

1 BOARD OF ZONING APPEALS MEETING

2 CITY COUNCIL CHAMBERS

3 Thursday, September 14, 2023

4 7:30 p.m.

5
6 1. CALL TO ORDER

7 a. Request for electronic participation during this
8 BZA meeting by Vice-Chair Kristine Ward due to family matters.
9

10 MR. MISLEH: Good evening. I'd like to call the
11 meeting of the Board of Zoning Appeals for Thursday, September
12 14th to order.
13

14 2. ROLL CALL

15 MR. MISLEH: Ms. Willis, please call the roll.

16 RECORDING SECRETARY: Mr. Gene Gresko.

17 Absent.

18 RECORDING SECRETARY: Mr. Peter Kien.

19 MR. KIEN: Here.

20 RECORDING SECRETARY: Present.

21 Mr. John Misleh.

22 MR. MISLEH: Here.

23 RECORDING SECRETARY: Ms. Kristine Ward.

24 MS. WARD: Here.

25 RECORDING SECRETARY: Mr. Keith Bartlett.

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Absent.

RECORDING SECRETARY: Mr. Dale Eppler.

MR. EPPLER: Here.

RECORDING SECRETARY: We have a quorum.

MR. MISLEH: Thank you.

I think for a matter of record we need to take a vote
to approve electronic participation.

MS. ROUZI: Yes, that's correct.

MR. MISLEH: Does that require a motion, Akida?

MS. ROUZI: Yes. It requires a vote.

MR. EPPLER: I will make a motion that we allow
Kristine Ward to participate in the September 14th Board of
Zoning Appeals meeting remotely.

MR. KIEN: I will second that.

RECORDING SECRETARY: Ms. Ward.

MS. WARD: Yes.

RECORDING SECRETARY: Mr. Misleh.

MR. MISLEH: Yes.

RECORDING SECRETARY: Motion passes.

3. PETITIONS

MR. MISLEH: Do we have any Petitions in front of this
Board this evening?

RECORDING SECRETARY: No, sir.

51 4. OLD BUSINESS

52 MR. MISLEH: Any Old Business?

53 MS. ROUZI: We do not.

54 MR. MISLEH: Thank you.

55

56 5. NEW BUSINESS

57 a. Variance application V1643-23 by Oak Park LLC,
58 applicant and owner, for a variance to Section 48-1101 to allow
59 maximum lot coverage of 55% instead of the 40% to construct a
60 two story daycare facility, at 711 Park Avenue, RPC #51-131-017
61 of the Falls Church Real Property Records, zoned T-1,
62 Transitional District.

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64 MR. MISLEH: So let's move on to the New Business.

65 We have one application on our Agenda this evening.
66 It's application V1643-23 by Oak Park LLC, applicant and owner,
67 for a variance to Section 48-1101 to allow maximum lot coverage
68 of 55% instead of 40% to construct a two story daycare facility
69 at 711 Park Avenue.

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71 Please come forward, those who plan to speak this
72 evening.

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74 If you wouldn't mind, please fill out the form on the
75 table. And in the meantime, I'd like to ask everyone who plans
to speak to raise their right hand.

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(Witnesses sworn.)

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MR. MISLEH: Thank you very much. Welcome.

If you wouldn't mind, please introduce yourselves.

MR. WILBERN: Yes. I'm Jack Wilbern. I'm a member of the Oak Park LLC.

MR. MISLEH: Welcome.

MR. YOUNG: Bob Young, also a member, president of the Young Group Bank.

MR. MISLEH: Welcome.

MR. PAINTER: My name is Andrew Painter. I'm a zoning attorney at the law firm of Walsh Colucci assisting the applicant.

MR. MISLEH: Welcome, everyone.

Thank you for coming.

So, we'll let staff kick this off with a little brief summary on the application.

MS. ROUZI: Sure thing.

Good evening, Board.

For just a quick summary of the application, this property is zoned T-1, Transitional District. The applicant proposed to construct a new two story daycare center. This project is considered by right development, subject to site plan approval by the Planning Commission.

The only exception here is the lot coverage which exceeds the maximum permitted in this zoning district. The maximum lot coverage permitted under the T-1 regulations today

101 is 40 percent and the applicant is requesting to provide 55
102 percent.

103 As with commercial variances, the planning staff
104 reviews the application and provides the recommendation based on
105 the merits of the application.

106 In this case, as you can see from the staff report
107 before you, planning staff recommended approval of the variance.

108 The Planning Commission reviewed the application at
109 their July 19th public hearing. Three members voted against
110 approval and three members voted for approval which resulted in
111 a tie decision.

112 Staff received some questions from the Board in the
113 past few days, mainly related to adjacent properties and the T-1
114 Zoning Code updates, so I'll just provide a quick summary of
115 that information that I provided by email.

116 The T-Zone Code update was delayed to September 26th
117 because of a noticing issue. If the recommended staff motion is
118 adopted as is on the 26th, the new Code is approved by the City
119 Council, the Code changes will go into effect on January 1,
120 2024.

121 Staff was also asked about lot coverage requirements
122 under the current Code versus the new Code.

123 As I mentioned earlier, the maximum coverage under the current
124 Code is 40 percent and the new Code proposes 60 percent by

125 right, and up to 70 percent by Special Use Permit subject to
126 Council Approval.

127 So the proposed lot coverage of 55 percent would be
128 by right under the new Code; however the applicant wants to keep
129 moving with the project so the application has to be evaluated
130 under the current Code and the proposed coverage will require a
131 variance from the Board this evening.

132 Another question from the Board was about precedent
133 for lot coverage variances.

134 Looking back at our electronic files, I found several.
135 The majority of those were for residential properties but the
136 most recent commercial lot coverage variance was actually for
137 the City's public library.

138 That variance was granted in 2018 for 57 percent lot
139 coverage. The maximum permitted coverage in that district was
140 35 percent.

141 And that's all I have to share on the application. So
142 I'll defer to the applicant for their presentation.

143 MR. WILBERN: Thank you very much for your time this
144 evening and thank you very much to City staff for giving me the
145 clicker. It's really awesome.

146 Just as a quick introduction, Bob and I and the other
147 members of Oak Park are long time members of the Falls Church
148 environment. Our offices have been here for over 20 years. Bob
149 lives in the City, serves on the ADA; I've been part of the

150 City's variance for Building Code Committee which has maybe met
151 once, so we're very inactive.

152 We have a long time interest in doing right by the
153 City, not just with this project or previous projects but going
154 forward.

155 With that, I'll try to keep this as brief as possible.

156 Just a brief introduction. The site is at the corner
157 of Oak and Park Street. It is landlocked on two sides as you
158 can see in the photograph I believe, there is a parking garage
159 wrapped around us, precluding us from ever connecting or
160 expanding the site in any way. So we're unable to assemble the
161 property.

162 It's very small for a commercial property. It's .36
163 acres. It's roughly 15,000 square feet.

164 There are also, because it's a corner lot, much like
165 the library, there's all sorts of conditions for getting any
166 kind of entrances or access points too close to the corner so
167 we're very constrained in that way as well.

168 On the other hand, it's got a really high walkability
169 score: It's only 1500 feet from Cherry Hill Park. So it's a
170 really, really tough site for any kind of commercial use, given
171 its size, it's landlocked, its proximity to the corner, but it
172 has some redeeming features that are especially useful for a
173 daycare facility which is what we're proposing.

174 It's a nice part of the town. It faces the
175 residential. It's not subsumed in a lot of busy commercial
176 activity and it's really close to the park.

177 Just as some background information and I'll leave
178 this on screen, but I might point out, that the EDA actually had
179 a recent study for the City and they identified as one of the
180 top three things that the City needed to provide to become a
181 thriving city and maintain its thriving city status is a daycare
182 facility.

183 The unfortunate truth is most of the sites that would
184 be suitable for daycare are non-existent in the City. They're
185 either residential properties that can't do a facility this
186 scale, and as we well know, child care all over the country is
187 having a lot of problems for affordability and basic body count.
188 We predict a lot of the small facilities will fail.

189 And so we've looked at this site for a lot of
190 different uses and this was the one that seemed most applicable
191 to the City and we've worked with -- we've looked at a lot of
192 different operators nationally that would have the sort of
193 wherewithal to understand how to do this site and deal with it.
194 Most of them were not interested.

195 This one operator was very interested because it was
196 in the City of Falls Church and we were basically the only game
197 in town for them. And we have maintained their interest but
198 we're also under the gun contractually to get the project done.

199 If we can go to the next one.

200 This was the information that was in the original
201 application. It just demonstrates two concepts. The one on the
202 left is a three-story, 40 percent footprint, which is what is
203 allowed by Code.

204 What we are proposing is to take that top floor and
205 essentially push it down to the second floor and put it over the
206 top of the parking lot; hence the variance for lot coverage,
207 because it's the building footprint that is being measured, not
208 the impervious area, nothing else.

209 What that allows us to do is use otherwise just
210 impervious concrete or paving and actually also increases our
211 amount of open space by almost 10 percent to provide play area
212 on the first floor.

213 So our variance is sort of an odd duck. We're asking
214 for a variance not to maximize square footage, not to increase
215 your overall density. What we're asking to do is provide a
216 variance in relief that allows us to provide a better solution
217 for the site and for the City.

218 The next slide, sort of demonstrates that -- this is
219 an earlier presentation.

220 We're actually asking for lot coverage relief so that
221 we can provide a more residential scale two story project with
222 pitch roof facing the neighbors.

223 The next slide, this is the proposed site plan. We're
224 able to provide full streetscape per the approved plan for the
225 City along Park and Oak. There is street parking on Park but
226 there is none on our side of the street for Oak. And this just
227 gives you a little bit better feel for the first floor footprint
228 and then the second floor drives out to this area, the parking
229 remains in the back. You can see the bulk of the parking garage
230 which is tied to their 10 foot setbacks and the added green
231 space we're able to do.

232 We are working with the Planning Commission, AAB, to
233 provide a sort of activated streetscape and it all meets all the
234 required setbacks.

235 Some basic ideas. As I said, granting a variance
236 allows us to provide a pretty important use for the City on a
237 very difficult site. It also serendipitously allows us to
238 provide a better solution for the City in terms of not putting a
239 three story relatively massive building facing Park Avenue.
240 We're able to drop it to two stories and provide a more
241 residential-scale building. And we increase green space by
242 almost 10 percent for the play area.

243 We used the same mailing list that the City did to
244 notify all the neighbors. We reached out several to phone, some
245 walking. And we have not heard back from any of them except for
246 two, we understand, actually wrote written letters of support
247 for the project.

248 Next one. Nearby precedent. Obviously the library is
249 57 percent. It's on a slightly larger site. It's 22,000 instead
250 of our 13. But it's a corner lot and it has some of the same
251 issues that we have.

252 The hotel project that's immediately adjacent is
253 almost 69 percent lot coverage and extends from West Broad all
254 the way to Park. While not subject to BZA approval, SUPs for
255 mixed use development throughout the City have ranged from 75 to
256 90 percent. And as Ms. Rouzi, the current T-Zone and staff with
257 the Planning Commission acknowledge that the Code as it stands
258 right now is relatively onerous and is looking to up the T-1 lot
259 coverage and we're doing something fairly similar.

260 The next slides are really outlining the variance
261 criteria which I'm sure you're well aware of. We also had a
262 very supportive staff report coming into this project where they
263 enumerated and went through all the points and they were 100
264 percent supportive. We have a hardship, it's in good faith,
265 we're not a substantial detriment, not a generally recurring
266 situation, library notwithstanding, and we meet all those.

267 I would venture to say that the single based issue,
268 one more slide and another, it's not that we're trying to do an
269 end run or change the rules. What we're really trying to do is
270 say that we can provide a better solution for this site and for
271 the City with a fairly modest increase on lot coverage.

272 As it stands we are actually only at 51.6 percent lot
273 coverage so we would be fine with a 52 percent lot coverage but
274 we were encouraged to give ourselves a little wiggle room, the
275 extra 3, but it is not necessary.

276 MR. PAINTER: If I could pick up on that too and, Bob,
277 turn it over to you as well, you had talked about, my
278 understanding is that you had spoken with many potential
279 operators, thus demonstrating the need for child care obviously
280 in the City but most of those operators are looking at suburban
281 single story sites. It is very difficult in the City of Falls
282 Church to find locations for child care uses. You're not going
283 to put it in a strip mall. You're not going to be able to find
284 high bay warehouses to be able to do it.

285 So, to be able to take this site which I jog by every
286 single morning as the St. James Catholic School kids are coming
287 in, to take this site which today are really two Cape Cod houses
288 and a lot of impervious surface and be able to find a way to be
289 able to create additional green space on the site and deliver
290 the streetscape that's called for in the Streetscape Master
291 Plan, I think is a good use of the property.

292 Keep in mind too that even if the lot coverage request
293 is not granted, it's not like they're paving over, they're going
294 to be keeping additional green space.

295 We're basically taking, as you can see here, the
296 parking lot that's on the back side of the building, and
297

298 building over it, making a higher and better use of the
299 property.

300 One of the things too, I think we all know that
301 T-Zones have been politically charged. There are very strong
302 opinions on both sides. This issue will exist irrespective of
303 the outcome of the T-Zone issue.

304 The reason, in all my discussions at least with Bob
305 and Jack, this is not an end run around T-Zones. It's not
306 trying to preempt it. It's not trying to hedge bets about what
307 happens if T-Zones doesn't get approved, because T-Zones also
308 brings other issues that we have to deal with too.

309 What this is about is an agreement that you have with
310 a prospective tenant and if you're not able to move forward in
311 an expeditious fashion, you're going to lose that tenant.

312 And, Bob, you can sort of speak to that as well.

313 The very narrow issue that's before the Board this
314 evening is whether or not to grant the increase in lot coverage
315 area. Again, the library was in excess of 57 percent. Right
316 along Park Avenue, Spectrum, they have about 74 percent, 75
317 percent lot coverage.

318 So there are precedents for other properties along
319 Park Avenue and I think you'd also mentioned that 69 percent for
320 the hotel. So we will exist irrespective of that.

321 And sometimes the variance process too, I mean there
322 are enumerated criteria that are in the statute which applicants
323

324 are supposed to meet. I think this Board has probably seen its
325 fair share of variance requests that aren't exactly hardships
326 approaching confiscation but it's really just whether it will
327 restrict the reasonable use of the property.

328 So that threshold was reduced in 2015 but the Zoning
329 Ordinance sometimes, whether it's for parking or whether it's
330 for signage, leaves really only the variance process available
331 for modifying these things. Whereas in other jurisdictions you
332 might be able to do it administratively or you might be able to
333 do it by a modification by the local legislative body but not
334 with the City.

335 So, Bob, I don't know if you want to speak to your
336 negotiations at all with this particular user. I think that
337 they've shown flexibility because with what you've been able to
338 do with the architecture at least, it's not everyone's cup of
339 tea, you know, but at the same time it's making use of a site
340 that is very challenging.

341 So, Bob, you want to talk.

342 MR. YOUNG: Well, I don't think I have a lot to add.

343 We've been working with this particular daycare
344 operator for many, many months. This has been, I think it's
345 fair to say, an arduous process. That's the way it is. We
346 would like to move forward. We think our application is a
347 reasonable one and we think we meet the criteria with respect to
348 hardship.

349 MR. PAINTER: Just a couple of things. We did receive
350 one citizen letter yesterday with respect to this which was
351 hopefully provided to the Board. There were three issues that
352 were raised.

353 One was doing something about the St. James traffic
354 which is really outside the scope of this application. The
355 second was with respect to sidewalks and landscaping, which we
356 are meeting the 2017 Streetscape Master Plan plantings and the
357 widths and the setbacks along Park and Oak. And the third was
358 not wanting to install scrawny trees.

359 I think the City Arborist will tell you that we will
360 plant the caliper trees that are recommended for long term
361 maximum growth.

362 And the last thing too, the T-Zone reference one more
363 time, Planning Commission and staff recommended lot coverage of
364 60 percent as a matter of right is I think a statement that the
365 City believes that there are higher and better uses of property,
366 at least the Planning Commission staff, that there are better
367 uses of property than impervious parking lots. I'll just
368 mention that too.

369 MR. MISLEH: Thank you.

370 I'd like to open it up for the Board to ask questions.

371 MR. KIEN: Yeah, I have a few questions.

372 You did say that you had explored alternative options
373 outside of the daycare. Would you be willing to share what
374

375 those were and what the reasons were for going this direction
376 versus others.

377 MR. WILBERN: The issue was resolved to say that
378 13,000 square feet is not big enough for practically any
379 commercial use. You're not going to be putting a bank and
380 recent events in our macro-economy have made it, you're not
381 going to put stores or offices, things that might have been
382 reasonable before are no longer.

383 And on top of that, it was the idea that we could just
384 leave it a couple of houses but that didn't seem like a
385 reasonable solution. We actually look at this property from our
386 offices and so when it came up as an option we said we believe
387 that we can make something that would be good for the City here.
388 And it's taken us a long time. We've owned the property two
389 plus years and we've gone through all sorts of machinations.

390 We also built Scramble and that's what sort of led us
391 to the daycare because that place is busy all the time and has
392 been a fantastic addition. But it just basically introduced us
393 to the idea that daycare is such a pressing need and you read
394 about it every day in the papers and so we went after that
395 fairly hard.

396 MR. PAINTER: I think also, well, Scramble at least,
397 my wife and I were asking our kids where we wanted to go out to
398 dinner the other night and they said Scramble which, that's not

399 our idea of a nice night out. I mean, it's fun but I admit is
400 heavily used.

401 It's also at a pretty critical juncture, intersection
402 of the City. Four way stop conditions but in the mornings it is
403 traffic-heavy. So when you're talking about trying to attract a
404 commercial use that will benefit the City from a financial
405 perspective, you naturally tend to gravitate away from high
406 traffic uses. And a daycare center is one that's just got a peak
407 area for drop off in the morning, a peak area for drop off in
408 the evening but doesn't really have much of an impact on the
409 surrounding neighborhood during other periods.

410 The other thing too is that when you all were looking
411 at potential users, when you look at St. Joseph's, CommuniKids,
412 Columbia Baptist Church, in order to bring new entrants into the
413 City, really you're looking at national credit tenants, tenants
414 that have experience. It is tough to find sites for them. So I
415 think they've all pretty much settled on, and your brokers have
416 said they've settled on a minimum of about 12,000 square feet
417 and 150 kids and that's what you all have been able to provide.

418 MR. YOUNG: Let me just add, we looked very hard at
419 residential uses under the current Code as well as the proposed
420 Code, and bottom line, we simply couldn't make the numbers work,
421 given the combination of small site, huge increase in interest
422 rates, huge increase in cost of construction and so on.

423 MR. WILBERN: And very restrictive parking options.

424 MR. YOUNG: Yes.

425 MR. WILBERN: When you're that small form follows
426 parking a lot of times so that added constraint and we
427 definitely didn't want to put traffic onto Park, facing the
428 neighborhood. So just a whole bunch of things handcuffed the
429 project.

430 MR. KIEN: Thank you.

431 My other question was in regards to the 40 percent
432 coverage and the 52 percent coverage illustration that you
433 provided. The 40 percent coverage is a three story of the same
434 square footage that you're proposing, is that correct?

435 MR. WILBERN: Correct. The idea was to put 40,000 --
436 I'm sorry, 12,000 square feet in a three story configuration.
437 That poses a lot of issues for it because you can't put
438 toddlers, little tiny babies have to be on the first floor and
439 also have to have adjacent open space.

440 So that was another issue for us is that when we lined
441 up the 40 percent coverage and then also have play area for the
442 small children, there was no way to provide it on site.

443 In fact, our solution uses that play space on the
444 first floor, that extra 10 percent of open space for the
445 toddlers but then we're putting a roof deck essentially as a
446 play area for the older children.

447 MR. KIEN: And, Akida, I don't know if this is
448 something that you can touch right now, the variance that was

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450 provided for the library, is there reference to what the
451 hardship that was on that variance to be approved?

452 MS. ROUZI: As I recall it was the library itself
453 existed and then it was an addition to an existing structure so
454 that footprint was there and they just needed to add some. I
455 believe that was the reasoning behind it. They could not expand
456 vertically, they had to expand laterally because the structural
457 requirements to expand vertically just was cost prohibitive. I
458 believe that was the reason.

459 MR. MISLEH: I can touch on that, Peter.

460 They had a retaining wall that already extended to the
461 sidewalk where the building envelope ends now and the way it was
462 pitched to this Board, Mr. Painter here, was that the
463 improvements needed to be done in order to accommodate handicap
464 accessibility.

465 MR. KIEN: Okay. Those are all my questions.

466 MR. EPPLER: If I could ask, this might be my own lack
467 of understanding, but you went to the Planning Commission. It
468 was a tie vote at 3-3. What does that mean? Does the project
469 have to go back, does it have to be re-voted? What does that do
470 in terms of process?

471 MS. ROUZI: That was the recommendation on the
472 variance. The site plan is going back to the Planning
473 Commission in October so they'll vote on the site plan. So that
474 wasn't a decision on the site plan, just the variance component.

475 And the way our Code is written, we are required to
476 forward the application for the Planning Commission and then the
477 Code says "they may render a recommendation." So their
478 recommendation is not a requirement and the Board can consider
479 the application based on its own merits.

480 MR. EPPLER: Okay. Thanks also for addressing the
481 letter from the citizen. I appreciate that.

482 One of the questions, it seems like what you are
483 asking for, is you're asking for a variance on the lot coverage
484 but essentially to double use the impervious, in other words,
485 the impervious coverage is not going to change.

486 MR. WILBERN: Correct.

487 MR. EPPLER: There's not going to be any more --
488 you'll actually have more green space this way. You have the
489 same amount of impervious coverage, it's simply that the parking
490 lot -- half of it is going to be covered. Some people have
491 nice, cool cars on a summer day. But nothing, it's not like
492 you're cutting down the trees so you can have this additional
493 building or addition on the back.

494 MR. WILBERN: No. And we're conforming with all other
495 setbacks.

496 MR. EPPLER: Thanks.

497 MR. MISLEH: Mr. Painter, you mentioned that the
498 ordinance was modified in 2015 regarding hardship. Can you
499 explain that please.

500 MR. PAINTER: Yes. If you take a look at the staff
501 report, it used to be, and it's Criterion No. 1. It used to be
502 that it was a hardship approaching confiscation. Okay? So it
503 was an extremely hard, you know, high burden for the Board, for
504 any Board of Zoning Appeals to grant a variance.

505 They then reduced that because variances were being
506 granted across the Commonwealth for things that there was no
507 other relief out.

508 So, for example, in the Greenway Downs neighborhood,
509 there's really no way for building expansions to take place
510 except to come to the BZA and ask for a variance for side yard
511 setbacks if you want to expand the house. There's no other
512 mechanism.

513 And it's hard to say that that's hardship approaching
514 confiscation when you're the one that's actually proposing it,
515 right?

516 So in 2015, they modified it, the Commonwealth, the
517 legislature lowered it to unreasonably restrict the utilization
518 of the property. So that provides a lot more leeway to Boards
519 of Zoning Appeals to consider other factors other than if the
520 strict application of the ordinance occurred, you're basically
521 going to be doing inverse condemnation on a piece of property.

522 So I think what Mr. Wilbern is trying to lay out is
523 sort of some of the unique challenges being sort of landlocked
524 on two sides by a garage and a wall essentially, the access

525 issues along Oak Street, and then also just the overall size of
526 the property and being unable to really do much in the way of a
527 unique site design in order to get tenants on this site.

528 MR. MISLEH: Akida, on this Planning Commission
529 report, it still references it as clearly a demonstrable
530 hardship approaching confiscation.

531 MS. ROUZI: So that is the old Code and we actually
532 have a Code amendment on the books to update it to match the
533 2015 update of the State Code. So I believe they're using the
534 old Code. But I think if you look under staff analysis, that
535 bold text in the first paragraph, that actually is a copy/paste
536 of the State Code, the new language, which says, "unreasonably
537 restrict the utilization of the property or that the granting of
538 the variance would alleviate a hardship due to a physical
539 condition".

540 MR. MISLEH: Thank you.

541 My next question is for staff.

542 There's been some touch on the upcoming Council vote
543 on the proposed amendment from Planning. What other than the
544 lot coverage going from 40 to 60 percent, what other changes
545 would impact this site if that were to be adopted prior to this
546 application being accepted?

547 MS. ROUZI: I believe it's the setbacks. The setbacks
548 right now, the front setback requirement is a minimum of 15 feet
549 and that's what the providing on Park and Oak. With the new

550 Code, that increased to 20 feet. So they would be required to
551 increase their setbacks under the new Code.

552 MR. MISLEH: Gentlemen, I'll ask this question of all
553 of you. How would that 20 foot setback impact your project at a
554 60 percent lot coverage?

555 MR. WILBERN: There's still no way to get there.
556 We're still trying to put -- the parking geometry is fairly
557 tight. We are pursuing a waiver process for the landscaping in
558 order to provide adequate parking. And the geometry of the
559 daycare internally they have 35 square feet per child. They
560 have so many small children that they're trying to provide.
561 That five feet basically kills the project.

562 MR. MISLEH: Thank you.

563 MS. WARD: Can you hear me okay?

564 MR. MISLEH: Yes.

565 MS. WARD: I just had two questions. I heard
566 reference to letters of support. I don't know if we could just
567 touch on them for the record.

568 And then my second question is it's hard for me to
569 read the height with the 40 percent lot coverage versus the
570 proposed height. If you can just let me know what those heights
571 would be.

572 Thank you.

573 MR. WILBERN: If we can go to the next slide.

574 So the allowed height by Code right now with the 40
575 percent is 45 feet and three stories. And what we're doing is
576 we're measuring the 35 feet is from the top of the first floor
577 to the average roof height of the pitched roof which is how
578 pitched roofs are measured for zoning height. So that's 35
579 instead of 45.

580 And in no case does anything ever project above that.
581 I mean you're allowed to put stair bulk heads and elevator cords
582 above that but in our case nothing sticks above the 45 and the
583 bulk of the building is 35 feet or lower.

584 MR. MISLEH: Mr. Wilbern, can you explain the massing.
585 If you were, what you're explaining is the 45 foot height is by
586 right. You could do that without the Board's approval tonight.

587 MR. Young: Right.

588 MR. MISLEH: Can you explain the massing on the site
589 to us. Is there a slide that you can help us understand.

590 MR. WILBERN: If we can go back one slide.

591 So, in effect, 40 percent covers the lot all the way
592 from Oak all the way to the parking garage. So it is literally
593 a 45 feet tall wall facing Park, is what's allowed under Code.
594 And we think that's obnoxious actually, frankly, and not in
595 keeping with what we would want to provide in that location.
596 And so that would essentially be, the setbacks are from the curb
597 and the side yard so that would be almost a 100 foot long
598 building that's 45 feet tall.

599 And what we're doing is we're shrinking it down to I
600 believe it's 82 feet and only two stories.

601 MR. PAINTER: So in other words, you push the building
602 down, your lot coverage increases. You push the building up and
603 it becomes 45 feet, 100 feet long.

604 MR. WILBERN: Correct.

605 MR. YOUNG: You're going to address the letters?

606 MS. ROUZI: We have two letters of support, right?
607 Three letters of support.

608 We're pulling it up on the screen.

609 So we have a letter of support from the owner of 703
610 Park, 705 Park, and 821 South Broad Street, and then we have a
611 letter of support from the owner of Hilton Garden Inn. And then
612 I believe we have an objection letter from Leslie, which was
613 also in -- yes, Ms. Spitzedson raised several concerns.

614 And then the third letter of support -- Bob, do you
615 know who's that from?

616 MR. YOUNG: I don't know which one you mean.

617 MS. ROUZI: I have two in my packet. One is from the
618 owner of 703, 705, and 821; and then the other one is from
619 Hilton. That's two.

620 MR. WILBERN: Yeah, we're only aware of two.

621 MS. ROUZI: Okay. That's what I thought. Three in
622 total.

623 Ms. Ward, does that answer your question?

624 MS. WARD: Yes. Thank you.

625 MR. MISLEH: Just for the record, the one that was not
626 in favor is a residential property across the street, is that
627 correct?

628 MS. ROUZI: Yes, the address is, her address, Ms.
629 Spitzedson's address is 205 North Lee Street.

630 MR. YOUNG: That's a block down.

631 MS. ROUZI: That's correct.

632 MR. YOUNG: And around the corner.

633 MS. ROUZI: It's not directly adjacent to the project.

634 MR. MISLEH: And the other two that are in favor are
635 both commercial properties, is that correct?

636 MR. YOUNG: Right.

637 MR. MISLEH: Thank you.

638 MR. EPPLER: I'm asking, this is probably for the
639 lawyer in the group.

640 I'm reading over authority to grant variances and I'm
641 really struggling to understand how it is that we have the
642 authority to do what you'd like to do.

643 So I'm looking at this and I'm saying, okay, we can do
644 it by reason of the exceptional narrowness, shallowness or shape
645 of the property. It doesn't seem to really fit.

646 Or by reason of exceptional topographic conditions or
647 other extraordinary exceptional situations. The strict
648 application of the Code would prohibit or make unreasonably

649 restrict the use of the property. Or where it would alleviate a
650 clearly demonstrable hardship approaching confiscation.

651 I'm looking at three round holes and I'm trying to fit
652 a square peg in there and I'm not sure I can do it. I
653 appreciate your thoughts on that. It sounds like you have some
654 experience in this.

655 MR. PAINTER: Well, just looking at the updated
656 language, which I don't know if it's available or not. Number
657 one is unreasonably restrict the utilization of the property.
658 So we feel like we've made a case on that.

659 Or the granting of the variance would alleviate a
660 hardship due to a physical condition related to the property,
661 which I think, Mr. Wilbern, you had mentioned the size, what's
662 surrounding the property and access to property.

663 Or alleviate a hardship by granting a reasonable
664 modification to a property on or behalf of a person with a
665 disability, which is not applicable.

666 So I think we'd be going under one or both of the
667 first two, which is unreasonably restrict the utilization of the
668 property, and then, two, would alleviate a hardship due to a
669 physical condition related to the property due to its size, due
670 to its location at an intersection and due to what surrounds us
671 with the wall of the garage on the southern and eastern side of
672 the property.

673 MR. EPPLER: Thank you.

674 MR. MISLEH: I have a question regarding the comment
675 of, "We're under the gun."

676 Can you explain why you're "under the gun" and whether
677 or not the by right building would alleviate you being under the
678 gun. Would they do the deal with the by right?

679 MR. WILBERN: No. They have not been able to provide
680 the exact Code but they have the impression that they are not
681 allowed to put children on a third floor.

682 They know for sure they can't put toddlers anywhere
683 but the first floor and they were saying that's a nonstarter for
684 them, they do not put children on a third floor.

685 So for their operation they may have Code in New
686 Jersey and other places, I've been unable to find it in Virginia
687 but they deem that as not best practice.

688 MR. PAINTER: You want to talk about "under the gun"?

689 MR. WILBERN: Well, the "under the gun" comment is
690 there have been any number of uses brought to the City where
691 they have crashed and burned at the last moment because projects
692 are delayed. The world of government process works immensely
693 slow compared to what private practice thinks is normal.

694 And so they're trying to expand their business and
695 move forward. They're basically one of the only national
696 operators who was interested in what is kind of an unusual site
697 for them. They were open-minded enough whereas a lot of the
698 other ones were not. And we fear that we will delay the project

699 and push them into uncertainty and they will move their bus to
700 another station.

701 MR. PAINTER: Well, from a precedential nature, I know
702 that there might be concern about the T-Zone setting a
703 precedent. Again, the T-Zone is much more than just lot
704 coverage issues. It's a whole slew of changes. This is a lot
705 coverage issue that has already been addressed further down on
706 Park Avenue. It would exist irrespective of the outcome of the
707 T-Zones and this potential tenant as I understand it would not
708 want to wait four months, which assuming if the City Council
709 adopts on September 26th, the effective date would be January 1.
710 And then to come back and file for a special use permit to
711 reduce the front yard setbacks or whatever the case might be.

712 MR. WILBERN: Correct.

713 MR. YOUNG: We're talking a year or more down the
714 road.

715 MR. WILBERN: Yeah. This is not the first time that
716 the T-Zone has been delayed. We were very interested in it at
717 first and it's crash and burn at least twice. So that level of
718 uncertainty is sort of the death knell for real estate deals.

719 MR. MISLEH: Thank you.

720 There was some commentary regarding parking
721 arrangements that you were going to make if you were able to
722 make this deal.

723 Can you enlighten us on how you would address the
724 parking? There was I think a reference to off-site parking in
725 the application, is that correct, or did I misread that?

726 MR. WILBERN: I actually have the -- staff is
727 supportive of us doing two things. One of which is to reduce
728 the parking count under the Zoning Code to match what is normal
729 in the Zoning Code for parking in every other jurisdiction
730 around us and they also supported the parking count based on
731 their analysis of existing childcare facilities within the City.

732 We would be providing at Code level for any other
733 jurisdiction and actually higher than pretty much any other
734 daycare within the City, none of them which have problems with
735 parking or traffic, etcetera.

736 But in order to meet that we're asking for the use of
737 12 spaces on the adjacent property inside the hotel property.
738 There are 25 spaces that are dedicated in that lot for daytime
739 use for the office building at 800 West Broad and what we're
740 doing is reassigning 12 of those to this project.

741 MR. MISLEH: So what are the total number of spaces on
742 site?

743 MR. WILBERN: On site is 19 and an additional 12 off
744 site.

745 MR. MISLEH: And how many providers does it take to
746 operate a 150 child facility?

747 MR. WILBERN: We provided a complete plan to the City
748 in conjunction with the site plan application and they're
749 reviewing all that information to make sure we're providing
750 adequate parking, that we're coordinated with adjacent St.
751 James.

752 We approached St. James and they said that most of
753 their drop offs are on Spring Street between 7 and 7:30 and then
754 their pickup is between 3 and 3:15. I've observed this for the
755 past 20 years on a fairly daily basis. It's the most
756 orchestrated exiting process I've ever seen and our pickup
757 doesn't start until 4. So we have no conflict either time-wise
758 or proximity-wise with St. James which is the major driver on
759 that traffic area.

760 And we provided a fairly in depth level of information
761 to the City staff demonstrating that the way in which children
762 are picked up and dropped off, you cannot just drop them off and
763 curb. You actually have to park your car, walk into the
764 facility and essentially chain of custody is give your child to
765 the people and then walk out. And then the same thing coming
766 in.

767 So people are on site for 8, 10 minutes, even with
768 that procedure. You spread it out over two hours. We have no
769 more than 12 to 13 patrons on site at the time in terms of
770 clients. And then the rest of the time the spaces are
771 essentially open for employees.

772 We are within 150 feet from a bike share right on Oak
773 Street and so as I said, this parking count is commensurate with
774 the ITE standard as well as what Fairfax County has adopted as
775 fair, parking count.

776 MR. YOUNG: Fairfax County would require 24 parking
777 places.

778 MR. MISLEH: Understood.

779 MR. WILBERN: The operator actually came to us and
780 said we want 30 and I feel like that's empirical proof that
781 they're not going to design a business that would fail and not
782 have adequate parking for their own employees or for their
783 patrons.

784 MR. MISLEH: I don't understand how the employees can
785 use the parking if they're being used for drop off. So where
786 are the people that are --

787 MR. WILBERN: Staffing is actually assigned, as people
788 come into the building, the staff comes online. So if they have
789 very few children for the first hour, they don't have as many
790 staff people. As well as the fact, as I said, not everybody is
791 using their car to get around in Falls Church now.

792 MR. MISLEH: And the idea that you're going to assign
793 12 of the spaces that belong to 800 West Broad, weren't those
794 part of the required parking to meet the Code for that building?

795 MR. YOUNG: No.

796 MR. MISLEH: They're excess?

797 MR. WILBERN: Well, they certainly are now.

798 MR. MISLEH: Well, it's a condo. You can't take them
799 away.

800 MR. WILBERN: They're not assigned to the condo units.

801 MR. MISLEH: They're not?

802 MR. YOUNG: No. And four to five, six are used on a
803 regular basis.

804 MR. MISLEH: Thank you.

805 MR. WILBERN: I will say that City staff and Planning
806 Commission are all over that.

807 MR. PAINTER: I think one of the Planning
808 Commissioners had gone through examples in the City of childcare
809 uses. She cited St. Joseph's again where all three of my
810 children went which has six spaces out front for about 120 kids.

811 I can't say I can count on one hand over the eight
812 years we were dropping kids off about how many times I parked on
813 the street but it wasn't memorable at all. Just because of the
814 staggered nature of pickup and drop off. And you're only in
815 there for about five minutes and then you roll.

816 MR. MISLEH: I take my son to the bus stop right past
817 St. Joseph's and if I'm driving my wife's Yukon, it's hard to
818 get through that street at drop off.

819 Thank you.

820 MS. WARD: Just one other question while we're on that
821 topic.

822 Just for clarification about the T-Zone proposed
823 updates, there would be no modification to require parking for
824 this site use I guess with the proposed updates; is that
825 correct? I guess we'd still be looking at waivers and different
826 things, correct?

827 MR. WILBERN: Correct. The parking would still be a
828 Planning Commission waiver and I don't think the City has the
829 wherewithal to edit all of their Zoning Code simultaneously,
830 archaic as some parts are still.

831 MS. WARD: Thanks.

832 MR. MISLEH: I think it's important to point out the
833 staff noted the Hilton as an example of the lot coverage
834 variance but correct me if I'm wrong, but that was a Planning
835 Commission/Council approved rezoning of that site; is that
836 correct? Can you explain that.

837 MS. ROUZI: That's right. The Hilton Garden Inn Hotel
838 site used to be T-1 Zoning. They rezoned it to B-1 to
839 facilitate the special exception application for the height
840 bonus. It did not go through a variance process but they maxed
841 out their building footprint but within their setbacks.

842 MR. MISLEH: Would that same process be applicable to
843 this site?

844 MS. ROUZI: No.

845 MR. PAINTER: If I may too, again, sort of the
846 examples of the library, the Spectrum was also a mixed use
847

848 development project that was recommended for approval by the
849 Planning Commission and approved by City Council. Hilton Garden
850 Inn, same thing, you can modify when you do those mixed use
851 special exceptions. We can't modify because this is as a matter
852 of right.

853 But I think it goes to the point, as does the Planning
854 Commission's recommendation for increasing lot coverage, to the
855 sole reason we're here this evening which is does it make sense
856 to allow an increase in lot coverage.

857 Mr. Wilbern, Jack, you've demonstrated or shown with
858 your three story building it's the same GFA but in a different
859 configuration and you get different results. And in this
860 particular configuration we had the same GFA, it's lower to the
861 ground, and we've been able to preserve additional green space
862 because of it.

863 MR. WILBERN: That's correct. And in the 40 percent
864 lot coverage we were unable to provide the toddler play space
865 which has to be at grade.

866 MR. MISLEH: Thank you.

867 Do we have any more questions from the Board?

868 (No response.)

869 MR. MISLEH: No.

870 All right. With that said, is there any more comments
871 from the applicant?

872 (No response.)

873

MR. MISLEH: No.

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All right. We'll open it up for deliberation. Would somebody like to kick it off?

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MR. KIEN: So I don't doubt the project as designed is a better use of space than certainly what it is today and what a three story building might be.

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I continue to struggle with this Board's ability to make a judgment on highest and best use and City Council stripped us of our ability to do that some time ago and we kind of have the strict guidelines in regards to allowing these types of variances for a varied known and hardship and economic hardship is not normally something we take into consideration.

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So not being able to foot another by right type of development on this because it doesn't make economic sense I can understand, but it does not mean that with time or consideration, or change in the economy it couldn't be done at another time.

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I understand you're under a time constraint. I just don't know if the Board can take a time constraint as a hardship or an economic hardship into consideration.

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I agree the highest and best use looks like what you're doing. I don't know if we can make that decision.

896

897

MR. EPPLER: Yeah, I guess I'm also struggling with our ability to do a project which seems to me something the neighborhoods I suspect would really prefer this project to a

898 three story 100 foot long blob on the corner and to have green
899 space which obviously would be great, it seems like you've come
900 up with a great project.

901 I'm just not sure that we have the authority to do
902 what you want to do.

903 MR. WILBERN: If I may, just to reiterate, we also
904 have structural impediments and hardships on this site. It is
905 tiny for any kind of commercial space. 13,000 square feet is
906 the size of most buildings, not any kind of commercial
907 structure.

908 So to advance a plan for the City, we feel that the
909 tight constraints, the inability to expand to where the lot
910 coverage would not be so disproportionately onerous. That's
911 part of the problem. When you get that small, the lot coverage
912 in conjunction with parking and other requirements becomes
913 disproportionately onerous.

914 In addition being a corner lot, we can't reconfigure
915 or do things very easily because you can't put driveways too
916 close to the intersection.

917 So we believe that we actually have fundamental
918 hardships that are not economic or self-imposed.

919 MR. PAINTER: And I might also say too, as a corner
920 lot you also have two front yard setbacks which is not something
921 that other properties experience interior to the block. So you
922 have to deal with both of them on Park and on Oak.

923 But the economic argument is not part of -- I mean
924 it's the reason that we're here this evening as far as why we
925 wouldn't want to wait for a T-Zone change that may or may not
926 ever get approved. That's not really the issue. The issue is
927 the configuration of the lot, its location, and the constraints
928 associated therewith.

929 MR. WILBERN: Number one, yes, under the status of
930 the law we think the application of the Code is an undue burden
931 to a good solution for this site.

932 So it's a weird application, I understand, but the
933 struggle, we're asking for a variance in order to provide a
934 better solution, if you will.

935 And I don't know that that fits into the law but it's
936 certainly I think within the scope of the Board to take that
937 into account.

938 MR. PAINTER: I think it certainly fits under the law
939 based on the lower thresholds that the Commonwealth granted as
940 far as changing the variance standards, unreasonably restricting
941 the use of the property or alleviating a hardship created by the
942 condition of the property.

943 MR. WILBERN: Right. All the other criteria we're
944 hitting out of the ballpark.

945 MR. MISLEH: Ms. Ward, do you have any comments?

946 MS. WARD: Yeah. I'm also kind of teetering back and
947 forth. I fully agree that we would do well to have more daycare
948

949 centers in the City and I do agree that the solution you're
950 proposing is better than the three story option.

951 Listening to what you guys are saying about the
952 hardships, some of it does seem self-imposed in that you're
953 selecting a daycare so therefore some of these hardships exist.
954 But I do recognize it as a corner lot. It is a relatively small
955 lot.

956 So I do agree with some of the "unreasonably restrict
957 the use" from some of the statements you've been saying.

958 MR. MISLEH: Thank you.

959 I personally don't disagree with the need for
960 additional child care in the City having gone through it with my
961 four children, I understand how hard it is to find reasonable
962 and good child care in the City. It's hard.

963 And I also know how hard it is to drop off in the
964 morning, even with unlimited parking because everybody wants to
965 park in front. So I do think the peak drop off is a concern for
966 the community, even if the hardship which it sounds like the
967 Board perceives as somewhat self-created, even if we were able
968 to see past that and follow some of the more modernized
969 reasoning, I think that we would alleviate one hardship and
970 possibly create another, which is a concern.

971 I think the opinion of the Planning Commission and
972 City Staff regarding the 60 percent lot coverage by right is
973 spot on. I believe that we should increase the lot coverage but

974 as you have clearly said, that hasn't passed Council yet because
975 there's a lot of community pushback regarding that topic and as
976 you clearly pointed out tonight, the setbacks are getting larger
977 as some of the horse trading goes on with that proposed
978 amendment.

979 And we've heard from one other Board member who's not
980 here tonight, and I know you touched on this, but I think
981 there's some concern to set a precedent prior to Council taking
982 up that amendment.

983 So that's just some feedback I have on this.

984 MR. PAINTER: Mr. Chairman, if that might be the case,
985 I'm not sure if it might make sense then to request deferral of
986 the Board's action until after Council has rendered an opinion
987 on that topic.

988 MR. MISLEH: And obviously this Board is respectful of
989 your timeline with your prospect tenant and we don't want to put
990 you in an unreasonable position but at the same time I think
991 everyone here can appreciate both positions.

992 And I don't want to speak for everyone else on this
993 Board but I don't think that would be a bad idea.

994 MR. EPPLER: I think we can make a case for that this
995 an unreasonable use for a by right use of the property, given
996 the lot size, given that it's a corner lot.

997 There is an argument there that this could be
998 construed under the rules as being an unreasonable restriction.

999

1000 You have a small lot, you have a corner lot. You have an
1001 otherwise by right use that everyone seems to agree and the City
1002 agrees that it's a need in the City.

1003 But it's a really close case and I'm not sure what the
1004 results would be if we put it to a vote so it's your call.

1005 MR. YOUNG: It's a case, the new Code is adopted next
1006 week or whenever that may be, that that would help in coming to
1007 a decision?

1008 MR. KIEN: The short answer would be yes. We see a
1009 lot of these and most of them are residential requests and they
1010 have corner lots and they have small lots and they bought those
1011 lots, and buyer beware. You know what you're purchasing. And
1012 we restrict them the same.

1013 So in fairness if we were to alleviate a known issue
1014 there, I think all of us have pretty strong support for what
1015 you're trying to accomplish but we don't think we can make the
1016 decision.

1017 MR. YOUNG: If the Code were changed, even though
1018 we're not under that Code would that --

1019 MR. MISLEH: Mr. Young, if I understand your question,
1020 I think at that point it would just be an administrative action
1021 on this Board to allow you to proceed earlier.

1022 MR. YOUNG: Thank you.

1023 MR. MISLEH: With that said, would you like to --

1024 MR. WILBERN: We would like to defer action until your
1025 next meeting.

1026 MR. MISLEH: All right. Thank you for coming this
1027 evening and thank you for presenting and I think you got a lot
1028 of support here for the end result. It's just a matter of
1029 getting there. Thank you.

1030 MS. ROUZI: Mr. Chair, just to clarify, are we
1031 continuing this item to a date certain that we hold this meeting
1032 after Council action on the T-Zone amendment?

1033 MR. MISLEH: I'd like to leave that up to the
1034 applicant.

1035 MS. ROUZI: So procedurally if you can defer it or
1036 continue it to a date certain which is October 12 after the
1037 September 26th Council meeting, we do not have to do the
1038 readvertising of the notices. So I think we need to go on
1039 record and defer it to a date certain.

1040 MR. MISLEH: For the record we're going to continue
1041 this variance application until the October 12th meeting of the
1042 BZA.

1043 Thank you very much.

1044 MS. ROUZI: All those who agree?

1045 (A chorus of "ayes".)

1046 MS. ROUZI: Ms. Ward.

1047 MS. WARD: Aye.

1048 MS. ROUZI: Thank you.

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6. APPROVAL OF MINUTES

A. Approval of the June 15, 2023 Meeting Minutes

B. Approval of the 2020-2022 Virtual Meeting Minutes

MR. MISLEH: So now we're on to Approval of the Minutes. First one is approval of the June 15, 2023, Meeting Minutes. Let's scroll through and if someone would like to make a motion.

(Minutes reviewed.)

MS. WARD: So just a question about, for the 2020 to 2022, how will we go about handling that one if some of us were or were not present for portions of it? Do we say it in terms of the ones we were present for as a general term?

RECORDING SECRETARY: The only information I received from the City Clerk was that it just had to be a regular vote as if it were minutes from the previous month.

MR. EPPLER: So there's no requirement that the people who vote were actually present?

RECORDING SECRETARY: Not that I was informed of, no.

MR. KIEN: John and I were here.

MR. EPPLER: I was here too.

MR. MISLEH: I'd like to go ahead and make a motion to approve the meeting minutes from June 15, 2023.

MR. EPPLER: I will second.

RECORDING SECRETARY: Ms. Ward.

MS. WARD: Yes.

1074 RECORDING SECRETARY: Mr. Misleh.
1075 MR. MISLEH: Yes.
1076 RECORDING SECRETARY: Mr. Kien.
1077 MR. KIEN: I will abstain. I was not present.
1078 RECORDING SECRETARY: Mr. Eppler.
1079 MR. EPPLER: Yes.
1080 RECORDING SECRETARY: Motion passes.
1081
1082 MR. MISLEH: Our item on the agenda is Approval of the
1083 2020 to 2022 Virtual Meeting Minutes.
1084 RECORDING SECRETARY: I do apologize. I meant to sent
1085 this in an email to all the Board members. This came from the
1086 City Clerk's Office to reapprove all virtual meeting minutes
1087 through State Code.
1088 MR. MISLEH: Just for the record, did anything change
1089 from the minutes that were already previously approved during
1090 those meetings?
1091 RECORDING SECRETARY: No, sir. No changes were made.
1092 MR. MISLEH: This is just a reaffirmation of already
1093 approved minutes.
1094 RECORDING SECRETARY: Yes, sir.
1095 MR. MISLEH: Thank you.
1096 Then I'll go ahead and make a motion to approve these
1097 minutes.
1098 MR. KIEN: I will second.

1099 RECORDING SECRETARY: Mr. Eppler.

1100 MR. EPPLER: Yes.

1101 RECORDING SECRETARY: Mr. Kien.

1102 MR. KIEN: Yes.

1103 RECORDING SECRETARY: Mr. Misleh.

1104 MR. MISLEH: Yes.

1105 RECORDING SECRETARY: Ms. Ward.

1106 MS. WARD: Yes.

1107 RECORDING SECRETARY: Motion passes.

1108

1109

7. OTHER BUSINESS

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MR. MISLEH: Do we have any Other Business?

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MS. ROUZI: No.

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8. ADJOURNMENT

1114

MR. MISLEH: Then if everyone's all right, we can go

1115

ahead and adjourn.

1116

MR. KIEN: Motion to adjourn.

1117

MR. EPPLER: Second.

1118

(A chorus of "yeses.")

1119

MR. MISLEH: Thank you.

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