that they're supposed to provide
8 evidence that it will not have an adverse impact on the
9 community. And at this point the record is clear they
10 haven't done it.

11 BZA CHAIR HILL: Okay. Commissioner, thank you
12 very much. Again, what I was trying to just kind of
13 understand was since the last time you were here -- hearing
14 the presentation and what you guys were talking about --
15 again, so now that you did that, if there are any further
16 questions that you'd like to ask of the applicant from their
17 testimony, please go ahead.

18 MR. JORDAN: Well, I'd like to do one, based on
19 the burden of proof that she just submitted, Exhibit 50;
20 that's the most recent document.

21 BZA CHAIR HILL: Okay. What's your question,
22 Commissioner?

23 MR. JORDAN: Okay. Ms. Fletcher, you stated that
24 in one of your burden of proof documents in a recent email
25 to me that you are not required to provide parking for the

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1 program; is that correct?

2 MS. FLETCHER: Well, remember Commissioner Jordan,
3 that across the street from the property sits a public park.
4 It's a public park, so you know, I know that there's cars
5 from Maryland, Virginia, and several other jurisdictions.
6 So the answer to your question is, yes I'm the home owner,
7 so to obtain if I just need it, but I mean in walking and
8 canvassing the area I don't see where anyone has a parking
9 permit to park in front of the facility. So we're not there
10 to overwhelm the community or to bring in an overflow as it
11 relates to parking.

12 BZA CHAIR HILL: Ms. Fletcher, I'm sorry, I'm just
13 trying now to understand; so Commissioner, again, your
14 question was --

15 MR. JORDAN: If you answered yes or no the
16 question --

17 BZA CHAIR HILL: What was the question?

18 MR. JORDAN: The question is in a most recent
19 document she's saying that she's not required to provide
20 parking.

21 BZA CHAIR HILL: Right.

22 MR. JORDAN: Now, if you go to --

23 BZA CHAIR HILL: I'm sorry; just get a yes or no
24 so I can get an answer from her. So the question is, is she
25 aware she needs to provide parking?

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1 MR. JORDAN: No, the question is she stated that
2 she doesn't have to -- I'm trying to get her to state that
3 her position is that she does not have to provide parking.

4 BZA CHAIR HILL: Okay. Ms. Fletcher, do you not
5 have to provide parking?

6 MS. FLETCHER: It's a public area, sir. No, we
7 don't have to provide parking.

8 BZA CHAIR HILL: Okay.

9 MS. FLETCHER: I mean, it's across the street from
10 the park.

11 BZA CHAIR HILL: Okay. Commissioner Jordan?

12 MR. JORDAN: Okay. In your operational function
13 the security document you note that on the fourth page of the
14 document there will be seven staff persons, all of whom will
15 drive to work, correct?

16 BZA CHAIR HILL: Ms. Fletcher, the commissioner
17 would like to know if the seven people that are going to be
18 there if they're all going to drive to work?

19 MS. FLETCHER: Correct.

20 BZA CHAIR HILL: Okay.

21 MR. JORDAN: Okay.

22 MS. FLETCHER: Well, we can't --

23 BZA CHAIR HILL: That's okay.

24 MS. FLETCHER: Yes, okay.

25 ZC CHAIRPERSON HOOD: Ms. Fletcher, are you

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1 familiar with the DDOT report under public space?

2 MS. FLETCHER: Well, yes. We've spoken to DDOT
3 and DDOT stated that we didn't need any type of report. It's
4 a public area.

5 ZC CHAIRPERSON HOOD: Okay, I would encourage you
6 to read the public space part of it.

7 MS. FLETCHER: I have read -- we had conversations
8 with DDOT.

9 ZC CHAIRPERSON HOOD: Okay, I understand that, but
10 did you read the public space part of the DDOT report?

11 MS. FLETCHER: Uh --

12 ZC CHAIRPERSON HOOD: Okay, I would encourage you
13 to just look at that last part.

14 MS. FLETCHER: Okay.

15 ZC CHAIRPERSON HOOD: Okay, thank you.

16 MR. JORDAN: That's part of the problem; we
17 requested from her because she says she has a document from
18 DDOT which says that she meets their requirements, provided
19 that she had improved the alley -- well, I can read this
20 verbatim if you want. It's on her Document 11 where she says
21 --

22 MEMBER HART: Document 11 was the burden of proof
23 which was superseded by another document.

24 MR. JORDAN: Okay. Well, I'm just saying that in
25 her initial burden of proof she stated that DDOT provided her

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1 with a letter saying that she did not have to -- I mean, if
2 she met the requirements that all they had to do was improve
3 the alley and they could park in the rear -- I'm paraphrasing
4 it now, the other property -- I have never seen the DDOT
5 report; in fact that's one of the questions we want to ask
6 of the Office of Planning because as I understand it the
7 Zoning Handbook I think would require that. And in the last
8 report from Office of Planning they don't have any reference
9 at all of any document coming from the Department of
10 Transportation.

11 MEMBER HART: Okay. Mr. Jordan, it looks like the
12 document that you're speaking of which is the original burden
13 of proof, Exhibit 11, has a paragraph that talks about
14 something that it doesn't seem like it's applicable to this.
15 I think they may have taken it from a different document.
16 I'm not saying that they did; I'm just saying that it's
17 talking about a DDOT report that was from 2007 and so that
18 doesn't seem like it would be -- it seems like it would still
19 be out of place. I understand your point; the point is that
20 it's in an official document that's part of the record. I
21 get that, but this document was superseded by another
22 document, so I don't think that that issue is necessarily one
23 that is germane, but the issue about whether or not there is
24 adequate parking, at least the DDOT report that we have on
25 record which is Exhibit 33 is a page long and it talks about

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1 what the application was, what the recommendation is. And
2 then as Chairman Hood just stated, there's a paragraph about
3 public space in that this, while DDOT is saying that the
4 proposed action will have no adverse impacts on the travel
5 conditions of the District transportation network, the review
6 that they're talking about only pertains to, and I quote,
7 "only pertains to zoning issues and does not consider
8 potential impacts to District-owned public space." So it's
9 kind of saying we're talking about this particular aspect,
10 we're not talking about things that are outside of this. So
11 whether or not there's parking at this, parking along where
12 the park is, that's not part of what they're saying is okay;
13 they're just saying that this case taken unto itself, they
14 didn't have a particular issue with that. But there may be
15 some other things outside of zoning that are impacted and
16 they're not including that in their recommendation.

17 MR. JORDAN: Okay. Well, I didn't have access to
18 that and I've gone through --

19 MEMBER HART: Exhibit 33 is the DDOT report. It
20 came in right after -- well, at least the report that comes
21 right after the OP report, and you're correct that the OP
22 report stated that there are no other -- which is Exhibit 32
23 -- states that there are no other District agencies that had
24 filed a report at that point. DDOT hadn't actually filed a
25 report yet, so the Office of Planning couldn't incorporate

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1 that into their report.

2 MR. JORDAN: The question I'm posing is not only
3 did the Office of Planning -- did the Office of Planning
4 attempt to contact other District government agencies, and
5 that is ANC's or DDOT before they prepared their report?
6 These are issues that are germane to what we're talking about
7 in terms of DDOT requirements, and we know what your handbook
8 says about one parking space every 1,000 square feet. So the
9 question is who did the Office of Planning reach out to, to
10 help them in determining what they were going to recommend
11 for the Board of Zoning Adjustment.

12 BZA CHAIR HILL: Okay, so we can get to the Office
13 of Planning as well. Yes, Chairman Hood?

14 ZC CHAIRPERSON HOOD: Let me ask Commissioner
15 Jordan a question. Where is it in your -- we have your
16 submissions now -- show me where the Attorney General talks
17 about that.

18 MR. JORDAN: It's Exhibit 2.

19 ZC CHAIRPERSON HOOD: Exhibit 2.

20 MR. JORDAN: Yes, sir. And if you look at it --
21 I'm familiar with it because I'm the one that asks for this,
22 to rule on this -- but if you go back to Page 3, and it says
23 down at the bottom, first of all in the paragraph up above
24 second letter March 2nd, it says as a result of the
25 features, we conclude Office of Planning is not exempt from

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1 providing a special 30-day notice affecting ANC's, where the
2 actions will affect ANC in a significant manner.

3 ZC CHAIRPERSON HOOD: That's ANC law and that was
4 the Attorney General's interpretation or --?

5 MR. JORDAN: Yes, sir. And then going down
6 further at the footnote, No. 4, with regard to your question
7 whether special notice is required prior to the formation of
8 a final policy decision, where the Office of Planning
9 presents a decision to the zoning agencies, we do not have
10 enough information to give a definitive answer. Again, the
11 answer will depend upon significance of the proposed action
12 to the affected commission which significance might be
13 indicated if the zoning agency was required to hold a public
14 hearing or otherwise open up the process to public
15 participation prior to taking action. That's precisely what
16 is happening here.

17 ZC CHAIRPERSON HOOD: Okay, I appreciate that
18 information. I knew that it was required in the Office of
19 Zoning; I didn't know it was Office of Planning. I will
20 further investigate that. Thank you, Mr. Chairman.

21 BZA CHAIR HILL: Thank you. Commissioner, just
22 give me a second. Does the applicant have a copy of this one
23 by any chance?

24 MR. JORDAN: Of what?

25 BZA CHAIR HILL: Of your latest submission?

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1 MR. JORDAN: I don't know. I submitted it.

2 BZA CHAIR HILL: Okay. Can we get a copy to the
3 applicant? Can the applicant come and get a copy from the
4 secretary?

5 So what I'd like to do is there's a significant
6 amount of information, and so I want to take a break and let
7 the board kind of look at what we just got, but are there any
8 more -- so what's going to happen after this -- we'll see if
9 the board has any questions of you, Mr. Commissioner, and
10 then afterwards we'll let the applicant go ahead and have any
11 questions that they have of you from what you just presented.
12 Then we're going to turn to the Office of Planning; the
13 Office of Planning will have an opportunity to ask questions
14 of Office of Planning, you'll have an opportunity, the
15 applicant will also have an opportunity to Office of
16 Planning, then we'll hear from the public, and then we'll --
17 I'm just trying to tell you how I see this playing out -- and
18 again, as you've mentioned several times what we had asked
19 for during the end of the last hearing was, again, specifics
20 as to how this was going to be run, so that there wouldn't
21 be an adverse impact to the neighborhood. And as you've
22 noted already, and I'm just saying for the applicant just so
23 everybody knows where I am currently; there hasn't been a lot
24 of specifics, okay; there's been a lot of different things
25 and reports in different places, okay. So I'm going to go

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1 through that with the applicant as well. I'm just telling
2 you where I am, right. So do you have any other questions
3 from the applicant -- I'm sorry; for the applicant based upon
4 their testimony?

5 MR. JORDAN: No, I tried to raise the question
6 about, I just want to know if there's any assurance -- one
7 question; Ms. Langley, what level of assurance can you
8 provide that none of your clients will engage in criminal
9 activities while in the program?

10 BZA CHAIR HILL: Mr. Commissioner, it's Lathum --
11 is it Ms. Lathum?

12 MR. JORDAN: Langley. Her name is Fletcher
13 Langley.

14 BZA CHAIR HILL: Oh, I'm sorry; Ms. Fletcher.
15 Okay, so the question, again, was how do they know that
16 criminal activity won't take place?

17 MR. JORDAN: What I'm saying is they're talking
18 about bringing in a home in a community where they're going
19 to be --

20 BZA CHAIR HILL: Okay, I understand.

21 MR. JORDAN: -- ex-offenders and there are going
22 to be people who refer to them by, for a drug treatment. So
23 the question is that given that they have an affirmative duty
24 to show that it won't have an adverse impact, the question
25 is can they assure us that these people will not be engaged

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1 in activities that will create an adverse impact on the
2 community?

3 BZA CHAIR HILL: Okay, go ahead Ms. Lathum.

4 MS. LATHUM: Thank you. As you know, we can't
5 ensure what someone else can do, but we want to partner with
6 the community so that we can monitor behavior. And when we
7 help people focus on doing what's right, as soon as you step
8 out of line in doing what's wrong, it is noted. And that's
9 what we can assure you that what will happen is we're going
10 to be on top of the clients on what they're doing, but we
11 can't assure you that someone won't do something.

12 BZA CHAIR HILL: Okay.

13 MS. LATHUM: But I don't see where, at least for
14 the neighbors on that lot, because if we're all connected
15 and working together and paying attention, I'm going to get
16 feedback, you're going to give me feedback from the community
17 long before I even look at it.

18 BZA CHAIR HILL: Okay. All right. Does anybody
19 have -- I'm sorry?

20 MS. FLETCHER: Can I just add something?

21 BZA CHAIR HILL: Go ahead, sure.

22 MS. FLETCHER: And again, Commissioner Jordan, I
23 didn't send it to the board here, but you also was forwarded
24 the entire copy of the Supervised Transitional Handbook.

25 BZA CHAIR HILL: Okay, so we're back to that. So

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1 does the board have any -- because we're going to take a
2 break and read some of this -- well, maybe we should read it
3 first and then come back and have any questions for the
4 Commissioner.

5 Sure, go ahead Ms. White.

6 MEMBER WHITE: Just to follow up on what the
7 commissioner said, I just want to make the question a little
8 bit more specific; what processes do you have in place to
9 monitor the client's behavior to provide some kind of
10 protective mechanism for the neighborhood and for your
11 workers that are working for Beyond Light?

12 MS. FLETCHER: Again, we're a work therapy
13 transitional program. Again, the clients has to be employed
14 prior to entering into our program, so what we have is a
15 structured day, structured day, structured week; meaning that
16 the clients work, they return to the facilities. Again, I
17 think previously I already explained that we're in
18 partnership with Monumental Sports, so we receive tickets to
19 all their sports, Redskins, Ravens, Wizards. So that will
20 be a part, too, of activities, and then also we have
21 identified other community resources such as NA and AA
22 meetings. So there's two, probably ten minutes from the
23 facility; one is at a church that's located on 7th Avenue,
24 the other one is located on Ainger Place S.E. and it's called
25 "Convicts Do Recover." So that's the name of that. The

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1 other one is at a church, and so there are two, they still
2 have other activities throughout the week. Of course they're
3 being encouraged to also engage into those, because part of
4 this, again, is therapeutic, so it's always about increasing
5 social functioning, and so we're kind of empowering clients
6 into a process. We don't want to say "offenders" because we
7 use different names, languages according to the population
8 that we're servicing, and in this case they're called
9 "offenders." And so a lot of that, too, is working with them
10 on money management because it's only a 90-day work therapy
11 program, so there are certain things structural that they
12 have to be in compliance with.

13 And so once those things are met, the monitors
14 will escort the clients to their NAA meetings. We do have
15 transportation that will pick them up from each facility to
16 make sure they're attending the meetings, which is also a
17 part of their plan with their probation or parole officer.
18 So certain things -- and then too, they have supervision
19 there as well they have to actually comply with. And so, and
20 as I stated, we have a free-standing mental health clinic
21 where we too will be providing family therapy; that means
22 with their children, their wives, significant others or
23 whoever it is that they identified that they would like to
24 engage in.

25 MEMBER WHITE: Thank you. When you come back

1 we'll look at some of the pictures the commissioner provided
2 and I just want you to address that after the break.

3 MS. FLETCHER: Okay.

4 BZA CHAIR HILL: Okay. So with that we're going
5 to go ahead and take a break and allow the board time to
6 digest some of this information and then you can also take
7 a look at the information that's been provided to you guys
8 as well. And then we'll come back to Commissioner Jordan and
9 the questions. Thank you.

10 (Whereupon, the above-entitled matter went off the
11 record at 10:59 a.m. and resumed at 11:12 a.m.)

12 BZA CHAIR HILL: All right. Let's get started
13 again. All right. Mr. Jordan, we're back with you.

14 MR. JORDAN: Yes sir.

15 BZA CHAIR HILL: All right. So does the Board
16 have any questions of the Commissioner?

17 MEMBER HART: Just one, Commissioner Jordan. The
18 Exhibit 1 that you had which is the zoning handbook, you just
19 took that from the zoning website. And that was the most
20 recent version of it, correct?

21 MR. JORDAN: Yes sir.

22 MEMBER HART: Okay. That's it. Thank you.

23 BZA CHAIR HILL: Okay. Let's see. Yes. So Ms.
24 Fletcher or Ms. Lathum, based upon the testimony that was
25 given, meaning just we spoke about today or what Commissioner

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1 Jordan just spoke about, do you have any questions for Mr.
2 Jordan based upon his testimony?

3 MS. LATHUM: Yes, I really was concerned about the
4 last question you asked me in terms of giving you a level of
5 assurance that someone won't commit a crime.

6 BZA CHAIR HILL: What's your question?

7 MS. LATHUM: So my question to you is, have you
8 ever been in a situation where someone could assure you that
9 someone else wouldn't commit a crime?

10 BZA CHAIR HILL: Have you ever been in a situation
11 -- so you're asking -- what I think you're asking is -- well,
12 actually, I don't know. Go ahead and ask it again.

13 MS. LATHUM: Okay. The last question you asked
14 me was could our program give you a level of assurance that
15 someone --

16 BZA CHAIR HILL: So you're asking him what kind
17 of level of assurance could he give you?

18 MS. LATHUM: Right. Have you ever done anything
19 where you could assure that someone else would not commit a
20 crime?

21 MR. JORDAN: I've never been involved in programs
22 where we are responsible for clients in a sense. I've run
23 programs in Ward 8, but they dealt with housing and other
24 things. But I've never run programs or been affiliated with
25 programs in Ward 8 or anyplace else in the city that deal

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1 with clients who are ex-offenders. So I haven't had that
2 experience.

3 BZA CHAIR HILL: So the answer to Ms. Lathum is
4 no? Okay. Next question.

5 MS. LATHUM: That is it.

6 BZA CHAIR HILL: Okay. All right. So I'm going
7 to turn to the Office of Planning. Mr. Mordfin, if you
8 wouldn't mind just going over your report again. I know you
9 testified the last time, but if you could do so again.

10 MR. MORDFIN: Good morning. I'm Stephen Mordfin
11 with the Office of Planning. And the Office of Planning had
12 recommended approval of this application subject to four
13 conditions. And our analysis was based on the criteria
14 contained in the zoning regulations under Section 320.1 which
15 indicates that the use shall not house more than 15 persons.
16 In this case, the applicant -- application said no more than
17 10 -- or 8 to 10 applicants would be housed there. There are
18 no other applicable criteria that apply to this case for this
19 application.

20 For the standard special exception criteria, there
21 also is the proposal in harmony with the general purpose and
22 intent of the zoning regulations. And OP found that it would
23 be in harmony with it. Its use is permitted as special
24 exception. It would be for a short-term residence or a
25 short-term residential facility with no more than 10 clients

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1 at a time in a residential zone that includes a mixture of
2 housing types, including apartments of low-rise apartment
3 buildings.

4 And also, it would appear to tend to adversely
5 affect the use of neighboring property. In this case,
6 there's no construction proposed. The structure from the
7 exterior would remain the same. There are controls that the
8 applicant had put in her application that would control the
9 use of the property and that we had added as four conditions
10 of approval that we got from the applicant.

11 One, that no more than ten clients shall be housed
12 on the property at any one time and for no longer than 90
13 days.

14 Two, that clients shall be monitored daily and not
15 permitted to loiter within the neighborhood or play loud
16 music.

17 Three, the facility shall be monitored 24 hours
18 a day, seven days a week.

19 And four, clients shall not be permitted to drive.

20 And that is the recommendation that the Office of
21 Planning had made to the Board.

22 BZA CHAIR HILL: Okay. All right. Thanks, Mr.
23 Mordfin. Does the Board have any questions for the Office
24 of Planning?

25 MEMBER HART: Yes, Mr. Chairman. Mr. Mordfin, the

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1 ANC brought up a concern about the parking requirements for
2 a community-based institutional facility. And could you talk
3 to us a bit about why you didn't think that this handbook or
4 these regulations wouldn't be -- or requirements wouldn't be
5 applicable here? And I understand that DDOT would be
6 typically the one that would be looking at something like
7 this. But DDOT is not here, so I'm asking the Office of
8 Planning.

9 MR. MORDFIN: Actually, the Zoning Administrator's
10 office provided the applicant with a letter as to what type
11 of relief she would need. DDOT may comment on parking and
12 traffic flow and stuff like that. But whether or not parking
13 is required is determined by the Zoning Administrator's
14 office. And the letter that's Exhibit No. 4 that's dated
15 March 26, 2018 indicates that the only relief the applicant
16 would need for this would be a special exception to convert
17 a single-family dwelling into a community-based institutional
18 facility.

19 Now, the parking requirements for a community-
20 based institutional facility is one per 1,000 square feet.
21 Now, the property that's there now is a pre-1958 structure.
22 So then likely what would happen is DDOT -- I'm sorry -- the
23 Zoning Administrator's office would give it one parking
24 credit because it was built prior to having any parking
25 requirements.

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1 And then the parking requirements, one per 1,000
2 square feet, I don't have the square footage of that house
3 which would be the upper two floors. It wouldn't count the
4 basement. I don't know what it is. It's possible that that
5 house doesn't equal 1,000 square feet in which case there
6 would be no parking required. But I would need more
7 information and also I was also relying on the Zoning
8 Administrator's determination that parking was not required.

9 MEMBER HART: But the DDOT should be also the ones
10 that are -- we were just talking about. They should be the
11 one reporting on that as well?

12 MR. MORDFIN: They likely would report on whether
13 or not traffic flow would be impeded by this use, whether
14 there would be issues with this use there that would impair
15 the function of their facilities. Whether or not any parking
16 is required would come from the Zoning Administrator's office
17 based on their interpretation of the zoning regulations and
18 the use as proposed.

19 MEMBER HART: And thank you. And with regard to
20 your report that stated -- I'm trying to get to it, sorry.
21 Your report stated that the property would appear to tend to
22 affect adversely the use of neighboring property. And I
23 understand that you're saying that there isn't actually
24 construction that is being -- the building is not expanding
25 in size and that the applicants wouldn't drive or loiter and

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1 that they'd be monitored.

2 But I don't know -- and I asked this question
3 about how do people get kind of to and from this facility and
4 how frequently are cars kind of coming to this area? Because
5 of the use is impacting may change that. It seems like there
6 may be some -- I don't know -- some connection to that. I
7 know the clients themselves wouldn't drive, but there are
8 staff that are there. And then there are other people that
9 would be coming there as well. And then people are actually
10 leaving at some point. And so it seems like there may be
11 some impact to the neighborhood versus if it were a single
12 family house.

13 MR. MORDFIN: Well, I agree with you that it's not
14 going to operate the same as if there was a family living
15 there as a one-family dwelling. But the recommendation of
16 the Office of Planning was to what we saw as what would tend
17 to adversely affect. This is only a recommendation. If the
18 Board determines based on the hearing that parking should be
19 provided, that would be up to the Board to determine. The
20 Office of Planning only made a recommendation as to how we
21 saw it under our analysis.

22 MEMBER HART: Thank you.

23 BZA CHAIR HILL: Okay. Of course.

24 MEMBER WHITE: So the one condition that you added
25 in there, Mr. Mordfin, about clients not being permitted to

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1 drive. Why was that incorporated into the report as a
2 condition? And then, two, as part of your report, did you
3 inspect the property?

4 MR. MORDFIN: For the not permitted to drive, that
5 comes from the applicant that none of them would be permitted
6 to drive. And we thought that that would have a positive
7 effect on this use at the property and that it would reduce
8 the number of vehicles coming and going from the property if
9 the clients were not driving to and from. I did not
10 personally inspect this property.

11 MEMBER WHITE: Thank you.

12 MEMBER JOHN: Mr. Mordfin, did you notice that
13 DDOT only based their analysis on eight residents and the
14 report at 33? I don't know if you took that into account?

15 MR. MORDFIN: Did they include in their analysis
16 that there would be only be eight and not --

17 MEMBER JOHN: Yes, their analysis spoke to eight.
18 I believe it's Exhibit 33 in the first paragraph.

19 MR. MORDFIN: Okay. That's their analysis. The
20 application does say eight -- eight to ten. So that is their
21 analysis.

22 MEMBER JOHN: Thank you.

23 BZA CHAIR HILL: Okay. Does the Commissioner have
24 any questions for the Office of Planning?

25 MR. JORDAN: Yes sir.

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1 BZA CHAIR HILL: Please, go ahead.

2 MR. JORDAN: Would you say or characterize the
3 memorandum with recommendations that you have provided to the
4 Board of Zoning Adjustment dated July 6, 2018 in this matter
5 as a decision of the Office of Planning?

6 MR. MORDFIN: The Office of Planning doesn't make
7 decision on zoning cases. The Office of Planning makes
8 recommendations to the Board. Only the Board can make a
9 decision.

10 MR. JORDAN: Okay, okay. Would you say then in
11 reviewing the case and producing the memorandum that the
12 Office of Planning is taking action in this zoning matter
13 that would affect the ANC in a significant manner?

14 MR. MORDFIN: Well, we don't make any decisions.
15 It's a recommendation. I don't understand --

16 MR. JORDAN: I'm saying --

17 MR. MORDFIN: -- what you're trying to get at.

18 MR. JORDAN: -- would you say that in reviewing
19 and producing the memorandum that the Office of Planning is
20 taking action -- your recommendation or however you want it
21 noted -- in that on this zoning matter that will affect the
22 ANC in a significant manner? Will your action have an impact
23 on the ANC in a significant manner?

24 MR. MORDFIN: The purpose of our reports is to
25 make recommendations based on what the application is to

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1 minimize the impact of a special exception use.

2 MR. JORDAN: The question is will it --

3 BZA CHAIR HILL: Commissioner Jordan, go ahead,
4 say your question again.

5 MR. JORDAN: What I'm trying to say is will it
6 have an impact on the ANC, "yes" or "no"?

7 BZA CHAIR HILL: And what they're saying is -- I'm
8 just trying to -- I'm not trying to make it difficult in
9 terms of getting your question answered. The Office of
10 Planning, like, for us, they're a very black and white thing.
11 They make a recommendation to the Board, and then the Board
12 decides. So they actually aren't making a decision.

13 MR. JORDAN: I'm aware of that. What I'm saying,
14 though, in making the decision, I'm asking in their
15 memorandum, they note certain things that would indicate that
16 they're concerned about impact. I'm saying will it have an
17 impact on the ANC?

18 MR. MORDFIN: We review this whether or not it
19 will have an impact or the type of impact that it would have
20 on the property. It's a recommendation. It's an opinion of
21 the Office of Planning.

22 MR. JORDAN: Okay. Did the Office of Planning
23 request comments from any other D.C. agencies? And if so,
24 have you made copies of the comments and made those copies
25 a part of the record?

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1 MR. MORDFIN: I spoke with DDOT about it. I did
2 not receive any comments from DDOT prior to the issuance of
3 the report. That's why the report notes as of the date of
4 the filing, there were no other agency comments. Those
5 agencies then file their comments separately.

6 MR. JORDAN: Okay. You would recognize the
7 Advisory Neighborhood Commission 8D as an agency of the
8 government of the District of Columbia, would you not?

9 MR. MORDFIN: It's not an agency. It's Advisory
10 Neighborhood Commissions.

11 MR. JORDAN: So your answer is, no, it's not part
12 of the District government?

13 MR. MORDFIN: It's a part of the District
14 government. I don't know that it's an agency.

15 MR. JORDAN: At the time of the July 6, 2018
16 report, had the Office of Planning sought to ascertain
17 whether ANC 8D had comments that the Office of Planning would
18 consider in the preparation of the memo to the BZA case?

19 MR. MORDFIN: ANCs are advised of the applications
20 from the Office of Zoning. If they chose to submit comments
21 to the record, they can. They're not required to.

22 MR. JORDAN: The question is, did the Office of
23 Planning, okay, seek any information from the ANC, "yes" or
24 "no"?

25 MR. MORDFIN: The Office of Planning did not

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1 contact the ANC.

2 MR. JORDAN: Okay. Did the Office of Planning
3 submit to ANC 8D proposed recommendations for the
4 Commission's review and comment?

5 MR. MORDFIN: No.

6 MR. JORDAN: Okay. And I would note that are you
7 aware of the Office of Attorney General's opinion says that
8 the Office of Planning in this instance that it has to give
9 30 days notice to ANCs about decisions that they're going to
10 make?

11 MR. MORDFIN: No.

12 MR. JORDAN: Okay. Now, you note in your report,
13 though, under community comments that the ANC 8D had not
14 filed -- made a filing to the record; is that correct?

15 MR. MORDFIN: To the record as of the date of the
16 filing of the report is what it says, and that's as of July
17 6th, 2018.

18 MR. JORDAN: Okay. In your memorandum under
19 Section 1, you say the application is being considered
20 pursuant to 421A as a community-based institutional facility,
21 correct?

22 MR. MORDFIN: That's correct.

23 MR. JORDAN: You're familiar with the zoning
24 handbook, are you not?

25 MR. MORDFIN: Yes.

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1 MR. JORDAN: Okay. In the handbook, it provides
2 that the community-based institutional facility will have a
3 minimum of one vehicle parking space for each 1,000 feet.
4 Did you consider the requirement of a parking space in your
5 review of the application?

6 MR. MORDFIN: As I stated, the Zoning
7 Administrator's office determined that parking was not
8 required. Also, I do not have the square footage of that
9 house. It may not come to 1,000 square feet, and it probably
10 has one parking credit because it was constructed prior to
11 1958. And so therefore it is possible that parking is not
12 required.

13 MR. JORDAN: We're not talking about possibilities
14 or hypotheticals. The question is -- you're familiar with
15 the handbook. The question is, did you consider the
16 requirement in your review?

17 MR. MORDFIN: We considered that based on the
18 Zoning Administrator's letter which does not state that they
19 need parking.

20 MR. JORDAN: So the answer would be "no" then,
21 right?

22 MR. MORDFIN: Yes, correct.

23 BZA CHAIR HILL: No, the answer I guess was that
24 he didn't have to consider it because the Zoning
25 Administrator said that parking wasn't required.

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1 MR. JORDAN: That's not --

2 BZA CHAIR HILL: I'm just clarifying the answer,
3 Commissioner.

4 MR. JORDAN: But if we go to the Zoning
5 Administrator's letter to you, that's not what it says. It
6 says in order to get a certificate of occupancy, they had to
7 get an exception. There's nothing in the letter from the
8 Zoning Administrator that says that they don't have to deal
9 with parking as a matter.

10 Have you reviewed the additional submissions of
11 the applicant and does your recommendation take into
12 consideration the applicant's revisions into account, "yes"
13 or "no"?

14 MR. MORDFIN: The Office of Planning --

15 BZA CHAIR HILL: Oh, hold on. Just hold on. Let
16 him answer the question. I think what the Commissioner is
17 asking is did you have any further reason to change your
18 opinion based upon the information that was last submitted
19 to the applicant?

20 MR. MORDFIN: No.

21 BZA CHAIR HILL: Right.

22 MR. JORDAN: Isn't it contingent of the Office of
23 Planning that the applicant who is seeking to establish,
24 quote, community-based institutional facility need not have
25 parking for its staff? Is that "yes" or "no"?

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1 MR. MORDFIN: Parking for staff is not required.

2 MR. JORDAN: Does the Office of Planning have a
3 definition what constitutes adverse impact?

4 MR. MORDFIN: No.

5 BZA CHAIR HILL: Unfortunately, that's up to the
6 Board.

7 MR. JORDAN: I understand.

8 BZA CHAIR HILL: No, I'm just saying.

9 MR. JORDAN: Well, the Board has one. Would you
10 say the seven staff persons -- no, I mean, that's a question.

11 BZA CHAIR HILL: No, I wish it --

12 MR. JORDAN: I've looked in the regulations and
13 I don't see it.

14 BZA CHAIR HILL: I mean, Commissioner, if it was
15 a black and white thing, then we wouldn't be necessary at
16 all. It'd just be green light, red light, and then we would
17 just go.

18 MR. JORDAN: Would you say that the seven staff
19 persons all of whom would drive to work would represent an
20 impact on the community?

21 MR. MORDFIN: That's not a -- the application
22 doesn't require that.

23 BZA CHAIR HILL: That's not part of his analysis.

24 MR. JORDAN: I know it's not. I'm asking him for
25 an opinion now.

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1 BZA CHAIR HILL: Okay.

2 MR. JORDAN: Okay. And I'm just saying that
3 because he's reviewing these things and he's making a
4 recommendation, I'm asking him does he think that that will
5 have an impact. Because the reality is he does -- on page
6 3 of the memorandum, it says -- he deals with the question
7 of whether or not it's going to have an adverse impact. So
8 while we're saying that only the Board determines it, he uses
9 adverse impact in his document.

10 BZA CHAIR HILL: The Office -- that's okay. The
11 of Planning --

12 MR. JORDAN: So --

13 BZA CHAIR HILL: -- they provide their analysis
14 as to whether or not they think that there's adverse impact.

15 MR. JORDAN: There you go.

16 BZA CHAIR HILL: Also what happens to us
17 oftentimes is whether light and air has been an issue,
18 whether or not people can go back as far as they're supposed
19 to go back in their backyard and whether the neighbors have
20 light and air. I mean, there's a little bit ambiguity in
21 terms of whether or not something is adversely impacted. And
22 so the Office of Planning gives their recommendation. And
23 then we just kind of -- it's not that the Office of Planning
24 gives their recommendation and we just say, yes, if they say
25 "yes" or "no". Because then we wouldn't, again, be

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1 necessary.

2 MR. JORDAN: Okay. Last question I want to ask
3 you, had you received comments from the ANC or had you been
4 aware that the ANC was opposed to it, would that in any way
5 have impacted your recommendation?

6 MR. MORDFIN: It depends on the situation and what
7 the ANC may have brought up that perhaps the Office of
8 Planning was not aware. At the time of the filing of the
9 report, the ANC had not submitted any comments.

10 MR. JORDAN: Can you clarify what you mean by,
11 depends on the situation? What criteria would you have used
12 in making a determination as to whether or not the ANC's
13 position on this matter would be taken into consideration by
14 your office?

15 MR. MORDFIN: No, if the ANC were to bring up
16 something that the Office of Planning was not aware of, then
17 that might affect our opinion prior to us writing our report.
18 The ANC's opinion is their opinion and the Office of Planning
19 submits its opinion separately.

20 BZA CHAIR HILL: And also, Commissioner, I mean,
21 they've been here now for the whole hearing. And if they
22 were going to change their mind based upon what the ANC is
23 bringing forward, then they'd change their mind. I mean,
24 they're not opposed to if something new came forward to
25 having a different opinion.

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1 MR. JORDAN: Well, Mr. Chair, I presented to the
2 Board today the legal opinion from the Office of Attorney
3 General. And the Board in its deliberations will take into
4 consideration how that is applied to this particular case.
5 I understand what is happening. Let's be honest about it.
6 Every agency has a culture. There are things that this Board
7 will do as a routine. But I don't know if this issue has
8 ever been raised before about what the Office of Planning
9 does or does not do. My concern is that the Office of
10 Planning under the ANC law has some duties, has some
11 responsibilities to the ANCs that they don't follow.

12 BZA CHAIR HILL: Well, Mr. Commissioner, I take
13 a little bit of an issue with your comment there. Like, I've
14 been here now for quite a few years.

15 MR. JORDAN: Yes.

16 BZA CHAIR HILL: And the Office of Planning has
17 always submitted their report very evenhandedly. And I don't
18 think that they -- they follow the regulations. They do what
19 they're supposed to do. People can disagree with their --
20 and again, this is a process. You've been involved in this
21 entire process. So people can disagree with the Office of
22 Planning, but they're just presenting their opinion based
23 upon what they believe it to be. And then the Board decides
24 after that.

25 But I understand your questions, and I think

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1 they're all well founded. And I think he's answered your
2 questions.

3 MR. JORDAN: Mr. Chairman, let me just note this
4 point. Whenever new evidence comes up, then we take that
5 into consideration. I'm saying I don't know if anybody has
6 ever raised the question before about the duty that the
7 Office of Planning has in notifying ANCs before they make a
8 determination. And I'm saying to you as an ANC commissioner
9 I don't know what your experience is in --

10 BZA CHAIR HILL: What are you saying, Chairman?

11 ZC CHAIRPERSON HOOD: Well, let me just say this.
12 As Mr. Jordan already knows, I've been in the trenches a long
13 time. But I will say that as you know when former
14 Councilmember David Catania redid the ANC law. And I think
15 Councilmember Barnes just did some other things to it as
16 well. So you know it changes. It moves around because of
17 recommendations from ANC commissioners. So the ANC law has
18 changed.

19 I am interested in -- I'm going to further
20 discover the Office of Planning because I think the
21 interpretation is there. I understand your point, but I just
22 don't know if we're reading the same point. Because our
23 responsibility in the zoning commission is to make sure this
24 office does it due diligence. And I think you get a notice
25 from us. You're notified from us.

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1 MR. JORDAN: There's no doubt about that.

2 ZC CHAIRPERSON HOOD: That's kind of where we are.
3 I do want to make sure that the Office of Planning is
4 definitely in compliance with what they're supposed to be
5 doing. And I believe they are, but I understand your point
6 as well. So it's just sometimes how we interpret and how we
7 read.

8 But I noticed in this letter as was done by Denzel
9 Noble. Have we reassured this under our new attorney
10 general, Karl Racine?

11 MR. JORDAN: No. Well, understand this, Mr.
12 Chairman, Chairman Hood, that it doesn't change based on who
13 is the attorney general. It still becomes policy until
14 someone re-amends it, re-sends it or what have you. And I
15 would also note that in this particular area of notice to
16 ANCs, the amendment to the law that we had just done last
17 year had not affected this particular area. It requires
18 notice.

19 ZC CHAIRPERSON HOOD: So as far as you know, this
20 is still germane? And I --

21 MR. JORDAN: Yes sir.

22 ZC CHAIRPERSON HOOD: -- agree with you. It
23 doesn't change. But remember, it's an opinion. And you know
24 how opinions go.

25 MR. JORDAN: Well --

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1 ZC CHAIRPERSON HOOD: It's a legal opinion.

2 MR. JORDAN: Yes sir. And what I'm saying is, if
3 you want, I can submit to the record where the Office of
4 Attorney General says that this becomes policy.

5 BZA CHAIR HILL: Wait, hold on one second. Ms.
6 White had a question and then Vice Chair Hood has -- I mean,
7 Hart has a question.

8 MEMBER WHITE: It was just a quick question.
9 Chairman Hood just kind of touched on it. I didn't see the
10 signature page on that letter.

11 MR. JORDAN: Which letter?

12 MEMBER WHITE: That you're referencing regarding
13 the notice requirement.

14 MR. JORDAN: Oh, I didn't submit all of it. I can
15 do that for you.

16 MEMBER WHITE: Yes.

17 MR. JORDAN: I just submitted the part that was
18 germane to this particular issue. Because as you notice on
19 --

20 MEMBER WHITE: Because I couldn't tell who
21 actually --

22 MR. JORDAN: Okay. If you notice --

23 MEMBER WHITE: -- issued this.

24 MR. JORDAN: -- there's a second letter that's
25 attached. But if it's your desire, I can give you the

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1 complete one.

2 MEMBER WHITE: Yes. No, I'm just wondering
3 because the notice requirement stuff that's being addressed
4 here from a policy perspective, I don't know whether or not
5 there'd been any shifts. But we'll have to take a closer
6 look at that.

7 MR. JORDAN: Thank you.

8 MEMBER JOHN: Mr. Chairman, I have a quick
9 question. I'm trying to understand your position. Are you
10 saying that in addition to the notice that you received,
11 Office of Planning should have contacted the ANC before
12 submitting this recommendation?

13 MR. JORDAN: Precisely.

14 MEMBER JOHN: Well, that's not the policy of the
15 Board, and I don't know if OAG is able to look at procedures
16 to see if there's anything to support your position. But in
17 the short time that I've been here, there's never been any
18 requirement like that. The ANC receives notice of the
19 opinion and then can file a response. So I'm trying to get
20 to where you are, but I'm having a little bit of difficulty.

21 MR. JORDAN: Okay. You say there's never been a
22 requirement like that.

23 BZA CHAIR HILL: Excuse me for just a -- so I can
24 interrupt here. I don't think we're going to resolve this
25 today, so I don't think we should continue having that

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1 conversation about it. I think it's an important issue, but
2 we can continue talking back and forth on it. But we're not
3 going to resolve it. We're not the council. We will have
4 to have a conversation.

5 But I'm appreciative of you bringing up the issue,
6 but I just think that we're kind of having a lot of
7 conversation about something that we're not going to come to
8 a resolution with today. I think it's an important issue and
9 that we'll probably have to look at it and figure out how
10 we're dealing with it. Maybe Office of Planning will. And
11 now that they're aware of it, they'll have to deal with it.
12 But I just think that we have -- people that are here to give
13 some testimony. We have other folks that are in the room to
14 be able to do that. And I just think that we should probably
15 move on and the point has been made. And we can just --

16 MR. JORDAN: Well, if I can just respond to
17 Commissioner John. So even though she said it's never been
18 brought up before, that's why I'm bringing it up now. Okay?
19 And so because it's never been raised by ANCs and if you
20 notice, the letter was addressed to me. I'm the one who
21 raised this question before. So I'm just saying to you, I've
22 never had to come before this Board and raise the question.
23 But I'm doing it now because I think it's a salient issue.

24 And we know that the Board in reaching its
25 decision, you know, there's certain things it has to take

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1 into consideration. And I'm asking that this be one of the
2 things that the Office of Planning has been making these
3 recommendations. But it has a duty to submit those to ANCs.
4 Because as I understand it right now, he's saying that ANC's
5 position has no impact --

6 BZA CHAIR HILL: No, that's not what he's saying.
7 He was saying that in different cases, they bring up
8 different things. And they do have an impact and I've seen
9 them have an impact.

10 MR. JORDAN: Okay.

11 BZA CHAIR HILL: But I do think that we can ask
12 more and look more into this in terms of like what the Office
13 of Planning is supposed to do. So again, if the Office of
14 Planning is supposed to submit something to the ANCs prior
15 to making a recommendation to us, I didn't believe that was
16 the case, correct? Okay. And I'm just asking.

17 And then -- again, Commissioner, then you guys are
18 here, right? So everything that you've said is here and it's
19 on the record. And you were here at the last hearing. So
20 the -- I'm sorry -- so the Office of Planning is hearing
21 everything that the ANC is saying; however, I think we will
22 go back at and look at it because the way that I thought that
23 the process was, was that the ANC got a copy of the report
24 after the Office of Planning issued it; is that correct?

25 MR. MORDFIN: It's -- when the -- I'm sorry. When

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1 the Office of Planning files its report, it goes into the
2 official record.

3 BZA CHAIR HILL: Okay, okay. All right. So --

4 MR. JORDAN: One final thing, Mr. Chair.

5 BZA CHAIR HILL: Sure.

6 MR. JORDAN: Subsection 623.04, the Office of
7 Zoning is where the -- this is where the Office is Planning
8 is given great weight in its testimony before this Commission
9 -- or the Board and the Commission. Do you want me to read
10 it verbatim?

11 BZA CHAIR HILL: No, no. That's okay. I'm just
12 trying to --

13 MR. JORDAN: Okay. I'm just making the -- the
14 point I'm trying to make is because you know when we started
15 that we're guided by the Administrative Procedures Act. The
16 APA would say that in order for them to implement this
17 provision of the law, they're supposed to establish rules for
18 doing it. I would only make that point. And I don't know
19 that they've done that ever before.

20 BZA CHAIR HILL: Okay. We'll take that back and
21 try to figure out whether or not this process is not being
22 followed in the way that I thought it always had been or if
23 there's some kind of difference to it.

24 So Ms. Fletcher or Ms. Lathum, do you have any
25 questions based upon the testimony that's been given for the

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1 ANC? Okay. Is there anybody here wishing to speak in
2 support of the application? Come on. There's nobody here
3 wishing to speak in support? Is there anybody here wishing
4 to speak in opposition? No, no, no. I mean from the public,
5 from the public. Is there anybody here wishing to speak in
6 opposition? Please come up forward. And did you guys get
7 sworn in earlier? Okay. But why don't you come on over and
8 then we'll swear you in and then you can sit down.

9 Ms. Rose, if you could swear in the witnesses.

10 MS. ROSE: Please raise your right hand.

11 BZA CHAIR HILL: And anybody else who's in the
12 audience that didn't get sworn in earlier, if you want to
13 stand up and get sworn in. Raise your right hand and look
14 over at this lady. It's like magic. Okay. There you go.

15 (Witnesses sworn)

16 BZA CHAIR HILL: Okay. So I believe you guys were
17 here last time or at least recognize one of you. So I'm
18 going to go ahead and put three minutes up on the clock. And
19 basically, I mean, we've heard a lot of testimony. We've
20 took a lot of testimony last time. It's only three minutes
21 and you can go ahead and say whatever you want. But it's
22 basically from the -- it's new testimony, right? It's, like,
23 what we heard since the last time we were here is really what
24 you should kind of commenting on. But you have three
25 minutes. You can tell us whatever you like.

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1 MS. REED: Hi, my name is Annie Reed. I'm at 4208
2 Livingston Road. I'm right next door to 4212. When I left
3 this last meeting, I took in consideration. Let me think.
4 Let me look around my neighborhood and see what's going on.
5 If you guys do not live in Ward 8 Livingston Road, you don't
6 know what's going on until you hear it on the news where
7 drugs. K2 has gone crazy. Just a couple of nights ago, a
8 young lady, three of the young people had OD'd right next
9 door to me on the K2.

10 Then night before last, I'm looking out the
11 window. A big black sedan speeding down, stop, all these men
12 and women got out fighting right next door to me. It's
13 really -- it's -- it's really a little bad. But, you know,
14 I've been around there almost 50 years right there, almost
15 50 years.

16 I've been a daycare provider for 23 years until
17 '06. My husband was a federal policeman. He died in '06 and
18 I retired. So I'm home with my grandkids. I have a 16 year
19 old that child protection took out of her home into mine and
20 she has a little six month old baby. So I have all that
21 right there. I don't need what's coming next door to me.

22 If you come down my street, I took pictures of how
23 that home looks. It's very bad. Trash is everywhere. In
24 the back, it's a lot of trash. Last night, I went to put
25 trash in my trash can, big raccoon sitting up there. I'm

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1 like, get. He didn't get. I got.

2 So the city now used to be a war on rats.
3 Raccoons are coming now. In the back is awful. It used to
4 be a lot of kittens hollering. No, the rats ate the kittens
5 -- the rats ate the kittens and the raccoons ate up the cats.
6 I mean, it's a mess back there. That's where I live. I know
7 you guys don't want to live next to what I'm -- the pictures
8 that I have to show you. I have sent in letters from the
9 neighbors. I don't know if you got it or not.

10 I sent the letters and petition about we don't
11 want that home to come next door to us and to say, no, we
12 can't say it's going to be crime next door. But I'm going
13 to get tired looking out the window when the door open and
14 see who's out in the back smoking weed or smoking whatever.
15 I'm going to get tired of it. And every 90 days there's
16 different faces. When I get used to one set of faces, I've
17 got to get used to another one.

18 But that's just the way I feel. And am I
19 frustrated? No, I can deal with it because I don't like it.
20 And if you're going to talk to me and if somebody told me,
21 it should be somebody talking to the neighbors to say, can
22 you all help us? Can you all be the eyes? Can you all be
23 the ears? No, no one has said that because we are the eyes
24 and ears of our neighborhood.

25 BZA CHAIR HILL: Okay. All right. Thanks, Ms.

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1 Reed.

2 MS. THOMAS: My name is Kimberly Thomas. I live
3 at 4218 --

4 BZA CHAIR HILL: Ms. Reed, could you turn off your
5 mic so we don't get feedback.

6 MS. THOMAS: My name is Kimberly Thomas. I live
7 at 4218 Livingston Road. I'm two houses down. I have an 80
8 year old mother-in-law and grandchildren in the neighborhood.
9 And the Metro access bus has to pull up to our front door to
10 pick her up because she's not able to walk down the street.
11 The cars that she's speaking of are Virginia tags and running
12 tags is my family that comes to visit.

13 Having other cars park in the front of our housing
14 is not going to help us none. From the sound of cars that
15 she said that's going to be parking, employees parking. From
16 where her house is sitting is a row of housing that the
17 public parking is across the street. But their parking is
18 way down at the end close to the school. Those people are
19 not going to walk from all the way down from a school all the
20 way down to go to work.

21 And I mean, the parking, I have a picture on my
22 phone, I think. It's not a lot of parking in that area.
23 It's just -- and then you have the apartments lined up on
24 each side of the houses. Those people, they also park on the
25 same block. But the parking -- the parking -- a lot of them

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1 park down close to our housing. So there's really no parking
2 space. It's like a car per house. That's how tight the
3 parking is in the area.

4 And then once the children running and playing
5 back and forth. And this building she's putting up next door
6 with the kids running, they have no fence around it. It has
7 tall grass. It has a lot of trash. It's not safe. If she
8 was going to put something there, she should've put a senior
9 citizen home or she could put something there that could help
10 a mother with children, something that would benefit to the
11 community, the community wouldn't mind putting there and
12 helping out.

13 But putting something there like this, you've got
14 drugs. You don't know if you've got people coming in with
15 drugs, that's going to be on drugs or people that's going to
16 come in or child molesters. And the brochure that she gave
17 the last time we saw her stated some of them had HIV, AIDS.
18 They're talking about sex and condoms. I mean, we don't know
19 what's coming in there.

20 BZA CHAIR HILL: Okay. I'm sorry, Ms. Thomas.
21 Okay. Does the applicant have any questions for the
22 witnesses based on the testimony?

23 MS. LATHUM: My name is Shauna Lathum. I'm going
24 to be the clinical director if the program is improved. But
25 I hope it will be because I live in Ward 8. I live not five

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1 minutes --

2 BZA CHAIR HILL: Ms. Lathum, what's your question?

3 MS. LATHUM: But my question is, would you be
4 opposed to a community -- being on a community liaison board
5 with the program?

6 BZA CHAIR HILL: The question was would one of you
7 want to be on a community liaison program? I'm sorry, a
8 community -- yeah, would you want to one of the community
9 liaison people if there was a community liaison?

10 MS. REED: No.

11 BZA CHAIR HILL: Okay. Ms. Thomas?

12 MS. THOMAS: No.

13 BZA CHAIR HILL: Okay. Anything else? All right.
14 Okay. Someone's phone is going off. Okay. That's all
15 right. You weren't here for the beginning. Okay. So all
16 right. Let's see. Okay. Thank you very much. Thank you.
17 Thank you. Okay.

18 So Commissioner Jordan, normally I ask for just
19 a couple of minutes in conclusion. And so if you have
20 anything you want to add in conclusion for the Board, please
21 do. And then I'll let the applicant have a conclusion as
22 well.

23 MR. JORDAN: Thank you, Chairman Hill. I just
24 want to reiterate the point that we've been making and
25 reflective of the residents who are contiguous to this

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1 property that we believe that the facility will have an
2 adverse impact in the community. A couple of things we'd
3 note. One is that the application process was not followed.
4 So we don't get the kind of detailed information that we
5 would need in order to make a decision.

6 The second thing, though, is that we will believe
7 it will have an adverse impact because of the parking
8 situation and also because we can't be certain that the
9 clients in that facility won't represent a problem in the
10 community.

11 So the position of the Commission is we hope that
12 the Board will provide the great weight that we're entitled
13 to is that we don't want the facility there.

14 BZA CHAIR HILL: Thank you, Commissioner. All
15 right. Would the applicant like to add anything in
16 conclusion?

17 MS. FLETCHER: Well, I want to thank you for
18 identify that creature that'd be back there because of course
19 there is no alley --

20 BZA CHAIR HILL: Ms. Fletcher, you just have to
21 address the Board.

22 MS. FLETCHER: -- in this part. Okay. But let
23 me just add --

24 BZA CHAIR HILL: No, you're just addressing the
25 Board. Thank you.

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1 MS. FLETCHER: Okay. So in closure, I want to go
2 -- I asked the Board to move to the recommendations of the
3 Board of Zoning, the BZA. As you stated previously, they
4 just did go through a process. We started with DCRA who
5 initially had to start the process of zoning before it could
6 even reach BZA.

7 And so we met their requirements because if we
8 didn't meet their requirements, it never would've made it to
9 the BZA board. And a lot of what their requirements was,
10 again, it goes to the special exception. And it's noted and
11 it's also logged that it could be a facility. And it talked
12 about offenders, right, probation, parole, et cetera, et
13 cetera, et cetera.

14 So it moving forward as the process as you stated
15 moved over to the BZA zoning adjustment board, of course, a
16 special exception. I'm a property owner. And I choose to
17 turn the property into a community-based facility to decrease
18 substance abuse and crime in the neighborhood and also do
19 drive creations for the residents of Washington, D.C.

20 So those are two factors there. I think that we
21 presented evidence as related to how the facility would be
22 monitored. Again, we just had conversation with Commissioner
23 Jordan through via email about a week ago. We sent him what
24 he requested. Again, it's noted. We submitted all the
25 information that we started the process with them in 2017.

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1 As related to what steps do we need to take to get on the ANC
2 board's agenda so we could start the process of establishing
3 relationships with the community.

4 Previous to that, my sister lived on the property.
5 She is deceased. So I'm not sure of the history. But I'm
6 sure she had some history in the community because, I mean,
7 it was stated through some of the residents there that she
8 was very loved. So -- and moving forward, I'm just asking
9 the Board to -- I want to move towards a special exception
10 through the recommendations of the Office of Planning and
11 have this facility approved.

12 And so, again, as it relates to the public parking
13 and so forth, the staff, if you read into the information
14 that we submitted, they have, it's monitored 24 hours with
15 monitors -- two -- two monitors with 12-hour shifts. We also
16 talked about the time that the clinical director would be at
17 the facility which is from 7:30 to 4:30. We have a clinical
18 care person and also the substance counselor.

19 So all staff -- clinical staff are not at the
20 facility at the same time. But of course, again, we talked
21 about security cameras and those things that need to be
22 attached. We have Sears and Roebuck who was one of the
23 contractors who was doing some work on the property.
24 Unfortunately, they punched holes in the walls and so forth
25 in adding a HVAC system. Again, it's private property. So

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1 there is no alley. And I had this conversation with several
2 agencies in the District.

3 BZA CHAIR HILL: Ms. Fletcher, I'm just trying to
4 get to a conclusion. I don't need testimony, so --

5 MS. FLETCHER: So that's pretty much -- I'll turn
6 it over to Ms. Lathum at this point.

7 MS. LATHUM: I appreciate --

8 BZA CHAIR HILL: Ms. Fletcher, you can turn off
9 that microphone just for the feedback. That's all right.

10 MS. LATHUM: Sorry. I appreciate the community,
11 the Commission listening to our testimony and really giving
12 us valuable feedback in this process. I really want to work
13 with the community, and I'm not opposed to the -- I
14 understand that that could be a parking issue. So we're not
15 opposed to working with the community in parking down the
16 street if that's what we need to do.

17 We're also not opposed to using -- because we're
18 going to be having cameras in the facility but cameras that
19 actually face internally and externally so that a lot of
20 things that going on the community can be captured. And we
21 can be in partnership reporting information to the
22 authorities. Because I think the is a win-win for the
23 community.

24 This program will only help. And with a seven to
25 ten ratio of staff to clients, that's your biggest monitoring

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1 factor right there. Most programs don't have that. It's 1
2 to 20, 1 to 30. This program is a specialty program to serve
3 the community and really help people in the community in more
4 of an individualized fashion.

5 Thank you.

6 BZA CHAIR HILL: Okay. Thank you. All right.
7 So does the Board have any final questions? No, wait a
8 second. Ms. White has a question.

9 MEMBER WHITE: Just one final question. I asked
10 it before for you to kind of address it because we've got
11 these pictures, the condition of the property, the whole
12 adverse impact thing. I'm looking at that and I just wanted
13 to see what your response was to these pictures that were
14 taken, I guess, last week.

15 MS. FLETCHER: Sure. We have a contractor to
16 actually remove some of the things that were inside the
17 property as we were getting HVAC systems and, you know,
18 cabinets and so forth moved in. One of the contractors was
19 Sears and Roebuck. So initially, we had applied for a
20 dumpster. And so as we were cleaning out the property. So
21 we cleaned it out. But when we hired in the contractors, we
22 decided versus to just not potentially spending 500 for each
23 dumpster as we were removing washing machines, dryers, things
24 of that nature out of the facility to just utilize the
25 backyard.

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1 Again, in conversation, because there's no
2 alleyway. The property is not attached to the neighbors next
3 door. So it was stated that there's no fence. There's no
4 trash there. What happens is we had conversation with D.C.
5 government because the way that they have to go up the steps
6 and get the trash bins. They don't put them back. They just
7 leave them on the curb.

8 So two, because it's been raining in the recent
9 weeks and months. And so we have someone that's coming out.
10 Generally, the property is always, you know, kept landscaped
11 and so forth. I mean, we pick up trash in the neighborhood.
12 We have been doing that. We also on the sidewalk of the
13 property which is not all of our responsibility. But when
14 the landscape person is there, we ask that they just, you
15 know, remove the grass there.

16 MEMBER WHITE: So is it clear now?

17 MS. FLETCHER: Well, it will be. We have someone
18 coming out Friday, in fact, yes.

19 MEMBER WHITE: Thank you.

20 BZA CHAIR HILL: Okay. All right. No, we're just
21 asking questions here. So okay, does anybody have any more
22 questions? All right. I'm going to close the hearing. Is
23 the Board ready to deliberate? Okay. Mr. Hart, would you
24 like to start?

25 MEMBER HART: And I'll say that I definitely

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1 appreciate everyone for coming out, the Commissioner coming
2 out as well as the neighbors to come out to hear your voices
3 on this. And Ms. Fletcher and Ms. Latham, for your testimony
4 as well on this case and your presentations as well.

5 Well, after reviewing this case and the full
6 record and the testimony that we've heard over the several
7 public hearings that we've had, I have to say that while the
8 applicant has provided a lot of documents, I unfortunately
9 didn't find sufficient information for me to be able to
10 support the application.

11 The applicant has the burden of proof for the case
12 of how they meet the Subtitle U-203E and Subtitle X-901. And
13 the applicant, in my view, has not provided the information
14 about the management and operation of this proposed facility
15 in enough detail for us to understand.

16 And I will say that I did feel that the applicant
17 did meet U, 203 -- was it .1E? I did feel that they did meet
18 that because it is fairly simple. And the one that I had an
19 issue with was the zoning regulations which are the general
20 criteria under Subtitle X-901.

21 And the question was -- and the Office of Planning
22 had the question in their report as well. The Office of
23 Planning believed that the applicant had actually met the
24 criteria. But that part, the second question was, would the
25 proposal appear to tend to affect adversely the use of

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1 neighboring property? And I just don't think the applicant
2 has provided enough information for us to be able to say that
3 they will not impact it.

4 We do know that there will be eight to ten
5 participants. That's kind of what the applicant was looking
6 for. We do know that they are five types of positions and
7 that there are seven staff that staff those five types of
8 positions that will be coming to the site. The Board had --
9 we requested information about the operations of the facility
10 and we've asked them again today. What we have received is
11 some limited information, but it is partially jumbled and
12 it's really difficult to kind of pull it apart.

13 And I say this and it's the information that we
14 have received in the record, there are documents -- and the
15 chairman brought it up. And I think Commissioner Hood
16 brought it up as well. But there were documents that were
17 kind of -- it was kind of quizzical. I couldn't quite
18 understand what this was trying to impart -- what information
19 this was trying to impart to us.

20 So the one piece that I had tried to kind of get
21 a little bit more information around was how the clients kind
22 of coming to and arriving from work on a daily basis. This
23 may be impactful to the community. While there are seven
24 staff and there are eight to ten people every 90 days, that's
25 up to 400 -- I'm sorry -- that's up to 40 different clients

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1 every year. There will be possibly family members, emergency
2 vehicles that are coming to the site. And I really just
3 don't know what that might be and what those impacts might
4 be.

5 And again, in my view, it is up to the applicant
6 to provide the burden of proof for them to be able to say how
7 this case will be in accordance with or meet the zoning regs.
8 And I just don't feel that they have met Subtitle X-901. So
9 I would not be in favor of the application. I do understand
10 that there is a need for it, but I just don't believe that
11 the applicant has provided sufficient information for us to
12 be able to approve the application. So that's where I stand.

13 BZA CHAIR HILL: Thank you, Vice Chair. Anyone
14 else?

15 MEMBER WHITE: Yes, I struggle a little bit
16 because I honestly feel that there's a disproportionate need
17 in Ward 8 for transitional housing. I'm familiar with
18 transitional housing. I know that it has a tremendous
19 benefit for families and for people and for the city on a
20 larger scale. But I kept asking the questions about adverse
21 impact. I just tried to keep it simple. Obviously, we
22 listened to the ANC in terms of what their testimony has
23 been, in terms of the impact.

24 But I also think that the neighbors, their
25 testimony had a lot of weight to it in terms of how they feel

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1 that this could impact them as a community. And I just
2 wasn't convinced that, just from the information that was in
3 the record, that there wouldn't be some direct adverse impact
4 to the adjacent neighbor, to the neighborhood as a whole.

5 And I'm also looking at the condition of the
6 property currently in terms of how it currently looks. And
7 I know there's going to be some construction and some
8 movement in terms of maybe getting the property ready for a
9 transitional type of phase.

10 But because the pictures were also taken very
11 recently, I have to think about the fact that you knew that
12 this was something that was going to be looked at very
13 carefully. And basically, the condition of the house today
14 does kind of give me pause in terms of how this could
15 potentially adversely impact the neighborhood going forward.

16 I did look at the Office of Planning's report.
17 I think their points, for the most part, were very, very
18 helpful. But I also asked a question, did you actually do
19 some surveillance of the area in terms of seeing what the
20 current condition of the property was? So that did give me
21 a little bit of pause as well because I knew that this was
22 something that was getting a lot of attention in the
23 neighborhood.

24 But not to pontificate on this. I think work
25 force development programs are going to be critical for the

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1 city, especially for people that have substance abuse
2 problems. But as a BZA member, I just have to look at the
3 criteria and determine whether or not in my mind the criteria
4 in the regulations was met. And I just wasn't convinced that
5 I could support an application with this much testimony in
6 the record that supports how much this could potentially
7 adversely impact the neighbors.

8 So for that reason, I'm not prepared to support
9 it at this point.

10 ZC CHAIRPERSON HOOD: Mr. Chairman, I would agree
11 with all of my colleagues. As I listened to, I think the ANC
12 and the community have made a case, especially when it deals
13 with adverse impacts. One of the things that I kept hearing
14 was what really gave me pause, first of all, was the
15 structure as the Vice Chair mentioned. I didn't really see
16 a whole lot of structure. I looked like it was cut and
17 paste.

18 If what was presented to us was presented to the
19 community, I can see why we have so much opposition. Not
20 only that, this was not the time to come talk about a
21 community liaison. That should've been done a long time ago.
22 So to come down here today and talk about a community liaison
23 to me is after the fact.

24 And what puzzled me the most was instead of
25 getting a dumpster, we'll use the backyard. I mean, the

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1 adverse impacts have started, and this is not even in
2 operation. So that gives me great cause and great pause.
3 And I will be voting against this application. Thank you.

4 MEMBER JOHN: Mr. Chairman, I don't have a lot to
5 add to what's already been said. I have really struggled
6 with this application because on the one hand, there's a
7 desperate need for facilities like this in the city. Then
8 on the other hand, we do have to consider the neighbors who
9 are there.

10 I was particularly struck by the neighbor who
11 testified the first time who shares the building. She's on
12 the other side. I'm not sure where Ms. Reed lives, but I was
13 really impressed by that testimony. And the Board is limited
14 to looking at the zoning issues. We can't look at all of the
15 other stuff, I want to call that.

16 So in terms of the specific zoning issue, I would
17 say I agree with my colleagues that there is a strong
18 indication that there will be an adverse impact to the
19 adjoining neighbors in particular. I was not persuaded that
20 there will be enough controls, that the documents in the file
21 seemed to be put together in a sort of haphazard way with no
22 clear indication of how a program should be put together.
23 And while I was impressed by the testimony of the clinical
24 director, Ms. Lathum, and I feel that with the proper
25 structure, something better could come of this. I don't have

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1 enough information to get there at the moment.

2 And for all of those reasons, I disagree. I
3 cannot agree with the Office of Planning in this case because
4 I feel that the testimony and the issues and concerns of the
5 neighbors outweigh the recommendation. I shouldn't say,
6 outweigh, but I give that great weight. So that would be my
7 recommendation.

8 BZA CHAIR HILL: Okay. Thank you. I don't really
9 have a whole lot to add. I suppose, I mean, I think I'm
10 where you guys are. I do also just want to note for us and
11 for the record, again, right, I agree with everyone here and
12 that these facilities are desperately needed and that people
13 do need to have a way to get help.

14 And what I was just struggling with from the last
15 time was, again, kind of like a clear cut understanding as
16 to how the program was going to be run, how the facility was
17 going to be run so that it wasn't going to adversely affect
18 the neighborhood and criteria X-901, right?

19 And so I didn't get enough for me to feel that the
20 program was -- I didn't get a step by step, this is how it
21 works, what's going to happen. And I didn't also feel that
22 it was highly organized in terms of how it was given to us.
23 Again, I do agree with you. Ms. Lathum's testimony I thought
24 was very good in terms of, like, what she was proposing. And
25 had there been, like, different -- I mean, we've had a lot

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1 of time now to see whether or not this was going to change
2 our opinions.

3 So with that, I guess, we're all in agreement.
4 I'm going to make a motion then to deny Application No. 19783
5 as captioned and read by the secretary and ask for a second.

6 MEMBER HART: Second.

7 BZA CHAIR HILL: Motion made and seconded. All
8 those in favor, say aye.

9 (Chorus of aye.)

10 BZA CHAIR HILL: All those opposed? Motion
11 passes.

12 MS. ROSE: Staff will record the vote as five to
13 zero to zero to deny the application with a motion by Mr.
14 Hill, second by Mr. Hart, with Ms. White, Ms. John, and Mr.
15 Hood in support of the motion.

16 BZA CHAIR HILL: Okay. Thank you. Thank you all
17 very much. We're just going to take a five minute break, you
18 guys.

19 (Whereupon, the above-entitled matter went off the
20 record at 12:13 p.m. and resumed at 12:25 p.m.)

21 BZA CHAIR HILL: Okay. Let's get started again.
22 And just for the audience so you know what's going to happen,
23 we are going to try to do the next three cases. And then
24 we're going to take lunch, and then we're going to do the
25 last case.

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1 So the first, Ms. Rose, whenever you'd like, you
2 can call the first case.

3 MS. ROSE: Application No. 19828 of 3423 Holmead
4 Place LLC as amended pursuant to 11 DCMR Subtitle X, Chapter
5 9 for special exceptions under the nonresidential conversion
6 requirements of Subtitle U, Section 320.3 and under Subtitle
7 E, Section 5201 from the minimum court requirements of
8 Subtitle E, Section 203.1 and the nonconforming structure
9 requirements of Subtitle C, Section 202.2. And pursuant to
10 Subtitle X, Chapter 10 for variances from the front setback
11 requirements of Subtitle B, Section 315.1(c) and the limit
12 on the number of stories under Subtitle E, Section 303.1 to
13 convert an existing church to a seven unit apartment house
14 in the RF-1 zone at premises 3423 Holmead Place, Northwest,
15 Square 2834, Lot 163.

16 BZA CHAIR HILL: Okay, great. Thank you, Ms.
17 Rose. So there was a preliminary matter to the motion to
18 waive the filing requirements to file a revised self cert.
19 I didn't have any issues with that. Did the Board have any
20 issues with that? Okay. Then we're going to go ahead and
21 allow that revised self cert in.

22 Could the applicant please introduce themselves
23 from my right to left?

24 MR. SULLIVAN: Yes. Thank you, Mr. Chairman and
25 members of the Board. Good afternoon. My name is Marty

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1 Sullivan with the law firm of Sullivan and Barros on behalf
2 of the applicant.

3 MS. WILSON: Alex Wilson from Sullivan and Barros
4 on behalf of the applicant.

5 MR. SABOURI: I am Faramarz Sabouri. I'm the
6 architect of the project.

7 BZA CHAIR HILL: Could you say your last name
8 again, sir?

9 MR. SABOURI: Sabouri.

10 BZA CHAIR HILL: Sabouri? Could you spell that
11 for us?

12 MR. SABOURI: S-A-B-O-U-R-I.

13 BZA CHAIR HILL: Okay, great. Okay. Mr.
14 Sullivan, are you going to be presenting?

15 MR. SULLIVAN: Yes.

16 BZA CHAIR HILL: Mr. Sullivan, have you been here
17 since the morning?

18 MR. SULLIVAN: Yes.

19 BZA CHAIR HILL: Yes, so you've been here all
20 morning already?

21 MR. SULLIVAN: Yes.

22 BZA CHAIR HILL: I was hoping for something a
23 little easier after that one, so --

24 MR. SULLIVAN: I'll do my best.

25 BZA CHAIR HILL: Yes, I don't think it's going to

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1 go exactly as easy as we hope. So you're aware of the Office
2 of Planning's recommendations and everything that you're
3 going to have to put forth before us in order to determine
4 that this should be granted, right? So I'm going to go and
5 put 15 minutes up there, and you can begin whenever you like.

6 MR. SULLIVAN: Thank you. Thank you, Mr. Chairman
7 and members of the Board. An overview of the project, the
8 subject property is currently -- it's a two-story building.
9 It's originally constructed as a church and it's been used
10 as a church until recently -- until the recent purchase by
11 the applicant and now property owner.

12 The applicant is proposing to convert to seven
13 residential units pursuant to Subtitle U, 320.3 which
14 provides for the adaptive reuse of nonresidential buildings.
15 And that provision is a matter of right. We are entitled to
16 convert to seven units; however, there are certain criteria
17 that go with that. And one of those criteria is that the
18 building have a maximum permitted height of 35 feet. So
19 we're asking for special exception relief to go to 40 feet.

20 Both of the adjacent buildings are multiple
21 dwellings. To be clear, the one of the left is a two-unit
22 building; the one on the right is a four-unit building. And
23 there's quite a few apartment buildings in this neighborhood.
24 Even though it's an RF-1 zone, you can see on the aerial here
25 that the subject property is there.

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1 Right next door is four units and about three
2 doors down is a 100-unit apartment building. And then
3 there's a 40-unit building across the street and some other
4 apartment buildings on the back side there as well. There's
5 where we are on the zoning map on Holmead, 3423 Holmead. And
6 then the next photo is a picture of the 100-unit apartment
7 building which is three doors down from the church.

8 So the project is proposing to construct an
9 addition that would be considered a fourth story because of
10 the existing condition of the first level. So the first
11 level of the existing building is elevated somewhat, making
12 that lower level a story. And that first floor is a thick
13 concrete floor. Originally, the bulk of our argument was the
14 difficulty in removing that floor. In the time since we
15 filed the application, new regulations have become effective
16 that say that you can't move that floor anyway. Even if you
17 wanted to, you're prohibited from adjusting that -- that
18 level.

19 We will be infilling the existing -- there's an
20 eight-foot side yard on the right side. So the proposed
21 building will then match up with both sides. And it will
22 approach the height of the other two buildings. But those
23 buildings actually exceed 40 feet in height. And we're also
24 asking for relief to remove the spire at the top of the
25 church which we got a determination on that we would have to

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1 do that for whatever project we did.

2 There's no addition to the rear of the building.
3 It'll be 52 percent lot occupancy and it'll have five parking
4 spaces back there and a 27-foot rear yard, I believe. As I
5 mentioned, the adjacent buildings are taller. And the
6 applicant is proposing a parapet wall on the front to main
7 the appearance of continuity here. And the four-story
8 addition is also set back a distance of eight feet from the
9 front roof line.

10 And the overall height, the purpose of the height
11 on the additional story first of all is to get four levels --
12 four living levels just like the neighbors have and just like
13 most buildings have in this zone if they have three stories
14 above ground and a cellar that doesn't count as a story.

15 So we're not asking for a fifth level when we're
16 asking for another story. We're not asking for an additional
17 living level. We're essentially asking that that lower level
18 be allowed to be a couple feet further out of the ground than
19 it otherwise would be. And of course, the overall height
20 seems to be supported by everybody including the Office of
21 Planning because of the design and because of its
22 compatibility with the neighboring buildings.

23 I'd like to turn it over to the architect now to
24 go over the site plan and some other features of the design.

25 MR. SABOURI: Basically, we kept the original

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1 footprint of the church and almost, like, two-thirds of the
2 exterior walls. The only addition we did was to the side of
3 the building which we use that one for entrance to the future
4 building. For the front plaza, we try to revise it slightly,
5 not that much, just to create some kind of proper landscaping
6 area for the user of the building.

7 To the back -- to the rear, we kept the parking
8 that we had and refine it to have some additional green space
9 to enhance that one. The other comment that we had was from
10 DDOT regarding to removing the parking which was for the
11 church. We revised that one to add some more street parking,
12 add it, plus some kind of provision for bicycle racks and
13 adding some trees in same type of the other trees that exist
14 in that area. Otherwise, we try to keep the existing site
15 to the extent that it is improved rather than we take
16 something.

17 And one issue that we had was regarding to the
18 accessibility to the building that I consider that one from
19 front of the building. It is designed in such a way that we
20 have some kind of easy accessible entrance for future user
21 plus interior elevator that we provided. Plus we created
22 also some kind of close court which enhance lighting for the
23 future users. Otherwise, it's not that much change in
24 general appearance.

25 The elevation that now you see, the only part that

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1 is basically added is that eight-foot -- existing eight-foot
2 gap that we had. We filled it out and made it a continuous
3 elevation. Plus most of the front part of the building is
4 basically remaining of the church with some kind of
5 adjustment. And the trees that we show that one just in the
6 same -- as we said -- type of the trees in the street that
7 we recommended to add it.

8 And as you see, the building, either side of this
9 site, they're all typical townhouses, four level. And the
10 first level they have basically is a walking level. It's not
11 even cellar. It's more like a basement. Therefore, we
12 continue the same style and appearance. Therefore, it should
13 not be odd shaped building.

14 The plans that you see that this one explained the
15 way we designed that one, the first floor is the lower left
16 hand side shows the entrance -- main entrance to the building
17 with also access from the rear of the parking area to the
18 building. Which this one, every floor, we provide two units,
19 three bedrooms. Then the other floors, second and third
20 floor, almost identical. They have also three-bedroom
21 apartments.

22 The top floor that we have which is some kind of
23 larger unit with some --

24 BZA CHAIR HILL: Mr. Sabouri, I'm going to just
25 interrupt you for one second.

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1 Mr. Sullivan, I guess what would be helpful I
2 guess from the architect standpoint or what it is, I'm kind
3 of trying to get to again the variance test for height and
4 what your argument is as opposed to what the Office of
5 Planning's argument is. And how you'd like to use the
6 architect, I mean, the building design is very interesting.
7 And so I'm just trying to get to that variance argument.

8 MR. SULLIVAN: Okay. And I will assume or with
9 your permission go -- gloss over the special exception areas
10 as well and focus on -- on the fourth --

11 BZA CHAIR HILL: That's what I mean --

12 MR. SULLIVAN: -- floor because you have --

13 BZA CHAIR HILL: -- unless the Board has any
14 issues with that.

15 MR. SULLIVAN: -- plenty of information on that.

16 BZA CHAIR HILL: Okay. All right. Go ahead.

17 MR. SULLIVAN: Other than to say that when it
18 comes to special exception in light and air, of course we fit
19 right in the twobuildings and there's no windows there. And
20 we don't extend beyond there. So we're not having any impact
21 on anybody's shadow or on anybody's privacy.

22 So yes, regarding the fourth story, I'd like to
23 point out first of all that the context of the degree of
24 relief that we're requesting, and I think everybody agrees
25 that the requested height relief to 40 feet is appropriate.

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1 But -- and not only that, but I think it's actually
2 encouraged for the betterment of the design of the building
3 and for the compatibility of this building with the
4 neighboring buildings in the neighborhood.

5 And again, we're not asking for an additional
6 level. We'll just have four levels just like the adjacent
7 properties. And we're just asking that because the cellar
8 is out of the ground and it can't be moved down that it be
9 a few feet out of the ground.

10 So as the community would see this or if somebody
11 would see the relief, the 40 feet relief is being supported.
12 And if that's granted, now all we're talking about is an
13 internal configuration with that lower level. If that lower
14 level was a few feet lower, we're not a story. But as you
15 look at the exterior of the building, there's nothing
16 different about a 40-foot building.

17 Also, I'd like to talk about the context of the
18 neighborhood and the compatibility of the building as part
19 of the variance test because the Office of Planning noted
20 that the context of the block is not relevant to the variance
21 test. And when we talk about context and compatibility, I
22 don't think that that's an accurate statement. I think I've
23 been involved in several BZA approvals which have considered
24 context and compatibility.

25 The line of cases that immediately comes to mind

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1 would be side yard relief cases. We've done a few of those
2 lately with a 25-foot wide lot, single family detached
3 neighborhoods in Northeast. And we've gotten relief to do --
4 variance relief to do three or four-foot side yards in those
5 cases. And in those cases, that relief was granted and the
6 design was approved based specifically on what was already
7 existing in the neighborhood.

8 So for instance, in those cases, it was two story
9 buildings that had two and three foot side yards already.
10 And so the Board considered that, that this house would be
11 fitting in with the neighborhood. And since it can fit in
12 the neighborhood, we're going to shrink your side yard
13 requirement from the eight feet down to three or four feet.

14 In Case No. 19386 and 19368 are the two cases that
15 come to mind where we did that. So -- and I think this is
16 analogous because it's a similar thing that we're asking for
17 relief from the height in order to be compatible with the
18 neighborhood and in order to get the seven units that are
19 permissible and in order to get four living levels, which is
20 permissible but for the fact that that cellar is too high out
21 of the ground.

22 I completely understand the Office of Planning's
23 concern about precedent. And I think there was some comment
24 about dissent in the ANC report that mentioned precedent.
25 And I understand that this provision that says you can't move

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1 a floor down or that you can't adjust your grade up in order
2 to change the designation of a basement to cellar for
3 purposes of counting stories was done in order to prevent
4 additions where additions would not be appropriate.

5 So if you compare this to the typical RF-1
6 neighborhood that has a row of two and a half story houses
7 and somebody is going to do a third story, if all those
8 houses are out of the group more than five feet, then that's
9 not a unique situations where you couldn't come here and say,
10 well, this level is higher. It's not uniquely higher. Even
11 if you had the whole row and there was one house on that row
12 that was uniquely higher than the rest, somebody could come
13 here and say, that -- that situation is unique. What we're
14 saying is this is unique on many levels.

15 First of all, it's a nonresidential building.
16 It's purpose built church. And I think it's important that
17 it's a purpose built church. It's not a converted building
18 that was converted to church use and now converted back which
19 it could be. I know there's other cases. I think 1201
20 Staples comes to mind as a nonresidential building that
21 wasn't originally built as a nonresidential building. And
22 that's being converted, so -- which is permitted because it's
23 the most recent use.

24 However, the building, the fact that it was built
25 as a purpose built church, and that's the reason why that

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1 first level is higher because of their design and the
2 entrance to the church. And that first level is uniquely
3 higher than the buildings on each side of it as well.

4 So the practical difficulty, why is -- why is
5 that? Why are these unique conditions together are a
6 practical difficulty? The first one does relate to
7 compatibility and design of producing a building that would
8 look like this and be built in a canyon between these two
9 buildings that already exceed the height limit.

10 But the -- but the most obvious practical
11 difficulty is the fact that if we did a matter of right. Now
12 matter of right could be several things. Matter of right
13 could be we raze the church and we build two 25-foot wide
14 flats. So in order to do that, the applicant loses three
15 units. And I would argue that's the practical difficulty,
16 losing three units that they could otherwise do if this floor
17 was at the level it needed to be to not be counted as a
18 story.

19 Those units, if they did that project --

20 MEMBER HART: Can you say that again?

21 MR. SULLIVAN: Yes, the matter of right project
22 would be two flats. We could subdivide the property. We
23 could raze the church, subdivide the property into two 25-
24 foot wide row house lots would then could build to a density
25 that's more than what we're requesting here. We would

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1 excavate lower. We would have four living levels at 60
2 percent lot occupancy.

3 MEMBER HART: And is it --

4 MR. SULLIVAN: What we're proposing now is just
5 52 percent.

6 MEMBER HART: What you're showing the 35 feet?

7 MR. SULLIVAN: That's not what I'm showing here.
8 I'm sorry. No, this is not 35 feet. This would be doing
9 nothing. This would be not adding the story.

10 MEMBER HART: So -- so this is --

11 MR. SULLIVAN: This -- this matter of our
12 addition.

13 MEMBER HART: I guess it's hard to figure out.
14 Where's the actual church building itself? Like, what's the
15 height of the church building here?

16 MR. SULLIVAN: It's technically 33 if you want to
17 show the -- but I don't -- yes, I don't know if that's
18 including -- I mean, it's got -- it's got a high peak roof.

19 (Simultaneous speaking.)

20 MEMBER HART: What you're showing here is at the
21 top, it says, matter of right, no fourth story or cellar.
22 I get it. But it's the matter of right part of it is also
23 a certain height. And just don't know what the height.

24 MR. SULLIVAN: Oh, matter of right is 35 feet
25 height.

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1 MEMBER HART: Yes, but this is not 35 feet high,
2 so you're not actually getting to that.

3 MR. SULLIVAN: This -- this would be not -- this
4 would be just doing three stories.

5 MEMBER HART: Okay.

6 MR. SULLIVAN: So --

7 MEMBER HART: Regardless of height.

8 MR. SULLIVAN: Which we could still do seven
9 units. So one, there's two matter of right options. One is
10 to do three stories, don't get the fourth story relief and
11 then build to this height. That's what you see here. And
12 there would be seven units in there, and the units would be
13 smaller.

14 The other matter of right option is to demolish
15 the church building, subdivide the property, and then have
16 two 25-foot wide flats in which case we'd lose three units.
17 And each of those units would be massive because there's a
18 60 percent lot occupancy for a 25-foot wide lot.

19 MEMBER HART: But if you are -- I'm sorry. I'm
20 trying to get this -- try to figure this point out. You're
21 asking for seven -- you're asking for a variance relief for
22 the number of stories?

23 MR. SULLIVAN: Correct.

24 MEMBER HART: To get to seven units, you'd have
25 to get the variance?

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1 MR. SULLIVAN: No, we -- we -- seven units is
2 permissible under the zoning regulations. That's a matter
3 of right.

4 MEMBER HART: But they would be much smaller?

5 MR. SULLIVAN: They would be smaller units, yes.
6 That's one of the positive factors, and that's one of the
7 things that ANC -- the people that supported this and voted
8 this for the ANC submitted in their letter that larger units
9 -- the top story allows to have larger units. So these are
10 all three bedrooms.

11 MEMBER HART: Okay, okay. You can continue.

12 MR. SULLIVAN: So the practical difficulties, as
13 I mentioned, one matter of right option loses three units
14 which are otherwise permitted as a matter of right. Or the
15 owner loses a floor, the ability to do the top floor, which
16 it otherwise could have if the first floor wasn't so
17 exceptionally high and if we raze the building. So the owner
18 would lose about 3,300 square feet of possible space. Or --
19 or has the practical difficulty of then having to raze the
20 structure and excavate further in order to realize a matter
21 of right density potential.

22 The Office of Planning mentioned in its report
23 that they don't consider financial -- let's see exactly the
24 wording they used. OP does not generally consider financial
25 impacts in exceptional situations. This Board however does

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1 in many cases, and the Court of Appeals has spoken on that.
2 And we can go into that, but I'm sure the Board is familiar
3 with that.

4 I think the thing that I'd like to leave the Board
5 with when it's talking about the uniqueness and the practical
6 difficulty here is the difference between this situation with
7 a purpose built church in between two very large buildings
8 in a neighborhood with other apartment buildings including
9 the adjacent building to the right and the large apartment
10 buildings a few doors down is that essentially it's not a pop
11 up of a story which is I think what was meant when the Zoning
12 Commission is further restricting the ability to alter the
13 designation of that lower level in order to get an addition.

14 In this case, we're doing that in order to fit in
15 with the community and not to stick out in the community.
16 Regarding the substantial detriment to the public good, the
17 benefits of this are very prominent. The fourth story allows
18 for a more compatible appearance. The fourth story allows
19 for larger units, more family sized units, something that we
20 hear more and more about as being encouraged by this ANC and
21 others. There are five parking spaces, more than required,
22 and the provision of seven new residential units in the
23 neighborhood which is something the ANC was very happy about
24 as well.

25 That's all I have. I'm happy to answer any

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1 questions.

2 BZA CHAIR HILL: Go ahead, Ms. White.

3 MEMBER WHITE: Just one question. These are for
4 larger families, not group housing, correct?

5 MR. SULLIVAN: That's correct. And if we did the
6 matter of right that was four units, that maybe would lend
7 itself to group housing. But these will be three units and
8 they'll be sold as condominiums.

9 MEMBER WHITE: And the adjacent neighbor is
10 supporting?

11 MR. SULLIVAN: The adjacent neighbors, we've
12 knocked on their door. We have not heard from adjacent
13 neighbors. We do have -- we reached out to -- at the
14 suggested of the ANC chair, we reached out to the incoming
15 ANC Commissioner SMD for this neighborhood. And we got an
16 email from him which I can pass out.

17 He says, I knocked on a few doors and asked about
18 both the application and the fence. I had a question about
19 because there's an issue with the vacant building and people
20 come into it. I think, anecdotally speaking, there's
21 widespread support for the project. The requests that you're
22 making are entirely reasonable. And then he goes on to say
23 the fence is another story, but that doesn't have anything
24 to with the application.

25 ZC CHAIRPERSON HOOD: The incoming ANC

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1 Commissioner?

2 MR. SULLIVAN: I understand he's running
3 unopposed.

4 ZC CHAIRPERSON HOOD: Unopposed?

5 MR. SULLIVAN: Yes.

6 ZC CHAIRPERSON HOOD: Oh, okay. And they do
7 write-ins, but anyway. Okay.

8 MR. SULLIVAN: I believe he was a former
9 commissioner as well at one point. And then we do have one
10 letter of support in the -- in the file from somebody that
11 attended the hearing that lived in the neighborhood.

12 BZA CHAIR HILL: All right, great. Thank you, Mr.
13 Sullivan. Mr. Sullivan, you're here a lot, right? So
14 there's a variety of things here. You just used the word
15 "subdivided" and I just went ugh. Okay. I'm going to turn
16 to the Office of Planning.

17 MS. ELLIOT: Good afternoon, Mr. Chairman and
18 members of the Board. I'm Brandice Elliot representing the
19 Office of Planning. Our OP's recommendation is a mixed bag,
20 unfortunately. So I'll start with the good.

21 We are recommending approval of most of the
22 relief, specifically the variance relief from the front
23 setback rules of measurement and also approval of special
24 exception relief to convert this -- to convert the church
25 into a residential building, also for the nonconforming and

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1 new courts, and then also for additions to nonconforming
2 structures. So we're okay with most of it.

3 As the applicant stated, a conversion of a
4 nonresidential building to a residential building can be done
5 matter of right. In this case, there are two provisions that
6 are not complied with which kicks it into the special
7 exception criteria. And I just wanted to clarify that
8 because you sort of glossed over it a bit. Just I did hear
9 a question come -- come up about that.

10 So the two things that this conversion does not
11 comply with is the height. The height is limited to 35 feet.
12 The applicant is requesting 40 feet. And then also a rooftop
13 architectural elements. In this case, the steeple is being
14 removed, so that relief is needed as well. So because those
15 two things are not complied with, this kicks it into special
16 exception criteria just to clarify.

17 So if there are no questions about the things that
18 we were recommending approval of, I'll go ahead and skip to
19 the variance. OP is recommending denial of the variance for
20 the number of stories. It's something that we do get to in
21 the report is that the height -- the proposed height of 40
22 feet is okay. But it's the number of stories that's causing
23 us to issues.

24 I kind of disagree with the applicant a little bit
25 that OP did not consider context. The variance criteria is

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1 a three-part test, the first part being that of practical
2 difficulty. In this case, OP didn't receive anything from
3 the applicant that we thought rose to the level of a
4 practical difficulty.

5 A lot of -- a lot of the information that was
6 presented was related to context, but that comes later in the
7 analysis. We think it fits better under a substantial
8 detriment to the public good. So that's where our analysis
9 relating to context is located. So we didn't find that that
10 is actually something that results in a practical difficulty.

11 There was also mention of financial impact.
12 That's something that was -- was mentioned in the statement.
13 But no details were really provided. OP doesn't generally
14 consider that an impact. And the applicant is correct the
15 Board has in certain cases. But I think that if -- if the
16 Board wants to go down that road, it would generally request
17 a lot more information from the applicant in demonstrating
18 that.

19 So the second part of the test is --

20 BZA CHAIR HILL: In demonstrating what again?

21 MS. ELLIOT: In demonstrating that there is a
22 financial -- a financial impact that's resulting in the
23 practical difficulty.

24 So the second part of the test is will it cause
25 substantial detriment to the public good. And this is a part

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1 of OP's report where we actually find that this project is
2 compatible with the neighborhood. It maintains the
3 character. We really have no issues with the fourth floor
4 as it relates to the second prong of the test.

5 But the third part of the test is also an issue
6 where it would cause harm to the zoning regulations. This
7 is an issue that was actually discussed by the Zoning
8 Commission when they were doing the zoning regulation review,
9 going through that process. And there was some discussion
10 about removing the requirement for a number of stories from
11 this particular zone. And ultimately, the Zoning Commission
12 decided that they wanted to maintain the number of stories
13 because it provides an appearance of a less intense and dense
14 zone which is what they were trying to achieve in the RF-1
15 zone.

16 So when we look at the intent of the zoning
17 regulations, providing a fourth floor does create a more
18 dense appearance. And so we find the -- you know, the --
19 the request for the fourth floor is contrary to what the
20 zoning regulations intended.

21 So I think I'm going to go ahead and leave it
22 there. But I'm happy to answer your questions.

23 BZA CHAIR HILL: Okay. Does the Board have any
24 questions for the Office of Planning?

25 MEMBER HART: Yes, I do actually. Ms. Elliot, I

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1 guess a part of this is a little bit strange in that the
2 image that we have on the screen just before us, we have the
3 existing buildings which are next door and give or take the
4 actual project itself. But those existing buildings are
5 greater than 40 feet. They are three stories, or at least
6 maybe they're three with a basement or a cellar.

7 So it seems a little bit -- and I was trying to
8 figure out whether the 35-foot mark would've been because it
9 would've been fairly short compared to these buildings. So
10 the part that I was just trying to -- and I was struggling
11 with was, well, how does -- what would be the end design
12 would -- if you just looked at the building envelope where
13 the building could actually be placed or where a building
14 could be placed, it would be fairly much shorter than the
15 existing buildings that are there which seems as though it's
16 not something that we necessarily want to do.

17 So I don't know. I just seems like the underlying
18 zoning in this case may not be the right fit for this
19 particular area. I don't know. Just I know that it's not
20 something that you may not want to opine on. Maybe if
21 Commissioner Hood, sorry to bring you into this. But just
22 the question on the actual height of the building -- of the
23 existing building seems that it would almost necessitate
24 something that's as high at this site. I don't know if you
25 have any thoughts on that, though.

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1 ZC CHAIRPERSON HOOD: Do you want me sit there
2 next to Mr. Sullivan?

3 MEMBER HART: Sorry.

4 ZC CHAIRPERSON HOOD: When I heard Ms. Elliot --
5 and I want to make sure that Ms. Elliot knows I call her Ms.
6 Elliot. When I heard Ms. Elliot mention it, I was sitting
7 here looking, why did we do that. We had so much, and I was
8 trying to remember why we did that. And I was sitting her
9 pondering to myself. Since you spotlighted me, I was
10 sitting, I was pondering to myself, now, why did we do that?
11 I don't know.

12 I heard Ms. Elliot's rationale behind it. I do
13 remember something that makes sense. But I still want to
14 know why we did that. But I guess maybe I have to look at
15 the legislative history on that because I don't remember all
16 that.

17 MEMBER HART: Yes, I didn't mean to put the
18 spotlight on you.

19 ZC CHAIRPERSON HOOD: It's all right. It's been
20 there before.

21 MEMBER HART: But it just was a kind of a curious
22 -- it'd be one things if this were looking at higher than the
23 buildings that were next to it. But the buildings themselves
24 seem to be much -- the existing building seemed to be much
25 higher than what is even allowed under zoning. So I don't

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1 know. Like I said, it's not really question. It was more
2 of a statement and I'm just trying to figure out how to
3 rectify that with what the applicant is proposing. I'm done.

4 BZA CHAIR HILL: Ms. White? I mean, Ms. John.

5 MEMBER JOHN: Mr. Chairman. Just a quick
6 question, Ms. Elliot. So how did you get to the rationale
7 for approving or recommending that the height could be
8 increased?

9 MS. ELLIOT: The 40 feet is by special exception,
10 so the criteria is a little bit different. But generally,
11 we feel that 40 feet is within the -- it fits in within the
12 context of the neighborhood.

13 There are different building forms on this street.
14 There are further to the south on Holmead two -- I guess two
15 and a half story row homes. It's, like, two stories with a
16 basement or cellar. And -- and it sort of tapers up to the
17 three and a half story and then goes up to the five story --
18 I think it's a five story apartment building to the north.
19 So, you know, within the context, we felt that the 40 feet
20 was -- you know, it fit in with what's already there.

21 As -- as to Board Member Hart's question, I think
22 if this is an issue of zoning, that's a question for a
23 different board that the applicant could, you know, work to
24 persuade. But there are a lot of nonconformities along this
25 block as well. I mean, a lot of this stuff has been up for

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1 a long time. The by right height has changed in the R-4
2 zone. The allowance for apartment homes, it's a little bit
3 different. So it's -- it's kind of a -- it's a different
4 block in terms of building form.

5 ZC CHAIRPERSON HOOD: Ms. Elliot, since the Vice
6 Chair called me out, I'm just curious. Is this one of those
7 incidents as we know in the past that has been like an
8 unintended consequence? Would this fall into that category?

9 MS. ELLIOT: Well, I have to be careful about that
10 because I wasn't --

11 ZC CHAIRPERSON HOOD: Okay.

12 MS. ELLIOT: -- part of the -- the discussions
13 with the Zoning Commission. There -- there are, you know --
14 I think that the -- the question of -- of whether -- I -- I
15 don't know if, like, the specific situation would have been
16 addressed by the Zoning Commission when they were having that
17 discussion.

18 ZC CHAIRPERSON HOOD: Right. I don't think it
19 would've been. Okay. Thank you.

20 BZA CHAIR HILL: Okay. Anybody else for the
21 Office of Planning? Okay. Does the applicant have any
22 questions for the Office of Planning?

23 MR. SULLIVAN: No, Your Honor.

24 BZA CHAIR HILL: Okay. All right. Anyone here
25 wishing to speak in support? Anyone here wishing to speak

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1 in opposition? Come on down. You're the next contestant.
2 Do you have enough for everybody? Okay. You can just hand
3 it to the secretary. Price is Right used to be one of my
4 favorite shows. Oh, the mic is on.

5 You can sit anywhere you like. So you can sit
6 there. It doesn't matter. Oh, we need one more back. Thank
7 you. Okay. Were you sworn in earlier? Okay, great. If you
8 could just go and give us your name for the record.

9 MR. JORDAN: My name is William Jordan.

10 BZA CHAIR HILL: And where do you live, Mr.
11 Jordan?

12 MR. JORDAN: I live at 1337 Newton Street. I live
13 directly across the street from the project.

14 BZA CHAIR HILL: Okay. All right. So Mr. Jordan
15 -- there's been a lot of Jordans here today. So Mr. Jordan,
16 I'm going to go ahead and put three minutes on the clock
17 there for you. And as soon as I get it, and the clock -- is
18 there in front of you guys actually, also a clock? And then
19 you can begin whenever you like, Mr. Jordan.

20 MR. JORDAN: Okay. My name is William Jordan, a
21 resident of 1337 Newton Street. My wife, children, and I
22 have lived in this address since 1990. Our home is a two
23 story in row house located directly across the street from
24 3423 Holmead within 200 feet. The front door of 3423 faces
25 the east side of our home.

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1 My wife and I are opposed to granting this special
2 exception allowing the proposed building of a four story
3 apartment house in our row house neighborhood. The proposed
4 project will not only be an apartment house but one that will
5 include an active front yard -- courtyard and roof deck which
6 would directly face our home, projecting noise practically
7 24-7 in summer months. I just put a few things from, I
8 guess, an amateur take on zoning --

9 BZA CHAIR HILL: You did a good job.

10 MR. JORDAN: -- that the special exception should
11 not be used to try to do something that's prohibited. And
12 an apartment house would not be permitted if you wanted to
13 build one in our zone.

14 Further, the comprehensive plan makes it clear
15 that apartment houses in row house zones are to be
16 discouraged and made some references there. And I won't read
17 them all unless you want me to. So again, I pose the special
18 exception and I'll use my balance to address some of the
19 things that I've heard earlier.

20 So if you look west of the building, everything
21 is two story row houses. The only exceptions are the pop ups
22 that people did. When the pop ups occurred, that was one of
23 the reasons that we worked to get the zoning changed so that
24 we could avoid pop ups.

25 But the reason for avoiding pop ups wasn't just

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1 because we didn't like pop ups but because we were trying to
2 prevent the creation of taking single family row houses and
3 turning that area into mini apartment buildings and the
4 stress and traffic and the dynamics that occurs when you take
5 a row house neighborhood and basically turn every row house
6 into a mini apartment building.

7 And so that was the reason for the -- some of the
8 zone because I worked on that. I also worked on trying to
9 get us to the zoning to help create a row house conservation
10 concept so that we could better manage these kind of things
11 because we saw this dynamic occurring earlier. So this is --
12 this is some of the background. So it's hard to see from
13 there because they're just looking at their row. But there
14 are many, many rows just across the street, and all of them
15 are two story row houses.

16 BZA CHAIR HILL: Okay. Thank you, Mr. Jordan.
17 Does the Board have any questions for the witness?

18 MEMBER WHITE: The only question I had is I
19 wondered if you could point to your building.

20 MR. JORDAN: Yes.

21 MEMBER WHITE: Using this screen, you can touch
22 it.

23 MR. JORDAN: Okay.

24 MEMBER WHITE: Or just --

25 MR. JORDAN: So you have --

1 MEMBER WHITE: -- I can see it.

2 MR. JORDAN: Who has the mouse? So that's it, I
3 believe. Yes, that's it. That's it. The one right behind
4 the subject property, so it's hard to see. But that's my
5 home.

6 MEMBER WHITE: Okay. Thank you.

7 BZA CHAIR HILL: Okay. Anyone else? Okay. Does
8 the applicant have any questions for the witness?

9 MR. SULLIVAN: No, thank you.

10 BZA CHAIR HILL: Okay. All right, Mr. Jordan.
11 Thank you so much.

12 MR. JORDAN: I don't get ask questions?

13 BZA CHAIR HILL: No, you're just a witness, sir.
14 If you could turn off that microphone also. Thank you.
15 Okay. Yes, so back to the applicant here. Does the Board
16 have any questions for the applicant?

17 MEMBER JOHN: Mr. Sullivan, I'm still struggling
18 with the variance test. And it seems to me that the variance
19 is only necessary because of the intended use of the
20 property. And there is just so much case law that says the
21 Board can't really look at the intended use but has to look
22 at the particular condition, you know, exceptional condition
23 affecting the property. So I'm having a bit of a difficulty
24 getting to that variance test.

25 Maybe you can help to clarify what your argument

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1 is, because I don't see any economic -- that goes to the
2 practical difficulty part. But that's also not in the
3 record. But I just cannot get to saying that there's an
4 exceptional condition affecting the property and that the
5 factors that you have called out are persuasive. So maybe
6 I didn't really understand.

7 MR. SULLIVAN: Okay. Thank you. The exceptional
8 conditions I'm relying on are not related to the intended use
9 but the existing condition of the building as a purpose built
10 church in the RF-1 zone with an existing first floor level
11 that's already six or seven feet or more above ground,
12 therefore making it impossible to use that lower level
13 without counting it as a story, without razing the building.

14 So I'm not -- and that situation allows us to
15 convert --

16 BZA CHAIR HILL: You mean raze as in demolish?

17 MR. SULLIVAN: Correct, yes, right.

18 BZA CHAIR HILL: As opposed to -- I was trying to
19 figure out how you are raising a building. Okay, sorry.

20 MR. SULLIVAN: And so -- so I'm not really relying
21 on the intended use. The intended use is a function of the
22 practical difficulty I think just like it is in any case.
23 If I had a vacant lot that was a substandard lot, I can
24 always do nothing. I can always -- you know, the answer
25 could be my practical difficulty is I can't do what's

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1 otherwise permissible under the regulations.

2 And in this case, what's otherwise permissible is
3 seven units normally on four living levels, that being a
4 three plus one that doesn't count. And that's -- that's --
5 that's why we're using the context of the neighborhood
6 because they -- they realize that standard situation. If
7 somebody was maximizing their development rights, they would
8 have a lower level. And if we did it new, if we demolish the
9 building, we would do that as well. There would be four
10 levels.

11 So that's, I think, the difference with the
12 exceptional condition. The practical difficulty I think is
13 related both to the design. We would be forced to have a
14 building, if we do the seven units, which is the highest and
15 best use for this property because of its existing condition
16 which is unique, of course.

17 It's a function of design, building a building
18 that's a lot less attractive because it sticks now between --
19 in a canyon, in a sense, between these two much taller
20 buildings and because we actually lose a flow that we could
21 otherwise use. We're either at 3,300 square feet or if we
22 went the other matter of right option, we would have the
23 practical difficulty of demolishing the building and
24 excavating further and then losing three units which are
25 otherwise permissible.

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1 So that's -- that's what I'm pointing to as the
2 practical difficulty of losing development rights which we
3 would otherwise have but for the fact that this building is
4 uniquely positioned so that we can't have the fourth level
5 counted as a story.

6 MEMBER JOHN: So essentially, other folks could
7 come in and say, oh, I have this church I just bought. And
8 so I cannot count the basement -- or I have to count the
9 basement. So I can't get enough floors. And so I think
10 we're sort of on a slippery slope, and you're really close
11 to the line. And so that's just my two thoughts. I'd be
12 interested in hearing what other people think.

13 MR. SULLIVAN: Can I respond to that or should I
14 wait until there's other comments?

15 BZA CHAIR HILL: Are there any other comments?

16 MEMBER HART: Yes, actually, I do and it was just
17 a question. What is being demolished exactly of the existing
18 church?

19 MR. SABOURI: The change to this existing
20 elevation that you see is the church roof, the front canopy,
21 that grand stair that they had it for the church, and that's
22 all. That's the alteration. We try also to keep almost,
23 like, two-thirds or more of the existing walls of the church
24 incorporated in the new building. Therefore, it would not
25 be an absolutely brand-new building. But it's more -- more

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1 or less the same configuration except for the height.

2 MEMBER HART: So you're taking down the -- you're
3 just removing the roof or actually are you -- I mean, because
4 currently it's a pitched roof. So are you taking it down to
5 the roof or the pitch part as well?

6 MR. SABOURI: If you see the new design that I
7 tried to incorporate as much as possible of the existing
8 exterior wall by adding some and punching some windows to
9 give the appearance of the residential building. If you see
10 that area, almost like two-thirds of the front elevation will
11 be left over of the church with some alteration.

12 MEMBER HART: So right now, we have this part
13 which is the existing church, right?

14 MR. SABOURI: Yes.

15 MEMBER HART: There's also a part that does this.
16 So you're moving the triangular part of it?

17 MR. SABOURI: Of course.

18 MEMBER HART: And so you're -- well, it's not "of
19 course". I don't know. That's why I'm asking.

20 MR. SABOURI: Yes.

21 MEMBER HART: It's hard to kind of gauge what it
22 is that you're doing. And like I said, it's hard to kind of
23 see that because the drawings don't actually show what that
24 is. I'm only asking because I'm trying to figure out how
25 much you are retaining of the existing building to then say

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1 that you're having to rely on what you have as part of that
2 walls and floor to deal with.

3 MR. SABOURI: From floor plan, we almost kept 90
4 percent, floor plan-wise, horizontally. But once we go to
5 the vertical, almost like 50 percent or more of the existing
6 church walls will remain. Including those removal are the
7 roof, the church roof, which we cannot use it in any way.
8 And also you see the only addition we try to add which to
9 improve that one is that eight feet gap that we have in our
10 building on the other side. Otherwise, a footprint of the
11 existing church will be intact.

12 MEMBER HART: And you're also removing the
13 southern wall?

14 MR. SABOURI: Which one?

15 MEMBER HART: The southern wall, are you
16 maintaining that?

17 MR. SABOURI: It's --

18 MEMBER HART: The eight foot addition that has to
19 attach to the --

20 MR. SABOURI: We kept that one, even in design.
21 That's why I try and explain the plan. We kept almost like
22 most of that wall. Therefore, for practical reason, since
23 we kept the so-called first level, the street level. And the
24 wall that is supporting that one is all retained. Even in
25 our design, if you see those thicker walls.

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1 MEMBER HART: Okay. That's fine. And with regard
2 to the -- Mr. Sullivan, do you have any information regarding
3 what the financial hardship would be for having to go to the
4 by right seven -- whatever four units that are -- or whatever
5 how many units are that are smaller versus what you're
6 proposing now? Because currently, we don't really have --
7 at least I didn't see that.

8 MR. SULLIVAN: No, I was relying on just more of
9 the obvious argument about it. But we'd be happy to submit
10 that. And it might -- it might also take some -- some
11 information from a real estate agent to talk about the
12 marketability of -- of very large units as well.

13 MEMBER HART: And it'd be helpful to have that
14 because what may be obvious to you may not be obvious to
15 everyone else. And also, the obvious part doesn't mean that
16 it's also in the record. And so when we are looking at
17 whatever the order is for it, we have to rely on something
18 to be able to say, this is how we kind of got to this
19 discussion.

20 Added to the fact that the Office of Planning
21 actually brought up this particular issue. I think it's
22 helpful for us to delve into and receive the information
23 that's part of the record so that we can then make our
24 determination on that.

25 BZA CHAIR HILL: Okay. Ms. White?

1 MEMBER WHITE: No, I was just going to concur with
2 Vice Chair Hart that I think having the financial impacts
3 would be very helpful in framing the discussion regarding the
4 criteria for the variance for the height relief. So I agree.

5 BZA CHAIR HILL: Okay. The only question I have,
6 I guess, Mr. Sullivan, because I can't remember. If this
7 were to get denied, then you guys couldn't come back for a
8 year. But it'll be a different application if you didn't
9 have the fourth floor height variance thing. So you could
10 come back again within a year.

11 MR. SULLIVAN: We could come back within a year.
12 I believe we can ask for relief from that as well if that was
13 the case.

14 BZA CHAIR HILL: I was just curious.

15 MR. SULLIVAN: And I don't know with timing. That
16 probably wouldn't work, but --

17 BZA CHAIR HILL: So, like, I'm on the side of the
18 Office of Planning right now. So I'm not there. So if they
19 want to give you more time to try to make a better argument,
20 that's fine. But I can't -- I mean, I don't -- I'm having
21 a difficult time just getting there. I understand that,
22 like, you know, I mean, as far as, like, filling it out,
23 like, you could have higher ceilings and you could make it
24 look more appropriate. I mean, you're going to maximize
25 whatever you're going to maximize if you don't get the height

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1 variance. So you'll have higher ceilings. I don't know what
2 you're going to do.

3 Okay. So I've heard economics. Somebody wants
4 to see economic arguments in terms of the variance. Does
5 anyone else need any further information? And then would we
6 just put it on for decision? Okay. I mean, I'm just saying
7 if you guys need any more from the applicant other than the
8 economics argument. Okay. So then when do you think, Mr.
9 Sullivan, you can provide more of an economics argument?

10 MR. SULLIVAN: Within two weeks.

11 BZA CHAIR HILL: Okay. So then if we did that,
12 Mr. Hood, when are you back again?

13 ZC CHAIRPERSON HOOD: I'm not sure. I probably
14 won't be back till first of the year. Yes, so I really won't
15 be back till the first of the year. I will send --

16 BZA CHAIR HILL: Okay. Why? Because we've had
17 you so many times recently?

18 ZC CHAIRPERSON HOOD: I've been here quite a bit.
19 So what I will do, I'll just submit an absentee ballot.

20 BZA CHAIR HILL: Okay. All right. Then Ms. Rose,
21 can I ask you to help me determine the time line?

22 MS. ROSE: If he can have the documents by the
23 29th, you can decide on November 7th. Oh, that's a Monday,
24 the 29th. I was trying to give two weeks.

25 BZA CHAIR HILL: And anyone here back from the

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1 Office of Planning if they had anything further from the
2 economics argument? Okay. So we need a supplemental or at
3 least something saying "aye" or "nay". And so how much time
4 will they need to give that back?

5 MS. ELLIOT: We can turn around a supplemental
6 report, you know, within a week probably.

7 BZA CHAIR HILL: Okay. So what'd you say again,
8 the 29th. I'm sorry.

9 MS. ROSE: Monday the 29th gives about two weeks
10 for the applicant. If you want to go until November 14th,
11 then he would have more time.

12 BZA CHAIR HILL: Mr. Sullivan?

13 MR. SULLIVAN: Whatever the Board --

14 BZA CHAIR HILL: Okay. Then the 29th. Yes, let's
15 do the 29th.

16 MR. SULLIVAN: -- decides, yes, we're fine, yes.

17 BZA CHAIR HILL: And then you get your decision
18 sooner. So then we put it on for --

19 MS. ROSE: So OP will be responding to what the
20 applicant submits?

21 BZA CHAIR HILL: Yes.

22 MS. ROSE: Oh, okay. So let's do November 14th
23 with the applicant's submission I'd say by the 25th. Can you
24 do that? October 25th. And then the OP report November 1st.

25 MR. SULLIVAN: I thought we were responding by the

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1 29th. Yes, we can do that, 25th, yes.

2 MS. ROSE: Okay. Let's see. So October 31st
3 would be your deadline, and then the 7th of November would
4 be the deadline for OP.

5 BZA CHAIR HILL: And then we'd put it on --

6 MS. ROSE: And the meeting would be on the 14th.

7 BZA CHAIR HILL: Okay, great.

8 MR. SULLIVAN: Chair, if I could clarify. I did
9 want to respond.

10 BZA CHAIR HILL: You can respond back, sure, of
11 course, sure.

12 MR. SULLIVAN: Just a few minutes. Or I can do
13 it writing --

14 BZA CHAIR HILL: No, go ahead and do it now.

15 MR. SULLIVAN: -- as part of the submission. You
16 raised a good point about the would somebody come along and
17 say, I have a church at this level. And I think this is a
18 situation where a term that I think it's overused sometimes,
19 confluence of factors comes into play. Because we thought
20 of that and there's a lot of different factors. It's not
21 just that it's a church. It's that, one, it was a purpose
22 built church.

23 One -- the biggest factor here is where it sits
24 between the two buildings that are 40 feet high. And I think
25 what it's coming down to is because the Office of Planning

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1 mentioned a fourth story making it dense. And I think we're
2 speaking general. But they also support the density of this.
3 They support the 40 feet in height. So it's coming down to
4 a technicality as I see it. And it's coming down to a
5 concern about the integrity of the zoning regulations and the
6 precedent. And I could spend more time addressing that in
7 a written submission.

8 I think we have an extremely unique situation that
9 would protect the zoning regulations. I also think the Board
10 considered -- can consider the degree of relief requested as
11 part of the practical difficulty. And that also has an
12 impact on the integrity of the zoning regulations and whether
13 or not a situation like this would come up again.

14 Because we really are, again, by the technicality.
15 And we're not asking for an additional level. We're just
16 saying that that level is further out of the ground. It
17 wouldn't change anything about the density or the size of the
18 building. So that's -- I think that is something the Board
19 can consider as well.

20 (Simultaneous speaking.)

21 MEMBER JOHN: Ms. John is an attorney.

22 MR. SULLIVAN: I know. I know.

23 (Simultaneous speaking.)

24 BZA CHAIR HILL: Technicality was just -- I love
25 it.

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1 MEMBER JOHN: No, no. It's a good argument. I
2 mean, it makes sense. But the regulations are not helping
3 you, and so --

4 MR. SULLIVAN: Well, that's why we're asking for
5 relief from those regulations.

6 MEMBER JOHN: Exactly, exactly. But anyway, thank
7 you.

8 MR. SULLIVAN: Thank you.

9 BZA CHAIR HILL: Okay. All right, Mr. Sullivan.
10 Okay. All right. So thank you very much, and we'll make a
11 decision on that day.

12 (Pause.)

13 BZA CHAIR HILL: Okay. I just discussed with the
14 Board. So at 2 o'clock, we're going to stop. So we'll see
15 what happens, one way or the other. And so Ms. Rose.

16 MS. ROSE: Applicant to the table for Application
17 No. 19835 of Maria Naranjo as amended pursuant to 11 DCMR
18 Subtitle X, Chapter 9 for a special exception under the use
19 provisions of Subtitle U, Section 251.1(b)(3) with the waiver
20 from the sign requirement of Subtitle U, Section 251.4(b) to
21 expand an existing child development home in the R-3 zone at
22 premise 2909 North Capitol Street, Northeast, Square 3500,
23 Lot 37.

24 And Mr. Chair, there's a preliminary matter being
25 raised in this case by Ms. Jones. Would you please come

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1 forward.

2 BZA CHAIR HILL: Okay, great. I think that is Ms.
3 Jones. Okay. Well, let's let everybody introduce themselves
4 first. So Ms. Jones, let's start with you, if you don't
5 mind, from my right to left.

6 MS. JONES: Good afternoon. My name is Ms. Annie
7 Jones. I am one of the family members of the owner, Mr.
8 Perry Jones. And I am an ANC commissioner. So I live right
9 next door to the property that's requesting the expansion,
10 2909.

11 BZA CHAIR HILL: Okay. And your preliminary
12 matter is?

13 MS. JONES: To argue against the expansion.

14 BZA CHAIR HILL: Oh, I thought there was a
15 preliminary matter.

16 MS. ROSE: She indicated she was interested in
17 postponement earlier.

18 BZA CHAIR HILL: Is that not the case anymore?

19 MS. JONES: Yes.

20 BZA CHAIR HILL: Oh, that's not the case anymore?

21 MS. JONES: That is the case.

22 (Simultaneous speaking.)

23 BZA CHAIR HILL: Oh, you're requesting a
24 postponement?

25 MS. JONES: That's correct.

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1 BZA CHAIR HILL: Okay. And the reason why you
2 think we should postpone is why?

3 MS. JONES: Well, because it was later received
4 to me. And so I felt that if I could reschedule and ask to
5 come back and then I'll have my statement and argument and
6 I can present it to the Board.

7 BZA CHAIR HILL: When you say, later presented to
8 you, what do you --

9 MS. JONES: Well --

10 BZA CHAIR HILL: -- mean by that? You didn't get
11 the same time line that everybody else got?

12 MS. JONES: No, I did not.

13 BZA CHAIR HILL: Okay.

14 MS. JONES: And the first time when there was a
15 hearing, there was an ANC commissioner of that particular
16 ward that approved of it along with the recommendation from
17 the --

18 BZA CHAIR HILL: Office of Planning?

19 MS. JONES: -- Office of Planning, yes.

20 BZA CHAIR HILL: Okay. So just to let you know,
21 like, I've never had anybody come forward and ask for a
22 postponement the day of. Okay? So this is kind of I'm
23 trying to see what's going on here and we'll see what the
24 Board has to say as far as a postponement. And so if you
25 could please now introduce yourselves.

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1 MR. GAON: Joe Gaon with the law firm Holland and
2 Knight on behalf of the applicant.

3 MS. NARANJO: Maria Naranjo. My address is 2909
4 North Capitol Street.

5 MR. NARANJO: My name is Luis Naranjo. I'm
6 actually Maria's son, and I work with her -- with her.

7 BZA CHAIR HILL: Okay, great. So Mr. Gaon, I
8 assume you're going to be presenting?

9 MR. GAON: That's correct.

10 BZA CHAIR HILL: Okay. And so do you have an
11 objection to the postponement?

12 MR. GAON: Yes.

13 BZA CHAIR HILL: Okay. And what do you have to
14 say about the postponement?

15 MR. GAON: For one, the Office of Zoning has
16 mailed out the requisite notices. The property has been
17 posted in accordance with the regulations. So I believe that
18 the public has been put on proper notice of the application.
19 We've presented to the Stronghold Civic Association and they
20 provided notice to the neighbors. We presented to the ANC
21 and they have provided notice to the neighbors. And I
22 believe proper notice has been given in this case.

23 BZA CHAIR HILL: Okay. Does the Board have any
24 questions for Ms. Jones in terms of the preliminary matter?

25 MEMBER HART: Just a quick one. Ms. Jones, you

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1 said you did not receive a notice or you received it late.
2 So could you just explain how you got notice?

3 MS. JONES: Well, because my brother, who is the
4 owner of the property, Mr. Perry Jones, he lives right next
5 door. And he's now 80 years old and he was sick.

6 MEMBER HART: Okay.

7 MS. JONES: So he presented it to me just two
8 weeks ago. And he's been back and forth since.

9 MEMBER HART: But you don't -- you said you don't
10 live there?

11 MS. JONES: I don't, but --

12 MEMBER HART: Okay. I thought you said that you
13 live next door. That's the part that I was --

14 MS. JONES: No, my brother and --

15 MEMBER HART: Yes.

16 MS. JONES: -- my daughter lives next door.

17 MEMBER HART: Okay.

18 MS. JONES: And that is our family home, so yes.

19 MEMBER HART: Okay. But did he receive it late?

20 MS. JONES: He did.

21 MEMBER HART: When did he receive the
22 notification?

23 MS. JONES: I think it was, like, near the last
24 of September because there was a hearing with the ANC
25 commissioner was here at that time. Did you all have a

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1 hearing? This is not the first one, correct, if I'm
2 mistaken?

3 BZA CHAIR HILL: This is our first hearing. They
4 presented in front of your ANC.

5 MEMBER HART: Yes, what I was trying to figure out
6 is there is the Office of Zoning actually sends out notices
7 to the people that are within a certain distance from the --
8 200 feet from the site. And so he should've gotten a notice
9 well before.

10 MS. JONES: He did not, and I didn't -- I did not
11 receive anything from him. If he said he's representing the
12 --

13 MEMBER HART: Well, it would actually go to the
14 homeowner. So whoever is actually listed as the legal
15 homeowner --

16 MS. JONES: Right.

17 MEMBER HART: -- should be receiving it.

18 MS. JONES: Okay.

19 MEMBER HART: So if it was your brother, then that
20 would be --

21 MS. JONES: Well --

22 MEMBER HART: -- going directly to him and that
23 he would then have to notify whomever else that was in his --
24 that he thought might be --

25 MS. JONES: I agree with you.

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1 MEMBER HART: So I'm saying that's --

2 MS. JONES: But he didn't receive it. He did not
3 receive it. This is the only letter which came --

4 MEMBER HART: And what is that letter dated?

5 MS. JONES: This letter is dated August the 21st.

6 MEMBER HART: August the 21st?

7 MS. JONES: August the 21st, yes.

8 MEMBER HART: And is there something that said
9 that it was received -- you said September -- late September?

10 MS. JONES: Late September of -- yes, last month.

11 MEMBER HART: So what I'm saying is that August
12 and September are two different months.

13 MS. JONES: It is.

14 MEMBER HART: So it's dated one month --

15 MS. JONES: The letter is dated --

16 MEMBER HART: -- but he received --

17 MEMBER HART: -- for August the 21st, but it
18 gotten to him late. Why? I don't know.

19 BZA CHAIR HILL: Okay. So I don't know where the
20 Board is. I mean, and Ms. Jones has obviously now put forth
21 a request for a postponement. At this point, I don't think
22 there's been enough information to me to postpone. I mean,
23 I'm perfectly happy Ms. Jones testifying in terms of during
24 the normal course of the hearing. I mean, they posted. They
25 went to the ANC. They have letters of support from the

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1 nearby neighbors. And the one date we got is August. I
2 don't know what the Board thinks. I mean, I'm ready to move
3 forward. But what does the Board think?

4 MEMBER JOHN: What is your address? Are you a
5 next door neighbor?

6 MS. JONES: Yes, 2911. They're 2909 and we're
7 2911, right next door.

8 MEMBER JOHN: And how long do you visit your
9 brother?

10 MS. JONES: Well, I mean --

11 MEMBER JOHN: I mean, how often. Not how long,
12 sorry.

13 MS. JONES: Just about every other week because
14 he's been in the hospital back and forth from August till
15 just a week ago.

16 MEMBER JOHN: And did you notice that there was
17 a big sign on the front of the property?

18 MS. JONES: I'm sorry?

19 MEMBER JOHN: Was there a big sign on the property
20 when you visited? Did you --

21 MS. JONES: I didn't notice until, say, I was
22 there on the 15th of September.

23 MEMBER JOHN: All right. Thank you.

24 MS. JONES: Mm-hmm. And that was last month in
25 September.

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1 BZA CHAIR HILL: Mr. Gaon, you had a comment?

2 MR. GAON: I just -- I just would like to comment.

3 I appears like her brother signed this signature in support
4 of the BZA application. It was included as Exhibit A of our
5 pre-hearing submission. His signature is right there and his
6 address is listed as 2911 North Capitol Street, Northeast.

7 BZA CHAIR HILL: Which exhibit are you in, Mr.
8 Gaon?

9 MR. GAON: It is Exhibit 36A of the record.

10 MS. JONES: May I see that?

11 MR. GAON: In one second, ma'am. If you look at
12 the second signature, there's a signature there.

13 BZA CHAIR HILL: I'll need one second.

14 MR. GAON: Sorry.

15 BZA CHAIR HILL: 36A? Okay. Go ahead, Mr. Gaon.

16 MR. GAON: If you look, it's the last name is
17 illegible, but it says Perry. And it says the address 2911
18 North Capitol Street, Northeast. And the signatures in
19 support of the BZA application.

20 ZC CHAIRPERSON HOOD: So I see that, and she said
21 her brother was, what, 80 years old. I've seen this before
22 where people sign things and they're not understand what they
23 signed. This is not the first time, so I don't really give
24 that a whole lot of credence. But I do think we have enough
25 information to move forward.

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1 BZA CHAIR HILL: Okay. So you're voting against
2 postponing?

3 ZC CHAIRPERSON HOOD: Yes.

4 BZA CHAIR HILL: Okay. All right. Is there
5 anybody here voting to postpone? Okay. So --

6 MS. JONES: I have a question if I may ask.

7 BZA CHAIR HILL: Sure, of course.

8 MS. JONES: I would like to see that list that he
9 has.

10 BZA CHAIR HILL: Well, you're welcome to see it
11 there. Mr. Gaon can provide it there. It's in the record
12 as an exhibit. But Ms. Jones, so you'll have an opportunity
13 to come back to the table and testify during the public
14 portion of the meeting.

15 ZC CHAIRPERSON HOOD: But you said you're an ANC
16 commissioner, right?

17 MS. JONES: I am.

18 ZC CHAIRPERSON HOOD: In this area?

19 MS. JONES: In Ward 5, yes.

20 ZC CHAIRPERSON HOOD: But I mean, is this your
21 ANC?

22 MS. JONES: If it's in 5C and 5D.

23 ZC CHAIRPERSON HOOD: See, I'm getting confused.

24 MS. JONES: I am with 5C --

25 ZC CHAIRPERSON HOOD: I'm familiar with ANC

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1 commissioners in 5C.

2 MS. JONES: -- and 5D.

3 ZC CHAIRPERSON HOOD: I know all about the ANCs.
4 And that's one thing. I might not know much, but I know
5 about that. I know all about 5C. So you must be a
6 commissioner in 5D.

7 MS. JONES: 5D and 5C.

8 ZC CHAIRPERSON HOOD: You're a commissioner in
9 both?

10 MS. JONES: Yes.

11 ZC CHAIRPERSON HOOD: Okay. I'll leave it at
12 that. Thank you, Mr. Chairman.

13 MS. JONES: Excuse me. I want to also mention
14 here. I see his signature and someone written in his
15 address. Now, I know his signature. This is --

16 BZA CHAIR HILL: Okay.

17 MS. JONES: -- a copy of Exhibit A.

18 BZA CHAIR HILL: Give me one second, Ms. Jones --
19 or Commissioner Jones.

20 MR. NARANJO: I was the one who wrote the address.
21 He asked me, and I had to explain to him why we was looking
22 for a special exception. He was reluctant to sign the forms
23 because he thought we were asking for something else until
24 I explain to him that what we were actually doing was expand
25 our current daycare from 9 to 12 children and that we would

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1 only be adding a couple to take new children.

2 And that's when he said that he was totally okay
3 with that. Though, I understand how age might play a part
4 on it. I just want to put on the record that I did explain
5 to him what this was about. And I wrote the address because
6 he only signed.

7 BZA CHAIR HILL: Okay. That's fine. Okay. All
8 right. So --

9 MS. JONES: Chairman?

10 BZA CHAIR HILL: Yes?

11 MS. JONES: I visit the area quite a bit. We've
12 been living there at that property since 1970. And what I
13 would like to add is that if, in fact, if he did, I know Ms.
14 Maria. I've seen her, but I've never seen this -- her son.
15 And Mr. Jones had -- well, he's having problem with his
16 vision in his left eye.

17 BZA CHAIR HILL: That's okay. I understand.

18 MS. JONES: So if there was something that
19 explained it to him and he had mixed emotion to do it, he
20 would've contacted me. Because like I said, I've been there
21 from August to now. And he's been back and forth, back and
22 forth in the hospital.

23 BZA CHAIR HILL: Okay.

24 MS. JONES: And so his vision is not too good.
25 I see that his signature is down here. But if it was quite

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1 explanatory to him, you know, he would --

2 BZA CHAIR HILL: Okay, okay.

3 MS. JONES: -- not have signed it.

4 BZA CHAIR HILL: Okay. All right. Well, Ms.
5 Jones as far as we're just trying to figure out is whether
6 we need to postpone because we think that maybe there wasn't
7 enough notice given. And so as far as that, I think no one
8 here on the Board thinks that there wasn't the proper notice
9 given in order for us to postpone. So we're going to move
10 forward with the hearing. And so yes, okay, so we'll come
11 up with the public portion for testimony comes up, we'll ask
12 you back up.

13 MS. JONES: Okay.

14 BZA CHAIR HILL: Thank you. All right, Mr. Gaon.
15 So go ahead if you could walk us through the application and
16 --

17 MR. GAON: Sure.

18 BZA CHAIR HILL: -- what you're trying to achieve
19 and how we should -- how you're meeting the requirements for
20 us to approve this. And I think there was the -- yes, so
21 I'll just start with that. I'm going to put 15 minutes on
22 the clock. If you could, put 15 minutes on the clock there
23 for me, Ms. Rose or somebody. Okay, great. Thank you so
24 much. And you can start whenever you like.

25 MR. GAON: Thank you. Good -- good afternoon.

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1 My name is Joe Gaon. I'm with the law firm of Holland and
2 Knight. I am joined by Maria Naranjo, the applicant and
3 property owner, and her son, Luis. We are here today to
4 request approval for a slight increase in the enrollment of
5 an expanded child development home located at 2909 North
6 Capitol Street, Northeast.

7 The applicant currently operates an expanded child
8 development home for nine students at the property, and the
9 request is merely a request for special exception approval
10 to increase the enrollment by three students. There is no
11 request before the Board to change the size of the building
12 in any way, shape, or form, or expand the actual size of the
13 child development home. We are only here for a request in
14 the increase in the number of students.

15 The Board previously granted similar approval in
16 2012. We are here today because that approval has lapsed.
17 The applicant did not file for the required permits. We're
18 pleased to have the support of the Office of Planning, DDOT,
19 ANC 5E, the Stronghold Civic Association, and neighbors and
20 parents in the vicinity of the property.

21 The applicant has agreed to five conditions. They
22 are outlined on page 1 of the Office of Planning's report.
23 They address hours of operation, number of students, number
24 of staff, parking, and trash pick up. As a result, we
25 believe the record is complete, and we are happy to answer

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1 any questions that you may have.

2 BZA CHAIR HILL: Does anybody have any questions
3 for the applicant? We'll turn it to the Office of Planning.

4 MS. BROWN-ROBERTS: Good afternoon, Mr. Chairman
5 and members of the Board, Maxine Brown-Roberts. I'm from the
6 Office of Planning.

7 As outlined in our report, we think the applicant
8 has met the requirements under Subtitle U, 251.13 and
9 Subtitle U, 251.3. And we -- in the report, we have -- we
10 have addressed all of the requirements and found that the
11 applicant has met all the standards.

12 Regarding the waiver for the signs, the Office of
13 Planning is supportive of the waiver. And I just want to
14 make a correction to our report. Where the requirement is
15 for 144 square inches in area and we mention it in feet. And
16 so that would be a really huge sign, so -- which is not what
17 they're proposing. So I'd just like to make that correction
18 to -- to -- to the -- to the report.

19 Regarding the conditions, the Office of Planning
20 is -- is supportive of the conditions that the applicant has
21 agreed to. And one of the things I also wanted to say is
22 that there hasn't been any changes from the prior approval
23 that the Board went through and -- and that the -- the
24 application is supported by the ANC and the Stronghold Civic
25 Association. And the Office of Planning continues to support

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1 the application.

2 Thank you, Mr. Chairman. And I'm available for
3 questions.

4 BZA CHAIR HILL: Okay. Does the Board have any
5 questions for the Office of Planning? Does the applicant
6 have any questions for the Office of Planning?

7 MR. GAON: No questions.

8 BZA CHAIR HILL: Okay. Is there anyone here
9 wishing to speak in support? Is there anyone here wishing
10 to speak in opposition? If you could please come forward
11 again. I'm sorry. And is there anyone here from this ANC?
12 Okay. If you could -- I don't know when this happens in
13 terms of the record. But if you could introduce yourself one
14 more time.

15 MS. JONES: Yes, my name is Ms. Annie Jones. I
16 am the family member of the owner, Mr. Perry Jones at 2911
17 North Capitol Street, Northeast.

18 BZA CHAIR HILL: Okay. So Ms. Jones, I'm going
19 to put three minutes on the clock for you. It's over -- the
20 two clocks are there on either side. And you can go ahead
21 and begin whenever you like.

22 MS. JONES: Thank you very much, Chairman. As I
23 said --

24 BZA CHAIR HILL: If you want to move that
25 microphone a little bit closer to you.

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1 MS. JONES: As I said, I am the family member's
2 owner. And I visit just about twice in a month, if not every
3 other day. My family has been residing in that address at
4 2911 North Capitol Street, Northeast since 1970. We've been
5 living there for a very long time, and my last visit was
6 there yesterday. Okay.

7 And I just recently met the neighbors that does
8 have a daycare there last year in 2017. And there has been
9 various of residents or leasors that have leased next door.
10 And there has been various of noise, problems. I have no
11 idea when they moved in the neighborhood. But I can say that
12 I had recalled seeing them residing at 2909 North Capitol
13 Street, Northeast back in July of 2017.

14 And Mr. Jones would state that he's had problems
15 with noise versus his enjoyment and quietness. And I
16 questioned him about, you know, had you had any problems with
17 them as a neighbor knowing that they have a daycare next door
18 within the back? And he said, well, yes, it is quite
19 disturbing, you know, sometimes to me. And there were some
20 other problems that he was raising an issue of with the
21 homeowners or with one of the family members there
22 themselves. And if I'm not mistaken, I think it was either
23 the brother or the husband of the owner.

24 And so I said that, you know, I will always tell
25 him, if he had any problem were to contact me because I know

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1 of the area. I raised up, lived there, went to school, and
2 have grown up in the neighborhood of the community. It's a
3 very nice residential area. There is no other homeowners
4 that have any areas to where they have children of a daycare.
5 And if I'm not mistaken, I would like to just add that with
6 them having a daycare, there isn't anyone that is in a
7 neighborhood that have kids that take their children next
8 door to this property.

9 So I say, well, we have problems with noise with
10 the traffic, cars, ambulance, police sirens. And about five
11 or six years ago, there was a zoning meeting to try to have
12 something like a mall across the street from where this area
13 is of the home where we reside at and where I was when I was
14 -- when I was living there. And of course, the neighborhood
15 got together with the civic association, and we all opposed
16 against them having -- which is the reservoir across the
17 street -- to have something like a mall or some type of
18 project to where it could draw more attention to the
19 neighborhood.

20 And considering that, not to say that, you know,
21 he doesn't like children. But he has said that there will
22 be some disturbances and it will prevent his enjoyment of him
23 having more kids to come there because there's already enough
24 noise as it is that is in next door to him.

25 Now on the opposite side, we had some problems

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1 with somebody coming in our yard or cutting down his trees.
2 So we had to go to court in reference to that. And then I
3 think, if I'm not mistaken, I had mentioned it to the family
4 in 2909 would they not cut and cause any disturbances over
5 at the property of Mr. Jones. And so --

6 BZA CHAIR HILL: Okay. Now, Commissioner, I just
7 want you to wrap up. You're over your time.

8 MS. JONES: You gave me three minutes.

9 BZA CHAIR HILL: Yes, and you're about at six.

10 MS. JONES: Okay.

11 BZA CHAIR HILL: No, that's okay. Go ahead and
12 just -- I just want you to kind of conclude.

13 MS. JONES: So, you know, it's to say -- to say
14 that, like, you know, this is a residential home area. And
15 we've never experienced with a daycare. And to have, you
16 know, children and to draw more children to really come in
17 to where there will be an expansion to have a daycare for
18 more kids --

19 BZA CHAIR HILL: Okay.

20 MS. JONES: -- it will be --

21 BZA CHAIR HILL: Okay. Your objection is the
22 noise.

23 MS. JONES: -- unacceptable. It will be
24 unacceptable.

25 BZA CHAIR HILL: Okay. Does anybody have any

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1 questions for the witness?

2 MEMBER WHITE: I guess one question I have --

3 MS. JONES: Yes.

4 MEMBER WHITE: -- is whether or not you ever
5 raised this with any of the ANCs, whether or not Mr. Jones
6 or you ever raised it with the ANC for this particular
7 jurisdiction regarding the application that they're
8 requesting.

9 MS. JONES: Well, first of all, I hadn't gotten
10 a chance to talk with her. And second of all, they see me
11 just about every day, and I don't get a chance to where they
12 could address any concern to me. It's just that my brother
13 has brought certain concerns of attention to me. So I felt
14 that, well, since I, you know, know that he lives there. And
15 like I said, he's 80 years old. We've been there since 1970.
16 This would take away his quietness and enjoyment.

17 It is already, you know, a lot of noise and what
18 have you. And being right next door by the houses are being
19 so close and attached, you can hear everything that goes on
20 sometimes in the walls of the building. Thank you.

21 BZA CHAIR HILL: Mr. Gaon, I just wanted to be
22 clear. The applicants have been there for how long already?

23 MR. NARANJO: Since 2009.

24 BZA CHAIR HILL: Since 2009, and you've been
25 operating with 12 children?

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1 MR. NARANJO: Nine.

2 BZA CHAIR HILL: Nine? Oh, I'm sorry, nine. And
3 you're trying to go up to 12?

4 MR. GAON: That's correct.

5 BZA CHAIR HILL: Okay. So we're talking about an
6 additional three children is what the application is for.
7 Do you understand that, Ms. Jones?

8 MS. JONES: Yes.

9 BZA CHAIR HILL: And then you know that the ANC --
10 they presented before the ANC and the ANC voted eight to zero
11 in support of the additional three children?

12 MS. JONES: Well, like I said, I have not met the
13 ANC that is over there.

14 BZA CHAIR HILL: No, that's okay. I'm just saying
15 you're commissioner so they presented before them.

16 MS. JONES: I understand.

17 BZA CHAIR HILL: And then they did vote and they
18 voted to approve. That's all. I was just kind of pointing
19 out. I don't know if you did know that or not.

20 MS. JONES: No, I did not.

21 BZA CHAIR HILL: Okay. All right. Thank you very
22 much. All right. Mr. Gaon, you got anything you'd like to
23 add at the end?

24 MR. GAON: Nothing further.

25 BZA CHAIR HILL: Okay. Does the Board have any

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1 questions for the applicant?

2 MEMBER WHITE: Just the one question. I mean, she
3 gave some testimony there. So I do -- I mean, I can
4 understand why someone would have concerns with 12 kids next
5 door if they're a senior. So how does this not adversely
6 impact --

7 BZA CHAIR HILL: Sure.

8 MEMBER WHITE: -- Mr. Jones?

9 MR. GAON: I believe that the applicant has a
10 history of operations with nine students. And they have a
11 good track record of operation and that's shown by the
12 community support that we currently have. We've put forth
13 five conditions, and we believe that any additional adverse
14 impact from three children will be mitigated by the five
15 conditions that we've agreed to.

16 MEMBER WHITE: What are the five conditions
17 quickly?

18 MR. GAON: Sure. Hold on. Let me just open it
19 up. Condition No. 1 is enrollment is capped at 12 children
20 ages 15 years or less. There's a maximum of five staff.
21 Hours of operation are Monday through Friday, 7:00 a.m. to
22 6:00 p.m. Drop off hours will only -- drop off will only
23 occur between 7:00 a.m. and 9:00 a.m. and pick up will occur
24 from 3:00 p.m. to 6:00 p.m.

25 We're going to commit to one parking space on site

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1 which will be utilized by one of the staff members and that
2 trash collection for the -- the use will be scheduled at
3 least once a week.

4 MEMBER WHITE: Thank you.

5 BZA CHAIR HILL: Commissioner, you had something
6 you want to add.

7 MS. JONES: Yes, I just had one question that I
8 wanted to ask. How old are these kids that they are --

9 MR. NARANJO: So we currently have children
10 arriving from eight months to no more than three years. So
11 even though the special exception, we never have children
12 going over the age of four years.

13 BZA CHAIR HILL: Okay. All right. Did you get
14 your question answered?

15 MS. JONES: I did.

16 BZA CHAIR HILL: Okay. Thank you. All right.
17 Okay. So has the Board got any other questions? No? Okay.
18 I'm going to close the hearing. Is the Board ready to
19 deliberate? Okay. I can start.

20 It's too bad and disappointing that, like, the
21 next door neighbor -- the immediate next door neighbor, there
22 seems to be some confusion as to how their outreach took
23 place. But I think that the outreach that the applicant has
24 done in terms with presenting before the full ANC and getting
25 their full support with eight to zero to zero vote is

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1 substantial in terms of what the community must think of that
2 property.

3 In addition to that -- and I'm looking at you guys
4 actually. In addition to that, the Office of Planning, their
5 report provided the analysis to how this increase will not
6 be of detriment to the good of the area and also how they're
7 meeting the criteria in order for us to grant this. So I'll
8 be in favor.

9 Does anybody have anything else they'd like to
10 add?

11 MEMBER JOHN: Yes, Mr. Chairman. I don't have a
12 lot to add. I would be in favor of the modest addition of
13 three children. But I would just encourage the applicant to
14 communicate with the neighbor -- the elderly neighbor.
15 Eighty years old is a lot of blessings and see if there's a
16 way to listen to some of his concerns and if there's a way
17 to mitigate them.

18 MR. GAON: Of course.

19 MEMBER JOHN: Thank you.

20 ZC CHAIRPERSON HOOD: So with that, Mr. Chairman,
21 I would move approval of BZA Case No. 19835. I think the
22 record is complete. I think they show from their track
23 record in this record with all the support they have that we
24 move approval of this case and ask for a second.

25 MEMBER HART: Second.

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1 BZA CHAIR HILL: Motion made and seconded. All
2 those in favor, say aye.

3 (Chorus of aye.)

4 BZA CHAIR HILL: All those opposed? The motion
5 passes, Ms. Rose.

6 ZC CHAIRPERSON HOOD: And that motion includes the
7 conditions.

8 BZA CHAIR HILL: Yes, thank you, Chairman Hood.
9 The motion includes all the conditions that were previously
10 read out and as captioned and read by the secretary.

11 MS. ROSE: Staff will record the vote as five to
12 zero to zero to approve the application with Mr. Hood making
13 the motion, seconded by Mr. Hart, with Mr. Hill, Ms. White,
14 and Ms. John in support of the motion.

15 BZA CHAIR HILL: Thank you, Ms. Rose. Thank you
16 all very much. So we're going to actually go to lunch. So
17 it'll be 2:45 that they'll be back. We're going to shoot for
18 2:30 apparently.

19 (Whereupon, the above-entitled matter went off the
20 record at 1:54 p.m. and resumed at 2:37 p.m.)

21 MEMBER HART: Okay. The hearing will come back
22 to order. Ms. Rose, if you could call the next case, please.

23 MS. ROSE: Next case is Application No. 19836 of
24 Kevin Dwyer pursuant to 11 DCMR Subtitle X, Chapter 9 for a
25 special exception under Subtitle E, Section 5007.1 and

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1 Subtitle E, Section 5201 from the alley centerline setback
2 requirements of Subtitle E, Section 5000.3 to replace an
3 existing one story accessory garage structure with a new two-
4 story accessory garage structure in the RF-1 zone at premises
5 325 10th Street, Northeast, Square 963, Lot 53.

6 MEMBER HART: Thank you. Good afternoon. If you
7 could please introduce yourselves. And have you been sworn
8 in earlier?

9 MR. HEISEY: Yes, yes.

10 MEMBER HART: I have to ask. Thank you.

11 MR. HEISEY: Joel Heisey, architect and agent for
12 the owner.

13 MR. DWYER: Kevin Dwyer, owner, 325 10th Street,
14 Northeast.

15 MEMBER HART: So let's see. You're going to give
16 a presentation, Mr. Heisey?

17 MR. HEISEY: This seems fairly straightforward,
18 and you guys are always pretty good about reviewing all the
19 documents. If you want, I can breeze through the photos and
20 --

21 MEMBER HART: If you could --

22 MR. HEISEY: -- documents if you want to.

23 MEMBER HART: -- I think that'd be helpful.

24 MR. HEISEY: Sure.

25 MEMBER HART: Thank you.

1 MR. HEISEY: So would you like me to start, or --

2 MEMBER HART: Oh, yes, please.

3 MR. HEISEY: Oh, okay.

4 MEMBER HART: If you could, I don't know, we'll
5 put ten minutes.

6 MR. HEISEY: Oh, I'm --

7 MEMBER HART: Five minutes.

8 MR. HEISEY: -- looking at two or three.

9 MEMBER HART: Three? Okay.

10 MR. HEISEY: There's no need to drag this out.
11 It seems like a fairly straightforward case. It's a fairly
12 common thing. We're lining up with the existing garages on
13 the alley. The Historic Preservation Board has approved
14 this. The ANC supported it. The Capitol Hill Society, their
15 historic committee and their zoning committee have also
16 supported it. Both adjoining neighbors support the
17 application as well.

18 So just briefly, I'm going to leaf through the
19 photos that were submitted. This is the front of the house.
20 This is the gap between the existing garage and the
21 neighboring garage to the south. The existing garage is the
22 one on the left. It will be razed. It's a wooden structure
23 that is basically falling apart. Historic has already
24 approved the raze application.

25 A view of the backyard, so there is a conforming

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1 backyard. Just another one. This is a garage standing on
2 the far side of the alley looking at the existing garage.
3 This is the alley looking south. Our garage, you can barely
4 see it there, I have it labeled with a red arrow on the left
5 side. The two existing garages which is what we are going
6 to align with. And that's also at the recommendation of the
7 Historic Preservation. They wanted the garages to be in
8 line.

9 The plat, very simple. We are at 61 percent lot
10 coverage which is within the administrator's allowance for
11 marginal error. Plans, very simple, going lot line to lot
12 line, 22 feet -- or 20 feet 6 inches so we can get as large
13 of an interior space. There's a large pickup truck that just
14 barely will fit in there.

15 Second floor is going to be a storage and a
16 workshop. In fact, there's a second floor. Elevations, very
17 basic. It's under 20 feet which is within Historic's
18 guidelines for alley garages. There will be no sidewall
19 windows. Windows facing house and windows facing the alley.
20 And again, these are the side elevations. The dotted line
21 is the profile of the existing garage that is there. The
22 same with here, the dotted lines are the profile of the
23 existing garage.

24 So like I said, that's very straightforward. And
25 there's support from the neighbors and the ANC and everything

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1 else. So if you have any questions, I'd be happy to answer
2 them.

3 MEMBER HART: Thank you very much. Does the Board
4 have any questions?

5 MEMBER WHITE: Just one question. What about the
6 adjacent neighbors? What are they saying?

7 MR. HEISEY: They're both in support. In fact,
8 the --

9 MEMBER WHITE: They're both in support?

10 MR. HEISEY: Yes, in fact, the one was here this
11 morning. But you went very long on some of these. I was
12 hoping --

13 MEMBER WHITE: It happens that way sometimes, yes.

14 MR. HEISEY: -- we'd be out of here by noon today,
15 and we didn't make it.

16 MEMBER WHITE: Okay.

17 MR. HEISEY: He's in support, and the other
18 neighbor, he was not going -- he was trying to be here, but
19 he didn't make it.

20 MEMBER WHITE: Okay. So no privacy or light, air
21 concerns with those --

22 MR. HEISEY: No, none at all.

23 MEMBER WHITE: -- neighbors?

24 MR. HEISEY: No.

25 MEMBER WHITE: Okay. Thank you.

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1 MEMBER HART: Any other questions from the Board?
2 Okay. Let's go to the Office of Planning.

3 MS. VITALE: Good afternoon, members of the Board.
4 Elisa Vitale with the Office of Planning. And we will rest
5 on the record in support of the requested relief from the
6 alley centerline setback requirement. And I'm happy to
7 answer any questions. Thank you.

8 MEMBER HART: Does the Board have any questions
9 for Ms. Vitale? Okay. The Board is really quiet right now.
10 Okay. The afternoon. Does the applicant have any questions
11 for the Office of Planning?

12 MR. HEISEY: No, we like the Office of Planning's
13 --

14 MEMBER HART: You like their recommendation?

15 MR. HEISEY: -- recommendation. I like their
16 recommendation. Thank you.

17 MEMBER HART: Thank you. Okay. So I guess we
18 will move -- and since actually I don't have any questions?
19 Do you have any questions? I have a helper over here. So
20 I'm just making sure. The ANC is not here, correct? Okay.
21 Is there anyone in support of the application? Anyone
22 wishing to speak in opposition to the application? Please
23 come forward. And have you been sworn in?

24 MR. CLAPP: Yes.

25 MEMBER HART: Okay. If you could state your name

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1 and address and then you have three minutes for your --

2 MR. CLAPP: Okay.

3 MEMBER HART: -- comments. And if we could have
4 three minutes, Ms. Rose. You should see it somewhere. There
5 are a couple of clocks here. I think there's one in front
6 of us.

7 MR. CLAPP: Got it.

8 MEMBER HART: And you can start at any time.

9 MR. CLAPP: My name is Doug Clapp. I live at 326
10 11th Street, Northeast. So I am immediately behind Mr.
11 Dwyer's residence across the alley. I appreciate the public
12 process that Mr. Dwyer and his wife has gone through for
13 this, and I do this reluctantly. But I do have privacy
14 concerns and I do take exception with the Office of
15 Planning's logic in this case.

16 There have been two garages that have been rebuilt
17 from the ground on our alley at 320 and 322. Both of those
18 went back to the setback requirement without a special
19 exception. It creates a lot more space which I understand
20 is the purpose of the setback requirement.

21 Furthermore, it's difficult to back a car out of
22 our space. We don't have a garage, but we do have a parking
23 pad in back. And it's difficult to back out as it is. Mr.
24 Dwyer's application is to bring his garage forward to be in
25 line with the others which I understand is part of the

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1 rationale with the Office of Planning. In my mind, if the
2 logic is to create space, then as people replace garages, you
3 move them back sequentially to that offset rather than doing
4 a special exemption for each to keep the line.

5 I recognize for the neighbors to the adjoining,
6 there's not an issue of light or access, whatever the terms
7 are. But for us, there is, especially with a two-story
8 structure. This creates a structure that's with windows
9 looking straight into our backyard. Again, we don't have a
10 garage roof that creates a barrier. It's essentially like
11 a tree stand viewing down into our backyard which takes away
12 privacy. Apparently, there's not an exemption or variance
13 required for two story. But it will have an impact on our
14 light, our view of the westward setting sky as we face the
15 west from our backyard.

16 So I do have concerns about our -- our privacy
17 right into our backyard from the overall project. Again, I
18 do this reluctantly. Everybody tries to expand Capitol Hill
19 homes because there's so little space, and I get that, and
20 across the city. And when the Dwyers added to the back of
21 their house, we had absolutely no issue with that. And if
22 we have money one day, we'll do it as well.

23 But the -- the special exemption from the setback
24 does cause us issues. So thank you.

25 MEMBER HART: I appreciate it. Thank you very

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1 much. If you could hold on for one second, I don't know if
2 the applicant had any questions for Mr. Clapp.

3 MR. HEISEY: Not necessarily questions but I'd
4 like to respond at some point, yes.

5 MEMBER HART: Okay. Thank you very much. So I
6 mean, I'll ask the question about it. Mr. Clapp raised an
7 issue about just I guess it's the current width of the public
8 alley is such that it is a difficult maneuver. And this may
9 make that a little bit more challenging because there'll now
10 be a structure there that wasn't at this location previously.
11 What is your response for that?

12 MR. HEISEY: The change between where the
13 footprint of the existing structure is and the new structure
14 is a difference of about 9 or 12 inches that we're moving it
15 toward the alley. And again, like I said, that's also at the
16 request of the Historic Preservation that they preferred
17 having the garages line up. And also, I mean, it gives a
18 slightly larger backyard by about a foot. But I think the
19 larger driving force was that the garages line up as they
20 typically would in an historic district.

21 MEMBER HART: And with regard to the privacy
22 issue?

23 MR. HEISEY: Right now, there currently is a
24 garage roll up. These are pictures from the rear of 3025
25 10th Street looking out over the existing garage and into the

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1 neighboring house in the back. You'll see there's a fair
2 heavy tree cover there that you can see. And there is -- you
3 can see down -- I don't know if this has -- it doesn't have
4 a pointer. Down on the lower --

5 MEMBER HART: Well, actually, you have -- you can
6 do --

7 MR. HEISEY: Oh, okay. Well, just at the bottom
8 of the squiggle that you put, the opposing garage there does
9 have a roll up garage door.

10 MEMBER HART: You mean this roll up here?

11 MR. HEISEY: Right there.

12 MEMBER HART: Okay.

13 MR. HEISEY: That's a roll up garage door. So you
14 can't look straight in. There is a bit of a -- now, granted,
15 it'll be a story up. But this is a storage space or a
16 workshop. It's not like somebody is living there. There'll
17 mostly just be a storage. There'll be occasionally maybe
18 using it as a workshop.

19 MEMBER HART: And when were these photographs
20 taken?

21 MR. HEISEY: This morning.

22 MEMBER HART: So somewhat recently.

23 MR. HEISEY: Yes.

24 MEMBER HART: But these deciduous trees. They
25 will lose their leaves?

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1 MR. HEISEY: They will.

2 MEMBER HART: Are any of them evergreens?

3 MR. HEISEY: Yes, I don't think so. I think they
4 are deciduous.

5 MEMBER HART: So you may get more --

6 MR. HEISEY: The other point is this taken -- and
7 obviously an estimation, not highly accurate. But from the
8 rear of the garage to the rear of the house on 11th Street
9 is approximately 68 feet difference.

10 MEMBER HART: Yes, I think that the issue that Mr.
11 Clapp raised was not necessarily the distance to the house
12 but the ability to then be able to see into the backyard
13 which is a place that is a space that presumably would be
14 fenced in. You'd have some semblance of privacy which they
15 have now that they may not have.

16 And this is primarily -- from looking at the
17 photographs which I appreciate you providing, this would
18 actually be able to -- you'd be able to see this more in the
19 winter and when there are no leaves on the trees or at least
20 have a clearer view at that point. So there'd be a portion
21 of the year that wouldn't actually have an issue?

22 MR. HEISEY: Exactly. And if you wanted to go up
23 into the storage unit and look out the windows in the
24 neighbor's yard. In fact, this would actually block the view
25 more from the house than it currently is, so --

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1 MEMBER HART: Is there any -- actually, Mr. Dwyer,
2 since you are here, would you have an issue with having some
3 sort of translucent -- is translucent --

4 MR. DWYER: So frosted glass or something?

5 MEMBER HART: Yes, frosted glass or something that
6 would make is so that you wouldn't be able to see out into
7 Mr. Clapp's yard but you would be able to get light in so you
8 would --

9 MR. DWYER: Yes.

10 MEMBER HART: -- have the ability to get light in.

11 MR. DWYER: Yes, I don't think that'd be an issue
12 at. I mean, I can't speak to how I'm going to situate this
13 because it's just a 20 by 20 square. I would not have a
14 problem with that. I would think if I do use it as a
15 workshop and put some of the storage towards that -- you
16 know, towards the eastern side of the building, I would
17 probably want to situate myself so I look into my own
18 backyard.

19 MEMBER HART: Yes.

20 MR. DWYER: And if that makes them feel better
21 about the privacy issue, I can understand that. But to your
22 first question, I wouldn't have a problem with, you know,
23 frosting the glass.

24 MEMBER HART: Because I think that what we may end
25 up doing is we could have possibly a condition that goes

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1 along with this, that because of some of the concerns about
2 the privacy issues that maybe it's some sort of -- and I
3 don't want to be very specific on what --

4 MR. DWYER: No, I understand.

5 MEMBER HART: -- that frosting is. But something
6 that would make light come in but not be able to see how.
7 And I think that maybe help to alleviate some of the concern
8 there. I'm not going to say it's all of them because I'm not
9 a neighbor there.

10 But does anyone else have any other questions?

11 MEMBER WHITE: No, I don't, Mr. Vice Chair. But
12 I think your thought to add the condition to provide privacy
13 in the event that the application is granted would be a
14 reasonable one.

15 MEMBER HART: And since Mr. Clapp is also here,
16 if you could come to the table, I just want to make sure that
17 if this can towards helping the issue that you've raised.

18 MR. CLAPP: Yes, clearly if -- Mr. Dwyer does a
19 lot of work. I appreciate the fact that he likes to work
20 with wood and build cabinets, whatever it is. So I imagine
21 he could be up there. And I appreciate the idea of the
22 privacy. Obviously, it doesn't address the issue of being
23 able to back our car out easily.

24 MEMBER HART: Yes. No, and I understand that and
25 you raising an issue about just the view from kind of -- the

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1 view would be impeded because there's now a structure there
2 which wasn't there previously. So I know that those are some
3 issues that you've also raised. But I'm trying to deal with
4 some of the things that I think that we -- well, I'm just
5 trying to do with what's the application that's before us.
6 So thank you.

7 MR. CLAPP: Thank you.

8 MEMBER HART: So do you have any other comments,
9 Mr. Heisey?

10 MR. HEISEY: No, I think we're okay. A
11 translucent film of some sort of being placed on the window
12 is probably an acceptable option. As far as the backing out
13 of the alley, there is still part of the public -- or the
14 private lot that is available to use for backing cars out.
15 And like I said, it's not a requirement that somebody has
16 their lot available for others. And it is possible. I live
17 in an alley that's ten feet too. It's tight, but it's
18 possible. You can do it. You just have to be very careful.

19 And my neighbors scratch their car on the dog leg
20 corner more than getting out of their garage. But otherwise,
21 no, I think, like I said, there's plenty of neighborhood
22 support. I think we can try to accommodate the neighbor
23 across the alley and hope for your support. Thank you.

24 MEMBER HART: Thank you. Are there any final
25 questions for the applicant? No? Okay. Is the Board ready

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1 to deliberate? Okay. I'm going to close the record and
2 close the hearing. So I can start with this.

3 After reviewing the record and listening to the --
4 hearing the testimony and the presentation by the applicant
5 as well as the Office of Planning report, I would be in
6 support of the application. But also understanding that a
7 neighbor in the rear of the property raised a privacy
8 concern. I think that adding a condition on what type of --
9 having some sort of frosting or something on the glass that
10 is facing the alley for the second floor would be an
11 appropriate response to reduce the -- to improve the -- or
12 to increase the privacy of the neighbor.

13 And I'm not sure what the actual language would
14 be. I don't know how detailed we need to be for that
15 language. And I'm looking at OAG or Office of Zoning staff.

16 MR. HEISEY: I was trying to think of something
17 too, like, an obscuring film or something like that, or
18 translucent or obscuring film.

19 MEMBER HART: Okay. You don't need any more for
20 that? I mean, I think it's fairly simple. I think you
21 understand where we're going with it. So I would be in
22 support of the application, and I didn't know if any other
23 board members had any comments they wanted to make.

24 MEMBER WHITE: Mr. Vice Chair, I concur with your
25 support of the application. I think with the implementation

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1 of the condition for the translucent screen, I could clearly
2 support their application for special exception criteria
3 because we've addressed the privacy issues under Subtitle F,
4 5201.3.

5 MEMBER HART: Ms. John?

6 MEMBER JOHN: Mr. Vice Chair, I have nothing to
7 add. I support the application.

8 MEMBER HART: Thank you. And I would add one
9 point which is the neighbor in the rear did also have a
10 question about the width of the requested relief and that the
11 width of the alley is somewhat of an issue. While I
12 understand that that is an issue, I don't think that this is
13 an unreasonable request that the applicant is making. And
14 I would be, as I said, supportive of the requested relief.

15 While I do understand that there will be some
16 issue about the kind of the turning movement or I guess the
17 accessibility of your particular property, I think that the
18 applicant is trying to do something that has actually a lot
19 of support from various groups, including the HPRB and the
20 Capitol Hill Restoration Society. And I think I would be in
21 support -- actually, I am in support of it. But I did want
22 to make sure that we talk about that particular issue that
23 Mr. Clapp raised.

24 So with that, I don't know. Mr. Chairman Hood,
25 do you have anything?

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1 ZC CHAIRPERSON HOOD: No, I think we covered it
2 all. I don't have anything to add.

3 MEMBER HART: I'd make a motion to approve
4 Application No. 19836 as read and captioned by the secretary
5 and with the condition that the applicant place or use some
6 sort of film to add some privacy for the alley for the
7 windows that look upon the alley. And do I have a second?

8 MEMBER WHITE: Second.

9 MEMBER HART: Hearing a second, all those in
10 favor, say aye.

11 (Chorus of aye.)

12 MEMBER HART: Any opposed? Looks like the motion
13 carries.

14 MS. ROSE: Staff will record the vote as four to
15 zero to one to approve the application with a motion by Mr.
16 Hart, second by Ms. White, with Ms. John and Mr. Hood in
17 support of the motion with the condition as stated.

18 MEMBER HART: Thank you all very much. Thank you.
19 Okay. It looks like we're at our last case, Ms. Rose.

20 MS. ROSE: Yes, that's Application No. 19696 of
21 1001 to 1003 Rhode Island Avenue Northeast LLC pursuant to
22 11 DCMR Subtitle X, Chapter 9 for a special exception under
23 the use restrictions of Subtitle U, Section 421.1 to
24 construct a new 18-unit apartment house in the RA-1 zone at
25 premise 1001 to 1003 Rhode Island Avenue, Northeast, Square

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1 3870, Lots 47 and 46.

2 MEMBER HART: Give you guys a few minutes to get
3 settled.

4 (Pause.)

5 MEMBER HART: So welcome. If you could introduce
6 yourselves. That's okay. You have to --

7 MR. BOGDAN: Chris Bogdan.

8 MEMBER HART: And actually, if you could provide
9 your name and address. And I'm assuming that everyone has
10 been sworn in. Yes? Is that a "yes" or a "no"?

11 MR. BOGDAN: Yes.

12 MEMBER HART: Okay. You should've been sworn in
13 earlier as the secretary here should've sworn you in earlier.
14 So you look like you're confused. Okay. If you have not
15 been sworn in, just stand and the secretary will swear you
16 in right now. It's not a long thing. I just need to make
17 sure that it happens.

18 (Witnesses sworn)

19 MEMBER HART: Thank you. Okay. So now, if you
20 could, state your name and your address. That would be very
21 helpful.

22 MR. BOGDAN: Chris Bogdan, 13907 Esworthy Road,
23 Germantown, Maryland.

24 MR. CAMACHO: Hugo Camacho, 5440 Midship Court,
25 Burke, Virginia on behalf of the applicant, Bogdan Builders.

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1 MS. MAZO: Hi, Samantha Mazo. Good afternoon.
2 The law firm of Cozen O'Connor. I'm here on behalf of the
3 applicant.

4 MR. MARKUS: Rich Markus, architect.

5 MR. MAMANI: Alfredo Mamani on behalf of the
6 applicant, 908 Laredo Road, Silver Spring.

7 MEMBER HART: And that's -- what is your last name
8 again?

9 MR. MAMANI: Mamani, M-A-M-A-N-I.

10 MEMBER HART: Thank you. So I'm assuming Ms.
11 Mazo, you're going to be presenting?

12 MS. MAZO: Yes, I will. And really I think we're
13 here today with a very happy story that has taken quite a
14 long time to get to this point. I am just going to give a
15 very brief overview and I'm going to ask Mr. Hugo Camacho to
16 -- or Mr. Bogdan either to kind of talk through the extensive
17 community outreach and support that we have for this project.
18 I'll also ask Mr. Markus to address some of the design --
19 some of the design of the building.

20 But in sum, we have a project that is supported
21 by all the nearby neighbors. Importantly, one of those
22 neighbors, Ms. Pat Gray, is here today to testify. She has
23 been here since 11:30 this afternoon. I'm really kind of
24 excited to tell her story about closely she's been working
25 with Hugo and Chris in order to get this project to where it

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1 is.

2 You know, just very briefly, the project has had
3 a long time coming. They started these discussions back in
4 the summer or fall of 2017 with some of the neighbors. As
5 Hugo will get into, we've been to the ANC. We went in March
6 to the ANC -- or April, I guess. And the ANC said go talk
7 to the neighbors. The neighbors had concerns. There was a
8 petition in opposition to the project that in the record.

9 There was a very thorough and collaborative
10 discussion with the neighbors in June that's resulted in a
11 redesign of the project which -- including the materials that
12 you show here as well as a design change that was done to
13 respond to the neighbors' concerns in regards to what they
14 perceive as a lack of parking in their neighborhood.

15 And so that's what we're showing here. This is
16 a special exception for the design -- really, a special
17 exception for the apartment house use. We're in the RA-1
18 zone. That zone does not allow new multifamily apartment
19 houses except by special exception as Rich will talk through
20 briefly. What's proposed here satisfies all the zoning
21 requirements in terms of height, massing. There's no
22 deviation that we're asking from a zoning perspective. So
23 that's that.

24 So I will now turn it over to Hugo to very briefly
25 talk about the community outreach that we've done and just

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1 to give the Board an overview. And I guess kind of before
2 I start, are there any specific questions that we can address
3 because we do have -- the record is very full. We have filed
4 this presentation actually I think twice by accident in the
5 record. And so I will be happy to go through the
6 presentation, talk through the project. But if there are any
7 specific questions that we can address to help us hone our
8 presentation, it's been a long day.

9 MEMBER HART: Yes. But no, and I agree. I think
10 that we have actually gotten -- the record is fairly full.
11 And I'm not looking for a detailed 40-slide presentation.
12 If you could just hit some of the highlights and I think the
13 community outreach part is very helpful. So if you could go
14 through that.

15 ZC CHAIRPERSON HOOD: But also, Mr. Chairman, I
16 understand I heard her talk about the ANC. And I know the
17 story about who's the ANC commissioner and all of that. I
18 just want to know why we don't have -- maybe it's in this.
19 But I know what happened with the single member district.
20 I understand all that. This actually is my ANC. I'm just
21 concerned about not having a letter from our ANC, and if you
22 could touch on that. And I would agree with the Vice Chair.
23 Thank you.

24 MS. MAZO: Sure. I'm happy to address that now,
25 or I'll have Hugo or Chris address that. Hugo, why don't you

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1 start off with talking about how there was outreach to the
2 prior SMD, how there was a community meeting with the prior
3 SMD in fall of 2017 and all the times that we have tried to
4 go to the ANC, that we -- those points.

5 MR. CAMACHO: Yes, sure. I attended an SMD
6 meeting in the fall of 2017 with Ms. Regina James.
7 Thereafter as the slide clearly states, we went to an ANC
8 meeting in March of 2018. We tried actually but that meeting
9 was cancelled because of snow. We presented at the April ANC
10 meeting and we were essentially told to talk further with the
11 neighbors.

12 We proceeded to have two meetings where we had our
13 immediate neighbors come through and actually hear their
14 concerns more specifically which were -- which were in order
15 of the parking -- the lack of parking in that area to begin
16 with and also the number of units that were originally
17 proposed.

18 From those two meetings, we came -- we're now
19 putting forth a plan that has -- that has their blessing, if
20 you will. To that effect, we have a petition with 23
21 signatures. Ms. Pat Gray, as Samantha has mentioned, is a
22 neighbor right down the street from us. And she can attest
23 to everything that I just said. I think you should probably
24 explain the ANC piece.

25 MS. MAZO: Sure, and so we went, we presented the

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1 petition and the full case to the ANC 5C on September 19th.
2 At that meeting, no audience members voiced any opposition
3 to the project. We understood when we got there that -- so
4 we were there on the 19th -- that Commissioner Regina James
5 had resigned on just a few days before -- the Saturday
6 before.

7 And at the -- at the meeting, we were told that
8 the ANC could not move forward without an SMD meeting. But
9 they weren't sure what to do since there was no SMD. We --
10 subsequent to that -- but the meeting really -- and I think
11 Ms. Gray can speak to it. The meeting was really very
12 positive. I mean, nobody said anything negative in the
13 meeting, and -- and -- and --

14 ZC CHAIRPERSON HOOD: So let me ask you this. The
15 person who told you, was that Chairperson Jackie Manning --

16 MS. MAZO: Yes sir.

17 ZC CHAIRPERSON HOOD: -- who told you they
18 couldn't move forward without an SMD meeting?

19 MS. MAZO: No, Ms. -- we -- we talked with -- with
20 Chairwoman Manning and she said that she didn't believe it
21 could move forward without an SMD meeting. And we reminded
22 her that there actually had been an SMD meeting over a year
23 ago and that there was some back and forth. But she felt
24 uncertain in terms of moving forward without the SMD.

25 So as a follow up to the September 19th ANC

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1 meeting, Hugo sent numerous emails to Chairwoman Manning
2 asking, can we assist with organizing an SMD meeting? Can
3 we take proactive actions? I have copies of those emails for
4 the record if we want them. I'm not sure what they really
5 add.

6 And unfortunately, there was no response to those
7 emails. She had also mentioned during the ANC meeting that
8 she was going to speak to Mr. Gottlieb Simon who is in the
9 office of the ANC. I actually had a conversation with Mr.
10 Simon maybe a week afterwards in which he had said he had not
11 heard from the chairwoman by that point.

12 But he said to me, well, you know, under the
13 zoning regulations, it's not required that the ANC
14 participate as a party. And I said, well, obviously we want
15 them to participate and we have been presenting them. And
16 he said, but under the zoning regulations, and I do have
17 citations to those that it's not a requirement that the ANC
18 can choose to file as a party but they're not -- they don't
19 have to.

20 So that -- that was kind of his suggestion to me.
21 Following that meeting, we sent another email -- not a
22 meeting, I'm sorry -- that phone call with Mr. Simon, I sent
23 another email. Or I mean, I'm sorry. Hugo sent another
24 email to Chairwoman Manning, again, kind of asking to get on
25 and it's just been we haven't gotten any response. And we --

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1 ZC CHAIRPERSON HOOD: All right. I won't ask you
2 not another question about ANC 5C. So thank you.

3 MS. MAZO: Thank you. With that, are there other
4 questions about the community outreach that we could address?

5 ZC CHAIRPERSON HOOD: Well, let me ask this. What
6 about Mr. Chandler and some of those people who I know that
7 live in that area? Did he also get on board with anybody
8 else?

9 MR. CAMACHO: Sure. Actually, I'm glad you
10 brought him up. Mr. Chandler was the commissioner
11 previously. And as a matter of fact, when we were told to
12 go back to the -- to the community to address more their
13 concerns, Mr. Chandler was actually instrumental in doing
14 that. I've been in -- I spoke to him yesterday actually --
15 I'm sorry, the day before yesterday. And Mr. Chandler was
16 one of those folks who were staunchly opposed to what we were
17 trying to do initially. But his signature is actually in the
18 23 person petition.

19 ZC CHAIRPERSON HOOD: Okay, great.

20 MR. CAMACHO: He actually went out of his way,
21 which I'm very grateful for, along with Ms. Paige and Ms.
22 Gray to gather some of the signatures on our behalf.

23 ZC CHAIRPERSON HOOD: Okay, thank you. Thank you.

24 MEMBER HART: So which exhibit was that again?

25 MS. MAZO: Yes, so that's Exhibit 55A.

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1 MEMBER HART: Thank you.

2 MS. MAZO: And just one thing. Because you've
3 mentioned Mr. Chandler, you know, Hugo, do you want to just
4 provide some information about what Mr. Chandler said the
5 community's concerns were about the neighborhood and about
6 the project as previously proposed?

7 MR. CAMACHO: Yes, in order where there was the
8 issue of parking. The issue of the original plans I believe
9 showed four parking spaces. The -- so the Bryant Street is
10 a one-way street on which people park. And because of its
11 close proximity to the Metro, one of the issues that the
12 neighborhood had has -- has to do with the folks who live
13 outside of that particular area parking because of its
14 proximity to the Metro, leaving their car there and, you
15 know, going about their day. And so the community
16 specifically asked that we could come up with a plan by which
17 we could provide more parking than we were legally required
18 to -- to give.

19 Second was the number of units. Initially, we
20 thought about putting forth a plan -- well, initially, we
21 proposed a 23-unit project which they felt was a little too
22 dense for their liking. And that's how we arrived at the 18
23 and the 14 parking spaces.

24 MS. MAZO: Sorry, and one thing just to follow up
25 on Mr. Chandler is because during the ANC meeting when we

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1 were trying to move forward, actually one of the neighbors,
2 Ms. Paige, was in contact with Mr. Chandler. And he was
3 saying that he supported the project, that he was going to
4 try to contact Ms. Manning during the meeting to allow us to
5 move forward. And that just never -- I mean, I don't know
6 what -- whatever it was, we -- we didn't -- we weren't able
7 to get a vote about that meeting.

8 ZC CHAIRPERSON HOOD: Can we not talk about the
9 ANC no more. That's my ANC, so I'm very disappointed. I
10 will tell you I'm disappointed. But anyway, all right.

11 MEMBER HART: So I do appreciate the testimony so
12 far so we have that understanding. With regard to -- and I
13 understand that there was quite a bit of discussion and there
14 has been quite a bit of discussion to get to the point that
15 we're now. But one of the things that I noticed is that the
16 DDOT report has -- was kind of dated kind of -- it's dated
17 a while ago before any of this change happened.

18 Can you just talk a little bit about what you're
19 -- any discussions that you've had with DDOT or Office of
20 Planning regarding this parking particularly because you're
21 suggesting parking outside of the building restriction line?
22 So this would be in public space, if I'm reading that
23 correctly.

24 MS. MAZO: Yes. No, no, it's not -- well, to --
25 to be clear, it's not in public space. It's within the

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1 property line. But it is outside the BRL, and DDOT has --
2 has oversight over the area within the building restriction
3 line --

4 MEMBER HART: You're right about that.

5 MS. MAZO: -- on the property, and --

6 MEMBER HART: I'm seeing where the property line
7 is now.

8 MS. MAZO: Yes, so I just wanted to clarify that
9 for the record. So in terms of discussions with DDOT, I have
10 not had a discussion with DDOT since we filed our updated
11 plans. My understanding is the staff member who had been at
12 DDOT who was working on this project has left. The agency
13 has gone somewhere else.

14 And -- but we filed copies of all the plans with
15 Anna Chamberlin, the -- the -- the head of the development
16 and review over there. You know, DDOT has not chosen to
17 supplement their report, and I personally have not had a
18 conversation with DDOT since these plans have been filed.

19 MEMBER WHITE: What was the date of that by the
20 way?

21 MS. MAZO: That these plans were filed?

22 MEMBER WHITE: Mm-hmm.

23 MS. MAZO: Hold on. Let me check.

24 MEMBER WHITE: If not, I could look it up.

25 MS. MAZO: So these plans were filed on September

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1 21st, so it would've been three weeks -- the 21 day before
2 this. So yes, we have not had a conversation with DDOT.

3 MEMBER WHITE: Thank you.

4 MS. MAZO: And they have not reached out to us.

5 MEMBER HART: But you said that you have actually
6 sent them the revised --

7 MS. MAZO: No, DDOT -- DDOT is --

8 MEMBER HART: They have that information? It's
9 just their response?

10 MS. MAZO: Yes, DDOT has -- in on all of our
11 certificates of service.

12 MEMBER HART: That's fine.

13 MS. MAZO: Yes. No, I mean, I -- and I -- in
14 fact, yesterday, I made a point because we filed an update
15 into the record with some plans that were updated to address
16 comments from OP. And I made a point to make sure that we
17 didn't have the old staffer on the certificate of service
18 from the filing yesterday to make sure that it wasn't a
19 bounce back, that, you know, it didn't go to a black hole at
20 DDOT. So that if they had an opportunity to respond to the
21 initial plans, to respond to this, to have responded.

22 MEMBER HART: So moving forward, the --

23 MS. MAZO: Sorry. Can I make one comment on DDOT?

24 MEMBER HART: No. Yes, you can. I'm kidding.

25 MS. MAZO: Oh, okay.

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1 MEMBER HART: I just wanted to just make sure I
2 understood something as well, then you can make your comment.
3 So the parking spaces that are here, these spaces, those are
4 the ones that are in the building -- outside of the building
5 restriction line. I don't know if you say outside or inside
6 of it. So what do you see as the process to determine
7 whether or not those spaces can actually happen or can't
8 happen?

9 Because if they can't happen, then I don't know
10 what happens to the community support that you have now. And
11 that's the part that I'm still trying to get to. So I know
12 you had a comment, but if you could do your comment and then
13 if you could have someone respond to that question, I'd
14 appreciate it.

15 MS. MAZO: Well, actually my comment was kind of
16 dovetail off that one. First of all, from a zoning
17 perspective and we're at the BZA. We like dealing with
18 zoning stuff here. We can provide more, actually double the
19 amount of required parking spaces inside the building
20 restriction line. So the number of spaces that are to the
21 right of the building restriction line within the property,
22 yes, is a total of seven or eight spaces.

23 With, I mean, a maximum number of parking space
24 would be required would be five and we would be eligible --
25 due to the proximity to Metro, it would be eligible for the

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1 50 percent reduction. So at most, five. You know, it could
2 easily be three -- two to three parking spaces are required.
3 And all of those can be satisfied.

4 And that's actually one of the tweaks that OP
5 recommended that we have now updated the plans which was the
6 other thing that is required by zoning is a trash enclosure
7 for a building of this size. And OP, you know, advised,
8 said, well, move that inside the building restriction line
9 so that everything that's permitted or required by zoning is
10 -- does not become a headache for DDOT. So that's been done.

11 Then in terms of, you know, you identify those
12 parking spaces that are outside the -- the building
13 restriction line, you know, again, still on the property --
14 within our property line. But it does become subject to the
15 DDOT public space requirements. So there would be a process
16 -- a separate process to go through to present this
17 application would likely go back to the ANC, would go to the
18 neighbors.

19 I mean, Public Space Committee is a public
20 process. And, you know, we would likely have the same amount
21 of neighbor support at the Public Space Committee that we
22 would here. But to allow DDOT and the Public Space Committee
23 to make a decision. So there is a separate process that
24 would address those -- the location of those parking spaces.

25 MR. CAMACHO: Yes, to address your second question

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1 regarding our immediate neighbors, we -- we -- at the meeting
2 the reason why the number of parking spaces increase is
3 actually at their request. They're the ones who said, would
4 you please try to get more spaces, right? Because they
5 understood that we are within our --

6 MEMBER HART: No, no. I understand that part.
7 What I'm trying to understand is right now you're kind of
8 relying on -- we may be okay with and I'm not sure where
9 we're going to be with this. But if we do say yes to this
10 and you all move on, then the public space process, they may
11 -- while they do here -- the people that are saying that they
12 want the parking, they may say no. And if they say no to the
13 additional parking so that you only have five or six spaces
14 left, then I don't know what the --

15 MR. CAMACHO: How it affects our support?

16 MEMBER HART: -- community would -- yes, would --
17 may not be in support of that then. So I'm just trying to
18 understand that.

19 MR. CAMACHO: Yes, no problem. And so what I was
20 trying to say is that we were very up front with our
21 neighbors and telling them, we're going to give it our best
22 shot, right? Regardless of what happens, this is what we can
23 guarantee can get done within the -- I guess, outside of the
24 building restriction line. So they are in full understanding
25 of that and that we're -- just basically, we're going to do

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1 our best to accommodate their request. But they also fully
2 understand that we can't guarantee what public space will
3 settle on finally.

4 MEMBER HART: Okay.

5 MS. MAZO: And sorry. And the other thing just
6 to, you know, kind of complete the circle on that which is
7 that this proposed layout for the parking spaces has a
8 significant amount of landscaping. There's a landscaping
9 kind of zone that's up in the -- I guess upper right-hand
10 corner of the parking lot. That's in light of the number of
11 parking spaces.

12 So if some of the parking spaces were shifted
13 around or changed, it's possible that that area may be used
14 for parking and we may be able to finagle some additional
15 non-zoning required parking spaces into that area -- into the
16 area within the building restriction line. It's just it
17 didn't seem to -- I mean, kind of to move forward with that
18 plan right now didn't seem to make any sense. Since from a
19 zoning perspective, what's being shown here is compliant with
20 the zoning regulations. It's just, you know, trying to get
21 public space on board and whether or not we can.

22 MEMBER HART: Okay. Are there any other questions
23 for the applicant? Okay. I'm going to move to the Office
24 of Planning.

25 MR. JESICK: Thank you, Mr. Vice Chair and members

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1 of the Board. My name is Matt Jesick. The Office of
2 Planning was happy to work with the applicant early on in the
3 process to address some of our initial concerns. And we
4 arrived at this spot where we felt they generally met the
5 criteria of Section 421 which in summary seeks to ensure a
6 development is compatible with the neighborhood.

7 We had just two outstanding issues. One was the
8 dumpster location which was already mentioned. And the
9 latest plans do address that issue. And then also we just
10 noted a couple of inconsistencies between the renderings and
11 the elevation drawings. And those have also been fixed. So
12 those were our two outstanding issues, and we can now
13 recommend approval of the application.

14 Our recommendation is also based on a couple of
15 conditions. The first one just dealing with some of the
16 materials and detailing of the architecture and the second
17 one just saying that we recommend that there be flexibility
18 to alter the plans in response to any comments that may arise
19 from the public space process. Thank you.

20 MEMBER HART: Are there any questions for the
21 Office of Planning? I actually just had one and that is have
22 you had any conversations with DDOT?

23 MR. JESICK: Yes.

24 MEMBER HART: And could you give us any
25 information on how the Public Space Committee would be

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1 viewing this or do you have any insight on that?

2 MR. JESICK: Well, I think it's just simply
3 reflected in their report which is at Exhibit 46 where they
4 didn't have any issues with the overall project. But they
5 would tend to not look favorably upon any parking or fencing
6 or anything of that nature within the BRL area.

7 MEMBER HART: Which is kind of counter to where
8 we are now. So that's what I was trying to kind of get to.
9 And so that's fine. Any other questions for the Office of
10 Planning? Okay.

11 MEMBER WHITE: I did have a question just in terms
12 of issues. So my issue is that I'm not comfortable without
13 having formal weigh in from the Public Space Committee before
14 supporting the application. So unless you have some other
15 thoughts in that regard, that's what I'm stuck on now.

16 MEMBER HART: Yes, I think typically we don't
17 actually hear from public space. It kind of comes to us and
18 then it goes to public space at a later time. So while I
19 understand that, I'm not sure if that's going to -- I don't
20 think that's going to happen in this case. So we're going
21 to have to try to address this now and have the Public Space
22 Committee address their issues that they have as well. You
23 don't have any questions for the --

24 MEMBER WHITE: No.

25 MEMBER HART: Does the applicant have any

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1 questions for the Office of Planning?

2 MS. MAZO: Yes, just very briefly. Mr. Jesick,
3 the public space, those are DDOT regulations, correct?

4 MR. JESICK: That's correct.

5 MS. MAZO: And they are not zoning specific
6 regulations?

7 MR. JESICK: That's correct.

8 MS. MAZO: And also typically, I mean, to -- to --
9 to Ms. White's comment, typically in these types of projects,
10 these projects will come to get the approvals for the
11 building itself before they would go through the Public Space
12 Committee process. Is that generally how you see it?

13 MR. JESICK: Generally, applications would go to
14 the BZA first and then proceed forward to public space for
15 those approvals.

16 MS. MAZO: I mean, also generally, the BZA and the
17 Public Space Committee are two separate parallel tracks,
18 right? One doesn't -- one doesn't impact the other, correct?

19 MR. JESICK: Under Section 421, given the breadth
20 of the review criteria, I would not want to advise the Board
21 on how to limit its scope of review.

22 MS. MAZO: Okay. But on that point, you do
23 identify that there is a DDOT report in the record that, you
24 know, recommends -- that has -- that doesn't cite to any
25 objection. So 421, the requirements of 421 in terms of

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1 outreach to DDOT and response from DDOT have been satisfied
2 in this case, correct?

3 MR. JESICK: That's correct. And the DDOT report
4 I believe states no objection to the special exception.

5 ZC CHAIRPERSON HOOD: Let me just do a follow-up
6 question. I think, though, if they -- when it gets to public
7 space, if it's a substantive change which affects our
8 decision making, I think it has to return back to us,
9 correct? I was actually asking him. I already know the
10 answer, but I just wanted --

11 MR. JESICK: Correct.

12 ZC CHAIRPERSON HOOD: Okay. Thank you. I
13 appreciate your answer as well.

14 MEMBER HART: Okay. Do we have anybody -- no
15 other questions for the applicant? Okay. Do we have anyone
16 here from the ANC? Anyone here wishing to speak in
17 opposition? Yes sir. And if you -- yes, if you could
18 introduce yourself and give us your name and address.

19 MR. VAN BUREN: My name is Wayne Van Buren. I
20 live at 1009 Rhode Island Avenue, Northeast.

21 MEMBER HART: Okay. Welcome, Mr. Van Buren. I
22 think you've been here for a little while today. Oh, you've
23 been here for a long while. Thank you for waiting patiently
24 for this. You will have three minutes to give your comments.
25 And there should be a clock, I think, in front of you. It

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1 won't take that long? Thank you.

2 MR. VAN BUREN: It's just Bryant Street is a one-
3 way street. It doesn't have enough parking. It does have
4 parking restrictions for two hours. It's still crowded.
5 There's not enough parking. And those little bit of parking
6 spaces, they're not going to hold 18 condominiums. It's just
7 not enough parking there. Already that's not enough parking.

8 MEMBER HART: And you're just saying that that's
9 going to be -- this is going to exacerbate a problem that you
10 already have?

11 MR. VAN BUREN: Definitely, definitely.

12 MEMBER HART: This is going to make it worse?

13 MR. VAN BUREN: Yes, there's not enough parking
14 now. And they put this up, there's definitely not going to
15 be enough parking.

16 MEMBER HART: And are you aware that the applicant
17 actually is providing more parking than they are required
18 under -- I understand what you're saying.

19 MR. VAN BUREN: I've already seen this drawing.

20 MEMBER HART: No, no. I'm saying --

21 MR. VAN BUREN: I saw it last time.

22 MEMBER HART: -- are you aware that under zoning
23 regulations, they're actually providing more parking than
24 they are required to be under our zoning regulations?

25 MR. VAN BUREN: Okay. Still not enough parking.

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1 MEMBER HART: No, that's fine. I understand your
2 point. I just wanted to make sure that you were aware of
3 that. That's all.

4 MR. VAN BUREN: I heard.

5 MEMBER HART: Okay. Thank you. We hear each
6 other. Are there any questions for Mr. Van Buren?

7 MS. MAZO: No, no questions from the applicant.

8 MEMBER HART: Okay. Does the --

9 ZC CHAIRPERSON HOOD: So let me just ask Mr. Van
10 Buren --

11 MEMBER HART: Go right ahead.

12 ZC CHAIRPERSON HOOD: -- a question. Mr. Van
13 Buren, I believe you probably been around long enough to
14 weigh in on the Isle Baptist Church project as well, right?
15 What was your position when that happened?

16 MR. VAN BUREN: I didn't have a position on that
17 project. I didn't really object to it. It's only when they
18 put up the health center that people that --

19 ZC CHAIRPERSON HOOD: Right.

20 MR. VAN BUREN: -- go to the health center --

21 ZC CHAIRPERSON HOOD: Right.

22 MR. VAN BUREN: -- come down and park on -- on
23 Bryant Street.

24 ZC CHAIRPERSON HOOD: So that was a parking issue
25 too then, if I recall.

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1 MR. VAN BUREN: I didn't have an issue with it at
2 the time because they had a big parking lot. But people who
3 go to the church park down there on Bryant Street which it's
4 too late to do anything about it now.

5 ZC CHAIRPERSON HOOD: Okay, yes. I'm just
6 wondering how that worked out because I hadn't heard. I knew
7 then when that case came in front of this Board, even though
8 I didn't actually sit on it. I knew then. I've heard there
9 was concerns in the neighborhood. And obviously I hadn't
10 heard any more. So that must have worked out, so I was
11 wondering if you think this would work out as well.

12 MR. VAN BUREN: No, I mean, it was crowded. I
13 didn't have an issue with the parking because they had a
14 large parking lot.

15 ZC CHAIRPERSON HOOD: Right, I understand.

16 MR. VAN BUREN: I didn't know people were going
17 to park on Bryant Street. And there's actually a stairway
18 that goes down to Bryant Street from the parking lot. So
19 it's easy for them to park there.

20 ZC CHAIRPERSON HOOD: Right, okay, okay. So
21 again, you're in opposition to this project?

22 MR. VAN BUREN: To this project?

23 ZC CHAIRPERSON HOOD: Yes.

24 MR. VAN BUREN: Yes.

25 ZC CHAIRPERSON HOOD: Okay. All right. Thank

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1 you.

2 MEMBER HART: Thank you. Any other questions for
3 Mr. Van Buren? Okay. Thank you very much, sir. And thank
4 you for waiting around all day.

5 o as I would've asked, if there's anyone in
6 support of the application. It looks like we have one
7 sitting down. I'll give you a minute and if you could --
8 thank you very much for waiting. I'm sorry. You've waited
9 a long time today.

10 MS. GRAY: That's okay. I'm fine.

11 MEMBER HART: But if you could give us your name
12 and address and then you'll have three minutes in which to
13 give your comments. And actually, are you representing a
14 group or this is just your -- are you representing yourself?

15 MS. GRAY: No, I'm representing the neighborhood.

16 MEMBER HART: Okay.

17 MS. GRAY: Okay.

18 MEMBER HART: Okay. We'll give her five minutes.

19 MS. GRAY: They sent me.

20 MEMBER HART: They sent you, you go.

21 MS. GRAY: They have to go to work and I'm home.
22 So they sent me.

23 MEMBER HART: So that's what happens?

24 MS. GRAY: Yes, that what happens. My name is
25 Patricia Gray, and I live at 2401 12th Street, Northeast in

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1 Washington, D.C. I've always been opposed to that nursing
2 home they put up on the corner. They park all over the
3 place. They have no manners. The church has no respect.
4 And they don't cut their yards as the way they're supposed
5 to. I wish somebody would come and make them do it.

6 Now, getting back to this project they're doing.
7 I think I went to at least ten meetings because I don't miss
8 too much. We were discussing the automobiles and where
9 you're going to put them at. And we talked about how people
10 came and parked on the street. But nobody talks about the
11 house up down the alley where they come and sell drugs at.
12 They cause a whole lot on that street. So it's been made
13 legal. That's what they tell me.

14 So they said they could put the things inside --
15 the cars inside the building. Well, I didn't like the way
16 the top of the building looked and I told them so. You know
17 they changed it and we all love it. We like the color.
18 Everybody was invited to the meeting. I can't walk like
19 that, but other neighbors walked around to the places, talked
20 to the people, got their names and addresses. Even the
21 people that was across the street from where they're going
22 to build it don't even live over there. They came and they
23 agreed.

24 So we don't have a problem with it all. We really
25 don't. I think if they can build that apartment -- that

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1 nursing home up on that hill behind our backs and we didn't
2 know about it till it was almost -- their plan was already
3 done. These people came and asked. So I don't see why they
4 can't be there. And that's all I got to say.

5 MEMBER HART: Well, I do appreciate your time in
6 coming down here. Does anyone have any questions for Ms.
7 Gray?

8 MEMBER WHITE: Ms. Gray, hi.

9 MS. GRAY: Hi.

10 MEMBER WHITE: Do you go to any of the ANC
11 meetings? Did you talk to them about the project, and did
12 they give you any feedback that you can share generally?

13 MS. GRAY: You know what? You want the truth,
14 right?

15 MEMBER WHITE: Nothing but. You did kind of --

16 MS. GRAY: Okay, okay. But let me tell you --

17 MEMBER WHITE: -- do the full swearing thing.

18 MS. GRAY: -- I went to the ANC meeting. These
19 people were there and nobody would talk to them. This lady
20 kept coming up, coming up, coming. Nobody would talk to
21 them. I've been there more than once. So the problem is
22 Regina is sick because it never would've happened like this.
23 She wouldn't have stood for it. That's the problem. We
24 didn't have our own personal ANC at the time. So we got kind
25 of messed up some, but we went anyway. And nobody -- you

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1 know, they wouldn't talk to them. So at least you all talk
2 to them, and I appreciate that.

3 MEMBER WHITE: Okay. Thank you.

4 MEMBER HART: And Ms. Gray, you see the drawing
5 that's in front of you right now.

6 MS. GRAY: Yes.

7 MEMBER HART: And you see that there is -- you
8 understand where all the parking and everything is?

9 MS. GRAY: I do.

10 MEMBER HART: And you also understand that there
11 is another group, there's another commission, that will
12 decide about what happens in the public areas. They may
13 decide something different than what the plan is that you see
14 here. So what are your thoughts on that? If they didn't
15 decided -- if they decided to take some of the parking out
16 because it's in the public area or at least what they're
17 calling it, there is a public area. Would you be in -- what
18 are your thoughts on that?

19 MS. GRAY: Well, I just can't -- well, if they
20 took it out, they took it out. But I can't see them taking
21 it out when they let the church do the thing they want to do.
22 They -- we told one of these boys down here that it was not
23 going to be enough parking for them to build that building.
24 They built it anyway. And it's not enough parking. They're
25 all down my street, you know. They're all down Bryant

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1 Street. They are. These are at least putting most of the
2 stuff inside the building. The church didn't do none of
3 that, didn't care.

4 MEMBER HART: Okay.

5 MS. GRAY: Okay. You all finished with me?

6 MS. MAZO: Ms. Gray, can I ask you one question?
7 And you've talked about the ANC. And you are correct,
8 initially, there was some resistance from the ANC
9 commissioner to allow us to present. But we did have the
10 opportunity to present the project --

11 MS. GRAY: Well, that's good.

12 MS. MAZO: -- to them, correct? But you were
13 there. You saw that, correct?

14 MS. GRAY: Mm-hmm. I saw the rest of the stuff
15 too.

16 MS. MAZO: But okay, I just wanted to make sure
17 that was clear on the record.

18 ZC CHAIRPERSON HOOD: Well, let me ask you. Where
19 did you present at? Was it the Fifth District or at the
20 hotel on --

21 MS. MAZO: At the Fifth District.

22 ZC CHAIRPERSON HOOD: Fifth District? Okay.

23 MEMBER HART: Are there any further questions for
24 Ms. Gray?

25 MR. BOGDAN: Ms. Gray, also just for the record,

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1 when we proposed this, we did say that we were going to need
2 community support for DDOT and that this was a situation that
3 might not be 100 percent successful, in other words, with the
4 parking that was proposed?

5 MS. GRAY: I remember.

6 MR. BOGDAN: And we asked for the community to
7 continue to support us on that. And I've been building in
8 the District for a long time, Bogdan Builders. And we
9 understand how important parking is and trying to work with
10 the neighbors. So we intend to follow through with DOT and
11 try to get this through. But they are aware that we actually
12 put in more parking spaces than we might actually get.

13 MEMBER HART: Okay. So thank you very much, Ms.
14 White.

15 MS. GRAY: Thank you.

16 MEMBER HART: I appreciate it. I'm sorry. I said
17 Ms. White. I looked over at Ms. Gray. I'm sorry. It's late
18 in the day evidently. Ms. Mazo, do you have any final
19 comments that you'd like to make?

20 MS. MAZO: Yes, I mean, my final comments are the
21 record is complete. The project complies the parking that's
22 required and the design of the building complies with the
23 zoning standards and zoning requirements for all those
24 aspects that the project that is being proposed satisfies the
25 special exception standards.

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1 Because as a general matter, it's within the realm
2 of what's approvable in the in the RA-1 zone. It will
3 promote stable residential areas. It advances the District's
4 goal of increasing the housing supply. And we'll have to
5 include IZ. And the relief will maintain the residential use
6 of the property.

7 Further, there's no adverse effects of this
8 project on the neighbors. I mean, indeed, the comments we've
9 heard is that the concern of the neighborhood is parking.
10 We're providing -- we're providing certainly more than the
11 required amount of parking. The project has been redesigned
12 in terms of the materials. The rear yard and there's going
13 to be a significant amount of open space around the project.

14 So for those reasons, the project is in full
15 satisfaction and satisfies the special exception standard.
16 Also, I note that in my line business, it's rare to get
17 someone who comes down, a neighbor who comes and supports the
18 project and is here for the duration, a very long BZA day.
19 And I know that this Board understands that.

20 But at the ANC meeting, we had four neighbors in
21 support of the project at the ANC meeting. And we have a
22 case here where the initial project was kind of panned by
23 everybody. And a lot -- a lot -- a lot of kudos go out to
24 Hugo and Chris to really turn it around, to get with the
25 neighbors, to figure out what's going to work, and to present

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1 a project here that is both harmonious and in conformance
2 with the zoning standards but that also satisfies a community
3 need.

4 And for those reasons, I would hope that the Board
5 takes action today, that they support the case. And with
6 that, I will rest on the record.

7 MEMBER HART: Thank you. I think we have a
8 question from Ms. White.

9 MEMBER WHITE: Thank you. Just one question. IZ,
10 is IZ included in this project? And if so, how much?

11 MS. MAZO: Sure, yes. Any project that has more
12 than ten units in any residential area, not in the D-zone but
13 any residential area, is required to provide certain set
14 asides. The exact set aside amount would be -- the set aside
15 amount is based on a formula that's the greater of ten
16 percent of the residential gross square footage plus ten
17 percent of the habitable penthouse or the additional -- or --
18 or the additional bonus density on top of what's approved --
19 I'm sorry, on top of what's permitted as a matter of right
20 plus ten percent of the penthouse.

21 So in this instance, we have not done an IZ
22 calculation yet. I don't think we're at that point. But,
23 you know, generally, my guess is that it's going to be two
24 to three units of IZ, you know, for an 18-unit building.
25 Usually, that kind of nets out, like, maybe one to two -- two

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1 to three units of IZ depending on how the square footage
2 breaks down.

3 MEMBER HART: Ms. John?

4 MEMBER JOHN: Ms. Mazo, can you talk about Exhibit
5 59? It seems that you're saying that the extra parking
6 spaces are not within the building restriction line in this
7 exhibit except that today you appear to be -- I won't say
8 conceding. But your argument is not as strong.

9 MS. MAZO: No, I mean, I think -- I'm sorry if
10 there was some confusion. Those additional -- not all of
11 them but those one, two, three, four, five parking spaces are
12 within the building restriction area. And so those are the
13 -- those are the -- that's the area that would be the subject
14 to the Public Space Committee and their approval. But that
15 there's no zoning restriction on locating the parking spaces
16 in that area.

17 MEMBER JOHN: Well, I'm not sure what you mean on
18 the last paragraph. You say, the applicant does not propose
19 any parking spaces between the building restriction line and
20 the front lot line along Rhode Island Avenue. So are you
21 saying that --

22 MEMBER HART: Rhode Island which is here.

23 MEMBER JOHN: Right, okay.

24 MEMBER HART: So they didn't talk about Bryant.

25 MEMBER JOHN: I see. Okay. I got it. Thank you.

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1 MS. MAZO: No problem.

2 MEMBER HART: I did have one question. So if we
3 -- there are some conditions that we're looking at the Office
4 of Planning discussed. And currently, we're looking at two.
5 One of them has to do with the construction shall be
6 completed in conformance with the plan's Exhibit 55B. And
7 they list four bullets that go after that. And the other
8 part is the applicant shall have flexibility to alter the
9 plans in response to comments from DDOT and-or the Public
10 Space Committee. That seems really broad.

11 MS. MAZO: And I think that -- so just -- and
12 right now, we're looking at Exhibit 57. And there are
13 conditions that OP is proposing as part of Exhibit 57. One
14 thing, it references Exhibit 55B which were the plans that
15 we filed. We have filed updated plans at the request of OP,
16 and they're at Exhibit 60. So that condition should be
17 amended to reflect that conformance of the plans at Exhibit
18 60, not 55B. So that's that.

19 And then in terms of the flexibility, I mean, I
20 think the idea there is that provided that what is being
21 proposed is consistent with the zoning regulations that we're
22 not eliminating any zoning required parking spaces as part
23 of the project as a result of the Public Space Committee,
24 that that would be a condition that would not necessarily
25 require -- excuse me -- us coming back to the BZA to process

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1 those -- excuse me, sorry -- to process those -- those plan
2 amendments.

3 As the BZA is aware, amendments to BZA approved
4 plans can be processed both administratively if they're
5 considered to be minor --

6 MEMBER HART: Yes.

7 MS. MAZO: -- or would be coming back to the BZA.

8 MEMBER HART: Yes.

9 MS. MAZO: And I think -- I think --

10 MEMBER HART: I guess the part that I'm having the
11 issue with is the word, shall have the flexibility. I think
12 that's just a little vague. I mean, what we're talking about
13 is whether or not there are these parking spaces or not. I'm
14 guessing that either the Public Space Committee doesn't want
15 any of the parking spaces or they are maybe not fully in that
16 or they're okay with it.

17 And so that's the part that I'm kind of -- I'd
18 rather that condition, if we were to approve it, that
19 condition, really look at whether or not there would be
20 possibly take out the word "flexibility". I don't know. And
21 then we just kind of look at that the applicant shall provide
22 -- I don't know -- whatever the -- maybe six spaces to -- how
23 many did you say, 14?

24 MS. MAZO: Thirteen, yes.

25 MEMBER HART: I don't know what the other Board

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1 members --

2 ZC CHAIRPERSON HOOD: I would agree with you, Mr.
3 Vice Chair, because flexibility sometimes can get
4 misconstrued. So I would agree. We need to definitely nail
5 that down.

6 MEMBER HART: Yes, just to have it so that it's
7 really defined as to what we're talking about in terms of
8 flexibility and so that it just seems like we're focused on
9 the parking aspect of it. And that should be reflected in
10 there. I don't know what OAG has -- if they have any
11 thoughts on this as well in terms of if that's defined
12 enough. I mean, not to put you on the spot like I just did.

13 MR. LOVICK: Thank you, Vice Chair. Just to be
14 clear, we're talking about Exhibit 57 and rewriting in the
15 second proposed condition of the Office of Planning?

16 MEMBER HART: That's correct.

17 MR. LOVICK: That's what you're saying, right?

18 MEMBER HART: That's correct.

19 MR. LOVICK: And so the proposal was precisely
20 what to limit it? Are you looking for --

21 MEMBER HART: I was looking to limit it, but I
22 wasn't sure exactly the language. But it would be something
23 like the applicant shall provide "X" amount of -- maybe a
24 range of parking spaces in response to comments from the --
25 and then kind of have the rest of it, in response to comments

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1 from DDOT and the Public Space Committee.

2 And if that makes it a little bit better so that
3 we're kind of narrowing down, taking out the word
4 "flexibility" and narrowing it down to the issue that we're
5 really kind of focused on is the parking spaces. And so that
6 we would be okay if they brought in -- they wouldn't have to
7 come back if they had six spaces as opposed to 14 because the
8 six spaces would still be okay with the BZA. I mean, it'll
9 be more than what would be required under BZA under the
10 zoning regulations.

11 MR. LOVICK: Right, and I think that's already
12 been established that all of the -- I believe there are seven
13 spaces that are either entirely or partially over the
14 building restriction line. But I believe that there's only
15 three that are required. And so they have more than
16 satisfied the required number on the site behind the building
17 restriction line.

18 So under -- the only thing at most that might
19 happen is if DDOT and the Public Space Committee would take
20 a maximus position and deny any of those spaces, there would
21 be at most I guess probably it would be reduced to maybe six,
22 maybe seven, depending, but behind the building restriction
23 line. But there still would be a minimum of, I believe, six.

24 MS. MAZO: And also to that point, I -- I -- I --
25 I appreciate the direction that you are trying to hone this.

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1 And the applicant would be amenable to that type of
2 condition. They want to provide as many parking spaces as
3 they physically can as shown on these plans.

4 And so -- but also to that point about the number
5 of parking spaces that could ultimately go there. If the
6 Public Space Committee does not agree with the proposed
7 parking spaces that are in the BRL area, that number could
8 probably be increased over the six that are shown here.
9 Because they could -- because they wouldn't be zoning
10 required spaces.

11 MEMBER HART: Yes.

12 MS. MAZO: So they could be parked in tandem.
13 They -- they -- there could be just, you know, some -- some
14 -- you know, an architectural wizard or designer could come
15 in way above my pay grade and kind of make -- make that
16 change.

17 MEMBER HART: So I'm looking at the other Board
18 members. You understand that I'm looking at the parking
19 spaces, and I think Chairman Hood is kind of thinking along
20 the same lines. And I know we haven't actually started our
21 deliberations yet. But this aspect, it seemed like we needed
22 to have some discussion on the conditions aspect because I
23 think we need to have that before, at least have a
24 conversation with the applicant about it.

25 I just didn't know your thoughts on that, on the

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1 conditions -- or this particular conditions. Yes, yes, how
2 to -- if you're okay with narrowing it down or focusing this
3 second condition on limiting the number of parking spaces or
4 addressing the parking issue.

5 MEMBER WHITE: Right. Well, I mean, I would
6 prefer to have is -- I would prefer to have it reflect the
7 number of parking spaces that the applicant is willing to
8 provide. Assuming if they go to the Public Space Committee,
9 they need to make some adjustments, they would still have the
10 flexibility to do that. So you are recommending that the
11 language say that the applicant shall provide 13 spaces?

12 MEMBER HART: No, I was thinking that it's -- I'm
13 not sure if they'd be able to get 13 spaces in if they have
14 --

15 MEMBER WHITE: Right.

16 MEMBER HART: I think it should be a range because
17 I think that --

18 MEMBER WHITE: Six to thirteen?

19 MEMBER HART: -- it depends on what the Public
20 Space Committee kind of deals with. And I know that we're
21 not the Public Space Committee --

22 MEMBER WHITE: Right.

23 MEMBER HART: -- and I know that. But I'm trying
24 to at least provide the applicant and the Public Space
25 Committee an understanding of --

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1 MEMBER WHITE: And the community.

2 MEMBER HART: And the community that we're looking
3 at trying to focus this and not just have a kind of
4 flexibility on anything that happens here. I think we're
5 really just focused on the parking.

6 MEMBER WHITE: Well, a range would be good,
7 reasonable.

8 MEMBER HART: So Ms. John, are you okay with a
9 range as well?

10 MEMBER JOHN: I'm okay with a range if the
11 language says something like the applicant shall provide from
12 6 to 14 -- to 13, is it now, parking spaces. But to delete
13 the language that refers to flexibility to alter the plans.
14 Because that makes me uncomfortable.

15 My second thought -- I don't know if we're
16 deliberating --

17 MEMBER HART: Not yet.

18 MEMBER JOHN: -- is --

19 MEMBER HART: Well, because I haven't actually
20 closed the record and everything. I just wanted to make sure
21 that we were okay with --

22 MEMBER JOHN: Well, I have a question about the
23 neighbors because the neighbors --

24 MEMBER HART: That's fine.

25 MEMBER JOHN: -- submitted a petition based on 14

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1 parking spaces. And everything that they said was
2 conditioned on these 14 parking spaces, so --

3 MEMBER HART: Well, they actually -- and just to
4 clarify that. They said to propose it to -- the Rhode Island
5 Avenue Northeast LLC proposes to construct an 18-unit condo
6 building with up to 14 parking spaces. So they actually had
7 some flexibility built into it. So I guess they understood
8 that there may be -- they may not actually get all of those.
9 But they're trying --

10 MEMBER JOHN: Mr. Vice Chair --

11 MEMBER HART: -- to get as much as they can.

12 MEMBER JOHN: -- may I please.

13 MEMBER HART: Yes, I'm sorry. Yes ma'am.

14 MEMBER JOHN: I'm talking about the neighbors
15 petition that they signed. How many of them? A lot of them.
16 And I recall that it said -- mentioned 14 parking spaces.
17 So my only question is how do you plan to address the issue
18 with the neighbors who have signed a petition. They didn't
19 say from 6 to 14.

20 MEMBER HART: No, no, no.

21 MEMBER JOHN: They said 14. Those are just my two
22 cents.

23 MEMBER HART: I agree with that. I guess I was
24 actually reading from Exhibit 55A which is the petition in
25 support. And it says, I live near 1001, 1003 Rhode Island

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1 Avenue, Northeast where this particular business proposes to
2 construct -- or this development company -- developer
3 proposes to construct an 18-unit condo building with up to
4 14 spaces. I have spoken with the developer and I understand
5 that the BZA relief will be necessary for the applicant to
6 proceed. And then they kind of talk about what they are okay
7 with. And then these are the folks that actually signed
8 this.

9 So by signing this petition, I strongly encourage
10 the ANC 5C to recommend approval of the case because the
11 current design with up to 14 parking spaces is a compromise
12 reached after numerous hours of conversation between the
13 neighbors and the property owner. So I think they understood
14 -- I appreciate you bringing it up because --

15 MEMBER JOHN: Thank you, Mr. Vice Chair. I got
16 it.

17 MEMBER HART: -- that that's -- it's something
18 that we need to make sure. But I think that they've kind of
19 addressed that. And I'll also say that the applicant has
20 said a couple of times that they have couched the number of
21 parking spaces or at least conditioned them saying that there
22 may be -- they may have up to that. But the Public Space
23 Committee may actually say less than that.

24 So I'm going to close the record and close the
25 hearing. Yes ma'am.

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1 MS. MAZO: I'll just add one thing in terms of the
2 condition that we were talking about.

3 MEMBER HART: Sure.

4 MS. MAZO: It could be couched as, you know, that
5 the applicant will continue to work with DDOT to provide the
6 maximum possible number of parking spaces with a minimum of
7 six spaces. Or you can put the 6 to 14 number in there if
8 that's more comfortable for you. But this does -- you know,
9 would -- would -- would require, obviously, which is required
10 anyway, but the applicant to work with DDOT to get the most
11 number of parking spaces on there as possible.

12 MEMBER HART: I think that's helpful. And I think
13 that we're kind of at the same place. So thank you very much
14 for the clarification. So is the Board ready to deliberate?
15 Okay. So I will close the record and close the hearing. I
16 can start on this because I've talked a lot today or at least
17 this afternoon.

18 So I have -- in listening to the presentation and
19 reviewing the Office of Planning report, hearing from both
20 the applicant or the party -- not party -- the person that
21 came, Mr. Van Buren who is in opposition, and Ms. Gray who
22 has provided some testimony as well. I actually would be in
23 support of the application with the conditions that we have
24 been talking about. And I guess it would be changing the
25 condition -- the first condition to talk about Exhibit 60

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1 instead of Exhibit 55B so that that's kind of current.

2 And then the second condition would be that the
3 applicant shall work with DDOT and the Public Space Committee
4 to provide -- to see if they can provide a maximum number of
5 spaces, somewhere between 6 and 14 or 6 and 13 spaces. I
6 think the range is good and I think that's all I have to say
7 about it. But I would be in support of the application, and
8 I would cite the Office of Planning report that goes through
9 the criteria.

10 I think that they've met the criteria, and I will
11 say that the applicant has done a fairly good job in going
12 back to the community and meeting with the community despite
13 some of the challenges that you had with connecting with the
14 ANC in the process. So I'll leave it at that, and if my
15 fellow board members have any other comments, you are more
16 than free to do that now.

17 MEMBER WHITE: I concur with your comments, Mr.
18 Vice Chair. So I don't have any more to add. I think my
19 discomfort with the public space process has been satisfied
20 now. I'm comfortable with the solution that we have in
21 place.

22 MEMBER HART: Ms. White?

23 MEMBER JOHN: Ms. John.

24 MEMBER HART: Why am I doing that today?

25 MEMBER JOHN: That's okay.

1 MEMBER HART: I'm having a hard time today with
2 people's names. Ms. John, yes.

3 MEMBER JOHN: It's okay. Welcome to the club.
4 So I support the application as well. I really would like
5 to commend the builder for working with the neighbors and
6 addressing their concerns. And I think you've satisfied the
7 criteria. And as the Vice Chairman said, the Office of
8 Planning did a very thorough analysis, and I will accept
9 their recommendations.

10 MEMBER HART: Chairman Hood?

11 ZC CHAIRPERSON HOOD: I don't have anything to
12 add.

13 MEMBER HART: And I will also add that Mr. Van
14 Buren, I do understand what your concern was. The issue that
15 we're running into is that they are providing more than what
16 is required under the zoning regulations. And we can't go
17 outside of that and say that they have to provide even more
18 than that. And so while I understand that, I don't think
19 there is a tremendous amount that we can do with regard to
20 this. You'd have to come to the dais to be able to say
21 anything. And so go ahead. You have to turn on the mic.

22 MR. VAN BUREN: I was just going to say it's a
23 community of single family homes.

24 MEMBER HART: Sure.

25 MR. VAN BUREN: Do you think we want that on the

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1 corner? I mean --

2 MEMBER HART: Well, actually, I'm not -- I thought
3 you were going to ask -- I thought you had a question. We
4 are --

5 MR. VAN BUREN: No, I just -- I just wanted to
6 make a statement. That's all.

7 MEMBER HART: Okay. That's fine. That's fine.

8 MR. VAN BUREN: That's all.

9 MEMBER HART: Thank you. So I think I've heard
10 from everyone. So I will make a motion to approve
11 Application No. 19696 of 1001-1003 Rhode Island Avenue,
12 Northeast LLC as read and captioned by the secretary with the
13 two conditions that we've discussed. Does anyone have -- can
14 someone second the motion?

15 MEMBER JOHN: Second.

16 MEMBER HART: All those in favor, say aye.

17 (Chorus of aye.)

18 MEMBER HART: Any opposed? Motion carries.

19 MS. ROSE: Staff will record the vote as four to
20 zero to one to approve the application with the two
21 conditions stated with Mr. Hart making the motion, seconded
22 by Ms. John, with Ms. White and Mr. Hood in support of the
23 motion, Mr. Hill not participating, not present.

24 MEMBER HART: Thank you all very much.

25 MS. MAZO: Thank you.

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1 MEMBER HART: Have a good afternoon. So Ms. Rose,
2 do we have any other business before the Board?

3 MS. ROSE: Not from staff.

4 MEMBER HART: And we don't have any either. So
5 the hearing is adjourned.

6 (Whereupon, the above-entitled matter went off the
7 record at 4:01 p.m.)

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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: 10-17-18

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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