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October 22, 2013

BY HAND DELIVERY

Mr. Lloyd Jordan, Chairperson
D.C. Board of Zoning Adjustment
One Judiciary Square
441 4th Street N.W.
Second Floor
Washington, D.C. 20001

RECEIVED
D.C. OFFICE OF ZONING
2013 OCT 22 PM 2:11

Re: Prehearing Statement of Peter J. Fitzgerald and his agent, John H. Fitzgerald for Variance Relief to Subdivide An Existing 3-Unit Apartment Building And Construct A New Alley Dwelling in the CAP/R-4 District at 319 and Rear of 321 A Street, NE (Square 786, Lots 22 and 827) ("Property")

Dear Chairperson Jordan:

Enclosed please find one original and ten (10) copies of the above-referenced BZA Prehearing Statement for variance relief from Sections 401.3, 403.2, 404.1, 2101.1 and 2507.2 pursuant to 11 DCMR § 3103.2.

Thank you for your assistance in this matter. If you have any questions, please do not hesitate to have the Office of Zoning contact the undersigned.

Very truly yours,
GREENSTEIN DELORME & LUCHS, P.C.

By: _____
John Patrick Brown, Jr.

By: _____
Kate M. Olson

Enclosures

BOARD OF ZONING ADJUSTMENT
District of Columbia
CASE NO. 18651
EXHIBIT NO. 32

479817v1

Board of Zoning Adjustment
District of Columbia
CASE NO. 18651
EXHIBIT NO. 32

CERTIFICATE OF SERVICE

I hereby certify that on October 22, 2013, a copy of the BZA Prehearing Statement of Peter J. FitzGerald and his agent, John H. FitzGerald was served on the following:

ANC 6C
P.O. Box 77876
Washington, DC 20013
(By U.S. Mail)

Commissioner Daniele Schiffman, SMD 6C01
19 7th Street, NE
Washington, DC 20002
(Electronically daniele.schiffman@gmail.com)

Mr. Matthew R. Jesick
D.C. Office of Planning
1100 4th Street, SW
6th Floor
Washington, DC 20024
(Electronically matthew.jesick@dc.gov)

Mr. Jamie Henson
D.C. Department of Transportation
55 M Street, SE
5th Floor
Washington, DC 20003
(Electronically jamie.henson@dc.gov)

Gary Peterson
Capitol Hill Restoration Society
P.O. Box 15264
Washington, DC 20003
(Electronically pgaryl@aol.com)

Kate M. Olson

Kate M Olson

**BEFORE THE BOARD OF ZONING ADJUSTMENT
OF THE DISTRICT OF COLUMBIA**

**Application of
Peter J. FitzGerald
Rear of 319 and 321 A Street, NE
Square 786, Lots 22 and 827**

**BZA Application No. 18651
ANC 6C, SMD01
Hearing Date: November 5, 2013**

PREHEARING STATEMENT OF THE APPLICANT

This Prehearing Statement ("Statement") is submitted on behalf of Peter J. FitzGerald ("Applicant") and his agent, John H. FitzGerald, by their attorneys, Greenstein DeLorme & Luchs, P C , by John Patrick Brown, Jr., Esquire and Kate M. Olson, Esquire, in support of an application for Board of Zoning Adjustment ("BZA") approval for the construction of a two-story alley dwelling within the CAP/R-4 Zone District at 319 A Street, NE and the Rear of 321 A Street, NE (Lots 22 and 827 in Square 786) ("Property").

I. NATURE OF RELIEF SOUGHT

In order to construct a new single-family alley dwelling, this application seeks BZA approval pursuant to 11 DCMR §3103.2 to a) allow proposed subdivision of Lot 827 requiring area variances from the minimum lot area under §401.3, maximum lot occupancy under §403.2, and minimum required parking under §2101.1 in the CAP/R-4 District at 319 A Street, NE (Square 786, Lot 827); and b) allow proposed subdivision of part of Lot 827 and Lot 22 and construction of a new single-family dwelling on an alley lot requiring area variances from minimum lot area under §401.3, maximum lot occupancy under §403.2, minimum rear yard under §404.1, and a use variance from the minimum alley width under §2507.2 in the CAP/R-4 District at Rear of 319 A Street, NE and Rear of 321 A Street, NE (Square 786, part of Lot 827 and Lot 22).

II. JURISDICTION OF THE BOARD

The Board has jurisdiction to grant the requested variance relief pursuant to § 3103.2 of the Zoning Regulations

III. DESCRIPTION OF THE PROPERTY AND SURROUNDING AREA

The Property is zoned CAP/R-4 (See Exhibit A, Zone Map) and includes a) Lot 827 which is improved with a 3-unit apartment building constructed in 1890 with a dilapidated and vacant one-story brick garage located at the rear, and b) Lot 22 which is improved with a one-story windowless brick garage which is also vacant and dilapidated (See Exhibit B, Photos). Both garages face a 30-foot wide portion of the Public Alley named “Millers Court” and the construction of both are thought to pre-date the current version of the Zoning Regulations. The two vacant, dilapidated, single-story garages are currently vacant and not suitable for use for garage, storage, artist studio, or any other income producing purpose.

The Lot 22 garage is windowless with a gravel over dirt floor and a garage door that no longer functions properly. The brick walls of the garage and leaking roof show signs of structural failure or deterioration. There are no utilities (electric, water, sewer, gas, heating or ventilation) serving this garage.

The Lot 827 garage has a severely cracked concrete slab which suggests structural problems. The existing window openings have been closed with plywood covered by mesh metal screens to prevent further vandalism and unlawful entry to the structure. The garage door does not operate properly and the roof is no longer watertight. This garage has electric service, but no other utilities. The Applicant does not own any other properties which are adjacent or contiguous to the Property.

There are several other alley lots within the square, including three original alley dwellings immediately across the 15-foot alley to the west of the garages and a series of carriage houses located both to the east and west. The Property is located within the Capitol Hill Historic District. Square 786, which includes the Property, is bordered by A Street to the north, 4th Street to the east, East Capitol Street to the south and 3rd Street to the west. All of such streets are in the Northeast quadrant.

IV. PROPOSED REDEVELOPMENT OF THE PROPERTY

The Applicant proposes to redevelop the area currently occupied by the two garages with a two-story single-family alley dwelling unit with internal parking for one vehicle. The new construction is proposed to be 22 feet in height, which as the Historic Preservation Office Staff pointed out in its report (see below), is roughly comparable with the height of the other alley dwellings in this square and in Capitol Hill's other historic alleys. (See Exhibit C, pages A8 and A9)(See Exhibit C, page A0 site plan of proposed use). In order to create a suitable site for the new alley dwelling unit, the Property will need to be reconfigured by a subdivision. The existing Lot 827, with the 1890 apartment building will be resubdivided to carve out the area occupied by the garage (482 sf).¹ The remainder of Lot 827, after carving out the area occupied by the garage, will be 1722.38 sf and as a result will not comply with lot area, lot occupancy, and off-street parking requirements.²

The site of the Lot 827 garage (482 sf) will be combined with Lot 22 (490 sf) to create a new alley lot with 37.21 feet of frontage on the 30-foot Millers Court and a lot area of 971.3 sf. The two-story single-family dwelling unit will have a front entrance and an interior one-car

¹ An early Assessment and Taxation Plat shows that this is how the lots were originally configured until the two lots were combined into one Lot (Lot 827) in 1962.

² One off-street parking space is provided at the rear of the apartment building, but its dimension (12.58 feet x 17.33 feet) does not meet the minimum standard of 9 feet x 19 feet, but is large enough to accommodate at least one vehicle.

garage accessed from Millers Court. The dwelling unit will have 3 bedrooms and 2-1/2 bathrooms with approximately 1,912 sf of gross floor area and 100% lot occupancy.

V. HISTORIC PRESERVATION SUPPORT

Since the Property is located within the Capitol Hill Historic District, the Applicant has worked closely with the staff of the Historic Preservation Office (“HPO”) on the design of the new alley dwelling. The Applicant sought and received concept approval from the Historic Preservation Review Board (“HPRB”). The staff report (“HPO Staff Report”) stated that the HPO looked closely at the existing garages in terms of both their potential individual historic significance as well as their relationship to the surrounding context. The HPO indicated that, “[t]he Project is compatible with the character of Millers Court and with the Capitol Hill Historic District as a whole. The project is a good example of how to introduce new alley structures in a manner that respects and responds to the surrounding context, the generally low height and simple design of alley structures, and the pattern of overall development typical of rowhouse neighborhoods.” (See Exhibit D, HPO Staff Report). On November 29, 2012, the HPRB found the proposed demolition of the existing garages, the new construction of the alley dwelling and the subdivision to be consistent with the purposes of the preservation act and delegated final approval to the HPO staff. (See Exhibit D, HPRB Actions)

VI. STATEMENT OF SATISFACTION OF BURDEN OF PROOF FOR ZONING RELIEF SOUGHT

The Applicant submits that, based upon (i) its Application and the materials submitted in conjunction herewith, (ii) the evidence to be presented at the public hearing and (iii) other evidence to be submitted hereto, it will satisfy and comply with the applicable legal standards and burdens for the variances requested.

VII. JUSTIFICATION FOR REQUESTED USE AND AREA VARIANCES

The Property is zoned CAP/R-4, which allows for single-family residential uses. However, no single-family dwellings are permitted to be “erected or constructed on an alley lot unless the lot abuts an alley thirty (30) feet or more in width and has from the alley access to a street through an alley or alleys not less than thirty (30) feet in width ” 11 DCMR §2507.2. In addition to needing use variance relief from the width of the alley that provides access to A Street, the Applicant requests area variance relief from lot area, lot occupancy, rear yard and parking since the proposed new construction will not comply with these zoning requirements. Note, however, with respect to parking, that the new alley dwelling will provide one (1) internal parking space for its residents and Lot 827 will continue to provide one (1) parking space after the subdivision (but as indicated above, the parking space on Lot 827 is not 9’ by 19’ and therefore does not qualify as a full size, legal parking space) As a result, the current parking configuration of the Property will be improved by the addition of one parking space within the new alley structure and no loss of current parking.

The BZA has approved similar use variance cases allowing relief from the minimum thirty-foot alley width requirements pursuant to 11 DCMR § 2507 2, with and without the support of the Office of Planning Most recently the BZA approved the following applications requesting use variance relief from the alley width requirements (A) BZA Order 18234 of Utku Aslanturk and Erin Gorman, rear of 1300 block of D Street, SE (September 22, 2011) allowing the construction of a one-family dwelling on an alley lot without the support of the Office of Planning and (B) BZA Order 17989 of Stephen A.W. McKinney, rear of 4615 42nd Street, NW (September 13, 2010) approving the conversion of an existing non-residential structure on an alley lot to a one-family dwelling without the support of the Office of Planning.

Pursuant to 11 DCMR §3013.2, an Applicant must satisfy three requirements to obtain approval of a variance: (i) a unique physical aspect or other extraordinary or exceptional situation or condition of a specific piece of property; (ii) peculiar and exceptional practical difficulties to the owner of the property (specific to area variances pursuant to §3103 7(a)) or exceptional undue hardship upon the owner of the property (specific to use variances pursuant to §3103.7(b)); and (iii) no substantial harm to the public good and no substantial impairment of the zone plan. The subject Application fully meets these legal tests, as discussed below.

A. Unique Physical Aspect or Other Extraordinary or Exceptional Situation or Condition of a Specific Piece of Property.

Here, the Property is subject to an extraordinary or exceptional situation or condition. The Court of Appeals stated that “[t]he statute does not preclude the approval of a variance where the uniqueness arises from a confluence of factors. The critical point is that the extraordinary or exceptional condition must affect a single property.” *Gilmartin v. District of Columbia Bd. of Zoning Adjustment*, 579 A.2d 1164, 1168 (D.C. 1990) quoting *Capitol Hill Restoration Society v. District of Columbia Bd. of Zoning Adjustment*, 534 A.2d 939, 942 (D.C. 1987)).

It is the confluence of the following factors that is applicable to the Property in the subject Application.

1 The physically deteriorated condition of both existing garages make them no longer suitable or usable for garage, storage, artist studio or other permitted and income producing purposes and both structures have been approved for demolition by HPRB. Repair of the existing structures is not feasible and/or economically reasonable, especially without the basic utilities required for use and habitation. Given the existing zoning limitations, neither garage could be demolished and replaced;

2. Lots 827 and 22 partially comply with 11 DCMR §2507.2 in that they both abut an alley 30-feet or more in width (Millers Court). However, the alley providing access to A Street is only 15 feet (less than the 30 feet width required under the regulations) and thus the only reason a use variance is required;

3. Lots 827 and 22, in the current configuration, are non-conforming for at least lot area, lot width and lot occupancy;

4 Lot 22 does not have any required street frontage;

5. The rear of Lot 827 and Lot 22 do not have access to the street from a required 30-foot wide public alley;

6 Lot 22 -- which has been a single record lot since at least 1886 (significantly predating the Zoning Regulations) -- is only 490 sf and may have been used as a stable in its early years, as mentioned in the HPO Staff Report. This lot is not large enough, by itself, for any permitted use in the R-4 zone,

7. The creation of a new alley lot combining part of Lot 827 and Lot 22 provides a site large enough and appropriate for a dwelling unit, but does not comply with all the applicable restrictions;

8 The Applicant does not own any other adjacent or contiguous properties that could be combined with Lots 827 or 22 to create a conforming lot; and

9. Lots 827 and 22 directly abut Millers Court, which according to HPO is one of the area's most important historic alleys.

B. Peculiar and Exceptional Practical Difficulties to the Owner of the Property (Area Variance relief from §§401.3, 403.2, 404.1 and 2101.1).

The D.C. Court of Appeals has repeatedly held that “economic use of property may be properly considered as a factor in deciding the question of what constitutes an unnecessary

burden or practical difficulty in area variance case” *Tyler, et al v District of Columbia Bd of Zoning Adjustment*, 606 A.2d 1362 (D.C. 1992)(internal citations removed)(*Gilmartin v District of Columbia Bd of Zoning Adjustment*, 579 A.2d 1164, 1171 (D.C. 1990)(with regard to area variances the court noted that “increased expenses and inconvenience to applicants for variances are among the proper factors for BZA’s consideration.”)

The only matter of right use at the Property is use as an artist studio and the only uses permitted by special exception are uses for storage and parking pursuant to 11 DCMR §2507.5 and §2507.6 The exceptional conditions of the Property make any matter-of-right or special exception use impractical The continued use as nonresidential structures is impossible due to their physical deterioration [and even if this was not the case, zoning relief and historic preservation approval would be needed under 11 DCMR §2507.3 to demolish and reconstruct the existing structures

C. Undue Hardship to the Owner (Use Variance relief from §2507.2).³

Based on the numerous unique conditions and circumstances for Lot 22 and its physical relationship to Lot 827 and the existing garages, the owner would be deprived of any reasonable use of a substantial portion of the Property if the requested use variance was not granted for this creative and appropriate redevelopment proposal. The current condition of both garages, including lack of basic utilities for habitation, preclude the Applicant from deriving any economic benefit or reasonable use. The Applicant has been unable to derive any income for years, but the Property must be maintained and for Lot 22, annual real estate taxes of at least \$502 paid The existing historic preservation restrictions and lack of utilities would make

³ Note the current draft (September 2013) of the Zoning Regulations Rewrite proposes a lessening of the restrictions for alley dwellings a single residence would be permitted by-right on a 24 foot wide alley system in the R-4 zone, or by special exception (*a much lesser standard than the current use variance*) on an alley that does not meet the alley width requirement

reconstruction of the garages prohibitively expensive, require zoning approval and would produce very limited economic benefit or reasonable use for the Applicant. Such a deprivation of any reasonable use would constitute an extreme hardship to the owner and a missed opportunity for providing new housing consistent with the historic district and Comprehensive Plan.

D. No Substantial Harm to the Public Good and No Substantial Impairment of the Zone Plan.

Relief can be granted without detriment to the public good. In fact, the construction of a two-story alley dwelling offers substantial benefits and is consistent with the limited residential purposes of the R-4 zone and in keeping with the character of the historic district and, more specifically, the historical use and context of Millers Court. The Project also furthers the D.C. Comprehensive Plan's policy of "Renovation of Housing Stock" in the Capitol Hill neighborhood. Specifically this policy states that, "[w]here infill development occurs, its scale and character should be compatible with prevailing neighborhood densities and design should contribute to neighborhood continuity and quality." 10 DCMR §1508.3. In fact, the Applicant worked closely with the HPO on the design of the new alley dwelling and the HPO report found that holding the height of the Project at 22 feet ensures that the building will sit comfortably in its context and not be an anomaly in the alleyscape, while still providing comfortable interior spaces. HPO also found the Project to be compatible with its surroundings and a good example of how to introduce new alley structures in a manner that respects and responds to the surrounding context. (See Exhibit D, HPO Staff Report)

The Application will increase the safety of the alley by providing "eyes on the alley" by its residents and by making the rear portion of the Property habitable consistent with the existing adjacent and longstanding alley dwellings, but without negative impacts on the surrounding

properties Residential use will not adversely impact the privacy of neighboring property owners As shown on the Plans, there will be no windows facing the only adjacent property owner at 321 A Street. (See Exhibit C, page A2 east elevation and page A3 north elevation) The owner of 321 A Street is in support of the Project (as discussed in more detail below). Nor will the Project have an effect on any other properties within the square. The Applicant conducted a shadow study comparing the existing shadows with the shadows to be cast as a result of the Project and there was no noticeable difference. (See Exhibit C, pages A4-A6). Furthermore, as stated above, the new alley residence will provide an internal parking space for its residents and Lot 827 will continue to provide one parking space in the rear yard for its residents. Lastly, the Project was not only approved by the HPRB, which found the Project to be consistent with the Historic Preservation Act, but is also supported by both the ANC and Capitol Hill Restoration Society.

VIII. COMMUNITY SUPPORT

A. ANC 6C

On September 12, 2013, at a duly noticed regularly scheduled monthly ANC 6C meeting with a quorum present, the ANC voted unanimously, 6.0 0 to support the application This ANC letter in support has been entered into the record as Exhibit No. 27 and is also attached to this Statement as Exhibit E for the Board's convenience.

B. Capitol Hill Restoration Society

The Application was discussed before the Capitol Hill Restoration Society ("CHRS") Zoning Committee on October 10, 2013. The CHRS Zoning Committee preserves the residential character of Capitol Hill and sees that the DC Zoning Regulations are properly applied. CHRS voted in support of the Application and will submit a letter into the record under separate cover.

C. Adjacent Neighbor

321 A Street (Lot 21) is the only property that borders the Property. The Applicant met with the owner of Lot 21, Elliot R. Eisenberg, and has come to an agreement regarding the construction of the Project.⁴ As a result of this agreement, Mr. Eisenberg is supportive of the Project, as evidenced by the Party Status Form 140 (proponent) submitted into the record as Exhibit No. 28, which is also attached to this Statement as Exhibit F for the Board's convenience.

IX. EXHIBITS

- Exhibit A: Zoning Map (with the Property outlined in red)
- Exhibit B: Site Photographs.
- Exhibit C: Plans.
- Exhibit D: HPO Staff Report and HPRB Actions.
- Exhibit E: ANC 6C Letter in Support.
- Exhibit F: Form 140 – Party Status Request from Mr. Eisenberg (Proponent).

⁴ The agreement contains details on the installation of a security fence, the care of the adjacent owner's shed during construction and limiting the hours of construction.

X. CONCLUSION

For the reasons set forth above, the Applicant is entitled to, and respectfully requests approval of, the grant of variance relief to allow for the new construction of an alley dwelling at the Property.

Respectfully submitted,
GREENSTEIN DELORME & LUCHS, P C.



By: _____
John Patrick Brown, Jr.



By: _____
Kate M. Olson

1620 L Street, N.W , Suite 900
Washington, D C 20036
Telephone: (202) 452-1400

Attorneys for Applicant

EXHIBIT A



District of Columbia Office of Zoning
EXTRACT OF THE DISTRICT OF COLUMBIA ZONING MAP
August 7, 2013



Zoning Layers

- | | | | |
|--------------------|---------------------------|--------------|-----------------|
| Zone Districts | Overlays Districts | TDRs | Air Rights Zone |
| Pending Zones | Pending Overlay Districts | Pending PUDs | Balist Index |
| Historic Districts | Campus Plans | Active PUDs | CEA |

To certify zoning on any property in order to satisfy a legal requirement, contact the Office of Zoning at (202) 727-6311.

EXHIBIT B

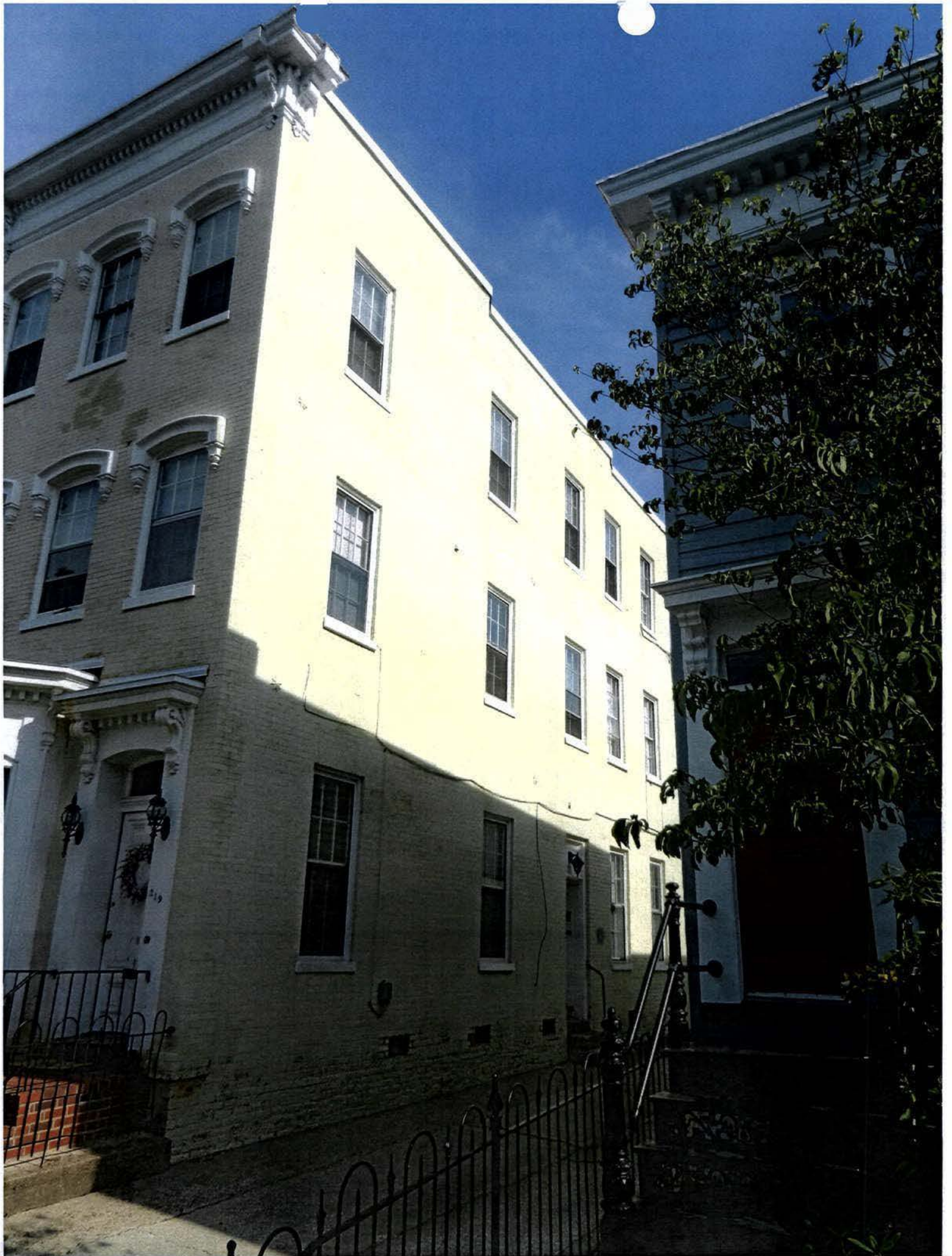








EXHIBIT C



ZONING DATA

PROJECT:	MILLERS COURT, NE WASHINGTON, DC 20002	
OWNER:	JOHN FITZGERALD FITZGERALD PROPERTIES 1447-G1 DOLLEY MADISON BLVD MCLEAN, VA 22101	
ARCHITECT:	NELSON ARCHITECTS, PC 1003 K STREET, NW, SUITE 835 WASHINGTON, DC 20001 202.737.4800	
SQUARE/LOT	0786 / 0827 & 22	
ZONE	CAP / R-4	
NEIGHBORHOOD:	CAPITOL HILL	
LOT AREA:	971 SF	
FLOOR AREA	1,912 SF	
EXISTING UNITS	2 GARAGES	
PROPOSED UNITS	1 FAMILY DWELLING AND GARAGE	
	<u>REQUIRED/ALLOWED</u>	<u>PROPOSED</u>
MIN. LOT AREA	1,800 SF	971 SF (VARIANCE REQUESTED)
MIN. LOT WIDTH	18 FT	37.21 FT
F.A.R.	1.8	1.97 (VARIANCE REQUESTED)
HEIGHT/STORIES:	40 FT./3 STORIES	22 FT/2 STORIES
LOT OCCUPANCY		
ROW DWELLING:	60%	98.5% (VARIANCE REQUESTED)
REAR YARD:	20 FT.	NONE (VARIANCE REQUESTED)
SIDE YARD:	NONE/ 8' MIN. IF PROVIDED	NONE
PARKING:	1 FOR EACH DWELLING UNIT	1 SPACE (GARAGE)

MILLERS COURT, NE WASHINGTON, DC

DRAWING INDEX

SITE:

- S1 SITE - BUILDING HEIGHT DIAGRAMS
- S2 SITE PHOTOGRAPHS
- S3 SITE PHOTOGRAPHS
- S4 SITE PHOTOGRAPHS

AERIAL VIEW

ARCHITECTURAL:

- A0 PROPOSED SITE PLAN
- A1 PLANS
- A2 ELEVATIONS
- A3 ELEVATION & SECTION
- A4 SHADOW STUDY 06.21 - EXISTING BLDG
- A5 SHADOW STUDY 12.21 - EXISTING BLDG
- A6 SHADOW STUDY 06.21 - PROPOSED BLDG

- A7 SHADOW STUDY 12.21 - PROPOSED BLDG
- A8 CAPITOL HILL COURTS
- A9 CAPITOL HILL COURTS

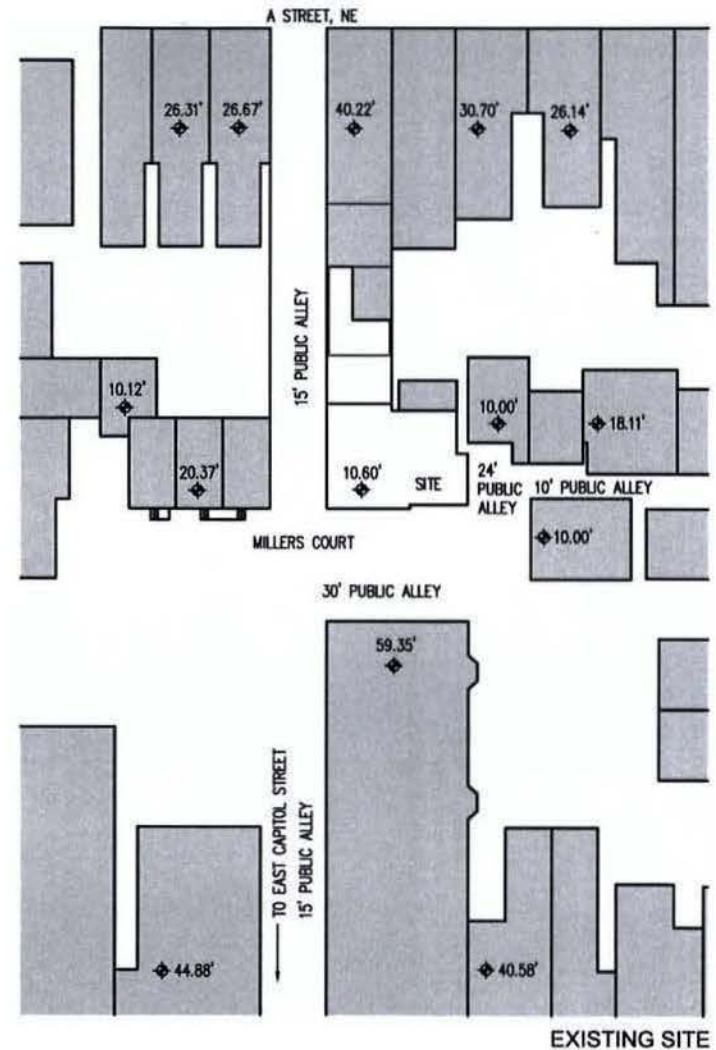
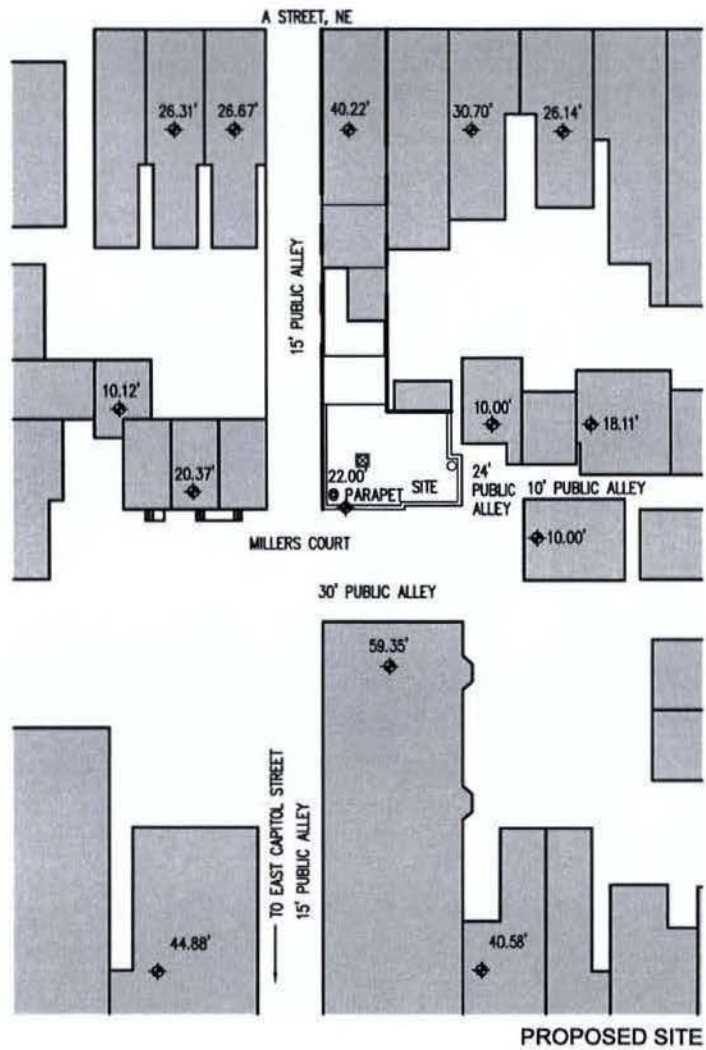
FITZGERALD PROPERTIES

BZA SUBMISSION

JUNE 2013

NELSON • ARCHITECTS, PC

1003 K Street, NW
Washington, DC 20001



MILLERS COURT





A



B



C



D



E



F



G



H



I



J



K

MILLERS COURT

FITZGERALD PROPERTIES

SITE PHOTOGRAPHS

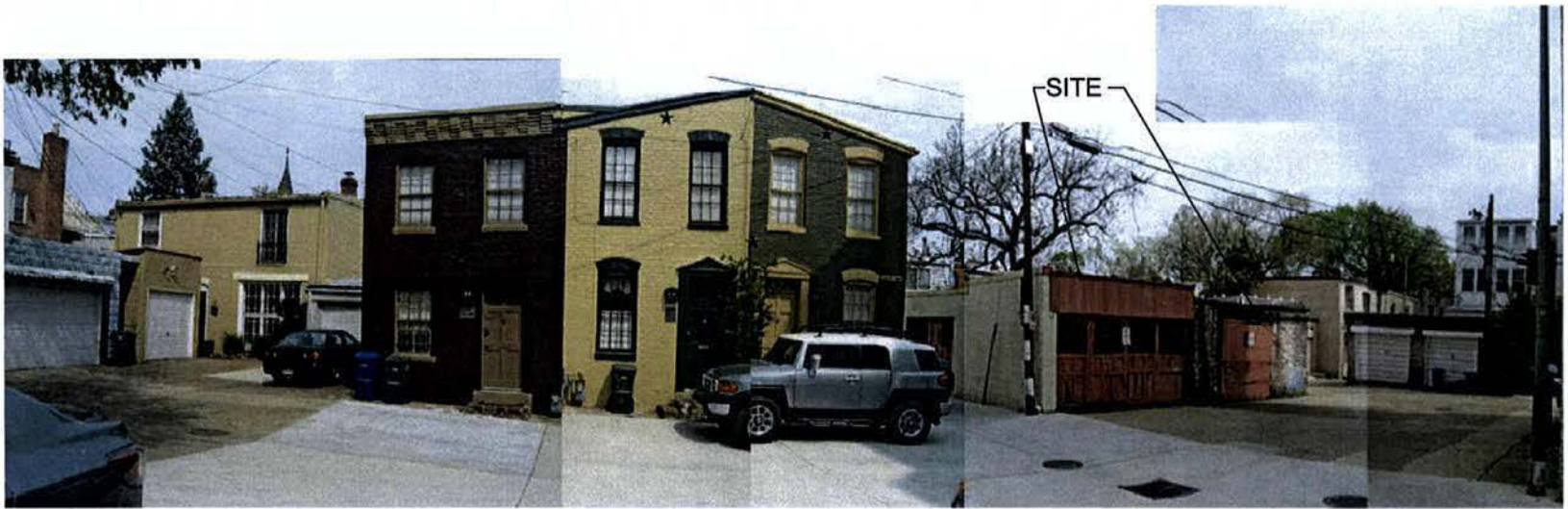
JUNE 2013

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1003 K Street, NW
Washington, DC 20001

S2



MILLERS COURT

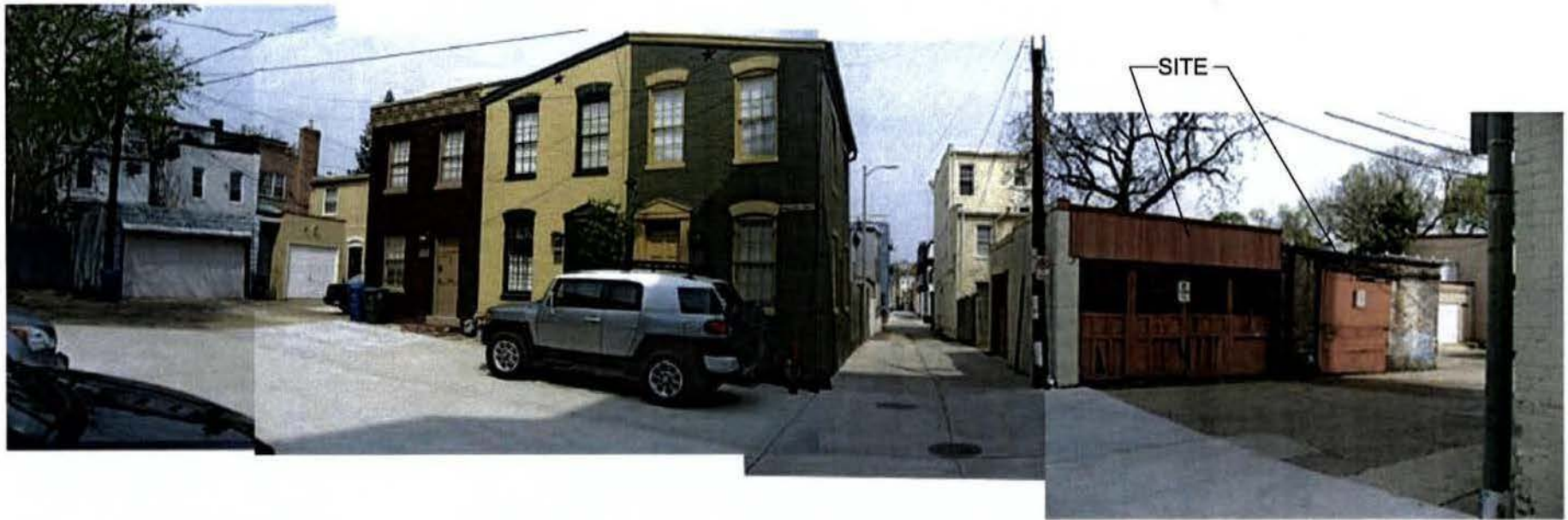
FITZGERALD PROPERTIES

SITE PHOTOGRAPHS

JUNE 2013

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S3



MILLERS COURT

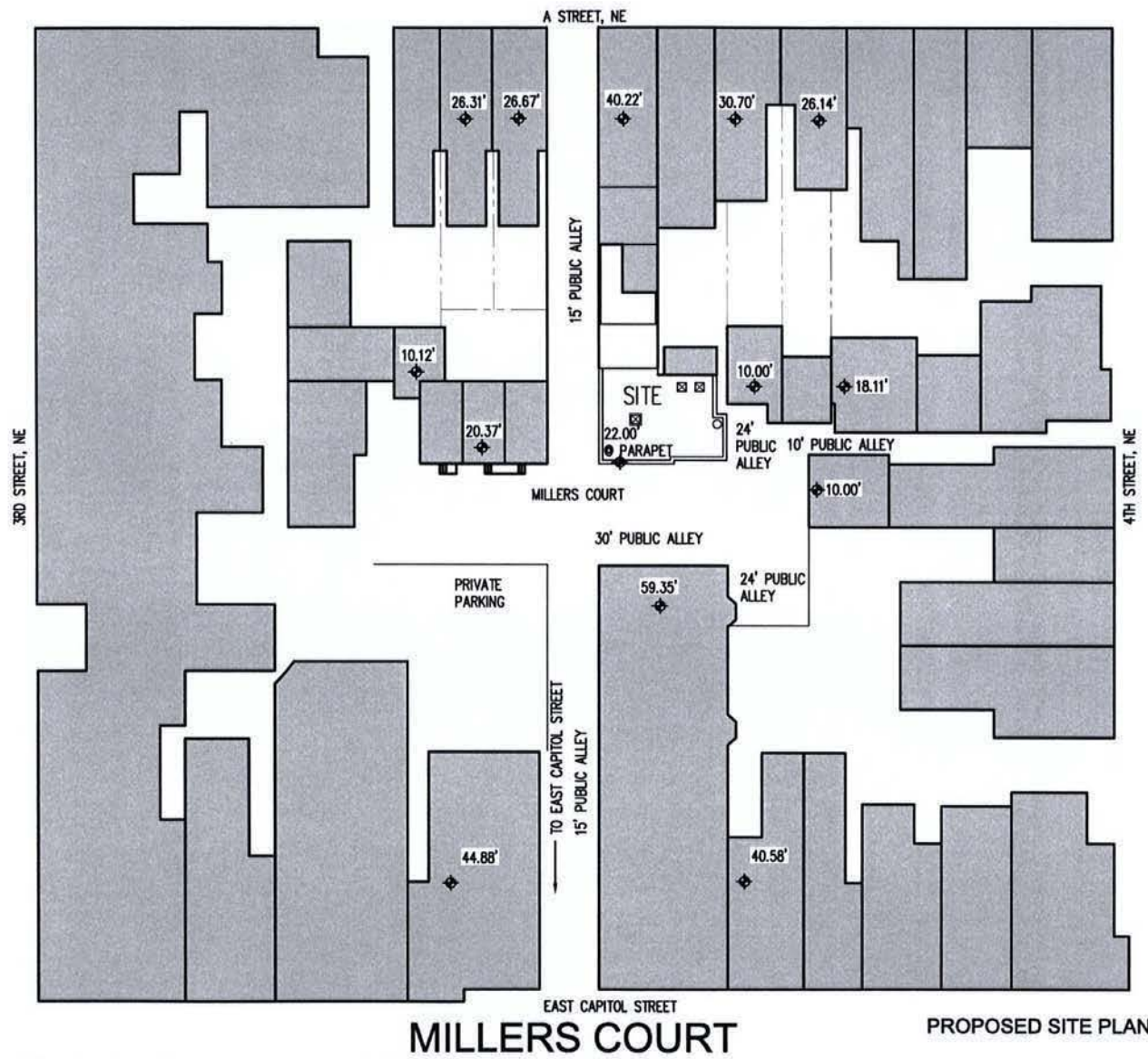
FITZGERALD PROPERTIES

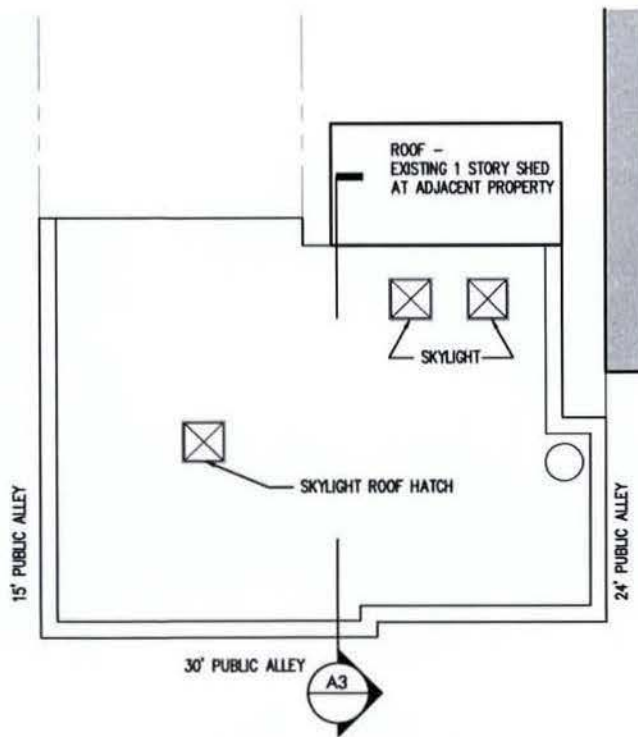
SITE PHOTOGRAPHS

JUNE 2013

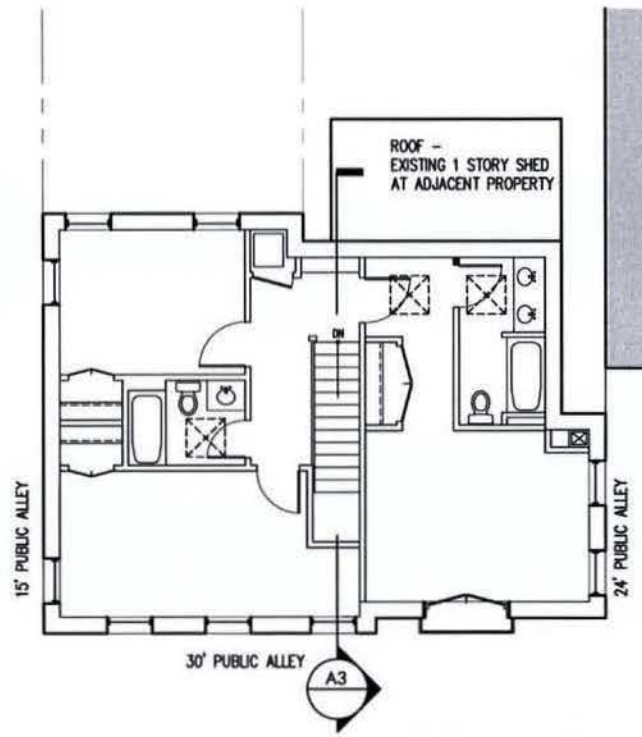
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S4

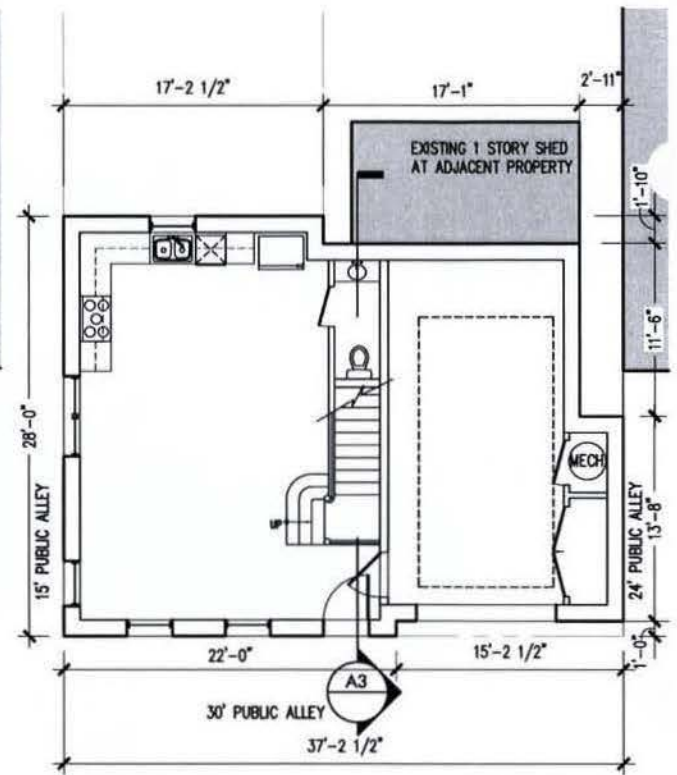




ROOF



SECOND FLOOR



FIRST FLOOR

MILLERS COURT

FITZGERALD PROPERTIES

PLANS
1/8"=1'-0"
JUNE 2013

NELSON • ARCHITECTS, PC
1003 K Street, NW
Washington, DC 20001



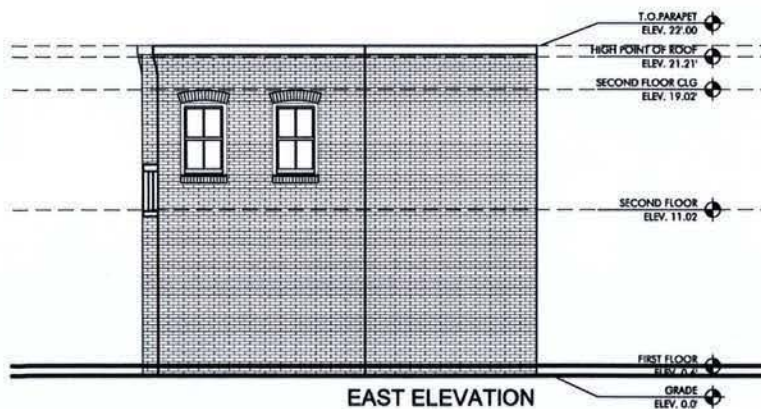


CONTEXT



ALLEY

PROPOSED FRONT ELEVATION

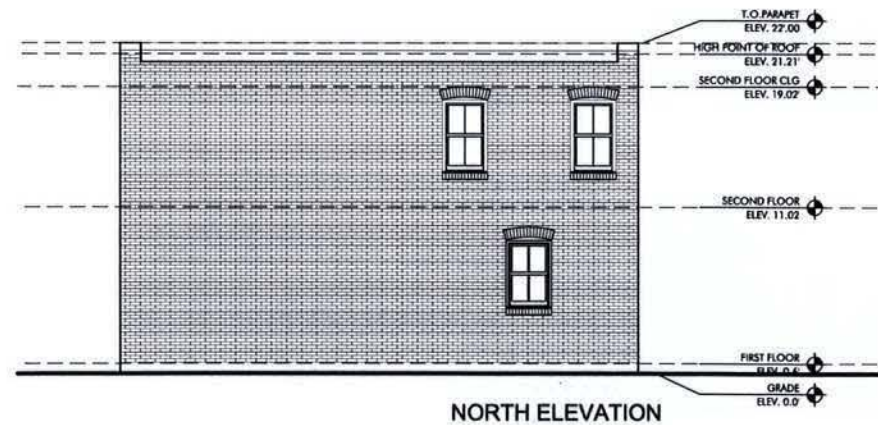
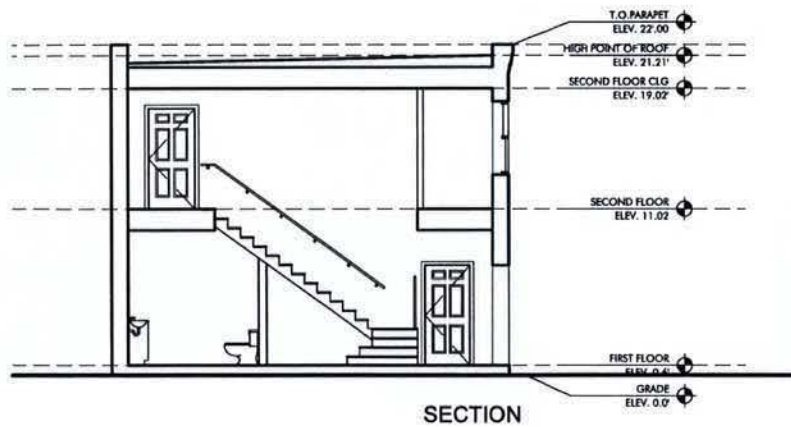


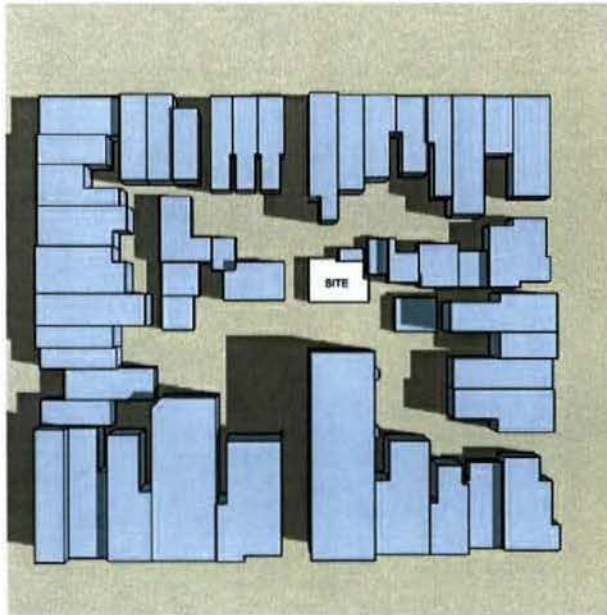
EAST ELEVATION



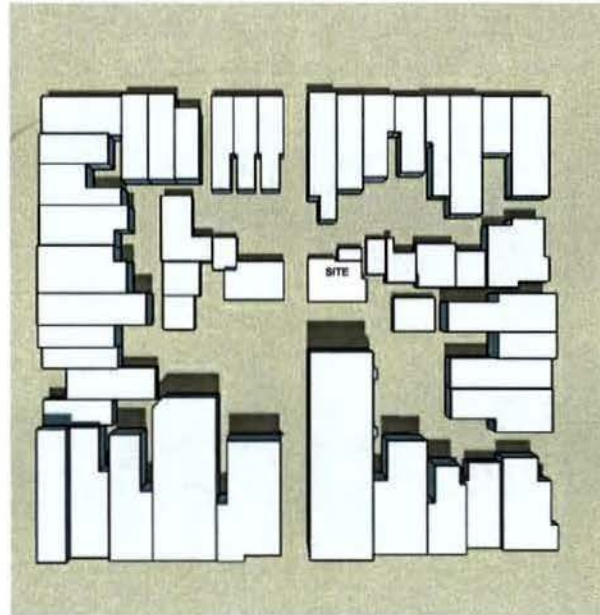
EXISTING FRONT ELEVATION

MILLERS COURT

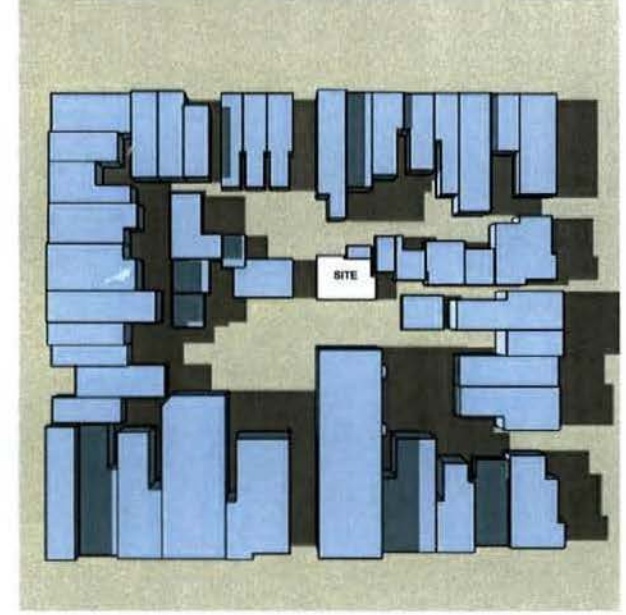




⊕ 9 AM
(96° E of N)



⊕ 12 PM
(171° E of N)



⊕ 4 PM
(270° E of N)



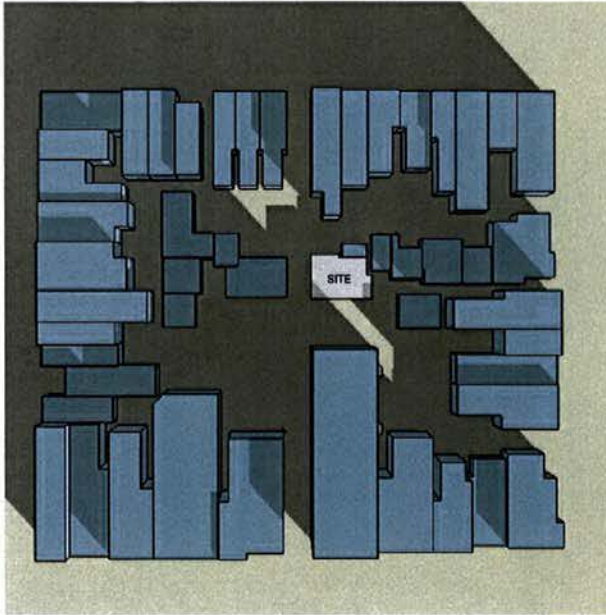
JUNE 21ST SHADOW STUDY
EXISTING BUILDING HEIGHT
MILLERS COURT

FITZGERALD PROPERTIES

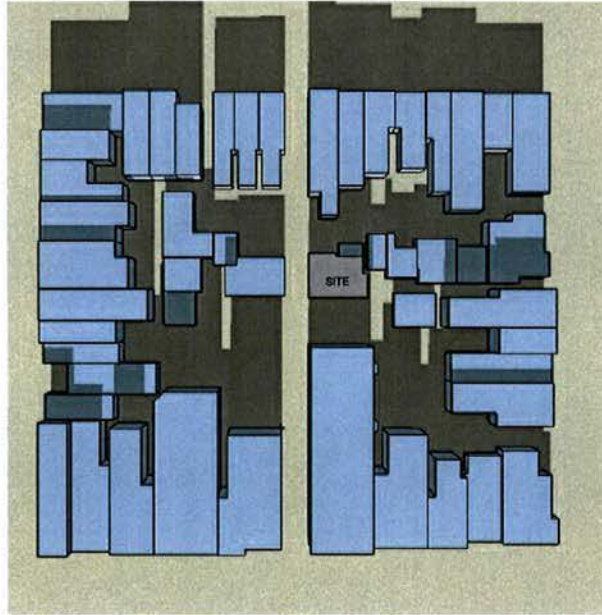
JUNE 2013

NELSON • ARCHITECTS, PC
1003 K Street, NW
Washington, DC 20001

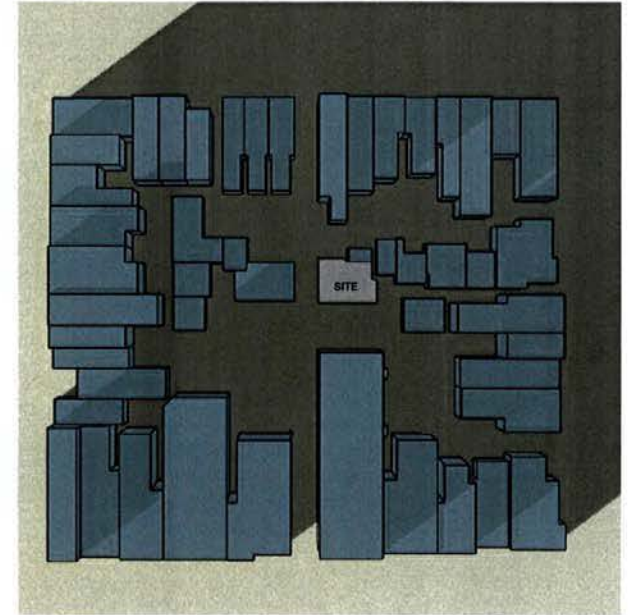
A4



9 AM
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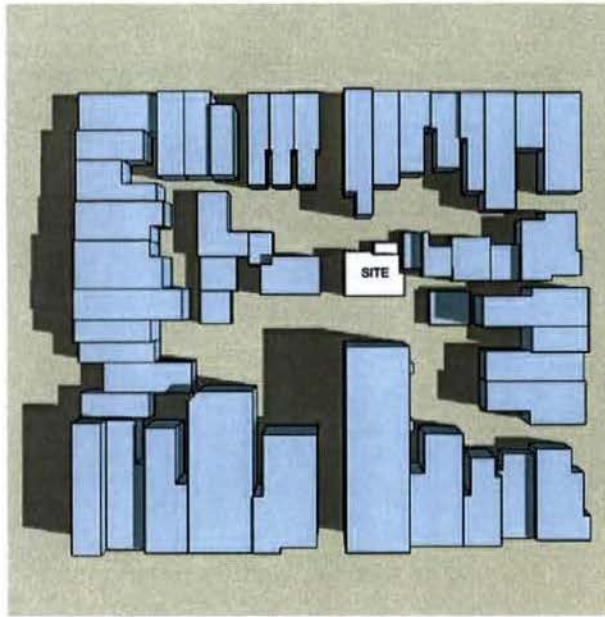
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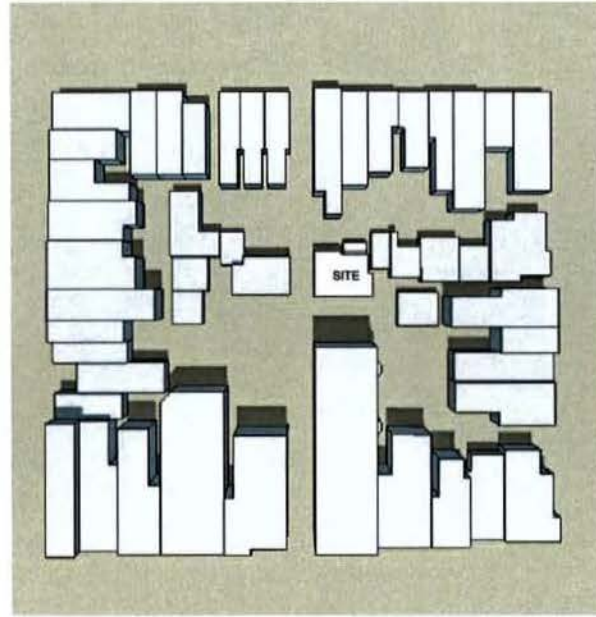
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DECEMBER 21ST SHADOW STUDY
EXISTING BUILDING HEIGHT
MILLERS COURT

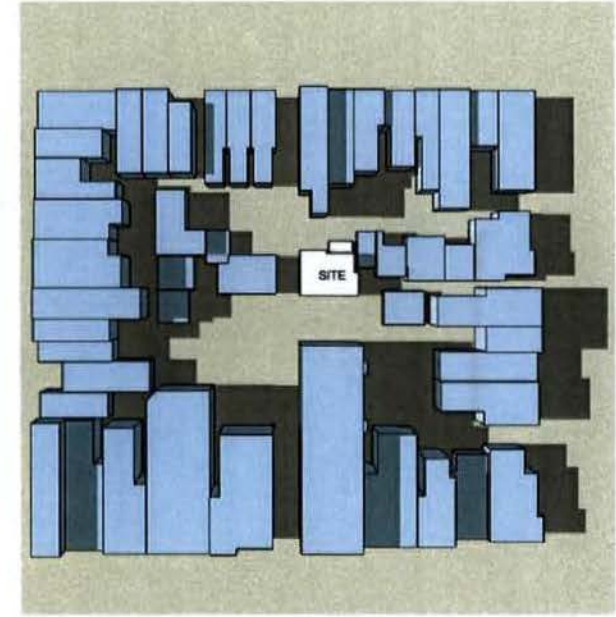




⊕ 9 AM
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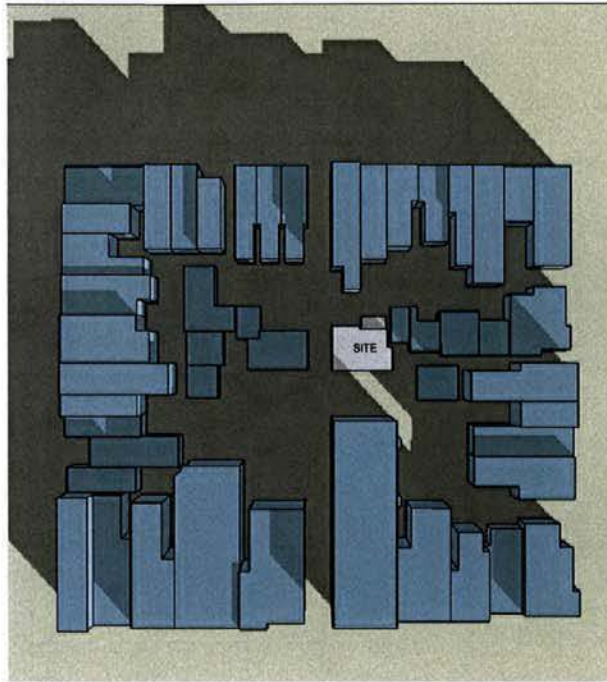


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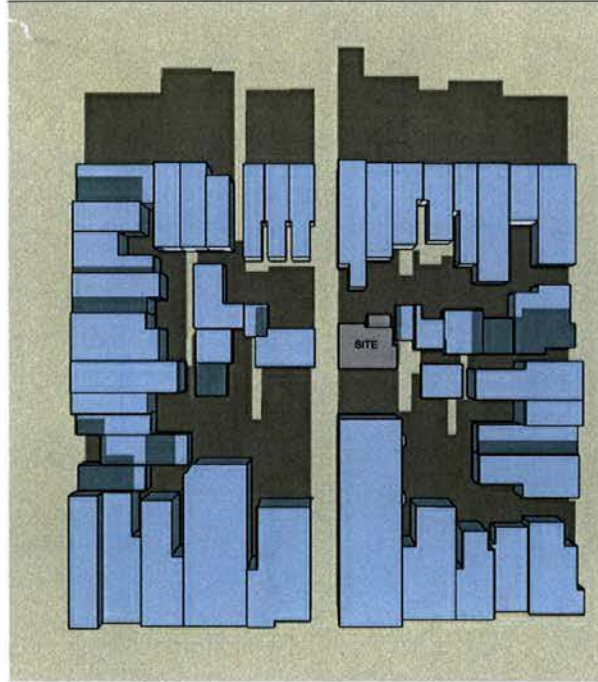
JUNE 21ST SHADOW STUDY
PROPOSED BUILDING @ 9'-0" FIRST FLOOR CEILING HT & 8'-0" SECOND FLOOR CEILING HT.

MILLERS COURT

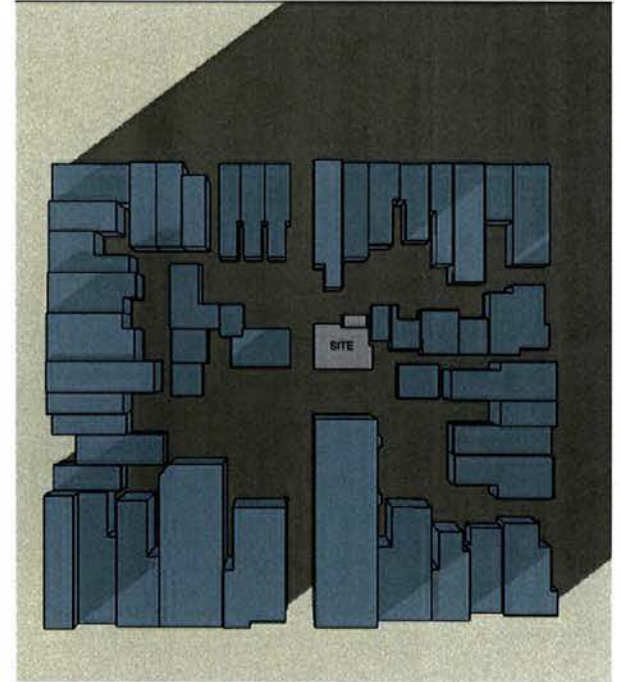




9 AM
(136° E of N)



12 PM
(178° E of N)



4 PM
(231° E of N)

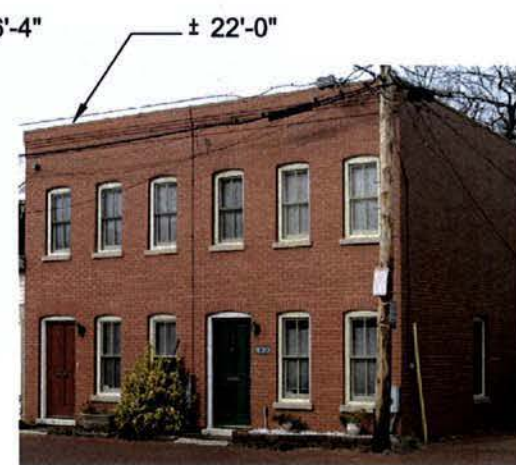
DECEMBER 21ST SHADOW STUDY
PROPOSED BUILDING @ 9'-0" FIRST FLOOR CEILING HT & 8'-0" SECOND FLOOR CEILING HT.

MILLERS COURT





BROWNS COURT



GESSFORD COURT



MILLERS COURT



±19'-8"

FREDERICK DOUGLAS COURT



±19'-0"

WALKER COURT



±20'-11"

TERRA COURT



±18'-10"

SLADENS WALK

MILLERS COURT

EXHIBIT D

HISTORIC PRESERVATION REVIEW BOARD STAFF REPORT AND RECOMMENDATION

Landmark/District:	Capitol Hill Historic District	☒ Agenda
Address:	319 A Street, NE (rear)	☐ Consent
		☒ Concept
Meeting Date:	November 29, 2012	☐ Alteration
Case Number:	12-610	☒ New Construction
Staff Reviewer:	Amanda Molson	☒ Demolition
		☒ Subdivision

Applicant John Fitzgerald, with plans prepared by Nelson Architects, requests concept approval for the demolition of two garages, the construction of a two-story alley dwelling, and a subdivision to combine lots. The site is located at the rear of 319 A Street, NE in the Capitol Hill Historic District, facing onto Millers Court.

Property Description

Millers Court is one of Capitol Hill's most important historic alleys, as it features inhabited alley dwellings and several early carriage houses. Millers Court is quite wide (30') along the east-west artery, with the comparatively modest alley structures facing the rear elevations of several apartment buildings along East Capitol Street and a parking lot. A narrower, 15' wide artery runs north-south from East Capitol Street to A Street.

The subject site is occupied by two, single-story garages located at the rear of 319 and 321 A Street, NE (the garages are under single ownership). Three original alley dwellings are immediately to the left (west) of the garages, and a series of carriage houses are located to both the east and west. Both garages are of brick construction with wide doors opening into the alley. While the garage directly behind 319 appears to be of more recent construction (mid-20th century perhaps), the one behind 321 appears to date to the 1880s, as shown on historic maps, and may have been used as a stable in its early years.

Proposal

The applicant proposes to demolish the two existing garages in their entirety. In place of the garages, a new single-family alley dwelling would be constructed. The structure would include parking for one car within the building. A subdivision is requested in order to combine the two parcels onto one lot that is separate and distinct from the street-facing properties at 319 and 321.

Evaluation

Demolition

HPO has looked closely at the existing garages, both in terms of their individual significance and in terms of their relationship to the surrounding context. The proposed demolition of the more contemporary garage behind 319 raises no preservation issues, but the demolition of the 19th

century accessory building behind 321 merits careful consideration. Though the Board does not yet have design guidelines distinct to the treatment of alley structures, it has begun to set a precedent on Capitol Hill and in other rowhouse neighborhoods with regard to establishing the hierarchical significance of alley structures. The Board has generally found historic alley dwellings, early warehouses, carriage houses, and large stables to be significant contributors to the character of historic districts and has thus limited demolition and major alterations in many cases. In contrast, the Board has exercised greater flexibility in the removal or alteration of one-story garages, particularly those that do not evidence distinct architectural elements such as decorative parapets, original doors, unusual materials, or special roof forms. The Board has evaluated these requests on a case-by-case request, considering the buildings themselves, the alleyscape, and the pattern of neighborhood development as a whole.

In this case, the garages are quite simple in design and construction, with the older structure behind 319 no longer featuring its original door. The garages are also somewhat minor players in the totality of this particular historic alley, which arguably features more significant carriage houses and alley dwellings. The buildings are similar to accessory structures that have received leniency from the Board in previous raze requests, and it is reasonable to grant approval for the demolition of these structures for this particular project.

New Construction

The applicant has worked closely with staff on the design of the new alley dwelling. It is proposed to be 22' in height, which is roughly comparable with the high point of the other alley dwellings in this square and in Capitol Hill's other historic alleys (Groff Court, Gessford Court, Library Court, Brown's Court, etc.). The height is also generally consistent with the Board's previous approvals of new or altered two-story alley structures on Capitol Hill, including 117 C Street, SE (HPA #11-479), 313 9th Street, SE (HPA #10-429), and 1003 E Street, SE (HPA #09-121). Holding the height at 22' in this case ensures that the building will sit comfortably in its context and not be an anomaly in the alleyscape, while still providing comfortable interior spaces.

The combined width of the two existing garages is greater than a typical alley dwelling, so scale is an important consideration in addition to height and general design. To more gracefully manage these wide proportions, the façade of the building has been detailed to be reminiscent of an alley dwelling abutted by a carriage house. This allows the garage door opening to more logically and gracefully fit into the overall design, with double doors above the garage evocative of the hayloft doors common on early carriage houses. Corresponding with the traditional design vocabulary, the building features brick construction, 2-over-2 double-hung windows with arched headers, and a four-panel entry door.

As the construction drawings are prepared, the applicants should work with HPO to finalize details such as window and door specifications, railing material, and the lintel treatment over the garage door.

Subdivision

The proposal to join together the parcels formerly occupied by the garages is consistent with the pattern of development in this square. The square is occupied by alley structures of varying sizes, some of which occupy their own lots and some of which share lots with street-facing houses. Given the overall compatibility of the new construction with the character of this alley

and with the neighborhood as a whole, creating a new lot upon which to site this alley dwelling does not raise any major preservation issues.

The project is compatible with the character of Millers Court and with the Capitol Hill Historic District as a whole. The project is a good example of how to introduce new alley structures in a manner that respects and responds to the surrounding context, the generally low height and simple design of alley structures, and the pattern of overall development typical of rowhouse neighborhoods.

The applicant has indicated that zoning relief will be requested through the Board of Zoning Adjustment at a time to follow the Board's consideration.

Recommendation

The HPO recommends that the Board find the concept to be consistent with the purposes of the preservation act and delegate final approval to staff. However, this should not be construed as approval for any necessary zoning relief.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
HISTORIC PRESERVATION REVIEW BOARD



HPRB ACTIONS

November 29 and December 6, 2012

The Historic Preservation Review Board met to consider the following items on November 29.

Present: Gretchen Pfaehler, Acting Chair; Rauzia Ally, Andrew Aurbach, Catherine Buell, Maria Casarella, Graham Davidson, Nancy Metzger, and Joseph Taylor. **Not present:** Robert Sonderman.

NOVEMBER 29TH AGENDA

LANDMARK HEARINGS

Hamilton Hotel, 1001 14th Street, NW, Case #11-04.

The HPRB designated the Hamilton Hotel at 1001 14th Street, NW as a historic landmark to be entered into the D.C. Inventory of Historic Sites and recommended that the nomination be forwarded to the National Register of Historic Places. Vote: 7-0 [Davidson not present]

Spingarn High School, 2500 Benning Road, NE, Case #12-07.

The HPRB designated Spingarn Senior High School a historic landmark to be entered in the D.C. Inventory of Historic Sites and recommended that the nomination be forwarded to the National Register of Historic Places. Vote: 7-0 [Davidson not present]

York Theater, 3641 Georgia Avenue, NW, Case #12-06.

The HPRB voted not to designate the York Theater a historic landmark to be entered in the D.C. Inventory of Historic Sites and recommended that the nomination not be forwarded to the National Register of Historic Places. Vote: 5-3 [Ally, Casarella, Metzger opposed].

HISTORIC LANDMARKS

Engine Company No. 16, 1018 13th Street, NW, HPA #13-033, alteration/rehabilitation, widening of vehicle doors.

The HPRB recommended approval of a permit as sufficiently compatible with the character of the landmark. Vote: 8-0.

CAPITOL HILL HISTORIC DISTRICT

901 D Street, NE (former Edmonds School), HPA #13-028, concept/renovation and new construction

The HPRB found the proposed subdivision, interior demolition, site plan, and general massing to be consistent with the purposes of the preservation act (with conditions). The Board directed the applicant to return to the Board for ongoing design review when the plans have been further developed. Vote: 8-0.

CAPITOL HILL HISTORIC DISTRICT

319 A Street, NE (rear), HPA #12-610, concept/replacement of two garages with new alley dwelling.

The HPRB found the proposed demolition, new construction, and subdivision to be consistent with the purposes of the preservation act and delegated final approval to staff. Vote: 7-1 (Metzger opposed).

HISTORIC LANDMARKS

Union Trust Company, 740 15th Street, NW, HPA #13-026, concept/alterations.

The HPRB found the proposed concept for signage, minor alterations to a window opening, awnings, and a raised platform above the existing areaway to be consistent with the purposes of the preservation act and delegated final approval to staff. Vote: 7-1 [Davidson dissenting].

DUPONT CIRCLE HISTORIC DISTRICT

1745-1755 N Street, NW, HPA #12-612, concept/rehabilitation, alteration, additions for residential use.

The HPRB voted to approve the staff recommendation, (A) reiterating its finding of 2010 that the extent of alteration to the historic buildings – including removal of the rear ell-wing on 1743, the roof of 1749, and interior demising walls – is consistent with the purposes of the act and would not constitute demolition requiring review by the Mayor's Agent; (B) finding the height, mass and footprint of the proposed rear addition to be sufficiently pulled away as to be respectful to the adjacent property to the east; (C) directed the applicants to continue studying the architectural character of the addition, with consideration given to materials, coloration, scale, and composition, in order to improve the compatibility of the addition with the subject properties and the Dupont Circle Historic District; (D) directed the applicants to continue working with staff to further develop the scope of exterior restoration, including recreation of the missing red tile roof on 1743 and, retention to the extent possible of significant interior finishes, such as fireplace mantles, wainscoting, and the distinctive Colonial Revival stair in 1745; and (E) Asked that the project return to the Board for further review when appropriate. Vote: 8-0.

1321 21st Street, NW, HPA #12-502, concept/three-story rear addition to existing three-story rowhouse.

The HPRB approved the concept for basement entry, roof alteration and rear addition, and delegated final approval to staff with conditions: (A) Revise rear addition elevations by reconsidering design vocabulary and/or materials to give it a lighter appearance; (B) coordination of mechanical units; (C) perform a flag test to demonstrate that the addition and roof alteration are not visible from the street. Vote: 6-2. [Casarella and Metzger opposed]

U STREET HISTORIC DISTRICT

1826 11th Street, NW, HPA #12-521, revised concept/new construction, three-story residential row building.

The HPRB approved the staff report with additional conditions: (A) Reconsider the location of the gas meters (B) Find the general revisions made to the façade to be improved but that the scale of uninterrupted window expanses be revised and the materiality of the cornice condition at the front elevation be addressed; (C) Encourage the architect to provide full documentation with annotated elevations, dimensions, and material choices for future submittals as was previously requested; (D) Re-position walkway to avoid single step up from sidewalk; (E) Delegate final approval to staff. Vote: 8-0.

CONSENT CALENDAR

The HPRB approved the following items on the consent calendar, 7-0:

CAPITOL HILL HISTORIC DISTRICT

1133 Park Street, NE, HPA #12-618, concept/two-story rear addition.

FOGGY BOTTOM HISTORIC DISTRICT

2526 I Street, NW, HPA #12-449, revised concept/rear addition.

KALORAMA TRIANGLE HISTORIC DISTRICT

2009 Columbia Road NW, HPA #13-029, roof addition.

MOUNT VERNON SQUARE HISTORIC DISTRICT

460-462 Ridge Street, NW, HPA #12-210, concept/new construction and addition.

SHAW AND BLAGDEN ALLEY HISTORIC DISTRICTS

1232 10th Street NW, HPA #13-024, concept renewal/two, 2-unit flats.

SHERIDAN KALORAMA HISTORIC DISTRICT

~~F. 2225 California Street, NW, HPA #11-472, revised concept/new construction~~ *[rescheduled for December 6th agenda]*

CONSENT DENIAL

U STREET HISTORIC DISTRICT

~~G. 1315 T Street NW, HPA #13-021, concept/alteration, new basement entrance and alter iron stairs~~
[deferred at request of applicant]

DECEMBER 6TH AGENDA

The Historic Preservation Review Board met to consider the following items on December 6, 2012.

Present: Gretchen Pfahler, Acting Chair; Rauzia Ally, Andrew Aurbach, Maria Casarella, Graham Davidson, Nancy Metzger. **Absent:** Robert Sonderman and Joseph Taylor.

HISTORIC LANDMARKS

~~McMillan Reservoir, revised master plan and design guidelines.~~ *[deferred at the request of the applicant]*

ST. ELIZABETHS' CAMPUS HISTORIC DISTRICT

1100 Alabama Avenue (2700 Martin Luther King Jr. Avenue), SE, HPA #13-032, concept/construction of pavilion.

The Board commented on the design presented. The members expressed concern for maintaining views across the front of the campus, from the public road to the principal historic buildings and vice versa. The Board also said that the green space into which the structure would be introduced is itself

significant and should not be completely remade by the new construction. Both issues are functions of the length and extent of the structure, as well as the degree to which the structure can be made more permeable to views or avoid altogether the most important views or axes especially from the center of the Maple Quadrangle). The Board expressed concern about materials and construction details and suggested that the structure is of a nature that looks permanent. Some members questioned the entire location in front of the 1902 buildings, suggesting that there are other locations that would better serve the neighborhood and avoid the adverse effects on the character of the campus, but on balance, most seemed comfortable with inserting a pavilion in the space proposed if it is reduced and/or reoriented and made more compatible. The members pointed out that the orientation of the building makes it more difficult to serve with food trucks and deliveries. The Board members recommended that the project return after further consideration of the appropriate location for the structure and with additional effort to make it more compatible with the campus's pattern. They requested more information on the materials and details; on the furniture; on what other elements the amphitheater might need to function; and on how the phasing of early development and the vehicular and pedestrian circulation might affect the layout of the pavilion and its site.

FOGGY BOTTOM HISTORIC DISTRICT

~~916 25th Street, NW, HPA #12-609, concept/rooftop addition and rear, basement addition.~~
[deferred at the request of the applicant]

U STREET HISTORIC DISTRICT

~~14. 2200-2202 14th Street NW, HPA #13-022, concept/six-story new construction and rear addition to two-story house~~ [deferred at request of the applicant]

HISTORIC LANDMARKS

Equitable Cooperative Building Association, 915 F Street, NW, HPA #13-027, concept/rear 5-story addition.

The HPRB found the massing concept for a five-story rear addition on top of the existing two-story rear wing to be compatible for the landmark and its context within the Downtown Historic District and directed the applicant to continue developing the design for the elevation of the addition and return to the Board when appropriate. Vote: 6-0

SHERIDAN KALORAMA HISTORIC DISTRICT

2225 California Street, NW, HPA #11-472, revised concept/new construction.

The HPRB approved the revised concept and delegated final approval to staff. Vote: 4-0 [Casarella and Davidson recused]

Transcripts of Historic Preservation Review Board Meetings may be purchased from the court reporting agency that covered this hearing – Olender Reporting, Inc. (202) 898-1108, www.olenderreporting.com, or info@OlenderReporting.com. Copies of individual staff reports that are prepared in advance of the hearing are posted on our website at <http://planning.dc.gov>

EXHIBIT E



Government of the District of Columbia

Advisory Neighborhood Commission 6C

September 16, 2013

Mr. Lloyd Jordan, Chairman
D.C. Office of Zoning Adjustment
Board of Zoning Adjustment
441 Fourth Street N.W Suite 200 S
Washington, D.C. 20001

2013 SEP 16 PM 1:35

RECEIVED
OFFICE OF THE
COMMISSIONER
OF PLANNING

Re: 319 A Street N.E., BZA # 18651, application of Peter J. Fitzgerald to subdivide a portion of lot 827 and lot 22 to construct a new single-family dwelling on an alley in the CAP/R-4 district at the rear of 319 A Street NE, Square 786

Dear Mr. Jordan:

On September 12, 2013, at a duly noticed, regularly scheduled, monthly meeting of ANC 6C, with a quorum of 6 out of 6 commissioners and the public present, the above-mentioned matter came before us.

The applicant proposes to separate the rear portion of lot 827 from the main part of the lot, combine that rear area with the existing lot 22 to the east, and construct a single-family dwelling on the resulting lot. The proposed structure will occupy 100% of the small lot, although on-site parking will be provided on the lot.

Neighbors have expressed support for this project, conditioned on the applicant limiting construction to the hours 9 am to 5 pm on weekdays. The applicant agrees to that restriction.

The commissioners voted unanimously, 6:0:0, to support the application.

Thank you for giving great weight to the recommendations of ANC 6C.

BOARD OF ZONING ADJUSTMENT
District of Columbia

CASE NO. 18651

EXHIBIT NO. 27

On behalf of ANC 6C,

Karen J. Wirt

Karen Wirt
ANC 6C chair

Please reply to ANC 6C at P.O. Box 77876, Washington, D.C. 20013, (202) 547-7168

EXHIBIT F

★ ★ ★
**BEFORE THE ZONING COMMISSION OR
BOARD OF ZONING ADJUSTMENT OF THE DISTRICT OF COLUMBIA**
★ ★ ★

FORM 140 - PARTY STATUS REQUEST

Before completing this form, please review the instructions on the reverse side.
Print or type all information unless otherwise indicated. All information must be completely filled out.

PLEASE NOTE: YOU ARE NOT REQUIRED TO COMPLETE THIS FORM IF YOU SIMPLY WISH TO TESTIFY AT THE HEARING. COMPLETE THIS FORM ONLY IF YOU WISH TO BE A PARTY IN THIS CASE.
(Please see reverse side for more information about this distinction.)

Pursuant to 11 DCMR §§ 3022.3 or 3106.2, a request is hereby made, the details of which are as follows:

Name: Elliot R Eisenberg
Address: 321 A Street NE, Washington, DC 20002
Phone No(s): 202-544-1551 E Mail: ellioteisenberg@gmail.com
I hereby request to appear and participate as a party in Case No.: 18651
Signature: _____ Date: _____
Will you appear as a(n) ☒ Proponent ☐ Opponent Will you appear through legal counsel? ☐ Yes ☒ No

If yes, please enter the name and address of such legal counsel.

Name: Elliot R. Eisenberg BOARD OF ZONING ADJUSTMENT
Address: 321 A Street NE District of Columbia
Phone No(s): 202-544-1551 CASE NO. 18651
E Mail: ellioteisenberg@gmail.com EXHIBIT NO. 28

PARTY WITNESS INFORMATION:

On a separate piece of paper, please provide the following witness information:

1. A list of witnesses who will testify on the party's behalf;
 2. A summary of the testimony of each witness (Zoning Commission only);
 3. An indication of which witnesses will be offered as expert witnesses, the areas of expertise in which any experts will be offered, and the resumes or qualifications of the proposed experts (Zoning Commission only); and
 4. The total amount of time being requested to present your case (Zoning Commission only).
- RECEIVED
1000 06 2010
T-1 PM 2:50

PARTY STATUS CRITERIA:

Please answer all of the following questions referencing why the above entity should be granted party status:

1. How will the property owned or occupied by such person, or in which the person has an interest be affected by the action requested of the Commission/Board? Property immediately borders. Construction impacts my security
2. What legal interest does the person have in the property? (i.e. owner, tenant, trustee, or mortgagee) and a building
My wife and I own the property
3. What is the distance between the person's property and the property that is the subject of the application before the Commission/Board? (Preferably no farther than 200 ft.) Bordering
4. What are the environmental, economic, or social impacts that are likely to affect the person and/or the person's property if the action requested of the Commission/Board is approved or denied? see attached letter
5. Describe any other relevant matters that demonstrate how the person will likely be affected or aggrieved if the action requested of the Commission/Board is approved or denied. see attached
6. Explain how the person's interest will be more significantly, distinctively, or uniquely affected in character or kind by the proposed zoning action than that of other persons in the general public. Only property that borders site in question

Except for the applicant, appellant or the ANC, to participate as a party in a proceeding before the Commission/Board, any affected person shall file with the Zoning Commission or Board of Zoning Adjustment, this Form 140 not less than fourteen (14) days prior to the date set for the hearing.

To: Board of Zoning Adjustment

Re: Case 18651

Date: September 27, 2013

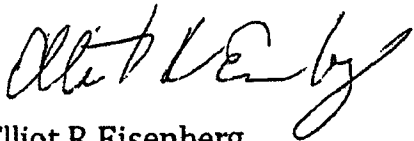
This is an attachment to Form 140 in which I am seeking Party Status for the Board of Zoning Adjustment meeting scheduled for November 5, 2013.

Please note that, based on the assurances given to me by Peter Fitzgerald and his agent John Fitzgerald (see attached letter) and trusting that these assurances will be adhered to, I am applying for Party Status as a proponent of the project.

Because my property is the only one not owned by Fitzgerald, which immediately borders the proposed construction site, I believe that my interest in this project is unique. A wall of one of my buildings will be torn down during construction and there is potential that the security of this building and its contents as well as that of my main residence could be compromised. In addition, the disruption of the construction could be a significant annoyance should it be done during inconvenient hours.

Mr. Fitzgerald has assured me in writing (again, see attached) that everything possible will be done to eliminate my concerns. With this in mind, and given the proposed plans filed by Fitzgerald with the Board on August 13, 2013, I am supportive of his request to the Board.

Respectfully yours,

A handwritten signature in black ink, appearing to read "Elliot R Eisenberg", written in a cursive style.

Elliot R Eisenberg

September 24, 2013

Mr. Elliot R. Eisenberg
321 A Street, NE
Washington, DC 20002

Re: Millers Court Project

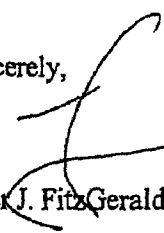
Dear Mr. Eisenberg,

As per your discussions with my agent, John H. FitzGerald, regarding the construction of an alley dwelling unit to the rear of your house, I agree to the following:

1. There shall be security fencing installed along the rear lot line of your property during construction. You will have access to the rear of your property through a locked gate that shall be erected in the security fencing. At the completion of the construction, the existing security gate will be reinstalled as close to its current location as is possible.
2. The rear wall of your shed shall be removed when the garage upon which it was erected is demolished. Care will be given not to disturb any of the contents. If it is necessary to store the items off-site during construction, FitzGerald Properties will move and store said belongings. Your shed shall be restored as closely as possible to its current condition.
3. Every attempt shall be made to limit construction hours to Monday through Friday 9am-5pm. If it is necessary to deviate from these hours, contractors will attempt to contact you in advance.

In return for said conditions, you will agree to support the project and return to me a signed copy of Form 140 listing your party status as a proponent.

Sincerely,


Peter J. FitzGerald