LINDSLEY WILLIAMS

Professional Consultation in Land Use, Planning, and Zoning
3307 Highland Place, NW
Washington, D.C. 20008-3234

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Email: LWilliams@his.com

June 3, 2003

Six Preliminary Matters Pertaining to Case 17017

- **Introduction of Witnesses**
  - Pamela Bundy
  - Eric Colbert and Gayle Worsley
  - Lindsley Williams
- **Qualification of Experts**
  - Eric Colbert (resume supplied)
  - Lindsley Williams (resume supplied)
  - Pamela Bundy (resume available for Board to review, if allowed into record)
- **Status of Anticipated Letters of Support**
  - ANC 6-C
  - Downtown Cluster of Congregations
- **Request to Allow Supplemental Filing(s) from Applicant**
  - Letter from Lindsley Williams of May 27 requesting waiver to allow supplemental report (Exhibit 25)
  - Second letter, substantive, same date discussing additional "views" of project site from roof of property to south, looking north-northwest "over" Applicant's site, enclosing
    - Two photographs on which Applicant's current proposal and original plan are superimposed
  - The second letter and its enclosure should have been held aside, outside the Case Record, until the Board ruled on allowing them into it.
  - **Applicant recommends that the Board allow the supplemental report and photographs to be included in the case record.**
  - **Determine, as well, if Board will accept this Outline of Preliminary Issues into Case Record.**

BZA
Case No. 17017
Exhibit No. 30

Board of Zoning Adjustment
District of Columbia
CASE NO. 17017
EXHIBIT NO. 30

★ ★ ★ **Government of the District of Columbia**
ADVISORY NEIGHBORHOOD COMMISSION 6(C)
P.O. Box 77876
Washington, DC 20013-7787

May 14, 2003

Board of Zoning Adjustment
One Judiciary Square – Suite 210 South
441 Fourth Street, N.W.
Washington, D.C. 20001

Re: BZA Case #17017 Chinatown East LLC -- Application for Variances and Special Exceptions for the Property Located 809-813 Sixth Street, NW (Square 485, Lot 46)

Honorable Members of the Board

Advisory Neighborhood Commission 6-C, being the duly authorized Advisory Neighborhood Commission within which the property seeking your approval in Case 17017 is located, hereby wishes you to know that:

- The ANC received timely notice of the application.
- The applicant has kept this Commission advised, through the Single Member District Commissioner in whose District the property is located, ANC 6C-09, Charles Docter, as to issues of substance and procedure as this case (and its prior incarnation) developed, starting from the time of his election and continuing thereafter.
- The applicant met with our Planning and Zoning Committee at its meeting of May 7, 2003 and on May 14, 2003 when the ANC held its regular monthly meeting, reporting on the way in which the project has evolved, how they have engaged others active in the area in which it would be located, and how they have responded to their recommendations.
- Our Planning and Zoning Committee reported favorably as to the project and recommended that the ANC support the Board of Zoning Adjustment's granting each element of the relief sought to enable the project to proceed according to the plans filed with the Board, copies of which the applicant provided to the Committee and ANC.
- The applicant's plans address our Commission's ***zoning*** "issues of concern," namely (a) providing adequate physical facilities within the building to handle accumulations of trash, refuse, and recyclables in a fashion that would not extend into the adjacent public space or alleys, (b) respecting and incorporating Chinese design elements into the project's façade and other architectural features, and (c) providing more parking than that strictly required by the Zoning Regulations and enclosing it, noting that the combination of its enclosure, entrance location, and grades on site operate to generate virtually all the additional FAR being sought.

- The applicant's plans also contemplate a small landscaped area in front of the building at ground level that will complement an area of landscaping in the tree-box area. The ANC welcomes this change, which results in a more inviting entrance and streetscape than prior plans, which included an exterior ramp for handicapped access.

- The plans contemplate a portion of the main roof being utilized by the residents of the building as a sun roof. No portion of the enclosed portion of this level is intended for human occupancy. The plans illustrate plants in free-standing planters adjacent to the "sun roof."

- The Planning and Zoning Committee suggested, and the ANC concurs, that the applicant evaluate if it could provide a "green roof" instead of the conventional flat roof planned, fully realizing this is not a zoning issue or a condition of either the Committee's endorsement or the ANC's support. Applicant agreed to "explore" the issue and suggested several ways in which the ANC could advance consideration of this issue within the District of Columbia generally. Applicant also reminded the Committee and the ANC that (a) the application being pursued is before the Board of Zoning Adjustment and (b) that roof systems such as this are, in this context, in the realm of "amenities." Applicant further advised the Committee and the ANC that "amenities," while commonly and appropriately considered within the context of Planned Unit Development cases heard by the Zoning Commission, are not pertinent to BZA review of applications for variances or special exceptions absent nexus to the standards involved.

At the regular monthly meeting of May 14, 2003, Advisory Neighborhood Commission 6-C ***RESOLVED, by a 5-1 vote of the Commissioners present and constituting a quorum,*** to support the application Chinatown East LLC in BZA Case No. 17017 on its merits.

For the Commission:

Robert Hall, Jr., Chairperson

WAS1 #1156642 v3

The Downtown Cluster of Congregations

1313 New York Avenue, N.W. ■ Washington, D.C. 20005 ■ (202) 347-7015 ■ Fax (202) 347- 4630

June 3, 2003

Chairman Geoff Griffis and Members
DC Board of Zoning Adjustment
441 4th Street, N.W. #210 South
Washington, DC 20001

Re: Case #17017, Sq. 485, Lot 46 (809-813 6th Street, NW) **Via Fax**

Dear Chairman Griffis and Members,

I wanted to express my strong support for this project as envisioned.

As you are aware, this project will deliver 30 new residential units to the heart of the new downtown. The site has been vacant for decades, and while offering surface parking, provides far less in overall revenues and economic generation than what is being proposed would deliver.

The height, design, and uses I believe make the best practical alternatives for meeting the array of goals expected of this location. The design is and must be sensitive to historical impacts. The height is consistent with meeting that objective. At the same time, the variances requested allow the engineering necessary to make the structure viable, both physically and economically. The variances are also I believe consistent with actions in other cases and fit with the type of living space sought by the new residents of the downtown area.

I am very excited that this underperforming site will offer the dynamic contribution of new residents. This will mean new property, sales, and income taxes, along with the civic contributions residents will bring to Chinatown. Its delivery will help as well in achieving the success of other surrounding new residential/retail projects. **Together, these projects represent a revitalized East End.**

In short, I hope that you will be able to help this project be realized for the enhancement of our city.

Respectfully,

Terrance Lynch
Executive Director

- **Applicability of Section 1706.4(b) within DD Overlay to R-5-E**
  - Key issue is whether Zoning Regulations and map require minimum development of FAR 4.5 or not (see §1706.4(b))
  - Lindsley Williams' report declared it applied
  - Office of Planning report determined it did not
  - There is a basis for both points of view
  - Lindsley Williams and Steve Cochran conferred
    - Cochran pointed out to Williams the provisions of §1706.8(b), which expressly apply to areas zoned "DD/C-2-C and DD/C-3-C", thus excluding others, including DD/R-5-E.
    - Williams pointed out to Cochran the Zoning Commission's publication of **"Map B"** in the ***D.C. Register*** of July 8, 1992 (pp. 4947-4948), following Zoning Commission's adoption of Final Rulemaking in Case 91-16/89-25 **(copies attached). "Map B,"** as so published, outlines entire Housing Priority Areas, not excluding areas within it that may have been excluded from them. The perimeter of **Housing Priority Area B** as depicted encompasses the Applicant's site and was the basis for Williams' conclusion.
  - **Applicant recommends Board accept OP's interpretation but communicate the discrepancy(ies) in the published map to the Zoning Commission and the Office of Zoning. (The Board may care to broaden this to question entire concept of DD as an overlay to base zones in a Residential series.)**

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF FINAL RULEMAKING
Case No. 91-16/89-25

(Text and Map Amendment - Omission of Square 317 et al in the Downtown Development District)

The Zoning Commission for the District of Columbia, pursuant to the authority set forth in the Zoning Act (D.C. Code, Section 5-413 et seq.), having held a public hearing as required, hereby gives notice of adoption of amendments to the District of Columbia Municipal Regulations (DCMR), Title 11, Zoning, and the Zoning Map of the District of Columbia. The amendment includes several squares that were unintentionally omitted in three housing priority subareas of the Downtown Development District and adopts a map that depicts those squares. A notice of proposed rulemaking was published in the D.C. Register on April 3, 1992 (39 DCR 2333).

These amendments were adopted by the Zoning Commission as final action at a public meeting held on June 8, 1992. The specific amendments to the Zoning Regulations and Map are as follows:

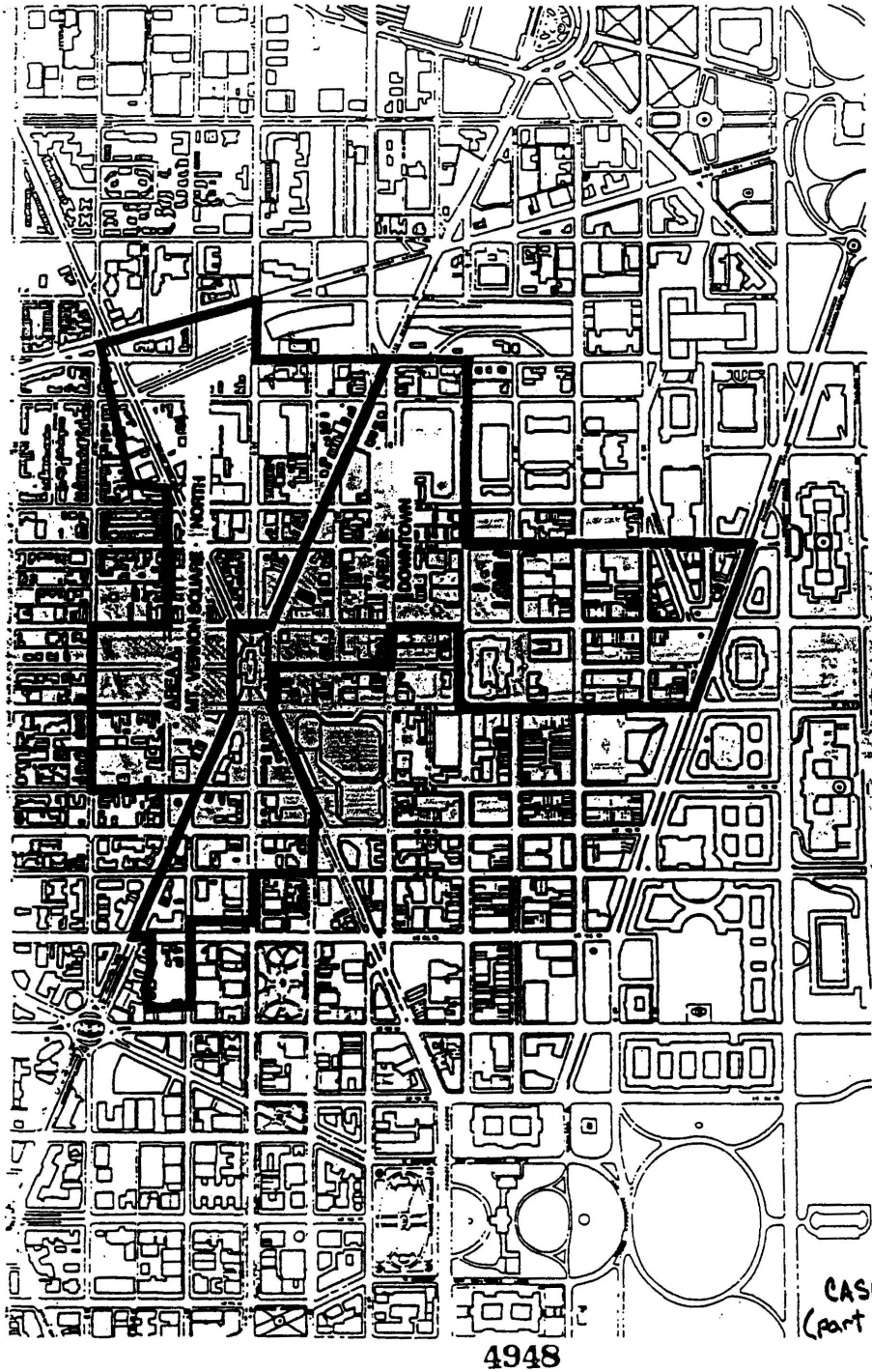
1. Add squares 317, 343, 427 and 428 to the squares that are explicitly referenced in 11 DCMR 1706.8(b), by amending that provision to read as follows:

   b. Housing Priority Area B, the Mount Vernon Square South area, comprises the DD/C-2-C and DD/C-3-C zoned properties that are located south of Massachusetts Avenue, including squares and parts of squares numbered 247, 283, 284, 316, 317, 342, 343, 371, 372, 427, 428, 452, 453, 485, 486, 517 and 529; and

2. Add squares 431 and 432 to the squares that are explicitly referenced in 11 DCMR 1706.8(c), by amending that provision to read as follows:

   c. Housing Priority Area C, the Downtown Core area, comprises the DD/C-4 zoned properties that are located south of H Street, including squares and parts of squares numbered 406, 407, 408, 431, 432, 454, 455, 456, 457, 458, 459, and 460.

3. Adopt, as an Appendix to chapter 17, Map B, which is referenced in 11 DCMR 1706.2, and which follows and is incorporated in this order.



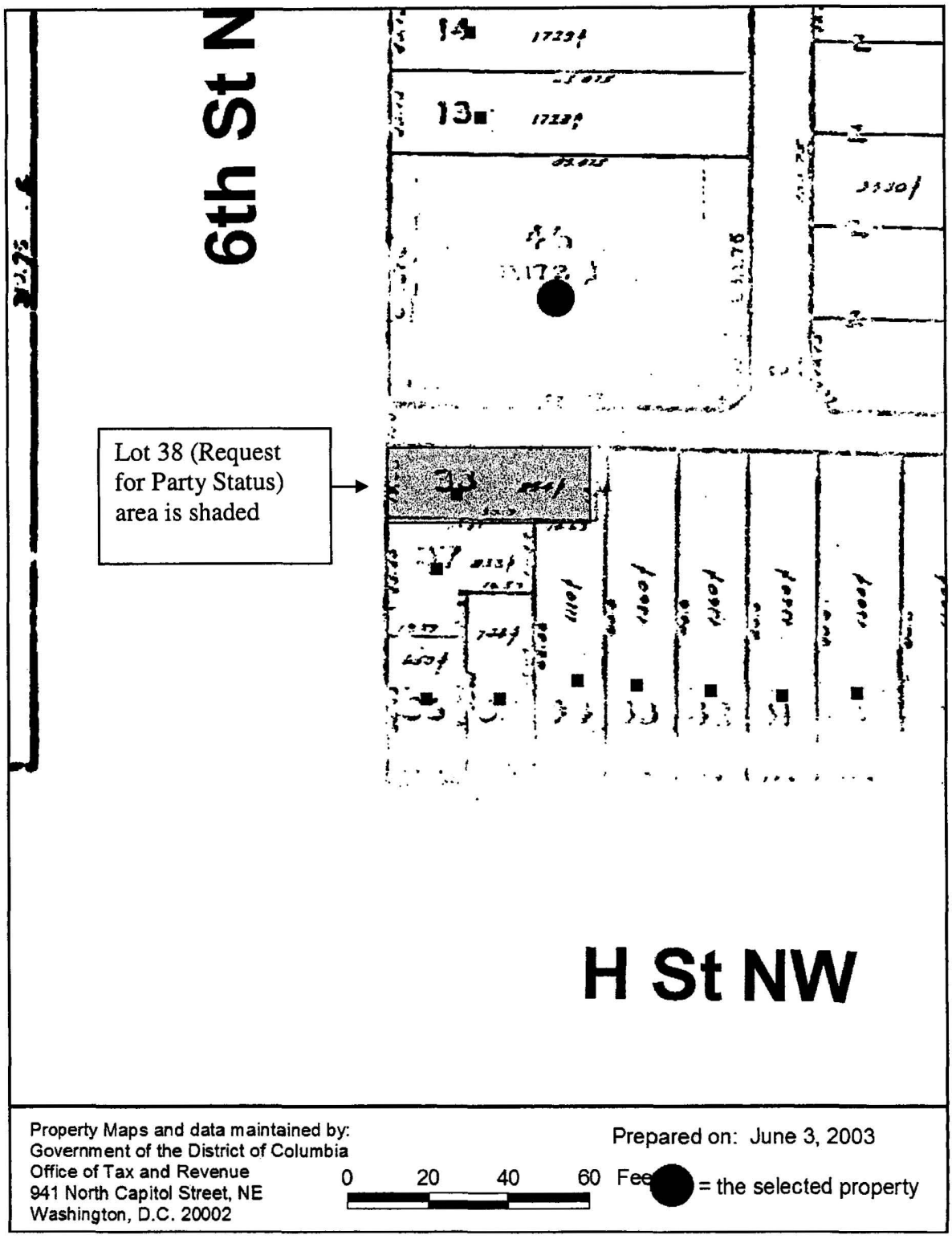
HOUSING PRIORITY AREAS

MAP B

CASE NO. 89-25
(part of Exh. No. 48)

- **Request for Party Status in Opposition**
  - Party Status Application (Exhibit 20, BZA **Form 140**, Qiaoling Lei, signed 5/5, jacketed 5/19)
  - Party Status Application (Exhibit 22, **Letterhead of Shi-hua Wu**, signed 5/15 by Shi-hua Wu and Qiao-ling Lei, jacketed 5/19). *[Text of letter expresses concerns in first person, singular ("I"). If there are two persons, "we" would be anticipated. Applicant cannot determine if there is a potential second person within the potential party.]*
  - **Both** declare address as 607 Sixth Street, NW. *[The property known as 607 Sixth appears as Lot 38 in Assessment records and is located immediately south of a ten-foot public alley separating that property from Applicant's property. The only owner whose name appears on the D.C. Assessment website 6/3 is "Qian-ling Lei." Lot has stated area of 854 square feet, is rectangular in shape, and has a frontage of about 17 feet. Thus, its depth is about 50 feet. Fifty feet is less deep than a building occupying three-fourths of the Applicant's lot, and less deep than would result if greater lot coverage were allowed up to the point where the required rear yard would commence from a building of 90 feet in height.]*
  - **Form 140**'s entries expresses possible diminishment of value and being able to use public alley
  - **Letter**, one signature of which is same as that appearing on Form 140, indicates that central issue is proposal to close public alley. *[Applicant has proposed no such closing; BZA has no authority to deal with an alley closing in any event]*
  - **Letter** also discusses effect of applicant's project on value of writer's (or writers') property. *[Matter of right project's effects could be even more significant.]*
  - **Letter** references low traffic in alley, expressing fear that it would increase if applicant's project is approved. *[Lot is currently filled, each work day and many evenings, with commercial parking of 35 or more vehicles; would be replaced by parking for 12 residents of which eight (8) are required by the Zoning Regulations to serve the 30 proposed apartment units; none of the "excess" parking spaces would be held out for commuter, event, or "in and out" parking by persons not residing in the premises.]*
  - **Letter** references light entering potential party's windows and contemplates this would be reduced by project. *[Alley in question runs east-west, applicant on north side. Alley would not be closed so potential party's (or parties') windows could remain. Applicant's lot not encumbered by any easement in favor of potential party to south to maintain full or partial views to north.]*
  - **Letter** references reductions in privacy from proposed apartment project. *[See prior comment.]*
  - **Letter** indicates that the apparent writer, Quio-ling Lei, would not be able to attend hearing. *[If neither attends, neither Board nor Applicant can establish legitimacy and relevance of request for party status or be assured that responsibilities of a party would be discharged if conferred upon Lei or Wu or both.]*
  - **Applicant recommends that Board deny this request (or these requests) for party status.**

Square 485, Lot 46 -- 809-813 Sixth Street, NW



Form 140
(Revised 03/15/02)

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OFFICE OF ZO

Case No. 17017

PARTY STATUS APPLICATION

Notice: See other side of party status form for instructions.

NAME: Last Lei First Qiaoling Middle I.

ADDRESS: Street 807 6th St N.W. Apt. # (if any) City Washington State D.C. Zip Code 2000

Phone No. 202-789-5466 Fax No. 202-789-2084 E-Mail no

I intend to appear and participate as a party. Signature Qiao-Ling Lei Date 6-5-03

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: Last Hanson First COURT Middle I.
(I do not wish to appear at a public hearing. I am submitting my written views instead.)

ADDRESS: Street 419 7th Street N.W. Ste. # (if any) Suite 201 City Washington State D.C. Zip Code 20004

Phone No. 202-638-6700 Fax No. 202-638-4275 E-Mail

Please answer all of the following questions referencing why the above person should be granted party status.
(If you require additional space, please attach an additional sheet.)

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 Board?
My property will be decreased in value. As the owner of 807 6th Street, I am able to use the alleyway for parking my car and access to my trash can. This is a significant benefit for me, and would be a valuable benefit for any future owner of my property. Right now, there is

2). What legal interest does the person have in the property? (i.e. owner, tenant, trustee, or mortgagee)
Owner of 807 6th Street not very much traffic on the alleyway, so it is quiet along the side and back of my resid This is also a valuable feature of my property.

3). What is the distance between the person's property and the property that is the subject of the appeal or application before the Board? (Preferably no farther than 200ft.)
807 6th St and the alleyway borders my property
the alleyway runs directly beside my property

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 Board is approved or denied? Environmental - increased traffic, increased pollution, increased noise, increase population density. Economic - reduction in the value of my property due to environmental and social impacts. Social - reduction in privacy, reduction in quiet enjoyment of residence, reduction of light inside my residence.

BZA Case No. 17017 Exhibit No. 20

5). Describe any other relevant matters that demonstrate how the person will likely be affected or aggrieved if the requested of the Board is approved or denied.
Having an apartment building right next door to my townhouse will change the character of the area where I live because it will become much more crowded

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 person's in the general public.
My interest will be more affected because of the proximity of my property to the proposed building. I live and work on my property, so I will be constantly affected. My property is a significant asset for me and my family and we will be greatly affected financially if my property loses value.

Dr. Shi-hua Wu, CMD, OMD, LAc
Professor of Tradition Chinese Medicine
U.S. Licensed acupuncturist and Herbologist (New York, Maryland, District of Columbia
Traditional Chinese Medicine and Acupuncture Center

RECEIVED
D.C. OFFICE OF ZONING

May 15, 2003

Jerrily R. Kress, FAIA
Director, Board of Zoning Adjustment
Government of the District of Columbia

BZA
Case No. 17017
Exhibit No. 22

Dear Director Kress:

I have received the notice letter dated March 28, 2003. I understand that there will be a public hearing on June 3, 2003 to discuss case 17017 (the application to close the east-west alley ~~between~~ between 6th and 5th Streets NW). Unfortunately, I will not be able to attend the public hearing.

I have completed the Party Status Application (Form 140) and have mailed it to your Office. I understand that this form has been received by your Office.

I visited your Office and spoke with Ms. Sheri Pruitt, the Secretariat of the Board of Zoning Adjustment. She was very friendly and helpful and I appreciate her time and advice. She suggested that I write a letter to you, in addition to sending you my Party Status Application.

I strongly hope that the east-west alley between 6th and 5th Streets NW will be kept open. This alley runs directly beside my property, where I live and have my Office. I am concerned about the proposed closing of this alley for several reasons.

I am concerned that my property will be decreased in value. Right now, I am able to use the alley for

807 Sixth Street, NW, Washington, DC 20001 Tel: (202) 789-5466 Fax: (202) 789-2094

Dr. Shi-hua Wu, CMD, OMD, LAC
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U.S. Licensed acupuncturist and Herbologist (New York, Maryland, District of Columbia
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parking my car and for access to my trash can. As you know, in a crowded city environment, this is a valuable benefit for me and would be a valuable benefit for any future owner of my property. Another valuable feature of my property is the fact that there is very little traffic in this alley, so the entire side of my building is quiet. This is very important for my family and my patients. Also, the alley permits light to enter the windows of my townhouse along the entire side, which is also a valuable benefit in an urban center, and the reason why I had to pay extra to purchase the end-unit townhouse in this row. I am concerned that closing the alley will destroy these valuable benefits and reduce the value of my property. My property is a significant asset for me and my family. Our financial security will be greatly impacted in a negative way if my property loses value or my acupuncture practice is affected.

Because my business is located in my townhouse and my family lives there as well, I will be affected by the proposed closing of the alley both professionally and personally.

I am also concerned that having an apartment building next door to my townhouse will also impact the value of my property in a negative way due to the resulting reduction in privacy, increase in traffic and pollution, increase in noise, reduction of light inside my townhouse

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increased population density on my block, reduction in my ability to quietly enjoy my property and the changed character of the neighborhood.

For these reasons, I hope that you will deny the application to close the east-west alley between 6th and 5th Streets NW.

Thank you very much for considering this letter. Please contact me if you have any questions.

I look forward to hearing about the progress of the public hearing and the conclusion of this matter.

Sincerely yours,

Shihua Wu CMD LAc
Qiao-Ling Lei

cc: Mr. Robert Miller
Committee of the Whole

Ms Debra Young
National Capital
Planning Commission

807 Sixth Street, NW, Washington, DC 20001 Tel: (202) 789-5466 Fax: (202) 789-2094